NATIONAL JUSTICE REINVESTMENT PROGRAM

INTERIM REPORT

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UTS

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ACKNOWLEDGEMENT AND THANKS

The authors of this interim report acknowledge Aboriginal and Torres Strait Islander peoples across Australia, the Traditional Custodians of Country, and pay our respects to Elders, past and present. We acknowledge your ongoing connection to land, waters and community. We also acknowledge your places of belonging.

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This interim report was written by Fiona Allison, Research Fellow at Jumbunna Institute for Indigenous Education and Research, University of Technology (UTS). Expert advice has been provided by Professors Chris Cunneen and Lindon Coombes, also from Jumbunna. King & Wood Mallesons have provided extensive support throughout, including with writing of this interim report.

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Acronyms

ACCO	Aboriginal and Torres Strait Islander community controlled organisation
ACCHO	Aboriginal and Torres Strait Islander community controlled health organisation
AGD	Attorney-General's Department (Commonwealth)
AJC	Aboriginal Justice Caucus
DRG	Design Reference Group
GOGs	Grant Opportunity Guidelines
JR	Justice Reinvestment
JRNA	Justice Reinvestment Network Australia
JRP	Justice Reinvestment Program
JRU	Justice Reinvestment Unit
JPP	Justice Policy Partnership
LAJAC	Local Aboriginal Justice Advisory Committee
MEL	Monitoring, Evaluation and Learning
NGO	Non-Government Organisation
NIAA	National Indigenous Australians Agency
RAJAC	Regional Aboriginal Justice Advisory Committee

EXECUTIVE SUMMARY

Interim Report on JRP Grants Program and Grant Opportunity Guidelines

1. Introduction

The Federal Government has committed $81 million over a four year period and $20 million per annum thereafter to support justice reinvestment through its Justice Reinvestment Program (JRP). Most of this funding will resource justice reinvestment initiatives and the remainder will fund establishment and operation of a national Justice Reinvestment Unit (JRU).

This interim report has been prepared to inform design of the grants process and Grant Opportunity Guidelines (GOGs) under the JRP. It draws from a co-design process completed in mid-February to late-May 2023 with Aboriginal and Torres Strait Islander communities and a range of stakeholders and from written submissions made through the Commonwealth Attorney-General Department's (AGD) online Community Consultation Hub. Further feedback about the grants process, GOGs and on the JRU will be gathered prior to submission of a final report on design of both the unit and the grants process in August 2023. Given these ongoing consultations, it is essential that this interim report informs a *preliminary* view of the design of the grants process and GOGs.

Key elements of justice reinvestment defined by Aboriginal and Torres Strait Islander participants in the co-design process are identified early in the report. These inform design of the grants process, GOGs and JRP detailed in subsequent sections. We also propose that a set of principles be developed during outstanding co-design sessions to guide how the Commonwealth Government and Aboriginal and Torres Strait Islander communities work together within the JRP.

There are some unresolved key issues to which the co-design will return over coming months. Firstly, Aboriginal and Torres Strait Islander communities are calling for sustained resourcing of justice reinvestment over which they have a high degree of control and that is embedded within a framework of partnership with the Commonwealth. During the co-design process participants identified that a grants-driven approach may not align with this perspective and that stepping outside of this approach rather than innovating it may be preferred. Alternatives to a grant process require further consideration.

Secondly, justice reinvestment to date has been led at a grassroots community-level. It cannot, however, be the sole responsibility of communities to address systems failures that continue to impact Aboriginal and Torres Strait Islander outcomes. Aboriginal and Torres Strait Islander Peaks' position through the co-design process so far is that the National Agreement on Closing the Gap (the National Agreement) is likely to provide a pathway to meaningful change in this context, given its Priority Reforms' alignment with justice reinvestment. The National Agreement was not identified in this way during co-design by most participating communities, however. There is a need for further structural design work to consider the place of justice reinvestment within the National Agreement and its architecture, done in step with local-level community understanding in this area.

The methodology of the process of co-design is set out in [1.6], alongside detail about how the various sections of the report seek to address particular areas or questions arising within the draft JRP GOGs. Various process related issues have led to limitations in this interim report, stepped out in [1.7]. These largely relate to the relatively short timeframes for co-design, which have contributed to jurisdictional gaps in community input and gaps in stakeholder engagement (government, Aboriginal Community Controlled Organisations (ACCOs) and Aboriginal and Torres Strait Islander Peaks). Other gaps arise because of the separation of co-design around the grants process and the JRU. Addressing these gaps is critical and will be progressed in coming months.

2.   Elements of justice reinvestment

Section 2 of the report discusses elements of justice reinvestment. It identifies that JRP funding is to be provided to support 'justice reinvestment' and therefore a definition of its elements is required. The elements identified frame the JRP, its grants process and GOGs.

> ### Elements of justice reinvestment
>
> 1. Aims to reduce Aboriginal and Torres Strait Islander offending and incarceration
> 2. Aboriginal and Torres Strait Islander community-led
> 3. Systems approach
> 4. Place-based approach
> 5. Informed by evidence and data

1. Justice reinvestment aims to reduce First Nations offending and incarceration. In working towards this outcome other social and political outcomes may also be achieved, however.

2. Justice reinvestment must be led by First Nations peoples united by a connection to place. Incorporating the strengthening of self-determination and culture, this leadership manifests in different ways, including in leadership structures and within the work of justice reinvestment.
3. Justice reinvestment has a systems approach: identifying and tackling a range of drivers contributing to offending and incarceration through a life-course and preventative focus, but also through reform of government systems. Given the complexity of issues requiring attention, collaboration and partnerships with multiple stakeholders are essential.
4. Justice reinvestment focuses on change at a place-based level led by Aboriginal and Torres Strait Islander people connected to a place.
5. Justice reinvestment is also informed by data and evidence: used to set priorities and measure progress, for instance. Data and place in these two contexts must be defined by First Nations people.

3.   Readiness indicators

Applicants will need to demonstrate their readiness to be funded under the JRP using 'readiness indicators'. Section [3] of the report discusses these indicators. The elements of justice reinvestment (above) connect into and align with these indicators: intended to be used as a guided roadmap for community through a 'readiness tool' and for JRP assessment panels through an aligned 'assessor tool'. Community data ought to be prioritised in the application process as evidence of readiness.

> ### Readiness indicators
>
> 1. Community consensus
> 2. Aboriginal and Torres Strait Islander community led
> 3. Collaboration and systems approach
> 4. Understanding justice reinvestment
> 5. 'Other readiness' category

What has emerged from the co-design is a story pathway for justice reinvestment which builds levels of flexibility into a shared framework. This framework contains 'elements' of justice reinvestment which flow through to 'readiness indicators' to guide and support communities interested in justice reinvestment implementation. This shared framework for justice reinvestment holds space for each community to shape their community story reflective of local circumstances and identity.

How ready is ready enough to be funded?

Initiatives will all be at different stages of work. The co-design process considered what level of readiness is required to be funded at all and/or in preference to another initiative. There are three different options emerging.

Option One: Initiatives that are newer to and more advanced in their work with justice reinvestment should be funded. Demonstrating a *willingness* to progress readiness is sufficient to access funding under this option. Justice reinvestment is a new concept for many and the threshold for readiness should not be unreasonably high. Newer initiatives also need access to funding to progress their readiness.

Option Two: Funding ought to be provided to more advanced initiatives only. Initiatives should demonstrate *well progressed* readiness to access funding. More advanced initiatives are more likely to succeed with justice reinvestment, which will better demonstrate the effectiveness of and build support for this approach. This would also avoid setting up newer initiatives to fail. Having fewer eligible initiatives also addresses concerns raised about the capacity of the funding to meet resourcing needs. This option might be used just for the early stages of the grants program or for its duration. Focusing on funding advanced communities (at least) in the earlier stages would:

- give newer initiatives time to access JRU support once established
- ensure there is sufficient funding for those applying later
- enable early learnings to inform ongoing improvements to program design.

Option Three: Initiatives at different levels of readiness will be eligible for funding but readiness is assessed on a tiered scale. Readiness is assessed differently for newer and more advanced initiatives, which are also funded differently. A newer initiative with a lower level of readiness would be funded but potentially for a smaller amount of funding. A more advanced community might need a higher level of readiness and access more funding.

Indicators could also be differently weighted for Option Three or more generally. Community consensus, First Nations leadership and collaboration were identified as likely to require higher levels of readiness than a systems approach and understanding of justice reinvestment. An initiative with a higher level of readiness in community leadership (a higher priority) but less understanding of justice reinvestment (a lower priority) could still be funded, therefore. The indicators all intersect in different ways, however, and perhaps looking at the bigger picture painted by an application about readiness is the best approach.

Indicators of readiness

The readiness indicators are described in detail at [3.3].

1. Community consensus requires consensus at a community level that a new way of working is urgently required. Consensus is a shared willingness to step

outside of processes or approaches that are not working and a strong local identity and belief that a community can influence its own future. This is demonstrated by:

- A concern about justice outcomes as a requirement, but urgency for change around other outcomes might also be demonstrated.
- Processes of consensus building and outcomes of those processes (such as community meetings or a draft or finalised JR plan/strategy).
- Something other than full consensus but diversity in consensus is important.
- Evidence that the initiative is not duplicating or working in a siloed way with another local similar/aligned way of working.

2. That an initiative is Aboriginal and Torres Strait Islander community-led might be evidenced by the following.

- Aboriginal and Torres Strait Islander persons or groups progressing the work of justice reinvestment. These persons/groups must be progressing reinvestment in or for a place to which they are all connected. Groups must have strong elements of First Nations leadership or be wholly First Nations-led.
- Aboriginal and Torres Strait Islander leaders or 'champions' of justice reinvestment (connected again to a place) that rally community and others around justice reinvestment. They may or may not be doing the work of justice reinvestment, be part of a justice reinvestment leadership structure or be formally recognised as a community leader (e.g. Traditional Owner).
- Ideas and implemented approaches within the initiative (such as community-led programs).
- Formally recognised community leaders without a justice reinvestment focus but endorsing or otherwise supporting this way of working in their community. This support is beneficial but may not be required. This evidence is much more important (potentially required) when an applicant is non-Indigenous or situated outside a community.

3. Collaborations and systems approach will require demonstration of readiness to consider and respond to different issues or drivers contributing to justice outcomes, different potential stakeholders and to otherwise work to a systems approach. Different areas of readiness are grouped together under this indicator as some may be more difficult to demonstrate than others. Demonstrating one or other of them may be sufficient, or perhaps all three are essential. If they are to be separated the suggested indicators are: (a) Collaboration and (b) Systems approach. Readiness under this indicator is evidenced by:

- Not duplicating or working in a siloed fashion with another local initiative or approach aligned with or very similar to justice reinvestment.
- Collaborating or being willing to collaborate with stakeholders. Evidence of stakeholder 'readiness' to collaborate is beneficial but not required.
- Understanding the need to consider and address drivers of offending and incarceration (e.g. health, within government systems).

4. Understanding of the elements of justice reinvestment will be demonstrated by an applicant's response to a question asking about their level of understanding and through their responses to other indicators. Understanding of different elements are likely to vary across elements and therefore should be differently weighted. Identifying or demonstrating a high level of understanding may not be necessary in the area of data, for instance.

5. The 'other readiness' indicator provides a space for applicants to identify their readiness in whatever way they chose, in keeping with the community-led nature of justice reinvestment.

4.   Questions related to elements and activities

How should the assessment process consider 'need' in funding decisions? And what is the role of government data in the assessment process?

Participants were asked to identify and comment on any other information or evidence to be used during the assessment process, alongside readiness indicators. This discussion mostly centred on (a) whether communities ought to be prioritised for funding based on their level of need and (b) the use of government data during the assessment process.

Some felt that where a place has disproportionately worse justice and other outcomes, including as demonstrated by government data, it might be prioritised for funding. Most participants, however, felt that need ought not to be prioritised over community readiness but might be a relevant factor as being 'ready' for justice reinvestment is so crucial. Most also thought that community data ought to be the only or the preferred data used. If government data is used it should be provided to applicants to consider and respond to during the application process.

Other questions about need are perhaps less resolved, including how existing funding impacts on the assessment process and at a jurisdictional level:

- Whether *jurisdictions* with higher rates of First Nations incarceration and/or a larger First Nations population might be prioritised for federal funding.
- How co-funding for justice reinvestment by state or territory governments impacts on whether and how much funding the Commonwealth provides.

How centred do applications need to be around justice outcomes and/or justice reinvestment?

Applications may seek funding *only* to target an issue that *may* contribute to reduced incarceration but without identifying whether and how this will occur. As funding must be provided for activities that aim to reduce First Nations offending and incarceration, the link between the target issue and overarching aim of justice reinvestment will need to be explicitly made to access funding.

Applicants may also not have been established specifically to implement justice reinvestment or may otherwise not have an overarching remit specifically focused on reducing First Nations offending and incarceration. Examples include an Aboriginal

and Torres Strait Islander health service or an existing collective impact initiative focused on improving outcomes for children, with some focus on Aboriginal children.

Funding cannot be provided to top up existing service delivery or program funding. However, these types of organisations or groups should not be excluded from applying for the funding. They will need to demonstrate readiness against the above indicators, which gives rise to a number of unresolved questions about how they might do this.

Should applicants only be Aboriginal and Torres Strait Islander?

A non-Indigenous applicant may apply for funding in their own right, on behalf of or in close partnership with First Nations-led persons or groups. While the preference might be for Aboriginal and Torres Strait Islander people to apply for funding in their own right or for an ACCO to auspice an application, this is not always possible. A partnership with a non-Indigenous organisation may be preferred or required to overcome governance barriers to accessing funding. Any non-Indigenous applicant must provide clear evidence of their endorsement by and/or strong First Nations leadership in the work in question, as well as a clear plan for transition to full ownership and control for First Nations people.

Do applications need to be cross-checked for accuracy?

A reasonable level of cross-checking of information provided by an application could be incorporated into the grants process: e.g., to check on community consensus. This is especially important where a non-Indigenous organisation applies for funding or where two different applications are submitted from the same place.

5. Eligible activities to be funded

The JRP ought not to fund activities that are the ordinary part of government responsibility, that represent narrow program or service delivery or where there is insufficient link drawn between the activity and the aim of reducing First Nations offending and incarceration

Justice reinvestment requires that communities have a high level of input into identifying, developing, implementing and ultimately evaluating activities. Flexibility needs to be incorporated into definitions of eligible activities. There should also be a very flexible (open) category of activity for up to a certain amount of funding per annum that communities can use as they see fit (though still directed towards achieving reduced First Nations offending and incarceration).

There were concerns that an applicant might apply for funding for a single youth engagement program or infrastructure, for example, without fully understanding their funding needs related to justice reinvestment implementation. There should, therefore, be four categories of activities directly aligned with the elements of justice reinvestment and focused on implementation. These categories are consensus building, community-led implementation, collaboration and systems approach and data work. Applicants should be required to consider their funding needs under these four categories.

The remaining seven categories (described in detail in [5.4]) include an open category to cover discretionary funding and categories for infrastructure, programs, data work, communications, community engagement and learning and development funding. Applicants should also be guided towards identifying funding needs related to support and advice required to effectively implement justice reinvestment. These needs are identified both through the learning and development category and via prompts incorporated into all other categories (other than infrastructure).

6. Meeting resourcing needs

There is an unresolved question raised in the report about whether a grants program is an appropriate way to fund justice reinvestment, including as initiatives want a high level of flexibility in and control over resourcing. Reinvestment is one response to this, but broader innovation in the way the JRP funds initiatives may also be required.

In addition, there were concerns that the amount of overall funding may not be sufficient or perhaps equitably distributed, including over time given the preference expressed during co-design for more sustained, long-term funding. Long-term funding is essential because of the entrenched issues being addressed and the need to build relationships at a community and stakeholder level, for example. If successful applicants in the first one or two years of the program are funded, however, for (at least) a four year period it was queried how those that apply later will access the same or similar amounts of funding.

A smaller overall number of initiatives or a smaller number of initiatives in the earlier stages could be funded to provide both for adequate funding and for funding over a longer period (e.g., as above, those with higher levels of readiness). An amount of funding could also be quarantined for each year of the JRP in order to ensure that those who apply later will be able to access funding. There is a clear preference for applicants to understand how much funding is available prior to submitting an application.

Co-funding with state and territory governments and philanthropic organisations will be essential to ensuring adequate resourcing for justice reinvestment, potentially filling gaps in amounts and areas of funding (based on different risk appetites).

Participants spoke of challenges in building and managing co-funding partnerships, including having to acquit multiple grants of funding. The Commonwealth Government is seen as playing an important role in brokering and potentially helping to build coordination across relationships communities might have with different funders. This might occur within the application process itself, where applicants for JRP funding are connected with other potential funding sources.

While applicants might access funding for capacity building and learning and development activities through the grants process, support, information and advice should be accessed *outside* of a request for funding. This will be essential to avoid setting initiatives up to fail. The support required might be technical or related to systems advocacy, for instance. There are currently significant gaps in available support for those exploring or implementing justice reinvestment. We recommend

establishing the JRU and funding gaps in support in all jurisdictions with some **urgency.**

7. Accessibility of the grants process

Informed by First Nations needs and perspectives, common barriers to accessing funding through a grants process ought to be addressed. These include narrowness of eligibility criteria, not knowing about a funding opportunity, complex processes and lack of resources to prepare and submit an application.

The grants process needs to provide applicants with access to support, advice and information, as well as actively addressing various process related barriers. There should be wide dissemination across existing networks and established points of engagement with First Nations communities around Australia of the grant opportunity, along with more targeted dissemination, for a start.

The application process should be as uncomplicated and streamlined as possible, providing clear guidance at every step. Information about how best to navigate the JRP grants process and required information on justice reinvestment should be provided via interactive online information sessions, a helpdesk, Q&A style resources and the readiness tool. Key resources should be converted to video resources and/or translated into language.

More hands-on support to prepare an application will also be essential, with some suggesting this might involve helping to identify and gather evidence and/or to prepare an application. Support could start by working through the readiness tool with an applicant, which can then be revisited throughout the process. Sources of support that are independent of government might be important (readiness support, supporting bodies and perhaps the JRU). A separate funding pool might be established to support communities to increase and gather evidence of readiness or to pay a grant writer, for instance.

A staged process of application involving an initial expression of interest (or similar) followed by an invitation to apply more fully is recommended. The readiness tool might be used for this purpose. Use of an oral and/or video application process is preferred over a written one, as well as more interactive processes with assessors (during which the detail in an application might be cross-checked). Applicants should also be advised of why they were not successful and be linked to further support and advice (e.g., supporting bodies).

8. Measuring progress and success

Those working with justice reinvestment will have their own definitions of progress and success. They understand they will need to and often want to work with government data alongside community data. Community data is both qualitative and quantitative (including photos or videos) and defines progress using cultural and community-wellbeing indicators. Decreasing imprisonment will take a long time, but initiative outcomes such as increased feelings of connection across a community might be used to measure progress, for instance. Progress is also never linear, according to community participants, and outcomes always need to be achieved at

community pace. They may also be impacted by actions or inaction on the part of government.

There will be key differences in how each community and how communities and government (and other funders) define progress and success. Shared definitions will be essential in this context, heavily informed by community perspectives. These definitions ought not to over-rely on government statistics and should incorporate community data. A coming together of these different types of data might be used in cost-benefit analysis of justice reinvestment - something participants hoped might occur through the JRP.

Support to increase community capacity to measure progress and success for their own purposes and to share with funders to ensure ongoing resourcing is essential.The Commonwealth should provide their own data to initiatives, progress data linkages and broker access to state and territory data. The Commonwealth should also broker other contributions from different levels of government critical to the success of justice reinvestment. These contributions include legislative and policy reform in justice and other areas that will help reduce over-representation. Achieving positive outcomes through justice reinvestment is not just the responsibility of communities.

There needs to be effective processes and frameworks ensuring government accountability to make these contributions at an individual initiative and national level. Principles to be embedded within the JRP and measures built into and tracked through a JRP evaluation are potential mechanisms for accountability. Closing the Gap is a further important mechanism, given that it has secured existing commitments by all governments to work in ways that align with justice reinvestment. Some community and stakeholder participants did not want progress and success mapped under Closing the Gap, it is noted.

9. Assessing applications for JR funding

Aboriginal and Torres Strait Islander people must input into assessment and decision making processes regarding who is funded but there is less clarity around how this might occur. Panels established for this purpose ought to have at least a majority of Aboriginal and Torres Strait Islander representatives and membership drawn from different categories: incorporating, for instance, individuals from different types of locations (remote, regional and urban), from government, philanthropic organisations and those with specialised knowledge of justice reinvestment. The importance of incorporating cultural authority in decision making was also identified.

There is some interest in establishing regional, state and territory-based panels with Aboriginal and Torres Strait Islander people from representative communities and organisations, given the importance of local context. There may be some preference too for representatives to only assess applications that emerge from their country or region. Conversely, some were concerned about conflicts of interest in such situations. An alternate proposal was that local endorsement of applications might occur after an initiative is selected by a national panel.

How existing leadership structures, including those sitting under Closing the Gap, are involved in assessment and decision making processes requires further thought. Ideas include having relevant representatives sitting on the panel or these structures providing endorsement of recommendations made by the panel. There is also some preference for final sign off at a more local or regional level.

The decision making process needs to be clearly mapped out and transparent to communities, including setting out what process will be followed if ultimate decision making power rests with the minister/ministers' delegate. The shifting of risk by government to communities in the decision making process was raised too, acknowledging that community-led decision making should not set members up to fail.

10. Conclusion

The proposed approaches detailed in this report aim to bring Aboriginal and Torres Strait Islander stories of what justice reinvestment means to them into the design of government policy and processes. Our aim is to create a structured framework for the grants process and GOGs (and the JRP more broadly) that also holds space for each community to continue to shape their community story in ways that reflect their local circumstances and identity.

With the commitment from the Commonwealth, we are at the cusp of the first substantive national funding for JR in the history of the JR movement in Australia, with the promise this holds for enhanced community well-being and other positive outcomes. We heard during co-design sessions that there is cautious optimism around the opportunity the Commonwealth funding presents if, and only if, governments at all levels are also willing to step forward in genuine partnership with Aboriginal and Torres Strait Islander people.

1. INTRODUCTION

1.1 Introduction

The Federal Government has committed $81 million over a four year period and $20 million per annum thereafter to support justice reinvestment through its Justice Reinvestment Program (JRP). The JRP aims to reduce First Nations incarceration for young people and adults, aligned with target outcomes 10 and 11 under the National Agreement on Closing the Gap (the National Agreement).[1] The bulk of this funding will resource justice reinvestment initiatives. The remainder will fund establishment and operation of a national Justice Reinvestment Unit (JRU). The commitment is stewarded into implementation by a First Nations Justice Taskforce with representation from the Commonwealth Attorney-General's Department (AGD) and National Indigenous Australians Agency (NIAA).

