

JUSTICE REINVESTMENT IN KATHERINE

Report on Initial Community Consultations

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JUSTICE REINVESTMENT IN KATHERINE

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EXECUTIVE SUMMARY

1. Introduction

The NT Council of Social Services (NTCOSS) and North Australian Aboriginal Justice Agency (NAAJA) received funding from the Law Society Public Purposes Trust (NT) in early 2015 to conduct a justice reinvestment (JR) ‘proof of concept’ project in the NT. The project seeks to determine the capacity of JR to reduce incarceration and offending of 10 – 24 year old Indigenous people in Katherine. It is hoped that if successful a JR framework might be used in other NT communities.

Project consultations conducted over the last 12 months indicate that stakeholders in Katherine are overwhelmingly in support of introduction of JR. Given this, we will continue to work with the community to progress JR in coming months, dependent on sourcing additional funding and with an immediate focus on setting up a collective impact (CI) framework in Katherine. CI provides a structure within which key stakeholders come together to enact sustainable social change with respect to complex social problems: in this instance, the high level of contact by young Aboriginal people from Katherine with the justice system.

Justice Reinvestment (JR)

JR is a framework or concept successfully applied in the US over the last decade to address its problems with mass incarceration. JR is gaining increasing traction here as a strategy seen as having real potential to contain our own escalating rates of imprisonment and of Indigenous imprisonment specifically, given the massively disproportionate rates at which Indigenous people are incarcerated.

JR points to the continual growth in our prison populations over recent decades, despite increasing government expenditure on jails, as evidence that incarceration simply does not work. In the NT, for instance, expenditure on prisons has increased from \$91 million in 2010 to \$143 million in 2014. Despite this, between 2007 and 2014 the yearly daily average of adult prisoners has almost doubled. It is imperative that we find an alternative strategy to decrease or at the very least halt our growth in prisoner numbers.

JR provides such an alternative. It argues that whilst prison should be retained for more serious offenders it makes much more sense economically to ‘reinvest’ a portion of correctional funds inside those communities from which comparatively large numbers of prisoners and offenders originate and, importantly, to which they return when released. This is because effective solutions to crime are located not in prisons, but in those communities from which offenders emerge. For JR, correctional institutions can do little to address and in fact are likely to exacerbate or worsen the individual circumstances and social conditions feeding offending.

JR focuses on reducing high rates of offending and incarceration through reform of the justice system (such as increased opportunities for diversion). It also involves, however, introduction of programs, activities and services that are designed to address the underlying causes of crime both for individuals and within communities. These are often associated with social disadvantage (unemployment, poverty,

substance abuse etc.). Relevant initiatives might include, for instance, improving job opportunities and/or access to alcohol and drug rehabilitation. This type of community level change is essential to JR, achieved not only through implementation of particular programs but also through the JR process itself, which encourages the whole community to come together to identify, implement and monitor progress of JR.

JR's emphasis on empowering local communities to address offending/incarceration is fundamental to improving justice and social outcomes. This is perhaps especially so in an Indigenous context, given that disempowerment and dispossession of Indigenous people is a key driver of Indigenous contact with the justice system. JR is most effective in an Indigenous context when it is able to respond to this particular driver, including by ensuring that there is sufficient Indigenous engagement with and leadership of JR.

The four stages of JR

JR has a very specific methodology, involving four stages of implementation.

Stage One involves mapping and analysis of data to identify what is 'feeding' the offender and prisoner/detainee population in the relevant community. The cost of justice responses to offending is also calculated (running prisons etc.). Community 'assets' likely to strengthen local capacity to address offending/incarceration and what is 'missing' or not working in this regard are also identified.

Using data and other material gathered during Stage One, the JR community draws up a 'JR plan' in Stage Two, nominating strategies and initiatives with potential to respond to key local drivers of contact with the justice system. In particular, initiatives likely to reduce government expenditure associated with offending/incarceration are identified.

Stage Three is a trial stage of implementation of one or two strategies and initiatives, aimed at identifying or demonstrating their potential to reduce contact with the justice system, especially as incarceration, and to thereby generate savings. Outcomes of this trial are then used to also identify correctional funding that might be reinvested in the community longer term. A wider range of initiatives is then introduced, including through these diverted funds.

Stage Four involves evaluation by the community of whether relevant initiatives are yielding savings, reducing incarceration rates, preventing offending and otherwise meeting agreed goals.

2. Our project methodology

The project has gathered qualitative (interview) data through community consultations with a range of stakeholders, including young people, to draw out opinion as to whether JR might work in Katherine, the nature and impacts of offending in Katherine and a range of other issues relevant to implementation of JR.

The project has also commenced collection and analysis of publicly available justice data, as well as other statistics helpful in understanding local social issues feeding contact with the justice system. These statistics are referred to in this report. We have also submitted a formal request for justice data to both NT Police (NTPFES) and Corrective Services (NTDCS) to address gaps in publicly reported statistics. This data will assist the community to establish a baseline against which it might measure progress over time and can also be used to move the project forward through its next stages. Further data collection and analysis will be necessary as the project develops.

Collective impact framework

We have been working with the community to explore the type of structures, strategies and alliances that will best advance JR in Katherine. Stakeholders have stressed the importance of collaboration. This means introducing specific initiatives that will improve the way organisations and people work together around offending and incarceration. More broadly, it also means ensuring that the community acts collectively in response to these issues. Given this, the project will now work with the community to develop a CI framework that will provide a formal, overarching structure within stakeholders can work collaboratively.

3. Summary of community consultations

Community ‘buy-in’ to JR is essential to its success, given the extent to which it is community-driven. For this reason, it has been necessary to identify at this early stage the extent to which the community of Katherine embraces JR. Stakeholder feedback in this regard has been very positive. One Indigenous community organisation states, for example, ‘You’d get the whole of Katherine behind it if you can convince them it’s money well spent, which, yes, it sounds like it is’.

Importantly, this project (and JR) does not just focus on problems. Stakeholders have been asked to comment on initiatives or approaches that have been working well in Katherine and on strengths and assets likely to contribute to the effectiveness of JR in future. In response, the community has identified positives such as existing justice and other programs and strong community leaders and mentors.

The nature of young persons’ offending in Katherine

Many stakeholders identify offending by and incarceration of young Aboriginal people as a significant and escalating problem in Katherine. Seen as particularly problematic for those under-18 years of age are property offences. These are often opportunistic and peer-driven, at times relatively serious but on other occasions quite obviously committed by children as children. As offenders get older, offences against the person are identified as being much more of an issue, especially family violence.

Publicly available justice data for Katherine indicates that across *all* age groups assault has been the largest single category of offence over the past five years, the

majority of which is alcohol and/or domestic violence related. Overall, however, property offences appear to be more prevalent than offences against the person.

The impacts of youth offending and incarceration in Katherine

The impacts of offending/incarceration are identified as wide-ranging, directly and significantly affecting victims of crime. Impacts are also felt by offenders and their families and by the community more broadly, including as stigmatisation, family separation and breakdown.

Incarceration appears to operate on a self-perpetuating cycle, driving up rather than reducing rates of crime and imprisonment. For example, detaining young people with more ‘hardened’ offenders may increase rather than decrease offending. Having had a carer locked up also heightens the likelihood of incarceration for a young person. In addition, imprisonment exacerbates social problems that cause offending to begin with, such as unemployment due to reduced job opportunities. Certain offending can also heighten the risk of criminal activity. For instance, young people exposed to family violence may be more likely to offend. Given the links between offending and victimisation, JR should be addressing the needs of both victims of crime and those that break the law, including through improvements to services for victims.

Numbers of incarcerated persons from Katherine aged under-18 years are not high, though these numbers increase if statistics from the Katherine region as a whole are included. Whether in future the project needs to work with communities in the Katherine region, rather than only the town of Katherine, is something that will need to be considered.

Despite the low numbers of younger inmates, Katherine stakeholders identify offending and cycles of imprisonment of these younger offenders as a significant problem. It is likely that police diversion in Katherine is working effectively to keep them out of detention, rather than that there are insignificant levels of offending amongst this age group. For this reason, the community may decide to focus on reducing contact by 10-17 year olds with the justice system at *all* stages, rather than on a reduction in rates of detention alone. Reducing contact at all stages will still generate significant justice-related savings for reinvestment back into the community, which is important to JR’s methodology. Incarceration levels for adults in Katherine appear to be higher than for younger offenders and should be reduced through JR.

Key social drivers of offending and incarceration of young Aboriginal people in Katherine

Community level causal factors increasing contact with the justice system include boredom, but this is likely to include not having sufficient direction in life, rather than being only about not having enough to do. A related factor is a lack of a sense of ‘belonging and connection’, which in part explains the peer-driven nature of offending for younger people. Mental health, disability, alcohol and substance issues are also raised as contributing factors, including when they lead to offending. The link between alcohol use and domestic violence is one example of this

connection. There are substantial gaps in services for young people and their families that might assist with such issues. These gaps do not cause, but can increase the likelihood of contact with the justice system.

Apart from family violence, having a difficult home life in general is seen as also highly relevant. Problems at home can occur when the family unit is struggling with issues such as alcohol misuse, unemployment, poverty and other problems often associated with entrenched social disadvantage. Stakeholders recognise that rather than responding to family issues by attributing blame, JR might play a role in addressing this disadvantage.

Reliance on Department of Children and Families (DCF) to resolve complex issues within the home is unlikely to bring about real change. Removal of children can actually *feed* rates of offending and incarceration, as has been the case historically - including where it aggravates conditions that are likely to increase risks of criminal activity. Removal should be a measure of last resort. More preventative work is required to support families than appears to be currently available through DCF, with service gaps in this area again increasing the likelihood of contact with the justice system.

Problems relating to education and employment, which often overlap, are major contributors to local offending/imprisonment. Disengagement from school is a significant issue in Katherine, attributed to a range of issues, including limited resources available to schools to respond to the complex needs of some students. Levels of Indigenous unemployment are also relatively high in Katherine. This links in with school disengagement; for instance, restricted job opportunities, even with a good education, may cause young people to disengage from school, which again reduces employment prospects.

Indigenous 'disempowerment' is also identified as a key driver of offending/incarceration. This impacts, for instance, on the capacity of parents and leaders in the community to guide and discipline young people, including so as to help reduce their criminalisation.

Drivers of offending and incarceration within the criminal justice system

Police diversion is used in Katherine with some frequency and is seen by many stakeholders as an effective alternative to harsher penalties. Problems with diversion that are likely to feed contact with the justice system include its relatively strict eligibility criteria. Insufficient community involvement also impacts on its capacity to bring about change.

There are also problems identified with completion of non-custodial orders in general (bail, good behaviour bonds, community work orders), which increases incarceration. Issues occur where conditions attached to orders are difficult or impossible to comply with. Some stakeholder perceive that Community Corrections does not have sufficient programs for and/or specific expertise in working with under-18s, given that most of its clients are adults. This and other issues such as a lack of support from carers of young people on non-custodial orders are identified as likely to impact on rates of compliance with these orders.

Almost unanimously, stakeholders felt that incarceration for adults or juveniles does not work well, including as it fails to address issues that drive people into the justice system to begin with. In particular, there are seen to be too few programs for and little structured through-care available to prisoners, increasing recidivism.

Reducing and preventing youth offending and incarceration

Community-based responses

Initiatives identified by both young people and adults as likely to counteract boredom and/or increase a sense of belonging and connection for younger people include going out of town on camps and organised sports, for example.

Gaps in mental health and alcohol/substance misuse services and programs, especially for younger people, mean that support must be accessed away from or be brought into Katherine. This is an ineffective response to these very serious issues. Dedicated, culturally appropriate services in Katherine offering specialised therapeutic care for younger people and their carers and assistance with substances/alcohol misuse are identified as a priority for the community.

Parents and families have an important role to play in helping to tackle offending /incarceration, but they need more support *well in advance* of any crisis situation and prior to any contact with and/or other than through intervention by the justice system or DCF. Addressing significant gaps in services and programs in this area is again urgently required, but a broader community approach outside of a service delivery framework is also needed.

JR should aim to strengthen the existing capacity and efforts of local Aboriginal community and families to meet the needs of their own young people. Partly this is about broader empowerment of Indigenous people in Katherine. More specifically, Aboriginal people should be involved in the development and implementation of relevant initiatives. These might include parenting programs, Indigenous run camps and mentoring and/or an Aboriginal-run safe house for young Indigenous people. The local Strong Bala program, currently offered to Aboriginal men in Katherine, could also be extended or adapted to work with Indigenous females and young Indigenous people.

In terms of education, young people may well benefit from access to information about substances/alcohol, the consequences of offending and related issues *before* they get into trouble, perhaps best delivered by young people themselves (including those that have had contact with the justice system) and probably outside of a school context. Suggestions for ways to respond to problems relating to school engagement include ensuring there is a greater level of Aboriginal input, participation and leadership at school through, for example, a representative 'Aboriginal Council' attached to schools. Initiatives that encourage parents to work directly with their children/students and the school to engage with community will also be effective. Schooling might also be provided away from but close to Katherine, in a facility or place where young people could live and study during weekdays and return home on weekends.

To address unemployment and socio-economic disadvantage more generally, stakeholders spoke of the need for sustainable economic development. Relevant JR initiatives could improve young people's employment and other skills and access to work, for example. Mentoring of young people by Indigenous business leaders and/or setting up an Indigenous-operated enterprise such as a local café, music studio or housing cooperative that meets wider social needs (for instance, in housing and employment) is seen to have great potential. Initiatives such as these might be used as options for diversion of young people away from the justice system. They may also provide a safe space for older young people to hang out together in general, which is likely to help prevent first time offending.

Justice responses

Though working well to divert under-18s in Katherine, improvements to police diversion include extending its eligibility criteria, increasing its resources and ensuring it has greater community input. There are not enough organisations able and willing to supervise young people doing community work. A few possibilities have emerged during our consultations worth considering further, such as young offenders assisting at sporting events and Indigenous-runs camps, etc. Consideration should be given to how more support could be provided to 18-24 year old offenders, who are still young enough to benefit from and to require specialised assistance and support to reduce their offending.

Rates of completion of community-based orders are also seen as likely to improve if more engaging options for supervision of Aboriginal young people, in particular, can be developed. Stakeholders have also suggested that an Indigenous caseworker position could be created to assist young people to successfully complete non-custodial orders.

There also needs to be a more structured and earlier focus on the post-release needs of prisoners, with agencies preferably coming together as soon as someone is sentenced to imprisonment to help plan for their release. A facility or program through which inmates are able to transition back into the community after release is also identified as likely to reduce recidivism.

One initiative designed to encourage a more coordinated response to the complex needs of young people in Katherine is a local Youth Hub, which would primarily focus on individuals caught up in the justice system, preferably before they enter court. The Hub would have capacity to deal with a range of problems such as school, work, mental health issues, family issues and accommodation etc. There may be scope for such an initiative to also work with those *at risk* of contact with the justice system and perhaps, the child protection system. Aboriginal input into such an initiative would be highly beneficial.

Indigenous leadership and empowerment

Stakeholders have highlighted as a community asset or strength the incredible wealth of experience and knowledge of both younger and older Aboriginal people in Katherine. Incorporating this asset/strength into any strategy designed to reduce

Indigenous incarceration, including JR, is seen as essential. As part of this, Indigenous people in Katherine must have sufficient input into, engagement with and leadership of particular JR initiatives but should also be effectively represented within any structure set up to implement JR.

Mentoring by local Aboriginal people of younger Aboriginal community members is one way of drawing upon and strengthening local Indigenous expertise and knowledge. Many stakeholders identify those who have been through the justice system but have ‘come out the other side’ as likely to make effective youth mentors. Stakeholders note that mentoring should be available before things start to go wrong for a young person.

There has also been a lot of discussion about Indigenous people setting up and running camps for young people. This would involve taking them out of town and into the bush to learn life and other skills. These camps could be used within a criminal justice setting (transitioning ex-prisoners into the community and/or as an alternative to incarceration), but also to help young people avoid *first time* offending. As an excellent example of the type of camp that could be established the project has met with a young Aboriginal man living in Katherine who has taught horsemanship skills in the Kimberley region to young men struggling with alcohol/substances. He is keen to establish a similar camp locally.

Having a greater level of Aboriginal input in sentencing but also as part of responses to offending prior to court is also seen as likely to bring about positive change. Magistrates come and go, but community members know and understand the offender/defendant and can make an important contribution to ensuring justice responses are as effective as possible. It is suggested that Aboriginal victims too may well prefer a forum that better responds to their specific needs and circumstances as Aboriginal people.

4. Conclusion

Our work in Katherine to date indicates that for the vast majority of the community current responses to offending and incarceration are not working well, appearing to *escalate* rather than decrease criminal activity and to *fuel* rather than reduce rates of imprisonment. They see potential in JR as an alternative to these responses, particularly because of its emphasis on addressing the root causes of crime. Given this, the project will continue to work with the community of Katherine to implement JR.

In conclusion, the key strategies, ideas and initiatives identified as likely to enact change in Katherine through JR are as follows.

1. Better responses to key drivers of offending/incarceration related to family, mental health, disability and substance/alcohol misuse issues, including through increased and improved service delivery
2. Initiatives that address broader social disadvantage within the community, including through better educational and employment outcomes and economic development

3. Initiatives likely to enhance completion of non-custodial orders (development of a caseworker position to support those on orders, more appropriate conditions attached to orders and more engaging community-based supervision/work)
4. Improved outcomes for prisoners through programs inside prison and better post-release support
5. A high level of Aboriginal engagement with and leadership of JR, both within specific JR initiatives but also as part of any structure tasked with implementation of JR
6. Inclusive, collaborative and holistic responses to offending/incarceration through JR, with effective collaboration between Indigenous and non-Indigenous people/organisations
7. Particular strategies or initiatives that address both justice-related and community level drivers of offending/incarceration

1. JR PROJECT IN KATHERINE

1.1 Introduction

In early 2015, the NT Council of Social Services (NTCOSS) received funding from the Law Society Public Purposes Trust (NT) to explore the potential for introduction of a Justice Reinvestment ('JR') framework in the NT. Funding was sought from the Law Society after service providers and other participants attending an NT JR forum in 2013 expressed an interest in JR as an alternative to current NT justice responses to offending and incarceration. Of note, JR was earlier recommended as likely to improve justice responses in the 2011 Carney review of the NT youth justice system.¹

JR has already had some success in reducing imprisonment overseas, particularly in the USA. NTCOSS, in partnership with the North Australian Aboriginal Justice Agency (NAAJA), intended to use Law Society funding to conduct a 'proof of concept' project to determine JR's capacity to achieve similar results within a Territory-specific context. It is hoped that if successful JR might be used in other NT communities to address offending and incarceration.

With funding in place, the project partners determined that the JR project would be conducted in Katherine, initially with a focus on responding to offending and imprisonment of *young Aboriginal people aged 10-17 years* of age. Katherine was chosen as a pilot site based primarily on partner and Katherine service provider/agency perceptions of the levels of youth contact with the justice system in this community. Aboriginal youth were selected because of their hugely disproportionate incarceration in the NT.

The project commenced in February 2015, with a researcher engaged to coordinate the work in question. A Steering Committee was also established, with membership drawn from the NT and from Katherine, including from the two partner organisations, the local Aboriginal community, NT Courts, NT Police, the YMCA, Aboriginal Peak Organisations (APO NT) and Red Cross (NT). Early on, the Committee recommended expanding the project to include *18-24 year old Aboriginal people in Katherine* in its scope, in part so as to demonstrate costs associated with incarcerating recidivist offenders for whom earlier less punitive interventions may have had a positive impact (see **Appendix A: Project Information Sheets**).

This report summarises work completed to date and next steps for the project. It begins by providing information about the contextual background, objectives and methodology of JR. The report then details tasks undertaken over the first 12 months of the project, directed towards laying the groundwork for what is intended to be a longer-term commitment to JR in Katherine. These tasks have, for the most part, drawn from the first two stages of JR methodology, detailed below, but with a view to developing *preliminary* findings and making initial inquiries. This is because as the project progresses the community itself must come together to make final decisions about how to implement JR.

¹ Carney, J (2011) *Review of the NT Youth Justice System*, Darwin NT, 162ff

There has been a strong focus in this early work on identifying levels of support for and interest in introduction of JR in Katherine, essential to the success of the project. We have also explored, in collaboration with the community, what JR might look like if introduced in Katherine, including the type of structures or partnerships required for its effective implementation. This has been achieved through face-to-face consultation with members of the community of Katherine, a process that has also provided opportunity for the sharing of information about JR with stakeholders. Other work undertaken to date includes data collection and analysis that responds to the requirements of JR methodology and liaison with potential and current supporters of JR in the NT and Australia-wide.

Next steps for the project

As noted, the report discusses how the project is likely to develop over coming months. Our consultations indicate that stakeholders consulted in Katherine are strongly in support of JR as a mechanism to address local offending and incarceration. As a local Indigenous leader has stated, '[We] certainly welcome the introduction of JR, as we are very concerned for our young people. We want them to be our next leaders further down the track.'

Given this, we will continue to work with the community to progress JR in Katherine, dependent on sourcing of additional funding. With longer term funding in place, this will involve devising a community-wide 'JR plan' based on further data collection/analysis and consultations, as well as ongoing liaison with government and others to continue to build financial and other support for the project (see below 1.2.2: Four stages of JR).

More immediately, our intention is to work with the project Steering Committee and stakeholders, including Aboriginal leaders, to set up a collective impact (CI) framework in Katherine. CI aims to bring together key stakeholders, including government and non-government agencies and services, community, business leaders and philanthropists, to enact broad and sustainable social change with respect to complex social problems. In Katherine, the community will need to settle on what complex problem in particular they would like to address through JR, which is likely to be the high level of contact by young Aboriginal people with the justice system.

