

Smart Justice

“Smart action for a safer community”

More prisons are not the answer to reducing crime

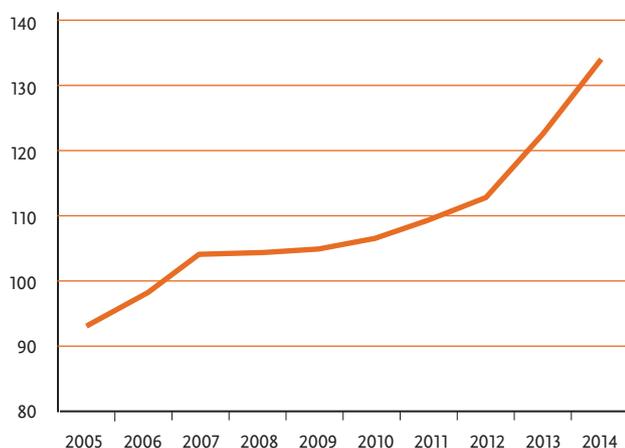
Prisons are meant to protect the community and rehabilitate prisoners. Yet, evidence shows that prison often fails to rehabilitate people and can increase the risk of reoffending. Despite this, we continue to lock up more and more people, mostly from disadvantaged backgrounds, at huge social and financial 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 prevent crime. There are better and more cost-effective ways of reducing crime than prisons.

Our prison population is rapidly increasing

In June 2014, there were 6,050 prisoners in Victoria, a leap of 23.6% in the two years since June 2012.

Over the past decade, Victoria's prison population has increased dramatically, rising 68% from 2004 to 2014.¹ Adjusted for population growth, this represents an increase in the rate of imprisonment of 43.6% in just over ten years.²

Rate of imprisonment in Victoria (per 100,000 population)



Source: ABS, *Corrective Services*, Cat.No. 4512.0

Harsher sentencing is the main driver of the prison population

The Sentencing Advisory Council of Victoria ('SAC'), analysing the ten-year period 2002-2012,³ concluded that the increase was due to: increased lengths of prison sentences;⁴ increased use of prison sentences in the higher courts;⁵ a reduced percentage of people being granted bail;⁶ and an increased number of offences against the person, drug offences and offences against good order.⁷

Between 2011 and 2014, a number of sentencing reforms are likely to have contributed to increased prisoner numbers. Corrections Victoria indicated in 2012 that the key factors driving prisoner numbers would be:

- the abolition of home detention;⁸
- the abolition of suspended sentencing;⁹
- the [proposed] introduction of baseline sentencing;¹⁰ and
- a continued police focus on street and drug crime, family violence and the enforcement of parole breaches.¹¹

Several of these reforms, such as the complete abolition of suspended sentences and baseline sentencing, were implemented or introduced in 2014 and are likely to increase prisoner numbers further in future years.

An additional factor likely to contribute to rising prisoner numbers is the significant increase of over 95% in parole orders denied and a decrease of over 35% in parole order applications at the Adult Parole Board from 2012-13 to 2013-14.¹²

It is expected that these changes will continue to increase prison growth.¹³

In general, it seems harsher sentencing is the main driver of prison growth, not crime rates, which are 1.6% lower than they were ten years ago.¹⁴

We are spending more than ever on prisons and this will continue to rise

Victoria's prisons are already full and the Adult Parole Board, the Victorian Ombudsman and the Auditor-General have all noted 'emerging problems of overcrowding'.¹⁵

Building more prisons is not the answer. Prison construction is extremely expensive. The Victorian Government has invested more than \$1 billion over the last three-and-a-half years to upgrade and increase the capacity of Victoria's prison system.¹⁶ Another 2,500 beds are 'in the pipeline'.¹⁷

In addition to construction costs, housing someone in prison is also extremely expensive. Victorian Government annual prison operating costs (excluding community corrections) have increased 124% over the past decade to \$642.3 million in 2012–13. Spending is set to accelerate over the next decade to cater for the rapidly expanding prison population. The latest State Budget papers estimate that spending will increase by 46.7% over the two years from 2012–13 to 2014–15 alone.¹⁸