This interim report has been prepared to inform design of the grants process and Grant Opportunity Guidelines (GOGs) under the JRP. It shares and draws from perspectives gathered during a co-design process undertaken from mid-February to late-May 2023 with Aboriginal and Torres Strait Islander communities and with Aboriginal and Torres Strait Islander people and organisations, including Aboriginal and Torres Strait Islander community controlled organisations (ACCOs). Consultations have engaged a range of other stakeholder participants from government and non-government organisations. The report is also informed by written submissions provided through the AGD's online Community Consultation Hub.

The co-design process to date has focused almost solely on the grants process and GOGs, including due to the relatively short time frame for co-design and as there is some urgency to release funding to communities as quickly as possible. Feedback about the JRU will be gathered over the next two months, along with further feedback about the grants process and GOGs. A final report on design of both the unit and the grants process will be submitted in August 2023. Given these ongoing consultations, it is essential that the report informs a *preliminary* view of the design of the grants process and GOGs. A close review of how this design is working will be required soon after release of the funding to identify any necessary revisions.

The grants process and the GOGs need to be both fit for purpose and innovate to incorporate Aboriginal and Torres Strait Islander perspectives. This includes Aboriginal and Torres Strait Islander definitions of justice reinvestment. For this reason the report begins by identifying key elements of justice reinvestment, which then inform suggestions for design across the grants process and GOGs, and the JRP more broadly. We also note at the outset that parts of this report might speak more directly to Aboriginal and Torres Strait Islander justice reinvestment approaches implemented

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[1] This report uses the terms Aboriginal and Torres Strait Islander, First Nations and Indigenous interchangeably. See Coalition of Peaks, *National Agreement on Closing the Gap* (July 2020).

to date in Australia. We acknowledge that Aboriginal and Torres Strait Islander people working in ways that closely align with justice reinvestment (who may well be eligible for funding under the JRP) may have somewhat different understandings or interpretations of this framework.

We further propose that a set of principles be developed during outstanding co-design sessions and provided in our final report, likely to align with First Nations understandings of justice reinvestment. These principles should guide how the Commonwealth Government and Aboriginal and Torres Strait Islander communities work together within the JRP. They are likely to refer to key themes identified throughout this report such as shared government responsibility to achieve outcomes, acknowledgement that communities hold solutions, that their cultural and other expertise must be recognised and valued, and the importance of community control and decision-making.

1.2 Threshold question: JRP as a grants-driven approach

The origin story of any initiative often has a very real impact on outcomes, setting a framework and direction early on in ways that can materially shape the development and direction of the work. For this JRP co-design, the structure and outputs were predetermined by the Taskforce and included the period of co-design to inform the development of the GOGs, the preparation of a community readiness tool and assessor tool, and a final report incorporating findings and recommendations for the establishment of the JRU. This has necessarily shaped the process and its outcomes, outlined below in this interim report.

Aboriginal and Torres Strait Islander communities have their own origin story of their work with justice reinvestment so far and how this ought to inform the JRP. As part of this, there has been a call during the co-design process for a stepping outside of rather than innovation within a grants-driven process. The clear preference is for more sustained resourcing of justice reinvestment over which communities have a high degree of control based on a high level of trust in their capability and strengths. There is some sense that a grants process is not able to fully align with this preference.

Strong community feedback is that the work of justice reinvestment should be a commitment to partnership first and foremost. Partnership is a distinct and unique form of relationship, which is not procurement or service commissioning. If the government is the contract holder in a funding relationship community is unlikely to see this as a partnership. It looks more like a procurement model which has the potential to replicate power imbalances and one-directional accountability that has not shifted outcomes over previous initiatives. This was emphasised consistently during co-design and interim findings community feedback sessions. The next phase

of co-design will further consider what a framework of strong partnership might look like as the starting point of justice reinvestment.

1.3 National Agreement on Closing the Gap and Justice Reinvestment

The origins of justice reinvestment in Australia have been very much localised at a grassroots community-level, sometimes with connections to supporting bodies sitting outside of community and through individualised relationships with state and local government. The connections to date between those active in justice reinvestment have been informal and voluntary, operating as an unincorporated community of practice, with philanthropic funding for the Justice Reinvestment Network Australia (JRNA) supporting its first funded role only in 2022. It has been in large part through community advocacy and community-to-community sharing of expertise that this Commonwealth commitment to justice reinvestment has been made.

Against this background, this pivotal moment of expansion of and Commonwealth support for justice reinvestment needs to encompass the necessary foundations for long-term structural change and sustainability. For decades, government policy approaches to addressing the overrepresentation of Aboriginal and Torres Strait Islander people at all levels of the justice system have not had the desired impact and the data tells us the gap in this area is widening. Deep systemic change is required to address longstanding drivers of this overrepresentation and issues of racism, deficit approaches and cultural assumptions that have been embedded in the way governments and mainstream services develop policy and deliver programs and services to Aboriginal and Torres Strait Islander communities. Communities cannot solely bear the burden and responsibility to address systems failures that have been plaguing policy and programmatic responses for generations. Justice reinvestment, including as funded under the JRP, may offer a vehicle for the kind of structural transformation likely to better engender more meaningful and sustainable outcomes both for communities engaged in justice reinvestment initiatives and beyond. From our discussions to date, this critical need for transformation in justice is shared across the spectrum - from the local community-level to the national Peaks.

What has been clear in our co-design to date is that for many communities there is a level of distrust of and lower familiarity and engagement with the National Agreement. During community conversations it was evident that the Closing the Gap agenda is not necessarily viewed as a pathway to meaningful change and those in and outside of government participating in its implementation may not be seen as representing their local community.

> I've had a concern for a while that the Federal Government really is trying to process initiatives, programs, projects that are ticking the box for Closing the Gap targets. Don't get me wrong they are really important things, there is no doubt about that. But this is about empowering our Nations to address issues

> that are impacting within our community itself and I'm certainly not here to tick a box for the Prime Minister to stand up in Government and say hey, we are tracking on this pathway under the Closing the Gap. It is a bigger picture to this and I think it really boils down to resourcing local communities to tackle these issues at community level and resource them appropriately to do that. Community participant

> So you've got a group of other people that sit there in a hierarchy but have we got the trust? Have we got the shared respect here back on the ground? Community participant

What is apparent, however, and made very clear in preliminary discussions with the national Peaks is the obvious alignment and consistency between grassroots community aspirations and the Priority Reforms under the National Agreement. This is unsurprising given the broad community engagement that led to the creation of these reform areas. The alignment and the gradual shifts in government as a direct result of the National Agreement and the power of the Peaks underscore the need for further structural design work within justice reinvestment to consider its place within the national architecture. This needs to be in step with local-level community understanding to bring with it the full weight of community authority across the spectrum. This was reflected in specific community co-design sessions.

> It has to come under the Closing the Gap banner now. So the government needs to line this up with Closing the Gap and the priority reforms. Those priority reforms must drive JR in an explicit way. We need unity in that. It is typical of a colonial construct to divide and conquer. Community participant

It also leverages a shared understanding across governments and the Aboriginal and Torres Strait Islander community controlled sector of the expectations and obligations these reforms place on all parties. Many decades at the interface of government and community have resulted in highly sophisticated and complex approaches from the Peaks to the necessary work in supporting community control from the local level up to the National.

The Peaks' position through the engagements to date is that it is appropriate and necessary that the JRP be explicitly aligned with the Priority Reforms, which offer a roadmap to meaningfully impact on the system enablers and drivers of justice outcomes for Aboriginal and Torres Strait Islander people. These reform areas are as follows.

> **Priority Reform Area 1 – Formal partnerships and shared decision-making**:
> Commitment to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.

> **Priority Reform Area 2 – Building the community-controlled sector**:
> Commitment to building strong Aboriginal and Torres Strait Islander community-controlled sectors.

Priority Reform Area 3 – Transformation of mainstream institutions:
Commitment to systemic and structural transformation of mainstream and
government organisations to identify and eliminate racism, embed and practice
cultural safety, deliver services in partnership with Aboriginal and Torres Strait Islander
people, support truth telling, and engage fully and transparently with Aboriginal and
Torres Strait Islander people when programs are being changed.

Priority Reform 4 – Sharing data and information to support decision making:
Commitment to shared access to location-specific data and information (under
Indigenous data sovereignty principles) to inform local-decision making and support
the achievement of the Priority Reforms 1-3.

This critical recognition of the need for structural transformation is reflected too in the
words of the Uluru Statement.

> Proportionally, we are the most incarcerated people on the planet. We are not
> an innately criminal people. Our children are alienated from their families at
> unprecedented rates. This cannot be because we have no love for them. And
> our youth languish in detention in obscene numbers. They should be our hope
> for the future. These dimensions of our crisis tell plainly the structural nature
> of our problem.[2]

We have been acutely aware throughout the design process of the importance of fully
considering and addressing questions on the structural alignments of the JRP. This is a
critical aspect of the program which goes beyond immediate questions of funding and
guidelines and will continue to have a significant impact on outcomes, sustainability
and structural reform. It will be a fundamental question for the co-design process and
likely beyond.

1.4 Implementing key recommendations from decades of Inquiries and Royal Commissions

There was strong community sentiment during co-design that justice transformation
efforts at the community level must be met with genuine action and progress by all
levels of government on implementing the recommendations and roadmaps from
decades of inquiries, reports, research and Royal Commissions, particularly those
focused on the operation of the justice system. Community participants spoke about
Aboriginal and Torres Strait Islander people having given their stories, their voices and
tragically in too many cases, their lives, to inaction and slow progress against known
drivers of overrepresentation in all aspects of justice outcomes. Community
participants spoke directly to government representatives on the failure to fully
implement the recommendations of the Royal Commission into Aboriginal Deaths in
Custody, more than 30 years after the tabling of the five volume report.

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[2] Uluru Statement from the Heart (National Constitutional Convention, 26 May 2017).

1.5 Structure of the report and methodology

Structure of this report

The report begins in Section 2 by setting out five key elements of justice reinvestment. These inform most of our key findings, including design of the grants process readiness indicators (discussed immediately below) and activities to be funded set out in Sections 3 and 5. Section 4 asks and answers questions that have already arisen and/or are likely to arise during the grants process related to the elements and readiness indicators.

Section 6 discusses how the grants process can best meet the resourcing needs of those seeking funding, including by funding justice reinvestment outside of a grants process. In Section 7 accessibility of the process of applying for funding is considered. In Section 8 there is discussion of how to measure progress and success of justice reinvestment initiatives funded under the JRP. Section 9 focuses on the assessment process, in particular who should be involved in that process. Section 10 provides concluding comments.

Alignment between interim report findings and proposed Grant Opportunity Guidelines

We have had regard to a draft standard form Commonwealth GOGs document in the preparation of this interim report. To support ease of use of this report for design, we have identified the following sections of anticipated alignment between the GOGs and the interim findings.

Table 1: Alignment of report sections with GOGs

Interim report	Draft GOGs
Elements of justice reinvestment	Sections 2 (About the grant program) and 6 (The assessment criteria)
Assessing readiness of applicants	Sections 2 (About the grant program) and 6 (The assessment criteria)
Activities to be funded under the National program	Section 5 (What the grant money can be used for)
Meeting resourcing needs	Sections 3 (Grant amount and grant period), 5 (What the grant money can be used for) and 10 (Successful grant applications)
Barriers to accessing grants	Section 4 (Eligibility criteria); Section 7 (How to apply)
Measuring outcomes	Section 12 (How we monitor your grant activity)

Selection process	Section 8 (The grant selection process) and 13 (Probity)

Project Methodology

This co-design engagement was distinct from the usual processes of government grant guideline development which are, for the most part, undertaken without community-level engagement. Genuine engagement with community and community control within the development of policies and programs such as the JRP is crucial to ensuring that programs and policies reflect the needs and priorities of Aboriginal and Torres Strait Islander communities nationally. Engagement is also necessary to fully reflect Aboriginal and Torres Strait Islander people's right to self-determination: in this instance, by having a say in policies and programs that affect their lives, in line with the United Nations Declaration on the Rights of Indigenous Peoples[3] and the National Agreement. It is very positive that the Commonwealth has supported a co-design process to inform design in this instance.

The co-design engagement has been led by the Design Team, being the Jumbunna Institute for Indigenous Education and Research with support from King & Wood Mallesons. The work of the co-design was undertaken in three main phases, some of which overlapped due to timeframes. Noting that this is an interim report, co-design engagements and stakeholder consultations continue. The three phases are outlined further below.

Phase 1 - Scoping, background research and co-design planning

The first phase of the project involved background research and early targeted discussions and engagement planning with a number of key stakeholders and community representatives.[4] This work informed preparation of materials to support conversations with community and stakeholders, a [Key Issues Paper](#)and [Community Resource](#), as well as an initial project plan to guide co-design/consultation. This plan incorporated a broader scope than was initially intended (20 communities) as the Taskforce's preference was to include as many Aboriginal and Torres Strait Islander communities in the co-design process as possible.

Phase 2 - Community-level engagement

To the extent this was possible, the co-design process followed the project consultation plan. Around 80 communities were identified as potential co-design

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[3] UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295, available at: https://www.refworld.org/docid/471355a82.html [accessed 10 June 2023]

[4] Ethics approval for the project was also sought and granted in this period from UTS. At each co-design and stakeholder engagement a participant Information Sheet and Consent Form were provided to all participants. This material outlined the purpose of the research, the voluntary nature of participation and ability to withdraw from the consultation at any time, an assurance of the confidentiality and anonymity of individuals in participating in the research and the contact details of the researchers for any complaints or questions concerning the conduct of the research.

participants. Communities identified for or self-identifying an interest in participation were in remote, regional and urban areas and either engaged in justice reinvestment or similar approaches or were keen to explore this way of working.

Community co-design generally involved a process of:

- Initial contact with community representative/s to provide high level background information on the project and JRP.
- Phone or video conference sessions with interested communities to prepare for co-design (from 1 - 4 per community, as appropriate) and sharing of the Key Issues Paper and Community Resource.
- In person or online co-design sessions of between 1.5 - 2 hours with differing numbers of community representatives. Sessions broadly followed the question structure and prompts in the Key Issues Paper or Community Resource, with the Community Resource most commonly used with communities newer to justice reinvestment.
- Invitation and possible attendance by community representative/s at online community feedback sessions covering the interim findings.
- Still to complete: a copy of community data (transcript or similar) sent back to community representative/s.

Facilitation of co-design sessions was undertaken by a member or members of the Design Team. Some communities identified local co-facilitators as necessary to support co-design sessions and where requested, payment was made to these facilitators for their time and expertise in guiding conversations. Payment was also or alternatively made for travel, catering and other costs incurred in relation to the co-design sessions according to community need.

Given timeframes and other resources, not every community identified for participation was contacted and not all contact resulted in co-design sessions at the date of writing. A total of 34 community co-design sessions have been completed to date. A complete list of communities engaged is at Appendix A. Further community co-design sessions will be completed before our report is finalised in August, as above. These sessions will focus on jurisdictional gaps in engagement, discussion of the JRU (yet to be completed) and on finalising gathering of input on the grants process and GOGs.

Phase 3 - Stakeholder engagement

Stakeholder consultation was undertaken with various bodies and representatives, including existing justice reinvestment supporting bodies and experts outside of individual communities (such as members of the Justice Reinvestment Network Australia (JRNA)) and with ACCOs and Peaks, First Nations leadership, philanthropic organisations and government departments at federal, state and territory levels. These occurred via online and in person meetings, again using the Key Issues Paper (predominantly) to guide conversations.

As outlined in greater detail below, deeper engagement with key categories of stakeholders is currently outstanding and will be a key focus for the design process moving forward. The very high level of community-level interest in co-design and timeframe limitations have impacted on the extent of stakeholder engagement to date.

An online/in-person workshop was also convened that brought together philanthropic and corporate organisations with an interest in funding justice reinvestment and government representatives (at Commonwealth, state and territory levels). The discussion focused on development of co-funding models and architecture to explore how application and decision making processes can be streamlined and simplified for the benefit of communities seeking funding under the JRP. An outcomes report was prepared and some co-funding issues emerging as outcomes of this workshop are incorporated into the interim report.

Written submissions were invited by the Taskforce in response to the AGD Justice Reinvestment Discussion Paper.[5] The Taskforce provided the Design Team with a copy of the submissions received for the purpose of informing the interim report and broader design recommendations.

Coding in this report

All feedback from participants and those that have participated by way of written submissions has been de-identified. Two categories of participants are used. We refer to those speaking to us during a community co-design session as a 'community participant'. Participants in all other sessions and who provided written submissions are referred to as 'stakeholder participant'. These encompass government, philanthropic/corporate organisations, Aboriginal and Torres Strait Islander organisations and non-Indigenous non-government organisations (NGOs).

Design Reference Group

The Taskforce established a Design Reference Group (DRG) consisting of justice reinvestment experts, Peak and federal and other government representatives to guide the design process and outcomes. The ability of the DRG to meaningfully input into the design process of the co-design phase and provide expert guidance into community consultations or on interim findings prior to them being drafted has been limited for various reasons, including time constraints. We recognise the advocacy of members of the DRG particularly in respect of timeframes and process, which has and continues to have an important role in shaping the JRP.

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[5] Attorney General's Department, Jumbunna Institute for Indigenous Education and Research, and National Indigenous Australians Agency, *Justice Reinvestment Design Discussion Paper,* (April 2023)

1.6 Constraints of this interim report

This interim report is intended to provide a point in time reflection on co-design and stakeholder consultations completed to date. There are limitations within this interim report set out below. The project overall is impacted by working to relatively short timeframes, given the complexity of the matters to consider and address, including the policy environment within which the JRP is being implemented, and the level of interest in engagement, particularly at a community level. Shorter time frames have overall impacted on our ability to work at community pace and to respond comprehensively, at this stage, to the multifaceted considerations surrounding the design of the JRP.

Co-design community-level gaps

Community-level engagement has been higher than was originally proposed, but at the time of this interim report, community engagement is yet to occur to the extent necessary in the ACT, Victoria and the Torres Strait, for reasons that include rescheduling for sorry business and priority community business and to ensure other proper protocols are followed (e.g., in preparation and organisation of co-design). It is intended to address these outstanding gaps through the course of the next phase of the design, as a priority.

Separation of design discussions

Timeframes have meant that discussions about the JRU were separated by the Taskforce from the design sessions focused on the grants process and GOGs, as noted. Design of the grants process and GOGs was identified as a priority by the Taskforce as release of the JRP funding will pre-date establishment of the JRU (date of establishment is not confirmed). This division has at times been difficult given the nexus between the JRP and the JRU and the need to consider this nexus in this report to some extent without having fully considered it in co-design sessions.

Engagement with existing Aboriginal and Torres Strait Islander leadership structures and government

During the co-design, whilst we have engaged with a number of Peaks and existing ACCO leadership structures, this has happened after the Commonwealth has established their overarching approach to the design and rollout of the justice reinvestment program. A number of Peaks felt that this is not reflective of the required partnership approach as between the government and the Peaks under the National Agreement. The engagement of the Peaks will also be integral to the co-design of the JRU.

The timeframes for co-design have led to the necessary prioritisation of community-level conversations and initial ACCO and Peak engagement. Current gaps

in engagement remain for a number of State, Territory and Commonwealth officers across relevant departments. This engagement will be critical to informing design of a coordinated national approach to supporting community-led justice reinvestment. We understand that the Commonwealth has been progressing state, territory and philanthropic co-funding partnerships on a bilateral basis outside of the co-design processes.

2. ELEMENTS OF JUSTICE REINVESTMENT

2.1 Introduction

We firstly acknowledge that Aboriginal and Torres Strait Islander people have always sought and led solutions to issues impacting their communities, including overrepresentation in our prisons. These may be different to or aligned to different degrees with this relatively new framework called justice reinvestment. JRP funding, however, is to be provided to support work with 'justice reinvestment'. For this reason, it is important to settle on a definition of the elements of this framework.

Participants were asked to share views on what they see as the elements of justice reinvestment and to comment on any issues or questions these likely elements might give rise to. This feedback has informed the elements below. These elements are important to informing, framing and providing structure for the grants process and the JRP more broadly, including the readiness indicators and activities to be funded in [3] and [5]. Key questions around these elements are set out in [4].

2.2 Key elements of justice reinvestment

Justice reinvestment as five key elements

1. Aims to reduce Aboriginal and Torres Strait Islander offending and incarceration.
2. Aboriginal and Torres Strait Islander community-led.
3. Collaboration and systems approach.
4. Place-based approach.
5. Informed by community knowledge and other data.

1] Aims to reduce First Nations offending and incarceration

Justice reinvestment aims to reduce First Nations offending and incarceration. It is this objective which leads to one of its key components, the reinvestment or diversion of funds drawn from correctional budgets towards community-led solutions to over-representation.[6]

Justice reinvestment's focus on incarceration is a pivot around which multiple other outcomes might be enhanced, including in areas like health, education or other 'social determinants of justice'. More fundamentally, however, justice reinvestment aims to achieve a cultural and political shift in First Nations/government relations. As one community participant stated, 'There are political determinants here at play, it's not only socio-cultural determinants.' 'There's no political relationship that respects Indigenous leaders as proper leaders of their own domain, their own nations.' Addressing this determinant is essential to achieving justice in *all* spaces (including but not limited to criminal justice). 'Because you just don't change anything, it'll never change if you don't [achieve] that.'

2] Aboriginal and Torres Strait Islander community-led

Justice reinvestment must be First Nations led at a community level. What this looks like will vary but is in short about First Nations peoples united by a connection to place exploring and implementing 'the ideas of the community' in whatever way 'that community decides to come together.'

Leadership might manifest as a group or structure that brings together community leaders around a shared purpose (to see change) but is also evident in the work of justice reinvestment: with First Nations people as decision-makers at all stages of work and across all activities.

> Strong First Nations' leadership is essential. And that really does mean it should have a majority of First Nations leaders within that. With real power and decision-making within that structure, whatever that is. And a strong transition plan of how you maintain or grow and strengthen that over time. Community participant

Further, alongside reducing First Nations incarceration, justice reinvestment aims to strengthen self-determination and culture as foundational aspects of First Nations leadership. This objective cannot be divorced from and is essential to achieving the goal of reduced incarceration in Aboriginal and Torres Strait Islander communities.

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[6] This was the original framing of reinvestment aligned with an economic argument: that prison expenditure was not achieving results and a portion of prison budgets ought to be diverted to community-led solutions to offending and incarceration. Other government agencies, however, are likely to need to contribute to justice reinvestment, financially and otherwise. See Allison, F, Redefining Reinvestment. *An opportunity for Aboriginal communities and government to co-design justice reinvestment in NSW* (Final Report, Just Reinvest NSW, 2022).

3] Collaboration and systems approach

Justice reinvestment is a holistic response to the complexity of issues that underpin First Nations over-representation. One community participant identified it as a multi-part jigsaw puzzle. Another referred to those working with justice reinvestment as 'systems thinkers', stating that 'we need to start thinking systemically for us to get this issue of incarceration over and done with.' It is this 'that will make us different and stand out from others.'

A systems approach firstly involves identifying and targeting different interlocking issues likely to increase First Nations offending and incarceration. This includes drivers that sit outside of the justice system (social determinants of justice) such as health, employment, education, housing and family. These issues might be targeted because of their impact on individuals not yet interacting with the justice system and those more entrenched within it. As such, justice reinvestment is sometimes referred to as taking a 'life course' and/or early intervention and prevention approach, often with a focus on children and young people to achieve the largest positive impact on justice outcomes.

