The Crime and Punishment Debate

Edited by Justin Healey
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Volume | 328

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## CHAPTER 1

**CRIME AND IMPRISONMENT RATES**

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## CHAPTER 2

**CRIME AND PUNISHMENT DEBATE**

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</tbody>
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The Crime and Punishment Debate is Volume 328 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

KEY ISSUES IN THIS TOPIC
The aim of imprisonment is to prevent crime and enhance community safety by removing offenders from the public sphere and deterring potential offenders, as well as meeting society’s need for reparation and retribution for crimes committed.

However, while a period of imprisonment may deter some people from re-offending, it can also foster in others further criminal behaviour. Since 1989, the imprisonment rate has increased by around two-thirds; currently almost 40 per cent of Australian prisoners released after serving their sentence return to jail within two years.

This book examines crime and incarceration in Australia – does it work as deterrent or rehabilitation – or is it simply ineffective retribution?

A range of opinions are presented, which canvas a number of justice issues including harsher sentencing and longer jail terms, overcrowding in prisons, tough-on-crime policies, public perceptions of crime and safety, indigenous over-representation, intervention programs and prison reforms. Does being tough on crime pay?

There are two chapters in this book: Crime and imprisonment rates; and Crime and punishment debate.

SOURCES OF INFORMATION
Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:

➤➤ Newspaper reports and opinion pieces
➤➤ Website fact sheets
➤➤ Magazine and journal articles
➤➤ Statistics and surveys
➤➤ Government reports
➤➤ Literature from special interest groups

CRITICAL EVALUATION
As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

EXPLORING ISSUES
The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

FURTHER RESEARCH
This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
The recent release of *Australian crime: Facts and figures 2009* by the Australian Institute of Criminology (AIC) shows government expenditure on criminal justice has now risen to $10 billion per year.

The 12th annual snapshot of crime and criminal justice in Australia from the AIC showed reductions in a range of crime types recorded by police, with property crime, assault, and sex assault reports all declining between 2007 and 2008.

While this was good news, AIC Director Dr Adam Tomison cautioned that the long-term trends for serious crime types such as robbery, assault and sex assault have been increasing since 1996.

“The report found there had been a 49 per cent increase in assaults between 1996 and 2008, however the number of victims reporting assaults to police dropped from 176,427 to 170,277 between 2007 and 2008,” Dr Tomison said.

“Since 1996, there has been an overall decline of eight per cent in the annual number of arrests for drug offences, with a five per cent decrease between 2007 and 2008.

“While arrests for cannabis and heroin continue to decline, arrests for amphetamines have more than quadrupled, increasing by 310 per cent since 1996.”

Government expenditure on criminal justice increased from $9 to $10 billion between 2007 and 2008, with the lion’s share going to law enforcement. There were 48,024 sworn state and territory police officers employed across the nation in 2008, with a national average of 225 sworn police per 100,000 people.

Prison numbers continued to rise, by 1.4 per cent in 2008, with 27,615 people in prison, while the rate of adult males and females serving community correction orders decreased by 18 per cent and 19 per cent respectively.

The majority of all offenders were male and the offending rate for persons aged 15 to 19 was almost four times the rate for all other offenders. Indigenous prisoners comprised 24 per cent of the prison population, at a rate 17 times higher than that for non-indigenous prisoners.

In 2008 the rate for male juveniles in detention reached 66 per 100,000, a 43 per cent rise since 2004. The incarceration rate of males was 10 times that of females and for indigenous juveniles was 26 times that of non-indigenous youth.

For the first time, *Facts and figures 2009* also contains data on financial instruments fraud provided by the Australian Payments Clearing Association. Fraud on credit and charge cards had increased by 44 per cent since 2006, yet according to victimisation surveys fraud remained one of the most under-reported offences, with fewer than 50 per cent of incidents reported to police or other authorities.

The release of this year’s report coincides with the launch of a new interactive online data tool, *Facts and figures online*, which enables people to analyse and compare crime statistics from the *Australian crime: Facts and figures* collection.

“The AIC’s report has been a reliable and useful compendium of information on crime trends within Australia since it was first published in 1998 and we believe its availability as an online resource will help to enhance and inform policy across government, as well as the community and private sectors,” Dr Tomison said.

To view the paper or utilise the latest *Facts and figures online* visit [www.aic.gov.au](http://www.aic.gov.au).
Data on recorded crime as published by the ABS for the period 1996 to 2008 are presented in this first chapter. The information is based on police records of crimes from 1 January to 31 December each year. A victim of crime can be a person, premises or a motor vehicle.

The ABS has been collecting and publishing data since 1996 on the following eight major categories of offences: homicide (murder and manslaughter), assault, sexual assault, robbery, kidnapping, unlawful entry with intent (UEWI), motor vehicle theft (MVT) and other theft. It is estimated that these crimes account for about 60 per cent of all crimes recorded by police.

Due to inconsistency among jurisdictions in recording, the ABS has not released aggregated data on assault or sexual assault since 2003. As trends within jurisdictions appear to be consistent, however, the data for each jurisdiction have been released. The Australian Institute of Criminology (AIC) used these data to compile the Australian totals for assault and sexual assault included in this chapter.

Caution must be exercised when comparing the number of robbery victims from different years, due to an undercounting of victims in New South Wales prior to 2005. Similarly affected are data on the number of victims of UEWI prior to 2006, because of an overstatement of victims in New South Wales. General trends, however, appear not to be affected.

### NUMBER OF RECORDED CRIMES

#### Violent crime

Violent crime includes homicide, assault, sexual assault, robbery and kidnapping (sometimes referred to as abduction). Although robbery may include an element of property crime, it is included as a violent crime, as the use or threat of violence is a more serious offence than the theft.

- Assaults continue to represent the majority of recorded violent crimes, with an overall trend of increased offending since 1996. Although a decrease was recorded between 2007 and 2008, there has been a 49 per cent increase in assaults between 1996 and 2008.
- Although sexual assault is one of the least reported types of crime, there was an overall increase over

### TABLE 1: VICTIMS OF VIOLENT CRIMES, 1996-2008

<table>
<thead>
<tr>
<th>Year</th>
<th>Homicide</th>
<th>Assault</th>
<th>Sexual assault</th>
<th>Robbery</th>
<th>Kidnapping</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>354</td>
<td>114,156</td>
<td>14,542</td>
<td>16,372</td>
<td>478</td>
</tr>
<tr>
<td>1997</td>
<td>364</td>
<td>124,500</td>
<td>14,353</td>
<td>21,305</td>
<td>564</td>
</tr>
<tr>
<td>1998</td>
<td>334</td>
<td>130,903</td>
<td>14,689</td>
<td>23,801</td>
<td>707</td>
</tr>
<tr>
<td>1999</td>
<td>385</td>
<td>134,271</td>
<td>14,699</td>
<td>22,606</td>
<td>766</td>
</tr>
<tr>
<td>2001</td>
<td>347</td>
<td>152,283</td>
<td>17,577</td>
<td>26,591</td>
<td>767</td>
</tr>
<tr>
<td>2002</td>
<td>366</td>
<td>159,548</td>
<td>18,718</td>
<td>20,989</td>
<td>706</td>
</tr>
<tr>
<td>2003</td>
<td>341</td>
<td>157,280</td>
<td>18,025</td>
<td>19,709</td>
<td>696</td>
</tr>
<tr>
<td>2004</td>
<td>302</td>
<td>156,849</td>
<td>19,171</td>
<td>16,513</td>
<td>768</td>
</tr>
<tr>
<td>2005</td>
<td>301</td>
<td>166,507</td>
<td>18,695</td>
<td>17,176</td>
<td>729</td>
</tr>
<tr>
<td>2006</td>
<td>321</td>
<td>172,441</td>
<td>19,555</td>
<td>17,375</td>
<td>726</td>
</tr>
<tr>
<td>2007</td>
<td>283</td>
<td>176,427</td>
<td>19,781</td>
<td>17,996</td>
<td>733</td>
</tr>
<tr>
<td>2008</td>
<td>290</td>
<td>170,277</td>
<td>19,733</td>
<td>16,508</td>
<td>782</td>
</tr>
</tbody>
</table>

Note: Number of victims presented here represents revised estimates on numbers published in earlier editions of ‘Australian crime: Facts & figures’.
the period 1996-2007 (although the number of assaults decreased between 2007 and 2008). The highest numbers of victims of sexual assault and of assaults in general were recorded in 2007.

- For violent crime, the trend in the past five years has varied. Variability from year to year is more pronounced in offences that have a smaller number of victims, such as homicide.
- Recorded homicide declined from 2002 to 2005, increased in 2006, decreased in 2007 and increased in 2008. There were 290 victims of homicide in 2008. Although this represented a two per cent increase from 2007, it was still the second lowest incidence recorded in the past 12 years.
- Contrary to an increasing trend since 2004, robbery offences decreased in 2008 to 16,508.
- The number of recorded kidnappings fluctuates yearly. Over the period 1996 to 2004, a general increase was recorded for kidnapping. Figures then remained relatively steady in the period 2005 to 2007 and increased in 2008 to 782.
- Victim numbers have decreased since 2007 for both assault and robbery.

### Property crime

Property crime comprises UEWI (also referred to as break and enter or burglary), MVT and ‘other theft’, which includes offences such as pickpocketing, bag snatching, shoplifting and bicycle theft.

- As in previous years, ‘other theft’ was the most commonly recorded property crime in 2008, accounting for 62 per cent of property crime victims.
- The number of recorded victims of ‘other theft’ has decreased by 29 per cent since 2001, from 700,137 to 496,697.
- In 2008, there were 241,690 recorded victims of a UEWI, a decline of three per cent from the previous year.
- The number of MVT victims increased by 14 per cent from 1996 to 2001, yet has decreased by 51 per cent between 2001 to 2008.
- The overall trend in property crime offences in the past five years has been one of decline. Both UEWI and MVT exhibited a decline in 2008, while ‘other theft’ experienced a slight increase (1%). For victims of property crime, an

### FIGURE 1: ANNUAL CHANGE IN NUMBER OF VICTIMS OF SELECTED VIOLENT CRIMES, 2002-08 (%)

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TABLE 2: VICTIMS OF PROPERTY CRIMES, 1996-2008

<table>
<thead>
<tr>
<th></th>
<th>UEW</th>
<th>MVT</th>
<th>Other theft</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>402,079</td>
<td>122,914</td>
<td>521,762</td>
</tr>
<tr>
<td>1997</td>
<td>421,569</td>
<td>130,138</td>
<td>530,881</td>
</tr>
<tr>
<td>1998</td>
<td>434,376</td>
<td>131,587</td>
<td>563,482</td>
</tr>
<tr>
<td>1999</td>
<td>415,735</td>
<td>129,552</td>
<td>542,387</td>
</tr>
<tr>
<td>2000</td>
<td>436,968</td>
<td>138,912</td>
<td>621,268</td>
</tr>
<tr>
<td>2001</td>
<td>435,754</td>
<td>139,894</td>
<td>700,137</td>
</tr>
<tr>
<td>2002</td>
<td>394,323</td>
<td>113,460</td>
<td>507,783</td>
</tr>
<tr>
<td>2003</td>
<td>354,020</td>
<td>98,298</td>
<td>452,318</td>
</tr>
<tr>
<td>2004</td>
<td>308,690</td>
<td>87,939</td>
<td>496,697</td>
</tr>
<tr>
<td>2005</td>
<td>281,994</td>
<td>80,365</td>
<td>462,359</td>
</tr>
<tr>
<td>2006</td>
<td>262,005</td>
<td>75,377</td>
<td>437,382</td>
</tr>
<tr>
<td>2007</td>
<td>248,475</td>
<td>70,614</td>
<td>419,089</td>
</tr>
<tr>
<td>2008</td>
<td>241,690</td>
<td>68,270</td>
<td>474,969</td>
</tr>
</tbody>
</table>

Note: Number of victims presented here represents revised estimates on numbers published in earlier editions of ‘Australian crime: Facts & figures’.

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overall five per cent decrease from the previous year was noted.

Source: Reference 1

Recorded crime rates

Trends in the number of recorded crime victims do not take into account increases in the population over time. As a result, an increase may reflect an increase in the general population in that period rather than an increase in the actual likelihood of a person becoming a victim of crime. Crime rates adjust for changes in population size. In this section, they are calculated per 100,000 persons in the population per year.

Violent crime rate

➤ The trend in the rate of recorded assaults increased steadily from 1996 to 2008, from 623 assaults per 100,000 in 1996 to 796 per 100,000 in 2008. The 2008 rate was the lowest rate recorded since 2005, decreasing from a high of 840 per 100,000 in 2007

➤ The rate for robbery peaked in 2001. Rates have declined by 44 per cent since 2001, to 77 per 100,000 per year, with the 2008 rate representing the lowest rate recorded since 1996

➤ From 1996 to 2008, the rate of kidnapping remained between three and four per 100,000 per year

➤ The homicide rate was 1.9 per 100,000 in 1996 (which includes the 35 victims of the Port Arthur massacre) and was at its highest in 1999, at two per 100,000. In 2008, the rate was 1.4 per 100,000, the second lowest recorded (since 1996)

➤ The rate of recorded sexual assault increased between 1996 and 2008, from 80 to 92 persons per 100,000 per year. However, between 2007 and 2008 the rate declined from 94 per 100,000 to 92 per 100,000. Source: References 1 and 2

Property crime rate

➤ Property crime rates in 2008 were the lowest recorded in the 12-year period since 1996

➤ The rate of ‘other theft’ peaked at 3,607 per 100,000 per year in 2001, declining thereafter

Source: Reference 1

FIGURE 2: ANNUAL CHANGE IN NUMBER OF VICTIMS OF PROPERTY CRIME, 2002-08 (%)
The rate of UEWI remained relatively stable from 1996 to 2001 but has since declined. The rate of MVT declined by 52 per cent between 1996 and 2008, from 671 to 319.

**Source:** References 1 and 2

### Location of Crime

The ABS classifies crime locations according to the function of the site of the crime.

There are three broad location types:
- **Residential** – including houses, garages/carports, motels and hostels
- **Community** – including car parks, transport facilities, streets and footpaths, and schools, and
- **Other** – including retail premises, recreational facilities, government offices and warehousing/storage.

National data on the location of victims of assault and sexual assault cannot, as it was in previous years, be presented here due to the incompleteness of published data inclusive of all states and territories.

Table 3 shows the number of selected violent offences that occurred within each type of location.

- Of all murders (n=260), 63 per cent occurred in a residential location.
- Of all robberies (n=16,508), 93 per cent occurred outside the home.
- Streets and footpaths represented the most common location for robberies (48% of 16,508) and

### TABLE 3: LOCATION TYPE OF VIOLENT CRIMES, 2008

<table>
<thead>
<tr>
<th>Location Type</th>
<th>Murder</th>
<th>Robbery</th>
<th>Kidnapping</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling</td>
<td>145</td>
<td>1,013</td>
<td>215</td>
</tr>
<tr>
<td>Outbuilding/residential</td>
<td>14</td>
<td>134</td>
<td>12</td>
</tr>
<tr>
<td>Total residential</td>
<td>163</td>
<td>1,155</td>
<td>230</td>
</tr>
<tr>
<td>Community</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transport</td>
<td>3</td>
<td>1,509</td>
<td>29</td>
</tr>
<tr>
<td>Street/footpath</td>
<td>39</td>
<td>7,922</td>
<td>351</td>
</tr>
<tr>
<td>Other community</td>
<td>18</td>
<td>500</td>
<td>56</td>
</tr>
<tr>
<td>Total community</td>
<td>64</td>
<td>9,986</td>
<td>436</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail</td>
<td>11</td>
<td>3,623</td>
<td>56</td>
</tr>
<tr>
<td>Recreational</td>
<td>13</td>
<td>1,265</td>
<td>30</td>
</tr>
<tr>
<td>Other location</td>
<td>6</td>
<td>357</td>
<td>13</td>
</tr>
<tr>
<td>Unspecified location</td>
<td>3</td>
<td>96</td>
<td>14</td>
</tr>
<tr>
<td>Total</td>
<td>260</td>
<td>16,508</td>
<td>783</td>
</tr>
</tbody>
</table>

**Note:** Total includes locations not further defined.

### TABLE 4: LOCATION TYPE OF PROPERTY CRIMES, 2008

<table>
<thead>
<tr>
<th>Location Type</th>
<th>UEWI</th>
<th>MVT</th>
<th>Other theft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling</td>
<td>142,640</td>
<td>207</td>
<td>48,987</td>
</tr>
<tr>
<td>Outbuilding/residential</td>
<td>16,372</td>
<td>22,558</td>
<td>81,702</td>
</tr>
<tr>
<td>Total residential</td>
<td>160,983</td>
<td>24,766</td>
<td>132,917</td>
</tr>
<tr>
<td>Community</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transport</td>
<td>788</td>
<td>6,535</td>
<td>44,985</td>
</tr>
<tr>
<td>Street/footpath</td>
<td>108</td>
<td>23,643</td>
<td>77,423</td>
</tr>
<tr>
<td>Other community</td>
<td>16,916</td>
<td>1,048</td>
<td>26,281</td>
</tr>
<tr>
<td>Total community</td>
<td>17,839</td>
<td>31,314</td>
<td>149,473</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail</td>
<td>30,230</td>
<td>5,657</td>
<td>149,862</td>
</tr>
<tr>
<td>Recreational</td>
<td>7,008</td>
<td>908</td>
<td>20,444</td>
</tr>
<tr>
<td>Other location</td>
<td>21,733</td>
<td>3,549</td>
<td>30,783</td>
</tr>
<tr>
<td>Unspecified location</td>
<td>1,898</td>
<td>1,956</td>
<td>11,252</td>
</tr>
<tr>
<td>Total</td>
<td>241,690</td>
<td>68,270</td>
<td>496,697</td>
</tr>
</tbody>
</table>

**Note:** Total includes locations not further defined.
kidnappings (45% of 783).

Source: Reference 1

Between 2003 and 2008, violent crimes declined in all categories of location, except recreational locations.