CI seeks to build a shared understanding of community needs and priorities, as well as strong stakeholder relationships and governance structures through which these types of complex problems can be addressed.² In the context of our work in Katherine, a CI framework will ensure that the project now moves forward with the community effectively engaged, through local leadership, with JR. We are presently putting our efforts into sourcing funding to work towards development of this framework.

² For just one example of collective impact in Australia see: <https://logantgether.org.au>. Further information is at: <https://collectiveimpactaustralia.com>

1.2 Justice Reinvestment

1.2.1 JR as an alternative strategy

JR is a framework or concept developed in the US over a decade ago as a strategy designed to address mass incarceration.³ Applied with some success in over 20 states in the US to date, it is comparatively new in an Australian context but is gaining increasing traction here as a framework perceived as having real potential to help contain our own escalating rates of imprisonment and of Indigenous imprisonment specifically, given the massively disproportionate rates at which Indigenous people are incarcerated (see **Appendix A: Project Information Sheets**).⁴

JR seeks to move away from reliance on harsher penal responses to crime. It argues that continually increasing government expenditure on imprisonment is not the most cost effective way of enhancing community safety and wellbeing. For JR proponents, prisons simply don't work.⁵ As evidence of this, JR points to the fact that despite the huge amounts of money being poured into correctional institutions we are also seeing continual growth in our prison populations.

Statistics as evidence of prison failure

In an Australian context, government currently spends \$3.4 bill per annum on prisons,⁶ of which there were 111 in 2014 (five in the NT).⁷ By way of comparison, in 1998-99 we spent \$1.049 bill per annum on a total of 97 prisons.⁸ Despite the amount of resources we commit to correctional institutions we do not appear to be stemming the flow of prisoners. Our prison populations have increased exponentially over recent decades. We have doubled our national average daily prison population in the last twenty years and tripled our rate of incarceration over

³ For information about JR in the US, see for instance: <https://csgjusticecenter.org/jr> and <http://www.vera.org/project/justice-reinvestment-initiative>. Information about JR in the UK and NZ is available at <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/9402.htm> and <http://www.rethinking.org.nz/Default.aspx?page=3655>. The US Department of Justice's Bureau of Justice Assistance website has information on outcomes of JR initiatives in the US see <https://www.bja.gov/programs/justicereinvestment/index.html>

⁴ Key reports advocating for introduction of JR in Australia include Social Justice Commissioner (2009), *Social Justice Report*, Sydney NSW; House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (2011), *Doing Time - Time for Doing: Indigenous youth in the criminal justice system*, Canberra ACT; Legal and Constitutional Affairs Reference Committee (2013), *Value of a Justice Reinvestment Approach to Criminal Justice in Australia*, Commonwealth of Australia; Amnesty International (2015) *A Brighter Future: Keeping Indigenous kids in the community and out of detention in Australia*; and Red Cross (2016) *Rethinking Justice: Vulnerability Report*, VIC. JR initiatives are currently being explored in other Australian jurisdictions. See for example, SA <http://www.agd.sa.gov.au/initiatives/more-our-initiatives/justice-reinvestment>; NSW <http://www.justreinvest.org.au/justice-reinvestment-bourke/>; ACT <https://justice.act.gov.au/page/view/3829/title/justice-reinvestment-strategy>

⁵ Brown, D (2010) 'Contemporary Comments: The limited benefits of prison in controlling crime', 22(1) *Current Issues in Criminal Justice* 137

⁶ Productivity Commission *Report on Government Services (ROGS) (Corrective Services)* (2015) Table 8A.6

⁷ *ROGS (Corrective Services)* (2015), Table 8A.2

⁸ Productivity Commission (2000), *ROGS (Justice)*, 730, 736

the last thirty years.⁹ Significantly, at least half of all those incarcerated in all but one State/Territory have had at least one prior period of imprisonment under sentence, suggesting that locking people up is not changing behaviour.¹⁰

As should by now be well and truly clear, figures relating to Aboriginal and Torres Strait Islander people and incarceration are especially dire. Indigenous Australians are incarcerated at 13 times the rate of non-Indigenous Australians, with an 88% growth in Indigenous prisoners since 2004.¹¹ They constitute just 2% of our population aged over 18 years but 27% of our adult prison population.¹² Their rate of imprisonment sits at a staggering 2,254 prisoners per 100,000 Aboriginal and Torres Strait Islander adult population.¹³ The Indigenous rate of return to prison is also higher than for non-Aboriginal offenders. Just over three out of four Indigenous prisoners (77%) have been imprisoned under sentence previously.¹⁴ Statistics relating to incarceration of young Indigenous people give us little cause for hope. Though only 5% of Australia's population of 10-17 year olds, they make up 59% of our detainee population¹⁵ and are 24 times as likely to be locked up than non-Indigenous children.¹⁶

Correctional statistics in the NT tell a similar story. Expenditure on all prisons in the Territory has increased from \$91 million in 2010 to \$143 million in 2014, with no evidence that this has led to any reduction in offending or incarceration.¹⁷ In recent years, in fact, the NT has consistently had the highest rate of imprisonment in Australia, with these rates steadily climbing. In 2010-11, the NT's rate of incarceration was 700.6 persons per 100,000 adults (compared with 164.9/100,000 nationally). In 2013-14 this figure had escalated to 838.3 persons per 100,000 adults (compared with 187.3/100,000 nationally).¹⁸ Over the last seven years the yearly daily average of adult prisoners incarcerated in the NT has almost doubled, from 875 inmates in 2007-08 to 1,501 inmates in 2013-14.¹⁹ Recidivism in the NT has jumped from 47.1% in 2010-11 to 51.7% in 2013-14.²⁰ This is the highest rate of recidivism in the country.²¹

⁹ In June 1994 the average daily prison population in Australia was 16,944: Red Cross (2016), 10. In 2013-14 this had doubled to 32,683 adults on average per day: *ROGS (Corrective Services) (2015)*, Table 8A.1. In 1984, our rate of imprisonment per 100,000 adult population was 85.6 prisoners: Red Cross (2016), 13. In 2013-14 this rate was 187.3 prisoners per 100,000 adult population: *ROGS (Corrective Services) (2015) Table 8A.5*

¹⁰ Australian Bureau of Statistics (ABS)(2015), Cat. 4517.9 *Prisoners in Australia*

¹¹ Red Cross (2016), 7

¹² *ROGS (Corrective Services) (2015): Table 8A.1*

¹³ *ROGS (Corrective Services) (2015): Table 8A.4*

¹⁴ ABS (2015) Cat. 4517.9 *Prisoners in Australia*

¹⁵ Australian Institute of Health and Welfare (AIHW) (2014) *Youth justice in Australia 2012-13*, Bulletin No. 120, Cat no. AUS 179, Canberra, Table S76b

¹⁶ *ROGS (Youth Justice) (2015)*, 16.6

¹⁷ *ROGS (Corrective Services) (2015): Tables 8A.71, 8A.76*. These figures are rounded up to the nearest \$mill

¹⁸ Taken from NT Department of Corrective Services (NT DCS) *Annual Reports 2009-2014* (see Table: National Performance Indicators)

¹⁹ NT DCS (2014) *Annual Statistics 2013-14*, 12

²⁰ See DCS *Annual Reports 2009-2014* (Table: National Performance Indicators)

²¹ ABS (2015) Cat. 4517.9 *Prisoners in Australia*

Increases are also evident in Aboriginal incarceration in the NT, more specifically. Aboriginal prisoners constitute the vast majority of incarcerated adults in this jurisdiction (86% in 2013-14).²² In 2008-09, the estimated rate of imprisonment of Indigenous persons in the NT was 2,214 per 100,000 Indigenous adults.²³ In 2013-14, this rate sat at 2,880 prisoners per 100,000 Indigenous adults.²⁴ For young Indigenous people in the NT, total nights in custody per annum have increased from 9,665 in 2009-10 to 16,681 in 2013-14.²⁵ The yearly daily average of young Aboriginal detainees in the NT has climbed from 27 persons in 2009-10 to 46 persons in 2013-14.²⁶ Aboriginal detainees also uniformly make up close to 100% of the detention centre population.²⁷ At a cost per inmate of \$656.09 a day (or \$239,473 p/a), the highest in the country, this represents significant expenditure for government, with apparently little benefit yielded in return.²⁸ Expenditure on youth detention in the NT has risen from \$10.5 mill to \$15 mill since 2012.²⁹ (See also Tables 1-3: **Appendix B**). It is worth noting too that Indigenous overrepresentation within the justice system is not limited to higher rates of Indigenous incarceration. Indigenous youth in the NT are disproportionately represented in other statistics, including in police apprehension data. For example, between 2006-2011 Indigenous young people constituted 76% of police apprehensions in the NT.³⁰

Hopkins suggests that Australia will need to continue to build a new prison each year to cope with growth in prisoner numbers,³¹ at a cost of between \$500 mill to \$1 bill per prison.³² At present, our national prison occupancy rate sits at 104.4%.³³ In the NT, this rate is 124.7%.³⁴ It is therefore imperative that we find an alternative strategy that will decrease or at least halt this growth in prison populations.

In advocating for use of JR, Red Cross estimates that correctional savings accruable nationally if prisoner numbers remain stable over a five-year period (rather than continuing to increase at current rates) will total \$1.1 billion. If these numbers decrease by 1% over this same period, these savings climb to \$1.7 billion. A decrease of 2% will yield savings of \$2.3 billion.³⁵ This does not account for additional savings that will be generated outside of the prison system with these changes to inmate numbers.

²² NT DCS (2014) *Annual Statistics 2013-14*, 14

²³ NT DCS (2009) *Annual Statistics 2008-09*, 11

²⁴ NT DCS (2014) *Annual Statistics 2013-14*, 14: Note that in 2013-2014 this was 34% higher than the national average of 2,148 per 100,000 Indigenous adults. By comparison, the non-Indigenous rate of imprisonment in the NT in 2013-14 was 155 adults per 100,000 non-Indigenous adults.

²⁵ ROGS (2015) (Youth Justice): Table 16A.12

²⁶ ROGS (Corrective Services) (2015): Table 16A.5

²⁷ ROGS (2015) (Youth Justice): Table 16A.9

²⁸ NT Department Corrective Services (DCS) (2014) *Annual Report (2014)* (2013-4 FY projection), 27

²⁹ ROGS (2015) (Youth Justice): Table 16A.1

³⁰ Carney (2011), 15

³¹ Hopkins, S & Vumbaca, G (2014) 'Justice reinvestment saves huge costs of law and order auctions', The Conversation, 20 October 2014: <http://theconversation.com/justice-reinvestment-saves-huge-costs-of-law-and-order-auctions-33018>

³² Cunneen, C (2016) 'How 'tough on crime' politics flouts death-in-custody recommendations', The Conversation, April 14 2016: <http://theconversation.com/how-tough-on-crime-politics-flouts-death-in-custody-recommendations-57491>

³³ ROGS (Corrective Services) (2015): Table 8A.27

³⁴ Ibid

³⁵ Red Cross (2016), 27

Locating causes of and solutions to crime within communities

JR argues that whilst prison should be retained for more serious offenders, it makes much more sense economically to spend or 'reinvest' a portion of correctional funds inside those communities from which comparatively large numbers of prisoners and offenders originate and, importantly, to which they return when released from prison.³⁶ JR refers to these communities as 'million dollar blocks' due to the substantial costs associated with continually incarcerating the significant numbers of recidivist offenders they produce.³⁷ For JR, this *shift* in spending is seen as more likely to deliver improved social and justice outcomes and importantly, without any increase in government expenditure. This is because effective solutions to crime are located not within prisons, but in the communities from which offenders emerge.

JR identifies that communities that yield large numbers of prisoners generally experience both significant rates of imprisonment and a prevalence of issues regularly associated with social disadvantage and known to increase risks of offending (such as unemployment, homelessness and poverty). This coincidence of significant rates of imprisonment and disadvantage is evident in many Indigenous communities in Australia, according to Mick Gooda, the current Social Justice Commissioner. He suggests that 'any community crime audit' of Indigenous communities 'is likely to find levels of overcrowding, poor education, undiagnosed/untreated trauma, medical issues, lack of recreational activities and problems with alcohol and substance abuse'.³⁸ There are within these communities significant 'resource shortfalls', manifesting not only as social problems but also as gaps in services and programs likely to address these problems.³⁹

According to JR, prison fails to a large degree because it has little capacity to address drivers of offending/incarceration - both for individual offenders, but also as issues deeply embedded within the communities in which offenders live. Multiple offenders cycle in and out of prison in these communities because the set of conditions that increase the likelihood of criminal behavior occurring are not altered through their imprisonment, particularly where incarceration rates are at a high level. As Mick Dodson has said, 'Our young people return from gaol to the very same conditions of daily existence that create the patterns of offending in the first place.'

³⁶ For example, research in 2012 found that it cost \$315 to lock up an adult for a day and that it would be much cheaper to address drug-related issues that lead to offending *outside of prison*. A study by the National Indigenous Drug and Alcohol Committee shows that \$111,458 could be saved per offender by diverting relevant offenders to community-based rehabilitation rather than prison: Australian National Council on Drugs (2012) *Prison vs Residential Treatment: Economic Analysis for Aboriginal and Torres Strait Islander Offenders*, Research Paper No. 24

³⁷ Tucker, S.B. and Cadora, E (2003a) *Justice Reinvestment*, NY, Open Society Institute. As one example of this, these authors discuss 'The Hill' in Connecticut where \$20 mill was spent in one year to incarcerate 387 prisoners: S Tucker and E Cadora (2003b), *Ideas for an Open Society: Justice Reinvestment*, Open Society Institute, 2. See discussion of concentration of offenders in an Australian context in Allard, T, Chrzanowski, A and Stewart, A (2012), *Targeting crime prevention to reduce offending: identifying communities that generate chronic and costly offenders*, Trends and Issues in Crime and Criminal Justice No. 445, Australian Institute of Criminology

³⁸ Aboriginal and Torres Strait Islander Social Justice Commissioner (Social Justice Commissioner) (2009), *Social Justice Report*, Australian Human Rights Commission, Sydney NSW, 42

³⁹ Krieg, A (2006) 'Aboriginal incarceration: health and social impacts', 184(10) *Medical Journal of Australia* 534

The whirl of the revolving door is never far away.’⁴⁰

Prison is not only unable to respond adequately to causal factors of crime, it may also exacerbate them - further increasing offending and ultimately, incarceration. Imprisonment, for instance, reduces the often already limited educational and employment opportunities for offenders and compounds their (frequently pre-existing) mental and other health issues. At a community level, there is also clear evidence that ‘high levels of concentrated incarceration make a neighborhood less safe not more.’⁴¹ Cyclical imprisonment ‘disrupts the fragile economic, social, and political bonds that are the basis for informal social control in a community.’⁴²

Research has found that significant numbers of Indigenous men, in particular, are ‘missing’ from Indigenous communities in the NT at any point in time due to incarceration.⁴³ It is suggested that the continual absence of a sizeable portion of the local population depletes human and social capital within these communities, which has both immediate and longer-term inter-generational impacts. These include adverse health effects, financial distress and social ‘dysfunction’, in part related to the fact that those incarcerated take ‘with them the opportunity to be role models, father figures and mentors for their community’.⁴⁴

Community empowerment through JR

As an alternative to the current way of working JR aims to build communities, not prisons. It does this by working preventatively within communities impacted by incarceration to stop the continual movement of local offenders in and out of prison, addressing the resource shortfalls referred to above, including through funds diverted from correctional budgets. JR also ensures that decisions are made at a local level about how resources could be used to reduce crime in and numbers of prisoners emerging from the communities in question. Its focus on community as a driver of change, the economic argument it uses to support this approach and its reliance on statistics, detailed below, is what sets JR apart from similar strategies (see below 1.2.2: Four stages of JR).

JR has some focus on reducing high rates of offending and incarceration through legislative and policy reform of the justice system. This might include changes to parole and bail systems and improvements to rehabilitative prison programs, for example. It also involves, however, introduction of programs, activities and services that communities themselves identify as likely to address community level drivers of crime. These might include, for example, initiatives designed to improve access to housing, alcohol and drug rehabilitation and/or job training.

⁴⁰ Dodson M (1996) *Aboriginal and Torres Strait Islander Social Justice Commissioner: Fourth report*, Human Rights and Equal Opportunity Commission, Sydney

⁴¹ Tucker and Cadora (2003a), 3

⁴² Hagan, J and Dinovitzer, R (1999) ‘Collateral consequences of imprisonment for children, communities and prisoners’, 26 *Crime and Justice* 121

⁴³ Payer, H, Taylor, A and Barnes, T (2015), *Who’s missing? Social and demographic impacts of the incarceration of Indigenous people in the Northern Territory*, Research Brief 5, Charles Darwin University. See also Social Justice Commissioner 2009: 42-3.

⁴⁴ *Ibid*

Whilst justice-related reform will assist in preventing repeat offending (including through improving rehabilitation prospects of individual offenders), community-based initiatives such as these will impact positively on *first time* offending, as well as enhancing community wellbeing in a broader sense. Importantly, community-based initiatives can simultaneously contribute to change within the justice system; for instance, alcohol rehabilitation programs available to the general community may address one of the causes of offending, but these programs can also be used as a diversionary option, as an alternative to incarceration.

Community level change is essential to JR, which seeks to ‘improve the prospects not of individual cases but of particular places’.⁴⁵ It is, significantly, achieved not just through outcomes delivered through particular programs or activities but through the *JR process* itself. As detailed below, JR methodology encourages the local community to collectively identify, implement and monitor progress of relevant initiatives. Rejecting a ‘deficit view of ‘problem’ communities’,⁴⁶ this approach acknowledges and reinforces the existing capacity of the community to be active participants and decision-makers in developing local solutions to local problems.⁴⁷

This emphasis on empowering local communities to address issues of and associated with offending and incarceration through a holistic and collaborative approach is in and of itself fundamental to improving justice and broader social outcomes. This is perhaps especially so in an Indigenous context. Disempowerment and cultural dispossession of Indigenous people through 200-plus years of colonisation manifests, for example, as significant levels of inter-generational trauma and disproportionate rates of child removal within Indigenous communities. As the following comment suggests, these and related issues are identified as directly contributing in their own right to Indigenous over-representation.⁴⁸ In addition, they form part of and intensify broader Indigenous social disadvantage and exclusion, which also increases Indigenous contact with the justice system.⁴⁹

It’s not having a sense of direction that is such a problem. A lot of young people live in another culture; it’s not mainstream, it’s not traditional; they are lost in the wind. When they’re lost in the wind is when they could end up in jail; they could end up dead, end up not contributing anything to the community, but becoming a lot of trouble.⁵⁰

⁴⁵ See discussion Amnesty International (2015), 27. It has been identified as problematic in the US that JR initiatives have been ‘top down, law reform oriented’, without a sufficient focus on engagement with and reinvestment in local communities: see Allen, R and Stern, V (2007) *Justice Reinvestment – A New Approach to Crime and Justice*, International Centre for Prison Studies, UK, 5

⁴⁶ Tsey, K, McCalman, J, Bainbridge, R and Brown, C (2012) ‘Improving Indigenous community governance through strengthening Indigenous and government organisational capacity’, Resource Sheet no. 10, produced for the Closing the Gap Clearinghouse 10, citing Kenny, S (2011) *Developing communities for the future* (4th edn), Cengage Learning, Melbourne, 188

⁴⁷ Ibid

⁴⁸ Atkinson, J, Nelson, J Atkinson, C, ‘Trauma, trans-generational transfer and effects on community wellbeing,’ Chapter 10 in Purdie, N, Dudgeon, P and Walker, R (2010) *Working together: Aboriginal and Torres Strait Islander mental health and wellbeing being principles and practice*, Department of Health and Ageing, Canberra. See also discussion Amnesty International (2015), 3

⁴⁹ Amnesty International (2015), 3

⁵⁰ House of Representatives Standing Committee (2011), 14

In order to be genuinely effective therefore any JR initiative designed to reduce Indigenous offending and incarceration *must* address this disempowerment and dispossession, including by ensuring that there is a sufficient degree of Indigenous engagement with and leadership of JR. Not only will this enhance the likelihood of achieving more positive outcomes in specific programs or initiatives, it will also contribute to ‘increased community confidence and improved governance,’ which ‘strengthens the community so the preconditions for crime are reduced.’⁵¹

1.2.2 The four stages of JR

JR has a very specific methodology involving four stages of implementation. This methodology has been developed in a US context, and while following each stage is important to JR’s success some variation may be required as it is applied in different contexts, including within Indigenous communities in Australia. (See further 1.3 Project Methodology, **Appendix A: Project Information Sheets**)

Stage One: Justice/demographic mapping and analysis of data

JR uses statistics throughout its implementation, including criminal justice and other data to determine costs of incarceration within a particular community, key local drivers of contact with the criminal justice system and how well JR initiatives are working.

Justice and demographic mapping and analysis of relevant data are used initially to identify communities from which high numbers of offenders emerge and return to (and therefore where JR may be usefully applied). Justice and other data is also used during Stage 1 to identify what is ‘feeding’ the offender and, in particular, the prisoner/detainee population in the relevant community. Justice data might tell us that there is limited use of diversion or bail, for instance, or that many inmates appear to have problems with substance abuse or mental health issues. Data about the community more broadly might also show that high levels of unemployment, school truancy or child protection issues are driving up inmate numbers.

The costs of ‘service delivery’ around offending and of offending more generally are also calculated at this point in time. Direct economic costs might include how much is spent per day to detain a young person, what it costs for police to process an offender and/or payment of compensation to victims of crime. Less direct costs are also taken into account, such as money expended by child protection agencies to care for children who are impacted by imprisonment of a parent. A map is drawn up of community ‘assets’ likely to strengthen local capacity to address offending/incarceration, including those through which JR might be implemented such as effective services or programs and a strong local governance structure. In contrast, what is ‘missing’ or not working so effectively in this regard is also identified.