Council of Australian Government figures show that the average real net operating expenditure per prisoner per day in 2012–13 was \$270.12, or over \$98,000 per year.¹⁹ In contrast, the average real net operating expenditure for a person under a community corrections order per day was \$26.92 or less than \$10,000 per year.²⁰

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. Studies have found:

- 42% of male and 33% of female prisoners were found to have evidence of an Acquired Brain Injury and a possible intellectual disability;²¹
- 42% of Victorian prisoners have a psychiatric risk rating;²²
- Indigenous Australians are 12 times more likely to be in prison;²³
- 87% of female prisoners in Victoria were victims of sexual, physical or emotional abuse, with the majority being victims of multiple forms of abuse;²⁴
- 63.7% of male and 45.3% of female Victorian prisoners were unemployed when they were imprisoned;²⁵ and
- only 5.6% of male and 14.1% of female Victorian prisoners completed secondary, trade or tertiary education.²⁶

Prison often fails to stop reoffending

58% of Australian prisoners have been in prison before.²⁷ Victoria is comparatively doing better than other states in preventing reoffending. The rate of Victorian prisoners returning to prison within two years has dropped overall since 2001–02 but there has been a rise of over 3% in the return to prison rate since 2010–11.²⁸ This rise is not yet considered to be a statistically significant trend. Still, 51% of Victorian prisoners have been in prison before.²⁹

Harsher prison sentences don't deter crime and can increase reoffending

Longer prison terms are sometimes supported on the basis that they deter crime by sending a message to offenders. Yet, research suggests increasing prison terms doesn't deter crime. In a report on deterrence, SAC concluded that 'the research suggests imprisonment has a negative but generally insignificant effect upon the crime rate, representing a small positive deterrent effect'. However, 'increases in the severity of punishment...have no corresponding increased deterrent effect upon offending'.³⁰ In other words, the general threat of imprisonment has a very small deterrent effect but increasing prison terms doesn't deter more crime.

Prison terms are also sometimes supported on the basis that exposing someone to tough punishment means they won't offend again. However, SAC's report found the 'available research suggests that imprisonment has either no effect upon reoffending or a criminogenic effect'.³¹ In other words, exposing someone to prison doesn't reduce reoffending and may in fact increase it. Further, harsher prison conditions over the course of a sentence 'do not generate a greater deterrent effect, and the evidence shows that such conditions may lead to more violent reoffending'.³²

Explanations for the failure of imprisonment to deter people from reoffending include that 'imprisonment may create a criminal learning environment, imprisonment may label and stigmatise offenders and imprisonment may be an inappropriate way to address the underlying causes of crime'.³³ As leading social researcher Tony Vinson has said, imprisonment can 'reflect and help to sustain limited education, unemployment, poverty, homelessness, and associated social difficulties'.³⁴ Prison often exacerbates the problems that cause offending and fails to break the cycle of crime.

A recent SAC research report on reoffending in Victoria showed that the likelihood of reoffending following a sentence of imprisonment was nearly 25% higher than for those who received a wholly suspended sentence.³⁵ According to SAC 'after controlling for the effect of offender, offence and prior offending characteristics, imprisonment was associated with a higher risk of reoffending than a wholly suspended sentence'.³⁶ The report found that people who were sentenced to a term of imprisonment not only were most likely to reoffend, but they were likely to reoffend most quickly.³⁷

'Ignored, mismanaged, released unprepared, rapidly re-offending and returning to prison. This is all too often the story of the mentally ill offender, repeated and repeated'.

VICTORIAN INSTITUTE OF FORENSIC
MENTAL HEALTH, 2005.³⁸

There are better and cheaper ways of reducing crime than prison

Putting someone in prison generally stops them from offending for the period of their imprisonment but the 'indiscriminate and widespread use of imprisonment as a means of collective incapacitation has been shown to be ineffective in reducing crime'.³⁹ Studies suggest that very substantial increases in imprisonment will produce only a modest reduction in crime.⁴⁰ Worse, as outlined above, there is evidence that prison may increase the likelihood of people reoffending after release.

