

EXECUTIVE SUMMARY

Partners in Crime:
the relationship between disadvantage
and Australia's criminal justice systems

DECEMBER 2020

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Partners in Crime is about Australia’s “criminal justice conveyor belt” (a term coined by Eileen Baldry and colleagues in 2012). It shows how Australia’s criminal justice systems compound disadvantage, explains why Australians should be troubled by this, and outlines what we can do about it. We hope it accelerates a conversation about wholesale reforms to our criminal justice systems and their interaction with vulnerable Australians.

Partners in Crime draws on extensive research and consultations. We spoke with and listened to police, current and former corrections commissioners, prison officers, public servants, academics, service providers, legal practitioners, community actors from multiple jurisdictions, and those with lived experience of Australia’s criminal justice systems. The research was initially undertaken as part of a study for the Paul Ramsay Foundation. Together, we hope that the analysis and ideas help to encourage fundamental reforms to our criminal justice systems and thereby disrupt cycles of persistent disadvantage in Australia.

We find that Australia’s criminal justice systems create and compound disadvantage at escalating costs to children, families, and governments. We effectively have 10 criminal justice systems, one federal system and one system for each state and territory; these systems are all experienced differently by Aboriginal and Torres Strait Islander peoples, creating a de facto tenth system.

Each stage of these systems — arrest, remand, court, imprisonment and community release — traps more Australian families and communities in cycles of disadvantage. Contact can be brief, whether it is a period in remand or because a parent is in prison, but it is nevertheless associated with poorer outcomes. Before COVID-19 there were more Australians trapped on the criminal justice conveyor belt than ever before. We were jailing more people than at any time since 1900, in both total number and per capita. Our incarceration rate is now above the global average in every state and territory except the ACT and Victoria.

Our criminal justice systems are also enormously expensive. In 2018—19, total net operating expenditure on prisons in Australia was \$3.4 billion, rising to \$4 billion when community corrections is included. These figures do not include the billions of dollars in capital devoted to building new prisons, let alone the full cost to governments and communities of the social and economic impact of incarceration.

What should concern every Australian is that our criminal justice systems are themselves a cause of disadvantage and exacerbate vulnerability. A survey of prisoners showed over a third of prison entrants said they were homeless in the month before prison, but over half expected to be homeless on release. More than half of prison entrants were unemployed in the 30 days before prison, yet less than a quarter had employment organised on release.

The children of prisoners have been hardest hit by the criminal justice conveyor belt. In 2018, estimates suggested around 77,000 children had a parent in prison. But we cannot really be sure because there is no clear system to determine whether or not prisoners have dependent children. This glaring gap in evidence leads to glaring gaps in practice, including inadequate support for the children of incarcerated parents and a lack of parenting services inside and outside prison. When a parent is imprisoned, children experience not only separation and loss, but also changed care arrangements, economic strain, social stigma and the impact of prison visits. Evidence shows how parental imprisonment drives poorer developmental outcomes. Children of incarcerated parents are more likely to come into contact with child protection services and be in out-of-home-care. A NSW study reported more than half of all children in custody previously had at least one parent incarcerated. Of these children, two thirds were Indigenous.

Australia's criminal justice systems have been especially devastating for Indigenous Australians and their children. Like other Australians, most Aboriginal and Torres Strait Islander people never come into contact with the criminal justice system. As the Uluru Statement from the Heart reminds us, Indigenous Australians “are not an innately criminal people” and yet, proportionally, they are “the most incarcerated people on the planet”. At June 30 2018, Aboriginal and Torres Strait Islander prisoners accounted for just over a quarter (28%) of the total Australian prisoner population, yet made up approximately 2% of the Australian population (aged 18 years and over). On an average night just over half of all young people in detention are Indigenous. A litany of studies and Royal Commissions, including the 2020 Productivity Commission report on Indigenous disadvantage, have concluded that structural and systemic factors like laws, policies and practices work to criminalise First Nations Australians.

The conclusion is inescapable: Australia cannot tackle disadvantage and help vulnerable Australians unless we systematically reform our criminal justice systems. The status quo is costly and unsustainable, both financially and, more importantly, in terms of human potential. Without fundamental reform, we will continue to trap some of the most vulnerable Australians and their children in criminal justice systems for life.