⁵¹ Social Justice Commissioner (2009), 43

Stage Two: Developing options for reducing offending/incarceration and generating savings

Using data and other material gathered during Stage 1, the JR community is then tasked with drawing up a 'JR plan', nominating strategies and initiatives designed to respond to key drivers of contact with the justice system. In particular, initiatives likely to reduce government expenditure associated with offending and incarceration are identified. This includes savings within correctional budgets (*costs saved* where numbers of offenders being placed in prison are reduced) and those generated through a reduction in numbers of people offending in the first place (*costs avoided*).

Potential initiatives might include reform of the justice system, including new ways of responding to breaches of bail conditions or greater access to community-based sentencing options for non-violent offenders. Most importantly, initiatives are also identified at a community level to address underlying causes of crime, including those associated with disadvantage (in housing, education, employment, health care, etc.).

Stage Three: JR Implementation

A trial stage of implementation of key strategies and initiatives by and within the community follows, aimed at demonstrating their potential to reduce contact with the justice system (especially as incarceration) and to generate savings (and at what level). Outcomes of the trial are then used to identify correctional funding to be reinvested in the community longer term. Based on analysis of offender and community need completed during Stages 1 and 2, relevant initiatives are then introduced, including with these diverted funds.

Stage Four: Evaluation and monitoring

As an essential part of the JR process, rigorous and ongoing evaluation is required to measure whether relevant initiatives are yielding savings, reducing incarceration rates and preventing offending, as intended. In addition to these quantifiable measures, the community may also use more qualitative measures of effectiveness.⁵²

1.3 Our project methodology

1.3.1 Gathering project data

The project has gathered both qualitative and quantitative data to date, a summary of which follows (Section 2: Summary of Data). This data seeks to respond to questions and issues arising within JR methodology.

⁵² Non-quantifiable measures may be useful to evaluation of Indigenous-led or focused justice initiatives. Aboriginal Courts, for instance, deliver outcomes such as re-empowerment of Aboriginal Elders, which may 'increase social cohesion and order within communities' (likely to reduce recidivism). These courts also 'break down cultural barriers between Indigenous offenders and the court system', which can assist in developing an appropriate response' to offending. See discussion in House of Representatives Standing Committee (2011), 237.

Though one of the strengths of JR is its reliance on statistics (discussed above), both quantitative *and* qualitative data are essential to its effective implementation. Consulting directly with community at this early stage, for instance, is likely to contribute to ensuring its longer-term engagement with JR. In addition, statistics do not always accurately reflect the nature and extent of relevant issues, as directly experienced by the community in question. Quantitative data, however, is important as it helps to inform community perceptions so as to draw out best responses to justice and related issues. These points are illustrated by the following comments.

The amount of local people attending the local forum in Katherine (in early 2015) on these issues and their perceptions indicate that they are quite a huge problem. They have an impact on businesses and people feeling safe and confident in their community. The perception was at that forum that it was quite a large group of people and a big problem but whether that's the actuality... Statistics may tell us more. (Community organisation)

If police have an operation that targets youth offending, statistics will go up. If normal policing ticks along - doesn't mean the problem is not there, just that they haven't caught them. They might not have the resources to go out and pick them up (Government agency)

As an example of this, publicly available justice data suggests that there are not large numbers of people aged 10-17 years from Katherine in detention. Qualitative data set out in Section 2 below indicates, however, that offending and cycles of imprisonment of these younger offenders are a significant problem for the people of Katherine. Low numbers of younger inmates may be due, in part, to local police diversion working effectively to keep this group of offenders out of detention, rather than because of insignificant levels of offending for this particular age group. After further consultation in the community and access to more detailed justice data, the community may determine that the focus of JR in Katherine for 10-17 year olds might be to pull younger community members away from *all stages* of contact with the justice system, rather than working solely towards a reduction in youth imprisonment. A significant enough decrease in contact by 10-17 year olds at these different stages is likely to generate considerable savings, given the high costs associated with contact at *all* levels of the justice system (see Tables 3-5: **Appendix B**). We note that we have yet to identify incarceration levels for 18-24 year olds, which appear to be higher than for those aged under-17 years and should be reduced through JR (see further below: Section 2.1.2).

Qualitative data

The project has used a process of direct community consultation and engagement, designed both to inform about JR and to draw out opinion about whether it might work well in Katherine. During this process we have met with a range of stakeholders in Katherine and to a lesser extent in Darwin, including community members, key Indigenous and community organisations and service providers, business owners, legal services and government agencies (see list: **Appendix C**). Further consultation will be conducted in the next stage of the project. Using for the most part semi-structured interview questions, we have asked stakeholders for input

around a range of issues relevant to implementation of JR, including the following (see also **Appendix D**):

- a) The nature of offending of young Aboriginal people in Katherine (including the most problematic types of offending) and its impacts on individuals, families and the community.
- b) Key drivers of and most effective JR responses to youth offending and incarceration, both within the justice system and at a community level.
- c) Optimal JR structures, strategies and alliances to enable the community to drive JR in Katherine.
- d) Strengths and assets in the community that could support JR and any additional resources required to further develop these strengths/assets.
- e) In contrast, initiatives or strategies not working so well at present to address offending and incarceration.

Stakeholder responses are set out below in Section 2, de-identified and coded so as to ensure confidentiality. For instance, all schools, police and other government stakeholders are referred to as ‘Government agency’.

As these responses indicate, there has been a significant focus by stakeholders during our consultations on those aged under-18 years of age. This is due, for the most part, to a sense that turning younger lives around is likely to address the cycling of juveniles into adult offending and incarceration. Future consultations by the project will seek more detailed input about the particular circumstances and needs of 18 to 25 year olds, and about links between the offending of those aged under-18 years with those aged over-18.

We note that we have been keen to and will continue to ensure participation by young Aboriginal people from Katherine in the project. As part of this, we have local Indigenous youth representation on our Steering Committee. We have also consulted with groups of younger Aboriginal people in the community who may or may not have been in contact with the justice system (identified as ‘Young person’ in Section 2). Stakeholder interview questions used during these conversations have been somewhat adapted, as required (see **Appendix D**). We have also conducted one-on-one interviews with those who have spent time in detention (now aged up to 19 years of age, identified as ‘Young person interview’ in Section 2), employing a young Indigenous woman in Katherine to help facilitate these interviews. These interviews were designed to gather information on young persons’ experiences of the justice system, and questions were again adjusted accordingly.⁵³

Quantitative data

The project has commenced collection of quantitative data. This has been done in two ways.

⁵³ The project used questions devised for interviews to be conducted with young people in detention for UNSW’s Comparative Youth Penalty Project: <http://cyp.unsw.edu.au>. Our project conducted interviews, at CYPP’s request, with ex-detainees in Katherine. The CYPP interview questions were changed as far as possible to also meet the needs of the JR project. The completed interviews were subsequently used by both CYPP and the JR project in Katherine.

Firstly, we have initially and as far as possible located statistics through publicly available sources. This includes but is not limited to justice-related data. Whilst statistics that provide insight into the nature and extent of contact young Aboriginal people in Katherine have with the justice system is important, those that help us to understand social issues feeding this contact (such as poor school attendance, homelessness, poverty, etc.) are also useful. This data is included below both in our discussion in Section 2 and in **Appendix B**. It is intended to show how statistics can inform the work of JR and to increase understanding of issues commonly raised during our consultations. It does not, however, represent *all* statistics that will be required for the project. Further justice and other data collection and analysis will be necessary as the project develops, including for monitoring/evaluation.

Secondly, we have also submitted a formal request for justice data to both NT Police (NTPFES) and Corrective Services (NTDCS), primarily because of gaps in publicly reported justice-related statistics and the level of detail in the data required for JR.⁵⁴ The data requested includes, for example numbers of apprehensions of young Aboriginal people in Katherine and for what types of offences; numbers diverted and outcomes of those diversions; number of nights spent in detention or prison, as sentenced and remanded prisoners; and levels of completion of community-based correctional programs. We are awaiting the outcomes of both data requests. This data will assist the community to establish a baseline against which it might measure progress over time and that will be used by the community to move the project forward to its next stages.

1.3.2 Collective impact framework

Other than data collection, we have also been working with the community to explore the type of structures, strategies and alliances that will best advance JR in Katherine. As noted above, stakeholders have been asked to comment on the latter during consultations, as well as on what is working well and not so well in the community in addressing offending/incarceration.

In response, some stakeholders have suggested that organisations work well together in Katherine, while for others collaboration could be improved. They also note that positive outcomes are often dependent on the hard work of individuals rather than organisations, which means that inevitably staff turnover impacts on capacity to sustain these outcomes. Concerns have been raised, too, about duplication of services in Katherine and a lack of service accountability, manifesting as insufficient or inadequate reporting on service or program outcomes to the broader community. Of note, JR methodology includes mapping and re-alignment of local services so as to make best use of and to identify gaps in existing resources, likely to be useful in addressing these concerns. An additional point made clear during consultations is that a lot of people and organisations in Katherine are not sure what others are actually doing for young people. This is a knowledge gap that the project might also address.

⁵⁴ We have requested, if available, data for the *region* of Katherine, but with disaggregation by different age groups, by Aboriginality (compared with non-Aboriginal population) and by gender, as well as by individual community in the region of Katherine.

There are people that are putting a lot into this, they're really invested in young people in Katherine and there's generally success that follows that. They don't give up. Kids can keep coming back no matter what they've done. It's all personality driven – if they go I've got no idea what will happen to Katherine if they leave. They're just brilliant (Government agency).

I'm never going to say that there are enough services here in Katherine but they do have a number of services that seem to be doing the same role. They might need to realign particular things, looking at that. So then it's really clear what services are offering different things to people. There's sometimes no clear referral pathway. Community organisations doing a lot of things across a lot of different service areas – it gets confusing. There is a lot of good work that happens in community organisations. It's just that there might be three different services providing that service (Government agency).

Once you have an idea of what is needed to address incarceration and offending, we then need to open up lines of communication and be clear about each other's roles and where we can assist each other and where we can make referrals to around those needs (Legal service provider)

Stakeholders point to specific initiatives that will facilitate better collaboration around justice and related issues, such as creation of a Youth Hub that would enable services and agencies to work together to provide intensive support to young people caught up in or at risk of contact with the justice system, discussed further in Section 2.

More broadly, stakeholders have stressed the need for more formalised collective action to be taken by the community as a whole in response to offending and incarceration. There is a call, for instance, for Local Council to take on greater responsibility on behalf of the community for addressing issues of relevance to young people, including through strategic planning and/or establishment of a sub-committee or similar – though some stakeholders also note that Council may not have sufficient, targeted resources to enable it to undertake this work. It is worth noting in this context that young people aged 25 years and under make up a sizeable portion of the local population (37.9%).⁵⁵

The Council has to take charge instead of always saying it's a police issue. The Council *is* the people. It's got to start somewhere, even if they created a side Council or Board.... We have Boards for the elderly and the disabled but what do we have for the kids? Just police diversion. It's great that police 'own' diversion, but I really think they could sell it back to government and say, we'll continue to work there and be part of it but give us someone from these other agencies and make diversion more holistic... When people turn around to their local Councillor and say youth crime or alcohol is a problem, instead of turning around and saying 'Mr Policeman what are you going to do about it?' it should be 'What can we *all* do about it?'... There's a place

⁵⁵ Australian Bureau of Statistics (ABS) (2011), *ABS Data: Regional Data Summary, Katherine*

for everyone at this table, including Indigenous people and police
(Government agency)

Stakeholders have elsewhere identified that stepping away from a tunnel vision focus on tertiary responses to offending is essential to enacting lasting change.

The government is trying to push police on to everyone for everything. You can't always put it onto Department of Children and Families or police. We should pull back and let health and education [and other agencies] just do their job [because these are the kinds of issues that are driving offending]. A tough approach is not always the answer, a combined approach [is needed]
(Government agency)

It is clear that offending of young people from Katherine and their imprisonment are highly complex issues, requiring a range of responses in and beyond the justice system. Individual programs, initiatives, agencies /organisations and/or strong and capable persons standing alone cannot 'solve' these problems. Given this, our intention as noted is to work in coming months with the community to develop a CI framework. This should respond to the need for an overarching structure that facilitates effective collaboration between stakeholders within this project, as well as addressing other concerns raised in relation to cooperation and coordination, a number of which are set out above and are further outlined in this report.

1.3.3 Identifying the JR 'community'

An important question that has arisen for the project is whether it should incorporate the *region* of Katherine or Katherine *town* alone in its work.

We had originally envisaged the project as being conducted in a single 'community'; that is, the town of Katherine and nearby communities (Binjari, Kalano and Rockhole). This was and is still seen as more manageable for a pilot project and we are at this stage retaining this focus. Outlying communities in the region are therefore not included in our current work. Local councils representing these communities have however been consulted, with their valuable input included in Section 2. Though feasibility will have to be considered, it may be necessary at a later date, however, to invite these more remote communities to be part of the project, with implications for our methodology. The following stakeholder comment summarises issues arising in this context.

What is Katherine in terms of area? Because of the family groups moving across the region it might muddy your data. So looking at the YMCA, they service Katherine, but participants of their programs may be from Beswick, Ngukurr or Lajamanu. It does get pretty untidy. I don't know what it looks like at the other end in Don Dale when they identify young people and where they're from they may be identified as 'Katherine' young people but they may in fact be from [elsewhere] (Community organisation)

In other words, a sizeable number of offenders in contact with justice agencies and other organisations in Katherine may come from more remote communities in the region, but it is often difficult to accurately pinpoint through data where people are

from. This question has arisen because JR is focused on the *place of origin* of offenders rather than their *place of offending*. Given this, it is important to identify the community in which offenders generally live and to which they will return after incarceration and to work with the community in question to change local conditions so as to reduce first time and repeat offending.

An interesting point has been frequently raised during consultations in relation to this issue, discussed below in the context of service provision. The flow of offenders in and out of Katherine, represented in justice data, is reflective of the town's status as a service hub for the region and beyond. Stakeholders note that despite this status, Katherine is itself inadequately serviced (see discussion: Section 2.2). This is an issue the project will consider and hope to respond to in future.

2. SUMMARY OF DATA

This section provides an overview of data gathered so far. It summarises information provided during this first round of consultations, but does not exhaustively cover *all* issues likely to be relevant to the project's work. These will be further explored as the project progresses.

2.1 Strengths-based approach

As is evident in the data below, the project has not only focused on problems in Katherine. As noted above, stakeholders have also been asked to comment on effective existing or past initiatives or approaches in Katherine, as well as strengths and assets likely to contribute to the success of JR in future. In response, the community has identified many positives - ranging from programs in and outside of the justice system and the presence of strong community leaders and mentors to the environment surrounding the town of Katherine. As one community organisation states, 'Yes there are needs, but there are people on the ground with the right solutions and requisite skills to take this stuff on, with the relevant resources'.

When comment was sought on what it is like to grow up in Katherine young people spoke, for instance, of how good it is to be able to swim in the hot springs, play sports, go fishing, visit places like Mataranka and to hang out at the YMCA. Many of these young people thought see the community as safe. 'We can walk around town' and have lots of 'freedom'. For those staying in town to attend school getting a good education is another great thing about Katherine. A young girl spoke of living in the community as 'a gift, knowing a lot about our identity (culture). It would be different in other places like Darwin'. Another talked about how good it is to learn language from Elders.

More generally, as is the case across the whole of the NT, stakeholders point out that the overwhelming majority of young people in Katherine do *not* come in contact with the justice system. They also suggest that community members want the best for young people, which will be of benefit to the project.

I think most people in the community - you get some who say they're going to start a vigilante group cause these kids are out of control. Most people who sit down and think about it and know about young people's

backgrounds are focused on the idea of keeping that young person out of trouble in the future. That's a community strength that you can draw on, the sense that if we understand the young peoples' backgrounds we need to work on keeping them out of trouble. Most people would support initiatives that reflect that rather than focusing on punishment. It's human nature. Mostly people want kids to do well. (Government agency)

There are a lot of really good young people from stable families out there doing good work... If Community Corrections has only got six young people under supervision and there are around 60 under supervision in police diversion, well there's a hell of a lot more than 66 kids in Katherine. (Government agency)

2.2 Community interest in and support for JR

Community 'buy-in' to JR is essential to its success, given the extent to which it is community-driven. For this reason, it has been fundamentally important to identify at this early stage the extent to which the community of Katherine embraces JR as a framework within which local offending and incarceration might be addressed. Given its importance we set out here, prior to summarising our data in more detail, stakeholder feedback received in relation to support for JR.

We certainly welcome the introduction of JR as we are very concerned for our young people. We want them to be our next leaders, further down the track. It will depend though on what JR can offer Katherine in terms of human and dollar resources to drive it and how then we can address all the current issues (Indigenous community organisation)

Yes, absolutely. No question. I think it's a great initiative. You've got a lot of success in the US so you're coming from that sort of background. It's proven. We all know that locking people up who aren't bad offenders, who aren't a danger to the community, is the wrong thing to do. It's bloody expensive too. The money could be better spent. [And] people need to understand, once they learn that stuff they become more conscious about 'Oh I'm not just a parent at home. I could be part of a good drive for this community' and that's leadership. You'd get the whole of Katherine behind it if you can convince them it's money well spent, which, yes, it sounds like it is (Indigenous community organisation)

It won't do any harm and for a town like Katherine it's something that could be good. Small places like that are good to introduce things like this as a litmus test, as a proving ground cause you can see results quickly. Even if you have small wins - one or two kids turned around - means you have big costs savings. (Government agency)

I support the idea of JR generally speaking because all the research points to young people, once they have been in a custodial situation they are more likely to reoffend than young people who haven't been. So the more money and effort we spend on keeping them out of detention is well spent because they're less likely to offend if they can be dealt with appropriately without

going into custody.... This is something that never seems to be well understood by people - that view that we need to get tough. We need to lock up these kids. Cause all the research says this will make it worse. Politicians need to better understand that... and also trying to get the general community to understand that it doesn't work and that money is much better invested on things that will keep young people out of custody than spending it on custody. (Government agency)

Our team is very supportive. Katherine requires intervention and support. What is in place now for youth offenders is not working. If placed in detention, 9 times out of 10 they reoffend once released (Government agency)

Quite reasonably, some stakeholders support JR in principle but are interested to see how it is implemented in Katherine before committing to it. To be fully supported, for instance, it will have to have appropriate (long-term) funding, involve the 'right' people and be subject to proper evaluation.

If it's implemented correctly it's going to be good. It's got to be a long term [and funded appropriately], not a bandaid solution. You see so many little programs that don't work. Their funding gets cut... They're not showing the results or not reporting the results correctly. Getting the right committee here in Katherine would mean they could report the results correctly and do the analysis correctly. (Community organisation)

2.3 Offending and incarceration in Katherine: nature and impacts

2.3.1 Offending and incarceration in Katherine

A sizeable number of stakeholders indicate that both offending by and incarceration of younger Aboriginal people is a significant and escalating problem in Katherine, with substantial negative impacts. One community organisation, for example, identifies local youth offending as a 'big problem for a little town'.

It's a major issue for community, police and businesses. I worry that it's not going to get better. It just seems to be constantly getting worse. There are a lot of agencies doing their absolute best. But everyone's just so frustrated and nothing seems to be working. They have no respect any more. (Government agency)

We used to have a lot of youth offending, probably weekly, but I think it's getting more regular now. It's what you hear about especially around school holidays. Bit more violence. Around town I know a few shop owners... broken windows nightly. Threatening to close down cause they just can't afford it. The majority are youth-oriented. (Community organisation)

The increasingly young age of offenders also caused concern to stakeholders.

I think we're seeing increasingly younger youth offenders. That's a pattern in Darwin but also here. We're seeing quite young offenders for all different

types of offending, though primarily for property offending – 11, 12, 13 years old - whereas a few years ago you weren't seeing many. (Government agency)

Others thought that community perceptions about how problematic offending in Katherine is were not 100% accurate.

What I see on the Katherine and NT Issues Facebook page, it's very vigilante. Vigilante groups saying they're going to go out and start getting hold of some of these kids that are out there late at night. Some of them are innocently taking someone else home safely, going from one home to another to visit, and they get into trouble because they *look* like they're about to do something.... People are absolutely angry and it comes to dogs being let out. (Government agency)

The fact that [young people] feel comfortable to [walk around at night], not getting into fights with other kids, not getting harassed by adults - the town must have a reasonably good feel to it. I can walk home at night and I don't feel threatened compared to a city. (Community organisation)

I think that Katherine lags behind other places. So if you compare it to say (named regional town in NSW) it's 15-20 years behind... If you want to see what Katherine's going to be like in the future you can go and have a look at those kinds of places. It's not a pretty sight. (Government agency)

In terms of the nature of offending and related behaviour, young people we spoke to identified sniffing, smoking ganja, stealing cars, lighting fires and break and enters as 'big problems' for younger offenders, who also 'get in trouble with fighting, driving and drinking.' Highlighted by stakeholders more generally as particularly problematic for those under-18 years of age are property offences, as is common for younger offenders - often opportunistic and peer-driven, at times relatively serious but on other occasions quite obviously committed by children, as children.⁵⁶

Kids out in community who don't have high-level English and literacy skills, aged 11-16 years. They might be committing a lot of break and enters and stealing food from their local shop, or come into town with extended family and go into town late at night. You rarely see random acts of violence. (Legal service provider)

They just sprayed the face of ATMs and drew slogans and rude pictures all over the walls. That was sort of that real child-like offending, like breaking into places for food. (Government agency)

Most of it has started with what I would call non-malice petty stuff, basic break and enters and stealing and stuff like that. ... There were lots of break-ins at the high school but they were taking loaves of bread and vegemite. I was thinking are you serious? This is something we sent people out for in

⁵⁶ Of note, Carney's review of the NT youth justice system in 2011 found that 29% of court lodgements in the Children's Court for young people in Katherine related to unlawful entries. See Carney (2011), 18

the first fleet. We should have come a long way in that time. (Community organisation)

We've seen unlawful entries, stealing, damages, stolen cars, smashing windows looking for money and property, vandalism like going into houses and making a mess, a run of stolen cars and actually a couple of setting fire to cars. (Government agency)

As offenders get older, offences against the person are seen as being much more of an issue, especially family violence. A legal service provider in Katherine thought that 'Once you get into adult offending assault and family violence would be the highest. It'd be pretty even between family violence and motor vehicle related stuff.' The link between alcohol misuse and violent offending was highlighted during stakeholder interviews and is confirmed by the data set out immediately below.