Reducing disadvantage reduces crime

Many different factors influence whether a particular person will commit crimes. 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.⁴¹

There is strong evidence that early intervention programs targeting at-risk children and youth are cost-effective ways to reduce crime.⁴² There is also research which indicates that reducing disadvantage and increasing income equality will reduce crime.⁴³ Similarly, there is evidence that providing stable housing and employment opportunities can reduce reoffending.⁴⁴

Sentencing that addresses the causes of offending reduces crime

There are alternative sentencing options that 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 10% of the average cost of imprisoning an offender.⁴⁵ 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'.⁴⁶

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% less likely to be reconvicted during the follow-up period.⁴⁷ People processed at the Neighbourhood Justice Centre were 14% less likely to reoffend than those processed at other courts.⁴⁸ The Court Integrated Services Program evaluation showed it generated a 20% reduction in reoffending rates for participants.⁴⁹

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 reoffending, through adequate pre-release and post-release support, particularly in the areas of housing, education and employment; and
- promoting appropriate alternatives to prison including community based orders and suspended sentences.

This factsheet is based on the law of Victoria, Australia and was last updated on 22 September 2014.

1. Australian Bureau of Statistics, *Corrective Services*, cat. no. 4512.0 (2014).
2. Above n 1. Year average figures used except for 2014 where June 2014 figure used.
3. Sentencing Advisory Council, *Victoria's Prison Population 2002-2012* (2013).
4. The reasons for this cannot be conclusively answered on the data: Sentencing Advisory Council, above n 3, 35.
5. The reasons for this cannot be conclusively answered on the data: Sentencing Advisory Council, above n 3, 35. Note comments in Gelb, *The perfect storm? Impact of abolishing suspended sentences in Victoria* (2013) 25: 'over the last eight years, the use of wholly suspended sentences in the higher courts has declined substantially and, it is unclear whether this is due primarily to legislative changes or to some general reaction on the part of judges to the [work by the Sentencing Advisory Council]. See also Sentencing Advisory Council, *Community Corrections Orders: The first 18 months* (2014) 55-56, which found that in the first half of 2013, the use of both suspended sentences and Community Corrections Orders by judges in higher courts continued to decrease, while orders for prison sentences and fines increased. Further research is required to determine the causes of this trend.
6. The increase in prisoners on remand (16% in 2002 to 20.4% in 2012) may be result of number of influences including more serious offending, stricter bail conditions or changes to the granting or refusal of bail: Sentencing Advisory Council, above n 3, 10-11.
7. Sentencing Advisory Council, above n 3, 35.
8. Home detention as a sentencing option ended on 16 January 2012 when the *Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011* commenced.
9. The commencement date for the total phasing out of suspended sentences was 1 September 2014.
10. See *Sentencing Amendment (Baseline Sentences) Bill 2014*. The bill proposes to introduce a new system of sentencing in which judges must apply a prescribed 'starting point' in all sentencing decisions.
11. Victorian Auditor General, *Prison capacity planning* (2012) 37.
12. Adult Parole Board, *Annual Report 2013-14* (2014) 7.
13. See for example, Gelb, above n 5, 26-30 for the estimated additional number of people entering prison as a result of the change.
14. See Smart Justice, *Crime statistics: the real picture* (Factsheet, 2014).
15. Adult Parole Board *Annual Report 2010/11* (2011) 8; Victorian Ombudsman, *Investigation into deaths and harm in custody* (2014); Victorian Auditor-General, *Prisoner Transportation* (2014) 3.
16. Minister for Corrections, 'Maximum security expansion opens at the Metropolitan Remand Centre', Media Release, (15 August 2014).
17. Above n 16.
18. Based on our calculations extracted from Department of Treasury and Finance, *Victorian Budget 2014/15, Budget Paper No. 3: Service Delivery* (2014) 196.
19. Productivity Commission, *Report on Government Services 2014* (2014), Table 8A.7.
20. See Department of Justice (Victoria), *Corrections Statistics: quick reference* (30 June 2013) <<http://www.corrections.vic.gov.au/utility/publications+manuals+and+statistics/corrections+statistics+quick+reference>>.
21. Arbias, *Acquired Brain Injury screening, identification and validation in the Victorian Correctional System*, (2010). Cited in Victorian Ombudsman above n 15, 107.
22. Victorian Ombudsman, above n 15, 111.
23. Australian Bureau of Statistics, above n 1. For