> When you start off thinking about justice reinvestment, you need to understand justice much more broadly than just criminal justice. It's really about adopting that life course approach, and so looking at justice in terms of social justice. And particularly in that sense, what distinguishes justice reinvestment from other initiatives is the ability to speak to what's the causal link between these different social determinants and factors. Community participant

Community and stakeholders also identified a systems approach as 'trying to keep everyone on their toes.' 'Justice reinvestment is a long-term thing and systems change piece. You do community engagement and things like that but that's not what this is.' Here the focus is on addressing drivers of incarceration within (predominantly) government systems, leading to calls for reform to address tipping points within justice and other systems that drive over-representation. Initiatives might take on, for instance, local policing practice or a lack of prison programs. To address the above social determinants they might also seek reforms to school policy and practice leading to too many school exclusions of Aboriginal students or to funding decisions by government that will increase access to housing or health services, for example.

This type of reform to service delivery is a common focus of justice reinvestment, with communities wanting to be decision-makers about what is funded locally, prioritising increased funding for Aboriginal and Torres Strait Islander-led programs and services and improvement to the quality of all services and the outcomes they deliver to Aboriginal and Torres Strait Islander people. This is a manifestation, however, of a fundamental aspect of a systems approach: the push by communities for increased self-determination to address political determinants of over-representation.

Given this complex response to the multiple issues causing First Nations over-representation, a systems approach requires buy-in and input from multiple individuals, groups, institutions and organisations, particularly government. Building collaborations and partnerships with these stakeholders, in recognition of 'the complexity of compounding, intergenerational drivers of incarceration and to achieve systemic, sustainable change', as one stakeholder participant described it, is an essential aspect of justice reinvestment.

4] Place-based approach

Justice reinvestment aims to reduce incarceration of Aboriginal and Torres Strait Islander people living in a particular place or community. Local level solutions to local issues are identified and developed by those connected to this same place or community.

The importance of a place-based approach was confirmed during consultations, with political, cultural and other differences across place influencing how justice reinvestment is implemented. Participants also discussed different definitions of 'place' in this context, which might reference Local Government Areas, suburbs in a town or city, townships as well as Aboriginal and Torres Strait Islander definitions of place. These definitions might refer to 'place' as a region or reference an Aboriginal and Torres Strait Islander Nation, reflecting cultural and other interconnections for Aboriginal and Torres Strait Islander people.

> The idea that government, some non-Indigenous government, is always the decider of all the key words, the definitions, the framing, it's just wrong. And it doesn't help the process work, ever ... [Our country], it's not a place, it's a way of being that connects to country. Some from our country live in Adelaide, they'll live in other places but whatever's done to us affects all of us. It's going to have consequences as families are all over the place and connected. Community participant

This broader definition of place is likely to have implications for how justice reinvestment is to be implemented (e.g., how to access government data for a Nation, though accessing regional data is likely to be easier). This requires further consideration.

5] Informed by evidence and data

Data is a core component of justice reinvestment. It is used to identify priority areas for change, to set down baselines against which progress is measured over time, to calculate economic benefit attributable to justice reinvestment and to increase accountability of government and service providers, amongst other things. Data also helps build collaboration, demonstrating how the different elements of justice reinvestment all come together at different points.

> We want the data to be able to tell a story to those people that we're going to ask to provide some contributions, participation and influence. That part is critical to saying these are where the crimes are happening, these are where the people come from, and we need your help. Because [otherwise they can say] not our problem. Well, it is all of our problem and the data has to be able to tell that story. Community participant

Some participants were more progressed in their work with data, whilst many identified themselves as just starting out with or unsure about this work; often based, however, on a narrow view of data as government statistics. Community data - designed and collected by First Nations people from yarning circles, community meetings and similar - must also be incorporated in definitions of data. Community data may be prioritised by initiatives as telling a more complete story than government data or government data alone, as well as being important in its own right. One community participant suggested that this element might be referred to as 'being informed by community knowledge and other data'. This approach aligns with Indigenous Data Sovereignty principles.

> For the longest time, for me and for anyone that's worked out here, the stories are the same. The stories from young people to old people to the young people again. So, that's what we try to do with our yarns. We are capturing the yarns of people from here so that we can hopefully counter some of the deficit data from government. That's us setting the definition of what data is in the community. Community participant

> I just want to say that I think it's important that we do data *our* way. I'm a real fan of ditching a lot of the existing ways of doing data. It's an opportunity for us to be sovereign in the way that we tell our story. Community participant

3. ASSESSING READINESS OF APPLICANTS

3.1 Readiness indicators

Applicants will need to demonstrate their readiness to be funded under the JRP. Readiness indicators will be used by applicants for this purpose and then during the assessment process as criteria for those making recommendations or decisions about who receives funding.

Participants were asked how readiness might be demonstrated. Their responses have informed the following indicators. These align with the elements of justice reinvestment in [2]. Participants were also asked what evidence should be used to demonstrate readiness. They indicated that community data should be the primary source of evidence, in keeping with a justice reinvestment approach. This data might

include qualitative and quantitative data in video, photo and other forms collected by communities.

> The communities should determine how they do this. As much as you can, take it outside of the normal kind of grants process so that the community who's applying has some sense of control and agency over what information they are providing and how they're providing it. Stakeholder participant

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Readiness indicators

1. Community consensus
2. Aboriginal and Torres Strait Islander community led
3. Collaboration and systems approach
4. Understanding justice reinvestment
5. 'Other readiness' category

3.2 Using these readiness indicators

Appropriateness of readiness assessment

> Communities might say look, we've got the solutions. Just because we don't have it in a way that government likes us to present it doesn't mean we aren't capable. Stakeholder participant

Some participants did not like the idea of 'testing' initiatives for readiness, seen as inappropriate for more established initiatives especially. This was part of broader discussion about whether a grants process (in the form suggested or at all) is appropriate. Aboriginal and Torres Strait Islander communities in general see themselves as having been ready to lead their own solutions 'forever'. It is government readiness for change that needs to be increased. For this reason, avoiding the terminology of criteria and using the term 'indicator' might be appropriate (and this is what we have done in this report) – though the GOGs do in effect apply readiness criteria to decision making.

> We are community workers. We're already doing the work. The work has already been done. It's been done for the last ten years. How long have we been ready?! Community participant

> Unfortunately, and sadly, there's ignorance about our efforts and the fact that we've been ready for a long time. And it's their policies and processes that keep us in this state of economic and social oppression. Community participant

Using readiness indicators has positive aspects, particularly when compared to an alternative approach of government hand-picking communities for funding solely based on statistics that measure 'disadvantage' or other deficits (see [4.1]). The grants process relies on more of a strengths-based focus to ask communities to identify their

interest in and to initially self-assess for readiness for justice reinvestment. If supported in the right way, this process of self-assessment is likely to be beneficial for First Nations communities, particularly those that are newer to justice reinvestment.

How ready is ready enough?

Initiatives will be at various stages of readiness. How ready is ready enough to be funded? There were mixed views on this. Some participants thought funding ought to be accessible to those at earlier stages of work alongside more advanced initiatives, in recognition that justice reinvestment is likely to be a new concept for many and the threshold for readiness ought not to be set unreasonably high. Having a lower readiness threshold would mean that a *willingness* to work on the below indicators could be demonstrated rather than a more progressed stage of readiness.

> I don't think you want to make it so high a bar that a small community that's trying something can't access it because we're saying it has to have X, Y and Z. They might not even be at that point and then probably some of those communities do not have any people in their community that have that capacity or the resources. They might not have a single person who's ever done anything like data analysis in the community, that's not unlikely. Community participant

To take a different approach may mean very few applicants will be funded, given that there are not a lot of more advanced initiatives. Moreover, those that are newer to justice reinvestment are likely to need funding through the JRP to increase their readiness (e.g., around community consensus). The Commonwealth is providing readiness support through an independent readiness partner to a number of First Nations communities (currently a total of 15). This is focused on increasing readiness to apply for the JRP funding. Those that have been selected for this support through an EOI process will be able to access some limited funding (currently $20K).

Others suggested prioritising initiatives that are more advanced – so, demonstrating a reasonably high level of readiness to access funding. This approach could be applied at least during earlier stages of the JRP, meaning that less funding might be released in the first months or years of the program. This could be a sensible approach while mechanisms for support are increased and strengthened (see [6.4]). Participants felt that funding newer initiatives without having this support in place may well set them up for challenges or failure. Additionally, more initiatives with a higher level of readiness are likely to emerge over time, as information about the program is widely disseminated and as initiatives build readiness with the readiness partner and otherwise. Staging the rollout of funds allows these initiatives to access funding beyond the earlier stages of the JRP. Equity of access to funding over time is returned to at [6.2].

> We should be funding those that have already demonstrated success or at least have strong evidence to substantiate their claims of consensus and

> leadership. Start this program with communities that are going to succeed. I think it makes sense to stage it. Stakeholder participant

> So, eventually the JRU would support newer communities. We don't want to be funding applications that are going to fail. Until they have got all that existing stuff that they need to meet the application guidelines, to get the funding … They might go well, you're not ready yet. Spend a bit more time and get some guidance in relation to what you need to work on and there's obviously going to be more money come around at some stage. Recommend you resubmit then or something like that. Community participant

At least initially prioritising funding for more advanced communities is also seen as giving the overall program a higher chance of success. Any early learnings from a staged approach can inform a more effective rollout of the JRU beyond its first year(s).

> Is it that the government wants to have those 30 communities enrolled fairly quickly or do they want to stage it so that communities that have put the work in over like 10 years plus are part of the first round and then the evidence that comes out of [that] is used to get some learnings for when the other 27 communities come on board? It may be better to stage it rather than have 30 communities on the books all at once at different stages of readiness and with different skill levels. Community participant

Moreover, retaining this focus throughout the life of the program might better demonstrate the potential for justice reinvestment, which will help to secure longer-term financial and other commitments. Some participants also stated that providing First Nations communities with examples of justice reinvestment success is important.

> Certainly, for this program and its continuity over the long term, you'd want to see successes. The people who are really doing it hard, running a program at night for keeping kids off the street or whatever, when those people are exposed to these success stories and alternative ways of doing it, they get it straight away usually. It's like a breath of fresh air. So, in a way it's having an opportunity to see success stories, being able to go and look at other alternatives, but also to take a break from just that grind, and dip into spaces where there's hopeful things going on. That gives energy to those people who are trying to keep things rolling along. Community participant

A more nuanced approach raised in co-design and which was also reinforced during interim finding feedback sessions would be to assess readiness on a tiered scale across different indicators, with funding and/or other support matched to these tiers. This would enable assessors to better determine and respond to the needs of the community and to meet community where it is at.[7] In this case, a newer justice

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[7] This model is consistent with well-regarded, evidence-based models for community readiness, for example, the Community Readiness Tool designed by the Tri-Ethnic Center for Prevention Research at the Colorado University (USA). This tool is designed to help communities move through various readiness stages. It produces an overall readiness score based on performance against readiness dimensions

reinvestment initiative would not have to demonstrate as high a level of readiness, but would also not access as much funding as a more advanced initiative.

Further discussion is required overall about whether each of the indicators of readiness are differently weighted and/or might require different thresholds of readiness. Having higher levels of readiness in First Nations leadership, for instance, might be more important than having a high level of understanding justice reinvestment. The indicators all intersect in different ways, however, and perhaps looking at the bigger picture painted by an application about readiness is the best approach. Further questions related to readiness are discussed in [4].

3.3 Readiness indicators

This section provides detail about the indicators of readiness. These indicators have been developed based on community feedback provided during the co-design.[8]

1] Community consensus

Applicants should demonstrate consensus at a community level that a new way of working is urgently required to reduce First Nations offending and incarceration. A significant commitment and engagement from the broader community to justice reinvestment is seen as essential to its success. A higher level of readiness might therefore be expected in this area, if indicators are differently weighted.

This indicator manifests as a shared willingness to step outside of processes or approaches that are not working and a strong local identity and belief that a community can influence its own future. Concerns about justice outcomes are required, but alongside this there might be an urgency for change around other outcomes (e.g., in child protection, education and/or the level of control over decisions impacting the community in question).

> They should demonstrate that real urgency in community - that there is a very, very clear need to do this work. This point of crisis, if you will, has been called out in the community wanting to work in this way. Community participant

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(similar to the indicators described above) and readiness stages (from 'no awareness' to 'professionalisation stage'). The overall readiness score is then used to develop a plan for action, which will differ depending on the tiered assessment (e.g. communities scoring low on readiness stage may require one-on-one visits and introductions to existing initiatives, rather than funding). See Colorado University Tri-Ethnic Center for Prevention Research, *Community Readiness for Community Change: Tri-Ethnic Centre Community Readiness Handbook* (2nd ed, 2014).

[8] These indicators are also aligned with existing literature on the readiness of communities to engage in initiatives like justice reinvestment. Community knowledge of the challenges faced by the community, as well as a belief in the community's capacity to influence change, are relevant factors in this context. Ibid. The importance of First Nations leadership and community collaboration is emphasised in the literature too, along with a willingness of the community to work differently or outside traditional processes. See Australian Government Department of Social Services, *Stronger Places, Stronger People Model* (Report, October 2019); Colorado University (2014); Victorian Government Department of Premier and Cabinet, 'A framework for place-based approaches', *Victorian State Government* (Web Page, reviewed 14 March 2023) <https://www.vic.gov.au/framework-place-based-approaches/print-all>.

[You need to see] urgency in the community, that justice [outcomes] are an issue but also that these are a priority for the community to address and that it is a new approach that's needed. There might be something that is working already. Maybe JR isn't the answer if there's something else you could already build on and you don't need to start again from scratch almost. The community at large needs to be supportive of the idea and on board and that needs to go across different generations, different aspects of diversity within the community. Stakeholder participant

You don't want it to just be, we're going to run the same youth justice program when someone else is already running it. New ways of working might involve – no one has ever done this program before and we need to try it. Or it could be, we're trying a new way of working because we're changing the entire system. Stakeholder participant

This indicator could be evidenced in various ways. An application might describe the process used to build consensus, which one community participant also thought needed to be predominantly community led. 'The way you build consensus is going to have a big impact on whether you actually get there. It has to be done the right way - led by community.' These are likely to include community meetings or other community engagement activities (e.g., community surveys). Outcomes of these processes might be detailed, which could include a draft or finalised community JR plan or strategy.

[We] consulted with our community to see if they wanted to run with this. Yes or no. And obviously we had a well-attended fiery meeting, but those attending were interested in what JR was about. And that's how we have come about. Community participant

We had a meeting and we had 150 people come and I guess what we were getting ready for was backlash and pitchforks, but we predominantly had people say we want to take control of this. Community participant

Consensus may also be demonstrated by the presence and work of persons or groups driving justice reinvestment locally, including the beginnings of or more established backbone organisations, leadership, working, advisory or other governance groups that bring community together, for instance.

People need to be willing to work together and to have demonstrated that they can. [It may be that you need to say], 'Ok, we'll come back in a little and see how you're going?' And [say] to them, you guys need to work on something together and trust each other and that you are committed to working together. It'll just become another plan that never gets actualised if you're not willing to actually work together. Stakeholder participant

Participants stressed that requiring evidence of full consensus across a community would be inappropriate. Building consensus might actually be an activity for which

funding is sought. Diversity in consensus is, however, important. This means showing there is interest and agreement around this new way of working from those with lived experience of the justice system, women, children and young people, as examples.

> Most people won't get involved with things unless it directly affects them. When it directly affects them, then they're on board. Otherwise, they are quite happy to sit back. Not even criticise - a lot are quite happy to just sit back and let things happen. Community participant

> As an Aboriginal woman and knowing some of the systemic issues that we face and not having a voice [I believe we should be] elevating the rightful position of Aboriginal women in the country as being the backbone of our communities and what that looks like ... [I know it's] a really tricky conversation but one that does need to be landed. And I think in the JR space it's really important because it is community led. Knowing what our families and our kids and our women, what their experiences are and what they know works for them and what their strengths are is super important. Community participant

Diversity might be evidenced by representation across the above persons and groups. One community, for instance, wanted funding to establish a governance group with membership drawn from young and adult community members and incorporating members with expertise in education, health and housing, for instance.

To demonstrate this is a new way of working, it may be necessary to cross-check during the assessment process that the application does not represent duplication of another local aligned or similar approach or initiative and that the applicant has made some attempt to determine alignment with or check duplication of another local approach or initiative, in keeping with the need to demonstrate a willingness to collaborate (discussed below).

2] Aboriginal and Torres Strait Islander community-led

As above, a key element of justice reinvestment is that it is led by Aboriginal and Torres Strait Islander communities with a shared connection to place (as defined in [2]). This is an area where a higher level of readiness should be required as Aboriginal and Torres Strait Islander leadership is absolutely fundamental to justice reinvestment.

This leadership will manifest in different ways in different communities. Firstly, there might be the definite beginnings of or already established local groups progressing or 'doing the work of' justice reinvestment such as backbone organisations, potentially community-led boards or similar, and other governance groups. These groups should have strong elements of First Nations leadership or be wholly First Nations-led. The following describes leadership within a justice reinvestment backbone organisation.

> Sometimes it's just a mentor or a couple of people in community that have been workers there for a long time. They're not actually 'leaders'. I know we want to look at that strong leadership and all of that but sometimes it's ... the hard workers. It's having that hard worker in the community and that's really

true because you can have too many leaders and no one is willing to actually do the work. Perfect example is [X people in a backbone org]. Like they were not actually strong leaders out in the community. But they are now. They were willing to start the work and then they've become the leaders … [by] getting up and working and delivering on what they say they can do. Stakeholder participant

Secondly, there may be one or more local Aboriginal and Torres Strait Islander leaders or 'champions' of justice reinvestment. These leaders may or may not be formally recognised community leaders (below), part of an established justice reinvestment leadership group or structure, and/or actually doing the work of justice reinvestment (this might be the role of a backbone or similar group). Their primary role may be to rally the community and others around justice reinvestment.

And then under the community leadership, we talk about having community champions which are kind of the leaders in that they are the types of people who can bring everyone else around the table and bring things on board. So, you need some of them too. They might not be the ones who end up doing the work but you do need those people who connect everyone together and bring everyone into the conversation. Stakeholder participant

I think the thing that's just so critical is leadership, that there's genuine engagement from a community leader in the process. It doesn't have to be more than one leader. It could be a young person. It could be an Elder, but it's one of those things that keeps cutting through. An indicator of this leadership is having stability around someone who's representing the community. Stakeholder participant

Aboriginal and Torres Strait Islander leadership might also be demonstrated in the ideas and approaches progressed by an initiative. Many communities we spoke to prioritised, for instance, community-led programs or creating a community owned space from which they could drive justice reinvestment. In this sense, it is not just about particular 'leaders', but leadership within the work itself.

Questions arose about existing First Nations leaders or leadership structures without a justice reinvestment focus but endorsing or keen to support this way of working in their community. This might be evidenced by attendance at meetings or a letter of support for an application. It is possible that formally recognised leaders such as Traditional Owners or a locally elected body are not ready to support justice reinvestment, but there is otherwise a high level of community consensus for change.

I'd love for our community to come together, but we're not - and before we can go ahead on these issues our community leaders have to be on the same page. And before we get the community on board, they need to all be on the same page. Because that's what's breaking our community. Community participant

Having evidence of support from such persons or organisations is beneficial and also evidence of Aboriginal and Torres Strait Islander leadership within justice

reinvestment. But without this evidence funding may still be accessed. As identified during co-design discussions, leadership of justice reinvestment may not and does not always need to come from those with cultural authority or that are otherwise formally recognised as community leaders. This will depend on the community and the application in question. If an applicant is a non-Indigenous organisation or situated outside of the community (e.g., under an auspice arrangement) perhaps this evidence should be required.

> The evidence might rely on the kind of structures that you established or set up within your region or your community. Of course, we all know that that's not always easy, and there may be competing authorities in the region as to who should be that and so on, but I think the indication that you've got forms of community nation governing bodies, I think is a useful thing. Community participant

> We want the right people in there that want to be there for the right reasons rather than because of a perceived status in the town. Rather than going well this person's been a leader, an Indigenous leader, and we'll prop that ball in their court - it's already full. Because we don't want to stop people who are young people showing leadership all the way through. If you are a leader and you've got cultural authority and influence, beautiful. But if you're just a teenager and you've got a burning desire in your heart, you're absolutely welcome to come and make that contribution in a leadership forum. We're looking for leadership from people who want to stand up and be counted. Community participant

3] Collaboration and systems approach

Applicants need to demonstrate a readiness to work in ways that move beyond a single programmatic or service delivery response or otherwise siloed way. As one stakeholder participant stated, 'It is important that communities demonstrate an understanding of how the initiative for which they are seeking funding works within a broader system.'

> There needs to be some evidence of connection and engagement and a willingness for connection and engagement so the work isn't happening in isolation. There needs to be evidence that there is connection with the issue, with other people in the community, with other organisations and a willingness to engage with information and people. If those things don't exist it would be very hard to ever get to the point where you need to because otherwise you are just funding an isolated program. 'Tom', who has had no experience and has not talked to any of the other services in town and doesn't even know the cause of crime in his community and has never even thought about that, could front up and say I'm going to run X program for young people and it's going to change everything and then put their hand up for funding. Stakeholder applicant

As such, this indicator requires evidence of an understanding of the need to consider and respond to different issues or drivers contributing to justice outcomes, different potential stakeholders and to otherwise work to a systems approach as described in [2]. These three different areas of readiness under this indicator are currently grouped together. Some may be more difficult to demonstrate than others, but demonstrating one or another of them may be sufficient to access funding. Initiatives are possibly more likely to have a higher level of readiness around collaboration, with many communities talking about partnerships and collaborations they are already developing or have developed with stakeholders. They may also be seeking to identify and target a range of social drivers underpinning offending and incarceration. They may not be thinking about or expressly talking about shifting government systems, however. One participant described a systems approach in this context as taking time to develop.

> We've worked with a number of Aboriginal leaders who just kept defaulting to programs and it's not surprising as X says, 'We used to be firestick farmers. Many of us have become grant farmers.' That's the world we're in. How do we get the next grant? They aren't limited to, okay, how do we define a new service or change this program? Stakeholder participant

Every community we talked with probably demonstrated this thinking in some way - as wanting to have more control over decisions impacting them, mostly. If they are to be separated, suggested indicators are (a) Collaboration and (b) Systems approach.

Firstly, collaboration might be demonstrated if there is an existing local initiative or approach closely aligned with or very similar to justice reinvestment and applicants demonstrate that their initiative will not duplicate or work in a siloed way alongside this other local initiative. To demonstrate consensus there needs to be a commitment to a new way of working, as above.

> You need evidence about the collaboration they are doing with the existing [initiative] on the ground and how this is about providing options to community. If you've only got a small community of 200 people or something, you wouldn't want to be duplicating another service in town. You would try to support the existing one. Community participant

Evidence of collaboration with stakeholders with contributions to make to a justice reinvestment approach is very important so this might be an area where a higher level of readiness could be required.