Data: offending and incarceration

With access to more comprehensive statistics the community will have a better understanding of the offending and incarceration in Katherine. The relatively small amount of Katherine-specific justice data available tells us that across *all* age groups over the past five years assault is the largest single category of offence in this community, a sizeable proportion of which is alcohol and/or domestic violence related. Overall, however, property offences are more prevalent than offences against the person. (Table 6: **Appendix B**).

In terms of the extent of incarceration of Katherine youth, publicly available data tells us that the bulk of offenders in the community aged less than 18 years appear to be diverted by police away from more intensive contact with the justice system through police diversion. In 2010 – 2014, between 17 and 24 offenders were detained each year from the Katherine region. These figures are obviously lower for Katherine town alone (see Table 7: **Appendix B**). Whilst these statistics indicate that there are not large numbers of younger individuals from Katherine being locked up we do not yet have clear data on the number of days offenders spend in detention. A number of stakeholders suggest that relatively few recidivist offenders may be responsible for the bulk of offences in Katherine, cycling in and out of incarceration. A relatively small number of offenders does not necessarily, therefore, equate to a small number of overall days in custody for Katherine youth.

Justice-related data for adults is not disaggregated by age for Katherine, meaning we are not able to draw conclusions as yet about 18-24 year olds' contact with the justice system. Available data indicates, however, that in 2014 a total of 132 prisoners were recorded as having the last known address of 'Katherine' (town), 113 of who were Indigenous.⁵⁷ Including prisoners from the region will obviously increase these figures. Katherine was also the second most common address for prisoners in a correctional institution in the NT in 2014.⁵⁸ The latest *Dropping of the Edge Report* (2015) further indicates that Katherine ranks among the four most

⁵⁷ NT DCS (2015) *Annual Statistics*, Table 10

⁵⁸ *Ibid*, 5

disadvantaged Statistical Local Areas (SLAs) in the NT, primarily for its rates of prison admissions, domestic violence and criminal convictions.⁵⁹

Given the current gaps in available data, NAAJA has provided statistics relating to its representation of Aboriginal defendants in Katherine aged 18-24 years sentenced to a period of imprisonment over a 6-month period (January-June 2015). During this period, NAAJA appeared in 32 criminal matters for these defendants, only four of who were female. The matters related disproportionately to offences of violence. Fifty percent of all matters (16 matters) involved offences of violence, 25% involved traffic offences (8 matters), 12.5% involved property offences (4 matters), and 72% (23 matters) involved a breach of an order, nearly a third of which (9 matters) related to breaches of a domestic violence order (DVO).⁶⁰ This data has some obvious methodological limitations, given that it relates to a comparatively short period of time. It provides us, however, with some indication of how and why local young Indigenous persons' are entering into incarceration.

2.3.2 Impacts of offending and incarceration on Katherine

The impacts of offending and incarceration are identified as wide-ranging, directly affecting victims of crime (property or violent offending) but also offenders, their families and the community more broadly.

It does cause stress on the community. Police round kids up... When you see the spikes it's stressful for everyone. As an example, our worker had her car broken into and another across the road. It's maybe not just your work colleague being impacted - it might also be your mate. In a small town it goes through lots of people. (Community organisation)

Everybody's affected. The community is impacted, as businesses won't stay around. The standard seems to be changing. There's a softening towards certain offences. The community needs to stand up and say that it's not acceptable to have break and enters happening. It's terrible to have your home broken into. There's a level of acceptance - 'oh you're going to get broken into at one time or another' (Government agency)

If something's not done I'm seeing more and more people leaving. If you have a business in Katherine and they continually have things smashed...

⁵⁹ Vinson, T and Rawsthorne, M (2015) *Dropping off the Edge 2015: Persistent communal disadvantage in Australia*, Jesuit Social Services, 106

⁶⁰ The 23 matters involving breaches included 9 breaches of DVOs, 6 breaches of a suspended sentence, one breach of a Supreme Court Order, 3 breaches of Alcohol Protection Orders, 4 breaches of bail and 1 breach of a community work order. It is not clear whether offences of violence were family violence related, other perhaps than those that are clearly identified as involving a breach of a DVO. Indicative of the difficulties in identifying data that is specific to offenders in Katherine whose 'place of origin' is also Katherine, 11 of these matters involve persons classified as being from Katherine, but 5 of these are categorised as 'living in Katherine', with place of origin not provided. The remaining matters involve persons from communities other than Katherine, such as Ngukurr, Beswick and Yarralin. Note that there were often multiple charges/convictions for a single matter. This data also excludes those sentenced to a period of imprisonment remanded and then were either acquitted or did not receive a custodial outcome, as well as those from Katherine dealt with in Darwin, which could increase the numbers incarcerated by as much as 20%.

You only have to see how many big high fences have been put up, to me that's a sign.... You never used to see it. Businesses are doing it as well. People only put up with that for so long and if they have other opportunities to go places where this isn't happening they'll go... Instead of it being that kind of crossroads town that is still a bit of a tourist destination it's just going to be come a service town. (Government agency)

It impacts on everyone, grandparents and parents. Mums are probably dealing with it more. I talk to lots of mums who are worried. They're asking 'What should we do about the kids? What should we set up for them?' (Indigenous community member)

It can never be said that a kid in court only affects that kid. It affects the entire family. Some of them are at their wits end, and they want to do more but are not sure what to do (Legal service provider)

Stigmatisation and lateral violence are some of the impacts highlighted by stakeholders. 'Young people in trouble get known by the community, including by agencies. That's a label that follows them, even if they're trying to turn things around', states one community organisation.

It adds stress to families, alienates them within the community. If you've got a band of 'criminals' in your family there're a lot of people in the community who'll start gnarling at you, which is lateral violence. Your family is pigeonholed then, which makes it worse. (Community organisation)

Community organisations, both Indigenous and non-Indigenous, also identify family breakdown as a consequence of (as well as a causal factor for) incarceration. 'It has huge effects on families and individuals. For a family, there's someone missing – their brother, sister, child has gone away'. 'The men are just not around, because they're locked up, to contribute in a useful way to society and it's disintegrating the families.'

Stakeholders also note that incarceration operates as a self-perpetuating cycle of negativity - driving up rather than reducing rates of incarceration. They expressed hope that JR might help to break through this cycle. As one example of this, detaining young people with other perhaps more 'hardened' offenders is seen as likely to increase rather than decrease offending.

Low-level offenders locked up behind walls and mixing with other high level offenders can't be doing any good for them at all. They're getting poisoned in there, coming out with more silly ideas for offending when they get out. There's just no good reason for them to go behind walls if they can get the help and support they need [outside] (Indigenous community organisation)

The probability that young offenders will escalate to adult offending and incarceration without appropriate early intervention was also discussed, but is a point worth exploring further (including through justice data), as noted previously.

As another example of the cyclical nature of imprisonment, the greater the frequency with which Aboriginal people are sent to prison the less of a deterrent element incarceration appears to have. Stakeholders suggest, in fact, that having had a parent or other relative locked up *increases* the chances of incarceration for a young person.⁶¹ This confirms research conducted in the NT about the impacts of incarceration on families and communities, discussed above (see 1.2.1). Note that this affects not just children of *adult* prisoners. It is not uncommon for young offenders in detention to also be parents. A number of young people we spoke to who had been in Don Dale indicated that becoming or being a parent created impetus for them to turn their lives around.

Detention just means a holiday. [An old Aboriginal friend said to me] ‘I’m waiting on my partner, she’s on holiday’. ‘Where’d she go on holiday?’ ‘Berrimah’... And we just laughed. There is no deterrent. If you keep flogging your kids all the time as a parent then it’s not a deterrent. If you keep locking up aunties and uncles of these kids and they come out, then there is no deterrent for young people. (Legal service provider)

It becomes such a socially acceptable thing here. Oh well my dad did it, my uncle did it, my cousin is in there. It’s like a rite of passage. It’s just a normal thing. They don’t seem to always care about the outcome. The young people, they’re not fighting for their liberty. There’s very little deterrence (Legal service provider)

For Katherine stakeholders, imprisonment also clearly exacerbates a range of social issues that underpin offending to begin with, such as unemployment and removal of Aboriginal children into out of home care (including into care by non-Indigenous carers). Illustrative of the broader social and economic ‘costs’ of imprisonment, these types of issues further increase rates of incarceration.

Our kids are more likely to get picked up all the time. You’d think white kids didn’t do anything wrong in this town. A lot of them run together, arm in arm, black and white. Five years down the track that kid might be a good kid but he can’t get a job because of his criminal record. That’s killing us in terms of employment and being carers for our own families. That’s the impact. They say they can’t find families to care for our kids. That’s because half of them have criminal records! (Indigenous community organisation)

Young people reiterated many of these points in their comments. Some we spoke to thought that it’s sometimes seen as ‘cool’ to have been in detention. ‘Whoa that guy went to jail. They come out showing off. ‘I went to Don Dale.’’ Those who ‘go inside don’t seem to be that worried. They come out and do exactly the same thing that they did before they went into detention.’ ‘They’ve done it lots of time before. They’re not scared of Don Dale’. Others thought that in reality it was ‘painful’ for the young person. They might get ‘upset because they’re going away from family’ or be ‘scared they’re going to lose their family’. In addition, ‘if they stay there too long they’ll learn bad things, they get involved in gangs, so it’s even worse when

⁶¹ This is confirmed by statistics. See, for instance, discussion in House of Representatives Standing Committee (2011), 42.

they get out. It makes life harder'. 'They can't get good jobs' because they've been in trouble. Getting locked up can also 'spoil it' for everyone else because the whole community is identified as 'criminal'. It causes arguments and fighting within families and makes people 'sad' and 'angry', as well as creating 'shame' for the young person in trouble and for the entire community.

A negative self-perpetuating cycle can also occur in the context of offending; that is, offending increases the risk of further criminal activity. As an example of this, stakeholders in Katherine point out that when young people experience family violence, including as a witness to it, they experience trauma and also learn certain negative patterns of behaviour. This may cause them to offend as juveniles and/or adults, including as violent offenders, and clearly demonstrates the connection that exists between victimisation and offending.⁶² For this reason, in order to deliver results JR should be addressing the needs of both victims and offenders, including through improvement to services for victims. Stakeholders called for victims for *all* types of offences to have more input into the way the justice system responds to crime.

In June last year, they did a statistical draw on NT prisoners (adult). We had 1,500 prisoners and 1,022 had a current DVO. That's two thirds. That indicates to me... that a big reason why they're there is related to DV and assaults and accompanying offences. The worrying thing for me is that we know that if kids are witnessing it, very likely that they're going to be perpetrators... What do we do to intervene so they don't become part of the system when they're adults? (Government agency)

They're bored, they're hungry, they're seeing DV and becoming part of it – and it drives them into the street and they offend (Indigenous community organisation)

2.4 Social drivers of offending and incarceration of young Aboriginal people in Katherine

Stakeholders have been asked to identify *community* level causal factors that heighten the risk of contact with the justice system for young Aboriginal people in Katherine. In response, it was noted that there are usually multiple issues that interact to increase the likelihood of contact. Also highlighted is that it is more than just 'environmental' conditions that lead to offending, as two individuals that have very similar lives will not necessarily both commit crimes.

This is currently life in Katherine [for a lot of these young people]... What makes some of those offend? And it's actually a small proportion of the whole population of kids. It's not huge... I've seen kids where you've got two brothers growing up and one goes off the rails and the other cruises through. The other might get back on track but it's about finding out about what [really makes a difference]... Some of the answers to this need to be coming from the kids... They've got the life experience. What did you do

⁶² See discussion, Bath, H (2011) 'Intervening in the Northern Territory', in 29 *Developing Practice* 4, 8ff. Indigenous people are disproportionately represented in statistics recording rates of victimization. See discussion, for instance, House of Representatives Standing Committee (2011), 12

differently that the others didn't do who ended up in detention? The answer may be just having one really strong parent or something. Then you know what to give this project. (Community organisation)

2.4.1 Boredom and connection

Many stakeholders highlighted boredom as a significant reason for younger persons' offending. Some young people thought Katherine has certain limitations in terms of activities. 'There's not as much to explore, once you go to it all. There's nothing new'. Another said that 'sometimes for boredom' young people 'go to the shops and do something bad there, break in somewhere. They think they can get away with it.' One stakeholder thought it was telling, in this context, that young people 'escape' Katherine in stolen vehicles, driving to other centres for something to do or to look for something that Katherine can't provide to them.

These are kids who are driving away from Katherine to go to Darwin. There are a lot of kids trying to get out of Katherine – kids who live in town 13-16 years of age. They feel the need to get out, and they are desperate. That's one of the big issues (Legal service provider)

However, 'boredom' in this context is likely to be more than just about not having enough to do.

It's boredom, but not just about superficial materialistic things like the cinema. It's far more deep-seated than that - even with dropouts of education and where to next, those life choices, those projections. It feeds into a sense of nothingness at times. (Community organisation)

It's a big problem. Some of them are school leavers and they're still young. They think they've had enough school. They just want to go home and sit around and do nothing. They just walk around and run amuck in town and get up to mischief... I come from the old school. I went to ride horses when I left school. I was a stockman at 15-16 years. They play football. There's not much else. (Indigenous community member)

Proportionally there's a fair bit of activity around but there's not that space, that place - no Casuarina Shopping Centre or bowling alley where kids can just come to hang out. No drop in or youth centre. The YMCA has drop in on Friday nights and boys and girls groups Monday, Tuesday. But they don't open their drop in until 3 o'clock There are little bits and pieces but no building open long enough. (Community organisation)

A related factor identified as also feeding contact with the justice system is a lack of a sense of 'belonging and connection' amongst young people, which in part explains the peer-driven nature of offending.

They're looking for belonging and connection, and the older kids (teenagers) are encouraging the young kids - sometimes 7, 8 year olds - to do break and enters. We all need to know where we fit. They're seeking that. If you've got someone older saying you're doing an awesome job doing that break in

and if they're not getting that positive feedback from parents or teachers they're going to offend (Community organisation)

The peer thing is difficult. Their own family is physically present but absent in terms of being there for kids. They tend to think of the other young offenders as family and they get in trouble together as family. (Government agency)

2.4.2 Mental health, disability, alcohol/substances

In addition, mental health and alcohol/substance abuse issues are raised as important in this context, as is (commonly undiagnosed) disability. That these often co-existing issues increase contact with the justice system (and also impact negatively on interactions with this system, as discussed below) is well recognised.⁶³ In Katherine, sniffing, alcohol and drug use are seen to connect with crime where offending finances drug use and/or when these issues lead to violent or other offending, including family violence. For instance, over three quarters (76.4%) of domestic violence incidents in Katherine recorded by police for the year ending August 2014 were alcohol-related (see also Table 6: **Appendix B**).⁶⁴ In terms of mental health issues, young people identify 'stress' related to teasing, bullying and problems with families as causing offending. Trauma is also a key contributor, discussed briefly above in the context of family violence.

My teenage girls have been going through getting in trouble because of loss (a sibling passing away). Kids go through trauma and then start to do crimes and mix with the wrong group and do the wrong thing.... I talk to my daughter about it. She hasn't got counselling. I've tried but she doesn't want to do it. It makes it hard for me. (Indigenous community member)

There are substantial gaps in services for young people experiencing these types of problems and for their families, with some variation in availability of support depending on the age of the young person in question. Whilst these gaps do not *drive* contact with the justice system, their absence can increase the likelihood of contact. Stakeholders spoke of Katherine as being under-serviced for a town that is supposedly a service hub.

Kids are a different story and there's some horrendous stuff that drives them. We're talking about severely traumatised children who get to that 12, 13, 14 year old stage who don't have access to mental health care, including specialised trauma support here in Katherine, and they have to go to Darwin.... The Berrimah Divide well and truly exists. Katherine has these peculiar problems that are not Darwin, are not Alice Springs. Here, we're on the cusp of having the critical mass to get the supports that should be here for these kids. We haven't tipped over the critical mass but what we're seeing is more and more kids with problems. If the support was here in town

⁶³ See for instance, House of Representatives Standing Committee (2011), 87ff; Carney (2011), 23-4

⁶⁴ NT Government (2015), *Family Safety Framework NT: Practice Manual*, part of NT Government's *Domestic and Family Violence Reduction Strategy 2014-2017: Safety is Everyone's Right*, 8

I'm confident we'd get better outcomes for these kids (Legal service provider)

Especially behavioural conditions – one we're seeing a lot more of is sensory issues (like autism). Disability is not only more common for Indigenous people it also often goes untreated. The mums I've spoken to, they've always known something isn't right but they haven't grown up in an environment where they'd think about it as a medical problem. If they do get to the stage of diagnosis, there's still nowhere here where you can learn to parent those kids. I know of a couple of mums with kids with autism. Services are available, if you can pay - but otherwise it's not that readily available. Some psychologists have parenting programs but they're not long term. It's not easy to get into them and they're not free... If they're not already at the incarceration stage some of those young people are well on their way. (Legal service provider)

If you've got a sniffer end up in Katherine hospital... we have two nurses coming down from Darwin who service Darwin and Arnhem Land. They come down once a month for three days... As for rehabilitation, there's nothing. There doesn't seem to be anywhere for a kid with a drug problem that is getting in trouble. (Community organisation)

For some younger people (18-25 years of age) where alcohol abuse is a feature of offending there's not really a service that would deal with people in that age group. One young guy got really drunk and offended. He got an alcohol protection order put on him and breached that two times. He was ordered into the Venndale alcohol rehabilitation centre in Katherine... It seems like such a big step for a young person to have had a big night out, to have got drunk, be told not to drink and have broken those rules two further times and then to be labelled an alcoholic and be shipped off to a rehabilitation centre. This young guy absconded and his whole sentence was restored. There needs to be some extra support outside the justice system for a young person who grew up around alcoholics, like this guy, but he's not got to that point yet. (Legal service provider)

2.4.3 Family issues

Family issues were also highlighted as problematic. Apart from issues of family violence, having a difficult home life in general is seen as a major contributing factor for offending and incarceration. For young people, this means having parents who 'don't care', 'don't put them in school'. 'They can't talk to their parents'. This 'makes them do the wrong thing'. But it's also about more general conflict between parents and young people.

One problem was my family, family business was just not working where I used to run away from home and take off on my mum and dad, go to my friends and drink a lot at the age of 14 or 15. I don't know what was running through my head then. It was just my family was probably the problem that got me there. (Young person interview)

Youth that don't have support from parents and guardians, that's a problem. They didn't have 'Little Johnny Mary come here, we love here, you should be home now', not given any direction about how to overcome their problems. As a parent that's what you've got to do. You shouldn't rely on the YMCA or anyone else to do that. (Indigenous community organisation)

Problems at home can occur when the family unit itself is struggling with issues such as alcohol misuse, substance abuse, unemployment, poverty and overcrowding in housing.⁶⁵ Of note, homelessness, including as overcrowding, is disproportionately high in the NT, and in Katherine specifically, compared to the national average (Table 8: **Appendix B**; statistics on unemployment below in this section). Whilst those living in what is perceived by mainstream society as overcrowded conditions may not see this as problematic, there were also a significant number of stakeholders who pointed out that this is an issue that can heighten the risks of offending.

In addition to increasing the likelihood of offending, these issues are all symptoms of entrenched **social disadvantage** evident in many Indigenous communities. There is recognition amongst stakeholders that rather than responding to problems within families by attributing blame, JR might play a role in addressing this disadvantage. Discussed further below, for instance, are initiatives likely to improve local educational and employment opportunities.

If their family is fighting, there's arguing, they'll go out of the house. There's more arguments cause everyone's so crammed inside their houses instead of spread out. This makes us walk the streets and get tempted [to offend].... Sometimes there are strangers in the house as well. (Young person)

The underlying issue might be domestic violence fuelled by alcohol. So kids are offending because there's [difficulties] in the household and in those households we usually see an element of family violence. That's a bit of a no brainer. [But] I don't know whether the DV is a cause of [youth] offending or a symptom of other issues like overcrowding, lack of job opportunities. (Legal service provider)

The parents themselves in that situation need support as well. That's being recognised. You can't just throw all the blame on them saying 'It's all your fault, do something about it.' (Indigenous community organisation)

Whilst not wanting to detract from the good work that these agencies do, continuing reliance on government agencies such as DCF or police to resolve complex issues within the home is unlikely to bring about real change, particularly given the

⁶⁵ Housing shortages in Katherine have been raised in other research relating to community safety: see Northern Institute (2014) *Northern Territory Safe Streets Audit*, Australian Institute of Criminology, 58. The links between overcrowding and offending are discussed in the Royal Commission into Aboriginal Deaths in Custody (RCADIC): Johnston, E (1991) *Final Report of the Royal Commission into Aboriginal Deaths in Custody* (RCADIC) Canberra, 18.7.9, 18.7.11.

connection between the latter issues and broader social problems - as well as the historically negative relationship between such organisations and Indigenous people.