- more information see Smart Justice, *Ending overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system* (Factsheet, 2014).
24. Holly Johnson, *Drugs and Crime: A Study of Incarcerated Female Offenders* Australian Institute of Criminology, (2004) xiv.
 25. Department of Justice, *Statistical Profile of the Victorian Prison System 2006-07 to 2010-11* (2011), 38.
 26. Above n 25, 37.
 27. Australian Bureau of Statistics, *Prisoners in Australia 2013*, cat. no. 4517.0 (2013), 13, Table 1.
 28. Productivity Commission, above n 19, Table C.4.
 29. Australian Bureau of Statistics, above n 28.
 30. Sentencing Advisory Council, *Does Imprisonment Deter? A Review of the Evidence* (2011) 17.
 31. Above n 30, 22. See also Lulham, Weatherburn & Bartels, *The recidivism of offenders given suspended sentences: A comparison with full-time imprisonment* (Crime and Justice Bulletin no 136, NSW Bureau of Crime and Justice Statistics, 2009) 10; Sentencing Advisory Council, *Reoffending Following Sentencing in the Magistrates' Court of Victoria* (2013).
 32. Sentencing Advisory Council, above n 31, 22.
 33. Above n 31, 22.
 34. Tony Vinson, *Dropping Off the Edge: The distribution of disadvantage in Australia*, Jesuit Social Services (2007) 19.
 35. Sentencing Advisory Council, above n 31, 25.
 36. Above n 31, 25.
 37. Above n 31, 29.
 38. Victorian Institute of Forensic Mental Health, Submission no 306 to the Parliament of Australia Senate Select Committee on Mental Health and quoted in the Committee's Report: *A National Approach to Mental Health – From Crisis to Community* (2006) 358.
 39. Gelb, above n 5, 39. Citing Richie, *How Much Does Imprisonment Protect the Community Through Incapacitation* (2012) and Spelman *What Recent Studies Do (and Don't) Tell Us about Imprisonment and Crime* (2000).
 40. Don Weatherburn, *Law and Order in Australia: Rhetoric and Reality* (2004) 123-128.
 41. Above n 40, 52-80 and Rose, 'Poverty and Crime' in Serr (ed), *Thinking about poverty* (2006), 107-108.
 42. Weatherburn, above n 40, 179-182.
 43. Weatherburn, above n 40, 190-197; Rose, above n 41, 107-110; and Wilkinson & Pickett, *The Spirit Level: Why More Equal Societies Almost Always Do Better* (2009), 144.
 44. Employment can reduce re-offending by between a third and a half: UK Home Office, *Breaking the circle: A report on the review of the Rehabilitation of Offenders Act* (2002). See also Rose, above n 43, 116.
 45. Department of Justice (Victoria), above n 20.
 46. Lulham, Weatherburn & Bartels, above n 31.
 47. Weatherburn, Jones, Snowball & Hua, 'The NSW Drug Court: A re-evaluation of its effectiveness' Crime and Justice Bulletin no 121, NSW Bureau of Crime and Justice Statistics, (2008).
 48. Neighbourhood Justice Centre, *Evaluating the Neighbourhood Justice Centre in Yarra 2007-2009* (2010) ii.
 49. Department of Justice (Victoria), *Court Integrated Services Program: Executive Summary Evaluation Report* (2010).