Since 2003, violent crimes perpetrated in retail locations have declined by 21 per cent. Declines in violent crimes were also recorded at transport locations (27%), residential (15%) and other community locations (57%).

There was an increase from 2007 to 2008 in the number of violent crimes carried out in transport, retail and recreational settings (1%, 1% and 43% respectively).

Conversely, violent crime that occurred at residential, street/footpath and other community locations declined between 2007 and 2008.

Source: Reference 1

Table 4 shows the number of property offences (UEWI, MVT and 'other theft') that occurred within each type of location.
Of all UEWI crimes (n=241,690), the majority (67%) occurred in a residential location and 13 per cent in a retail location.

Of all MVT offences (n=68,270), most (55%) occurred in a public location.

Of all other theft crimes (n=496,697), retail was the most prevalent theft location (30%).

Source: Reference 1

Property offences were most likely to occur at a dwelling (24%), retail location (23%) or outbuilding/residential land (15%).

Property offences were least likely to occur at recreational locations (4%) or other community (5%).

Source: Reference 1

Between 2003 and 2008, property crimes generally declined in all categories of location.

From 2003 to 2008, the greatest relative declines in property crimes were in those which occurred at recreational locations (43%), other community locations (38%) and in dwellings (33%).

Source: Reference 1

FIGURE 6: LOCATION TYPE OF PROPERTY CRIMES, 2008 (%)

- Dwelling: 24%
- Transport: 7%
- Street/footpath: 13%
- Other community: 5%
- Other location: 9%
- Recreational: 4%
- Outbuilding/residential land: 15%

a: Includes unspecified location.

n=795,473. Excludes residential locations that could not be classified as a dwelling or outbuilding/residential land and locations not further defined.

REFERENCES


Half as many murders, and nobody knows why

In the past 10 years there has been a dramatic turnaround in crime, observes Don Weatherburn from the NSW Bureau of Crime Statistics and Research

What’s happening to crime? Between 1975 and 2001, crime rates in Australia went through the roof. Burglary, vehicle theft, robbery, assault, sexual assault and fraud rose dramatically.

When the crime wave was at its peak, more than one in 10 NSW households had experienced some form of property crime in the past 12 months (break and enter, attempted break and enter or vehicle theft). More than one in 20 NSW residents aged 15 and over had been assaulted, sexually assaulted or robbed in the previous year.

In the past 10 years there has been a dramatic turnaround in crime.

Unarmed robbery and robberies with a firearm have fallen by 55%, home burglary has fallen by 51%, non-dwelling burglary has fallen by 65% and vehicle thefts have fallen 61%.

Unarmed robbery and robberies with a firearm have fallen by 55 per cent, home burglary has fallen by 51 per cent, non-dwelling burglary has fallen by 65 per cent and vehicle thefts have fallen 61 per cent. Other theft offences, such as stealing from a vehicle, have also come down.

You won’t read it in the tabloids but property crime in NSW is now at its lowest level in nearly 20 years. You are less likely to have your car stolen, less likely to have your home burgled and far less likely to be robbed by someone with a firearm than you were in 1990.

Is this just a case of people not reporting crime or of the NSW Police not recording it?

The short answer is ‘no’. The Bureau of Statistics conducts an annual crime survey in NSW, designed to provide an independent picture of crime trends – one not affected by public willingness to report crime or police willingness to record it. That survey also shows big falls in the prevalence of property crime.

The downward trends are not unique to NSW. Over the past 10 years, big falls in robbery, burglary and motor vehicle theft have also been recorded in Victoria, Queensland, South Australia, Western Australia and Tasmania.

So what caused the drop in property crime?

We don’t have a complete answer yet but some things are clear. The heroin shortage, which began early in 2001, led to a massive drop in the level of heroin dependence. Many heroin users who committed property crime to fund their purchases of heroin have either reduced their heroin consumption or left the heroin market.

Better vehicle security (especially the introduction of engine immobilisers) helped to bring down the rate of vehicle theft.

The economy has also been very kind to young people leaving school over the past decade. Rising average weekly earnings, higher year 12 completion rates and falling levels of unemployment have made it easier and more rewarding for young people to enter the legitimate labour market rather than to enter crime.

The rising rate of imprisonment probably also played a role, although most studies find prison only has limited effects. US studies, for example, suggest that after controlling for all other factors, a 10 per cent jump in the rate of imprisonment produces about a 3 per cent drop in crime. The effects on violent crime are generally smaller.

What about other categories of crime such as assault, sexual assault, illicit drug use and murder?

The assault rate showed no sign of going down until police and licensing authorities started cracking down on alcohol-related violence on licensed premises. There are signs the assault rate has started to fall but we need to check whether licensed premises have become less willing to report assault before we can be sure.

The rate of sexual assault rose rapidly in the 1980s and ’90s and has continued to rise, albeit at a much slower pace since 2001. We don’t know whether the actual incidence of sexual assault is rising of whether victims have become more willing to report sexual assault. The Bureau of Statistics crime victim survey sample is too small to give us an answer.

One trend that hasn’t received much media attention is a big increase over the past decade in the consumption of amphetamines, ecstasy, cocaine and pharmaceutical opioids. Unlike the heroin epidemic of the ’80s and ’90s, the growing use of these drugs has not been accompanied by a surge in income-generating crimes such as robbery and burglary.

This may be because users of these drugs are mostly able to buy them without resorting to crime but, if so, don’t assume things will stay this way. Cocaine started in the United States as a yuppie drug but ended up wreaking havoc when it was converted to crack and made accessible to a much wider market.

The big puzzle in NSW is the murder rate. It has almost halved since 1990 and no one knows why. The trend started well before the introduction of tougher gun laws, so that isn’t the cause. Is it a case of the same number of people being attacked but fewer of them dying of their wounds, or are NSW citizens simply less likely these days to go out and kill one another? If so, why?

Dr Don Weatherburn is the director of the NSW Bureau of Crime Statistics and Research
The criminal justice system comprises the state/territory and Australian Government institutions, agencies, departments and personnel responsible for dealing with victims of crime, persons accused or convicted of committing a crime, and related issues and processes.

The eight states and territories have powers to enact their own criminal laws, while the Commonwealth has powers to enact laws, including sanctions for criminal offences, in relation to its responsibilities under the Constitution. Thus there are nine different systems of criminal law in Australia. The existence of cooperative arrangements between the various states and territories and the Commonwealth, such as those relating to extradition or to the creation of joint police services, helps address issues that have arisen out of the separate development of these various systems of criminal law.

Each state and territory has its own police, courts and corrective services systems that deal with offences against local laws and also federal laws in some cases. The federal criminal justice system deals with offences against Commonwealth laws. Criminal law is administered principally through the federal, state and territory police, the courts, and state and territory corrective services. As there is no independent federal corrective service, the relevant state or territory agencies provide corrective services for federal offenders.

The various agencies that comprise the criminal justice system act within a broader process in which criminal offenders interact with police, courts and corrective services. The various agencies that comprise the criminal justice system act within a broader process in which criminal offenders interact with police, courts and corrective services. The diagram on page 10 illustrates the various stages involved in the processing of criminal cases and shows some of the links between these three elements of the criminal justice system.

The police, as well as other agencies such as the Australian Customs and Border Protection Service, are responsible for the prevention, detection and investigation of crimes. When alleged offenders are detected by police, they can be proceeded against either through the use of a non-court process (such as a caution, fine or diversionary conference) or charges may be laid before a criminal court. The court, including judicial officers and a jury (in the higher courts), with the assistance of the prosecution and the defence, determines the guilt or innocence of the defendant.

Following the hearing of the charges, in cases where a finding of guilt is made by the court, sentences may be imposed. These may include imprisonment, community service orders of various kinds, fines or bonds. A number of jurisdictions have also introduced penalties such as home detention or work outreach camps that are administered by corrective services agencies.
Flows through the criminal justice system

This Australian Bureau of Statistics diagram illustrates the various stages involved in processing criminal cases and the links between the broader process in which criminal offenders interact with police, courts and corrective services.

The Australian National Council on Drugs is urging the federal and state governments to drastically change the way indigenous people are treated in the criminal justice system.

It says the system is failing to help indigenous offenders with drug and alcohol problems.

The report found a clear link between drug and alcohol abuse and the over-representation of indigenous people in jail.

The council’s executive director, Gino Vumbaca, says almost a quarter of male prisoners, a third of female prisoners, and half of all juveniles detained are indigenous.

“We also know that some of the figures coming through from the Institute of Criminology are showing us that a fair proportion of indigenous prisoners are actually intoxicated at the time of their offence,” he said.

“And a lot of them actually attribute their offences to their dependence on alcohol and drugs.”

Mr Vumbaca says the report estimates that it costs taxpayers $269 a day to keep a person in jail, whereas residential rehabilitation costs about $98 a day.

“Invest in treatment,” he said.

“Treatment is a far better option and a far more effective option than building prison cells. Build treatment centres, invest in that. Give indigenous people the power and the opportunity to actually deal with their problems in a much more effective way, a much more positive way.”

Associate Professor Ted Wilkes is a member of Western Australia’s Nyungar Institute of Criminology report into indigenous offending shows indigenous people are 15 to 20 times more likely than non-indigenous people to commit violent offences

Indigenous perpetrators of violence: Prevalence and risk factors for offending was funded by the Australian Crime Commission as part of the work of its National Indigenous Violence and Child Abuse Task Force. AIC Director, Dr Adam Tomison, said that where much previous research had focused on the experiences of indigenous victims, this report looked at the perpetrators of violence, aiming to quantify the prevalence and nature of violent behaviour and examine the relationship between violence and its risk factors.

“We know there are many risk factors linked to violent offending by indigenous people, including alcohol misuse, illicit drug use, sex, age, childhood experience of violence, abuse and neglect, exposure to pornography, education, income, employment, housing, physical and mental health, geographic location and access to services,” Dr Tomison said.

“Alcohol, however, based on the existing evidence, stands out as a problem over and above all the structural factors such as socioeconomic disadvantage.”

The report showed that the rate of violent offending by indigenous people is consistently higher than that of non-indigenous people, with indigenous males strongly overrepresented.

Dr Tomison said the report revealed there were large knowledge gaps in our understanding of indigenous violent offending and more research needed to be undertaken to examine what stops and inhibits such behaviour.

“It is not enough for us to continue to document the over-representation of indigenous people in the criminal justice system without understanding the reasons behind it.

“There are many indigenous people who experience a constellation of risk factors who do not offend and this report recommends further research into resilience and protective factors, as part of a developmental prevention approach to the problem,” Dr Tomison added.
Women in prison rise by 5 per cent

Nationally, the number of women held in adult corrective services custody increased by 5 per cent (100 prisoners) over the past year, according to the latest Prisoners in Australia figures from the Australian Bureau of Statistics.

Although men continue to dominate the adult prisoner population in Australia, representing 92 per cent of all prisoners held in corrective services adult custody, female incarceration is increasing at a faster rate than males. At 30 June 2010, there was a total of 2,200 adult women prisoners in Australia, which represents an increase of 60 per cent over the past decade. In contrast, men in incarceration increased by 35 per cent over the same period. The most serious offence with the highest proportion of sentenced women prisoners was illicit drugs (17 per cent).

Other findings at 30 June 2010 were:

- Nationally, a total of 29,700 prisoners were held in corrective services adult custody, representing an imprisonment rate of 170 prisoners per 100,000 adults in Australia. The total number of prisoners increased by 1 per cent (380 prisoners) from 30 June 2009.
- The Australian Capital Territory had the highest proportional increase in prisoner numbers (38 per cent) followed by Western Australia (8 per cent). Tasmania’s prisoners decreased by 9 per cent. The Northern Territory and Western Australia continued to have the highest imprisonment rates (663 and 273 prisoners per 100,000 adults respectively).
- Just under 60 per cent (11,700) of prisoners sentenced in the last twelve months had previously served a sentence in an adult prison prior to their current incarceration.
- Prisoners were sentenced to an average prison term of 4.9 years, with an average expected time to serve (the earliest date of release taking into account the type of sentence, good behaviour, time already served, etc.) of 3.6 years.
- The Aboriginal and Torres Strait Islander imprisonment rate was 14 times higher for indigenous prisoners than non-indigenous prisoners. However, their average sentence length was less than non-indigenous prisoners (3.7 years compared to 5.4 years).
- The most serious offence or charge for nearly 1 in 5 prisoners in custody was acts intending to cause injury (5,800 prisoners).

Further details are available in Prisoners in Australia, 2010 (cat. no. 4517.0).

... mainstream diversion programs to get offenders out of the criminal justice system and into healthcare are often unavailable to indigenous people.

Mr Wilkes says mainstream diversion programs to get offenders out of the criminal justice system and into healthcare are often unavailable to indigenous people.

“If you’ve got a criminal record, you’re out, it’s like the two strikes and you’re out on this one,” he said.

“Things like you have to plead guilty if you’re going to go to these diversion programs. I’m not sure whether throughout the country the [Aboriginal Legal Services] have a policy where most of the clients of Aboriginal Legal Service are encouraged to plead not guilty in the first instance, whether those sort of little things might have an impact.

“We need to find out why our people aren’t accessing the current diversion initiatives. Let’s give our young people a chance to turn into adults in this country, and know what’s good and bad, and know what’s right and wrong, have informed knowledge about what they can do to create good pathways and quality life for themselves.”
At 30 June 2010, the national imprisonment rate was 170 prisoners per 100,000 adult population, down from 175 prisoners per 100,000 adult population in 2009. (Table 2.3)

Sex

Males comprised 92 per cent (27,472) of the total prisoner population at 30 June 2010, while females comprised 8 per cent (2,228). The number of male prisoners increased by 1 per cent (280) and female prisoners increased by 5 per cent (103) from 30 June 2009. (Table 2.2)

The imprisonment rate for males at 30 June 2010 was 319 prisoners per 100,000 adult males, 13 times the rate for females (25 female prisoners per 100,000 adult females). (Table 2.3)

Between 2000 and 2010, the total number of prisoners increased 37 per cent, from 21,714 to 29,700. Over the same period, the number of male prisoners increased 35 per cent (from 20,324 to 27,472) and the number of female prisoners increased by 60 per cent (from 1,390 to 2,228). (Table 2.2)

Age

The median age of male prisoners at 30 June 2010 was 33.4 years, slightly lower than the median age for all prisoners (33.5 years). Females had a median age of 34.6 years. Approximately two thirds (67 per cent) of all prisoners were aged between 20 and 39 years. (Table 2.3)
The Australian imprisonment rate in 2007 was 169.4 per 100,000 but this obscures the significant state and territory differences. The Northern Territory rate was 95.2, more than double that of the next highest state which was Western Australia with 241.9. New South Wales is next with 195.4, followed by Queensland 174, South Australia 143.9, Tasmania, 140.6, Victoria 104.6 and the Australian Capital Territory 90.6.34

Historically the high imprisoning states and territories have been those with high indigenous populations: the NT and WA, followed by QLD, NSW and SA. These figures are clearly not a function of population size for the two territories, which have the smallest populations, the NT and ACT have both the highest and lowest imprisonment rates with the NT over six times that of the ACT.

An interesting contrast is that between NSW and Victoria, two high population eastern seaboard states. Since the 1980s Victoria has managed to maintain an imprisonment rate around half that of NSW. Attempts to explain this disparity have pointed to higher volumes of criminal cases entering NSW courts, higher serious offending rates, more punitive sentencing, the existence of periodic detention and greater use of imprisonment for fine default in NSW, but all these factors are partial explanations only.35 The crime rate in the NT is only 50 per cent higher than Victoria and the same as NSW, which suggests that when comparing crime rates to imprisonment rates, a broader range of factors are relevant.36 In particular, local sentencing preferences and policies may lead to a form of ‘discretionary imprisonment’.37

Explaining the difference in imprisonment rates between NSW and Victoria, requires looking at the effects of a whole range of social, political, legal and cultural factors. Among these are:

➤ What kinds of behaviour the legislature and judiciary define as criminal
➤ The level of police funding and political and media pressure for certain sorts of policing
➤ How the police define their priorities and exercise their considerable discretion
➤ The availability of police diversionary schemes such as warnings, cautions and conferencing
➤ How prosecutors exercise their discretion not to prosecute or to discontinue prosecutions
➤ Whether defendants are represented by lawyers
➤ The range of sentancing alternatives available in particular jurisdictions and the sentencing practices and traditions among magistrates and judges in different jurisdictions
➤ The level of provision of rehabilitative programs, literacy, education, work skills, psychological, psychiatric, drug and alcohol programs in the prison context
➤ The provision of remissions and parole
➤ The level of provision of post-release services such as housing, education, employment and training assistance, drug and alcohol and other programs
➤ The portrayal of crime problems in the media
➤ The degree to which criminal justice issues have

AUSTRALIAN STATES AND TERRITORIES

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CHANGE IN IMPRISONMENT RATES, BETWEEN 30 JUNE 1997 AND 30 JUNE 2007, STATES AND TERRITORIES

(a) Rate per 100,000 adult population
(b) Data for NSW exclude ACT prisoners held in NSW prisons
(c) Data for ACT include prisoners held in NSW prisons

The National Imprisonment Rate per 100,000 Indigenous Adults in 2006-07 was 2,142.2 compared with a rate of 122.4 for non-Indigenous prisoners.

