Australian Federal Parliament Senate Inquiry: Value of a justice reinvestment approach to criminal justice in Australia

National Drug and Alcohol Research Centre submission

With 29,383 prisoners as of 30 June 2012, a 30% increase from 2002, [1] there is no doubt that the rate of imprisonment is of increasing concern in Australia. Alcohol and drug use are key problems that contribute to people becoming and remaining involved in the criminal justice system. As a submission on behalf of the National Drug and Alcohol Research Centre (NDARC) we focus here upon such offenders and the lessons learned about the value of a justice reinvestment approach to criminal justice in Australia.

The National Drug and Alcohol Research Centre is a premier research institution in Australia that was founded in 1986 as one of three national centres to conduct research into alcohol and other drugs. The centre mission is to conduct high quality research and related activities that increases the effectiveness of Australian and international treatment and other intervention responses to alcohol and other drug related harm. We welcome the opportunity to contribute to the current inquiry.

Some general principles are:

1) We strongly support the principle of justice reinvestment, as reducing expenditure on and use of imprisonment, and increasing expenditure in health and social arenas would be highly beneficial.

2) There is a danger that justice reinvestment approaches may fall short or fail if they are transferred from the other contexts like the United States to Australia. We therefore urge that Australian efforts to reduce use of imprisonment build upon knowledge of our unique context and the evidence-base of the strengths (and weaknesses) of Australian policies.

3) Drug and drug-related offending accounts for a significant proportion of the current Australian prison population and there is no doubt that current responses are often ineffective or counterproductive.

4) To reduce drug and drug-related offending there are significant opportunities to expand and build upon drug diversion (to keep offenders out of prison), drug treatment (to curtail drug and drug-related offending), through-care (to assist drug-related prisoners to reintegrate into the community and break the cycle of offending), and harm reduction and drug treatment for the small population who must be imprisoned (to meet their needs and the community to which they will return). All such strategies are proven to work in the Australian context but are often under-utilised in the current environment.

5) It is a particularly opportune time to advance these strategies as many are under-threat.

We expand on these through the following sections.

[1] Australian Bureau of Statistics. 4517.0 - Prisoners in Australia, 2012. Canberra. 2012.

The push for justice reinvestment

There is no doubt there has been a considerable rise in interest into justice reinvestment in the USA, UK and more recently Australia. [2] Given increasing imprisonment and costs the general approach has considerable appeal. A challenge has been *how* to put justice reinvestment into practice. [3] [4] For example as noted by Clear:

> Many details of justice reinvestment are left up for grabs. Who is diverted from prison, and how are they diverted? How are prison savings calculated? How are the savings "reinvested," and what is the investment target? The fact that questions of this magnitude are left unaddressed in the justice reinvestment framework goes to show that it is an idea in progress rather than a full-fledged strategy. [5]

A caution from the Centre for Independent Studies [6] has pertinence for the current inquiry as factors including higher imprisonment in the USA and more devolved responsibility within Australia lead to cross jurisdictional differences in the capacity to implement justice reinvestment:

> Important differences between the United States and Australia affect the application of Justice Reinvestment strategies in Australia. In the United States, three-quarters of offenders are given custodial (prison) sentences, while in Australia, one-fifth of the sentences imposed are custodial. The United States therefore has a lot more room to move in that regard—and a lot more offenders to keep out of prison than Australia.
>
> A key component of Justice Reinvestment is devolving accountability and responsibility to the local level to find community-level solutions to community-level problems. But, Australia does not have as much scope for the devolution of funding and responsibility between different governments as the United States. In Australia, criminal justice is already the primary responsibility of state governments, and it is highly unlikely that local government authorities will be given this responsibility.

We therefore urge that Australian efforts to reduce use of imprisonment build upon knowledge of our unique context and the evidence-base of the strengths (and limitations) of Australian policies. Factors of relevance for justice reinvestment for drug and drug-related offending include: the scale of the problem; the drivers of current imprisonment and re-imprisonment of drug and drug-related offenders; the evidence on what policy options work (and which do not) and the opportunities and barriers to their extension.