> This could involve providing evidence of how communities will actively partner (if they do not already) with local service providers and the different levels of government to maximise interoperability and leverage existing place-based networks, assets, programs and resources. Stakeholder participant

Participants cited various examples of collaborations they are already involved in with business, industry, academia and government sectors (e.g., with police, prisons and schools). They are developing educational and training opportunities for young people

and economic development opportunities to reduce incarceration through these collaborations, for instance. Evidence of a *willingness* to collaborate might suffice in this area. Collaboration might also be evident in varied membership of groups progressing justice reinvestment.

> We've got the service mapping sub-group that is working away as well that will give us more of a picture about which services we then need to strike a conversation with and develop those partnerships with as we go and along the way develop the good will. Community participant

> We have been working locally here with the police and our primary school because of the problems that were occurring with our young people around the town. We started with that, trying to work out ways that we could minimise the development or growth of those problems and divert behaviour back to discipline and cultural values. Community participant

> We have a consortium of all of us around here focused on justice reinvestment and representing smaller organisations in the community that are incorporated bodies … working together and collaborating. Community participant

It is also important to note that opportunities for community-level collaboration will vary in different locations: a regional or remote community, for instance, will have fewer local stakeholders with whom to build collaboration. Discussed below is whether this should impact on assessment of readiness (see [4.1]). Having more opportunity for collaboration may contribute to the success of an initiative, but where location impacts on this opportunity, this is out of the control of an initiative and probably should not disadvantage them in the assessment process.

On a similar note, it was suggested that it could be beneficial for an applicant to demonstrate evidence of buy-in and/or an interest in collaborating with an initiative on the part of government and other stakeholders but that this ought not be included as a requirement for access to funding. This might be referred to as 'stakeholder readiness'. Communities will attempt to build this readiness but it is up to the stakeholders in question to collaborate or not. Communities might also indicate that collaboration is too difficult: e.g., their relationships with police are so problematic that a community will not want to approach them about collaboration. Perhaps this ought not to disadvantage a community.

> It's not a requirement but it would just be beneficial if you had some of the key players, like the local health district and youth justice and the school on board. You may have non-Aboriginal leadership that's prepared to engage and lead and think outside the box. If you've got a school principal, they're a leader. I wouldn't say they're leading the Aboriginal-led initiative, but they're leaders in their own right, so you could use a different word for it… They are prepared to come in behind community leadership and there's more than lip service to that

– they really get the idea that he will be guided and led by Aboriginal community leadership. That is just such an important component that's often not there. If you're looking at prioritisation of stakeholder buy-in, police are at the top of the list. Stakeholder participant

To demonstrate a systems approach there should be evidence of an understanding of the need to consider and address drivers of offending and incarceration. These might be social drivers (health, education etc.) or drivers that sit within government and other systems, as detailed in [2]. An applicant might, for instance:

- be establishing a community-led program as an alternative to imprisonment or correctional supervision of ex-offenders
- calling out or seeking to collaborate with the local schools or police to ensure they are working to community perspectives
- calling for reforms to service delivery
- pushing for a shift in their relationship with government, including to take more control over decisions

And they should also focus on changing the way things work, changing the way the system's working, holding service providers in a place accountable to community, that type of thing. Community participant

When we are looking at what distinguishes justice reinvestment funding from traditional programmatic funding, there needs to be that element of understanding of the complexity of where a discrete focus area or areas sit within the broader picture. What distinguishes this from if you were, say, applying for a grant that was just focused on health or maternal health and you went straight for that, you get your program and you deliver that program. Justice reinvestment funding is different as an application needs to have that appreciation of a life course approach and how we can bring together other stakeholders where ordinarily, through other funding, it just wouldn't be within the scope of works to engage with them. Community participant

4] Understanding of justice reinvestment

Applicants need to demonstrate 'an understanding and potentially [the] practice of justice reinvestment'. Understanding of the above elements will be essential to effective implementation of justice reinvestment. An example of this is understanding the complexity of the work, captured in the collaboration and systems approach element. As one community participant stated, communities ought to demonstrate an understanding of the 'commitment needed for long term change' and 'that we won't solve this overnight but we're in it for the long haul, even if it does take a long time.'

Applicants should be asked to identify their current level of understanding across each of the elements of justice reinvestment and what they need to increase this understanding.

> A lot of these communities will be at the start of their journey with data. We all know it's not easy to get the data to build that database. Having it as a strict criteria [isn't right]. Somehow making it so [they don't have to] have this baseline starting point around [being informed by] the evidence is better because that's really hard to do. Even evidence is a really hard one, as well as understanding what data is. Because what's evidence to some people is a different kind of evidence to someone else. Community participant

As this suggests, it will be important to understand in assessing this indicator that initiatives may be less likely to identify or demonstrate a high level of understanding in some areas, such as data or perhaps a systems approach (as discussed above). However, in these areas having a willingness to learn should be sufficient, provided that initiatives demonstrate a high understanding in other elements. Understanding of different elements might be differently weighted, therefore. Applicants could also be asked a more general question: to describe what justice reinvestment means to their community.

Understanding of (the elements of) justice reinvestment will be evident in responses around other indicators. There is no indicator specifically related to the data or place-based elements. Understanding of the place-based element will be demonstrated in responses to both consensus and Aboriginal and Torres Strait Islander community-led indicators, for instance. Understanding of data will potentially be demonstrated across different indicators. In demonstrating community consensus, for instance, applicants may discuss their collection of community data, which would demonstrate an understanding of being informed by evidence and data.

5] 'Other readiness' indicator

We have included a broadly defined indicator that applicants might use to demonstrate readiness on their terms. This is in keeping with what we heard about the need for flexibility in the grants process and GOGs, given the community-led and self-determination focus of justice reinvestment.

4. QUESTIONS RELATED TO READINESS AND ELEMENTS

This section sets out (in question and answer form) issues and questions arising in discussions of and our thinking about the key elements of justice reinvestment and the readiness indicators. These are likely to arise during implementation of the grants process.

4.1 How should the assessment process consider 'need' in funding decisions? And what is the role of government data in the assessment process?

Participants were asked to identify and comment on any other information or evidence which might be used during the assessment process, alongside the above readiness indicators. This discussion mostly centred around (a) whether communities ought to be prioritised for funding based on their level of need and (b) the use of government data during the assessment process.

There are a number of unresolved questions in this area.

Justice outcomes and need

The question of whether to use government data in the assessment process and how need ought to be considered are connected. A community with disproportionately more negative justice and other outcomes (e.g., higher recidivism, rates of child protection notifications or school exclusions) might have a higher need for an intervention like justice reinvestment and so ought to be prioritised for funding.

This might occur in a completely top-down selection process, where readiness is not a consideration. Or if there are two initiatives with equal levels of readiness, one might be prioritised because of their higher rates of re-incarceration. Some participants saw the reasoning behind this approach.

> It's a national program and it was sad to see all these young people in the streets of Darwin. Our community is not that bad. We don't have people robbing other people in the streets in town every day or whatever. I think it is only fair [to look at data to identify those with larger needs]. Community participant

Most participants felt that need ought not to be *prioritised* over community readiness, but might at the very least be *a* relevant factor in decision-making. Being ready for justice reinvestment is the crucial factor.

> The focus on data and the way Westerners understand data, it's very focused on where's the worst thing. As opposed to, these things are having a really profound impact on our community and we need the support to engage [with them]. It's almost like things have to get worse before government feels that that community is deserving of that support. Community participant

> You can always 'need' justice reinvestment, but to ensure your outcomes are beneficial to those they are targeting you need to be *ready*. You are not really going to get the right community voice there if the community is not on board. Community participant

Most also felt that relying on government data would move away from a community self-selecting for justice reinvestment based on strengths (readiness). 'You look at the positive data - what's working in a community, let's do it, let's invest', as one community participant stated. Communities are also well-placed to provide their own data on need. This is similar to discussion about community data in [8].

> Those case studies or those individual stories, they should be valued irrespective of whether or not it's backed up by data from government. Every

> place does have those stories, and if the community can get those together and put them forward, saying we want help in this area, [that's what is needed]. Community participant

If government data on need is to be used it might be seen as *one* relevant piece of information during the assessment process, to sit alongside community data (e.g. evidencing the indicator of community consensus for urgent change due to concerns about high rates of contact with the justice system).

> It's the balancing up of it because data is always used in many ways against us and so we've always got to be cautious about that. I feel like it could be a factor but not a determining factor. Like, it's in there. It's a possible reason you might [fund] a community [or consider] an application, but it may not be the reason you do or don't. Community participant

Any government data used during the assessment process must be shared with applicants. Communities working with justice reinvestment currently have a lot of difficulties accessing this data. They also see this data as problematic, as not telling the true story of Aboriginal and Torres Strait Islander lives. Providing government data to communities to consider and potentially respond to during the application process aligns with justice reinvestment approaches and with Indigenous Data Sovereignty and Governance Principles. This is also a way for the application process to 'give something back' to those applying.

> If you're going to use government data, it is potentially stigmatising and it can't be public and all those things. But I can see that if you're looking at the readiness piece, it's going to be useful to get that crime data and the suspension data. It would be great to unlock the partial school attendance data, things like that where we know communities want it anyway. You can say, okay if you want to make an application, we'll provide you with three data sets. It has to be a really simple table that shows something about your youth crime, your adult incarceration and your student suspension... or something like that. Stakeholder participant

> A lot of communities are not going to get anything out of this process in the end, because there's not that much money and there's a lot of communities. So, to be able to negotiate access to data as part of it, that communities can then use to do their own justice circuit breakers would be really helpful. Community participant

It was also queried by some participants whether *jurisdictions* with higher rates of First Nations incarceration and/or a larger First Nations population (additional data that government might provide to identify need) might be prioritised for federal funding. Potentially, if there were equal numbers of initiatives identified as ready to be funded, for instance in WA and the ACT, the larger Aboriginal population in WA might lead to a larger overall commitment to WA communities. This requires further consideration and input.

Need for investment

Other government data that might be used during the assessment process relates to existing location-specific investment in service and program delivery or for justice reinvestment or aligned initiatives/approaches. This data is referred to as 'investment mapping data' in a justice reinvestment context and is often sought by communities to inform their thinking around service delivery and systems reform. As noted above, it can also help to identify and build collaboration with relevant stakeholders. Again, if this investment mapping data is used during the assessment process it should be shared with applicants. 'Knowing what funding is coming into communities means we can advocate for a bit more change. We need to be able to access information' to do this, one community participant stated.

Investment mapping data might be useful during the application and assessment process for a variety of reasons. It might, for instance, help identify whether there is a similar or aligned local initiative or approach to justice reinvestment. An example might be where there is another government-funded approach seeking to build local First Nations leadership. This is relevant to the community consensus and collaboration/systems approach readiness indicators, which together require that an applicant not be duplicating or working in a siloed way with an aligned initiative/approach.

Some participants indicated that applicants should be *prioritised* for funding if there are aligned initiatives/approaches already funded with whom they might be able to collaborate, but that these applicants should potentially access smaller amounts of JRP funding. This aligns with discussion above that initiatives with a better chance of succeeding with justice reinvestment ought to be preferred over others: in that instance, because they are more advanced but in this case because they would have the benefit of collaboration with an aligned initiative/approach.

> I actually think it's great going to communities where there are those collaborations already happening because it means you're more likely to succeed and that's a good thing. But maybe they need *less* money, I mean that would be a good example of where you might just need one position to then come in because you've already got an existing collaboration that's funded. Stakeholder participant

This could be an additional consideration for both the community consensus and collaboration/systems approach indicators. If an initiative is willing and able to collaborate with an aligned/initiative they are demonstrating readiness but this collaboration also adds positive weighting to their application. It was also suggested, however, that *not* having a funded aligned initiative/approach should not *disadvantage* an applicant.

> Should availability of other sources of funding be considered? Perhaps in the context of the amount sought. Smaller grant requests which have the support of other funders (State/Territory/Philanthropists) should have a good chance of

funding. However, this shouldn't affect larger grant requests from communities which otherwise satisfy criteria but, for various reasons, don't have co-funding support. Stakeholder participant

There is some suggestion, in this same context, that funders (including government funders) ought to be considering how they can collaborate by bringing in additional investment to support aligned approaches in a particular place. This is relevant to coordinating co-funding partnerships discussed in [6.3]

Somehow, governments need to hone their collective efforts. Whether that be around place or some other factor. I just am concerned that all this push to place and co-design and all of the rest of it can look like an uncoordinated mess … if governments are just pushing different funding programs and requirements onto places and communities. There is an onus on government [to be] transforming government … to try and coordinate efforts. Stakeholder participant

Along the same lines, at a jurisdictional level, state or territory governments might sensibly co-fund justice reinvestment initiatives with the federal government but in these jurisdictions *less* federal funding overall would need to be provided. Again, this requires further consideration.

The implications of existing levels of funding for services and programs *in general* in a community (other than for an aligned initiative/approach) is somewhat less clear. Less investment in local services and programs might point to less opportunity to collaborate locally, but what implications does this have for readiness if this is to be the central criterion for assessments? The collaboration/systems change indicator ought to look at applicant's readiness rather than a stakeholder readiness to collaborate, as noted above. Similarly, it would not appear to be appropriate to discount an applicant because there hasn't been a lot of local investment in services and programs from government. Community participants thought lesser local investment might in fact lead to a prioritisation of funding or at least to larger amounts of funding. This is a question that needs further consideration and input.

I think you've got to treat each as an individual. One community's needs might be higher. Here, for example, if we use one of the school holiday initiatives, there's enough support around that for us and enough funding. But in another little community if they wanted to do a school holiday program and they don't have the partnerships or the funding they shouldn't be at a disadvantage like to be able to apply for that. Community participant

If you were giving [another community] money you can't give them the same amount of money as you're giving us if they have access to so much more than we do being so out in the country. I think it should cater for the community that you're giving it to. Community participant

4.2 How centred do applications need to be on justice outcomes and/or justice reinvestment?

A series of questions have arisen about the extent to which an application needs to be focussed on improving First Nations justice outcomes and/or on justice reinvestment as an approach.

Applications may *only* seek funding to target an issue that is likely to or that may contribute to reduced incarceration (such as youth employment, as an example) but without identifying whether and how this will occur.

> It isn't necessarily about what the community identifies as the solution. It's about what the community has identified as the issue that has started the conversation. It has to be about justice. I doubt this exists, but hypothetically, there's a community that has a housing problem and no crime issues. They shouldn't access this justice funding [to address a housing problem]. But a community that has a significantly high crime issue and that's their concern but their solution is a housing solution, that does fit. It's about the impetus for action and the reason the community needs action, rather than what the community is acting on. Community participant

As this comment suggests, given that a key element of justice reinvestment is to reduce First Nations offending and incarceration if the link between the applicant's focus issue and this goal is not explicitly drawn at the outset, this might need to be further unpacked during the application process. Understanding this link will be essential for the applicant and assessors.

> If you want to have some sense to the model, make justice the starting point. If you do that, even if there's communities who say, well hang on, we have already started, and we are focussing on employment you can say 'Are you happy to pause and think about justice as a starting point and how that affects the employment issue?' And one of the things we have talked about over the years is whether we include a sense of urgency to something - the consideration of the immediacy of the problem that the community is trying to address, the urgency being the dire nature of what's going on, that there's some catalyst. I dare say that when you're looking at a sense of urgency, or any kind of catalyst, justice is going to be involved when it comes to Aboriginal communities. I think it's inevitable. Stakeholder participant

It is also possible that applicants may not have been specifically established to implement justice reinvestment (such as an Aboriginal Legal Service) or may otherwise not have an overarching remit which is specifically focused on reducing First Nations offending and incarceration (such as an Aboriginal and Torres Strait Islander health or family support service, an NGO, or an existing collective impact initiative focused on improving outcomes for children).

> My language is different from your language. You are saying 'communities' [being funded]. I'm saying Aboriginal organisations or ORIC organisations who get their funding from government, state or national. Stakeholder participant

Some community participants expressed concern that a service provider, for example, may seek justice reinvestment funding to address gaps in current resourcing of their programs and service delivery.

> I think a lot of people are coming in, jumping on the gravy train now within the service sector. But when they do that, they're not actually abiding by the cultural governance and the whole concept of what place-based is. I think that's really unfair to people that have created this. Community participant

> To me, it should be specific to that community. I mean, it shouldn't go to a medical service. And it shouldn't go to a housing service. Even if it was Aboriginal community controlled. Our medical service has gone downhill because they're too busy doing all these other things. And the same with our housing services. And in the meantime, we've suffered as a community and more of our people have ended up incarcerated. We're a voluntary group, that's a big thing. So, you could say we're grass roots, I guess. And we're talking specifically to the justice agenda. Community participant

The JRP seeks to fund 'place-based' and 'community-led' initiatives, which may be reasonably understood by some as meaning that funds will be provided to groups that have emerged at a community level in response to the above urgency for change around First Nations justice outcomes. These groups may be largely unfunded - hence the need for JRP resourcing. This prioritisation of local emergent groups (rather than established (funded) organisations) might be illustrated by the following comment from a community participant about the type of structure they are likely to seek funding for to implement justice reinvestment.

> We need to establish a backbone organisation. The town is a contested town culturally and it needs an organisation that doesn't have a history here. It needs something that is brand new, that involves the people who care for the group of people that we're trying to support in order to reduce incarceration and reoffending. Community participant

Based on feedback received, we suggest that although funding should not be provided for service or program delivery alone, the above types of organisations or groups *may* still be funded. They might successfully seek funding, for instance, for one or more positions to work within their existing structure to drive justice reinvestment activity.

> But could you have an organisation that's already set up and funded and then they'd say well, we actually want an additional [staff member] in our organisation who's going to be our JR person. We actually see the value of JR in our community. We'll apply for funding to start our work. Then you might see that they have four other staff that all then become JR people because they pivot over that way. Stakeholder participant

Whether these organisations or groups are ultimately successful will depend on their responses to the readiness indicators. To demonstrate an urgency for change around justice outcomes, for instance, it may be sufficient that the activity for which the

applicant is seeking funding is explicitly linked to achieving reduced First Nations offending and incarceration (and that they draw this link in their application), even if their larger overarching objective is non-justice related (e.g. health or family support). This needs further consideration.

How these organisations or groups might demonstrate community consensus supporting their particular approach to delivering change is a further question. During co-design it was noted that being community controlled, for instance, does not automatically mean that there is broad community support for a particular ACCO leading change in a community. As one community participant stated, 'We really need [to fund] those community identified priorities rather than [those of a] single service.' 'Aboriginal-led and controlled organisations can sometimes take the voice of Aboriginal people away' was a further comment shared. In a number of ACCO stakeholder discussions they too reflected this need for broad community support to move beyond a single service and towards a whole of community collaborative response. The continuing legacy of underfunding of ACCOs and cycles of competitive grants was identified through a number of co-design sessions as feeding division and at times a feeling of disconnect between some community members and ACCOs. This points to the need to demonstrate community support for an applicant and their proposed approach beyond having a community controlled board

> One can't do it alone. We know that and that's where it's a real community and regional focus to know what each other's doing and not working in competition with each other and we all know that life and our work gets in the way of that and we all want to look at things from a holistic purpose. This is where I've seen a real change with regards to the Chamber of Commerce to open those conversations up. Community participant

A further question for consideration is how such applicants might demonstrate their capacity or willingness to collaborate and otherwise focus on a systems approach. To be funded there needs to be 'that broader engagement, so funding is not just going to one service to deliver a service'. It is about 'bringing all stakeholders together and [working] in a broader context', as one community participant stated.

> This funding needs to lead to a change in government's way of thinking … [leading to the making of] a funding decision based on a set of principles that a particular proposal [addresses]. So, if it's a community-controlled org and it's actually picking up on the fact that you need to be doing work with different kinds of leaders, that there are different kinds of things that need to be addressed [that is okay] … Or else you're just going to be recycling money through a system that produces nothing much at the end. Money goes in, nothing comes out. That's what happens every time. Community participant

> Are they addressing the need for major government change? I mean for me, that's the critical thing to look for. They might say they've got a program for bringing people to the table to be part of an established service delivery

system but are they actually saying that what they're going to do is going to force and create change in what's seen as government programs? Not just take for granted and fit in with this. What is it that they're identifying needs to be fundamentally changed in the existing system that they're going after? Community participant

There were some views expressed that suggested ACCOs are likely to be able to demonstrate these indicators as follows. The existence and role of community controlled organisations is an act of self-determination in itself for some (though not perhaps at a whole-of-community level), with these organisations often developed and established by Aboriginal and Torres Strait Islander people in response to a lack of culturally appropriate service systems. The footprint of community controlled organisations across urban, regional and remote settings is significant, offering models based most commonly on comprehensive and holistic approaches to the needs of their community,[9] with some focus on social determinants of justice as one participant noted. Community controlled organisations offer established structures, systems and models of community governance, commonly operating with the support of a national peak structure and jurisdictionally based affiliates. In preliminary discussions with a number of established national ACCO Peaks, they emphasised the efficiency, reach and sustainability offered through a response to justice involving established community controlled organisations. Building a response around existing trusted relationships where these exist in communities, such as with Aboriginal Community Controlled Health Organisations (ACCHOs) and ACCOs, was suggested by Peaks participants to amplify the opportunity and reach of justice reinvestment.

4.3 Should applicants only be Aboriginal and Torres Strait Islander?

A non-Indigenous applicant may apply for funding in their own right. They may also apply on behalf of or in close partnership with First Nations-led persons or groups. Some felt this was never appropriate, given the focus on self-determination within justice reinvestment.

> We don't want a [non-Indigenous] auspice because we've been tripped up by them before, been controlled by them, whatever. It should be an Aboriginal organisation if we are talking about self-determination. Community participant

> I think that it's always so challenging to compete against the big NGOs in this space. So, every Aboriginal controlled organisation and even community organisation gets swallowed up. So, [named NGO] gets pretty much all of the youth justice funding and it's kind of grandfathered in. They got it one time and

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[9] The significant impact and key role of the community controlled sector anchored in culture and Aboriginal and Torres Strait Islander frameworks is the centrepiece of the National Agreement through Priority Reform 2 and reflected in the funding prioritisation commitment under cl 55(a).

> then it just keeps getting rolled over. At that point it's very hard to compete because it's like a business thing for them. Community participant

While the preference might be for Aboriginal and Torres Strait Islander people to apply for funding in their own right or for an ACCO to auspice an initiative this is not always possible.

> If they haven't got an Aboriginal organisation that is sitting there who understands justice reinvestment and is ready to just take it on then look where you can find your structure, governance, policies, processes. Local Aboriginal orgs would all play a role, but they're all running their own things now. They've got their own stuff. You can't add another layer on top of that …. How do you stretch an organisation that is already stretched? If it has to be a First Nation organisation, you're setting people up to fail because there may not be a First Nations organisation ready. In smaller communities Aboriginal-run services or organisations are very minimal. Community participant

> There needs to be a very clear focus on First Nations and Aboriginal people in your leadership and as part of your core focus in terms of the work that you are doing. But I don't think it should be so restrictive and limited in the sense that … it is going to be appropriate in all communities for non-Aboriginal people to be shut out of that work. If you are talking about community-led, you need to recognise that our communities are very, very diverse and each one looks very, very different. And so ultimately that needs to be up to the First Nations' people from that community who are taking on that leadership and governance role to decide what works for their community. Stakeholder participant

As this suggests, some First Nations people might also partner with a non-Indigenous NGO as a preference. It was noted that sometimes having support from an organisation external to a community can be beneficial as an initiative establishes its own First Nations governance.