Prisoners/100,000 adults

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<th>Indigenous prisoners</th>
<th>Non-Indigenous prisoners</th>
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<td>Vic</td>
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The national imprisonment rate per 100,000 Indigenous adults in 2006-07 was 2,142.2 compared with a rate of 122.4 for non-Indigenous prisoners. The higher incarceration rates of jurisdictions like the Northern Territory and Western Australia may be due to having more punitive ‘frontier’ cultures in which disputes over colonial dispossession of Indigenous people are both more visible and continuing. Also, high indigenous incarceration rates in the last quarter of the 20th century coincide with the end of predominantly administrative forms of segregation and control through the mission system, the granting of citizenship and entry into the labour market.

The following quote makes a similar point about the climb in indigenous incarceration rates and the issue of deaths in custody:

“By removing the majority of indigenous people from the spheres of everyday life and establishing a separate criminal justice apparatus to regulate their lives in isolation, the reserve system actually postponed the inevitable passage of large numbers of the dispossessed victims of colonisation into the state penal systems … Moreover, the incapacitating effects of the reserve system itself – its destruction of cultural traditions and independence, and the erosion of health and wellbeing – without doubt exacerbated the post protection process of incarceration.”

Child ‘separation’ policies (more commonly known as the ‘Stolen Generation’) as revealed in the Australian Human Rights and Equal Opportunity Commission (HREOC) report, Bringing them home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families (1997) also had clearly criminogenic (crime-producing) effects. Removal from the family and institutionalisation in juvenile homes cut Indigenous children off from the protection and influence of their families and communities and socialised them into the often brutal regimes of institutional life. This process generated institutional careers, juvenile homes proving to be training grounds for prison.

The removals and the attempt to expunge Aboriginality which went with them generated a profound loss of personal identity and security, despair and alienation, manifest in heavy drinking and other damaging (to self and others) behaviours, offending and criminalisation.

become politicised and the subject of law and order ‘auctions’ between political parties, especially in the lead up to elections.

- Public attitudes and sensibilities towards crime, offenders and rehabilitation.

**HIGH INDIGENOUS IMPRISONMENT RATES**

The marked over-representation of Indigenous Australians is one of the distinguishing features of Australian imprisonment. On 30 June 2007 Indigenous prisoners made up 24 per cent or one in four of all Australian prisoners. Nationally, Indigenous persons were 13 times more likely to be in prison than non-Indigenous persons and in WA, 21 times more likely.

The disproportion is also steadily increasing. Indigenous prisoners comprised around 5 per cent of the New South Wales (NSW) prison population in the early 1980s, but four times that proportion (20 per cent) by 2007. Nationally the proportion of Indigenous prisoners increased from 18 per cent in 1996 to 24.4 per cent in 2006. With a national Indigenous imprisonment rate of 2,142.2 per 100,000 Indigenous adults in 2006-07 compared with 122.4 for non-Indigenous prisoners the question arises whether the imprisonment of Indigenous people in Australia has taken on the characteristics of ‘mass imprisonment’ (as discussed in relation to the US on p.16). The ‘normalisation’ of the prison for Indigenous communities can be seen in the fact that 20 per cent of Indigenous children in Australia have a parent or carer in prison, raising the prospect of increasing intergenerational transmission of prison culture and experience.

The higher incarceration rates of jurisdictions like the Northern Territory and Western Australia may be due to having more punitive ‘frontier’ cultures in which disputes over colonial dispossession of Indigenous people are both more visible and continuing. Also, high Indigenous incarceration rates in the last quarter of the 20th century coincide with the end of predominantly administrative forms of segregation and control through the mission system, the granting of citizenship and entry into the labour market.

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The removals and the attempt to expunge Aboriginality which went with them generated a profound loss of personal identity and security, despair and alienation, manifest in heavy drinking and other damaging (to self and others) behaviours, offending and criminalisation.
Recent research has demonstrated the significant association between removal of indigenous children and adverse long-term social and mental health effects.

In a study based on interviews with indigenous prisoners in NSW prisons, prisoners who had been removed from their parents were:

- Twice as likely as indigenous prisoners who were not so removed to have been imprisoned on more than five previous occasions (35.8 per cent compared to 17.1 per cent)
- Nearly three times as likely to have been victims of sexual assault (30.9 per cent compared to 11.5 per cent)
- And nearly twice as likely to have attempted suicide in the past (38.2 per cent compared to 20.8 per cent)\(^45\)
- In short, even among a highly economically, socially and culturally disadvantaged group, significantly higher levels of adverse outcomes had been experienced by indigenous people who had been removed from their parents as children.

INTERNATIONAL IMPRISONMENT RATES

The significant variation in imprisonment rates seen across the Australian states and territories is even greater when we look at the international picture. The following table shows the huge variations across a selected group of countries.\(^46\)

UNITED STATES PRISON POPULATION

The US has an imprisonment rate nearly six times that of Australia and 12 times that of Japan.

As one US journalist put it:

"The US has less than 5 per cent of the world’s population. But it has almost a quarter of the world’s prisoners. Indeed, the United States leads the world in producing prisoners, a reflection of a relatively recent and now entirely distinctive American approach to crime and punishment. Americans are locked up for their crimes – from writing bad cheques to using drugs – that would rarely produce prison sentences in other countries, and in particular they are kept incarcerated far longer than prisoners in other nations.\(^47\)

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<th>IMPRISONMENT RATE (PER 100,000 POPULATION)</th>
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<td>Russia</td>
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Source: Compiled from the larger table provided at the Kings College London, International Centre for Prison Studies, World Prison Brief site, www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php

On 30 June 2007, 2.3 million prisoners were held in US federal or state prisons or in local jails.\(^48\) In 2004, nearly 7 million people were on probation, in jail or prison, or on parole – 3.2 per cent of all US adult residents or 1 in every 31 adults.\(^49\) As with the over-representation of Aborigines in Australia (discussed previously) there is a striking racial imbalance in the US prison population.

... the US has less than 5 per cent of the world’s population. But it has almost a quarter of the world’s prisoners.

Black males are imprisoned at six times and Hispanic males nearly three times the rate of white males. In the 25-29 years age group, 8.4 per cent of black males were in State or federal prison, compared with 2.5 per cent of Hispanic males and 1.2 per cent of white.\(^50\) The Sentencing Project calculated that one in nine African-American males aged 20-29 are in prison at any one point in time and one in three are either in prison or on probation or parole.

MASS IMPRISONMENT?

Such statistics have resulted in leading criminologists analysing the US situation as one of ‘mass imprisonment’, defined as when imprisonment ‘is markedly above the historical and comparative norm for societies of this type’ and “ceases to be the incarceration of individual offenders and becomes the systematic imprisonment of whole groups of the population.”\(^51\)

In this situation imprisonment:

"Becomes part of the socialisation process. Every family, every household, every individual in these neighbourhoods..."
From 1925 to 1975 the US imprisonment rate was around 110 per 100,000 population, increasing suddenly with the ‘war on drugs’, ‘three strikes’ laws and mandatory minimum sentences. Between 1970 and 2009 there was a 628 per cent increase in the US prison population.

SCANDINAVIAN COUNTRIES

The Scandinavian countries of northern Europe: Sweden, Norway, Denmark and Finland are a group of countries which historically have enjoyed low imprisonment rates. According to a study by John Pratt, the origins of low imprisonment rates and exceptional prison conditions can be found in cultures with a history of equality. The welfare state was particularly strong in the Scandinavian countries, institutionalising high levels of trust and solidarity through the provision of state-guaranteed security.

Pratt identifies the following characteristics of low imprisoning countries:

➤ Strong state bureaucracies with significant autonomy and independence from political interference
➤ Mass media largely controlled by public neo-corporate organisations rather than market forces ... providing its already well informed public with objective rather than sensationalised crime knowledge
➤ Traditions of social welfarism which reduced criminogenic tendencies and led to a less severe punishment mentality
➤ High levels of social capital, and
➤ The power and influence of expertise.

Pratt sees these characteristics as coming under threat through welfare restructuring, immigration, declining levels of security and solidarity, and the “growth of intolerance and punitiveness against outsider groups.”

Nevertheless such comparisons “tell us that there are other choices available to us in how to respond to crime and how to manage prisons.”

ENDNOTES

40. As above, at p.43.
46. Go to www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php for the full table including 216 countries ranked from highest (US at 762 per 100,000 population) to lowest (Liechtenstein at 20).
50. J Walker (see Note 37).
54. As above at p.135.
56. As above at p.290.

Extract pp.7-10 from Hot Topics 67, from the series Hot Topics: Legal issues in plain language published by the Legal Information Access Centre (LIAC) © 2008 State Library of New South Wales

Take the revelation that, courtesy of its obsession with jailing people, the Liberal government of Colin Barnett is running its prisons at 120 per cent of capacity. In laypersons language this means chronic overcrowding. This is a dubious honour shared with the Labor government of Paul Henderson in the Northern Territory which reports a similar figure. South Australia, whose Treasurer Kevin Foley proudly boasts about prison overcrowding, did not submit any figures this year. You can guess they’d be up there with WA and the NT though.

It is one of a number of bleak statistics from the PC’s report, in which only one state and one territory, Victoria and the ACT, shine. And surprise, surprise because they have low imprisonment rates, both have very low recidivism rates.

Despite the fact that just about every skerrick of empirical data available ... shows that jailing people is generally inefficient and therefore a waste of taxpayers’ money compared to non-custodial alternatives, our politicians just aren’t taking any notice.

According to a 2007-2009 Productivity Commission review of 2007-2008, almost 40% of Australian prisoners released after serving their sentence return to jail within the next two years

- The Northern Territory, which has a high proportion of indigenous prisoners, had the highest rate of recidivism – 44.8% – in 2007-08
- NSW had the next highest rate with 43%
- South Australia had the lowest rate at 33.2%
- Victoria and Tasmania are the only states to have significantly reduced their recidivism rates since 2003-04
- Victoria’s rate has dropped by about 12% in 5 years to 35.6%
- Tasmania’s rate has dropped to 36% from 39.1%
- The national rate of 38.2% has changed marginally between 2003-04 and 2007-08.

Source: Productivity Commission, 2010
policies of governments which make going to jail mandatory for some offences in WA, NSW and the NT the use of community corrections is in decline.

Because of the law and order policies of governments which make going to jail mandatory for some offences ... community corrections is in decline.

The number of prisoners in education and training programs is less than 40 per cent around Australia, and in NSW and Queensland the figure is under 30 per cent. It’s not simply a case of prisoners not availing themselves of the opportunities.

 Governments are not spending enough on expanding opportunities for prisoners – this is borne out by the fact that the amount of money spent on programs per prisoner has only risen $6 in the past six years. Given CPI increases that means the actual dollars spent have dropped.

 But the most damning aspect of our corrections system is the fact that 25 per cent of the prison population is indigenous. In all the huffing and puffing by the Howard and Rudd governments over the need for federal intervention in indigenous affairs, there has been little said about this appalling incarceration rate. Why?

OBJECTIVES OF CORRECTIVE SERVICES

► Corrective services contribute to the whole-of-government priority, in all jurisdictions, to create safer communities through the administration of correctional sentences and orders

► In summary, the objectives of corrective services are to:
  − provide a safe, secure and humane custodial environment
  − provide an effective community corrections environment
  − provide program interventions to reduce the risk of re-offending.

Extract from Fact sheet – Corrective Services (Chapter 8)
from the Steering Committee for the Review of Government Service Provision, 29 January 2010
© Productivity Commission | www.pc.gov.au

The number of prisoners in education and training programs is less than 40% around Australia. It’s not simply a case of prisoners not availing themselves of the opportunities. Governments are not spending enough on expanding opportunities for prisoners ...

Presumably because that would mean politicians softening the law and order rhetoric and giving courts the message that jailing Indigenous Australians must not only be a last resort, but perhaps not a resort at all. Imagine the tabloid reaction to that.

Greg Barns is a Director of the Australian Lawyers Alliance and involved as a lawyer in cases concerning human rights for prisoners.

First published in Crikey, 29 January 2010
www.crikey.com.au
Imprisonment may deter some people from re-offending, while in others it may foster further criminal behaviour, according to these findings from Australian Social Trends.

Imprisonment aims to prevent crime and enhance community safety by removing offenders from the public arena and acting as a deterrent to potential offenders, as well as meeting society’s need for reparation or retribution for crimes committed. However, while a period of imprisonment may deter some people from re-offending, in others it may foster further criminal behaviour.

Measuring repeat imprisonment is one way of gauging recidivism (repeated or habitual participation in crime). Studying the characteristics of people who have been imprisoned more than once, and understanding trends in criminal career development can provide valuable evidence for designing crime prevention strategies.

At 30 June 2009, there were 29,300 prisoners in Australia. This is equivalent to an imprisonment rate of 175 prisoners per 100,000 adults in Australia. Since 1989, the imprisonment rate has increased by around two-thirds.

How common is reimprisonment?
Over half (56 per cent) of the people in prison in 2009...
had been imprisoned before. However, this does not necessarily indicate the rate of reimprisonment, as it does not account for the people who are released from prison, but not reimprisoned. It is also influenced by the number of first time prisoners entering the system, and the length of sentences.

A more valid measure of reimprisonment can be made by following over time a group of people who have been released from prison, and taking the proportion of that group who re-enter the prison system at a later date. Over the four years from 1994 to 1997, 28,600 prisoners were released from Australian prisons (the 1994-1997 release cohort). The analysis in this article is based on this group of people.

Within 10 years of their release, 2 in 5 people in the 1994-1997 release cohort had been reimprisoned. The rate of reimprisonment increased relatively rapidly in the early years following release, then levelled out over time.

Who gets reimprisoned?

As the characteristics associated with reimprisonment are often aligned with other characteristics, a regression model was used to isolate the most important factors (see the box page 22: Analysis of the repeat imprisonment dataset). Results of the modelling showed that reimprisonment was strongly associated with already being a recidivist prisoner, as opposed to being in prison for the first time. Also strongly associated with reimprisonment were the characteristics of being young, of Aboriginal or Torres Strait Islander descent, or, to a lesser extent, being male.

During the 10 years after being released, men were more likely than women to return to prison. Although this gap was quite small at the beginning it increased with the passage of time. By the tenth year, 40 per cent of released men had been reimprisoned at least once, compared with 31 per cent of released women.

Younger prisoners were more likely than older prisoners...
to be reimprisoned following release. Within 10 years of being released, the reimprisonment rate for the teenager group (those aged 17-19 years when released) was 61 per cent, compared with 23 per cent for those aged 35 years and over.

The reimprisonment rate of Aboriginal and Torres Strait Islander people within 10 years of release was around 1.7 times that of non-indigenous people.

**States and territories**

Within 10 years of their release, 48 per cent of prisoners in the Northern Territory had been reimprisoned, compared with the national average of 39 per cent. However, this high reimprisonment rate reflects the demographic characteristics of its prisoner population (such as indigenous status and age) which are associated with high rates of reimprisonment. After adjusting for these and other factors using logistic regression, Northern Territory prisoners showed an average level of reimprisonment propensity (that is, it was not significantly different from the average across all jurisdictions).

**Criminal career development**

Developing an understanding of the frequency of offending, and the types of crimes committed by chronic offenders, may assist in crime prevention.

In the Prisoner Census, information is collected on only the most serious offence of sentenced prisoners, and the most serious charge for unsentenced prisoners. Analysis of criminal career development is based on the most serious offence/charge, referred to as the ‘offence’.

People in the 1994-1997 release cohort were most likely to have been in prison for assault and acts intended to...
cause injury, and burglary. Illicit drug offences and theft were also common offence types for which prisoners were originally imprisoned.

**How frequently were people reimprisoned?**

Almost one-fifth (19 per cent) of the 1994-1997 release cohort had been reimprisoned only once by June 30, 2007. One in ten were reimprisoned twice, 6 per cent were reimprisoned three times, and a further 6 per cent were reimprisoned four or more times.

**Reimprisonment by offence type**

The following analysis looks at patterns of specialisation in offence types and movements from one type of offence to another using descriptive methods.

The reimprisonment rate varied according to the offence type for which the prisoner was originally imprisoned. Members of the 1994-1997 release cohort who had been in prison for burglary or theft had the highest reimprisonment rates (58 per cent and 53 per cent respectively). At the other end of the spectrum, people whose previous offence was illicit drugs or sexual assault and related offences had the lowest reimprisonment rates (24 per cent and 21 per cent respectively).