As occurs with criminal justice interventions, removal of young people by DCF from their families can actually *feed* rates of offending and incarceration, including where it aggravates (often pre-existing) conditions likely to increase criminal activity, such as trauma and other mental health issues.

Kids who are out late at night because it's not safe - they get taken in for child notifications and then that brings them into the system. It's not a youth justice issue but it still brings them in touch with police and then child protection workers. At that difficult stage, if kids are in care and they're not living at home and they're under orders and they're at that 12-14 year stage, they'll just take off. So we've had some kids in care in Darwin, they steal a car and just come back here. We had a tragic accident. The catalyst is going into care and being removed away from parents, geographically. Then they enter into the youth justice system that way. (Legal service provider)

It is also important to note that fear of removal of children by DCF inhibits Indigenous families' willingness to access support from the agency and outside it. This fear is based upon past and present government policy relating to child protection in an Indigenous context. Statistics reveal that we continue to place Indigenous children in care at disproportionately high rates in the NT. As at 30 June 2014, 86% of children in out of home care in the Territory were Aboriginal.⁶⁶ The number of Indigenous children in care in the NT rose by 81% between 2010 and 2014 (from 438 to 791 children, of a total of 923 children), with 26% of these children from Katherine/Northern Region.⁶⁷ There is a perception amongst some stakeholders that too many young people are being removed from their families in Katherine. Others felt that DCF in Katherine is underfunded, overwhelmed or otherwise lacking in resources to engage families in more preventative work and/or to step in as much as they might to address youth offending. However, the most effective responses to these issues, including increasing support for families, is likely to be more appropriately provided outside of DCF interventions. Gaps in relevant services and programs are evident in this area.

The culture within the Department (for child protection) is that every single thing you report is treated as a failure in your parenting and is used to remove children and so no one wants to ask for help, report domestic violence or their kids running away... In an ideal world DCF would be able to help but... any attempt to engage DCF is likely to result in removal... The level of casework and support is vastly inadequate (Legal service provider)

Offending is one issue that has many others underneath it. Placing a child into care would not be the best means to safeguard that child. DCF should only be working with really pointy end cases. In most people's minds, you're not looking at what other services are available for young people.

⁶⁶ Harwood, A (2015) 'Presentation to Catholic Care NT', Children's Commission NT

⁶⁷ Ibid

People think - oh this child is breaking into my house. Damn child protection they need to do something about it! And so they become the first response rather than the last. People don't know who else should be dealing with these problems (Government agency)

2.4.4 Education and employment

Problems relating to education and employment, which overlap to a degree, are also seen as significant contributors to local offending and imprisonment. Disengagement from school manifests as young people not going to school and/or doing poorly if they do attend. Statistics relating to Indigenous school completion and engagement in Katherine are set out in Tables 9a and 9b: **Appendix B**. These indicate that poor school attendance is a significant issue. For instance, only 36% of 15-29 year old Indigenous people in Katherine had completed Years 11/12 compared with 73% of non-Indigenous people.

Reasons for disengagement are complex, but stakeholders nominate as contributing factors a lack of cultural relevance in the school curriculum for and lower expectations of what education might provide to Indigenous students, including amongst some Indigenous parents. 'They're not stable at school. They come and go. Their parents are not ones that were big on education so they feel that they don't have to do it', states one government agency. There are some perceptions too that the school system has, in some respects, limited capacity to deal with the complex needs of some students, evidenced by what is thought to be an over-reliance on external suspension and expulsion. 'Suspension should not be external. Expulsion is just like water of a duck's back. Expulsion contributes to disengagement' notes an Indigenous community organisation. There is recognition, however, that 'school does try really hard, but they're stretched. Every year they seem to have more money taken away', notes one community organisation.

When kids get taken out of community and put in care, when they go to school they switch off... The things that they went through, it's hard for them. They yell, they scream. Most don't like going to school because they think the teachers and everyone is against them. They don't have any interest in doing anything now. They don't want an education... Teachers say he or she's the worst kid in Year 8 or 9... But you wonder why they're like that. It's because of what they went through. School needs more training [to work with these kids]. (Indigenous community member)

Poor engagement with school is seen as driving contact with the justice system. 'If the kids are not engaged in education you've got a problem. It sews the seeds for [offending and incarceration]', suggests one government agency stakeholder. Conversely, positive engagement with school is a protective factor likely to decrease or prevent offending. This is one reason for the cyclical nature of offending in Katherine, which appears to increase during school holidays.

Education is the straight link to empowerment and to realising right from wrong at the very basic levels. (Government agency)

It's something I noticed with our last lot of kids and even before that. They went through their phase of running around but came through, re-engaged with school. The school kept working with them. They're not perfect kids now but they've got jobs. They're not connected with police that we know of. Big part of this is what's been happening at school. There are consequences in the school. School has lots of rules. (Government agency)

There's definitely a link between engagement with school and the guys who are reoffending. Back in the day the school had one particular boy who had been disengaged and who has an older brother who has continually reoffended. He came back, had to go to a re-entry meeting, couldn't do it and he'll be out probably roaming the streets of a night. Engagement's a massive thing. (Government agency)

We all know when it's going to happen. As soon as you get that four-week break it might be okay for the first week and a half but then you get problems when the boredom sets in. (Community organisation)

Indigenous unemployment is also a significant issue in Katherine, as it is in many Aboriginal communities. In 2011, for instance, statistics relating to the Katherine labour force indicate that 38% of 15-64 year olds in the local Indigenous population were employed and 13% were unemployed. This compares with 85% employment and 2% unemployment in the non-Indigenous population in Katherine. The remainder of the community's Indigenous and non-Indigenous populations were not actively seeking work so are not considered part of the 'labour force'.⁶⁸

Unemployment is a good example of a social condition or issue that gives rise to offending that is also a likely consequence of incarceration. The same could be said of school disengagement. It is thought that there are significant limitations in job opportunities for young Aboriginal people in Katherine after school completion, even *with* a good education. Jobs are also seen as being scarce for those that undertake vocational or other training after school. This may cause young people still at school and those who have finished school to feel that learning is a dead end street, increasing levels of disengagement. Without schooling however, access to gainful employment will certainly be highly diminished, which then heightens the likelihood of offending and incarceration.

They need something to do with their lives. Once they get out of the school system [there's training or employment] but there's never going to be enough jobs to go around. They get lost in the system. Inevitably boredom sets in and the classic story – what do we do now? The peers step in. There's a sense that they're not sure why they're at school, why they have to learn, what happens after they leave school, what their life is going to be. (Indigenous community organisation)

Look at all the contributing factors of all this kind of stuff. If people don't see that they have a future... This is also why kids don't go to school. In my future, I see my mum and my grandparents, etcetera, all sitting around doing

⁶⁸ The Northern Institute (2014), 14

nothing without jobs.... What's your motivation for change, for going to school? ... I look at my grandchildren, who are non-Indigenous... The world is their oyster. When I look around at the Indigenous people here there's 3rd and 4th generation unemployment. So they might well feel why bother?
(Community organisation)

2.4.5 Indigenous disempowerment

The community has also identified Indigenous disempowerment as a key driver of offending/incarceration, specifically in its impacts on parents and leaders in the community and their capacity to guide and discipline young people, including so as to help reduce their contact with the justice system. As one Elder in Katherine states, 'We don't have control in the community as Elders. I can talk, talk and talk until I get blue in the face.'

We've got a lot of parents saying they don't know the different forms of neglect or abuse. They're quite shocked when you talk them through it. They feel that they've been a bit disempowered. If they've got a 16 year old boy on bail conditions saying he needs to be back at home after 8pm parents are losing the sense of what they can legally do to keep him home after that time that's fair and just because the kids are saying 'Guess what, I'm going'.
(Community organisation)

There's also a breakdown of a system that's been in tact here for thousands and thousands of years. Languages are in decline. Over time mainstream systems, including police, have debased the power and authority of older men and women in the community. They don't actually meet the need in terms of controlling young people. So young people do what they want. It's a very complex issue.... If you look at it now, the Elders have less status. They're not respected. There's a word for it at Port Keats, it means 'invisible'. (Government agency)

2.5 Drivers of offending and incarceration of young Aboriginal people in Katherine within the criminal justice system

2.5.1 Justice system generally

General comments about the justice system concern language and cultural barriers impacting on interactions with offenders. Young people think that police and courts don't always understand what's happening in their lives. Stakeholders suggest that police may need more training about how to conduct interviews with young people. Kids too don't necessarily fully comprehend what's going on during their contact with the justice system.

People engage better when they fully understand what's going on. Access to interpreters is a huge issue in the justice system. There's situations where people are in custody but there's no interpreter (Legal service provider)

Police don't have sufficient training and principles to apply during interviews. Support people aren't used, or the right family member isn't

used. No one understands their role in the situation. They pick anyone up that's in that house to be a support person (Legal service provider)

It can be especially difficult to have the needs of those with a disability or mental health issue adequately responded to within the system. Stakeholders identify that appropriate support, including through local services, should be able to provide better responses to these issues, both as part of and separate to justice system intervention. This is an example of how bolstering community-based resources can help prevent and reduce escalation of contact with the justice system, including for those already caught up in that system.

A lot may have substance abuse issues that have definitely impaired their cognitive ability, which plays into offending. It's hard to make that link, as we don't always have money to get reports done. [Local Indigenous health services can't] assist with that, as they don't have the expertise to make that assessment for young people. We have to get people from Darwin all the time. (Legal service provider)

I've got one client who did a lot of property offending as a young person. The report came back that he did have schizophrenia. So of course that engages substance misuse as well. He is a continuing offender as an adult but there's been nothing really to address it. (Legal service provider)

There was a little boy I knew with FASD (Foetal Alcohol Syndrome Disorder) and he'd also been physically and sexually abused in every foster home. He'd see a wallet in a shop that was the same as his and he'd take it. 'It's mine.' Other guys would use him to do a break-in. He was off to jail at 15-16 years of age. There are real chronic issues like that that are never addressed at any particular time in and outside of the justice system. Where's the counselling he needed? (Community organisation)

In addition, there was comment about the lack of availability of support in a justice context for offenders aged 18-24 years.

18-24 years of age, that's often high intensity offending. Those who are over-18 years, they've had the benefit of lenient sentences up until that point. Every attempt has been made to keep them out of prison. The statistics show that it's not a high rate of incarceration for under-18s, who are given every opportunity by the court. Family can take them out to outstations and things like that to try to keep them away from offending influences in Katherine. Once they turn 18, no one wants to help them (Legal service provider)

Under-18s get very intense support. They get diverted. Then they turn 18, bang - they get nothing. Voila. They're adults. They're in the system...but they're still young enough to need more support.... 18-24 is a really valuable time where services could be tapped into – you know, let's help them not reoffend. (Community organisation)

2.5.2 Police diversion

Most stakeholder comments relating to drivers within NT Police practice and policy concern use of police diversion. Diversion is used with some frequency in Katherine, with the region's file load perhaps proportionately high compared with that of other parts of the NT. A number of stakeholders see it working very well as an alternative to harsher penalties. This is borne out by statistics relating to diversion outcomes generally in the NT (see Tables 10-11: **Appendix B**). For instance, in 2014-15, 33.5% of youth apprehensions in the NT were diverted. Of 232 youth justice conferences conducted in this period, 85.3% offended only once, 10.8% re-offended more than once and 3.9% offended more than twice.⁶⁹

Diversion, provided through the YMCA in Katherine, provides young offenders with an opportunity to access mentoring and support around a range of problems they may be experiencing. It also generally involves community work and conferencing or other contact between victim and offender (preparation of a written letter of apology, for instance).

We're not seeing large numbers of young people being incarcerated in the Katherine area and that I think is because youth diversion works extremely well. Whereas you are seeing large numbers being incarcerated in Alice Springs and Darwin, which might suggest that either diversion isn't working as well there or it's not being pursued by police as well there. It works well here probably because the police are very conscientious about pursuing diversion. And you've got the ability through the YMCA to provide the services to address diversion needs. (Government agency)

They do Friday night cooking at the YMCA, food preparation and serving, clean up. Some of them, depending on who they are, will actually run or organise activities. Everything they do for community hours they do it with an adult. A big part of it is that discussion, getting to know each other, giving them an opportunity to have conversations and building trust. (Community organisation)

There are issues raised in relation to diversion in Katherine, however - some of which are seen as likely to feed contact with the justice system. Some stakeholders felt that diversion was 'too soft'. Others felt that diversion was actually a difficult thing for youth to engage with, including as offenders must admit guilt and face the consequences of their actions in order to be eligible. Some felt that there was a trend emerging of young people declining to participate, for this reason. In this and other contexts, there were calls for young people to have to take more responsibility for their behaviour, including through the justice system.

It's all about rights and responsibilities. Young people seem to have a strong sense of entitlement, but no sense of accountability or responsibility (Government agency)

⁶⁹ See NTPFES (2015) *Annual Report*, 44. See also Cunningham, T (2007), *Pre-court diversion in the Northern Territory: impact on juvenile reoffending*, Trends & Issues in Crime and Criminal Justice, Australian Institute of Criminology; Carney (2011) 92ff

Other issues include that those working with young people on diversion are significantly under-resourced. There are also some young people missing out on diversion because they are over 18 years of age, because of the type of offences committed or where they have used their two opportunities to be diverted.

No child should go to court until they've been through some form of diversion aiming to address or uncover what drove their offending. Though there does need to be some excluded offences, which need to be remanded and taken to court - like murder and sexual offences, serious stuff that if done by an adult would lead to a lengthy term of imprisonment. (Government agency)

There are also two strikes and you're out. There should be more leeway to let kids make a few mistakes and then still be eligible. It's almost like they make a couple of mistakes, for whatever reason they enter the court system. They take two steps forward and three steps backwards. As soon as they're in the court system there are very few support systems for them. (Government agency)

There is some suggestion too that diversion in Katherine requires a greater level of community involvement to increase its capacity to make change. Having access to more meaningful community work would assist in this regard.

They should be going out into the community, doing something useful, gardening or feeding homeless people, going to Red Cross doing something, cooking up soup to feed the homeless (Government agency)

Youth diversion works reasonably well. But the community doesn't get behind it very well. Kids have to do so much community service time. What are they going to do here to put back into community? I know the YMCA is struggling to find other organisations who can say, "I've got this big wall here, let's bring them here to paint this wall". The organisation struggles to get community services for the young people to do (Community organisation)

If they have to do community service, let's build up their self-confidence. We've got boys that are in trouble for stealing cars. Let's set up an automotive thing, with mentors. They can learn how to weld. Give them something to focus on when they're in trouble. Give them skills. (Community organisation)

2.5.3 Eligibility for and completion of diversionary orders

A further point raised is that young people may need further assistance to complete police diversion. However, problems of completion appear to apply to a range of non-custodial orders, including bail, good behaviour bonds (GBBs) and community work orders (CWOs). Katherine is not alone in this regard. NT-wide, from 2011 to 2014, only between 52% and 57.5% of community-based orders were completed by young Aboriginal people (see Table 12: **Appendix B**).⁷⁰ Non-completion can

⁷⁰ Productivity Commission *ROGS* (2015) (Youth Justice) (Table 16A.21): NT has comparatively (and consistently) low rates of completion by Aboriginal offenders of community-based orders. For instance, 79.6% of offenders successfully completed community-based orders in 2013-14 nationally; 70.8 % of non-Indigenous offenders in the NT successfully completed orders in 2013-14.

increase rates of incarceration, evidenced for instance, in high rates of remand.⁷¹ Issues occur where conditions attached to orders are difficult or impossible to comply with - such as non-association conditions, curfews or conditions with unrealistic expectations about community work hours.

There are quite a few breaches of community work orders. I wonder if the court is setting some young people up to fail? There are obviously a fairly limited number of hours they can do each week. The amount of community work ordered needs to be reflected in the amount of weeks it will take to do that work. Whilst it looks like they're only getting a small amount of work for the level of offending, in effect it requires the young person to give up Saturdays for three months. If the court's giving them 100 hours of community work, that's setting them up for 6, 7, 8 months of work and they're not going to manage that. (Government agency)

I breached because I couldn't hang around with my mates. The magistrate let me have my talk. I just stood up and said 'These have been my mates since I was little and you come in and try to rule us. It ain't going to work.' I grew up with this mob and they basically live in my house when they come over so it's hard for us young fellas to be separated from our close mates. (Young person interview)

[As to non-association orders], these kids... and Indigenous young people or Indigenous people full stop are always in a group. You very rarely see them alone. And you're going to tell them that this group they've always grown up with, all of a sudden they can't hang out with them anymore. It's the same with bail conditions imposing curfew or mandating going to school everyday. To have to go from zero attendance to full attendance, you're setting them up to fail. They're going to be back tomorrow for breach of bail and in custody. You're criminalising a kid who might not spend any time in jail. (Government agency)

Non-compliance with orders supervised by Community Corrections is perceived by some stakeholders as relating to difficulties the agency may have with working with younger Aboriginal offenders, particularly because it supervises both adults and juveniles. The agency is not seen as having sufficient targeted programs for and/or specific expertise in working with under-18s, in part because of the small numbers of offenders it supervises within this age bracket (compared with adults) (see Table 13: **Appendix B**). Some stakeholders saw this as problematic – but others did not. Lack of support from parents and carers for young people on non-custodial orders, including under supervision by Community Corrections, will also impact on levels of compliance. Further, offenders may stumble without supervision, but supervision is also not always attached to relevant orders due to a perception that it will be inadequate anyway – which may also cause problems.

Up here it makes sense [to have adult corrections looking after kids] because the numbers are low. It'd be ridiculous to have two departments, one looking

⁷¹ Carney (2011), 48

after kids - one looking after adults. I understand that they need to go together. (Government agency)

[Breaches of orders are a big issue feeding incarceration]. Community Corrections has had troubles with engagement with those on orders. Some of them just disappear and don't want to engage and their families are no help. There's one at the moment - she's actually remanded. She reoffended whilst on the order. That's the wrong place to be, but there's no choice. There's no alternative. (Government agency)

One of the things that I've been pursuing is that we don't have a youth justice system for community-based corrections to address youth offending. You've got probation and parole officers who don't have any specialisation in dealing with young people. They deal with them amongst a caseload with adults, which must be difficult for them too. They're not trained in and don't have specialist knowledge about how to work with young people. That's why we haven't always been getting the best results out of community based corrections (Government agency)

Once in the justice system the magistrate will give them the opportunity to prove they can change and avoid a life of crime. They often are put on a GBB. This is the point at which a real difference can be made. But children given this chance at the moment are continually failing and end up in the adult system. There is usually no supervision attached to the order, maybe because the magistrate isn't thinking that Corrections is able to supervise. (Legal service provider)

Some comments have also been made about eligibility for bail, in particular - something the project will explore further with access to relevant justice data.

Indigenous people may be less likely to get police bail, whether that is because there's a slightly less stable home life. You see kids with no record but the police officer can't find a place for them to stay that's suitable so they bail refuse them and bring them to court to deal with them. There's no bail hostel as there is in Alice. You're looking at family straight away to bail them too. It'd be incredibly useful in Katherine [to have a bail hostel] (Legal service)

One boy, his family's looking out for him, but no one is involved enough to show up in court. He's been on remand for about a month now, each occasion no responsible adult comes to court - just for lack of anyone coming forward... They just get sent up to Don Dale if remanded (Legal service)

2.5.4 Post-release and detention

Whilst some stakeholders thought the justice system was not tough enough, particularly on younger offenders, almost unanimously the perception was that incarceration for adults and juveniles doesn't work well, including as it fails to address issues that drive people into the justice system to begin with. The self-

perpetuating cycle of imprisonment is discussed above in our discussion relating to the impacts of incarceration. It should be noted at this point, however, that JR does not argue that imprisonment is never the answer, only that it should be retained for more serious offending.

They had to get to the stage of going to court. They did a few detention stints. You didn't get the turning point until they got to that point. They might have learnt a few more skills along the way [but prison worked]. (Government agency)

Court is way too soft, they can go back and forward to court so many times, which must cost taxpayers so much. Nothing seems to happen. The justice system is not working (Government agency)

They've got no fear. They don't see the full extent of consequences. As much as people are trying to change things, whatever is being put in place is not having any impact at all cause they're still continually – even after police have talked to them, they've been on diversion, even gone to court. They might have anxious times a couple of days before court but if nothing happens there then they're on street the next night larger than life, thinking that was easy, nothing happened. That attitude seems to be getting fed to all the kids so they are thinking nothing happens, you can just do what you like (Government agency)

Getting into trouble doesn't stop them doing the wrong thing. Detention doesn't solve the problems they have inside them. You can send them to jail but they'll do the same thing again. You can ask the kids if they like being in Don Dale and they say they'd go there again. It's not turning them off. The first time it's bad but the second time it's not bad, it's like a second home. They think they'll come back and do the same thing or something more terrible. They've crossed that line now. (Indigenous community organisation)

Detention will sometime divert youth from continuing on a life of crime, however I believe more become hardened than turned away. (Government agency)

It's not teaching them anything. You lock them up. They go and do it again, you know, because they're screwed anyway. So it's like 'Why not? I'm bugged anyway because I can't do nothing with my life.' (Young person interview)

More specific concerns about the operation of detention centres reiterate those raised publicly in the NT in recent times. These issues relate to staff training, inadequate case management and classification systems, and inconsistent and inadequate responses to detainees with highly complex needs, for example.⁷² For stakeholders in Katherine, there are too few relevant programs for and little

⁷² Some stakeholders indicate (for instance) that findings in the 'Vita Report' accurately reflect problems with the current operation of NT detention centres: Vita, M (2015) *Review of the Northern Territory Youth Detention System Report*, NT.

structured through-care available to prisoners. Though JR seeks to change the social conditions to which ex-prisoners return in order to reduce recidivism, there still needs to be greater support on an individual level to improve reintegration outcomes.