> We got a lot of feedback that it was good to have someone that wasn't already clearly aligned [locally], and it was a way to build a backbone that wasn't part of an existing organisation in community. That came through pretty consistently and then stopped coming through as things got more established. Also, in some places where there may be Aboriginal controlled organisations, this isn't their core work but there are dire justice issues there that community wants to come around to address. Community participant

The consensus amongst participants is that non-Indigenous applicants as an auspice body or close partner for First Nations groups should be permitted, including to avoid governance related barriers to accessing funding, and as long as there are appropriate checks and balances in place.

Being a non-Indigenous organisation should not be an automatic exclusion for receiving the funding. I don't think that should be a make or break situation. I think as long as they have a relationship with community it's okay. There's got to be trust. But then it comes back to being community led as well, so although it might be run through a non-Indigenous organisation, you've got the community involvement in it throughout. Community participant

Any non-Indigenous applicant, whether applying on their own behalf or in partnership with First Nations people, should provide clear evidence of endorsement of their application by and/or evidence of their strong partnership with First Nations peoples in the community or place they will work with. They should be providing clear evidence of existing First Nations leadership in and of the work in question, as well as a plan for transition to full ownership and control for First Nations people. 'We're going to work with you and help you strengthen to be able to do this by yourselves. It would be written into the contracts that you're getting into'. Evidence of how the non-Indigenous organisation will be building the capability of local First Nations people to wholly lead the work in question may be required.[10]

Some of this is just capacity building. Community has the capacity and the answers but don't necessarily have the capacity to fit inside the government way of how things work. So, if you can commit to building that up, I suppose that would help. Community participant

4.4 Does an application need to be cross-checked for accuracy?

Participants flagged the potential for conflict at a community level over who is the most appropriate applicant for justice reinvestment funding and more generally, that it might be beneficial to have confirmation that the details provided by an applicant are true and accurate. This cross-checking of an application might, for instance, support evidence provided in relation to community consensus and collaboration. It is especially important where a non-Indigenous organisation applies for funding and/or probably where two different applications are submitted from the same community/place.

There was some agreement that a *reasonable* level of cross-checking of information might be incorporated into the grants process. 'We don't need 'yes' people, you know. You're going to need people that are going to question things too,' stated one community participant. This might involve direct engagement with or citing letters of

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[10]The concerns highlighted above are consistent with the outcomes of a review into community-led, placed-based practice undertaken by the Ten20 Foundation in 2019, which identified issues with accountability and governance for held funds. The review ultimately recommended that relationships between fund recipients and auspicing hosts should be analysed to ensure that the relevant governance model has sufficient accountability, trust and agility. See Ten20 Foundation et al., *Funding Community-led Place Based Practice. Insights and Actions for Funders and Communities* (Report, May 2019).

support or other forms of endorsement from a community (and potentially from others, such as collaborators and funding partners).

> I think you've got to put it to community. If they are saying something's working here and we want to come in around it, support it and grow it, you need to ask community to provide that evidence. Stakeholder participant

It was stressed that having a letter from a single ACCO or Elder may not be sufficient, depending on the community circumstances. However, not having local leaders endorse an application may not be fatal to an application (see [3.3]). For instance, an applicant might have an adequate explanation of why this endorsement is not available. Participants commented on this issue more broadly.

> Speaker 1: It depends on who it is from the outside looking in. They might not look ready, but they could be very ready because you never know when you are doing a process like this. Or there are sometimes people who can speak so great and do amazing presentations but the community cannot stand them and so they'll just not go to something if that person is in charge of it....
> Speaker 2: But I think too each community has their own politics. There are Aboriginal services here that Aboriginal people don't go to because they don't like them. Certain families go to certain services and that happens everywhere and all the time and that shows how it becomes really hard [to cross-check]. Community participant

4.5 Other questions

What if an initiative does not have a sole focus on reducing offending and incarceration of Aboriginal and Torres Strait Islander people, specifically?

Some applicants felt that though an initiative must have a *sole or principal* focus on reducing First Nations offending and incarceration their approaches and activities may also help to reduce non-Indigenous offending and incarceration. This needs further input.

Could this funding be used to reduce offending and incarceration of a group of First Nations people not specifically connected by place?

One submission discussed setting up a 'justice reinvestment strategy' that would seek to 'address the specific needs of First Nations women at risk of offending or re-offending'. This 'strategy' is necessary because of the growth in Australia's female prison population (a third of which is Aboriginal and Torres Strait Islander). The strategy in question might fund programs that address underlying risk factors and support the needs of women experiencing or at risk of domestic and family violence and the development and expansion of appropriate diversion programs for women, for instance. This would not be possible as the initiative in question needs to be place-based, though a number of underpinning principles and elements of justice reinvestment could be applied to any strategy with the above focus (resourcing early intervention and prevention approaches, for instance).

5. ACTIVITIES TO BE FUNDED UNDER THE NATIONAL PROGRAM

Participants were asked to consider what activities should be eligible for funding through the JRP. They were also asked what activities should *not* be funded. Feedback provided included that activities need to be funded in ways that align with current understandings of justice reinvestment, including its community-led focus. The approach set out below, as such, aligns with the elements set out in [2].

5.1 Activities not to be funded

Participants identified that the JRP should not fund activities that are the ordinary part of government responsibility. Other activities that should not be funded include narrow program or service delivery; that is, where readiness indicators are not demonstrated. Activities without a sufficient link drawn to the aim of reducing First Nations offending and incarceration would also be identified as ineligible activities (see [4.2]).

5.2 Activities to be funded – flexibility

In keeping with its community-led nature, justice reinvestment requires that communities have a high level of input into identifying, developing, implementing and ultimately evaluating activities undertaken (see discussion in [8]). As a starting point, the JRP needs to have as much flexibility as possible in its definition of activities eligible for funding and the corresponding eligible expenditure. This was raised by many participants.

> There shouldn't be any parameters on what individual communities choose to do, that's their choice. The whole model is a community driven model so I just think you could have a broad brush approach and offer up some examples of things [that] people might want to consider but in terms of what actual activities take place, they say they only work if the community drives it. I think that the community can provide a bit of a run sheet on what they're going to do. But I think in terms of which activities are in and which ones are out it becomes very problematic the minute someone says well you can't do that activity. Well, so much for community-lead and community-driven. I'm not saying just throw a bucket of money at a community and say go away and do whatever you want. It's about actually providing some of the framework around the activity you're doing. So, it's not *what* you're doing, it's just a matter of people knowing *how* you're going to go about it. But the activity itself, what you want to do shouldn't be what other people are deciding. Community participant

> We do different programs – sport, makeup. So it's not like we put together a four year plan and say this what we're gonna do, it's we go engage with the young people and say well what do you wanna do? What would get you out of

> trouble, what would... get you to engage with this thing that we want to do? And that's what we found, is like having that untied money [to work in this way] is a big thing. Community participant

This requires the setting up of relatively broad categories of activities and expenditure to allow for a wide range of activities to be funded. The categories should be broad enough to respond to the following situation discussed by a community participant: 'What happens if a community has a general idea that they want to do something, but they don't exactly know what it's going to look like?' Communities may not be across all details of the activities they seek funding for at the time of application, partly as they are continually adapting and responding to community priorities and needs as they arise. Given this, there was much interest in including amongst other categories a very flexible (open) category of activity for up to a certain amount of funding per annum that communities can use as they see fit (though presumably still directed towards achieving reduced First Nations offending and incarceration).[11]

> I would want a bucket of funding that is *so* flexible. So that it can be sitting there and if one of the Elders are talking with the family and they identify one of the kids are into sport or the kids haven't got a bike, they could come back to this group. We just seem to wait. So, by the time we get the funding through, the need has changed. I'm talking about these people around this table making the decisions. Community participant

> Community wants a flexible pool [of funding]. If a person gets bailed from court, then they've got to find their own way home back home or they're breaching their bail conditions. In some cases, they might try and steal a car to get home. Having that flexible pool means I can go over and pick them up, but I need some fuel. Because there's no transport service and people are doing it on their own and that's not sustainable. Might be about emergency accommodation for that person as well. There's no post-release support and housing is a big issue in lots of communities and they're vulnerable enough and they've been put back into that same environment that might have got them in there in the first place. [This leads to re-offending]. Community participant

> The ability for communities to be able to test new ways of working and new programs is going to be important. This could be achieved through a mixture of smaller grant opportunities as well as larger grants being available to organisations who have regional footprints to deliver innovative justice solutions. Stakeholder participant

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[11] This is consistent with the literature, which suggests that funding contracts which are too specific can result in rigid service delivery. Instead, contracts should be flexible enough to permit minor adjustments without the need for contract variations, and should give those funded the authority to make decisions about service delivery. See, for example, Australian Government Productivity Commission, *Expenditure on Children in the Northern Territory* (Productivity Commission Study Report, March 2020).

5.3 Activities to be funded

There was some suggestion that just two overarching categories of activities could be established: one focused on funding the implementation of justice reinvestment at a community level and a second covering other eligible activities.

> The major [categories of activities to be funded] would be an operational costs pool and that can be for salaries, data person, comms person, all the kind of daily activities that they need to run and do the governing of JR. And then there's that other pool of funding that has also got to be flexible for activities like youth engagement. That's where the funding comes out for a bus if that's identified by the community to help undertake youth engagement activities. Stakeholder participant

Under this option, applicants would be required or directed to consider their funding needs in both categories of activities, including through the readiness tool. This option was presented by participants as a response to concerns that an applicant might apply for funding for a single youth engagement program or infrastructure, for example, without fully understanding their funding needs related to implementation of justice reinvestment.

> You need to assess whether there's the right amount of backbone support and all that other kind of stuff that actually allows it to succeed. This [should actually be] considered in the application. So, it might be part of the assessment guidelines and you would also include a bit of a prompt for communities to say well had you considered it and what are you including as part of that? So, rather than everybody just thinking, we just need to put it all towards service delivery. Looks great but some of it will need to go to backbone funding because we know you will need that to succeed. Stakeholder participant

As an alternative, the GOGs should establish, firstly, four categories that are more directly aligned with the elements of justice reinvestment in [2]. These are referred to below as 'implementation categories'. This option may be more appropriate than having the above two categories as it provides much clearer guidance during the process about the type of essential implementation activities for which funding might be needed. Applicants should be required to consider their funding needs under these four implementation categories for the reasons set out above.

The remaining six categories include an open category to cover the type of discretionary funding identified above followed by infrastructure, programs, data work, communications, community engagement and learning and development. The listed activities may sometimes fall under the above four categories but to enable funding for those instances where this is not the case they should be listed in separate categories. (It is possible that an applicant may already have funding to cover implementation, for example).

On this same note, one useful suggestion, in our view, is to incorporate two alternate ways to identify a need for learning, development and other 'capacity building' funding. As discussed at [6.4], though there will be different needs in this area across initiatives, it is likely that there will generally be a fairly high level of need for support around capacity building. It may be difficult, however, for applicants (particularly where they are newer to justice reinvestment) to identify what they require in this regard. The proposed approach is that applicants can either identify this funding need under the specific learning and development category or via prompts related to capacity building needs incorporated into all other categories (other than infrastructure).

Table 2: Categories of activities to be funded

Consensus building	• Community engagement (events, meetings) • Communications (with community) • *Capacity building related to consensus building*
Community-led implementation	• Funding backbone, leadership and other groups (including operational costs, staffing) and their key activities (e.g. JR plan development) • Other activities likely to build Aboriginal and Torres Strait Islander community leadership of JR • *Capacity building related to community-led implementation*
Collaboration and systems approach	• Coordination activities, bringing together partners • Collaborating with stakeholders • Communications (external) • Advocacy (e.g., around policy reform) • *Capacity building related to collaboration and systems approach*
Data work	• Collecting and working with community data • Set up of and work with monitoring, evaluation and learning framework/processes and local data platforms • Accessing and working with government data • *Capacity building related to data*
Learning and development	• Consultants, training, resources, learning from other JR sites etc.

Communications	• Communications (with community) • Communications (external) • *Capacity building related to consensus building*
Community engagement	• Community engagement activities for broader community • Other community engagement activities
Programs	• Community designed, based and led programs. • *Capacity building related to programs*
Infrastructure	• Rent, computers, bus purchase etc.
Discretionary fund	• A more open category with significant flexibility to respond to more immediate and changing needs • *Capacity building*

5.4 What do eligible activities look like?

Funding implementation

Funding under the four categories of community-led implementation, collaboration and systems approach, consensus building and data work will resource implementation of justice reinvestment at a community level. These are all areas in which long-term, sustained funding is critical.

Funding under community-led implementation might be sought, for example, for development and/or operation of roles or groups that will progress the work of justice reinvestment. Resources could cover salaries and other operational costs (e.g., infrastructure costs for an office or hub, paying a grant writer to assist with funding applications or someone to help acquit grant funding).

> Ultimately, having the right people, training people in what they need to carry this work forward is going to be the most important thing. You need to support that with operational funds so that people can deliver on the work. If you are giving piece-meal or short-term funding or programmatic funding, then you can't work towards some of those longer-term objectives. Community participant

> We need funding to establish a legitimate group and we need to legitimise the group in order to meet the ethics hurdles, to be able to receive confidential data from the government. Community participant

An example of the type of implementation activities these roles or groups might undertake and that fall across each of the implementation categories is the development and implementation of a local justice reinvestment strategy or plan. This was a priority for many of the communities we spoke with.

> I think a very good starting point is getting or collecting all those statistics first and foremost. Then you can tell the community and tell the people well, this is what we've identified, and this is what we feel is most important to work on. You'd need to pay a few people, at least half a dozen, you'd need men and women to door knock, going to services where the people are. Designing a bit of a short, easy, simple questionnaire that could easily be done orally. I think we have the best researchers around the table. I think we have the experts at this table right now. Community participant

Resourcing these roles or groups and these categories to implement justice reinvestment as activity funding does not adequately reflect community perspectives, however, aligned with discussion above about using a grants-driven process. Many participants saw this type of funding as supporting groups like those above to be 'vehicles for cultural authority', setting them up to renegotiate power on behalf of and increase self-determination for their communities. A number of participants referred to it as an 'investment' in building the capability of First Nations communities to drive broader objectives than reduced incarceration.

> Government has tried to hold on to the power. If you can transfer that power over to your cultural authority and create the right mechanism, you'll maintain sustainability when people move on and move around … The mechanisms need to be built and systemised from a cultural perspective. It's baked in from the word go. The group is not getting lost in service delivery itself but is a local governing group … [Our group] is here for a simple purpose – community control. It is developed by community. Community participant

> So, it's changing up the whole relationship between nations and governments. The idea of funding people to be prepared for government-to-government relations, I think that's really important. Community participant

Other categories of activities

1] Learning and development

There are likely to be quite a few initiatives needing upskilling around different aspects of justice reinvestment, particularly those that are newer to the work. Even those who are more established might still require an uplift in their expertise in specific areas.

> I think that because it's such a new concept and so many communities aren't even able to comprehend the meaning of this new concept, I think that education is necessary to bring them up to scratch. Community participant

Areas where learning and development is likely to be required include data, building collaboration and governance - all key elements of justice reinvestment. Without meeting needs in this area you are 'setting people up to fail with this. Oh right, you're doing the data. But you've got no idea how you are going to do it!' 'Governance is an area we need support in. We can picture it in our heads, but we need to get the support to help us put it in place', stated community participants.

> If you are going to bring the right stakeholders together for, say, working groups and save starting with the justice stakeholders you need to have resources … to build up local skills [to facilitate that process], or it might be to bring in [experts in place-based work] and people like that. That needs to be prioritised. Stakeholder participant

> And if you want those people that you are mentoring to then take data to the community, that needs to be supported as well. Because they need to be able to go to the community with the answers and the message they want to get out - because if they go out and 'oh I don't know, not sure', the community loses faith in that. So, it's the mentoring of being able to work with the data but also to be able to get that out in the community. Knowing the information and presenting that to someone else are two different issues. Community participant

This category of funding might cover access to programs, training (e.g., in working in a trauma informed way) and/or FIFO expertise/consultants (e.g., to help upskill around grants acquittal). Consultants might, for instance, 'keep driving the group and their strategy in the right direction for long term outcomes', one community participant noted.

> Community groups may seek support to facilitate meetings, forums and knowledge sharing. They may seek to travel to and attend meetings with other Aboriginal groups and leaders to understand options available for their communities to support improved justice outcomes. This could include forums and meetings about mediation and restorative justice initiatives, alcohol rehabilitation programs, community-based sentencing arrangements, youth engagement programs, whole-of-family support services, pre- and post-incarceration support programs, healing and cultural camps, and community legal education. Stakeholder participant

Connecting with other 'experts' may include other First Nations people working with justice reinvestment or similar initiatives. Capability building comes from growing and connecting a network across initiatives, a key role of JRNA (without funding to support the bringing together of justice reinvestment initiatives, however). 'Can this funding potentially be used to learn from other communities?' asked one community participant. Learning and development opportunities might be for those directly involved in justice reinvestment implementation or potentially for the broader community (see also Community Engagement below).

2] Infrastructure

Infrastructure was identified as contributing to various goals, including economic development, community and youth engagement, and building of consensus and leadership within the above elements. Computers, drones, vehicles and buildings (whether for purchase or rent) were all identified as necessary infrastructure.

> We need buses to move kids around. We need buses to be able to take kids away to competitions and we need to create real sporting pathways so that these kids can see a future in something outside of this community. And that kind of exposure outside of the community is absolutely invaluable to their personal growth and for their sense of where they fit in the world and where the community fits in the world. Community participant

Infrastructure for a hub or on-country diversion programs was also identified as a priority for quite a few communities. The importance of having a place from which justice reinvestment can operate, a safe space for young people or those who are homeless or exiting prison, and/or a neutral space that builds collaboration and connection together was discussed in this context, along with the need to have community control over these spaces.

> A facility of our own, for the youths. Instead of dragging them off country, sending them somewhere else. There's a lot of properties or spots. We just need to get some funding to purchase something. A lot of them are homeless, no family support and that's why they're going back into prison. So, if we had our own place like a station or something, that would be really good for the youth. And not only for the youth. You can use it for cultural stuff with the ladies as well as anyone in the community. So, you're back on country instead of taking them somewhere else on country. Community participant

There were significant concerns that the purchase of buildings and land is very likely to be out of scope for funding. Others thought that using existing infrastructure in community, however, should be sufficient, and may potentially help to build collaboration.

> It just doesn't make sense to me to refurbish someone else's property. To spend a whole lot of money refurbishing something that we don't own and that we can't pass on to the next generation as a community. Community participant.

> I would also obviously say infrastructure is going to be a key one. If you give people a space and place to come together … you've got that sense of ownership over place. We know in First Nations communities how critical country and the space that you are in is – a space that you can identify with, that's crucial to your sense of purpose providing connection as a community. Community participant

3] Programs

Although justice reinvestment is not a program and initiatives also ought not to solely focus on running programs or delivering services, they may seek funding for programs as part of a broader scope of work (e.g., for program infrastructure, the time and knowledge of community members leading these programs , mentoring etc.). Community designing, adapting, creating, and implementing programs is an important aspect of community leadership within justice reinvestment. As such, local people with the relevant skills may be funded to deliver programs. Funding might also be used to build local skills and capability to run programs.

> Funding should go to programs that are locally designed because who better knows our kids than the people in our community, than the parents and people who have been around for quite some time? Programs need to be community controlled, culturally appropriate and we need to own stuff on the ground. See, we don't own it, it's not locally run and owned. Community participant

Programs might have a justice focus: e.g., community-based supervision of offenders, night patrol programs, custody or prisoner support programs). Programs that support families, strengthen culture, or work with suspended students were also discussed: e.g., cultural camps for younger people, cultural activities for men and women, and resourcing of cultural competency training provided by community members.

Programs specifically for young people raised in discussion included holiday programs; art and sport and rec programs; youth employment and training programs, delivered on-country to avert or respond to contact with the justice system; literacy programs to help those who have been excluded from school; public speaking training for young people; and the set up and running of a youth centre or hub with 'culturally modelled initiatives and programs' and that can link young people into 'emotional social wellbeing counselling programs.' These demonstrate the focus on young people in this work, identified above in discussion of the life-course approach in [2.2].

> Cultural competency will need some support to keep running in the community. Pay for venues, travel costs, resources, Elders that give their time and knowledge. So new people coming in do the cultural competency training so that they have a cultural awareness while they're here. It's teaching them, giving them a starting point at least, of culture, all that stuff that happened in history. The whole lot. Community participant

> And could be too around materials and resources for groups like our men's group and even for the women's groups as well. They have a very small budget. If they wanted to do other cultural activities like weaving, painting, whatever or courses that they wanted to do. It's still hard with funding. When we do have our days like a men's gathering then we only get about 80 bucks and we've got to spread that 80 bucks out between say 12 men or whatever or put our hand

in our pocket to cover it and that's what we do a lot of times, probably 100% of the time. Community participant

Other programs that might require funding, for e.g., focus on economic development (e.g., through tourism) and health (e.g., grief and loss programs) and 'community mobilising and capacity building programs'.

4] Data work

Working with data is one of the key elements of justice reinvestment. Initiatives require resourcing to collect, make sense of, and interpret data and evidence of all types (including for the monitoring, evaluation and learning of an initiative). Data sets up 'critical benchmarks' and is used for 'community consultation on an ongoing basis,' as one participant stated. As such, working with data is also an important element of community engagement and consensus building. As noted, this is an area very likely to require consultant and expert input (e.g., into building data platforms and training communities to build their capacity to lead data work). An essential piece of data work many participants saw as requiring funding is the identification of community priorities, working with both community and government data.

5] Community engagement

Community engagement is a significant focus for initiatives and is connected with building consensus, local leadership and understanding of the framework.

> We have our regular meeting but also physically go out into the residential areas where people live and have a BBQ and talk to the community about what we're doing. It's just constant ongoing engagement. Community participant

Funding might be required to organise, ensure community participation in, and cover other costs associated with specific engagement activities (such as community meetings designed to share information on justice reinvestment). Community member participation in working groups (or similar) is potentially one element of community engagement that might fall under this category.

> One of the things I'd like to see is having the biggest march against violence in this community. The whole community needs to hear that we should stop the violence. Because we've got to teach our children what's normal. The violence is getting out of hand and someone's going to be killed if we don't start addressing it. March for the children. Let them know this is not normal. It's only through awareness that we can teach our children that this is wrong. Community participant

A more specific category of youth engagement might be established. This might cover costs associated with infrastructure (purchase of a bus for transport as a tool of engagement), development and running of programs led by and for young people (as above) and building youth leadership and participation in justice reinvestment activities, amongst other things.