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[2] House of Commons Justice Committee. Cutting Crime: The Case for Justice Reinvestment, First Report of Session 2009–2010, HC 94. London, UK: The Stationery Office. 2009.
[3] Maruna S. Lessons for justice reinvestment from restorative justice and the justice model experience. Criminology and Public Policy. 2011. 10(3):661-9.
[4] Allen R. Justice reinvestment and the use of imprisonment: Policy reflections from England and Wales. Criminology and Public Policy. 2011. 10(3):617-27.
[5] Clear T, R. A private-sector, incentives-based model for justice reinvestment. Criminology and Public Policy. 2011. 10(3):585-608.
[6] Hudson S. Panacea to prison? Justice reinvestment in Indigenous communities. CIS Policy Monograph 134. St Leonards: The Centre for Independent Studies. 2013.

Impact of drug and drug-related offenders on Australian prisons

Drug offences make up a small proportion of all offences in Australian prisons. Indeed in 2012 looking at the most serious offence (MS0) illicit drug offences accounted for only 12.0% of all Australian prisoners. [7] This is in stark contrast to countries like the USA where prisoners incarcerated on a drug charge account for 48% of all federal inmates: many of whom have no other criminal record. [8] This is large part attributable to the early decision in Australia that minor drug offenders, particularly those detected for offences involving possession and use ought be dealt with *outside* rather than inside the prison system.

However, despite the low rates of 'drug offenders' there remain high rates of drug use amongst Australian prisoners.

- In 2010 66% of Australian inmates were recent drug users (having used drugs in the last 12 months): ranging from 40% in the NT to 92% in the ACT. [9]
- This was 5.5 times higher than in the general Australian population: 12.0% of those aged 14 and over (also from 2010). [10]

- In 2010 55% of Australian inmates had ever injected drugs: ranging from 48% in Tas to 61% in SA. [11]
- This was 30.5 times higher than in the general Australian population: 1.8% of those aged 14 and over (also from 2010). [12]

Equally if not more importantly, there remain high rates of drug-related offending amongst Australian prisoners.

- National: In a survey of adult male prisoners in 2001, the AIC's Drug Use Careers of Offenders (DUCO) study found that 62 percent of adult male prisoners reported being under the influence of alcohol or illegal drugs at the time of the offence that later resulted in their incarceration. [13]
- ACT: In 2010 71% of ACT inmates were intoxicated at the time of the offence. [14]
- NSW: In 2009 61% of NSW inmates were intoxicated at the time of the offence. [15]

Drug and drug-related offenders also often have higher rates of other social problems, including higher rates of mental health problems, family dysfunction and unemployment and lower levels of education and social advantage. Such offenders fair much poorer in the correctional system, due to numerous reasons, including the added risks posed by the prison environment and lack of adequate policy responses.

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[7] Australian Bureau of Statistics. 4517.0 - Prisoners in Australia, 2012. Canberra. 2012.

[8] Carson EA, Sabol WJ. Prisoners in 2011. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice. 2012. NCJ 239808.

[9] Australian Institute of Health and Welfare. The health of Australia's prisoners 2010. Canberra: AIHW. 2011. Cat. no. PHE 149.

[10] Australian Institute of Health and Welfare. 2010 National Drug Strategy Household Survey. Canberra: AIHW. 2011. Drug statistics series number 20 Cat. no. PHE 98.

[11] Australian Institute of Health and Welfare. The health of Australia's prisoners 2010. Canberra: AIHW. 2011. Cat. no. PHE 149.

[12] Australian Institute of Health and Welfare. 2010 National Drug Strategy Household Survey. Canberra: AIHW. 2011. Drug statistics series number 20 Cat. no. PHE 98.

[13] Makkai T, Payne J. Drugs and crime: a study of incarcerated male offenders. Canberra: Australian Institute of Criminology. 2003. Research and Public Policy Series No. 52.

[14] Epidemiology Branch ACT Government Health Directorate. ACT Inmate Health Survey 2010: Summary results. Canberra: ACT Government. 2011.

[15] Indig D, Topp L, Ross B, Mamoon H, Border B, Kumar S, et al. 2009 NSW Inmate Health Survey: Key findings report. Sydney: Justice Health. 2010.

Added risks posed by prison environment

In spite of strict supply reduction efforts drug use continues to occur within prison environments. For example, the 2009 NSW prison inmate study found 42.5% inmates reported using drugs *within* prison. [16] Moreover there is also documented evidence of non-users initiating drug use in prison: due to peer pressure, stress or boredom.