Detention is a problem because of the issues around the detention centre. The detention centre hasn't been working in the way that a detention centre should be. That's borne out in the report on detention centres, which says everything I thought it would say. (Government agency)

Don Dale's too far away for family to travel there to visit them. When they get there, there's bullying from other kids from other areas and goodness knows what's going on there. I know that for a fact cause I've heard it from young ones that have come back. (Legal service provider)

When they go in there they're okay. When they come out they're much worse. What's the system, how does it work when someone's in there a while? Do they have any programs up there to say to the kids 'What would you like to do, how would you like to do things when you leave here?' They say they have programs but I've never seen anything or heard anything. (Legal service provider)

One other area where there's lack of support is remandees in prison. There's not much help to get a bail plan together or if they're first time remandees and we want to get them into programs. They've got programs in prison but they're not being linked in (Legal service provider)

2.6 Community-based responses to offending and incarceration

2.6.1 Addressing boredom and the need for belonging

Young people pinpointed initiatives or activities that might be introduced to counteract boredom and/or not having a space where they can connect, 'belong' and just 'hang out'. These include more discos, a waterpark, better BMX, skate and motorbike tracks/parks, a music shop and being able to make and play music themselves, going out of town on camps more often and/or for other organised trips (fishing, swimming), as well as learning more about culture.

Stakeholders in general highlighted sports and similar organised activities as likely to reduce risks of offending. Significantly, though not for everyone a number of the young people we spoke to who had been in detention attribute involvement in sport to having stopped them re-offending. It was noted that further financial subsidisation would increase local Indigenous participation in certain sports.

Sport gives kids an avenue, some sort of discipline or structure. They can go to training and know that they have a structured two hours in their week. School doesn't provide it to them when they're not there, and they have a different code of rules. A sports coach still has rules but probably not as strict as the Education Department. If a kid doesn't want to train, that's fine. You don't go there to coach kids that have to be there. Quite different to school where truancy officers will chase you to get you back. Three quarters

of the team are still in school and the others are working. There's none sitting around doing nothing. (Community organisation)

There was a kid who was 16. He came down to training late. He'd been crying and something had gone on with the family and he was all upset. He changed his whole attitude when he got around these other boys in the team. They got around him. They were good mates. He forgot about his troubles. I don't know what happened. I didn't delve too deep. I think there's a lot more going on in their lives than what they say. (Community organisation)

I just love we've got LINKS program. If someone is there occupying the children, playing basketball that's better. When they're bored that's when problems happen. They can't be there all the time (Indigenous community organisation)

One stakeholder suggested running a program through Council at the local raceway. This might incorporate training of young people as mechanics and teaching driving skills, for example. Some thought there was too much emphasis in Katherine on sports for young people, with more choices and opportunities needed beyond the footy field.

The YMCA does work well but if you have a kid who doesn't like the YMCA or football, you're screwed. If you don't like football or basketball you're stuffed. There's little opportunity to really foster your skills in areas that you're passionate about. People do it on their own, but there's little structured programs for young people in other areas (Legal service provider)

2.6.2 Responding to family, mental health, disability and substance/alcohol issues

Young people discussed, along with other stakeholders, the important role parents of those under-18 years can play in helping to tackle issues such as offending and imprisonment. 'Having a bit more discipline' would make a difference to young people, they suggest. 'If there's not enough of it they won't believe in their parents and just go off and do naughty stuff'. Parents can, for instance, 'ask you to stay in one place, at home'.

Families need support to play this role, as carers themselves identify - particularly when caring for high needs young people. This support needs to be provided well before any crisis situation and prior to any contact with and/or other than through intervention by the justice system or DCF. As one government agency stakeholder states, for example, 'The investment' in families and children 'needs to be earlier, at 2 years. You've almost lost them at 4, 5 years' (Government agency).

We don't see so many from good family environments [within the criminal justice system]. We're the sharp-end. We see where they've come from and they've come from tough places... And that's a bit sad. So where's the intervention before that happens? It's got to be at a young age. (Government agency)

One young guy was chronically sniffing for the two years I was working with him. Mum was doing everything she could. It was tearing the family apart. Mum was saying, and this is what I'm seeing a lot, parents want more support. They want to know who they can go to, where they can get help. We need to take that fear of asking for help away. When she went to DCF, they said she was acting 'protective' and doing all she should. There weren't any real options. The only option was respite through DCF. That would be two DCF workers in a hotel because they have no other options here. They did try that but it didn't work. The boy acted out even more and they were going to charge him with assault cause he was wrecking the room. Then you've got a young person in protective care going up on assault and property damage charges. (Community organisation)

There are good organisations in Katherine already supporting young people and their families, but it is clear that there are significant gaps in resources currently available in this area. Stakeholders note that there are insufficient intensive family support programs for teenagers, equivalent to that provided to younger people in Katherine by Good Beginnings, which is seen as a highly effective early childhood program. Sometimes these programs are limited to working with young people already in contact with DCF.⁷³ This is essential work, but more support needs to be provided in advance of any contact with the child protection and justice systems, as noted.

I've had clients really young, that have had very difficult family environments and Good Beginnings has got involved. They can only take a few on as it's high needs and its high intensity. They're really good. They always get results. We need more like that to work with the families. They get in before they get into the criminal justice system (Legal service provider)

The YMCA is good. They do help the kids. My grandson was sniffing. The YMCA went to court with him. Now he's qualified, doing okay. Just needed a bit of help and love. There are some good people there at the YMCA. (Indigenous community organisation)

Let's face it, sometimes you can be the greatest parent but that doesn't stop your child from being imprisoned... There are parents who have lost a relationship with their children, they don't know how to parent them anymore. There's nowhere here that supports them with that... If we focused more on how we can support families and really nurture them that so young people feel they can approach their parents when something's happening, that'd be great. Good Beginnings are our key agency and they're fantastic. They work with 0-12 year olds... I can't think of any service like them that intensively helps over 12s, and I know that's sometimes too late. But you still need someone to manage family conflict, adolescent and parent conflict for the older kids. When parents are frustrated and they don't know what to

⁷³ Anglicare's Intensive Youth Support Service (IYSS), for example, offers intensive support to highly vulnerable young people (10-17 years) referred by DCF. The program assists young people to gain a healthy sense of self-esteem and resilience, that will in part help to reduce their risk of re-entering the child protection system

do anymore there's nothing here for them. It's only younger kids.
(Government agency)

Gaps in mental health and alcohol/substance misuse services and programs, especially for younger people, are also a problem. These gaps mean that individuals may be sent away for help (for example, to Bush Mob in Alice Springs for substance misuse issues) and/or support must to be brought in from or accessed in Darwin. This is not an effective response to these very serious issues. While young people we spoke to have identified seeking help outside of formal services (by talking to sports coaches, school counsellors, etc.), dedicated culturally appropriate services in Katherine offering specialised therapeutic care for young people and their carers (such as Headspace) and assistance with substances/alcohol misuse is seen to be a priority. This is essential for improving both justice and social outcomes.

As difficult as their family relationship might be, they don't want to up and leave [for treatment]. They will always want to stay with families. Rehabilitation must be offered in the Katherine region. There's just nothing.
(Legal service provider)

[What do young people need in Katherine?] Probably just a lot of support, they need a lot of support. Places where they can go when they're feeling down and stuff (Young person interview)

One issue raised in relation to services and programs is the difficulties associated with securing and retaining longer-term funding, which will often impact negatively on outcomes. Services point out that greater and earlier investment in effective programs is well worth it. 'If you look at, it's going to cost a certain amount to support a child in the early years, compared to supporting that person for life in prison or on the dole or something' (Community organisation).

Everybody wants quick solutions. They want 'value for money'. You're trying to change generational habits over night and it won't happen. We need long-term goals towards change, not short-term outcomes. If funding's always based around the terms of government we'll never have sustainable long-term change in Indigenous communities. You need to be addressing the drivers that will make this change. (Community organisation)

Effectively dealing with problems such as misuse of drugs and alcohol requires, of course, more than just particular programs or services. It also means introduction of initiatives and/or some kind of community-wide shift that will address the reasons why misuse occurs.

Kids are going to try stuff for a first time, like sniffing, but addiction is another thing. It might be the only thing to do in a community. When you have kids who don't know what they're going to do when they're older, there don't seem to be really obvious paths out of school... then alcohol and drugs takes their minds off everything (Legal service provider)

2.6.3 Indigenous community-led responses outside the justice system

Alongside better services to address these issues, community must also serve as ‘a protective and nurturing entity for children and families’.⁷⁴

It should be about both: giving authority back to family members and also educating people through services - not a ‘one or the other’ situation. They could have a service, like a centre, where people could go and talk about issues together (Government agency)

People in the community *are* looking out for young people already and JR should be able to strengthen existing capacity within and efforts of Aboriginal communities and families to meet the needs of their own young people. This is partly about the broader empowerment of Indigenous people JR might offer, discussed below (Section 2.8: Indigenous empowerment). It also means ensuring that relevant services and programs are developed and implemented in consultation with and/or by Aboriginal people. One example put forward by Aboriginal stakeholders in Katherine is an Aboriginal-run safe house for young Indigenous people, including but not limited to those at risk of entry into the care and protection and justice systems.

One idea would be Safe Houses just for kids run by Aboriginal people. There are Aboriginal House Parents to take care of them. It could provide holistic services. Stolen Generation members would wash and cook for the kids. Maybe the Department of Housing would give us a house. They could offer intensive support. Staff could help DCF find kin and liaise with them about the kids. It’d be a proper house with trained stuff and you could help any kids, not just those that DCF have flagged as at risk. It’d be like the women’s shelter at Beswick but for kids, but it must have Indigenous staff. (Indigenous community organisation)⁷⁵

Illustrative of how JR can build on initiatives identified by the community as already working well, another suggestion is a youth-specific Strong Bala program that could provide support and education in relation to mental health and related issues for younger Aboriginal people. Strong Bala is identified as a successful program running at the Indigenous-run Wurli Wurlinjang Health Service in Katherine, but it is currently only offered to Aboriginal men.⁷⁶ Stakeholders also note that a program similar to Strong Bala could also be set up for Indigenous females in Katherine.

⁷⁴ Lohoar, S, Price-Robertson, R, Nair, L (2013) ‘Applying community capacity building approaches to child welfare and policy’, Child Family Community Australia, Paper no. 13, Australian Institute of Family Studies, Melbourne VIC

⁷⁵ As an example, see Palm Island Community Community-run safe house for young people: <http://picc.com.au/picc-programs/residential-services-safe-house/>. See also the safe house currently run by Safe Pathways/ITEC in Katherine for 12-18 year olds (4 at a time) referred by DCF. This provides care and support to assist young people to establish independent living skills: <http://www.itechealth.com.au>

⁷⁶ Details of this program are available at: <http://www.wurli.org.au/program-strongbala.htm>

Strong Bala, that's a really good program everybody is going on right now. They will take you out fishing or take you for a ride somewhere. They tell you how to cook good food like bush tucker. Yeah it would be especially good for boys because boys [have the worst problems]. Now it's just for men. (Young person interview)

Discussion about camps aimed at addressing problems with substances and alcohol and mental health issues, established and operated by Aboriginal people, is also canvassed below (see Camps). Other initiatives likely to build capacity of families and community to respond directly to young people's needs include provision of culturally competent parenting courses – for instance, in relation to trauma. Education relating to trauma would, in fact, be beneficial for all Katherine services and agencies working with Aboriginal young people.

I don't think Indigenous people are educated enough to help kids with trauma, including parents. They don't know anything about it. The community needs more education about it. (Indigenous community member)

2.6.4 Education

Stakeholders suggest that for young people, including teenagers, more information about substance/alcohol misuse and the consequences of offending could be provided *before* they get into trouble. This is seen as probably most effectively delivered outside of a school context as a part of mentoring or similar initiatives, including at camps (discussed below: Mentoring; Camps) and perhaps by young people who have themselves been in trouble with the law.

You need to sit down and talk to the kids, 'if you do this you'll end up like this'. Think about what your future will hold if you keep offending and sniffing and drinking. Young people that have been through the system and have come out the other side doing the educating would be good. They could go into schools and do that (Indigenous community member)

Stakeholders thought that more should to be done to address problems of school engagement.⁷⁷ There are in Katherine school-based programs working well with students with complex needs (such as Clontarf, Stronger Smarter Sisters)⁷⁸ but stakeholders identify that schools in general need additional resourcing to improve their responses to such students, including (as noted above) in the form of training around behavioural issues and/or development of specialised facilities within or external to schools (such as flexi-schools). Facilities in Katherine are seen as fairly limited in the latter regard.

Education is one of the problematic areas. In Darwin you have the Malak Reengagement Centre. You have a special area of education designed to

⁷⁷ See discussion in Purdie, N and Buckley, S (2010) *School attendance and retention of Indigenous Australian students*, Issues Paper No. 1, for Closing the Gap Clearinghouse; AIHW (2014), *SCSEEC successful school attendance strategies evidence-based project: Summary Report*, Canberra ACT

⁷⁸ See <http://strongersmarter.com.au> (now operating as Stars program in Katherine); <http://www.clontarf.org.au>

address the needs of young people who've been out of the education system or are being suspended from mainstream schools and who are trying to get back into education. So you've actually got a pathway through the Malak Centre to deal with behaviour that is prohibiting those young people from getting an education and to catch them up. (Government agency)

It was noted that some schools are already trying hard to work with the local Aboriginal community and parents around their children's needs.⁷⁹ Schools do have an important part to play in addressing social issues like offending, but are aware that they need to work in partnership with the community to achieve this. A greater level of Aboriginal community and parent input and participation at school is identified as likely to assist with student engagement. Programs that encourage parents to work with young people are seen as especially positive.⁸⁰ A previous initiative in Katherine where Aboriginal parents were paid to tutor Aboriginal children at a school homework centre has been highlighted. An Aboriginal Council representing local Aboriginal parents in schools was also discussed. As one Aboriginal carer states: 'Aboriginal parents need a voice at school'.

Long time we used to have parents and teachers meetings at schools... We don't have them anymore. Maybe if we had liaison officers in place. I get a report for my children. They jump on the bus. I see them do that. But they're never at school. They get off and walk back into town. You get a report saying absent but we never knew that.... (Indigenous community member)

We started a program where I came from, inviting parents to come and read with the kids in Grade 2.... There's that sort of intervention, really grassroots, trying to convince parents to get their kids into school, to actively make them\ go to school and learn to improve because that's the only way out [of disadvantage] (Government agency)

If the education system values the Indigenous culture and teaches an Indigenous language it will bring some balance back to the two way system. If that can happen at an early age, then you'll get kids coming out of a two way educational system that are confident of coming into town and setting up base and looking for work and having a career path. This compares to doing RJCP (Remote Jobs and Communities Programme) or CDEP (Community Development Employment Programs), where they're picking up rubbish four hours a day. That's not a job. (Legal service provider)

Suggestions have also been made by Aboriginal people, including by young people consulted, for schooling to be provided away from Katherine (boarding school) or as a live in arrangement somewhere close to town during weekdays so as to increase students' focus on learning and to limit access to negative influences.

⁷⁹ See for instance, the Indigenous Cultural Unit at Macfarlane Public School:

<http://www.macfarlaneprimary.nt.edu.au/schoolprograms/indigenouisculturalunit.html>

⁸⁰ See, for instance, the Hippy Program: <http://www.anglicare-nt.org.au/service/hippy/>

Something like Fordimail.⁸¹ They go to school, come home on weekends, stay at school all week and get three meals a day. They've still got cultural contact on weekends. Maybe they get to come back to the community and be leaders of change. You've got staff after school to sit with them after school to help with homework, do basketball with them. You could also bring parents to school for say, a school carnival. That way, boarding school isn't 3000 kilometres away from home. There's nothing like that now. I suggested this 15 years ago. There are plenty of outstations that are not utilised. There are structures out there. We should be utilising it. If you had a houseparent that looked after them, you could use of the 3-bedroom housed on the outstations. NT government has demountables too. Maybe you could use them (Indigenous community organisation)

2.6.5 Economic development and employment

Community-wide issues feeding incarceration include unemployment, as discussed above. Stakeholders also spoke of widespread poverty and 'third world conditions' for many Aboriginal people in Katherine. As a first step towards addressing social disadvantage, encouraging sustainable economic development and strengthening community capacity more broadly it is suggested that through JR young peoples' employment skills and access to work might be enhanced, including by building pathways through school to jobs.⁸² This is also likely to improve engagement at school. Of note, young people we spoke to who had been in detention in every instance nominated getting a job as high on their list of things to do to continue to turn their lives around in a positive way.

If you look at us as a group, the old reliance on government policy and money to live our lives, it gets us nowhere. Aboriginal groups have to push ahead with economic development and become strong. That way we're not impacted by policy so much. (Indigenous community organisation)

Army and Airforce cadetships should be pushed more. Would be good for kids who don't want to stay in school. Maybe they'd even have scholarships. It'd be good to get a jet fighter from Katherine. (Indigenous community organisation)

I've been talking to him (young person) about being an ACPO (Aboriginal Community Police Officer), going to Tindal (defence) – they're the kind of things that would be good... All they see as the opportunities in their communities are CDEP, which never got anybody anywhere. I can be a gardener, do maintenance work. For women it's cleaning or doing admin stuff. That's it, that's their whole scope of work. (Indigenous community organisation)

A lot of the comments that I've heard are 'Why do we need an education if there's no job to go to?'... What we've got to do as a community is to find employment opportunities. It's not good enough to get Indigenous people

⁸¹ <http://www.shelterme.org.au/fordimail-hostel>

⁸² See local Enterprise Learning Projects, which helps Indigenous people to explore, develop and grown their business ideas: <http://www.elp.org.au/about/>

educated then chuck them on the scrap heap because there's no work for them... You go over the street and go in the shops and show me where they are, and yet they make up a significant proportion of our population. Where are they? Is there a reason for that? I'm not sure – is it that they're educated enough, don't have enough dash, or they're not being given the chance. They need employment opportunities. (Government agency)

Relevant JR initiatives could include 'up-skilling' of young people in job readiness and particular vocational skills through non-custodial orders. Other ideas encompass mentoring of young people by Indigenous business leaders and/or setting up an Indigenous-operated local café, music studio (for young people to make their own music), housing cooperative or other enterprise that meets wider social needs (for instance, in housing) *and* simultaneously provides training and jobs. Initiatives such as these have potential, once again, to be used as options to divert young people away from the justice system. They might also, more broadly, provide a safe space for older young people to hang out together.

Yeah, how I look at the YMCA is that it attracts a lot of younger kids like 15 and under. You need a place where older kids can hang out because that's the time of their life when they need to start making a change because it's not going to be Don Dale anymore. It's going to be the big house (Young person interview)

[You need an] employment and training strategy in JR. JR would create the jobs. You've got to do that as part of it. You need the whole lot. If we set up a housing cooperative we'd have all the tradies to train to build the houses. We need houses and we need employment. Alcohol abuse would stop because they have work to do as trained carpenters and plumbers. How to get young people to come forward? It's about capacity. You're talking about capacity again, capacity in the community. Without it there's generational gaps, gaps big time. The result is you're hearing they don't want to work. You're talking about families that have been unemployed for two generations, not one. At the end of the week you'd maybe have only one or two coming forward. We have to build that capacity first. It's about self-esteem as well as skills. That doesn't mean I don't see the potential and believe it can happen. (Indigenous community member)

2.7 Justice responses to offending and incarceration

2.7.1 Extending and increasing effectiveness of diversionary options

As noted above, police diversion is in many respects providing an effective alternative to detention for under-18s in Katherine. Stakeholders feel that there are, however, things that could be done to improve it, with some of the suggested changes requiring legislative reform. For some stakeholders it should be extended in scope, including to offenders aged up to 24 years. At a policy level, it is seen as needing better resourcing by government.

One of the difficulties identified with police diversion, discussed previously, is that there is a lack of effective options for community work. There are not enough

organisations able and willing to supervise young people on diversion undertaking such work. A few possibilities have emerged during our consultations that are worth considering further. One of these involves young offenders assisting at sporting events. This might be ideal for those interested in sport, given that it is seen as having a positive impact on offending and related issues.

We have to set up and pack up each Friday night for the local game. If there was community service to be done, young people could attend and help out and they'd also get involved in sport. If they were required to go down there - they had to be there at this time, take a couple of hours to set up - throughout the whole evening there's a lot to be done. [Every coach has an Ochre Card and so is covered to supervise them]. The kids on the teams are mostly ones that have fallen off the rails somewhere along the line. We'll have all the under 18s down there to support the under 14s or under 12s, supporting their brothers, their sisters, their families. If you had these other kids down there they could mingle with them it's a kind of mentoring (Community organisation)

Rates of completion of community-based orders in general are seen as likely to improve if more engaging community work options can be developed for young Aboriginal people.⁸³

We need to find CWO projects that actually engage young people. Across the board, the comment has often been in the past from kids themselves that they gave up on community work because it was too boring... There needs to be a think through of the actual projects they're sent off to do. Whereas I've heard others say 'Jack did his community work by looking after the animals at the RSPCA and I want to do that too'. It's a great opportunity, for all sorts of reasons. That's a good project for young people... Having a mural, getting young people to engage with that. That'd be a great project for Katherine. Finding the right work is important. If you engage them effectively you reduce the opportunity for them to get back with mates, to start stealing cars again... It's meant to be a punishment, but we should take advantage of giving out some skills. (Government agency)

Another initiative suggested by stakeholders is creation of a caseworker position in Katherine to assist young people to successfully complete non-custodial orders. 'There'd be, for example, about 20 kids with high needs on bail. If they do comply with conditions [through the caseworker's help], their sentence would be reduced so it's an effective way of reducing incarceration.' (Legal service provider)

We need to identify the really high-risk young people on diversion and get a caseworker to help them, perhaps funded to work through NAAJA. They come to court, are re-assessed for diversion probably - but lack of motivation, not suitable for it, parents are completely useless means they're

⁸³ See discussion in Trotter, C (2012) 'Effective community-based supervision of young offenders' Trends and Issues in Crime and Criminal Justice, AIC; Trotter, C, Baidawi, S, and Evans, Philipa (2012) 'Good practice in community-based Supervision of Aboriginal Youth Offenders', No. 448

not given a diversionary option. Or they get diversion but their parents aren't that motivated or involved so it's up to the kids to get to diversion. How do they do that without a driver's licence? They have to remember the dates. The parents aren't going to remind them. They need someone who is organised and can help with this, take them to counselling, bring services into and keep DCF out of their lives. The caseworker would motivate the young person.... You'd preferably have an Indigenous caseworker. They would assist them through court, liaise with family, try and assist so the court was better informed about background and any problems. You need someone with a social worker background who could get them into programs and monitor how they're going with them. NAAJA just picks them up at court and when they finish its goodbye. This would get them slightly before and after this, as soon as they first come to court. Community Corrections doesn't have the expertise to take this on for young people. (Legal service provider)

2.7.2 Detention and post-release

A primary issue raised in relation to incarceration concerns the need for an earlier more structured focus on the post-release needs of prisoners.