> The young fellas all want different things. You've got to go out, interact with them and ask them what they want. And it's better that it's [young people] that

are out there asking them than it is me asking. The young fellas are more likely to listen to them. So that's kind of the strategy we work with. Community participant

6] Communications

Communications in various forms may also require funding, both as engagement with a community about the progress of justice reinvestment locally, but also as external facing communications (e.g., allowing a community to tell its story of justice reinvestment to funders, stakeholders and others).

Best thing would be having a Facebook group for anything you go forward with because that's the best way to engage with the youth or in general. That's how we've always done it. Community participant

Videos, websites, different platforms … or whatever it is that is necessary to communicate about JR initiatives. If it's all place based or driven by community solutions or ideas then they should be able to communicate or advocate effectively on the change that they want to see themselves. Community participant

Telling the story could be digital, it could be through podcast, it could be through videos, it could be through posters in the community. It needs to be done in a culturally secure, safe and appropriate way. That's actually a unique skill set in itself. Communicating a brief to government on how a justice reinvestment site is going is totally different to communicating in the local community about how things are going. Community participant

Communications can also be a strong advocacy tool used to push for systems change, as well as being important to build community momentum.

This staff member will be negotiating with funders and government but also then with other organisations in town. And then communicating directly back with community again to say - hey here's the impact we're getting, the results, here's the areas we're trying to focus on – so, that ongoing community engagement. Those might not all be the same person or it might be a couple or a few different roles. And then the ongoing advocacy part that says - here's what the community is achieving and doing. Community participant

6. MEETING RESOURCING NEEDS

Participants were asked to comment on how the JRP might best meet the resourcing needs of those working with justice reinvestment around the country. This included consideration of how to ensure equity across jurisdictions (discussed in [4.1]) and initiatives, given that at this stage there is a finite amount of funding available via the Commonwealth JRP commitment. Consideration of whether a grants process is an effective mechanism for funding initiatives was also discussed, along with resourcing of supporting bodies.

6.1 Beyond a grants program

The announcement by the Commonwealth of a funding commitment for justice reinvestment was welcomed by all those we met with. The discussion in [6.1] and [6.2], however, demonstrates the importance of working towards flexible, sustained funding for justice reinvestment, including through reinvestment as an end-goal and/or through more innovative procurement approaches.[12] Participants spoke about the need for flexibility in categories of activities to be funded to ensure communities have some level of control over how they implement justice reinvestment, as above, but there is the recurring issue, too, of whether a grants program is appropriate for resourcing of justice reinvestment. The following comment points to the difficulties of relying on more traditional funding models given that communities need to adapt to learnings and shifting priorities over time.

> I think your contract needs to be fluid because your first year will be all about getting your networks up and then the next year's going to be different and you have to keep building year after year. You shouldn't just be locked in and go right, for 5 years you're doing this, and if something's not working you should be able to change it. Because you're not going to realise until you're in it what's working or what's not. When crime's gone up or something else isn't working but you're locked into this funding and a particular model it needs to go back to advisory committees and everything else to go okay, well what other approach can we take? Community participant

Some participants raised the potential to fund justice reinvestment through partnership or collaboration agreements and/or other approaches that provide the necessary control to communities. For example, in the case of Maranguka justice reinvestment in Bourke, a 'Collaboration Agreement' sets out the core Collaboration Principles and practices, operationalises and formalises collaborative partnerships. Central to the agreement is the notion of inter-agency information sharing and collaborative working to deliver client-focused outcomes which are flexible, culturally appropriate and sustainable.

Comments shared by participants are set out below, although it is noted that this question of more significant innovation in the funding of justice reinvestment through the JRP is an important one that requires significantly more input and consideration.

> The Australian government could say it is backing justice reinvestment through community partnerships [with more established sites]. They then don't have to apply for a grant every time they want to do something on say engagement or

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[12] This is also consistent with a number of evaluations, including the Independent Review of the Australian Public Service (APS Review), which have identified flexible and sustainable funding as key enablers to successful place based initiatives. The APS Review proposed that this 'could involve pooling a small proportion of discretionary grants funding from across portfolios to allocate flexibly to community-led initiatives intended to achieve jointly agreed objectives'. Department of the Prime Minister and Cabinet, *Our Public Service, Our Future: Independent Review of the Australian Public Service*, 13 December 2019 p126.

on capacity building. It is almost like you do some sort of initial screening process [to set up these partnerships]. Because I don't think you want to put them through a grant application every time that they want to access the funding. And they wouldn't be able to do anything. They'd just be writing grant applications all the time. Stakeholder participant

[Government might be able to] move the money out of its bank account into [an NGO and] … communities could much more easily access the funding. I guess more like philanthropic funding. You don't have to jump all of the hurdles for Commonwealth grants funding. And there's a long lag time. It takes government four months to get a grant out the door. It's not quick and responsive at all. If X community was to say in February, can we have some … money to do this for these reasons, it would take us a good three to four months to get a grant out. This fund could release funding more flexibly … Even in places like Mt Druitt I would have thought that the Aunties that are working with [courts], for example, could do with a bit of resourcing. But who would accept that money on their behalf and report against it? The idea of this fund [might be] that this organisation would be holding some of those fiduciary responsibilities but would be able to quickly release funding if it met certain agreed criteria. Whilst there is delay in getting funding out, so much can change in a community in that time. If you've got willing leaders to step into a role, if you can't respond quickly that momentum can stall in my experience. Stakeholder participant

As an aligned but different point, in thinking about resourcing over which communities have greater control, justice reinvestment initiatives may identify that there is already enough money 'in the system' to effectively meet community needs and improve community outcomes. An initiative may then seek reforms to service and program delivery and its funding to ensure it achieves both of these objectives. Rather than calling for additional funding, the focus is on better coordination and utilisation of what is available with greater focus on achieving community objectives. The expectations placed on government might include providing investment mapping data that will help a community to understand existing local investments (see [4.1]) and reallocating existing funding according to community decision making as to greatest impact (a good example of a systems reform approach).

6.2 Adequacy and equity

Concerns were raised during co-design/consultations that the overall amount of JRP funding won't be able to meet the funding needs of those wanting to implement justice reinvestment. If the current funding commitment was distributed across a total of 30 communities, as originally suggested, this would equate to around $2.3 million per initiative or $500,000 per year over the next four years. 'This is not a lot of money to establish successful, flourishing and impactful Justice Reinvestment approaches', one stakeholder participant stated. It is noted that there is also an additional ongoing commitment to $20 million per annum for justice reinvestment after this four year

period and that the Commonwealth Government is actively seeking co-funding for justice reinvestment from state, territory and other partners.

Participants discussed how the current Commonwealth commitment might be provided in the most equitable and effective way. Firstly, the importance of sustained funding for justice reinvestment was emphasised by all participants. Time is required to 'grow the movement' at a community level around justice reinvestment, to build governance structures that will progress and lead the work, to develop relationships with government and stakeholders and collaborators, to tackle the entrenched issues feeding First Nations incarceration and to progress systems reform - a 'slow and non-linear process which takes time, both in its development and implementation', as one stakeholder participant noted.

> It's always there, police funding, education funding, government money but our money comes and goes. It doesn't support us properly. I really want to know when communities will be funded like government. Community participant

> We're open to as much funding as we can get at the moment, but short term would probably be off the table to start with because you are building a process and you are starting from the ground up. You have to build trust. You've got to build the foundation, which is going to take time. You have to be looking at five-year funding to start with. This is years and years and years [of issues] that we're trying to undo … You can't just say, we're giving you a job over the next 3 years to set this up, do all this, and we want to see outcomes. It's never going to work, and it will look like you've failed. Community participant

Long-term funding for initiatives is essential to ensuring the success of the program and of individual initiatives, though there may also be more discrete activities (e.g., a one-off event) that do not require such long-term funding. If the longest funding relationship is likely to be over four years, this may not be a sufficient time period.. There were also concerns raised about the longevity of the program itself. 'Funding should be enshrined in legislation so it's not subject to political whim', suggested one participant.

> New governments come in with all these initiatives and then when that government is no longer in place everything that is working towards justice reinvestment or whatever it is just gets pulled out from under people. It's got to have longevity for it to succeed. It can't be just a short-winded programme. It has to be ongoing regardless of government. Community participant

Further considerations should also be given to what might be done to ensure equity in access to funding over time. For instance, successful applicants in the first one or two years of the program might all want to be funded for (at least) a four year period. What happens to those that apply later? Will they be able to access long-term funding for the same or similar amounts to earlier applicants?

Given that it is difficult to know how much additional funding may be provided through co-funding, it is suggested that a smaller total number of initiatives should be funded to provide for adequate funding and for funding over a longer period. Options discussed in [3.2] might be useful in this context (e.g., funding only more advanced communities).

> I think it would be interesting to pick a town and throw an extraordinary amount of money at it and just see if we can make it work. If we spread money out like butter across a very large area, we don't actually get any effect. You could pick one location and then work collaboratively with government … with the possibility of actually creating the model that we're going to use moving forward with so many other communities. Community participant

> The biggest consideration is about how long are you funding? And so, to that end I would say you might need to fund a smaller amount of communities, but when you are committing to a community there is genuine investment and a long-term commitment to that community so that they have what they need to not be set up to fail. Community participant

In addition, an amount of funding could be quarantined for each year of the JRP in order to ensure that those who apply later will be able to access funding. On this same note, there is a preference for those applying to know how much funding is available prior to submitting an application to help guide their selection of activities and/or decisions about whether it is worth applying at all.

6.3 Co-funding

It is not clear what shared commitments to funding have already been established by the Commonwealth Government, but many participants identified co-funding as essential to ensuring adequate resources for justice reinvestment. This is likely to involve state and territory government partners, as well as philanthropic and corporate organisations, as noted.

> To demonstrate a genuine commitment to JR and to Closing the Gap, negotiating [co-funding] arrangements and enabling the availability of funding must not be the sole responsibility of communities, instead it should be promoted and led by the Commonwealth Government. Local communities are generally not equipped to respond to the usual grant-making processes of governments. A key concern is that responding to multiple grant-making and procurement processes could become a significant administrative burden that diverts time and energy of local people from community focused activity. Importantly the JR program must be able to leverage the ongoing commitment of funding and support from state government agencies to ensure long term sustainability. Stakeholder participant

Co-funding may address gaps in JRP funding in terms of the amount and type of resourcing provided to initiatives (and suggested in [6.4] is that funding might also be

provided to supporting bodies). Participants noted the importance in this context of the different risk appetites of different funders. Philanthropic organisations, for instance, may be less risk averse or otherwise less restrictive in terms of their requirements of those they fund compared to government. This was confirmed at the philanthropic roundtable event.

Participants spoke of challenges in building and managing co-funding partnerships. For example, applicants may face difficulties relating to acquittal of multiple funding grants.

> Finance staff are also lacking in numbers and usually have many other activities - not every org has a CFO on staff. Some are bookkeepers and some are part time and the reporting on grants can be horrendous as well. If you are proven as an org; maybe your reporting timelines are 6 monthly to yearly … with site visits and communication in between…not 3- 4 monthly - too much - given groups generally run other programs to survive. Stakeholder participant

The JRP will need to avoid these types of challenges. Ensuring effective coordination across co-funding relationships is key, and this will necessarily involve breaking down silos and working collaboratively (including around reporting requirements). This was a further point confirmed in our philanthropic roundtable.

> Not having too many reporting lines is also very important and even between state and federal and philanthropic and all the other little ones that you can go for just to not make it so that communities are actually just spending all that time reporting against. Community participant

> I'm really interested in how this program could lead to further opportunities and strategic partnerships. Even if in the early days just a bit of brokering of those conversations would be helpful. We feel like we're sort of chasing our tail having a lot of meetings with the state, the feds, local government and X organisation. It's like, well do you just want to talk to each other or come up with an actual plan that's going to help us move things along instead of talking around in circles. It's not efficient. We try to make these connections and talk to people and, and they all want to stay in these little silos. Community participant

The Commonwealth Government is seen as playing an important role in brokering funding relationships, reducing fragmentation of support and minimising duplicating effort and resourcing. This might occur within the application process itself and on a much broader scale. For instance, those applying for JRP funding might be referred to or otherwise assisted (with their consent) to access other funding sources. One state government has already indicated their interest in being involved as early as possible in the application process, to engage with communities seeking funding and potentially to assist with building readiness and with the application process itself (see [7.2]).

Co-funding from across Commonwealth government departments outside of the AGD may also have multiple benefits for the work of justice reinvestment, including supporting whole-of-government action on improving justice outcomes through social determinants. This requires funding commitments from different departments (for example education, health, and social services), as well as better policy and planning coordination across departments to respond to community objectives and outcomes. Operationalising collective approaches will require shared accountabilities and integration across traditional portfolios and departments.[13]

6.4 Supporting implementation

While funding initiatives is crucial, participants with expertise in justice reinvestment in particular stressed that all funded initiatives are likely to require support and, in some cases, a significant level of support. Without this, initiatives may be set up to fail.

There is opportunity through the application process to seek funding for learning and development or capacity building, as above. There was discussion, however, about identifying a need for support, information and advice and addressing this need *outside of* a request for funding for activities. Multiple initiatives, for instance, may need to access data expertise, given that this is an element of justice reinvestment they all have to engage with and an area in which many community participants identified feeling unsure about their capabilities. How ought this broad need be addressed?

> I think there should be a special workshop on data. Get a representative from communities and bring them together in a meeting and workshop about how to do the data and how to capture it. Because I know government wants data. That's unfortunate, but that's just the way it is. Community participant

> Data literacy is often something you have to grow to start with and it's not like governments have made their data assets really accessible and easy. You could suggest that as part of the readiness offer from governments, they procure a data partner. You could ask them to bring in, say these are the four key data sets, census, ABC, crime, whatever else. Stakeholder participant

Generic resources (e.g. videos, webinars and Q&A documents) on justice reinvestment might in part respond to this need. More hands-on advice and support is likely to be required, however. This is demonstrated by discussion during consultations of the support provided by existing justice reinvestment supporting bodies. This includes technical assistance, including to progress early planning in a community.

> [So as an example, the body] would organise a facilitator to go to X community to get the initial community meeting together and do some really interesting facilitation around what would JR look like for that community, what kind of

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data do they want, how do they want to see it, what kind of local conversations do you need around that data? Then the body would go away and develop something up and then come back to the community and say - here's what you asked for and what you said. So, at the local level now we can help you make a plan to go out and have these community data conversations and then in terms of banging down the doors of government to get the data that you want, we'll do that. We'll come back to you, in the meantime. So, it's like every step of the way you need facilitation and support. Stakeholder participant

Supporting bodies can also play a role in advocacy for systems change related to government approaches to measuring or sharing data, authorising a different way of working alongside communities, and specific reforms within legislation and policy, for instance.

It's the big picture stuff. There might be a law that needs to change that is inhibiting justice reinvestment sites but there might be no political will and funding to actually support [this reform. To create] an authorising environment requires advocacy ... An authorising environment from ministers and other leaders is absolutely necessary to creating change. A great example of that is access to data. A supporting body will try to get data sharing agreements from multiple different agencies for all sites in the jurisdiction. It's going to be a mammoth effort. What and who in individual communities is going to spend their time chasing up every single agency to get a data agreement because the agencies all hold separate data and they don't even share it within themselves and that's the data you need. That's the type of work that we need to do to foster a supporting authorising environment from top level government to support place based approaches. Stakeholder participant

This comment points to the brokering of relationships with government and other stakeholders on the part of communities by a supporting body. In this same context, community participants asked who was going to 'give them teeth' or the power required to ensure genuine collaboration from government agencies.

Those stakeholders can say to us, why do we have to meet with them? What can you people do to give us teeth? Even if we get them to the table, then what power do we have? They can sit there and tick a box and say oh good we talked to X today. But are they going to take away what we're saying? ... If we want to go into Corrective Services and talk about their programs and recidivism and get all the stats and stuff, what's the manager going to say when a couple of us go knocking on his door and asking him for an appointment? Is he going to say - 'oh National Justice Reinvestment. Yes, I've heard all about you.' Can you give us a letter of support to walk in the door? Community participant

Communities sometimes need an independent facilitator outside community politics who can help to broker things that might not otherwise be brokered. If

> you've got a small town sometimes there's just stuff that's entrenched that needs someone else to be an independent facilitator. Stakeholder participant

Supporting bodies also build relationships with the communities they support, which is quite different to bringing in an expert on a more ad-hoc basis around a particular category of activity. The supporting body is there for the long-haul, responsive and adaptive to community needs.

> That's one really key role, having a continuing ongoing relationship with communities that's not the same as a fly in fly out relationship or 'hey I'm going to come and work in your community for a year and then leave'. You might provide several different skills at different points in the community's journey, but they always have a continuous relationship with the same organisation that understands their vision and is on board, walking alongside them. Stakeholder participant

As a final point, not *everything* can be completely upskilled at a community level. There are some things, like systems change, that are perhaps best done in partnership with an external supporting body. Importantly, however, the ultimate objective is for the relationship to shift to one of independence for the community from a supporting body.

> But I think you also want to have an upskilling role too. So, you would hope that if you've got someone who is coming to make a video in X, some local person comes along and films with them, maybe does the editing process alongside, and is learning that skill. So, next time maybe that person in the local community could do the film themselves. But the reality is, there's some stuff that you might just not be able to train someone up to do on the job. So those things are there and centralising responses to them makes sense as long as there is an ongoing relationship, because otherwise you end up with 50 different consultants providing different things along the journey that don't all connect. And having those in one body that connects all the thought, the ideas, the philosophy, understands justice reinvestment and the journey the community is on, I think makes the most sense to me because otherwise you're going to end up with a kind of disjointed mess, and a community trying to pull together the pieces of what 50 different people have created from 50 different times and we see that a bit. Stakeholder participant

JRNA provides some support across all jurisdictions, however its resources are currently quite limited and this support does not include intensive hands-on work with specific initiatives. Currently, only NSW, SA and WA have supporting bodies, and each with different capacities, financial and otherwise. These bodies require further resourcing asap to work with the multiple new initiatives to be funded through the JRP.

That some jurisdictions do not have access to this support also creates inequality across jurisdictions, which is a gap that the JRU might help to address to some extent

when it is established (depending on the roles it assumes). Ideally, establishment of the JRU should occur as quickly as possible. In any event, it will be important to establish at least some level of justice reinvestment support in each jurisdiction with some urgency, perhaps as a single role to begin with, preferably sitting outside government. Knowledge of local (jurisdictional) context is important in a supporting body. Resourcing might come from the government, philanthropic or other funders. Participants have identified funding supporting bodies or roles as representing good value for money.

> There's such variation across cultures, politics, and having a national focus might mean those more remote communities, communities outside the eastern seaboard, get forgotten. They don't want to be represented or supported by someone outside their context. Stakeholder participant

> If you're talking about supporting communities to work in this space in an effective way, it is a long term relationship that you are committing to and signing up to. And I just don't see how a national body could support long term relationships with communities across the country. Like realistically, at least here in this jurisdiction, we know we've got the capacity to at least visit all of our communities once or twice a year and have that deep in person and other connection. Stakeholder participant

> If you can have those skill sets in a body that exists, you'll save bang for buck because you don't have to train somebody in every single community or demand that every single remote community has someone who can fulfil all of those roles. You can centralise those roles in a supporting body with an ongoing relationship with those communities. Stakeholder participant

A further source of support is the readiness partner. This is a positive initiative, particularly given the jurisdictional and other gaps in support at present. It doesn't solve all issues related to accessing support, however, as not every initiative applying for or accessing funding will also access this support. There are likely to be initiatives that emerge through the grants application process in September that will require but will be unable to access this support, for a start (as the EOI process has closed for the relevant period). It was suggested by participants, in the absence of or until there is broad coverage of support across the nation, that ongoing, 'active' and 'dynamic' readiness support ought to be on offer 'throughout the application process because otherwise you've got people that are getting the community readiness, they're not on the same sort of playing field.'

The Taskforce may also provide support (again, in the absence of national coverage or the JRU). While their positioning within government does have clear advantages (e.g., potentially for brokering relationships with state/territory/local government, reforms around data) independence in supporting bodies is important too (likely to be an essential element of the JRU).

7. ACCESSIBILITY OF THE GRANTS PROCESS

Reform within government procurement is important to ensuring the success of the JRP, as well as being an important example of systems change. Stepping outside of business as usual in this instance is identified as demonstrating leadership for others working in government.

> It is difficult to transform government when you're dealing with the allocation of public funds. We need to be streamlining application processes, doing what we can to make it as easy as possible. It would be great if we had some leadership and some wins at a Commonwealth level on really doing things differently. Stakeholder participant

To help inform reforms of the grants process, participants were asked to discuss barriers to accessing funding they had previously experienced and how they would like these addressed, as well as good practice in terms of accessible grants processes more generally.

7.1 Barriers to funding

Currently, government grants processes are difficult for First Nations people to navigate because of various barriers. These require attention in ways that are responsive to and informed by First Nations needs and perspectives.

> I think it should have a base which comes from other grant processes but should be open - knowing that it's coming from the community level, a local level. So, it's not going to be the same as what previous grant processes look like. If we are wanting to put it in the hands of the community, especially the Indigenous community, [it needs] cultural appropriateness. Community participant

Barriers identified in consultations include the potential short-term nature of funding opportunities, which creates uncertainty for fund recipients and inhibits planning, staff retention and relationship development. The need for long-term funding is discussed above in [6.2]. Further barriers include the narrowness of funding opportunities in terms of both time frames to prepare and submit an application, eligibility criteria and other aspects of grant guidelines. Participants identified that in order to access funding they have to clearly align their ideas and activities with government outcomes and agendas to access funding, for instance.

> The Community Youth Justice Innovation Grant that the state government runs here said 'these are the outcomes we need to meet within our youth justice framework. How will your program address these outcomes?' It requires a lot of thinking to sit down and [identify] how our program or what we're progressing from the ground up in the community fits within this Western structure that government is proposing. Community participant

There may be challenges to understanding and responding to a grant opportunity because of a lack of resources. Literacy and language are relevant in this context as is the generally fairly complex and time consuming nature of grants processes. Barriers also vary across place, with remoteness potentially presenting more barriers than an urban location in this context.

> I see lots of people get excluded from funding just because they didn't have expertise to write that application. And that's because the written application is long and complicated and you're being asked to develop a whole lot of things to attach, like a whole program logic or listing all the outcomes … You might have totally missed the mark on the question and not used the right buzzwords like justice reinvestment is about 'community'. We are trying to fit it into a government application and we've missed the boat of what it's meant to be. It's meant to be community led. Community participant

> There are over 100 Aboriginal languages spoken in the NT, and English is often spoken as a 3rd, 4th or 5th language in remote areas. Many senior   leaders directing justice initiatives in their communities live in remote locations and have limited or no access to transport, the internet, email or mobile   phones. [This inhibits ability to apply for funding]. Stakeholder participant

Further, finding out about funding can also be difficult. As one stakeholder participant noted, 'There's a lot of Aboriginal communities who'd be very interested in this type of funding to support kids and keep them out of prison.' Communities are not likely to have equal access to information about the grants opportunity, however.