### PRISONERS RELEASED IN 1994-1997, DISTRIBUTION OF PREVIOUS OFFENCE TYPE (A)

<table>
<thead>
<tr>
<th>Previous offence (a)</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homicide (b)</td>
<td>3.1%</td>
</tr>
<tr>
<td>Assault (b)</td>
<td>15.9%</td>
</tr>
<tr>
<td>Sexual assault</td>
<td>8.8%</td>
</tr>
<tr>
<td>Robbery</td>
<td>9.3%</td>
</tr>
<tr>
<td>Burglary</td>
<td>14.9%</td>
</tr>
<tr>
<td>Theft</td>
<td>11.1%</td>
</tr>
<tr>
<td>Deception</td>
<td>5.7%</td>
</tr>
<tr>
<td>Illicit drug offences</td>
<td>10.7%</td>
</tr>
<tr>
<td>Weapons offences</td>
<td>0.3%</td>
</tr>
<tr>
<td>Property damage</td>
<td>1.7%</td>
</tr>
<tr>
<td>Public order offences</td>
<td>0.6%</td>
</tr>
<tr>
<td>Road traffic offences</td>
<td>8.6%</td>
</tr>
<tr>
<td>Offences against justice</td>
<td>8.2%</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>1.0%</td>
</tr>
<tr>
<td><strong>Total prisoners</strong></td>
<td><strong>100.0</strong>%</td>
</tr>
</tbody>
</table>

(a) Previous offence refers to the offence related to the episode of imprisonment from which the prisoner was released during 1994-1997.
(b) Includes acts intended to cause injury.

Source: ABS data available on request

**Specialisation**

Offence specialisation was measured by taking the proportion of repeat prisoners whose reimprisonment was for the same offence as that for which they were originally imprisoned. Burglary had the highest rate of specialisation. Just over half (54 per cent) of those previously imprisoned for burglary were reimprisoned for this same offence by June 30, 2007. Other offence types with a high degree of specialisation (around 50 per cent) included acts intended to cause injury, road traffic offences, illicit drugs and sexual assault and related offences.

**Offence type changes by repeat offenders**

The probability of reimprisonment chart shows previous offence types along the vertical axis and subsequent offence types along the horizontal axis. The size of the circles are proportional to the probability that a person previously imprisoned for an offence was, at some later date, reimprisoned for the same or a different type of offence. In other words, the pattern along the diagonal indicates the probability of repeat imprisonment for the same offence, while vertical patterns in the matrix indicate progression into particular offence types.

There was a relatively high probability that people previously imprisoned for acts intended to cause injury, robbery, burglary or theft would later be reimprisoned for those same offences. In addition, these offences
also attracted a high proportion of prisoners who were previously imprisoned for other offences.

Many offenders also tend to be reimprisoned for offences against justice at some stage. This can be reasonably assumed as attributable to breaches of justice orders. For example, prisoners may be paroled, seriously breach the parole conditions, and then are returned to prison.

Unless offenders started their criminal careers with sexual assault and related offences, deception, or illicit drug offences, they did not tend to commit this sort of crime later.

**ENDNOTES**


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The effect of prison on adult re-offending

**Prison does nothing to deter adult offenders convicted of burglary or assault. In fact, it may even increase the risk of re-offending, a new study by the NSW Bureau of Crime Statistics and Research has found**

To conduct the study, the Bureau compared 96 matched pairs of convicted burglars and 406 matched pairs of offenders convicted of non-aggravated assault. One member of each pair received a prison sentence, while the other received some form of non-custodial sanction.

All offenders were exactly matched on offence type, number of concurrent offences, prior prison experience, number of prior appearances in court and bail status at final appearance.

Statistical methods were used to control for age, age of first conviction, gender, race, plea, number of counts of the principal offence, legal representation and prior breach of a court order. In the case of non-aggravated assault an additional control was included: prior conviction for a violent offence.

The study found that offenders who received a prison sentence were slightly more likely to re-offend than those who received a non-custodial penalty. The difference was just significant for non-aggravated assault but not significant for burglary.

Commenting on the findings, the Director of the Bureau, Dr Don Weatherburn, said that they were consistent with a growing body of evidence suggesting that prison either does nothing to deter offenders or increases the risk of re-offending.

“This does not mean that prison should be abandoned and all prisoners set free. Prison can be justified on other grounds, such as punishment and incapacitation.”

The present study simply shows that sending people convicted of assault or burglary to prison is no more effective in changing their behaviour than putting them on some form of community-based order. In fact it might be slightly worse.”

Media release, 21 September 2010. © State of New South Wales through the Department of Justice and Attorney-General and reproduced with the approval of the NSW Bureau of Crime Statistics and Research | www.bocsar.nsw.gov.au

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There are good reasons to take a close and critical look at why imprisonment rates are going through the roof, write Chris Cunneen and Melanie Schwartz from the Australian Prisons Project.
The following information sheet from the Australian Human Rights Commission talks about some of the human rights issues faced by prisoners in Australia. It also highlights how a federal Human Rights Act could help deal with these issues.

**Which human rights are we talking about?**

Human rights are about everyone, including people who are in prison. Some of the human rights and freedoms particularly relevant to prisoners include the right:

- To be treated with humanity and respect for their dignity
- Not to be subjected to torture, or cruel, inhuman or degrading treatment or punishment
- Not to be subjected to arbitrary arrest or detention
- For accused persons to be separated from convicted persons
- Freedom of association
- To the enjoyment of culture
- To the highest attainable standard of physical and mental health
- To education
- To vote
- To be free from discrimination.

Prisoners should be able to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

Juvenile prisoners are entitled to special protection. For example:

- Arrest, detention and imprisonment of children should only be used as a last resort and for the shortest appropriate length of time
- Juvenile prisoners should be treated in a manner that takes into account their age
- Juvenile prisoners should be separated from adults unless it is in the best interests of the child not to do so
- Juvenile prisoners have the right to maintain contact with their family through correspondence and visits.

Former prisoners who have served their sentence and are released into the community have the right not to be discriminated against in employment on the basis of their criminal record.

Indigenous prisoners are entitled to be treated in a manner that respects and promotes their cultural identity.

**What are some of the human rights problems faced by prisoners in Australia?**

Because prisoners have been deprived of their liberty, they are particularly vulnerable to human rights violations.

The conditions within prisons in Australia have at times raised significant human rights concerns. For example:

- Overcrowded and inhuman conditions in some prisons. In 2006, the United Nations Human Rights Committee found that the treatment of an Aboriginal juvenile in a NSW prison amounted to inhuman treatment. The juvenile, Mr Brough, was placed in isolation in an adult prison, exposed to artificial light for long periods and had his blanket and some of his clothes removed.
- Inadequate physical and mental health services. Solitary confinement has exacerbated the symptoms of some prisoners with mental illness.
- In some cases prisoners have been placed in cells with people they do not feel safe with.
- Inadequate access to drug and alcohol rehabilitation and harm minimisation programs, leading to a high rate of blood-borne virus transmission.
- Lack of access to educational and rehabilitative services.
- Women in prison face considerable human rights problems. Strip searches can be degrading, humiliating and traumatic, especially for women who have suffered from sexual abuse. Mothers that are prisoners experience difficulties in maintaining their relationship with their children and suffer disruptions to family life, which can lead to their children suffering from emotional and behavioural problems. Indigenous women prisoners, in particular, can suffer from disruptions to their cultural responsibilities and dislocation from their communities.
- Indigenous people continue to be overrepresented in the prisoner population. Although Indigenous Australians make up approximately 3 per cent of
the entire Australian population, as at June 2006, indigenous prisoners represented 24 per cent of the total prisoner population. Indigenous people represented 40 per cent of those aged 10-17 years under juvenile justice supervision. A disproportionate number of indigenous prisoners have died in custody

Indigenous prisoners can face difficulties in accessing prison rules when these rules are not printed in their languages.

Further human rights problems faced by prisoners include:

- Under Australian law, persons serving sentences of imprisonment of three years or more are not eligible to vote in federal elections. This restriction on the right to vote may have a disproportionate impact on groups who are overrepresented in the prison population, such as indigenous peoples, people with a mental illness and people with an intellectual disability
- Difficulties in maintaining contact with their families and communities, including through visits and correspondence
- Disproportionate limitations on the right to privacy, including the interception and censorship of correspondence sent to prisoners
- Restrictions on the freedom of expression, such as the banning of prisoner publications.

Former prisoners who have served their sentence and are released into the community have the right not to be discriminated against in employment on the basis of their criminal record.

Prisoners serving sentences of three years or more disqualified from voting

In 2006, the Howard Government changed the law so that anybody serving a custodial sentence of any length was prevented from voting in federal elections if they were in custody during the election. The law had previously been that only inmates serving a sentence of three years or more were disqualified from voting for the time they were in prison.

In 2004, a prisoner serving a six-year custodial sentence challenged the law.

The Court found that the 2006 amendments, disqualifying all prisoners, regardless of the length of their sentence, were invalid. It was held that a substantial reason is required to disqualify an otherwise eligible person from voting. Any restriction on a person’s right to vote must be proportionate and not arbitrary. The law previously in force, only disqualifying those prisoners serving custodial sentences of three years or more, was upheld.

Prisoner magazine banned

The NSW Corrective Services Commissioner banned the prisoners’ magazine *Framed* from distribution in NSW prisons.

Justice Action made a complaint to the Australian Human Rights Commission on behalf of federal prisoners in NSW correctional centres. Justice Action stated that the magazine was ‘the only independent publication distributed in prisons’ which dealt with ‘political and legal information from the point of view of prisoners’.

The Commission found that the ban breached the right to freedom of expression of federal prisoners, and that this restriction was not necessary to protect public order or the rights or reputations of others. The Commission made recommendations in a report to federal Parliament, but these recommendations were not enforceable. The NSW Department of Corrective Services stated that it had no intention of taking any action to effect the recommendations.

HREOC Report No. 32, “Report of an inquiry into a complaint made on behalf of federal prisoners detained in New South Wales correctional centres that their human rights have been breached by the decision to ban distribution of the magazine, ‘Framed’.” (2006)

Discrimination on the ground of criminal record

Ms Christensen applied for a job as a bartender in the Adelaide Casino. She declared her prior conviction for stealing two bottles of alcohol when she was 15 years old. She was refused employment on the basis that the inherent requirements of the job required her to be trustworthy and of good character. She made a complaint to the Australian Human Rights Commission.

While the Commission agreed that these were inherent requirements of the job, it disagreed that there was a sufficiently close connection between Ms Christensen’s conviction and the inherent requirements of the position. The Commission found that Ms Christensen had been discriminated against on the basis of her criminal record. The Commission made recommendations for remedies, including an apology from the Adelaide Casino, but these recommendations were not enforceable.

HREOC, Ms Renai Christensen v Adelaide Casino Pty Ltd, Report No. 20 (2002)

What are the limitations of existing human rights protections for prisoners?

There are limited human rights protections for prisoners and former prisoners at the moment.

While there are some prison monitoring systems in states and territories, there are currently no national standards for monitoring conditions in prisons and juvenile detention centres. The Australian government has announced its intention to ratify the Optional Protocol to
the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment (OPCAT). By ratifying OPCAT, Australia would commit itself to establishing a National Preventative Mechanism (a national system to monitor conditions in all places of detention in Australia) to prevent torture or other cruel, inhuman or degrading treatment in all places of detention.

If you are a prisoner, you have some options if you think your human rights have been breached. For example, you could:

➤ Complain about discrimination to state and territory anti-discrimination bodies
➤ Complain about inhuman treatment to state and territory ombudsmen
➤ If you are federal prisoner, complain to the Australian Human Rights Commission about human rights breaches.

However, if the Commission finds that a federal prisoner has suffered a human rights violation – for example, cruel, inhuman or degrading treatment or punishment – the Commission’s recommendations are not enforceable.

For former prisoners, there is only limited protection against discrimination in employment on the basis of criminal record. In the Northern Territory and Tasmania, discrimination on the basis of irrelevant criminal record is unlawful, but not in other states or territories. If you feel like you have been discriminated against in employment because of your criminal record, you can make a complaint to the Australian Human Rights Commission. Even if the Commission finds that you have been discriminated against on the basis of criminal record, there are limited options to resolve the situation. The Commission can only recommend a remedy. These recommendations are not enforceable, and you cannot apply to have your complaint heard in court.

How could we improve human rights protections for prisoners?
The Australian Human Rights Commission supports a Human Rights Act for Australia. A Human Rights Act could make a difference in protecting and promoting the rights of prisoners. However, it is important to recognise that most prisons are state or territory responsibilities. Depending on the final model adopted by the Australian Government, a federal Human Rights Act may have limited impact upon the states. To make a difference to human rights protection for all prisoners, Australia will need complementary state and territory human rights legislation.

If Australia had a Human Rights Act, it could:

➤ Make the federal Parliament consider how laws impact on human rights – for example, Parliament would have to publicly justify any further restrictions on the rights of prisoners to vote in federal elections when it proposes new laws
➤ Make the federal government respect human rights when developing policy – for example, the federal government would have to respect the human rights of indigenous women exiting prison when developing housing policy
➤ Provide enforceable remedies for persons discriminated against by a public authority on the basis of criminal record.

Over the longer term, a Human Rights Act would also be a powerful tool for fostering a stronger human rights culture in Australia by promoting greater understanding and respect among all people in Australia.

There is a range of other ways in which the human rights of prisoners could be better promoted and protected in Australia. For example:

➤ Enhanced protection of human rights in the Australian Constitution
➤ Establishing a comprehensive, national monitoring mechanism for conditions in prisons
➤ Increased availability of post-release programs for former prisoners
➤ Only suspending the right to vote for prisoners con-victed of the most serious crimes or convicted of crimes which are inherently connected with participation in our democracy, for example, treason.

These and other measures could make a positive difference to human rights protection.

Where can I find more information about the human rights of prisoners?

➤ Australian Human Rights Commission
www.humanrights.gov.au
➤ Justice Action www.justiceaction.org.au
➤ Sisters Inside www.sistersinside.com.au
➤ Human Rights Law Resource Centre www.hrlrc.org.au

Information sheet, Human rights and prisoners
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Chapter 2

Crime and punishment debate

CRIMINAL JUSTICE AND PUNISHMENT

Should Australia’s criminal justice system favour retribution or rehabilitation? Justin Healey investigates

There are a number of strategies that are utilised by the Australian criminal justice system for preventing offenders from committing crimes in the community. Criminal justice conventionally operates directly through deterrence (e.g. the criminal law code, and policing), incapacitation, and rehabilitation (through courts and prisons, including probation and parole services); and indirectly through socialisation (e.g. promoting social norms and law-abiding behaviour).

Of the various stages in the criminal justice process, including arrest, prosecution, trial, sentencing, and punishment (often imprisonment), it is in the last two of these stages that the debate over rehabilitation and retribution is of special significance.

The debate between ‘rehabilitation’ and ‘retribution’ involves two broad questions: in principle, which is the more satisfactory justification for punishment; and in practice, which can serve as a more useful guide for the judiciary and other officials who enforce the criminal justice system?

Rehabilitation seeks to prevent a person from re-offending by taking away the desire to offend. The retributive approach asserts that punishment should be in proportion to the seriousness of the crime itself.

Getting the mix right in terms of a balance between retribution and rehabilitation is a complex challenge for the criminal justice system, especially when these principles interact with a number of non-legal factors – community perceptions of safety and justice, politicians’ electoral agendas, the rights of victims, and frequently exaggerated or inaccurate media reporting on particular criminal cases.

Supporters of rehabilitation tend to focus on notions that punishment in prison does not deter crime, but instead encourages criminal association and re-offending; imprisonment places a huge financial burden on governments and society; alternatives to custody are much more successful than prison at enabling people to address their offending behaviour; and that rehabilitation aims to help offenders to change and avoid re-offending by providing meaningful skills training, behavioural treatment programmes and counselling.

Supporters of a more punitive approach towards offenders argue that whether by taking offenders out of circulation, or by deterring people from committing crimes in the first place, the evidence supports the view that prison works. Retributive punishment also fosters personal accountability, and maintains that proportionality is the only consistent and fair approach – it is not a matter of simple ‘revenge’ or payback. Retributionists argue that while some rehabilitation programmes work with some offenders, most however do not. The principle of retribution also acknowledges to victims and their families that they have been wronged.

Should the punishment fit the crime, or the rehabilitation fit the offender? And does being tough on crime pay?

Extract from Issues and Opinions Volume 1
Published by The Spinney Press, 2010
ISBN 9781921507182 © Justin Healey
The comments were made by the Chief Judge of the District Court, Justice Reg Blanch, in a speech to legal aid lawyers published this morning by Fairfax newspapers.

In the speech Justice Blanch says he does not believe spending $1 billion per year packing people into jails has led to increased levels of safety.

He also called for a review of laws that have led to greater imprisonment rates – including statutory non-parole periods, bail laws and mandatory disqualification for some driving offences.

“Prison does prevent some crime, no question about it. But it’s not a very powerful crime control tool and it is, on the other hand, a very expensive one ...”