Prisons are associated with numerous added risks for drug users:

- High levels of infectious diseases. For example, prisoner health studies in Australia have estimated the overall prevalence of hepatitis C infections to be 23-47% for male prisoners and 50-70% for female prisoners. [17] This is up to 17 times greater than in the general community.
- Low access to clean needles and hence high rates of needle sharing. For example the 2009 NSW inmate health study found that amongst those who injected in prison, only 3% reported that on their most recent occasion no other person had used the needle and syringe to inject before they themselves used (that is, 97% reported they had shared a used needle and syringe). Moreover, 17% reported that six or more people had used the needle/syringe prior to their doing so. [18] Rates of needle sharing within prison are thus 27 times greater than within the general injecting drug using community. [19]

Accordingly injecting drug use in prison is associated with transmission of human immunodeficiency virus (HIV) and the hepatitis C virus. [20] [21] The largest reported in prison cohort examining HCV transmission amongst previously negative testers in NSW, showed an HCV seroincidence in prison at 34.2 per 100 person years. [22] Given the high turnover of prisoners (and return into the community), these preventable infections pose a risk to both inmate and public health.

Following release, inmates are at a greatly increased risk of death, particularly from drug overdose.[23] Indeed a meta-analysis has shown the risk of drug-related death is three-to eightfold higher in the first 2 weeks after release from prison compared with the subsequent 10 weeks. [24] Newly release inmates also have increased risk of recidivism and return to prison. This is particularly true for IDU for whom it is estimated that the majority return to custody at some time in their life, most within two years. [25]

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[16] Indig D, Topp L, Ross B, Mamoon H, Border B, Kumar S, et al. 2009 NSW Inmate Health Survey: Key Findings Report. Sydney: Justice Health. 2010.

[17] Hepatitis Australia. Consensus statement: Addressing Hepatitis C in Australian custodial settings. Canberra: Hepatitis Australia. 2011.

[18] Indig D, Topp L, Ross B, Mamoon H, Border B, Kumar S, et al. 2009 NSW Inmate Health Survey: Key Findings Report. Sydney: Justice Health. 2010.

[19] Iversen, J. and Maher, L. Australian Needle and Syringe Program National Data Report 2007-2011. The Kirby Institute, University of New South Wales, 2012.

[20] Dolan K, Teutsch S, Scheuer N, Levy M, Rawlinson W, Kaldor J, et al. Incidence and risk for acute hepatitis C infection during imprisonment in Australia. European Journal of Epidemiology. 2010. 25(2):143 - 8.

[21] Dolan K, Wodak A, Hall W, Gaughwin M, Rae F. HIV risk behaviour of IDU`s before, during and after imprisonment in New South Wales. Addiction Research. 1996. 4(2):155 - 60.

[22] Dolan K, Teutsch S, Scheuer N, Levy M, Rawlinson W, Kaldor J, et al. Incidence and risk for acute hepatitis C infection during imprisonment in Australia. European Journal of Epidemiology. 2010. 25(2):143 - 8.

[23] Farrell M, Marsden J. Acute risk of drug-related death among newly released prisoners in England and Wales. Addiction. 2008. 103:251-5.

[24] Merrall ELC, Kariminia A, Binswanger IA, Hobbs MS, Farrell M, Marsden J, et al. Meta-analysis of drug-related deaths soon after release from prison. Addiction. 2010. 105(9):1545-54.

[25] Larney S, Toson B, Burns L, Dolan K. Opioid substitution treatment in prison and post-release: Effects on criminal recidivism and mortality Canberra: National Drug Law Enforcement Research Fund. 2011.

Policy responses to drug and drug-related offenders within Australian prisons

Two comprehensive studies have been funded by the Australian National Council on Drugs to map the provision of supply, demand and harm reduction strategies in Australia prisons in 2004 and 2009, their costs and evidence of effectiveness. Both were led by NDARC's Professor Kate Dolan and are accessible by the Parliamentary Inquiry online: http://www.ancd.org.au/images/PDF/Researchpapers/rp23_australian_prisons.pdf

Here we outline the key conclusions from the 2009 study. [26]

Supply reduction strategies

- Supply reduction strategies are designed to disrupt the production and supply of illicit drugs and the main ones employed in Australian prisons are drug detection dogs and urinalysis (testing for the presence of illicit substances).
- Both drug detection dogs and urinalysis are utilized in all jurisdictions, with data from NSW indicating 69% of inmates are exposed to drug detection dogs and 51% to urinalysis testing.
- Thousands of urine samples test negative and those that do test positive are most commonly for cannabis
- Supply reduction strategies were rarely evaluated or, if evaluated, the report was not available for release and review.
- But there is evidence that urinalysis provides a perverse incentive for at least some prisoners to start using heroin instead of cannabis to avoid detection in urine drug screening. [27]