Barriers lead to funding being provided to those that are better able to respond to a grants process rather than those with the best ideas, one community participant stated. Not having the required type or level of governance to receive, administer and acquit funding may also be an issue, discussed above in [4.2]. This governance might not yet be established (and funding might be sought under the JRP to do this) or there may be a preference for non-Western models of governance.

> We need an office, we need a building, we need everything. Well, we're thinking about becoming an incorporated group and governance. But that's why we lose funding. They say oh, don't give it to them mob, because they've got no infrastructure. That's why we have to keep getting auspice bodies. Community participant

7.2 Increasing accessibility of the process

The grants process needs to provide applicants with access to support, advice and information, as well as actively addressing various process related barriers.

Dissemination

Wider dissemination of information about the JRP funding opportunity beyond its release on the Grants Hub will be required. Dissemination might occur through existing networks or established points of engagement with communities (First

Nations media, local and jurisdictional/national ACCOs and ACCO Peaks), both in and outside of government and at a local and wider level. Information about the grant opportunity should also (continue to) be included in any generic resources developed about justice reinvestment (e.g., by organisations like JRNA).

> Government has a responsibility to look at what networks, relationships and trust already exist within a community ... Maybe you connect with a local government or a local service provider there or someone who might be independent to share information. You'd need to tap into the networks that already exist within government and outside it and you can do things in person and face to face. But you can't expect that to just be within the role of the Attorney General's Department to share that information. Community participant

> How do you reach out to community if you don't go through an ACCO? How else do you know the information that you're providing filters down to well-meaningful Aunties and Uncles who don't have access to this information? It's about bringing people in who feel disempowered, or don't know what's going on. Stakeholder participant

It was suggested too that different approaches to dissemination ought to be used and may be required, depending on issues such as remoteness or location. 'One size does not fit all when you're dealing with Aboriginal people so you could have particular points of communication for different jurisdictions.'

One stakeholder participant suggested that a more targeted approach would be appropriate, advising particular communities or organisations about the funding. This participant suggested targeting potential applicants based on local rates of offending and incarceration. Though the use of crime data to *select* justice reinvestment sites is not appropriate (see above [4]), targeting those likely to be interested in the funding opportunity is a good idea.

Any dissemination also needs to occur well in advance of the opening of a funding round. One suggestion was to avoid settled deadlines for submission of an application to provide flexibility to meet community needs and to avoid time pressures to complete an application.

Support/information/advice

As discussed, initiatives will be approaching the application process with varying experience with justice reinvestment - but also with grants processes. The application process itself should be as uncomplicated and streamlined as possible, providing clear guidance at every step to assist those completing an application.

> The government can simplify the application process by using plain language and avoiding technical jargon. This will make it easier for community groups and organisations with limited capacity to understand and complete the application ...The government should provide clear guidelines and criteria for

grant applications, including the goals and objectives of the justice reinvestment funding. This will help potential applicants understand what the government is looking for and how they can align their proposals with the goals of the funding. Stakeholder participant

Providing information and advice about how best to navigate the JRP grants process is essential. This includes required information on justice reinvestment. A relatively good understanding of the elements of justice reinvestment will be necessary to access funding. It is important, however, to ensure that the process through its complexity or otherwise does not exclude people that have the requisite understanding but are not able to effectively demonstrate this.

Probably a lot of communities are thinking a bit like JR anyway, but just aren't using that language. We need some kind of synonyms to describe justice reinvestment [as part of the process] so that it can trigger people - 'oh actually that's what we're already doing with that' with our yarning circles or something. Community participant

Interactive online (and potentially in person) information sessions could be provided before grant rounds open. Participants also spoke of a helpdesk function or similar to assist with more technical enquiries - noting that it will be harder for some than others to access such support and information (e.g., due to language/ remoteness/access to technology). Q&A style resources might also be developed, and the readiness tool should provide required information. Key resources should be converted to video resources and/or translated into language.

I like the idea of a hotline. Again, that thing of it being a bit more back and forth and sometimes if it's a big national webinar people might not feel comfortable to ask questions and equally if it's a pre-record. But there needs to be all those options available. They can either call the hotline or they can watch a video about it, or they could have someone who's talking, holding an information session. It's probably going to vary between the communities about the best way to engage with them coming back to that place-based principle. Not everyone has access to the internet, for example. Community participant.

A need for support around implementation of justice reinvestment is discussed in [6.4], but more hands-on support to prepare an application will also be essential. This could involve providing advice or more direct assistance with preparation of an application: possibly helping to identify and gather evidence and/or to prepare an application.

We should be finding a way to help people to put their ideas across. Can we put some mentoring in place to help make that work? They've got great ideas, they've got the community that needs this, they've got all the data that says they need to be able to do it. But they don't quite have the skills to apply. Community participant

I would have thought with the grants process something like this is dependent on community resources and capability. [The process] might need to be a bit proactive in supporting the community. If they say we've done this amazing

> thing over the school holidays, and it's kept the kids off the streets, are there resources available for someone to reach out and take that story from someone in the community? Stakeholder participant

The readiness tool could be used to work through requirements with an applicant in this context, including to identify if they are ready enough to submit an application. The readiness tool can be revisited throughout the process until submission.

> They really need to do their background before they even see it's viable for them to apply for the funding. Have someone to really talk through it with before you go through the process. Have some advice about what path they're taking. That might actually involve them talking to some existing sites around the place. Community participant

In terms of *who* provides this support, there were mixed views. Firstly, this might form part of the readiness support. This support encompasses, in part, access to grant writing assistance, as well as increasing understanding of elements of justice reinvestment, but it will only be available to some. An initiative may be able to engage with a supporting body if they are in NSW, SA or WA. The role of the Taskforce, JRNA and the JRU is not as clear in this context. Support might need to be provided, for instance, from persons with some independence from administration of the grant. An initiative may be hesitant to identify their need for support to government if one of the readiness indicators is understanding of justice reinvestment, as one potential issue. One participant has suggested that state or territory governments might step in and provide assistance with the process, others spoke of a panel or 'team of experts' set up to assist. 'This could be augmented by private sector groups and by government organisations such as ORIC and NIAA.'

> The government can engage with community organisations to understand their needs and priorities, and involve them in the grant-making process. This could include setting up community panels to review grant applications or providing opportunities for community organisations to provide feedback on the grant process. Stakeholder participant

Having input from First Nations experts and practitioners of justice reinvestment would be especially beneficial, it was noted by a few participants. We also heard from a number of communities that they want to be able to elect their own external advisors and consultants rather than be directed to a particular organisation for support.

Some initiatives may just want support to complete the application (such as a grant writer) and may have a solid understanding of justice reinvestment. Where this is the case having support independent of government or from expert justice reinvestment practitioners is probably less important. Some also suggested that access to funding to support the application process is also or alternatively required. A separate pool of funding could be specifically set up for this purpose. The funds could resource communities to increase and gather evidence of readiness or to pay a grant writer. (This is the type of support to be provided by the readiness partner: again, to which only some will have access).

Funding secretariat and capability support to access and apply for grants is an essential part of supporting and empowering remote communities to gain equal access to justice reinvestment funding. Community participant

A potential opportunity is to provide 'seed' funding for organisations, to be able to test potential thinking and models with community members. This would financially recognise both the organisation and the community's contributions. The Indigenous Australians involved in the design of the program are key leaders within their communities and their families and their time is valuable and necessary to any program design. The opportunity to recognise this as a paid employment opportunity shows that those experiences, knowledge and skills are not only important but valued. Stakeholder participant

Staged process and other perspectives

Participants suggested that the process of application ought to be staged: with an initial expression of interest (or similar) followed by an invitation to apply more fully.

Some of the application processes now, they've got two levels - where you almost do an EOI, which is not as onerous and disruptive for the community and it's something that you could pull together to articulate really clearly your vision, what you've been doing and why you have been doing it. And things like data readiness - that's the sort of thing you could worry about later. It's not that the community would worry about it later but from the point of view of the government as a funding body, that could be a conversation that comes back later. So, we really want to fund this, how do you want to measure this work you're proposing? Instead of writing these funding applications, you've got to imagine this has got to happen and that's got to happen, you've got to have everything worked out at once and then if you don't get funding or even if you do, it may not quite be right. Community participant

In terms of what might be required to get to this second stage, perhaps some indication of 'basic outcomes and some basic goals so that the communities are working towards things which then will fit in with an application process for a grant' may suffice, suggested one community participant. Initial completion of the readiness tool could be the mechanism through which a community first expresses interest in accessing the funding. If the readiness tool is used a certain level of readiness might need to be demonstrated to move on to the second stage.

Participants preferred an oral and/or video application process over a written one, which helps to overcome literacy and other barriers.[14] They also spoke about an interactive process between the applicant and assessors. There is some suggestion that visits to an applicant community should be part of the assessment process, though this may not be possible resource wise. This interactive process, particularly

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[14] Reforms to procurement processes are occuring separately and at different paces across governments of all levels. For example, in NSW, Department of Aboriginal Affairs grant applicants can choose to submit a video response to application questions on project objectives and outcomes. Aboriginal Affairs NSW regional staff are available to support applicants with recording and preparing a file for upload if required.

where in person, might be an opportunity for cross-checking of the detail provided in the application, as well as providing an opportunity for communities to speak directly to their vision of justice reinvestment.

> I think there is a lot of knowledge and experience in the room but putting that on paper, it doesn't tell the story. I think conversations where people can feel comfortable and speak should be included. Community participant

> I've supported people who apply for grants and those people are not very efficient in grammar, spelling, reading and writing and stuff. And I think if there was an interview process, or even they could submit their application like a video interview type thing. Like when you are going for a job. Because they are good talkers but it's just hard to put it down on paper. Community participant

> They need to meet with the people who are writing up the submissions. You can talk a lot of bullshit in those submissions. That needs to be changed. You get other people writing submissions. They have the people up there just employed to write applications. We really lack that with our community-controlled organisation. Community participant

There was reference to this cross-checking actually occurring during the first stage of the application process, before an applicant is asked to submit a fuller application, and to an expert panel considering this early stage submission.

> You might apply but then the expert panel can really look at it and think are these people fair dinkum? Have they done their homework, are they true to what they're saying? *Then* they actually get an invitation to apply for the funding. So, they've got to pass a crucial step at the start so it's not an open slather for anybody. Then you won't have 100 applications that the panel would have to go through. You'll get funding applications left, right and centre. Do they understand justice reinvestment, and do they understand what community means? Are they bidding because it's best for them or is it best for the whole community? Community participant

Those that are unsuccessful must be referred to supporting bodies for further advice and information, it was suggested. 'What about the sites that aren't quite there in readiness? We can't just walk away. What do we leave behind in terms of support?' They also should receive feedback on why they were unsuccessful, with guidance provided around 'how they can improve their proposal for future rounds of funding. This will help build capacity within the community and ensure that the grant process is fair and transparent.'

> At least if you don't get a grant then you still feel you've been heard and you've been seen and you can get some good feedback about it. So I think that element is really good, the relationship building. Community participant

Governance

Issues related to auspice bodies are largely covered above in [4]. There is some suggestion that those who are applying need not have or be aligned with a body with formal incorporation or similar. As above, what if they don't want to set themselves up according to Western models of governance? What formal governance requirements are reasonably to be required for the JRP?

> You lose the flexibility if you say oh it needs to be an existing organisation and there needs to be something incorporated because the very nature of this is that it grows from a seed. Stakeholder participant

What levels of organisational capacity or competency are required, in addition, and how might this be demonstrated? Should applicant organisations be required to do ORIC training, for instance? Checks about the competency of an applicant organisation may, in fact, be provided by the local community, in part - as part of cross-checking applications, for instance. This speaks to the preference for community data, as above.

> Truly look at an organisation to see not just their accounts but their stability, longevity or abilities to work in the community. Obviously sound governance is essential in terms of stability and commitment to the ethos of the program, not just a venture to make one's name look good to government and other agencies. Community participant

> If they've already got that Indigenous governance structure set up, they need to provide evidence that they've been accountable and transparent and whatever in the community, show minutes where people have attended and come to certain meetings to be involved in this process of having this structure exist in their community. It doesn't have to be a JR governance structure if they're not doing JR. Community participant

> If you're going to step into this space you need to at least adhere to ORIC, do the training. It's not just, okay we're now incorporated and we're eligible to apply for $1 million from the government. You need to have the safeguards - I have completed this training. We need some checklists along the way. Just with regard to, in terms of, director IDs and the ORIC process, they're there to protect the idea of good governance. Stakeholder participant

8. MEASURING PROGRESS AND SUCCESS

Feedback was sought on how to effectively measure the progress and success of justice reinvestment funded under the JRP. More specific questions in this area included how to measure progress and success for justice reinvestment in its initial or early stages of implementation and in ways that align with Aboriginal and Torres Strait Islander perspectives. Discussion also centred around barriers to effective evaluation,

including data capability at a community level and problems of access to government data. Feedback is shared below, but this is another area that requires more substantive input and consideration.

Community participants identified the importance of effective monitoring, evaluation and learning of justice reinvestment to delivering positive outcomes. It provides direction to initiatives, and helps to make the case for reinvestment and to build momentum around justice reinvestment in general, both locally and nationally. As one community participant states, if done well, evaluation of the JRP should also provide 'an invaluable opportunity to better equip government to understand and further support JR nationally'.

> Hopefully it will start to build momentum both in the funding but also in that conversation about what good work around justice looks like - that it's so much more than focusing on that end point and when people are in contact with the system - and what that early community work looks like. Community participant

8.1 Community definitions of progress and success

Communities working with justice reinvestment are establishing monitoring, evaluation and learning (MEL) processes and frameworks, identifying their own outcomes and indicators, designing and collecting their own data and setting up data platforms through which to make sense of and hold different forms of data. This work is all informed by Indigenous Data Sovereignty and Governance Principles and aligns with the place-based and self-determination focus of justice reinvestment. It is also, more broadly, very much framed by *community* definitions of progress and success.

These communities want or understand they will need to use government data, including justice and other data, to measure and demonstrate progress and success, while noting its inherent limitations. This data does not replace community data or tell the whole story of change, but will be important to identifying reductions in offending and incarceration and other population level changes. These changes, including reductions in offending and incarceration, are outcomes both government and community want to see. This type of data is also important for making economic arguments about or analysing cost-benefits of justice reinvestment. It is very difficult, however, for communities to access government data to help inform their mapping of progress and impact.

> I think that data is a good driver for government, they love data, so I think that it's probably integral that we do include that data in reporting back. Just to display whether something's working, for measuring and for future funding as well, I guess. Community participant

> A few years back they had a great big news story about Centrelink that the amount of people that were applying for crisis accommodation or crisis payments had decreased and had halved. That might have been true but what they didn't share with the people was that they changed the selection criteria for you to be able to get that money. It didn't change the fact that so many people needed it but they just didn't fit in the box to get it. A lot of people were so disadvantaged and suffered because they changed that selection criteria, but they didn't share that. Just said it was a decrease. Community participant

Community-identified outcomes and indicators measured using both qualitative and quantitative community data are likely to be prioritised. This is reflected in [4.1] in discussion about the use of government data in the assessment process. Community data, as one community participant described it, might include videos with young people that have completed a program to 'See if they've changed at all. We can see the difference there. And family will also tell us, hey this person's changed'. Others spoke of success as community wellbeing indicators: 'those community-defined positive things about having a feeling of belonging, a sense of momentum, a connection to community'.

> You know how you can tell if this is a safer community? We don't want to look at the amount of charges or re-offending. The community says, well, we don't hear cars screeching around the town, we don't hear people screaming - and that's community defined data. Less bars on the windows, less graffiti, less broken glass and somehow, we'd like to capture that. And that's what we try and push up through some of our channels to really look at the KPIs because it's often not about the quality of anything, it's just about the quantity. But we don't see outcomes that way. Community participant

> Conversations around how people perceive the community and community safety and things like that would be useful. If you were to do a community safety survey, you're going to get some pretty hair-raising responses now. But if you do that later and you see that people are feeling more positive about their community, safer in their community or part of their community, that can feed into the measure of success. Community participant

One participant identified the importance of their community 'redetermining what success is from our own cultural lens'. In this instance, this was defined as including 'empowering our youth to have a voice, strengthening culture' and 'ensuring our youth and the grass-roots community drive our work'. In community feedback sessions, participants also specifically reinforced the importance of a MEL strategy defined by cultural frameworks relevant for each community.

These community-defined outcomes are important in their own right but might also be used to measure impact of justice reinvestment activities such as building leadership or community consensus. They are especially useful for measuring progress for earlier stage initiatives.

> In the early stages … the outcomes need to be focused around building the trust, understanding and engagement of community members, building the capacity of community decision making, and the development of governance processes in line with community decision making … The definition of success [may be that] community thoroughly understood, agreed with and were engaged with the model. Stakeholder participant

> Building partnerships, building confidence, building knowledge - it's quite possibly not what you want to hear for a program that wants to get results, but if you don't build the foundations it's fragile. Community participant

Achieving these types of outcomes also mark important steps along the way towards the longer-term goal of reduced First Nations incarceration. The work of justice reinvestment is complex and it takes time to achieve meaningful and sustained changes to justice outcomes.

> It may not be that [measure of reduced] incarceration [you provide] but it may be that the kids are engaged, kicking a football around and they're not like going and spraying [walls with graffiti]. No-one can say we're going to fix it in five minutes. It's really tiny baby steps, and years and years and years of work. Community participant

As this last comment indicates, initiatives are likely to want to map progress as it happens, at a community pace. Progress is also not necessarily linear and is affected by sorry business and other issues arising in a community.

> You might ask [people to come together] and nobody turns up. You need that cultural understanding that people didn't not turn up because they didn't want it to happen. Something might have happened in the community on that day. There could have been a loss in the family or the connections that they have outside of their own community. Community participant

Sometimes too, variability in progress can be about government action or inaction. Participants spoke about the impact on progress of having to continually re-build relationships with agencies locally. 'And it happens across everything, within education, health, the police. You might get a new manager within a service provider, so you've got to start that all over again'. This is part of a broader discussion below about how to ensure governments at all levels are contributing to and share responsibility for justice reinvestment outcomes.

8.2 Measuring progress and success: role of government

There are key differences in how government and First Nations communities are likely to define progress and success in a justice reinvestment context. These differences are evident across communities too. This difference must be recognised and built into

measurement of progress and success within the JRP, but there will also need to be agreement on shared definitions of progress and success at both a national and community level.

> Whilst an overarching goal of JR may be to reduce offending and rates of incarceration, how government measures this may not align with the views of community. Similarly, what one community deems a priority and success, may not be for another. This can also be applied to causal factors of crime - as each community may be experiencing their own unique vulnerabilities and predispositions which can lead to criminalisation … Measuring success therefore will be variable and depend on specific place-based factors, making it imperative that all stakeholders have an agreed view on what the community is working towards. Stakeholder participant

These definitions must be heavily informed by community views of progress and success, including those set out above in [8.1].[15] This means not over-relying on government statistics - or on justice statistics alone. Change in other areas (referred to above as social determinants of justice) will also be important to measure. Community-identified outcomes, indicators and evidence used to demonstrate impact ought to be incorporated into measurement of progress and success and preferred over measures that do not provide true insight into the work being done.

> And each community will have their own KPIs. So, tailor [the JRP evaluation] more to that because as we know, normal KPIs within government and NGOs, they're not really outcomes that our people will benefit from, or we wouldn't be having the problems we are today. Community participant

A coming together of different types of data around shared outcomes might be used in innovative cost-benefit analysis of justice reinvestment, which might then be used to make the case for more sustained resourcing. This analysis was identified as an important aspect of evaluation under the JRP by some participants.

> Like the reinvestment side… and then the cost benefit analysis. I think that needs to be part of the evaluation … so that we know how much money is being saved that can be reinvested back into the community to further fund those projects well into the future. Community participant

A more interactive relationship between communities and funders is also preferred as this allows funders to understand and be responsive to outcomes that are different to those agreed upon, to be adaptable to community circumstances and perspectives.

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[15] This is consistent with the broader literature. For example, the learnings from the preliminary assessment of the Maranguka reinvestment initiative in Bourke NSW, identified misalignment between government and community when it comes to outcomes measurement as a key issue. The preliminary assessment recommended that government draw on Aboriginal perspectives when determining outcomes to be delivered, and when assessing whether the services are responding to community needs. See KPMG, *Unlocking the Future: Maranguka Justice Reinvestment Project in Bourke* (Preliminary Assessment, September 2016).

You should just be able to pick up the phone and say like at the earliest opportunity. You shouldn't have the fear of going to your grants manager because something's changed or something hasn't gone to plan. Community participant

Open it up to qualitative answers, not just like statistical answers. So, it can give community space to be able to explain the data or provide a bit more of an overview. If what they thought the expected outcome was going to be is something completely different, giving them the opportunity to talk about – they might not have reached that target that you agreed on but there's this whole other chain of events that has been positive in the community. It needs to be flexible. Going back to like the ways that we do things, because Aboriginal people sit around and talk. That's the way you get the best data from us. Community participant

Participants also spoke of the need to adequately fund and otherwise support the capacity of all communities to be able to demonstrate progress and success to funders and/or to share data for a JRP evaluation (including to ensure ongoing funding). 'And then there'll be people who can do great things, but they don't have access to what is needed to report back necessarily', as one community participant stated. This includes ensuring that communities have access to government data. The Commonwealth can provide their own data for initiatives, work on data linkages and broker access to state and territory data.

Part of establishing what justice reinvestment looks like here would be a three way conversation between the Commonwealth Government and the State Government and the community about - ok you put in a proposal for X, you probably want Y data and then seeing who has that data that can help you. Some of it is going to be local government too and sometimes the Commonwealth owns it, for example Centrelink payments, that's data that sits with the Commonwealth. Things like school attendance or break-ins, that's going to be State data. Local government [data] might be about who attended the school holiday program. So, it's about brokering an agreement between all [levels of government]. And it goes the other way too because the Commonwealth and the State want to know what you're doing and how you're tracking. So, it's you also saying we own this data, this is our community's data but we'll come back to you and we'll show you how we're tracking. Community participant

Government data ought also to be improved through this process, including to ensure it better reflects First Nations perspectives and meets the needs of communities implementing justice reinvestment. As an example, what data reforms might be required to enable data work by an initiative that wants to approach justice reinvestment from an Aboriginal and Torres Strait Islander Nations focus? 'This investment should extend to improving the quality and accuracy of data, driven by

Aboriginal people and Aboriginal organisations. Justice reinvestment could be used as a pilot' to try to achieve this, one stakeholder participant noted.

8.3 Government accountability

A point made very clearly during consultations is that governments at all levels share responsibility for achieving reduced overrepresentation and other outcomes through justice reinvestment. Participants were asked about their expectations of the Commonwealth beyond funding justice reinvestment. This is an area that will be expanded upon in the August report, but examples shared include the Commonwealth leading reform across government in data (as above) and other areas.

There were calls for the Federal Government to broker relationships with state, territory and local governments to support justice reinvestment - and with state and territory governments to progress *reinvestment*, along with other legislative and policy/reform, for instance.