The Director of the Bureau of Crime Statistics in New South Wales, Dr Don Weatherburn agrees prison is not the most cost-effective method of crime prevention.

But he says it can be a deterrent.

“Prison does prevent some crime, no question about it. But it’s not a very powerful crime control tool and it is, on the other hand, a very expensive one,” he said.

“So really from an economist’s perspective, the question is can we get a better result by paying less? The answer is yes, if you invest a good deal more in rehabilitation.

“You can probably get the exact same result and have a lot less money left over for schools, hospitals and roads.”

New South Wales Shadow Attorney-General Greg Smith says money has been wasted on current law and order policy. He says jails are too full and building more jails does not prevent re-offending.

“This government has not cared,” he said.

“Or if they have cared they’ve been careless in the way they’ve run it just by throwing people into prison.

“They could be using probation and parole officers and other rehabilitation programs, outside the prison system, far more effectively than they’ve tried to.”

However the New South Wales Attorney-General John Hatzistergos says that, while there is a review of the bail laws underway, the results of government policy speak for themselves.

“We don’t make any apology for our tough approach in relation to sentencing and we recognise the fact that that has assisted in reducing the incidences of crime by deterring people and incapacitating people from committing offences,” he said.

“We also recognise these laws need to be kept under constant review and scrutiny.”

Last week new crime statistics showed that the rates of crime for all but one of the 17 major categories were either falling or remained stable in the past two years.
ABSTRACT

Public concern about crime victimisation is one of a range of factors that policymakers take into account when creating new criminal offences, setting penalties and allocating resources for policing and prosecution. The level of public concern about rising crime can also determine the extent to which people engage in certain daily activities, sometimes restricting behaviour unnecessarily.

However, there can be a disjunction between how people perceive the risk of crime victimisation and the actual level of victimisation that occurs in the community. Recently, for example, concern with some crime types has increased, despite an actual decline in crime rates for the offences in question. This study reinforces earlier research into perceptions of crime; that there are substantial misperceptions of crime among the general public, both in terms of the number of incidents and in perceptions of trends in crime. This paper uses statistical modelling based on data taken from the ‘2007 Australian Survey of Social Attitudes’ to examine the relationship between gender, age, education and sources of information on crime in the Australian context.

Adam Tomison, Director

The public’s perceptions of crime and of criminal justice can have an important influence on policy decisions relating to operational activity in front line law enforcement and in judicial sentencing. However, there can be and indeed often is, a discrepancy between the public’s perception of the likelihood of crime victimisation and the actual risk of victimisation. This discrepancy is apparent in the public’s concern regarding a perceived increase in crime amidst declining crime rates (Cohen 2000).

According to the Australian Bureau of Statistics (2008), the number of crimes reported to police was lower in 2007 than in 1998 in the categories of homicide and related offences, robbery, unlawful entry with intent, motor vehicle theft and other theft. The rate of crime reported to police for kidnapping/abduction and blackmail/extortion increased marginally between 1998 and 2007. However, the aggregate crime trend shows a decline.

... it is clear that public perceptions of crime rates and crime trends often do not match with police statistics of recorded crime or surveys on victimisation rates.

However, despite this decline, it is clear that public perceptions of crime rates and crime trends often do not match with police statistics of recorded crime or surveys on victimisation rates.

The experience/instrumental theory suggests perceptions and fear of crime are the result of personal experiences of crime and victimisation. Expressive theories of crime explain broader social concerns ‘regarding the cultural meaning of crime, social
change and relations, and conditions conducive to crime’ (Jackson 2004: 946) and are relatively independent of actual threat.

Expressive variables may contribute more to perceptions of crime than actual victimisation or perceived likelihood of victimisation. Such variables include feelings about the state of the national economy, the level of trust in fellow community members and concerns/anxiety about children (King & Maruna 2009).

It has also been suggested that individuals may be better at estimating the degree and direction of crime rates, depending on the locality of the crime and its relevance to them (Brantingham & Butcher 1986).

People may believe crime rates are increasing very quickly for the nation as a whole, but less dramatically for their city/town and only slightly, if at all, for their residential neighbourhood (Brantingham & Butcher 1986). They may also be much less likely to perceive that there is crime in their own neighbourhood, allocating it to other, less familiar locations (Warr 1995). This has been reflected in the National Survey of Community Satisfaction with Policing (NSCSP) results which are reported by the Productivity Commission in the annual review of government services (SCRGSP 2009).

This nationwide survey examines perceptions of policing-related issues among the Australian community. In 2007-08, 36,489 people participated in the NSCSP survey. Results suggest perceptions of the levels of crime decline substantially as survey participants focus on their neighbourhood rather than the state or territory in which they are living (SCRGSP 2009).

Survey respondents consistently perceived the state-level incidences of illicit drugs, property crimes and violent crimes over the past 5 years as a greater problem than the incidence at a neighbourhood level (AIC 2007). The public perceived these three crime categories as having decreased at a local level since 2005. This is in line with declines noted in both crime victimisation surveys and in crimes reported to police (AIC 2007).

... 75 per cent perceived the number of young offenders to be increasing when, in fact, police records indicated a decrease.

Hough and Roberts (2004) found a similar misperception of the levels of crime in Britain, specifically in relation to juveniles. Of those surveyed, 75 per cent perceived the number of young offenders to be increasing when, in fact, police records indicated a decrease. Respondents also overestimated the proportion of crime for which juvenile offenders were responsible and the proportion of juvenile crimes that were violent. Additionally, the general public has commonly been found to underestimate the length and severity of criminal sentences and overrate the percentage of crime that is violent crime (Roberts & Indermaur 2009; Weatherburn & Indermaur 2004).

AuSSA

The Australian Survey of Social Attitudes (AuSSA) is a cross-sectional mail out survey administered by the Centre for Social Research at the Australian National University. The AuSSA survey has been conducted in 2003, 2005 and 2007 with replication of some questions in the three surveys. The survey was posted to 20,000 randomly selected individuals drawn from the Australian electoral roll. Of these, 8,133 respondents completed the survey sufficiently enough to enable analysis (an effective response rate of almost 41%).

The AuSSA 2007 survey put forward five questions relating to perceptions of crime.

These five questions were respondent’s perceptions of:

➤ Changes in the level of crime over the previous two years
➤ Recorded crimes which involve violence, either actual or threatened
➤ The proportion of those charged and brought to court for a crime who were eventually convicted
➤ The proportion of males convicted of assault who were sent to prison, and
➤ The proportion of males convicted for home burglary who were sent to prison.

Looking first at respondents’ perceptions of changes in the level of crime over the previous two years, AuSSA 2007 reported that 39.8 per cent of those polled believed crime had increased a lot more during the previous two years. Another 23.8 per cent thought it had increased a little more over the same period and 25.7 per cent said it had remained about the same. Only 3.1 per cent of respondents believed it had either fallen a little or a lot (the remaining 7.6% said they did not know; see Figure 1).

In contrast to the opinion of the majority of respondents, the level of

![FIGURE 1 PERCEPTIONS OF CRIME TRENDS OVER THE PAST TWO YEARS (%)](This e-book is subject to the terms and conditions of a non-exclusive and non-transferable SITE LICENCE AGREEMENT between THE SPINNEY PRESS and: Trinity College, East Perth, allan.harris@trinity.wa.edu.au)
crime actually fell during the two years, indicating the majority of respondents (89.3%) held incorrect perceptions, with almost 4 in 10 making an error of assessment (Roberts & Indermaur 2009).

During the same time period, respondents’ perceptions of the proportion of crimes involving violence (actual or threatened violence) also proved to be quite inaccurate. The largest group of respondents (23.6%) thought that 71 to 80 per cent of crimes involved violence; followed by those (16.9%) who believed violence was involved in 41 to 50 per cent of offences. Another 11.9 per cent perceived violence to be present in 81 to 90 per cent of crimes. However, violent crimes (actual or threatened), accounted for fewer than 10 per cent of all crimes (Roberts & Indermaur 2009).

Only 3.7 per cent of those surveyed accurately assessed the level of violent crime. Therefore, an overwhelming majority (96.3%) of respondents misperceived the prevalence of violence, most of them by a substantial margin. Respondents were also asked for their perceptions of the proportion of persons found guilty who had been charged and brought to court for violent offences. The largest group of respondents (24.9%) put the figure at between 41 and 50 per cent, followed by between 71 and 80 per cent (11.5% of respondents).

The actual proportion of those charged and brought to court for a violent offence and subsequently convicted, was between 91 and 100 per cent – a response given by only 1.8 per cent of those polled (Roberts & Indermaur 2009).

Survey respondents were only slightly more accurate – but still with a large proportion in error – in their perceptions of the proportion of males convicted of assault or of home burglary who were subsequently sent to prison.

Most respondents perceived that only a small proportion of males convicted of assault were sent to prison. Of those surveyed, 24.1 per cent placed the imprisonment rate at between zero and 10 per cent; 18.8 per cent estimated an imprisonment rate for males convicted of assault at between 11 and 20 per cent and 16.7 per cent of people believed the incarceration rate to be between 41 to 50 per cent.

In reality, 21 to 30 per cent of males convicted of assault were imprisoned; a range identified by just 15.1 per cent of survey participants (Roberts & Indermaur 2009).

Practical significance measures the strength and the direction of the relationship between the variables of interest, while statistical significance speaks to whether the results are due to chance alone.

The actual proportion of those charged and brought to court for a violent offence and subsequently convicted, was between 91 and 100 per cent ...

The incidence of misperception was slightly higher for the imprisonment rate for males convicted of home burglary, with more than two-thirds of respondents underestimating rates in the first three deciles (0-10%, 11-20% and 21-30%, respectively). This was followed by 11.7 per cent of respondents who placed the figure between 41 and 50 per cent.

The correct answer (Roberts & Indermaur 2009) was an imprisonment rate of between 31 and 40 per cent; a figure perceived by just 8.1 per cent of respondents.

Taken together, these results suggest a relatively high incidence of misperceiving crime, with a substantial proportion of the AuSSA 2007 survey participants overestimating the crime rate and incorrectly perceiving an upward crime trend from 2005 to 2007.

Modelling

A key purpose for this study, beyond describing the patterns of the perceptions and the misperceptions of the incidence of crime and criminal punishment, is to model some socio-demographic drivers of these views. In this regard, a modelling framework, based on multinominal, multiple-variable logistic modelling, was used to estimate the practical and the statistical significance of a range of potential drivers of those perceptions, correct or otherwise. Practical significance measures the strength and the direction of the relationship between the variables of interest, while statistical significance speaks to whether the results are due to chance alone.
The modelling concentrated on three potential explanatory variables for (mis)perceptions of crime, namely gender, age and education, as well as indicators of how respondents obtained their information about crime trends and the criminal justice system. In each of the modelling exercises, the dependent variable was perceived changes in crime levels over the past two years, with six possible responses: a lot more, a little more, about the same, a little less, a lot less and don’t know.

Gender

Looking first at perceptions of crime by gender (where females are coded in AuSVA 2007 as =1 and males are coded as =2), there appears to be a statistically significant difference in perceptions of crime by gender.

Using females’ perceptions of the change in crime levels as the base outcome for modelling purposes, males are practically and statistically significantly less likely than females to perceive crime has increased a lot more (b=-1.04, p=0.00). By comparison, there was no statistically significant difference between genders (p=0.83) in their perceptions of there being a lot less crime in 2007 compared with two years earlier (see Table 1).

The model suggests the probability of a female responding she thought the level of crime had increased a lot more over the past two years was 39.6 per cent; a practical and statistically different rate than for males at 28.4 per cent (z=-8.15; p=0.00). By contrast, the model indicates the likelihood of a female respondent seeing crime levels as having increased a little more over the past two years was 24 per cent (compared to 27.8% for males), constituting a statistically significant difference (z=3.19; p=0.01).

This gender difference may reflect differences between males and females in their respective fears of becoming victims of different types of crime.

...younger respondents had slightly more accurate assessments than their older counterparts.

Age

Regarding age as a driver of perceptions of crime, the modelling framework grouped the ages of respondents into seven categories – up to age 20 years and then in six decile ranges up to and including the age of 80 years (i.e. 21 to 30, 31 to 40 and so on until 71 to 80 years of age). Again, using respondents who thought crime had fallen slightly over the past two years as the baseline group for the modelling, the results indicate negligible practical, and no statistical, significance between the seven age groups in their perceptions of crime, except for those who believed crime had increased a lot over the preceding two years, where the likelihood of holding this view increased with respondent’s age (b=0.02, z=3.72, p=0.00). Interestingly, perceptions that crime had increased a lot during the previous two years was the only response to rise with the age of respondent (b=0.005, z=11.51, p=0.00). For all of the other crimes, perception responses (a little more, about the same etc) declined with increasing age.

Taken as a whole, although all of the age groups demonstrated sizeable margins of error in their perceptions of crime, it would appear younger respondents (most notably those in the under 20 years and the 21 to 30 years of age groups) had slightly more accurate assessments than their older counterparts.

Education

The AuSVA 2007 survey recorded respondents’ highest level of education completed since leaving school, grouping them into five categories: none (32.2%), trade qualification (15.2%), TAFE or business certificate or diploma (27.4%), undergraduate degree (15.1%) and post-graduate degree or diploma (10%).

Again using the a little less crime category as the baseline for modelling, the results indicated that perceptions of crime tend to become more accurate as the post-secondary education of the respondents increased, although not uniformly for each of the crime perceptions categories.

The education effect appeared strongest for those respondents who perceived crime had increased a lot more over the previous two years, with noticeable practical, as well as

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<th>TABLE 1 RESULTS BY GENDER</th>
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Note: a little less crime is the base outcome

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<th>TABLE 2 RESULTS BY EDUCATION</th>
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<td>Perceptions of crime</td>
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Note: a little less crime is the base outcome
Based on results from the AuSSA 2005 survey, individuals who depended on information gathered via talkback radio, family and friends, and commercial television were likely to have less accurate perceptions of crime than those who relied on other sources of crime information (Roberts & Indermaur 2009). The AuSSA 2007 survey asked respondents how important a number of different sources of information were in informing their views of crime trends and of the criminal justice system. The sources of information were television, radio, newspapers, the internet, work colleagues, friends and family. The mean ranked scores (where lowest indicates greatest importance as a source of information on crime issues) placed television and newspapers about equal (both with mean ranked scores of 1.81), followed by radio (score=1.96).

The discrepancy between the crime rate and the public's perceived crime rate has been commonly attributed to the expansive media coverage of crime, especially violent and more sensationalised crime (Duffy et al. 2008).

Duffy et al. (2008) examined the relationship between stories on specific crime-related occurrences and perceptions of safety among London residents. They found that media stories focusing on reductions in crime preceded increased feelings of safety, while stories reporting violent crime preceded reductions in feelings of individual safety.

In 2000, a news poll by the ABC news network in the United States found that, of the 80 per cent of respondents who regarded the crime problem in the United States as ‘bad’ or ‘very bad’, 82 per cent stated that their belief was based on the news media, with the remaining 17 per cent basing their opinion on personal experience (Garvey 2003). Individuals’ trust and reliance on media as a source of information on crime varies by the source. Television news and documentaries are highly received and trusted, followed closely by local and broadsheet newspapers (Duffy et al. 2008).

By comparison, the other nominated sources of information about crime and criminal justice issues had mean rank scores greater than two, suggesting they were, to varying degrees, regarded as being of lesser importance (family=2.45, friends=2.41, the internet=2.80 and work colleagues=2.83). Again using the a little less crime response group as the baseline for modelling, the results point to important roles for the media (both television and radio in particular) in forming perceptions about crime trends in Australia.

Focusing on respondents who perceived there to be a lot more crime in 2007 than two years earlier (essentially, those with the greatest misperceptions), it would appear that television and family play the most powerful (and the only statistically significant) roles in driving perceptions of crime. In the case of television, as the importance attached to television as a source of information declines, so does the likelihood of overestimating the level of crime (ie making a misperception b=-0.747; z=-5.58, p=0.00). A similar general profile can be found for reliance on family as a source of information on crime; as family as a source of information declines in importance, so does the likelihood of overestimating the level of crime (b=-0.544, z=-3.21, p=0.00). The other sources of information on crime that were modelled had no statistically significant effect on informing people’s perceptions of crime and criminal justice issues.

The influence of television as a source of information (and by implication on the formation of opinions and perceptions) leads to the supplementary question of ‘what type of television?’ That is, do different types of television programs have different practical and statistically significant effects on our perceptions of crime and the criminal justice system?

The AuSSA 2007 survey provides partial insight through a question which asked respondents which type of television/radio program would they prefer to watch/listen to if they were all on at the same time? Seven options (along with don’t know) were offered: comedy show, news and current affairs, talkback, crime drama, reality television, music or none.

Those who perceived there to have
been a little less crime in the two years to 2007 were used as a baseline. In broad terms, the modelling results suggest sizeable practical effects between the range of viewing/listening options – all of which were statistically significant. However, because of the unstructured nature of the options it is not appropriate to draw generalised inferences.

Conclusion

The main findings of this study appear to reinforce those of other Australian and foreign studies.

Older survey participants are more likely to hold the inaccurate view that the crime rate is increasing (when there has actually been an overall decline), while males are more likely than females to accurately perceive an increase in the crime rate. The causal drivers of these gender differences are important questions for further research.