Supply reduction strategies	**NSW**	**QLD**	**VIC**	**SA**	**WA**	**TAS**	**NT**	**ACT**
Coverage								
• Drug detection dogs	Y	Y	Y	Y	Y	Y	Y	Y
• Urinalysis	Y	Y	Y	Y	Y	Y	Y	Y
Evaluation								
• Drug detection dogs	Y	N	N	N	Y	N	N	Y
• Urinalysis	Y	N	Y	N	Y	N	N	Y

Demand reduction strategies

- Demand reduction strategies aim to reduce drug use and encourage recovery. Strategies in Australian prisons include detoxification, methadone treatment, inmate programs and counselling, and drug-free units and to take advantage of what many deem is an ideal time to get drug users *into* treatment. [28]
- Detoxification was provided in all jurisdictions, but evaluations had only been undertaken in two jurisdictions.
- Counselling programs were extensive, although there was little or no evaluation.
- The provision of methadone and other pharmacotherapy programs was patchy with some jurisdictions having good access while others had very limited access.

[26] Rodas A, Bode A, Dolan K. Supply, demand and harm reduction strategies in Australian prisons: an update. Canberra: Australian National Council on Drugs. 2012. ANCD research paper 23.

[27] See for example: Dolan K, Wodak A, Hall W, Gaughwin M, Rae F. HIV risk behaviour of IDU`s before, during and after imprisonment in New South Wales. Addiction Research. 1996. 4(2):155 - 60. Singleton N, Pendry E, Simpson T, Goddard E, Farrell M, Marsden J, et al. The impact of mandatory drug testing in prisons. London: Home Office. 2005. Report No.: Home Office Online Report 03/05.
The Australian study by Dolan et al. found 8.9% of their sample of inmates had substituted heroin for cannabis. The UK study by Singleton et al. found 6% of their sample had used heroin in their current prison when they had not used it in the month before entry to prison. Given the uptake of heroin, also involves a change in mode of use (from smoking to injecting), any change constitutes a small but policy significant increase in the harmfulness of drug taking practices.

[28] Larney S, Toson B, Burns L, Dolan K. Opioid substitution treatment in prison and post-release: Effects on criminal recidivism and mortality Canberra: National Drug Law Enforcement Research Fund. 2011. Monograph Series No. 37.

The range in provision of opiate substitution treatment can be seen in the table below with four jurisdictions having 13% or more in treatment (NSW, Vic, SA and ACT) while the rest had very limited program capacity (Queensland, WA, Tasmania and NT). This is due in particular to rules that inmates could *not* commence methadone or buprenorphine treatment in prison or must meet strict criteria such as undertaking a sentence of less than 12 months.

- That said, the evidence-base on methadone and other pharmacotherapy programs was extensive and showed clear benefits for those receiving treatment. [29] For example a ten-year follow-up study of NSW inmates in methadone treatment found a 20 per cent reduction in re-incarceration for those who left prison on methadone and remained on it after release. [30] A four year follow-up of imprisoned male heroin users on methadone treatment moreover showed reductions in mortality, re-incaraceration and hepatitis C infection. [31]

Demand reduction strategies	**NSW**	**QLD**	**VIC**	**SA**	**WA**	**TAS**	**NT**	**ACT**
Opioid substitution treatment (OST)								
% of prisoners in OST	17.5	0.6	16.7	13	6.9	0.9	0.2	25.1
Evaluated	Y	Y	N	Y	Y	N	N	Y
Detoxification								
Coverage	Y	Y	Y	Y	Y	Y	Y	Y
Evaluated	N	Y	N	N	N	N	N	Y

Harm reduction strategies

- Harm reduction strategies seek to reduce the harm associated with illicit drug use. Strategies in Australian prisons included education; blood-borne virus testing and hepatitis vaccinations; condom and dental dams; and disinfectant.
- All jurisdictions, except Queensland provided education on harm reduction.
- All jurisdictions offered blood borne viral testing: only one had evaluated it.
- All jurisdictions offered hepatitis vaccination, with two jurisdictions (ACT and Tasmania) conducting evaluations.