We've got to have all of the government agencies at the table - DCF, education, health, whoever we need, housing, Centrelink, depending on their age. They need to be part of the exit strategy so they don't fall over when they get out. It's starting with whatever they get from the court. If they get jail time, day one of their sentence is the day that these agencies start working together to find out what it is that's going to happen when they get out. What is it we're doing around education programs in jail, what support is available from families, friends, Elders in there. And the day you're getting out, who picks you up and supports you, what education do you need? Are you entitled to Centrelink benefits? At the minute, it's not done well. (Government agency)

In this context too, a facility or program through which inmates are able to transition back into the community after release is identified as likely to reduce recidivism (see also Camps).

'Don't go straight home, go to this place for a couple of weeks.' To ease them back into community life. You see a lot coming out, going back in within a couple of days. (Indigenous community organisation)

Services are presently filling existing gaps in post-release support and sometimes without funding to do so. As a Katherine-based community organisation states 'We've been asked to house young people while waiting to go back home after release. It's not in our brokerage but we can do it because there's nowhere for them to be released to'.

We support young people at Don Dale informally. We've had some real positives out of that. We've ended up with a phone call at 2am saying, 'We're proper starving, we're going to do a break and enter. Can you talk

me out of it?' But we need more established post-release initiatives and support (Community organisation)

2.7.3 Youth Hub

One initiative suggested as likely to encourage a more coordinated response to the complex needs of young people in Katherine is a local Youth Hub. This Hub would focus on individuals caught up in the justice system, including before they enter court. It would have capacity to deal with the range of problems commonly emerging for these young people (school, work, mental health and substance/alcohol misuse and accommodation etc.), generally requiring a multi-disciplinary, inter-agency response, and working in collaboration with offenders' families. In this guise, the Hub would be categorised as a justice response to offending and incarceration. There may, however, be scope for it to work more preventatively with those *at risk* of contact with the justice system and/or involved in the child protection system.

My idea is for a youth hub. It's basically a section or a unit that includes police, YMCA and it's also in contact directly with DCF and other agencies and corrections. So whenever a youth is in contact with police, they go straight to the hub. And where they come out depends on how they are assessed, and their capacity. It's obviously governed by what they've done. But how they come out of that circle, if they're suitable for diversion - that way. So it doesn't get to court until somewhere it's been signed off 'We've attempted to help them' in a holistic way. Could be the reason they've failed is because they don't have the support of a responsible adult to help them through this process. What this does is straight away red flags this problem. We are already allowed to talk to other agencies but they shut down so quickly... It takes a court order to get a report. But in this hub, we should all be talking about this child and this family. As soon as a kid comes before the court and there's a glaringly obvious issue, the court orders a report. This would be all *pre-court*. A child who gets in trouble for anything, even if they've killed someone, they go there. The court would then have information or a report. Every kid arrested or spoken to by police needs to go before a section like this, which should have more beef, more people, more communication. (Government agency)

There is discussion below about Aboriginal Elders' input into sentencing, but perhaps there might be some potential for similar input prior to court through an initiative like a Youth Hub.

There would need to be a local group supporting those that are put on diversion or whatever and going 'This is this kid'... with some Elders in there as well to say 'Well culturally that's appropriate' or not. 'Hang on. This kid's had 5 chances in the past he needs to learn some responsibility'. They had a similar thing with the Alcohol Board, where every case that got flagged went to the Board to make that decision as a group. You need your Corrections and professional people too to talk about the school requirements and other stuff - but the cultural element, that's what gets missed a lot and that spiritual stuff. We can see that that kid's in trouble.

Who has he got in his family that can take him out bush or who can help them reconnect? They're seeking that connection. Hang on, is he doing that because he's naughty or do you reckon that he's [whatever]? Have that wellbeing conversation. (Community organisation)

2.8 Indigenous leadership and empowerment

Stakeholders have highlighted as a community asset or strength the incredible wealth of experience and knowledge of both *younger* and *older* Aboriginal people in Katherine. Incorporating this asset/strength into any strategy designed to reduce Indigenous incarceration is seen as essential.

There are lots of capable Aboriginal people in this town who've never been tapped on the shoulder. [JR could do that tapping]. (Indigenous community member)

The Traditional Owners here are very strong. You've got a broad population, diverse population of the region's Indigenous people and a wealth of Indigenous knowledge and authority living in town or coming into town regularly. To access that for these kids will be really good. (Legal service provider)

There are some young Indigenous leaders in Katherine who have got some really strong things to say, some really good values. Now might be the time to stand up and support them. We need to get the views of the young people for this. They're the next generation. Stand up and support them. They'd be good role models. (Indigenous community organisation)

In the context of our project, this means ensuring Indigenous people in Katherine have sufficient input into, engagement with and leadership of particular JR initiatives, but are also effectively represented within any structure set up to implement JR.

Previous attempts by Indigenous people to establish some level of governance and leadership are identified as having been problematic. Some Indigenous people in Katherine also expressed doubt that authority or control seen as currently held by non-Indigenous people will be ceded to them to any real degree through JR. JR, however, is clearly seen as a new opportunity to acknowledge and build on the existing capacity of the Aboriginal community in Katherine to locate and drive solutions to the problems local young Aboriginal people face.

A lot of the old fellas on communities have died out. They were strong leaders and they never passed it down to the generations below. The leadership stands right out. There's just a lack of it in many Indigenous communities. Katherine is the same, though it has had its go. We've formed Indigenous specific groups to lobby and do all that on real important issues on alcohol and employment. They just fizzle out. Justice groups in communities in the past, they had those groups. They never rolled out everywhere. Some were working well... Nothing in our area... I'm always keen for that if we're all serious. (Indigenous community organisation)

We don't have enough strong Indigenous people who have the support of their communities to address this stuff (Community organisation)

A lot of people, because of what's happened with the Intervention and other things, we've been disempowered. A lot of men think like I do, that we don't have a voice. Also, every black fella that walks this earth is a paedophile in the government's eyes.... The white fella is going to try to stand over us every single step of the way because we don't have a voice.... People feel inadequate. I can't do nothing cause I'm Aboriginal. And here, it's a mixture of too many different language groups...

But JR would be some part of trying to get that back, especially in the eyes of our own kids. We can send a message out there and have people step up and take them on. We use that excuse a lot of the time to do nothing. There needs to be a time when we're going to have to face those issues full on and get over it. We have to, yes. (Indigenous community organisation)

A group of Aboriginal Elders consulted for this project have devised a structure that would place Indigenous people at the centre of JR in Katherine, with various stakeholders then working collaboratively with this core group. Sub-committees or similar representing Indigenous young people, Elders and Indigenous families would also be established. A diagram of the proposed structure is included as **Appendix E**.

2.8.1 Mentoring

Mentoring by Aboriginal people in Katherine of younger Aboriginal community members is one way of recognising, drawing upon and strengthening local Indigenous expertise and knowledge. Mentoring might mean accessing support outside of formal service provision, providing opportunity for peers and others in the community to work with younger people directly. A number of young people we spoke to who had been in detention nominated particular individuals who had had enormously positive impacts on their life in this way. Many stakeholders identify those who have been through the justice system but have 'come out the other side' as likely to make highly effective youth mentors. Some of the young people who had been in detention also expressed an interest in working to change the lives of other youth in camps or similar initiatives set up through JR.

You do have kids that other kids naturally look to. If you could make those natural born leaders something great, give them aspiration and drive, they'd seize it with both hands (Legal service provider)

My older brother is a good role model. He pretty much believes in me. He is two years older than me, graduated school so that pushed me to graduate school. When I was getting in trouble he said that I don't want to end up there. It's not a good place to be. (Young person interview)

A lot of people respect *me* now, look at me as a young man, role model. Yeah, I think they look at me like I don't need support anymore. They look

at me like I need to be the one supporting. Yeah, I will help with whatever I can now. (Young person interview)

Young people can be great mentors in a project like this. The kids relate a lot better to those older young people that have made mistakes and are now on the right path. 'I know that you used to stuff up. If you can change, then maybe I can change too.' (Community organisation)

Other young people who had not been in the justice system also thought mentoring would be a positive initiative. 'If they have an older sister that they love', that will help them. 'We need young and old people to tell them what to do'. They confirmed that young people should help other young people to stay out of trouble. 'They can make a difference. You listen to them because they're the same age group, if you've got an 18 year old talking, and you're 14, you can relate because you're the same'.

Stakeholders noted that mentoring should be available *well before* things start to go wrong. It should have a part to play in preventing first time offending, not just re-offending.

We do have the Elders Visiting Program. Elders go in and visit them, but it's for those currently inside. That's the sharp end and we've got hundreds of kids out here who need it. Elders are paid to visit people in jail, but not out. That's where the activity should be, *before* they get to incarceration and court. (Government agency)

Mentoring is a great idea. Set up things for Indigenous kids. Do activities with them, take them out hunting, fishing, camping. We could do it with any kid, not just kids in the criminal justice system. Teach them now before they start getting into those things. A kid could start off good then could mix with the wrong group. Because their friends are doing it, they do it. We need to break that cycle. (Aboriginal community member)

2.8.2 Camps

There has also been a lot of discussion in Katherine during our consultations about running camps for young people, taking them out of town and into the bush to learn life and other skills, with local Aboriginal people setting up and running those camps.⁸⁴

Northern Land Council used to have a bush program, years and years ago and it worked quite well. They get the kids together, go out camping at Edith Falls for a night and learn some bush things. It's open to everyone... We spoke to a lady the other day whose son has some attention issues... He's a bit hard to handle. His parents said they take him to the Junior Rangers and he just loves it. They go away for a night up the gorge... similar to scouts

⁸⁴ See discussion in Carney (2011), 55ff, including about positive evaluation of existing camps in the NT. And see for instance NT's Indigenous Balanu camp program: <http://www.balunu.org.au/programs.html>

but a bit more bush-oriented, bit more NT roughness.⁸⁵ (Community organisation)

A camp they themselves run, no one else runs it. If it's community based that's a good thing. Not a government run thing. Otherwise it's just an institution of government, a prison without walls. You don't want it to be tagged as that. Community has to be the one involved in that. Then the offenders have a much bigger chance of rehabilitation. (Indigenous community organisation)

If they had like an outdoors thing like way out in the bush or something, like a station or something, you know? Yeah, school or something like that where you go fishing and experience things. Instead of saying "I did this at home." And cattle and all this and you'd have to research it up just like hands-on. And probably more targeted to life, like to what it's going to be like outside of school. When I was at school I loved cooking. Playing with the chickens and all, doing planting and all that at school and sports and all that. But sitting in a classroom and doing paper, nah. (Young person interview)

Camps are seen as useful within a criminal justice setting. They could be used for transitioning ex-prisoners into the community post-release and/or as an alternative to incarceration. But they are also identified as an initiative likely to help young people avoid *first time* offending; for instance, those struggling with substances and alcohol and/or close to contact with the justice system.

If they're serious about sorting out a lot of things for these kids maybe what they should do is have a look at these cattle stations. Those programs could work as rehabilitative centres - where they're put into structured environments. Teach them how to weld, work with cattle and get them away from the family environment that is not good for them. Teach them skills they can use in life. (Community organisation)

In Wyndham where my family is from when people go to detention and come out they make that young person go camping, they go fishing, travel to other places, do like a tour or something. That's what they've got over there. (Young person interview)

Young people themselves identify that camps could provide an opportunity for them to open up and talk about what's going on in their lives. To effectively tackle offending and incarceration, they believe this type of opportunity should be provided alongside (or as an alternative to) more punitive responses to offending.

Maybe should be some bad stuff like getting them to do community service and fun stuff like going on camps where they can open up and stuff and try to talk to them more. When they're doing this punishment they build up anger inside of them, saying I don't want to do this, why do I have to come

⁸⁵ See media at: <http://www.katherinetimes.com.au/story/2921788/katherine-junior-rangers-get-boost/>

here? There's some that understand and there's some that build up anger and will re-offend. (Young person)

As an excellent example of the type of camp that could be established the project has met with a young Aboriginal man living in Katherine who has taught horsemanship skills in the Kimberley region to young men struggling with alcohol/substances.⁸⁶ He is keen to establish a similar camp locally, believing that it would offer to young people increased self-confidence, self-knowledge and experience for jobs, as well as 'shaping 'em up' more generally.

In the meantime this same young man has also co-founded and is managing Speargrass Bike Tours in Katherine, which runs a bike tour and bike hire shop. It gives tourists a new way of experiencing Katherine, on a bicycle, but also provides a mentorship program for local young Indigenous people. These young people, some of whom may be at risk of contact with the justice system, learn how to fix bikes and work in the shop, with the intention that they will become mentors and role models for other young people in Katherine.⁸⁷ Stakeholders reported positively on the potential for Speargrass to turn young peoples' lives around.

They sit around at home all day. They've got nothing to do. This gives them something to do. It gives a sense of control back to young guys. They're taking people on tour around the community that they're from and are proud of, surrounded by people who are interested in them as a person, who treat them with respect, who treat their words as authority. It's empowering! They feel a sense of self worth. They've got every reason in the world to not offend (Legal service provider)

2.8.3 Sentencing of offenders and courts: Indigenous input

Having a greater level of Aboriginal input in responses to offending, including at the sentencing level, is also seen as likely to bring about change. This already appears to be happening informally in Katherine - as a kind of mentoring outside of the justice system, as the following comments suggest. A core group of local Aboriginal people could, however, come together in a more structured way to provide this input (see also above: Youth Hub).

If you had a kid there with Elders from the town drilling him, asking the right questions. Getting him to commit to something and saying 'This is what we feel your punishment should be.' It's coming from his peers. When they go to court it's all white, white judges, white prosecutors, white lawyers, it's a white place they go to. There's nothing of relevance to them. It's another world they're being judged in. Asking them 'What do you want to do? We can decide from what you tell us.' Saying 'If you don't do this, you'll disappoint the whole community' and put the whole community on

⁸⁶ See media at: <https://au.news.yahoo.com/thewest/a/10378707/young-men-on-ride-to-future/>

⁸⁷ See Speargrass Bike Tours Facebook page: <https://www.facebook.com/speargrassbiketours/photos/pcb.266566920370261/266562857037334/?type=3>

them. A lot of these don't feel part of the community. (Indigenous community organisation)

I've seen a little bit of that type of approach with the Night Patrol guys at Kalano. They've been around for some time. They do tend to [growl at kids]. Whether they'd take it to the next step... Different times I've spoken to the Kalano guys about different groups and things have improved. They've done it themselves. You've just mentioned it, 'Can you guys go and have a talk to some of these boys?' And things seem to improve. (Government agency)

When Indigenous kids are dealing with white people it's not the same as dealing with another Indigenous person. A white police officer might just see it as something that they're doing cause you just don't know any better. They might not know about the struggle, the particular mentality of that young person. (Government agency)

One issue raised is that magistrates come and go, while community members really know the young person in question and therefore their 'back story', important to ensuring justice responses are as effective as possible.

Some of the young people bailed and those that aren't: it's a fine tipping point. Everybody is going to be doing the best job they can but when you have a community like Katherine with a rotation of magistrates that come along... The different magistrate changes the likelihood of incarceration. A young person who had contact with police or youth diversion and comes before one magistrate goes into custody but if it was a magistrate that had been with them over the last 2 years they'd realise that that's the worst decision ever. Some magistrates are much more punitive than others. If what the community could is to inform the court, rather than the magistrate making decisions in a silo – that would work well. It puts the ownership back on the community too.... This instils some of the really important family and community-based principles that Indigenous people live by, respecting elders, etcetera, that we've moved away from. This is what will really make a difference (Government agency)

It is suggested that Aboriginal victims too, including those victimised by family violence, may well prefer a court forum that better responds to their specific needs and circumstances as Aboriginal people – offering them protection, but without 'screwing over' perpetrators. Some identify a forum such as this as having a greater chance of reducing violence and improving community safety than more mainstream justice approaches.

From a victim's perspective, we come from this line of thinking where everyone's equal before the law and there's one justice system that caters equally for everyone. But it's just really clear from an Aboriginal victim's perspective that that doesn't work at so many points of interaction. There's the fact that they're trying to protect the defendant from a court process that is going to marginalise him. So for JR, a re-visioning of that court process would be good, which works as hard as it can to keep people out of prison. This hypothetically would increase rates of reporting of DV because

Aboriginal women don't want to put the defendant into a system that is going to screw him over. So if it was more community-based, with Indigenous people having ownership over it, more holistic – they may be willing to say that's a system that I'm willing to have judge my partner or whoever. (Legal service provider)

First aggravated assault or DV incident that ends up in the court might start just before they turn 18 but then often it's the immaturity of the relationship for under 25 year olds. They may be just engaging in behaviour that doesn't necessarily require a DVO (DV Order) if everyone is thinking sensibly, but is still not acceptable. It's this trap where if you've got a DVO you're much more likely to come back into the system for breaching it. Whacking a DVO into the situation is like lobbing a hand grenade into it. Also almost every plea in mitigation will start with: this person grew up in a house where they witnessed DV and alcohol abuse. There's a strong correlation, everyone would say. How do we start to deal with that, rather than just keep criminalising everyone? (Legal service provider)

2.9 Conclusion

Our project to date has found that there are significant levels of interest in and support for progressing JR in Katherine as a mechanism likely to help reduce offending and incarceration of local young Aboriginal people. Given this positive feedback the project will continue into 2016 and beyond, with the hope that the community of Katherine will drive JR's implementation through collective impact.

That JR is seen as having potential to address these issues makes a lot sense. Though it is by no means a panacea, JR does bring together a set of principles or strategies already acknowledged as likely to improve justice and other outcomes, particularly within an Indigenous context. JR uses a place-based, preventative and collaborative approach to addressing crime and related issues. It also emphasises community engagement and governance, incorporates within its framework community development or capacity-building objectives, has a focus on longer-term change rather than short-term outcomes and builds evaluation into its processes.⁸⁸ These aspects of JR increase its chances of success. As a previous Social Justice Commissioner explains:

Justice reinvestment provides a framework for what we have been trying to achieve in reducing Indigenous over-representation for some time. Imagine if the huge amount spent on Indigenous imprisonment could be spent in way that prevents crime and increases community functioning, there was increased accountability and scrutiny about how tax payer funds on corrections are spent, communities were involved in identifying the causes and solutions to crime and there was a shift away from the mindset that imprisonment is the only option – instead it becomes the last resort.... Combine that with what we know about engaging Indigenous communities

⁸⁸ See for instance, recommendations House of Representatives Standing Committee (2011); Australian Institute of Criminology (AIC) (2012) *National Crime Prevention Framework*, AIC Canberra; RCADIC recommendations, Carney 2011

in partnerships and community development and we might just have a real life solution to the problem.⁸⁹

In many respects, the project work conducted to date in Katherine confirms the underlying premise of JR: that the way we currently respond to offending is simply not working. It in fact *escalates* rather than decrease criminal activity and *fuels* rather than reduce rates of incarceration. This is why the causal factors of offending/incarceration so commonly overlap with the impacts of imprisonment. For instance, family breakdown is a risk factor for criminal activity, but prison also increases family breakdown – thereby heightening risks of offending (and of further incarceration). Stakeholders in Katherine see potential in JR because of its emphasis on addressing the root causes of the hugely disproportionate contact of Indigenous people with the justice system, including as imprisonment.

As would be expected, causal factors of offending and incarceration identified in Katherine during our consultations look very similar to those frequently identified in other Indigenous communities. They include a lack of belonging, connection and direction; prior victimisation; substance, alcohol and mental health issues; problems within the family unit; disengagement from education and unemployment; cultural dislocation and disempowerment; and social disadvantage. Those factors identified within the justice system encompass failure of the system to meet the complex needs of young Aboriginal offenders; legislative and other issues inhibiting access to, effective engagement with and completion of non-custodial options; more punitive responses for offenders who are still young at 18-24 years of age; and gaps in post-release support. ‘Circuit breakers’ highlighted by the community as most likely to interrupt cycles of offending and incarceration are again very likely to correspond with those commonly identified in communities facing similar issues to those of Katherine.

Whilst it is perhaps unsurprising that problems and potential responses to them are broadly similar across Indigenous communities, fundamentally important to JR methodology is the *process* of engaging the community to think collectively about these problems and why they occur, how they might be prioritised (from most to least problematic), as well as strategies and/or initiatives most likely to bring about change.