Post-secondary education also affected the degree to which individuals regarded the crime rate to have increased over the past two years, with those having higher education tending to more accurately perceive crime levels than their less-educated counterparts.

Entertainment preferences can also play a role in individuals’ misperceptions of crime, with increased reliance on family and television as sources of information being associated with a greater misperception of the crime rate.

Taken as a whole, this study essentially reinforces the main findings of most previous studies on perceptions of crime – that there are substantial misperceptions of crime, both of the number of incidences and trends in crime, among the general population. As a consequence, public policymakers should exercise additional care when framing important law enforcement decisions taken against the background of the public’s potential misperceptions of crime.

REFERENCES

All URLs correct at 28 April 2010


(Mis)perceptions of Crime in Australia

Trends and issues in crime and criminal justice no.396, 7 July 2010 © Australian Institute of Criminology www.aic.gov.au
What Australians think about crime and justice

The executive summary from an Australian Institute of Criminology report featuring survey results on public perceptions of crime

This report provides an analysis of the responses in the 2007 Australian Survey of Social Attitudes (AuSSA) on crime and justice. The AuSSA is a biennial mail-out survey that provides data on key questions relating to Australians’ social attitudes and behaviours over time (Gibson et al. 2005).

AuSSA 2007 consisted of a cross-sectional mail-out survey completed by 8,133 adults from all Australian states and territories. Three versions of the survey were fielded with final response rates ranging from 39 to 42 per cent. To produce Australian estimates the data have been weighted by education level to correct for differences in education level between survey respondents and the general population.

PERCEPTIONS OF CRIME
Key findings from the survey on perceptions of crime were:

➤ Approximately 1 in 8 adult Australians (12.9 per cent) views crime, drugs or terrorism as the most important issue facing Australia today
➤ Broadcast and tabloid media provide the major source of information for most members of the public about crime and justice. Almost 80 per cent of respondents rate TV, radio and newspapers as fairly or very important sources of information
➤ A large majority of the public have inaccurate views about the occurrence of crime and the severity of sentencing. Consistent with previous Australian and international research, the Australian public perceives crime to be increasing when it isn’t, overestimates the proportion of crime that involves violence and underestimates the proportion of charged persons who go on to be convicted and imprisoned
➤ Approximately three-quarters of Australians thought a terrorist attack in South-East Asia in the 12 post-survey months was likely, with one-third thinking a terrorist attack likely in Australia
➤ The majority of survey respondents support the government having the right to tap telephone conversations (76.7 per cent), stop and search people in the street at random (54.2 per cent) and to detain indefinitely without trial (56.1 per cent) where terrorism is suspected, but do not support the torture of prisoners (59.6 per cent).

FEAR OF CRIME
Key findings from the survey on fear of crime were:

➤ The majority of Australians rate incivilities as ‘not a very big problem’, or ‘not a problem at all’ in their local area
➤ The majority of Australians are not very worried about being a victim of a range of crimes. However, this still leaves a large minority who are ‘fairly’ or ‘very’ worried
➤ On average, females reported higher rates of fear than males, with fear increasing as perceptions of incivilities increased
➤ A major new fear is worry about identity theft and credit card fraud
➤ Fear of crime is associated with decreased confidence in the criminal justice system and more punitive attitudes.

ADMINISTRATION OF CRIMINAL JUSTICE
Key findings from the survey on the administration of criminal justice were:

➤ There is wide variation in views as to the efficacy of the government in controlling crime in Australia. Approximately one-third each of Australians report that the government is successful, unsuccessful and neither successful nor unsuccessful in controlling crime
➤ Approximately two-thirds of Australians (67.6 per cent) support increased government expenditure on police and law enforcement
➤ The majority of Australians express quite a lot of confidence in the police to solve crime (74 per cent), to respond quickly to crime (54.3 per cent) and to act fairly (75.7 per cent), despite one-quarter of the population believing there was a lot of police corruption in their state or territory
➤ Australians have more confidence in the criminal courts to have regard for defendants’ rights (66.9 per cent) than victims’ rights (46.6 per cent) or to deal with matters fairly (51.5 per cent)
➤ The majority of Australians have little or no confidence in the prison system to rehabilitate prisoners (87.7 per cent), as a form of punishment (59.2 per cent), in deterring future offending (84.7 per cent) or in teaching prisoners skills (63.8 per cent).

CHANGES IN ATTITUDES OVER TIME
Key findings from the survey on changing attitudes over time were:

➤ Public support or approval of the death penalty has consistently declined since 1996 and is now well below the 50 per cent mark (43.5 per cent) for the third measurement in a row, the first being in 2002
➤ The proportion of Australians who agree that stiffer sentences are needed has gradually declined from a peak of 84.8 per cent in 1987 to 71.7 per cent in 2007.
Prisons are meant to protect the community and rehabilitate offenders. Yet, evidence shows that prison often fails to rehabilitate people and may increase the risk of re-offending. A fact sheet from the Smart Justice Project

Despite this, we continue to lock up more and more people, most of whom are from disadvantaged backgrounds, at huge social and financial cost to the community. Putting more people in prison diverts resources from vital social infrastructure and cost-effective initiatives which have been shown to successfully address the underlying causes of crime.

Our prison population is rapidly increasing

Over the past decade, Victoria’s prison population has increased dramatically, rising close to 50 per cent. On 30 June 2009, there were 4,350 prisoners in Victoria. While the large majority of prisoners are men, the rate of increase for women prisoners has been higher than the rate for male prisoners.¹

Harsher sentencing is driving rises in our prison population

The Victorian Ombudsman has reported that the increased prison population in Victoria “has been attributed to changes in sentencing practice and a generally more punitive approach reflecting strong community pressure for law and order.”² This is supported by research from the Sentencing Advisory Council which found that the average prison sentence length increased around 18 per cent between 2000/01 and 2005/06.³ Other research suggests that the deinstitutionalisation of psychiatric facilities has resulted in people with serious mental illness moving from psychiatric beds to prisons.⁴

Prisons are extremely expensive to build and operate

Prison construction is extremely expensive. In the 2010/11 Victorian State Budget, the Victorian Government announced it is spending $126 million to build 244 additional prison beds⁵ – a cost of over $500,000 per prison bed. Housing someone in prison is also extremely expensive. Council of Australian Government figures show that the average expenditure per prisoner per day in 2008-09 was $242.65, or close to $90,000 per year.

Victorian Government annual spending on prisons has increased 186 per cent over the past decade to $640 million in 2010/11.⁶

Prisoners are typically from highly disadvantaged backgrounds

The people we are locking up in prison have typically experienced high levels of disadvantage in their lives. Various studies⁷ have found that:

Sentencing options, such as suspended sentences and community-based orders, provide wider scope for rehabilitation and treatment and are much cheaper than prison.
Many different factors influence crime rates. Causes of criminal behaviour vary between different people and between different types of crimes. However, there is general consensus that child neglect is one of the strongest factors which increases the risk of involvement in crime. Poverty, unemployment and alcohol abuse are also risk factors.16

There is strong evidence that early intervention programs targeted at at-risk children and youth are cost effective ways to reduce crime.27 There is also research which indicates that reducing disadvantage and increasing income equality will reduce crime.18 Similarly, there is evidence that providing stable housing and employment opportunities can reduce re-offending.29

Despite this evidence, analysis by the Victorian Council of Social Service has shown that since the 2000–01 State Budget, Victorian Government spending increases on prisons has outstripped spending increases in areas likely to help reduce crime such as child protection, mental health and housing.20 Prisons are diverting resources away from cost-effective ways of reducing crime by reducing disadvantage.

Sentencing that addresses the causes of offending reduces crime

Sentencing options, such as suspended sentences and community-based orders, provide wider scope for rehabilitation and treatment and are much cheaper than prison. For example, the supervision and management of offenders on community based orders costs less than 8 per cent of the average cost of imprisoning an offender.21

Further, a study on the use of suspended sentences in NSW concluded that "as a means of reducing the risk of further offending, suspended sentences are as effective as, if not more effective than, a sentence of full-time imprisonment."22

Better still, early intervention through court programs, such as the Neighbourhood Justice Centre, the Victorian Court Integrated Services Program and the NSW Drug Court, have been shown to be cost-effective ways of reducing crime. These programs tackle underlying causes of crime by linking offenders with treatment programs and support services.

Participants in the NSW Drug Court Completion Program were found to be 37 per cent less likely to be reconvicted during the follow up period.23 Offenders processed at the Neighbourhood Justice Centre were 14 per cent less likely to reoffend than those processed at other courts.24 The Court Integrated Services Program evaluation showed it generated a 20 per cent reduction in re-offending rates for participants.25

Smart Justice solutions

Smart Justice solutions are:

> Tackling underlying factors that contribute to offending through increased investment in child protection, family support, housing, employment, education, mental health and drug and alcohol programs
> Expanding court programs which address the causes of offending, like the Neighbourhood Justice Centre and the Court Integrated Services Program
> Providing intensive support to prisoners to reduce the risk of re-offending, through adequate pre- and post-
post-release support, particularly in the areas of housing, education and employment, and
greater community-based orders and suspended sentences.

ENDNOTES
13. Weatherburn, Law and Order in Australia: Rhetoric and Reality (2004) pp.123-128. Weatherburn states that US studies suggest that a 10% increase in American prison populations would reduce serious crime by 2-4%. Building prisons to house a 10% increase in Victorian prisoners would cost approximately $225 million plus around $38 million annually in recurrent funding to house the prisoners.
15. For an economic analysis of the government and social costs of imprisoning children and young people, see the new economics foundation, Punishing costs: How locking up our children is making Britain less safe (2010) www.neweconomics.org.
17. Weatherburn, above n 14, 179-182.

A fact sheet from Smart Justice | www.smartjustice.org.au
© Federation of Community Legal Centres, 19 July 2010

The Crime and Punishment Debate
Issues in Society | Volume 328
The NSW prison population is growing and it is growing because the state now has one of the strongest sentencing regimes in the country. Our courts are more likely to send serious offenders to prison than any other jurisdiction. Tougher bail and parole laws are keeping more dangerous people behind bars. Record numbers are now refused bail in the higher courts and more than 70 percent of eligible serious offenders are refused parole. Despite that growth, the state’s prisons are not ‘bursting at the seams’, as was suggested in a recent Herald series. Due to good planning and foresight, there are more than 500 spare beds in the system today.

In a society such as ours, sentencing people to jail serves multiple purposes and they don’t always point in the same direction. Judges and magistrates have to juggle those competing interests in individual cases and politicians have to juggle them when setting policy.

Strict bail laws – and the higher remand numbers flowing from their application – seek to protect the justice system by minimising the opportunity for defendants to flee or interfere with witnesses. They also prevent known repeat offenders from committing more crime while awaiting trial.

In our jails today, there are 608 murderers, 903 sex offenders and 110 kidnappers. Their horrific crimes often attract considerable media attention but, as headlines fade from public memory, victims and their families never forget. Each victim has a heartbreaking story of how their life was impacted and in many cases destroyed.

Incarceration also serves a protective function by incapacitating offenders for the duration of their sentence from committing further offences in the community. In NSW, crime rates in nearly every major offence category are stable or falling. Studies show reductions in certain offences can be attributable to increased rates of imprisonment, such as property crime. Between 2001 and 2004, rates of property crime fell by almost half.

A study by the Bureau of Crime Statistics and Research showed while the heroin drought was a major reason for this, increases in the prison population also played a significant role. Yet the bureau has also been quick to remind the Government it has work to do in reducing rates of recidivism.

Locking up 10,000 human beings is not a responsibility I take lightly. Behind the stone walls and barbed wire fences, there is often a tragic reality. Large numbers of inmates are chronic drug users. Others suffer from mental health problems. Many are illiterate.

Further, less serious offenders often serve sentences whose nature and length do not allow these underlying causes of offending behaviour to be addressed.

We spend $130 million a year on drug and alcohol programs, as well as education and training to prepare inmates for release. Every offender serving more than three months is assessed for reading, writing and numeracy skills and diverted to appropriate programs.

New laws now help restrict secondary offending among fine defaulters and allow for halfway support centres to temporarily house offenders while they find permanent sustainable homes and work. We are building a new community-based alternative sentence program, which will focus on community work and rehabilitation.

Sex offender programs are being revamped. We will remove mentally ill patients from prisons to a facility run by NSW Health. And building on the successful work of the Drug Court, we will trial a plan to refer more low-level offenders into treatment so they confront the causes of their behaviour before they end up in prison.

I am not so brash to believe the challenge of addressing rehabilitation and recidivism is easy. It isn’t, especially when the justice system is designed to meet other competing needs including just punishment, deterrence and community protection.

A large, complex and highly regulated system of incarceration will always have its critics. But while ever there is crime and victims of crime, it is the duty of the Government to proceed with the best interests of the broader community as our guide.

Behind the stone walls and barbed wire fences, there is often a tragic reality. Large numbers of inmates are chronic drug users. Others suffer from mental health problems. Many are illiterate.

Imprisonment serves the function of retribution, as well as providing deterrence to the individual against repeat offending, and to others from similar activity. The community rightly expects that people who perpetrate crime will be justly punished.

In our jails today, there are 608 murderers, 903 sex offenders and 110 kidnappers. Their horrific crimes often attract considerable media attention but, as headlines fade from public memory, victims and their families never forget. Each victim has a heartbreaking story of how their life was impacted and in many cases destroyed.

A large, complex and highly regulated system of incarceration will always have its critics. But while ever there is crime and victims of crime, it is the duty of the Government to proceed with the best interests of the broader community as our guide.

Sex offender programs are being revamped. We will remove mentally ill patients from prisons to a facility run by NSW Health. And building on the successful work of the Drug Court, we will trial a plan to refer more low-level offenders into treatment so they confront the causes of their behaviour before they end up in prison.

I am not so brash to believe the challenge of addressing rehabilitation and recidivism is easy. It isn’t, especially when the justice system is designed to meet other competing needs including just punishment, deterrence and community protection.

A large, complex and highly regulated system of incarceration will always have its critics. But while ever there is crime and victims of crime, it is the duty of the Government to proceed with the best interests of the broader community as our guide. The Government must tackle these issues without detracting from our tough stance on crime.
There is a clear need in NSW for a criminal justice system involving rules, sanctions and the prospect that, if you break the rules, you are likely to be caught and punished. Without that, those who lack inhibitions against doing harm would run wild.

That said, I believe people would prefer improving community safety to exacting retribution, particularly as retribution is much more expensive than more effective ways of dealing with crime.

I am speaking of the ordinary run of crime, not the minority of really bad cases for which imprisonment for life, or for a very long time, is necessary to protect the community. Some people want heavier sentences. Victims and the families of victims are often vocal. No penalty would be sufficient to satisfy them. That is understandable, but what would policy based on that lead to?

Then there are those who demand retribution. They also are vocal and tend to be noticed. Retribution runs deep in human nature but that does not mean it is a worthy sentiment. Pride and avarice run deep too. Two wrongs don’t make a right.

Imprison X for harming Y and what have you achieved? If all you get out of it is retribution? The satisfaction of retributive sentiment, yes, but X, on the stats, will be apprehended for another jailable offence within two years or so of their release. Their imprisonment will have done very little, if anything, to make the community safer. It may have done more harm than good in the long run. And at huge cost (more than $70,000 a year, not counting the capital cost of prisons).

It seems retribution does not have such a hold on people as may have been thought. Studies in Britain indicate that people are much more interested in having a fair and transparent criminal justice system, and in offenders making recom pense, than they are in punishment.

An extensive and visible community service program would go a long way towards satisfying such expectations.

A moment’s thought is sufficient to know that a heavier regime of sentencing makes no difference in deterring the prospective offender.

What offender would know that the likely penalty for housebreaking or stealing a car would, in their case, be four years in jail rather than two years, particularly with 80 per cent of crime being alcohol- or drug-related?

Judges sometimes say they are ‘sending a message’. Politicians say that too when they increase penalties. Who do they think delivers the message? Would your typical offender read it in the newspapers or remember anything of it if they did? If they did hear this message, would it make any difference?

Returning to X, the odds are that he has a fair number of the following features: younger than 30, poorly educated, functionally illiterate, unemployed, homeless, from a dysfunctional family, with dysfunctional current relationships, mentally ill or intellectually disabled, addicted to drugs and/or alcohol, previously in prison, and with a history of criminal behaviour going back to childhood.

There are statistics on this, but experience in the law, when one has seen enough offenders, bears it out. Is it not better to be thinking about how to turn X around or, better still, doing things to head off a life of crime before it starts?

There are things that can be done: early intervention, targeting rehabilitation programs at high-risk individuals, access to drug and alcohol treatment, access to mental health services, and post-release support schemes. We are proposing less imprisonment and more of what works, at lower cost.

Victoria has much less imprisonment per capita and a lower crime rate, with expenditure of less than $500 million annually for its criminal justice system, compared with more than $1 billion for NSW.

People in Melbourne are not marching in the streets demanding sentences at least as high as they are in NSW. They don’t seem to feel they are missing out.

Our preliminary research indicates that imprisonment rates and crime rates are even lower in continental Europe, particularly in Scandinavia. There is no marching in the streets there either.