> The Commonwealth should play a leadership role as it has done so with the funding commitment. It needs to ensure that the "reinvestment" part of this policy actually takes place, which means that states have to return to communities the savings they have achieved through lower crime rates. It should also use the work of JR projects to inform policy changes that will reduce the rates of incarceration affecting First Peoples around Australia. Stakeholder participant

There were very strong sentiments shared during co-design sessions about the disjuncture between the Commonwealth commitment to fund justice reinvestment and the significant funding committed to the state and territory prison systems, in particular.

> With the 30 communities [to be funded through the JRP], no offence, but it's just not enough. One of the recent correctional services centres that was built here comprised a cost of $1.5billion just to house mostly young Aboriginal people and that's just so, so, socially unjust. And when they're building prisons in Queensland to the value of $1500million and we're seeing at a national level they're only committing $81.5million it raises concerns in our thinking about the extent of the commitment being made from a national level. Community participant

Policies and legislation that increase incarceration of Aboriginal and Torres Strait Islander people were also called out: for instance, bail reform laws in the NT. 'All the evidence indicates this will lead to more people incarcerated, in turn leading to increased reoffending', one stakeholder identified. 'These sorts of reforms are contrary to the principles of justice reinvestment and are a significant barrier to the success of justice reinvestment projects.'

Reforms in other areas of government policy referenced include additional investment in social housing, for instance, and those that shift the relationship between First

Nations peoples and government; for example, by 'continuing to progress aspirations of First Nations peoples articulated in the Uluru Statement from the Heart.' Within the JRP itself, the Commonwealth must ensure that they are genuinely partnering with and contributing to a strengthening of self-determination in First Nations communities and are bringing other levels of government alongside them in this regard.

> It's probably common across all jurisdictions, but there's definitely still a pretty strong trust deficit between Aboriginal people and government, and it's not surprising given the past 200 years of history. Government really has to show that they're acting in good faith and come to the table with a completely open and transparent approach to show they really mean they're in it for the long haul. There's a lot of cliches. I see government throwing around the word self-determination, but I don't think they actually know what that means. And so, if you are saying you're committed to self-determination, you actually need to understand what that looks like. Yes, and appreciate that some people might be wanting to do things that you don't agree with. Community participant

> Probably our experiences with government are that there's no transparency and there's no real accountability. So, it's going to be very, very difficult for us to [convince government] … to collaboratively engage in planning and implementation. I think it really needs to come from Federal Government - not so much forcing, but even if it's through some sort of what initial justice reform - make the State accountable and transparent to this process so it's not just a matter of their choice as to whether they want to or they don't but more so that they have to. Community participant

Without this and other systemic reform and structural transformation in government justice reinvestment will fail, which might then be framed as a failure of Aboriginal and Torres Strait Islander peoples.

> It's all so buggered up beyond repair and they've come to communities with like, you fix it. And then, when communities fail to fix it because the systems haven't changed, they're like, see, we told you … you're useless. Community participant

Measures for government accountability

There needs to be effective processes and frameworks ensuring government accountability to deliver and contribute to positive outcomes.

> There needs to be shared outcomes so that government is holding themselves accountable to [achieving] outcomes and they're reporting to those outcomes. It's not community's problem. And there needs to be a shared table where government and community are sitting around regularly talking to those shared outcomes. Once government is at that table, they will say they can't do anything differently to what they're doing and that's not good enough. Like

that's what we're expecting of you if you are going to sit here and work alongside us. Community participant

It's really good from the outset to think about an accountability framework for government so when you're looking at the data that you're collecting, there's some data which is about what's happening at the community level but then there's also indicators around that accountability of government that they're working differently. Community participant

These accountability measures ought to be incorporated in agreements or other contractual arrangements set up between the Commonwealth (and the states/territories) as funder and individual initiatives. A local level example of this provided by one community participant is that local police are completing cultural awareness training. Another community participant had used risk assessment in contractual arrangements with a state government to facilitate conversations about what they needed to bring to the table to ensure outcomes were achieved.[16]

The above principles to be embedded within the JRP provide some measure of accountability at a national level. Measures must be built into and tracked through an evaluation framework for the JRP. Reliance might also be placed on Closing the Gap, given existing commitments by state, territory and federal governments to work in ways that align with justice reinvestment. There is some work to be done to better inform First Nations communities about the alignment between justice reinvestment and the National Agreement and the opportunity this might provide for ensuring government accountability and otherwise supporting their work.

Priority Reform Area 1: Formal Partnerships and Shared Decision Making might support community calls for genuine partnerships and recognition of self-determination, for instance. What partnerships have been built and how far along the continuum they are might be an appropriate measure of government process and success in this context. Has 'the connection between communities and government strengthened?', as one community participant stated.

One of the key priorities for the Justice Policy Partnership is advocating for structural reform on key justice measures, including reviewing the minimum age, but there are a whole range of other justice-related outcomes that the JPP are requesting in the area of partnering with Aboriginal organisations. It's about partnerships and being led by Aboriginal people. And that's the hardest thing, because we make decisions for Aboriginal people. And I would say viewing that on a continuum - so partnerships are about halfway in the continuum, but where we really want to get is handing decision making and control over to communities... So, you don't even really need that partnership anymore, and government is perhaps not even there. Stakeholder participant

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[16]This is consistent with the APS Review recommendation 9 proposing clear accountability for outcomes in place-based investment, including shared ministerial accountability where appropriate. Department of the Prime Minister and Cabinet (2019), p128.

It is essential that whatever mechanism is used for this purpose, First Nations people participate in development of and evaluation against measures that will identify and track government process and success.

Community feedback was that there is a need for a clear narrative around how the JRP and ultimately the JRU fits within the broader Commonwealth government agenda for First Nations peoples, including the National Agreement but also the Uluru Statement from the Heart and the Voice, Treaty and Truth imperatives contained within it. Some did not want progress and success mapped under Closing the Gap. Rather, whether or not the JRP contribute to Aboriginal and Torres Strait Islander defined outcomes such as treaty development might be prioritised in this context.

> I suggest what is missing is discussing alternative approaches to impact assessment. Closing the Gap indicators are not helpful in demonstrating incremental system change over an extended period of time. Some research and a data collection plan on meaningful indicators would be of benefit for attracting and retaining donors. Stakeholder participant

> I've had a concern for a while that the Federal Government really is trying to process initiatives, programs, projects that are ticking the box for Closing the Gap targets. They are really important things, there is no doubt about that. But this is about empowering our Nation to address the issues that are impacting within our community itself. I'm certainly not here to tick a box for the Prime Minister to stand up in Government and say hey we are tracking on this pathway under the Closing the Gap. There is a bigger picture to this, and I think it really boils down to resourcing local communities to tackle these issues at their community level and being resourced appropriately to do that. Community participant

9. ASSESSING APPLICATIONS FOR JR FUNDING

The importance and need for Aboriginal and Torres Strait Islander input into assessment of and decision making regarding who is funded through the JRP was universally reinforced during co-design and should be beyond question. This is a further example of how the Commonwealth's commitment to shared decision making under Priority Reform 1 might be operationalised and measured. What has been more difficult to identify is a shared view across different communities nationally on how this might be embedded within assessment structures and processes.

9.1 Panel representation and structure

There was strong consensus amongst participants that the form of panel should be made up of representatives across a number of different categories, with at least an

Aboriginal and Torres Strait Islander majority. This will need to include appropriate Aboriginal leadership and representation from outside government agencies.

> I think people with lived experience should be in on the decisions. I think people from across Australia, I'd hate to think it was just a kind of a Canberra bubble so to speak which I know is not at all what's being proposed, but if you haven't lived remotely then you've just got a different perspective on things. So if you could have a youth voice, and a range of intersections. Community participant

> You would need majority First Nations representation. You want to try and get the diversity of different jurisdictions to the best extent you can, you want a combination of community members, peak bodies, JR experts, people that sit within government that understand the back end of how these things sit. Stakeholder participant

Some felt the panel should be made up of 100% Aboriginal and Torres Strait Islander representatives, with external advice being sought as needed. Regardless of the representation on the panel, there was some interest in being able to access additional external expertise and advice as needed. A number of communities identified that representatives would need to be supported with independent expertise to enable their participation in the panel, particularly representatives who are less experienced with justice reinvestment. This might include non-Indigenous people with the appropriate expertise as external advisors to support and inform community perspectives, where necessary and at the invitation of community representatives.

Across community engagements there was support for an assessment panel made up of differing combinations of the following categories of representatives:

a. Aboriginal and Torres Strait Islander representatives that:
   i. Have lived experience with the criminal justice system;
   ii. Represent a geographic spread across urban, regional and remote communities, and across the States and Territories;
   iii. Represent a certain number of the members of the Coalition of Peaks;
   iv. Are not employees of any layer of government (except, potentially, local government employees for remote and regional communities);
   v. Have specialist knowledge of justice reinvestment;
   vi. Have expertise from across social determinants of contact with the justice system;
   vii. Are from different age demographics, including young people.
b. Government representatives from a cross section of Commonwealth, state and local governments, in particular those with expertise in place-based approaches.
c. Justice reinvestment experts, including those with supporting body expertise.
d. Representatives from philanthropic organisations or other funders with experience in justice reinvestment.

One person might ideally sit across more than one of the above categories to reduce the number of participants. Given that a larger group might be more unwieldy and increase the size of the potential budget for the panel (with sitting fees needing to be incorporated) some suggested limiting the number of panel members. This could be challenging if there is an expectation that all of the above categories are to be represented on the panel.

> We don't want to see too much money caught up in the administration processes of this, so what we're looking at here is a much, much smaller funding commitment than say something like Closing the Gap or other initiatives. So, we want to make it I guess as cost effective but have diverse and strong cultural authorisation behind that process. Community participant

This also brings in community and stakeholder suggestions to avoid duplication more generally, given there are existing structures, both more regionally and at the State, Territory and National levels, to input into decision making that could be incorporated into this process. This is outlined further below.

One approach raised is to have a panel of members from which a subset is chosen for a particular round of grant applications. To ensure that the panel is appropriately representative it could be required to meet a subset of the criteria outlined above. This might:

- alleviate the time pressures on the panel membership and reduce the likelihood of a quorum not being present; and
- allow for the formation of panels for consideration of recommendations on which they are best qualified to form a view. For example, a participant suggested that a panel assessing a recommendation in a remote setting may be better served by panel members who more fully understand the remote context.

Cultural authority

The fundamental importance of incorporating cultural authority in decision making was identified by some participants. Without this, the decisions and input provided may not meet broad community expectations and risk being seen as lacking authority, despite representatives on the panel being Aboriginal and Torres Strait Islander.

> In our governance group we talk about cultural authority. It is very imperative to have that right person who has the cultural authority to speak on behalf of whoever and we recognise that those people with the cultural authority are not necessarily Elders. We know that there's lots of other middle aged or younger ones there that also have cultural authority within the clan groups and their skin names to speak on behalf of their people. Community participant

The process of nomination and endorsement for panel appointment was also discussed in a number of engagements, with a letter of endorsement from community and community controlled organisations proposed as a potential reference to

understand how that nominated person represents their community and leadership role/s.

If Elders are included there may need to be support and other accommodations made for representatives to participate fully.

> You can see you'd want people that would have that expertise and experience for sure, but I think there should be a cultural side to that decision as well, especially from our Elders. Every family group has Elders that they respect or different people that they will all tend to turn to when they're in need or at times of trouble. They will come to the front, or they will be nominated. Then how do you support them to take that seat and how do you accommodate that, because that would be challenging as well. Community participant

The legitimacy that comes from decisions being made within community control was repeated across broad community sessions. This is an essential part of moving away from top down, arms length government decision making for communities.

Local or regional decision making input

A number of communities and stakeholders identified the need for assessment by regional, state and territory based panels with Aboriginal and Torres Strait Islander people from representative communities and organisations, given the importance of understanding local context.

> Given the political, historical and cultural complexity of [our jurisdiction], grant application assessments need to be made by people who have place-based context and knowledge about the region from which the application has come. Specifically, we recommend that 50% of the assessment panel for our grant applications comprise Aboriginal leaders who live and work in [this jurisdiction] and can represent perspectives from remote Aboriginal communities. Stakeholder participant

This could involve a standing representative or representatives sitting across all panels to ensure an appropriate degree of consistency across all decisions and recommendations.

This could also help to address the perspective, more common in regional and remote communities, that some people did not want to assess or have input on any applications other than from their own country or region. There was sometimes discomfort at a community level with the idea that they would have input into the assessment of community applications across a national panel.

> If we are talking about X people from the X community then that's okay but it depends on the region. I'm not talking about other tribes or other people. I can't talk for somebody else. I've got no jurisdiction. Community participant

However, we also heard that a number of communities would see challenges with more localised or regional decision making input and it was suggested that

consideration of local circumstances be provided from outside of the panel representatives as information to be considered. This view was most commonly held in communities and regions where there is deeper division along particular family, political or other alignments, as part of the ongoing impacts of colonisation, which presents challenges to a more localised decision making structure. In those communities and regions there was a greater sense that decision making would need to sit outside of the region.

> There's conflicts everywhere. I think you're better having one national panel that is assessing all the applications in all the same way. I don't know if there would be a way the national panel could say to the [jurisdiction], can you advise us on this? Community participant

> The issue may be that for us, everybody knows everybody or is familiar with them and so the issue of conflict of interest and confidentiality becomes an issue. Community participant

An alternate proposal with some support was that local endorsement of applications in those jurisdictions or regions where more localised decision making would be difficult could happen after an initiative is selected by a national panel. This would bring in local decision making and cultural authority.

> We get a lot of false applications – they go in, say they're consulting with our Elders. So that needs to change. So, Elders look at proposals that are relevant to just their community. You need to go through all the steps, like state, federal, regional, local, go through the right procedure, yeah. The right steps. Bring it back to the locals for the final decision. Community participant

Multiple layers of input, together with a transparent and structured decision making process, was also raised as safeguarding community representatives in the process.

> And that's what people have been saying like you know we might not want guidelines but actually it's helpful for people on the assessment panels to know exactly how they are going to make a decision and that's part of the transparency back to community. Could it work that you have small input, maybe not even as a panel thing, maybe it goes through some sort of local thing, like say it's all of Queensland or all of New South Wales and then that feeds up into another layer where it's kind of a decision. So the decision, advice on who should be funded goes up to a panel and that input is quite localised and then there's something sitting across where a final decision is made and it's still got Aboriginal and Torres Strait Islander representation which could be drawn maybe on a rolling basis from those people on the ground. There's maybe two layers to it so that also protects. Like it's hard to make decisions about your own community or you've got connections and then have to go back to your community as well. Community participant

9.2 Potential for linkages with existing jurisdictional and national decision making architecture

Given the number of existing decision making structures, including under the National Agreement architecture, we asked whether there should be connections and linkages into these structures as part of the decision making processes.

For example, the process for place-based partnerships under Closing the Gap is one of local endorsement, state and federal level endorsement through the Justice Policy Partnership, to Partnership Working Group and right up to Joint Council for shared decision making. There may be important distinctions between this process and what is appropriate for the JRP, as it is endorsing a site, rather than deciding who is funded for justice reinvestment.

> I actually think that that's a really great idea to link in with those existing structures because it's getting very weedy and hard to see and so the more that you link in with those existing JPP Closing the Gap structures, the better and the stronger it's all going to be. It's about creating a really powerful engine here and I think the only way you could do that is to recognise and respect what is already happening and existing leadership. Stakeholder participant

Further consideration on how and whether existing structures ought to be included in the decision making structures around justice reinvestment is necessary. This could be through either having representatives from those structures on the panel or through referral pathways for endorsement by these structure/s. This would need to be balanced with broad community input heard during the co-design that the final sign off should sit at the community level rather than the national level.

> I think the sign off should go to the community people. Like the people that would be sitting on those groups, they're not always connected to the communities themselves. And again, it's probably bringing the authority back to the people that are living in the communities. Give them more voice. Community participant

This balance and direction of endorsement and decision making will need additional input in the next phase of the design, in particular from the Peaks. This should ideally be seen as complementary and supporting community level decision making and as an opportunity to enhance and hold government accountable to the voices of community. In preliminary conversations with a number of Peaks they emphasised the importance of amplifying and strengthening community voice rather than seeking to remove local decision making and authority through national-level decision making structures.

In Victoria, the Aboriginal Justice Caucus (AJC) was engaged to seek input into the design of the JRP, its grants process and GOGs. The AJC is the primary conduit between the Aboriginal community and the justice system, providing leadership, advocacy and expert advice to inform justice reforms in Victoria. The AJC is comprised of the chairs of the nine Regional Aboriginal Justice Advisory Committees (RAJACs), as well as representatives of Aboriginal Peaks and some ACCOs.

During the above engagement members of the AJC highlighted the strong place-based decision-making structures in Victoria, particularly the RAJACs and similarly, the Local Aboriginal Advisory Committees (LAJACs). They noted that through these bodies, the AJC has existing mechanisms to consider funding priorities across each region, and advocated for the use of these decision-making structures within the grants process.

9.3 Genuine and respected role of Aboriginal and Torres Strait Islander representatives in decision making

Participants stated that the decision making process needs to be mapped out clearly and be transparent to communities in order to support the legitimacy of this process and those participating in it. If the ultimate decision making authority must lie solely with the relevant Minister's/Ministers' delegate then such delegate should, other than in exceptional circumstances which should be clearly mapped out, act on advice of an expert panel.

> I have seen the State Government do that with a program highly focused on Aboriginal Torres Strait Islander people. So, they say, ok we will put an Aboriginal Torres Strait Islander on the 5-person panel, it will be a token Aboriginal person, and the other 4 public servants make the decision. They really disregard the input and that needs to be considered so that it's not being seen as a tick of a box. There needs to be actual value and their view and perspective needs to be considered strongly. Community participant

> This speaks to my own distrust of government but ultimately, whatever assessment panel or assessment mechanism you set up, let's call a spade a spade, they are not the decision maker, and they will not be the decision maker. They can provide advice and they can provide recommendations but ultimately the actual power does not sit with them. As long as that's the case it's a little bit smoke and mirrors and it is. We need to step beyond just an assessment panel of structure. And they can make recommendations as much as they like but it gets pushed back. Making recommendations is not having genuine power. Community participant

The shifting of risk by government to communities in the decision making process was raised throughout the co-design, acknowledging that community-led decision making should not set members up to fail.

> We also need to acknowledge the risk that sits with individuals that are then placed in that assessment position because they ultimately do not have that decision making power and as long as they don't, but they are put up as being the decision makers they then carry that risk back to community if the decision perhaps doesn't go in a direction that was reflective of their actual views. We know that this area is fraught with politics whether that be politics within government, politics within community.... So how do we protect people who are in a strong position of influence, but not necessarily decision makers? We need to make sure that it is a safe place for First Nations people to come in as part of that assessment process when recognising that in reality they don't have full decision-making power so we can't put them up as such. If that is the reality that we're working in we need to make that clear, make that transparent and not pretend otherwise. Stakeholder participant

Further input should be sought on addressing these known risks and to learn from the existing decision making structures that are currently operating, including under the Closing the Gap architecture.

9.4   Process design

The process for decision making will require careful thought and again, more input, in particular to reflect any linkages with existing formal structures and decision making architecture. Any process established prior to formation of the JRU may need to be revisited after it is established.

Decisions will need to be made and feedback obtained, for example, on:

- The size of the panel (as discussed above).
- The selection process for membership of the panel. Is it via EOI, selected or a combination?
- Whether Aboriginal and Torres Strait Islander representatives on the panel need to make up:
  - 100% of the membership;
  - More than 75% (or another proportion) of the membership; or
  - More than 50% of the membership.
- Whether decision making on the panel needs to be based on consensus decision making or another proportion.
- What process will be followed if ultimate decision making power rests with the Minister's/Ministers' delegate. For instance:
  - On what basis will the delegate be permitted to reject the panel recommendation?
  - If the delegate proposes to reject a panel recommendation will it be required to convene a meeting of the panel to explain its reasons and consult prior to a final decision being made?

- ○ What steps will be taken to ensure that the reputation of panel members in the community will be safeguarded through the process?
- Whether a recommendation in relation to a community and proposal should or should not include panel representatives from the State or Territory within which that community is located.
- Whether the panel should have the opportunity to receive a presentation directly from representatives of the community.
- The role, once formed, of the JRU in the decision making process, if any.

The process decided upon will necessarily involve compromises and is likely to have imperfections, especially in the initial stages. It should be reviewed and open to change and ongoing scrutiny by community.

10. CONCLUSION

With the commitment from the Commonwealth, we are at the cusp of the first substantive national funding for JR in the history of the JR movement in Australia. As this first phase of co-design showed, there are a significant number of communities across Australia that are wanting to explore and more fully implement justice reinvestment because of the promise it holds - for respecting culture, strengthening of self-determination and enhancing community-wellbeing.

The importance of story, community and place has been at the heart of each community co-design engagement. Aboriginal and Torres Strait Islander communities have and will continue to write the story of justice reinvestment. The proposed approaches detailed in this report have tried to bring those stories into the design of government policy and processes. Our aim is to create a structured framework for the grants process and GOGs (and the JRP more broadly) that also holds space for each community to shape their community story in ways that reflect their local circumstances and identity.

The end of this report leads us to where this story began in more ways than one - at the back of Bourke at the origins of justice reinvestment practice in Australia as it is now known. Our conversation in this community during co-design flowed often to the river and the deep connection of place and people, moving and shifting with the river levels as it rises and falls. We met with an Elder, alongside Taskforce members, who spoke about a division of Aboriginal people on one side of the river and non-Aboriginal people on the other. This Elder called for government to cross over to his side of the river. This meeting of two peoples on the same side of the river needed to happen, he said, before any handing out of government money.

> I'm still hearing you talk about the money. The real asset is for me to meet you and build that rapport, build a relationship and I think that's what's missing in our whole country, is that relationship … Then when we get to that place, we'll talk about the money side of it.

Conversations with a similar theme were common during the co-design process - an expression of cautious optimism around the opportunity the Commonwealth funding presents along with a recognition that something more is required. That something is government stepping forward, coming alongside Aboriginal and Torres Strait Islander people and being ready to respond to what it is they need in order to lead solutions in their own communities.

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APPENDIX A

Community-level engagement to date

As at the date of the interim report, we have engaged the following communities in a co-design workshop. There are a substantial number of communities outside of this list who have engaged with the Design Team through individual information sessions and preliminary discussions. A number of additional communities have also attended online interim findings community feedback sessions.

State/Territory	Communities
New South Wales	Bourke Cowra Inner Sydney Moree Mt Druitt Redfern
Northern Territory	Katherine Lajamanu
Queensland	Cairns Cherbourg Doomadgee Mornington Island North Stradbroke Island Palm Island Townsville
South Australia	Murray Bridge Murray Bridge (2) Northern Metro Port Adelaide Port Augusta Southern Metro
Tasmania	Burnie / Circular Head Hobart Launceston Launceston (2) North East Tasmania
Victoria	Aboriginal Justice Caucus
Western Australia	Halls Creek

	Kununurra
	Mulan
	Newman
	Newman, Jigalong, Parnngurr, Punmu and Kunawarritji
	Perth Metro
	Port Hedland