To conclude, strategies, ideas and initiatives identified as most likely to enact change in Katherine through JR are as follows.

- 1. Better responses to key drivers of offending/incarceration related to the family unit and mental health, disability and substance/alcohol misuse issues.** This includes early intervention prior to contact with the child protection and/or justice systems as both improvements to service delivery *and* building the capacity of families and communities to address relevant issues. More effective responses might include creating additional and/or more effectively resourcing existing services/programs, but also working to improve collaboration and avoid duplication between relevant services and agencies.

⁸⁹ Social Justice Commissioner (2009), 41-2

2. **Initiatives that address broader social disadvantage within the community** through improved educational and employment outcomes, access to housing and economic development, for example.
3. **Initiatives likely to improve completion of non-custodial orders**, including by establishing a caseworker position in Katherine to assist young people to complete these orders; ensuring that offenders are not set up to fail with inappropriate conditions; and development of more engaging and meaningful options for community-based work/supervision. A greater level of community involvement in diversionary options, particularly but not limited to Indigenous community involvement, is required. Some extension to the criteria for eligibility for police diversion is also seen as likely to be beneficial.
4. **Better outcomes for prisoners** through development of structured, better-resourced programs delivered in and outside of incarceration to address accommodation and other support needs to assist with reintegration.
5. **A high level of Aboriginal engagement with and leadership of JR**, both within specific JR initiatives such as an Aboriginal-run safe house, Aboriginal School Council, Aboriginal input at sentencing etc., but also as part of any structure tasked with implementation of JR.
6. **Inclusive, collaborative and holistic responses to offending/incarceration through JR.** JR should engage and ultimately increase wellbeing for *all* members of the community, not just offenders and victims. And so, whilst ‘community capacity-building approaches are often targeted at the most vulnerable groups in a community’, initiatives like JR can and should ‘help to build strong, cohesive communities for the benefit of all groups in a community.’⁹⁰ As part of this, Indigenous and non-Indigenous people/organisations must work in partnership to implement JR. This partnership should include a range of persons and organisations, given the complexity of both offending and imprisonment. Collaboration is key to JR’s success – both in terms of particular initiatives (such as a Youth Hub) but also within the structure developed to implement JR.
7. **Strategies or initiatives that address both justice-related and community level drivers** of offending/incarceration are likely to be beneficial

⁹⁰ Lohoar (2013), 3

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APPENDIX A: Project Documents

Documents on following pages

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JUSTICE REINVESTMENT PROJECT: KATHERINE

NAAJA and NTCOSS have received funding from the Law Society Public Purposes Trust (NT) to conduct a justice reinvestment project in the NT. The project is designed to advance a justice reinvestment approach within the Territory and in Katherine in particular.

Justice Reinvestment (JR) is a relatively new concept, initially developed in the US but gaining increasing traction elsewhere, including in Australia and particularly as a strategy with real potential to contain escalating rates of Indigenous incarceration. Its focus is on building *community* capacity to create safer neighbourhoods rather than relying principally on incarceration.

JR has proven to be successful in preventing offending and re-offending in other countries, including in the US and the UK. This project seeks to explore JR's potential to do the same in Katherine through introduction of JR initiatives identified by the Katherine community as likely to contribute to reducing incarceration of young Indigenous people from Katherine (aged 10-24 years of age), either as first time or as repeat offenders.

The JR initiatives in question will be identified through a process of engagement and consultation with relevant stakeholders, commencing in April 2015. Stakeholders will primarily be from Katherine but also from Darwin, and will include young Indigenous people, key Indigenous and community organisations, legal services and government agencies. The collection and analysis of relevant NT corrections and other data will further inform selection of these initiatives and the project more broadly.

Engagement and consultation with stakeholders will also provide important information about the extent to which local community, particularly the local Indigenous community, supports and has capacity to drive implementation of JR in Katherine and what additional resources might be required in order to achieve this.

The project is guided by a Steering Committee, with membership drawn from Katherine (from the local Indigenous community, community organisations working with young people, police and courts), as well as from Territory-wide NGOs based in Darwin.

Contact about the project can be made, at first instance, with Fiona Allison, Project Researcher/ Coordinator (Adjunct Research Fellow, James Cook University) on **0411708619** or by email at fiona.allison@jcu.edu.au.



JUSTICE REINVESTMENT PROJECT: KATHERINE

Justice Reinvestment¹

JR argues that it makes little economic sense to continue to spend vast amounts of government money on prisons as a primary response to crime, other than in the case of more serious or dangerous offenders. According to JR, imprisonment doesn't generally enhance the safety and wellbeing of communities, leading instead to increased rates of imprisonment, including at an inter-generational level within Indigenous communities *and* as it feeds the very same social problems which can cause offending to occur in the first place, such as family and community fragmentation.

Tom Calma, then Aboriginal and Torres Strait Islander Social Justice Commissioner, stated in 2009, when advocating for use of JR in Indigenous communities: '[W]hat we are doing is simply not working. If it were working, we would be seeing a reduction in Indigenous imprisonment, rather than the 48% increase since 1996. When something isn't working we need to be bold and creative in thinking (about)... alternative solutions.'

JR offers an alternative strategy, one already proven to be successful in tackling crime overseas. JR suggests that money can be more productively spent through diversion of a portion of government funds earmarked for expenditure on prisons back into communities with high rates of offending and incarceration. This represents a shift in spending, not an increase. Significantly, it also means money is spent *within* the communities in question, rather than *on* incarceration of offenders *outside* of the places in which they live and, importantly, to which they generally return after release from prison.

These re-invested funds can be used to resource programs, activities and services identified by the target communities themselves as being likely to address underlying causes of local criminal activity, including those associated with social disadvantage. So, whilst JR may involve some reform of the criminal justice system (changes to parole and bail systems, increased opportunities for community-based diversion, for example), it might also include introduction of culturally secure, community-based programs designed to keep people out of the justice system to start with (for instance, improved access to housing, education, alcohol and drug rehabilitation and job training). JR seeks to build the capacity of community to identify and take ownership of causes of and solutions to local criminal behaviour - through this, improving 'the prospects not just of individual cases but of particular places'. In an Indigenous context, this approach provides an opportunity for self-determination.

JR also uses criminal justice and other data to determine how and where best to allocate public funds to reduce crime. This data may tell us, for example, which communities are producing large numbers of offenders, how much their incarceration is costing taxpayers, what the key drivers of contact with the criminal justice system are for particular communities (high levels of bail refusal, for instance), and how well JR has worked after implementation.

It is JR's focus on economics, data mapping and place-based responses to offending that makes it different from other similar strategies.

¹ Further information on JR in Australia can be found at <http://justicereinvestment.unsw.edu.au> or <http://www.justreinvest.org.au>

JR PROCESS and METHODOLOGY

Four stages of JR process

1. Justice/demographic mapping and analysis of data

- a. Data is used to identify communities from which high numbers of offenders come from and return to (and therefore where JR may be usefully applied).
- b. Data from within the criminal justice system (CJS) *and* outside of it is used to identify what is 'feeding' the offender and, in particular, the prisoner/detainee population in the relevant community.

CJS data might tell us that there is limited use of diversion or of bail, for instance, or that most inmates appear to have problems with substance abuse or mental health. Data about the community more broadly might also show that homelessness, unemployment, truancy from school, child protection issues etc. are driving up numbers of detainees.

- c. The costs of 'service delivery' around offending and of offending more generally are calculated.

Direct costs might include how much is spent per day to detain a young person, what it costs for police to process an offender or payment of victims compensation. Other costs are more indirect and difficult to quantify, such as community fragmentation (social cost) or child protection agency costs expended in caring for children who are impacted by imprisonment of a parent. Costs to be calculated are associated with offenders, victims and the community at large, and all are compounded by recidivism.

- d. A map is also drawn up of 'assets' in the community which increase capacity to address offending/incarceration, including those through which JR might be implemented (such as effective services or programs, strong local governance structure) AND, in contrast, what is 'missing' or not working so effectively.

2. Develop options for reducing offending and incarceration and generating savings

Initiatives likely to save money for government are identified.

These are initial savings within corrections budgets (*costs saved*, numbers of offenders being placed in prison are reduced) and as a reduction of numbers of people offending in the first place (*costs avoided*).

Potential initiatives might include reform of the CJS, including new ways of responding to breaches of bail conditions or greater access to community-based sentencing options for non-violent offenders. Most importantly, initiatives can also be introduced outside the CJS to address *underlying causes* of crime associated with disadvantage (in housing, education, employment, health care, etc.).

Sometimes, initiatives introduced at a community level outside of the CJS also contribute to change within it; for instance, alcohol rehabilitation programs available to the general community may address one of the causes of offending (alcohol abuse), but can also increase offenders' access to diversion as an alternative to incarceration.

There is a strong focus on *local* control and ownership and *community development* in the JR process. Community is supported to identify and then implement and evaluate/monitor JR initiatives, including through a local governance structure. This contributes to enhancing community safety and overall wellbeing.

3. Implementation

Selected initiatives are implemented.

Savings generated are then re-invested as agreed and based on analysis in (1) and (2).

4. Evaluation and monitoring

As an essential part of the process, rigorous and ongoing evaluation is required to measure whether initiatives implemented are effective in terms of generating savings, reducing incarceration rates and/or preventing offending, as intended.

APPENDIX B: Statistics

Table 1: Total nights in detention/custody for young people (10-17 year olds) (Aboriginal, non-Aboriginal) (NT-wide)⁹¹

	2013-14	2012-13	2011-12	2010-11	2009-10
Total nights in custody (Aboriginal)	16,681	16,954	13,513	13,848	9,665
Total nights (All detainees)	17,344	17,924	13,816	14,158	10,475

Table 2: Yearly daily average of young people in detention (10-17 year olds) (NT-wide)⁹²

	2013-14	2012-13	2011-12	2010-2011	2009-2011
Indigenous	46	46	37	38	27
Total	48	49	38	39	29

Table 3: Expenditure by Corrective Services (NT-wide) (\$'000)⁹³

	2013-14	2012-13	2011-12	2010-2011	2009-2010
<u>Prisons</u>					
Net operating costs (a)	115653	105128	90452	84467	78225
Capital costs (b)	27307	19683	20825	19331	12,22
TOTAL*	142960	124811	111278	103798	90747
<u>Community Corrections</u>					
Net operating costs	18720	19162	17542	14869	14343
Capital costs	816	726	600	535	194
TOTAL	19536	19888	18142	15404	14537

*NOTE: Total is not an exact addition of (a) and (b)

Table 4: Expenditure by NT Police (NT-wide) (\$'000)⁹⁴

	2013-14	2012-13	2011-12	2010-2011	2009-2010
Total recurrent expenditure	330.5	312.7	298.6	277.8	259.9
Real recurrent expenditure on police services per person \$	1227	1176	1077	1106	1089

⁹¹ ROGS (2015) (Youth Justice) (Table 16A.12)

⁹² ROGS (2015) (Youth Justice) (Table 16A.9)

⁹³ ROGS (2015) (Corrective Services): Tables 8A.71, 8A.76

⁹⁴ ROGS (2015) (Police): Tables 6A.8, 6A.10

Table 5: Real recurrent expenditure for Criminal Courts (NT-wide) (\$'000)⁹⁵

	2013-14	2012-13	2011-12	2010-11	2009-10
Children's Court	1626	1467	1401	995	968
All Courts	25107	23462	21634	21221	19611

Table 6: Crime statistics (not youth-specific) (Katherine)⁹⁶

OFFENCE	1/5/2014 – 30/4/2015	1/6/2013 – 31/5/2014	1/1/2012- 31/12/2012	1/1/2011- 31/12/2011	1/1/2010- 31/12/2010
Assault	534	638	736	613	642
<i>DV related</i>	380	444	461	371	356
<i>Alcohol related</i>	397	507	566	481	479
Property Damage	357	372	329	365	381
Commercial B&E	114	126	97	125	147
MV theft	109	85	77	62	74
House B&E	75	72	81	81	142
Sexual assault	29	23	18	29	23
SUMMARY					
Offences against person	608	709	822	700	679
Offences against property	1003	1008	962	1047	1188

Table 7: Total numbers of distinct Aboriginal young people in detention (10-17 year olds) (Katherine)⁹⁷

	2013-2014	2012-2013	2011-2012	2010-2011
**Katherine	Katherine (8)	Katherine (16)	Katherine (12)	Katherine (14)
Katherine region	Kalkarinji (1) Mataranka (1) Ngukurr (5) Timber Creek (2)	Maranboy (1) Pine Creek (1)	Maranboy (2) Ngukurr (3)	Maranboy (2) Kalkarinji (1) Mataranka (3) Ngukurr (4)
NT-wide	232 [total = 249: including non- Aboriginal inmates]	205 [total = 227]	166 [total = 184]	145 [total = 157]

**All detainees from Katherine and Katherine region are Indigenous. Location is based on 'last known address'

⁹⁵ ROGS (Courts) (2015) (Table 7A.11)

⁹⁶ Statistics for Katherine Local Government Area available at: <http://www.pfes.nt.gov.au/Police/Community-safety/Northern-Territory-crime-statistics.aspx>. For data prior to 2013 see Northern Territory Quarterly Crime Statistics. This data is taken from December Quarter (2012):

http://www.nt.gov.au/justice/policycoord/researchstats/stats_previous.shtml#2013

⁹⁷ DCS Annual Statistics for 2010-2014

Table 8: Homelessness statistics (2011) (Katherine)⁹⁸

Homelessness as proportion of 10,000 persons	
Australia-wide	48.9 per 10,000
NT	730.7 per 10,000
Katherine town	500 per 10,000
Katherine region	1500 per 10,000
Katherine surrounds	2600 per 10,000
Percentage of all age groups homeless for under 18s	
NT-wide	10%
Katherine town	5%
Katherine region	19%
Katherine surrounds	32%

Table 9a: Indigenous and non-Indigenous enrolments and attendance (Katherine region) (2015)⁹⁹

KATHERINE REGION				
	Indigenous enrolment	Indigenous attendance	Non-Indigenous attendance	Overall attendance
Early years	1212	72.1%	90.9%	77.9%
Primary years	696	76.9%	93.1%	80.6%
Middle years	605	66.7%	90.7%	75.4%
Senior years	217	59.7%	88.8%	74.2%
Overall	2730	70.1%	93.5%	77.1%
NT WIDE				
Indigenous attendance	Non-Indigenous attendance		Overall attendance	
68.9%	89.7%		81.8%	

Table 9b: Indigenous and non-Indigenous Katherine residents' school completion (2011)¹⁰⁰

Year level attained	Indigenous	Indigenous	Non-Indigenous	Non-Indigenous
	All ages	15-29 years	All ages	15-29 years
Year 8	28%	36%	64%	73%
Year 10	42%	49%	32%	26%
Years 11/12	24%	14%	4%	2%

⁹⁸ ABS statistics (Census of Population and Housing) (2011): the vast majority of homeless are Indigenous and the majority of homelessness is due to 'overcrowding', but in Katherine town significant proportions are 'sleeping out', 'staying in temporary lodging' or are in 'supported accommodation'

⁹⁹ Department of Education, Enrolment and attendance statistics, Table 2: Average enrolment and attendance by region 2015: https://www.nt.gov.au/_data/assets/pdf_file/0010/260884/E-and-A-Web-2015-Table-2.pdf

¹⁰⁰ The Northern Institute (2014), 16-17

Table 10: Juvenile pre-court diversions by region (Katherine)¹⁰¹

REGION	Formal Youth Diversion cases 1/7/2012 – 30/5/2014	Formal Youth Diversion cases 1/7/2014 – 31/12/2014
Central Australia	118	35
Barkly	64	21
^KATHERINE	99	58
Arnhem	99	18
Top End	207	87

^ Includes town camps, Pine Creek, Mataranka, Roper Gulf Region and Victoria Daly Region and surrounds

Table 11: Police statistics - diversion outcomes (10-17 year olds) (NT-wide)¹⁰²

	2014-15	2013-14	2012-13
TOTAL youth justice conferences	232	257	237
Numbers/percentage of youth offending once	198 (85.3%)	209 (82%)	214 (90.3%)
Numbers/percentage of youth offending twice	25 (10.8%)	37 (14%)	22 (9.3%)
Numbers/percentage of youth offending more than twice	9 (3.9%)	11 (4%)	1 (0.4%)

Table 12: Percentage of community-based orders successfully completed by Aboriginal young people (NT-wide)¹⁰³

2013-14		2012-13		2011-12		2010-11		2009-10	
57.5		52		52.6		N/A		N/A	
Probation	CWO	Probation	CWO	Probation	CWO	Probation	CWO	Probation	CWO
56	64	50	62	63	48	64	43	N/A	N/A

Table 13: Community Corrections caseload (10-17 year olds) (Katherine)¹⁰⁴

	2013-14		2012-13		2011-12		2010-2011	
	Probation	CWO	Probation	CWO	Probation	CWO	Probation	CWO
Total ^^	18	7	18	5	16	4	15	3
Aboriginal	17	7	18	5	15	4	15	3

^^ Numbers of orders, not numbers of distinct persons on orders

¹⁰¹ NT DCS (2015) *Northern Territory Youth Diversion Program Guidelines 2015-17*, 4

¹⁰² NTPFES *Annual Reports* (2011-15)

¹⁰³ ROGS (2015) (Youth Justice): Table 16A.21. Statistics for probation/CWO from DCS *Annual Statistics* (2011-2014)

¹⁰⁴ DCS *Annual Statistics* from 2010-2014

APPENDIX C: Consultations

Consultations/meetings: April 2015

Katherine

Red Cross
Kalano CEO
Wurli Health Service Board
Sommerville Community Services
Magistrate Sue Oliver
Community Corrections
Katherine High School (Engagement Officer)
Clontarf
Stronger Smarter Sisters
Students and Indigenous staff at Katherine High School
Police Diversion
Gary Northam, Footy Club
NAAJA Board
Doug Kelly, local Indigenous representative
Roper Gulf Shire
NTLAC
YMCA
DCF
Youthworx
KWILS
Lidia de Lembo (Department Chief Minister's rep in Katherine)

Darwin

Steve Bott, prosecutor
Meeting with Youth Justice Advocacy group (Making Justice Work)
Children's Commissioner, Colleen Gwynne
Salli Cohen, Executive Direct, Youth Justice
Jennie Renfree, Police Diversion
Aboriginal Peak Organisations (APO NT)

Consultations/meetings: June 2015

Katherine

Warren Snowdon (MP) representatives
Northern Land Council
Sunrise Health Service
Then-Deputy Chief Minister Westra van Holthe
Mayor Fay Miller
NAAFVLS
NT Police
Glenn Bird (Indigenous business owner)
Aboriginal Interpreter Service representatives
Anglicare
NAAJA Board
NAAJA staff
Stolen Generations
Good Beginnings
Jawoyn
Nathaniel Joshua (stockman course for diversion)
Enterprise Learning Projects

Key representatives from different language groups in Katherine:

Walpiri
Ngukurr
Ngarinman
Rockhole
Binjari
Katherine Township

Consultations/meetings: August 2015

Katherine

Kalano (executive staff)
Young people at: Katherine High School, Clontarf, YMCA boys and girls groups
One on one interviews with young people who have been in detention

Consultations/meetings: May 2016

Corrections
Katherine High School (Clontarf, Stars program)
Kalano
Roper Gulf
NT Legal Aid
KWILS
Anglicare
Youthworx
Sommerville
Binjari
Good Beginnings
Nathaniel Joshua
Red Cross
NAAJA
ELP
Vic Daly Shire
Prosecutions
YMCA
DCF
Enrolment and Attendance, Department of Education

APPENDIX D: Consultation questions

QUESTIONS FOR JR CONSULTATION IN KATHERINE: STAKEHOLDERS

1. How much of a problem is youth offending for the community of Katherine? What impact does offending and incarceration of young people have on individuals, families and the community in Katherine?
2. What type of offending is most problematic or most common in Katherine?
3. What do you see as the main drivers or causes of young Indigenous people in Katherine offending and being incarcerated?
4. What could be changed within the criminal justice system to help reduce or prevent offending and incarceration, thinking about each stage of contact (police, courts, community-based corrections, detention and release from detention)?
5. What could be done at a community level to help reduce or prevent youth offending and incarceration?
6. Are there particular things that are working well at the moment or that have worked well in the past? What's the reason for their success?

Are there particular things that aren't working so well or haven't worked so well in the past? What's the reason for them not working?
7. What strengths (assets) does the community currently have that are likely to help reduce or prevent youth offending and incarceration? What additional support would the community need to strengthen capacity to address these issues?
8. What would it look like for community to take the lead and move JR forward as a priority in Katherine? What sort of 'structures', formal strategies, alliances need to be put in place?
9. Do you think JR is likely to provide some benefit to the community of Katherine? Do you support its introduction?

QUESTIONS FOR JR CONSULTATION IN KATHERINE: YOUNG PEOPLE

1. What's it like being a young Aboriginal person in Katherine? What's good and not so good about it?
2. Some young people in Katherine do things that get them in trouble with the police. Sometimes they're locked up. Is this a big problem in Katherine or not so bad? What sort of problems does it cause in the community? What about for young people themselves?
3. Not every young person gets into trouble. What are the main reasons young people offend? Why do you think some do and some don't?
4. Some young people end up going through the justice system, including through detention.
 - a. What do you think it's like for them: dealing with police, courts, getting locked up and then coming back home?
 - b. Does going through this make things better or worse for a young person? In what ways?
 - c. What would you change about the way this system works for young people?
5. What are the most important things a community (including families and school) can do to help stop young people getting into trouble?
6. Are young people important to making a difference for other young people? Why? Who else is important?
7. What do you think about the idea of justice reinvestment? Would it be a good thing for Katherine?

APPENDIX E: JR 'Wheel' (Katherine)