Where all this goes is to moderation in sentencing and reinvestment of the savings in effective anti-crime programs.

Hal Sperling QC is Chairman of the Crime and Justice Reform Committee.

First published in The Australian 4 June 2010
The charging of a young Aboriginal boy with the criminal offence of receiving stolen property (a chocolate Freddo frog) highlights some of the profound problems with the way police respond to young offenders. By Chris Cunneen

That the West Australian Police Commissioner yesterday signalled the charges will be withdrawn, so that the boy can be transferred into a diversionary program, does not address why he was charged in the first place.

There are good reasons why we have a distinct system for dealing with young people who commit offences. One of the most important processes underpinning juvenile justice is the need for diversion from the formal reaches of the criminal justice system. Diversionary schemes are built on the principle that young people, because of their age, should not be unnecessarily criminalised.

Young people are more likely than adults to commit minor offences and should have the opportunity to develop and mature without being held to the same level of accountability as an adult offender. Diversion from the court system can take a number of forms, but the most commonly used involve an informal police warning to a young person, a formal police caution (where the young person and often a family member attend a police station) or the use of a justice conference (where the young person meets with the victim of the crime and engages in reparation or restitution).

A key issue in access to all of these diversionary alternatives is the discretionary choice police make in how a young person will be dealt with. Police are the ‘gatekeepers’ to the system and their decisions will significantly impact on a young person’s future. It is difficult to see what public benefit could possibly result from charging a 12-year-old boy with a criminal offence over such a minor misdemeanour, particularly when there are so many alternatives.

Yet what we know is that there are huge disparities across Australia in terms of the way police and courts respond to young people. Certainly if the young person in question was in Victoria, instead of Western Australia, it is highly unlikely he would have gone anywhere near a court.

Western Australia, in particular, is a state that processes far too many young people through its juvenile court system. This problem is then manifested in the number of young people who end up in detention centres. Despite the fact that the population of Victoria is well over twice that of WA, on any day there are fewer young people incarcerated in Victoria. And it is not as if locking up young people makes us safer from crime. A recent study found no significant difference between juveniles given a custodial penalty and those given a non-custodial penalty in terms of re-offending.

In my view, race is clearly an issue in this case, at least to the extent that we know Aboriginal young people do not receive the same diversionary benefits as non-Aboriginal youth. We have known for well over a decade that Aboriginal youth are less likely to receive a police caution or other less intrusive intervention (such as a warning) than non-Aboriginal youth.

Aboriginal young people are more likely to be arrested, charged and placed before the courts than non-Aboriginal young people detained for similar offences and with similar prior records. For example, research in NSW in the early 1990s found that if two girls, both without prior records, were detained for shoplifting by police, then the non-Aboriginal girl was more than twice as likely to receive a caution from the police officer. For the non-Aboriginal girl, the matter ended there. The Aboriginal girl was more likely to be arrested, transported to the police station, bailed to appear in court, convicted, possibly fined or placed on an order, and left with a criminal record.

Research published this year has made similar findings in relation to disparities in the treatment of Aboriginal young people in other states including Western Australia and South Australia. These are also states, along with the Northern Territory, with high rates of incarceration of Aboriginal young people.

One of the most disturbing aspects of the criminalisation of Aboriginal juveniles is the young age they are brought into the justice system – more than 70 per cent of children held in detention in Australia who are under the age of 14 are Aboriginal.

We also know from research that those young people brought into the system early are the ones most likely to become entrenched in a life of moving in and out of juvenile detention and then adult jail as they get older.

There was a certain irony that on the day the Prime Minister apologised to the Forgotten Australians for the child abuse and neglect arising from institutionalisation in church and state homes, another child was being unnecessarily placed on the road to incarceration.

Many Aboriginal people have argued that the current juvenile justice system is replicating past policies of the Stolen Generations by removing Aboriginal children from their families and communities, and institutionalising them at extraordinarily high levels.

On any day there are more than 1,000 young people held in juvenile detention centres across Australia. According to the Australian Institute of Health and Welfare, more than 50 per cent of those held are Aboriginal and Torres Strait Islander. It is a damning indictment of a country that prides itself on the rule of law and the principle of equality before the law. As much as we might like to deny it, justice in Australia is coloured. Perhaps it takes a 12-year-old Aboriginal boy and a 70-cent piece of chocolate to remind us of that.

Chris Cunneen is Professor at the Cairns Institute, and Faculty of Business, Law and Creative Arts at James Cook University; Conjoint Professor, Law Faculty, UNSW; Adjunct Professor, Institute of Criminology, University of Victoria, Wellington, New Zealand.

First published in The Age 18 November 2009
With the media spotlight on law and order – whether it is hooning, knives, drunken violence or attacks on Indian students – the ground is well prepared for tough law-and-order politics in the lead-up to November's state election.

The Coalition's pledge yesterday to a $400 million policy to 'revolutionise policing' by boosting police numbers by about 14 per cent, on top of commitments to banning home detention and suspended sentences for serious offences, is a political move to wrong-foot Labor on law and order. Labor had already announced a crackdown on knives and a review of the Crimes Act to allow for longer prison sentences – and no doubt something more will emerge on police numbers.

But, as the race for the law-and-order vote gets under way, political parties, the media and the broader community must stop and think about the long-term consequences of policies made in the heat of an election campaign – particularly the effect on vulnerable young people.

The cycle of despair that leads the young to offend can be broken with the right focus on rehabilitation. Having been given a second chance, they can become law-abiding, productive members of society.

Our political leaders make much of the promise of our youth, their vision and idealism and, in the main, most young people in Victoria are doing well. However, some – particularly those from disadvantaged backgrounds – are struggling and disenfranchised. We as a community have failed them in many ways and it is no surprise that some commit crimes. Now they have become the pawns in a political game on law and order.

Typically, young people who have been imprisoned are also victims of crime, child abuse and neglect. They have poor literacy, poor education, low employment prospects and a dim outlook. It is little surprise that only about 6 per cent of male prisoners in Victoria have completed secondary, trade or tertiary education.

The cycle of despair that leads the young to offend can be broken with the right focus on rehabilitation. Having been given a second chance, they can become law-abiding, productive members of society. Access to community-based justice is critical.

Research by Jesuit Social Services shows that poverty, compounded by inadequate public services and an absence of educational and economic opportunities and social mobility in disadvantaged communities, create conditions for crime. Tackling this in the longer term requires a comprehensive evidence-based policy agenda – not just knee-jerk reactions. There is no logic to committing to policies that will create more criminals, more victims of crime. Victoria's largely bipartisan commitment to diversion and rehabilitation for young people means our imprisonment and overall crime rates are consistently among the lowest in Australia. Prison is not the place for young people whose offending isn't serious, because it can imperil their welfare and life prospects.

Given that our prisons are almost full, banning home detention and restricting suspended sentences mean new and bigger prisons, which is the most expensive and least effective public policy solution to deal with law and order. Nor does it fit well with the major political parties' espoused commitment to prudential budget management.

A 'race to the bottom' on law and order may see some discredited policies from interstate and overseas accepted in Victoria – not making us any safer but funnelling more and more young people into prison.

In Western Australia and the Northern Territory in the 1990s, the introduction of tough-on-crime policies such as mandatory sentencing increased the prison population but had little impact on overall community safety.

If politicians really want to get tough on crime, the focus must be on prevention. Here is a five-point plan for policy that will cut crime now and into the future:

➤ Invest in early childhood programs that combat child abuse and neglect, so that children reach their full potential, regardless of their postcode
➤ Invest in education to keep children and young people from disadvantaged backgrounds in school and engaged in vocational training
➤ Invest in projects that create jobs and opportunities for the young in disadvantaged communities
➤ Properly resource those organisations working with young people at risk of becoming criminals, and help former offenders with housing, education and jobs
➤ Improve the ability of our prisons and youth justice systems to rehabilitate young people to stop the revolving door of justice.

Such policies will be cheaper and more effective than more police and bigger prisons. They will cut crime in the long term and deliver better outcomes for all Victorians, including the victims of crime and taxpayers.

Julie Edwards is chief executive of Jesuit Social Services.
Substance abuse dates back thousands of years. Opium was evident in Mesopotamia at least 7,000 years ago, people have been getting drunk on alcohol for at least 8,000 years, and cannabis has been known by many names in many languages through the course of history.

In the 16th century, coffee sellers were executed and in some countries the use of tobacco also brought with it a death sentence: not the slow, painful death we now associate with cigarettes, but death by execution.

The use of some drugs, such as heroin, has been variously considered medicinal and illegal; and while the use of opium was restricted in Australia in 1897, it was not until 1953 that its use through medical prescription was banned altogether.

Our reaction to the 'drug problem' depends on a range of personal and social issues, and at the moment the two substances that occupy most of our thinking and media reporting are alcohol (a legal drug) and meth-amphetamines (particularly ice, an illicit substance). Alcohol is consumed on a weekly basis by 41.3 per cent of the population aged 14 years and over. Stimulant drugs, in the form of methamphetamines, have been used by 6.3 per cent of the population over 14 years of age, over the course of their lifetime, while heroin has been used by just 1.6 per cent.

Treatment for all drug use requires a range of options, because in all cases it is not only the effect of the drug on the individual that causes a problem but also the effect on families and the wider community. This extends into our prison systems, where 70 to 80 per cent of prisoners are incarcerated for drug-related problems.

Interventions for all substance-use problems include education, counselling and, for more entrenched behaviours, tertiary interventions including residential rehabilitation. While the media often follows the celebrities who enter rehab overseas, Australia has some of the best residential programs in the world.

These are therapeutic communities (TCs), which were first established in Britain and the US more than 50 years ago, based on two different models, but converging in practice during the 1970s. In general, TCs are illicit-drug and alcohol-free residential settings that encourage and promote the development of personal and social responsibility. They have been on the Australian treatment landscape since the 1970s. All but one of the 41 TC programs in Australia registered with the national body, the Australasian Therapeutic Communities Association, are operated by a non-government organisation.

These are not easy options. The role of TCs is to assist people who have been unable to respond to outpatient services, and for this reason it often takes more than one attempt to get through treatment. TCs tend to treat people who have more entrenched and self-destructive dependence patterns, histories of abuse and violence, and for whom the prognosis of recovery by less intensive methods is not good. Working through these personal issues is hard work.

Many clients will be seeking abstinence, rather than substitution, as their primary goal. Dealing with alcohol and other drug issues is becoming more complex. People are now using multiple types of drugs and often have co-occurring mental health disorders, such as depression and anxiety. Some have other less common, but more serious, mental disorders. TCs are well placed to respond effectively to these changing needs. Hence, TCs have been established for adults and young people, for families with children and people with mental health disorders.

In Australia, research institutes and governments are starting to work with TCs in studying outcomes for people with complex mental health and substance-use problems, particularly those related to the use of methamphetamines. Community-based TC programs also provide effective treatment for clients with prior offences related to their alcohol and drug use.

Successful TC programs for drug-using offenders have been established in correctional settings in a number of countries, including Australia. Some of the most extensive research studies on TCs have been conducted overseas on populations involved in the criminal justice system. These studies have found benefits for prison-based TC treatment in preparing inmates to return to the community and for creating a safer, better managed prison environment. Recidivism rates have been shown to drop from as much as 75 per cent to 27 per cent for prisoners completing a TC program.

This is all good news for the community and for those affected by substance use. Except for one thing: money. While we have seen an increase in funding to the non-government sector, most of these funds have come via short-term project grants which don’t help in the development of long-term planning. This needs to change if we are going to be able to fully address the drug problem.

Treating the causes of crime is always going to be far more beneficial to the community, the individual and for all Australian governments. Entering rehab in Australia is also far more cost effective and a better use of the taxpayers’ dollar in the long term.

Garth Popple is an executive member of the Australian National Council on Drugs.

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www.ancd.org.au
Between 1985 and 2009, the Australian prison population rose from 10,844 to 29,317. Per head of population, that was an increase of 64 per cent.

Net recurrent and capital expenditure on prisons in Australia is now $2.3 billion a year, or $105 a person. This is money that could be spent on hospitals, schools and roads.

In the 1980s and early ’90s, much of the growth in imprisonment rates was a consequence of rising crime. Much of the growth in the number of prisoners since 2000 has been the result of harsher policies enacted in response to rising crime and public concern about it.

Prison remissions have been abolished, mandatory minimum penalties have been enacted, prisoners given life sentences now spend the rest of their lives in prison. Parole and bail laws have been progressively toughened.

The best evidence so far suggests a 10% increase in rates of imprisonment results in a 2 to 4% reduction in serious crime. Most, if not all, of this reduction is due to incapacitation.

The application of the law has also become a lot tougher. Police aggressively pursue repeat offenders for any offence they commit. Courts are much more likely to send convicted offenders to prison and much less likely to release people charged with criminal offences on bail.

With an ever-increasing proportion of their budgets tied up in criminal justice, state and territory governments are looking for ways to reduce, or at least contain, the expenditure on prisons. The problem is how to do this without alarming the public or putting them at risk.

Some think this problem is illusory, that locking people up has no effect on crime. Look at Victoria, they say, which has a lower crime rate than NSW. If you want to measure the effect of prison on crime, you need to adjust for all the other factors that influence crime. Studies that have done so show that prison has little, if any, deterrent effect. Deterrence, however, is not the only way that prison can influence crime.

The criminal justice system acts like a giant filter. Those who end up in prison tend to be among the most persistent offenders. Offenders in prison find it much harder to commit crime than when they are part of the community. Prison, in short, has an incapacitating effect.

The best evidence so far suggests a 10 per cent increase in rates of imprisonment results in a 2 to 4 per cent reduction in serious crime. Most, if not all, of this reduction is due to incapacitation. The dilemma facing policymakers, then, is more acute than some would believe. Much as they would like to reduce or contain the growth in imprisonment rates, they have not found a way of doing this that doesn’t result in higher rates of crime.

The only real option they have is to reduce the rate of repeat offending. Seventy per cent of young people who turn up at the Children’s Court will be back in court facing fresh criminal charges within eight years.

About half the adults released from prison each year will be convicted of another offence within 12 months. Within 18 months, more than 65 per cent will have been convicted again. If we could get these high rates of repeat offending down, we could save money and reduce crime.

It used to be thought that it was impossible to rehabilitate offenders. Research over the past two decades has shown this not to be true. Some rehabilitation programs have been shown to reduce repeat offending by up to 17 per cent. They reduce crime substantially and cost a good deal less than imprisonment.

When policymakers start talking about rehabilitation, they often find themselves besieged by well-meaning people offering miracle cures for offending, backed up by nothing more than anecdote and personal testimony. Policymakers should be on guard against these entreaties. They need to focus their attention on what works.

The most effective programs are those that tackle the problems that keep offenders involved in crime – problems such as drug use, poor anger management, poor social skills, inability to read and write, intellectual disability, psychiatric illness and lack of stable accommodation.

There is no point in having a demonstrably effective rehabilitation program, though, if it reaches only a small percentage of recidivist offenders. We need programs that reach all or most of those at risk of repeat offending. This will take money, government commitment and time.

Dr Don Weatherburn is director of the NSW Bureau of Crime Statistics and Research.

First published in The Sydney Morning Herald Opinion, 21 October 2010
It’s a set-piece of every Hollywood movie featuring an ex-con. A clean-shaven man walks out the prison gate carrying his possessions in a box under his arm, and puts his hand up to shade his eyes from the unfamiliar glare of the sun.

In 2009, over 20,000 Australians got a ‘get out of jail’ card, and walked through the gates of one of the 120 or so prisons dotted across the country.

But the sobering fact is that during the next two years, nearly half of them will have been sent back. Some will get to play that prison release scene again and again.

Prisons do reduce crime, but mainly because of what criminologists call ‘the incapacitation effect’ (when you’re doing time in Long Bay, it’s harder to hotwire a car). There may also be some deterrence effect, but this is small by comparison. And there is little evidence of a rehabilitation effect.

Why are prisons less a portal to a new life than a revolving door? Part of the problem lies in the fact that politicians and public servants have few incentives to create better rehabilitation programs. A policy-maker who creates a cutting-edge program to improve inmates’ sense of self-worth risks being ridiculed by the shock jocks. A politician who advocates work release programs must worry about the tabloid headlines if some inmates abscond.

To encourage innovation, we should start publicly reporting the outcomes that matter most. Rather than merely telling the public how many people are held in each jail, governments should publish prison-level data on recidivism rates and employment rates.

Just as with schools and hospitals, ‘prison league tables’ would need to take account of each institution’s caseload. Effectively, such comparisons should aim to answer the question: given the mix of inmates they handled, which prisons did the best job? Carefully constructed prison league tables should give taxpayers and policymakers a strong sense of where innovation is occurring in the system, and help smarten up the criminal justice debate. (A similar approach could also be taken in the case of community corrections programs, which handle about twice as many people as jails.)

As well as focusing on the important outcomes, Australian states should rethink the contracts they write with private providers. At present, about 16 per cent of inmates are held in a private jail. Unfortunately, the contracts for private jails bear a remarkable similarity to sheep agistment contracts.

Providers are penalised if inmates harm themselves or others, and rewarded if they do the paperwork correctly. Yet the contracts say nothing about life after release. A private prison operator receives the same remuneration regardless of whether released inmates lead healthy and productive lives, or become serial killers.