This is not about being soft on crime. We acknowledge prisons and custodial sentences are necessary to protect the public, deter crime and facilitate rehabilitation. Yet Australia's prison boom has occurred during an extended period of falling crime and the largest falls have been for the most serious offences. Despite this, each stage of the criminal justice conveyor belt increasingly points to jail. In 2018, three quarter of prisoners received into full-time custody were on remand and unsentenced. Discretion to allow people to remain in the community until their trial has been stripped out of the system. Holding people in jail is a policy choice, one often driven by community anxiety about crime. But it's often the wrong choice.

Other countries are showing how it can be done. Since 2007, reforms in Texas in the United States have seen the state close four prisons, saving an estimated US\$3 billion. Other U.S. states have followed suit, investing savings in corrections initiatives, local programs and other key services that aim to reduce reoffending and support crime victims. The reinvestment in community programs is making a difference to public safety and reducing the likelihood of reoffending. In 2011, North Carolina passed the Justice Reinvestment Act. By 2014, the state's prison population had fallen by 8%, 10 prisons had been closed and an estimated U.S. \$560 million in spending had been saved or avoided. Over the same period, more probation officer positions were funded, more prisoners received post-release supervision and revocations of probation fell significantly. At the same time, North Carolina's crime rate fell by 11%.

To change course, Australia needs a systematic approach to reforming its criminal justice systems. For too long, efforts have been piecemeal, dominated by ad hoc trials or pilots, and often upended by the politics of law and order at election time. That needs to end. We can reform our criminal justice systems, put fewer people in jail *and* make Australian communities safer and healthier. This will free up money that governments can redirect to tackling entrenched disadvantage.

We recommend three primary drivers of change focussed on communities, evidence and coordination. Each of these are necessary. No single driver will be sufficient. This trifecta can improve support for local initiatives, develop the Australian evidence base, and build a law and policy reform agenda to improve effective responses and outcomes for individuals, families and communities in contact with our criminal justice systems

The first driver of change is to support integrated place-based approaches and “community deals” for people in contact with criminal justice systems, their families and communities. Research suggests that criminal convictions and incarceration are concentrated in areas of broader disadvantage. While place-based approaches have responded to this promisingly at different points in the life-course, “Community Deals” can provide the governance structures to sustain and arrange funding so that services are holistically coordinated, savings are reinvested and communities are connected to the systems that affect them.

The second driver of change is to improve the Australian evidence base so that we can double down on more effective responses. Our research found data needed to design effective programs for prisoners and their families is often patchy, incomplete, siloed and disconnected. An Australian *What Works Centre* would address these gaps. It could collate existing evidence, translate international evidence, generate new Australian knowledge, include the voice of lived experience, and apply these insights in practice.

The third driver of change is to coordinate and add coherence to the law and policy reform effort. Our research found that reform efforts are at worst incoherent, and at best uncoordinated. An informal inter-governmental law reform effort could build trust across the sector and provide a quiet and inclusive space to build and implement a shared reform agenda. This effort could ultimately be formalised into a Council on Corrections.

To realise these changes, a united effort is required. *Partners in Crime* suggests specific reform options and ideas to take action on all three drivers of change. The majority of these next steps rely on collaboration, and cannot be achieved by one government, organisation, sector or community alone. There is a clear need and opportunity for governments to work together with service providers, communities, legal practitioners, and employers across jurisdictions to realise these changes.

In particular, there is a special role for philanthropy to catalyse these changes. While philanthropic investment has often been episodic and disconnected from government investment, there is a unique opportunity now for philanthropy to leverage its strengths and work in partnership with each other, and with government. Philanthropy's ability to invest early, invest long-term, and take risks on policy innovation provides an invaluable complement to the scale of government investment required for the reform of our criminal justice systems.

The criminal justice conveyor belt is destroying lives at great financial cost, without making us safer. There is plenty of evidence from Australia and overseas that we can do things differently and better. We encourage you to read this report and share it widely, and we look forward to your feedback on the proposals we are putting forward.