A smarter way to run private jails would be to contract for the outcomes that matter most. For example, why not pay bonus payments for every prisoner who holds down a job after release, and does not re-offend? Given the right incentives, private prisons might be able to actually teach the public sector a few lessons on how to run a great rehabilitation program.

According to the Productivity Commission’s annual Report on Government Services, states and territories have formally agreed to ‘Provide program interventions to reduce the risk of re-offending’. Yet the reality is that less than one-third of prisoners are engaged in any formal education program, and that many of the jobs done by inmates do not provide the skills required by the regular labour market.

Given that each prisoner costs the taxpayer about the same as a five-star hotel room, reducing recidivism rates has a direct benefit for all of us. But criminal justice – and particularly juvenile justice – is also the pointy end of social policy. Ex-prisoners are disproportionately high users of other government services, such as counselling and income support.

So improving corrective services helps in other social areas as well. This particularly affects Indigenous Australians, who comprise one-fortieth of the general population, but one-quarter of the prison population.

As a nation where a convict ancestor is a badge of pride, Australians know better than anyone that life can have a second act. The challenge today is to encourage our corrective services to correct, not just punish. Can we make jail work?

Andrew Leigh is an economist in the Research School of Social Sciences at the Australian National University.
EXPLORING ISSUES

ABOUT THIS SECTION

‘Exploring issues’ features a range of ready-to-use worksheets relating to the articles and issues raised in this book.

The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

As the information in this book is gathered from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Does the source have a particular bias or agenda? Are you being presented with facts or opinions? Do you agree with the writer?

The types of ‘Exploring issues’ questions posed in each Issues in Society title differ according to their relevance to the topic at hand.

‘Exploring issues’ sections in each Issues in Society title may include any combination of the following worksheets: Brainstorm, Research activities, Written activities, Discussion activities, Quotes of note, Ethical dilemmas, Cartoon comments, Pros and cons, Case studies, Design activities, Statistics and spin, and Multiple choice.

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WORKSHEETS AND ACTIVITIES

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Brainstorm, individually or as a group, to find out what you know about crime and corrections in Australia.

1. What are the various types of violent crime?

2. What are the various types of property crime?

3. What are the objectives of corrective services in Australia?

4. What are the major risk factors for offending?
1. How common is reimprisonment in Australia? What are the causes of recidivism by repeat offenders?

2. The marked over-representation of indigenous Australians is one of the distinguishing features of Australian imprisonment. Nationally, indigenous prisoners make up a quarter of all Australian prisoners – indigenous Australians are 14 times more likely to be in prison than non-indigenous Australians. What are the reasons for the over-representation of indigenous people in the criminal justice system?
1. The eight states and territories have powers to enact their own criminal laws, while the Commonwealth has powers to enact laws, including sanctions for criminal offences, in relation to its responsibilities under the Constitution. Thus there are nine different systems of criminal law in Australia. Refer to the diagram on page 10 (*Flows through the criminal justice system*) and briefly explain the stages involved in processing criminal cases within the Australian justice system.
Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of this page.

1. Which of the following offences are not violent crimes (more than one may apply):
   a. homicide
   b. fraud
   c. sexual assault
   d. kidnapping
   e. sexual assault
   f. robbery

2. Which of the following offences are property crimes (more than one may apply):
   a. unlawful entry with intent
   b. burglary
   c. motor vehicle theft
   d. robbery
   e. break and enter
   f. pickpocketing
   g. bicycle theft
   h. bag snatching
   i. shoplifting

3. Match the following terms to their correct definitions:
   a. deterrence
   b. diversion
   c. incapacitation
   d. incarceration
   e. recidivism
   f. retribution

   1. Method of dealing with offenders without taking court proceedings.
   2. Aims to protect the public by imprisoning an offender so that he/she is not at liberty to commit further offences in the community.
   3. Detention of a person in prison, typically as punishment for a crime.
   4. Aims to prevent future crimes by persuading potential offenders that punishment outweighs the benefits of crime.
   5. The idea that an offender should suffer a punishment that corresponds with his or her culpability.
   6. The act of repeated or habitual participation in crime.

MULTIPLE CHOICE ANSWERS
1 = b ; 2 = a, b, c, e, f, g, h, i ; 3 – a = 4, b = 1, c = 2, d = 3, e = 6, f = 5.
DISCUSSION ACTIVITIES

1. There are a number of strategies that are utilised by the Australian criminal justice system for preventing offenders from committing crimes in the community. Criminal justice conventionally operates directly through deterrence (e.g. the criminal law code, and policing), incapacitation, and rehabilitation (through courts and prisons, including probation and parole services); and indirectly through socialisation (e.g. promoting social norms and law-abiding behaviour). Discuss.

2. Getting the mix right in terms of a balance between retribution and rehabilitation is a complex challenge for the criminal justice system, especially when these principles interact with a number of non-legal factors – community perceptions of safety and justice, politicians’ electoral agendas, the rights of victims, and frequently exaggerated or inaccurate media reporting on particular criminal cases. Discuss.
Pros and Cons

Divide the students in your class into two opposing debating teams. One team is to argue in favour of rehabilitation of offenders; the other team will argue in favour of retribution.

Each participant must choose one of the debating points presented below, and expand on it, before briefly presenting his or her individual argument in a group debate.

You can make personal notes for your debating point on a copy of the Debating Notes page (p.56).

**ARGUMENTS IN FAVOUR OF REHABILITATION**

1. The threat of punishment in prison does not deter crime.
2. The damaging aspects of prison – the isolation from family and support networks, violence, the risk of institutionalisation, the health risks, and the frequently devastating process of dehumanisation – make rehabilitation and any reparation almost impossible inside the prison environment.
3. Imprisonment creates challenges on prisoners’ release, through loss of employment or accommodation, or reducing the chances of obtaining either. Research has found that supervision of offenders in the community can bring about positive changes in behaviour. Studies have also shown community-based programs to have more positive results than custodial sentences.
4. Keeping people in custody is a huge financial burden for governments and society, yet there is no clear relationship between rates of imprisonment and crime rates. It is estimated that a 15% increase in the prison population results in only a 1% reduction in recorded crime.
5. If community sentences are effective at weaning people off a criminal lifestyle, then this affords greater long-term protection to the public, whereas prison may not do anything to change the offending behaviour.
6. We should switch to policies aimed at reducing the rate of re-offending. Any success would reduce crime and save money. Recent research says many types of rehabilitation programs work. Our emotion-driven approach to crime, fuelled by politicians and the media amplifying fears, is consuming an ever-growing share of the taxes we pay.
7. Alternatives to custody are much more successful than prison at enabling people to address offending behaviour. Not only are there many benefits that are involved in keeping people out of prison in terms of avoiding the damaging influence of imprisonment, but non-custodial community alternatives are also much cheaper, and more effective at reducing offending behaviour.
8. Community corrections are much cheaper when compared to the many extra costs of imprisonment – intergenerational crime, homelessness, recurrent poverty, family separation, unemployment, institutional violence, the exacerbation of mental illness, drug abuse, and related ill health problems.
9. Rehabilitation is the more humanising and dignified objective. It is the most valuable ideological justification for punishment, as it promotes the belief that offenders can be saved and not just punished. Retribution, on the other hand, sees punishment as an end in itself.
10. By seeking to reduce reoffending and lower crime, the rehabilitation principle constructively promotes the community’s right to safety, and to protect individuals from the victimisation of crime.
11. Rehabilitation acknowledges the reality of social inequity by helping people who have been overcome by their unfortunate circumstances in life. Policies that ignore these realities foster disproportionate hardships on those who are already disadvantaged, and deepen the resentment of many offenders later released back into the community.
12. Rehabilitation is an important guide to the sentencing decisions of judges, providing the most flexible and sensible direction. Retribution, on the other hand, merely advocates an overly simplistic and primitive notion of vengeance.
13. Even if rehabilitation only worked for some people, it would still be worthwhile.
14. The role of the criminal justice system does not end with sentencing. Society should be trying to help offenders to change by providing meaningful skills training, behavioural treatment programs and counselling, to avoid re-offending.
Divide the students in your class into two opposing debating teams. One team is to argue in favour of rehabilitation of offenders; the other team will argue in favour of retribution.

Each participant must choose one of the debating points presented below, and expand on it, before briefly presenting his or her individual argument in a group debate.

You can make personal notes for your debating point on a copy of the Debating Notes page (p.56).

ARGUMENTS IN FAVOUR OF RETRIBUTION

1. Whether by taking offenders out of circulation, or by deterring people from committing crimes in the first place, the evidence does seem to support the view that prison works.
2. The economic theory of crime asserts that the risk of getting caught is likely to be as, or more, important in deterring crime as the anticipated severity of the punishment. Penal policy is an important element in the fight against crime, but it is only part of the solution. Increasing the probability of getting caught appears no less important than increasing the severity of the punishment that follows.
3. Evidence shows that the countries reviewed saw their crime rates rise dramatically as they eased off on imprisonment. Those countries that subsequently increased their use of imprisonment, such as the USA, have seen their postwar rise in crime rates stopped, and then reversed. In Australia, where use of prison has not been increased to the same extent, the crime rate has not been curbed with the same success.
4. Punishment signals clearly that certain conduct is wrong. The purpose of punishment is to show disapproval for the offender’s wrongdoing, and to clearly condemn his criminal actions. We should punish to censure (retribution), we should not punish merely to help a person change for the better (rehabilitation).
5. Punishment, as distinct from rehabilitation, acknowledges to victims that they have been wronged.
6. Custodial sentences as treatment work well. The key is to focus on rehabilitation, not just retribution, by ensuring there are adequate treatment facilities in prisons.
7. Punishment fosters accountability, as it is ultimately the result of choices made by the individual, irrespective of their circumstances or background, and therefore the justice system must condemn those choices when they violate society's rules. It appeals to an inherent sense of right and wrong, and in this way is the most respectful to humanity because it recognises that people are indeed fundamentally capable of moral deliberation, no matter what their personal circumstances are.
8. The more serious crimes should be punished more seriously, because the more severe the violation of society's rules, the greater the censure that is needed. More serious crimes should be treated proportionately more seriously. Proportionality is the only consistent and fair approach.
9. While some rehabilitation programmes work with some offenders (who would have probably changed by themselves anyway), most do not. Many programmes cannot reduce the powerful tendency for offenders to continue in their criminal behaviour.
10. How can any prison staff, parole officer or even psychologist ever tell that a person has 'reformed', or is likely to not re-offend?
11. Since no one can ever be certain if an offender is 'cured', having 'rehabilitation' as the goal leads a sentencing or parole decision to be based on statistical risk factors – for example, whether the offender belongs to a racial or socioeconomic group that indicates if he is statistically more likely to re-offend.
DEBATING NOTES:

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At 30 June 2010, the national imprisonment rate was 170 prisoners per 100,000 adult population in 2009. (p.13) The number of male prisoners increased by 1% (280) and female prisoners increased by 5% (103) from 30 June 2009. (p.13) The median age of male prisoners at 30 June 2010 was 33.4 years, slightly lower than the median age for all prisoners (33.5 years). (p.13) The proportion of indigenous prisoners increased from 18% in 1996 to 24.4% in 2006. (p.15) The US has an imprisonment rate nearly 6 times that of Australia and 12 times that of Japan. (p.16) Between 1970 and 2005 there was a 628% increase in the US prison population. (p.17) The number of prisoners in education and training programs is less than 40% around Australia, and in NSW and Queensland the figure is under 30% (2008-09). (p.19) Nationally, 16% of the total prisoner population were held in privately operated facilities (2008-09). (pp.19,47) Over the 4 years from 1994 to 1997, 28,600 prisoners were released from Australian prisons. (p.21) During the 10 years after being released, men were more likely than women to return to prison. (p.21) Within 10 years of being released, the reimprisonment rate for the teenager group (those aged 17-19 years when released) was 61%, compared with 23% for those aged 35 years and over. (p.22) Prisoner numbers in Australia have increased by more than 50% over the last decade or so. (pp.25,46) In NSW more than 70% of current prisoners have previously been imprisoned. (p.25) As at June 2006, indigenous prisoners represented 24% of the total prisoner population. (p.27) Rates of crime for all but one of the 17 major categories either fell or remained stable in the past 2 years (2008-09). (p.30) Approximately 1 in 8 adult Australians (12.9%) views crime, drugs or terrorism as the most important issue facing Australia today (Australian Survey of Social Attitudes, 2007). (p.37) Public support or approval of the death penalty has consistently declined since 1996 and is now well below the 50% mark (43.5%) (Australian Survey of Social Attitudes, 2007). (p.37) Over the past decade (as at 2010), Victoria’s prison population has increased dramatically, rising close to 50%. (p.38) More than 70% of children held in detention in Australia who are under the age of 14 are Aboriginal. (p.43) 70-80% of prisoners are incarcerated for drug-related problems. (p.45)
Crime
An action or omission that constitutes an offence that may be prosecuted by the state and is punishable by law. What is classified as a crime is supposed to reflect the values of society and to reinforce those values.

Criminal justice
The criminal justice system consists of the state/territory and Australian Government institutions, agencies, departments and personnel responsible for dealing with the justice aspects of crime, victims of crime, persons accused or convicted of committing a crime, and related issues and processes.

Custodial penalties
Penalties that require the offender to be deprived of liberty in some way. The forms of custodial penalties are imprisonment, periodic detention and home detention.

Deterrence
The aim of deterrence is the prevention of future criminal activities by persuading either the individual offender or other potential offenders that punishment outweighs the benefits of crime. Deterrence depends on offenders rationally weighing up the benefits and disadvantages of crime, the likelihood of being caught, and the likely punishment. However, much crime is impulsive and opportunistic and is not based on rational or considered decisions.

Diversion
Diversion is a method of dealing with offenders (usually juvenile offenders) without taking court proceedings.

Incapacitation
Sentences based on incapacitation assume that offenders would be likely to commit other crimes if they are not imprisoned. The aim of incapacitation is to protect the public by imprisoning an offender so that he or she is not at liberty to commit further offences in the community. Incapacitating sentences are often aimed at repeat offenders, and sometimes require a repeat offender to be given a sentence that is longer than the offence would otherwise justify in order to extend the period that the community is protected from the offender.

Incarceration
The detention of a person in prison, typically as punishment for a crime. People are most commonly incarcerated upon suspicion or conviction of committing a crime. Incarceration serves four essential purposes with regard to offenders: to isolate offenders to prevent them from committing more crimes; to punish offenders for committing crimes; to deter others from committing crimes; and to rehabilitate offenders.

Non-custodial penalties
These penalties include community service orders, good behaviour bonds, dismissal of the charge, conditional discharge of the offender, deferral of sentencing, suspended sentences and fines.

Offence
An offence is an act considered prima facie (before investigation) to be in breach of the criminal law.

Punishment
The infliction or imposition of a penalty as retribution for an offence. A penalty or sanction given for any crime or offence. Four fundamental justifications for punishment include: retribution, deterrence, rehabilitation, and incapacitation. Of the four justifications, only retribution is part of the definition of punishment and none of the other justifications are guaranteed outcomes.

Recidivism
The act of repeated or habitual participation in crime.

Rehabilitation
Based on the idea that an offender’s behaviour can be changed by using sentencing as an opportunity to address the particular social, psychological, psychiatric or other factors that influenced the offender to commit the crime. Examples of rehabilitation-based sentencing include drug or alcohol programs, anger management programs, and deferred sentencing to give the offender a chance to obtain employment or show improved behaviour.

Re-offending rate
The rate at which a person, having been convicted of a crime and punished, will then go on to commit another crime (implying that the punishment was ineffectual as a crime deterrent).

Reparation
Reparation is an element to sentencing which has developed in recent years with the aim of offenders making good the harm they have done to the victim. This usually takes the form of financial compensation, but it can also involve other methods, such as an apology or physical assistance.

Retribution
Retribution is the idea that an offender should suffer a punishment that corresponds with his or her culpability, taking into account the seriousness of the offender's wrongdoing and own circumstances.

Sentence
The punishment given by the judge to an individual who has been found guilty of a crime at the end of a criminal trial. This generally takes the form of a fine, a community punishment, a discharge or a period of imprisonment.

Vengeance
Infliction of punishment in return for a wrong committed; retribution.
Websites with further information on the topic

Attorney-General’s Department (Australian Government)  www.ag.gov.au
Australian Bureau of Statistics  www.abs.gov.au
Australian Institute of Criminology  www.aic.gov.au
Australian Law Reform Commission  www.alrc.gov.au
Australian Prisons Project  www.app.unsw.edu.au
Beyond Bars Alliance  www.beyondbars.org.au
Centre for Independent Studies  www.cis.org.au
Crime and Justice Reform Committee  www.crimeandjustice.org.au
Crime Research Centre of Western Australia  www.crc.law.uwa.edu.au
Justice Action  www.justiceaction.org.au
Law Reform Commission of Western Australia  www.lrc.justice.wa.gov.au
Office of Crime Statistics and Research (South Australia)  www.ocsar.sa.gov.au
Queensland Law Reform Commission  www.qlrq.qld.gov.au
Smart Justice  www.smartjustice.org.au
Victorian Law Reform Commission  www.lawreform.vic.gov.au

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