Of note, in spite of proven success in the Australian community and internationally in correctional settings, not one Australian prison provided a needle syringe program. The ACT has since announced that one will be introduced into their new prison: the Alexander Maconochie Centre. [32] This is a significant achievement. But it still leaves most Australian prisoners without any access to clean needles and syringes.

Harm reduction strategies	**NSW**	**QLD**	**VIC**	**SA**	**WA**	**TAS**	**NT**	**ACT**
Blood borne virus testing								
Coverage	Y	Y	Y	Y	Y	Y	Y	Y
Evaluated	N	N	N	N	N	N	Y	N
Hepatitis vaccination								
Coverage	Y	Y	Y	Y	Y	Y	Y	Y
Evaluated	N	N	N	N	N	Y	N	Y

[29] Larney S, Toson B, Burns L, Dolan K. Opioid substitution treatment in prison and post-release: Effects on criminal recidivism and mortality Canberra: National Drug Law Enforcement Research Fund. 2011. Monograph Series No. 37.

[30] Larney S, Toson B, Burns LD, Kate Effect of prison-based opioid substitution treatment and post-release retention in treatment on risk of re-incarceration. Addiction. 2012. 107(2):372-80.

[31] Dolan KA, Shearer J, White B, Zhou J, Kaldor J, Wodak AD. Four-year follow-up of imprisoned male heroin users and methadone treatment: mortality, re-incarceration and hepatitis C infection. Addiction. 2005. 100(6):820-8.

[32] Knaus C. Needle exchange trial to go ahead at Canberra jail. Canberra Times. 2012 August 15.

Overall, this study revealed a heavy reliance by Australian prisons on supply reduction strategies but limited attention to their evaluation. Moreover, while evaluation of demand and harm reduction strategies were generally positive it showed they were much less likely to be implemented or to be implemented without restrictions on inmate access. Restrictions were particularly evident for the program most shown to reduce drug use and recidivism: opioid substitution treatment. Given the situation was disturbingly similar to the findings of the previous 2004 study [33] this suggests that Australian prisons may be resistant to wholesale or rapid change and that alternate strategies that place less emphasis upon drug and drug-related offenders in Australian prisons are urgently needed.

How could imprisonment for drug and drug-related offenders be reduced?

There are two main proven policy options:

1. Drug diversion: Keeping people out of prisons can be very beneficial – particularly when coupled with entry into drug education and treatment. While this can be at the front-end or back-end, the evidence is strongest that it is better to intervene *before* offenders are imprisoned.
2. Drug treatment within the community: Treatment is the most effective and cost-effective way to reduce drug-related offending. It also offers numerous other benefits including improving individual and community health.

Drug diversion

Australia has made considerable investment in expanding drug diversion programs. In 2008 a comprehensive mapping by NDARC's Caitlin Hughes and Alison Ritter showed there were 52 different programs for drug and drug-related offenders across Australia, with 3-12 in each state and territory. [34] The vast majority of diversion programs had therapeutic goals: namely to refer offenders for an assessment of their drug and alcohol treatment needs and to provide education and/or treatment to those warranting treatment. Yet, a further goal of diversion programs has been to avoid negative consequences of a criminal record or incarceration such as reduced employment opportunities, stigmatisation, family relationship distress and access to public housing.

The extant literature has demonstrated that drug diversion programs elicit numerous benefits. They have:

- Reduced offending, time to first re-offence and likelihood of imprisonment. For example a national review of 12 police diversion programs in Australia found that the majority of offenders did not reoffend following diversion. [35] Moreover, compared to a match sample NSW drug court participants have been found to be 17 per cent less likely to be reconvicted for any offence, 30 per cent less likely to be reconvicted for a violent offence and 38 per cent less likely to be reconvicted for a drug offence at any point during the follow-up period. [36]

[33] Black E, Dolan K, Wodak A. Supply, demand and harm reduction strategies in Australian prisons: mplementation, cost and evaluation. Canberra, ACT: Australian National Council on Drugs. 2004. ANCD research paper 9.

[34] Hughes C, Ritter A. Monograph No. 16: A summary of diversion programs for drug and drug-related offenders in Australia. Sydney: National Drug and Alcohol Research Centre. 2008.

[35] Payne J, Kwiatkowski M, Wundersitz J. Police drug diversion: a study of criminal offending outcomes. Canberra: Australian Institute of Criminology. 2008. Research and public policy series no. 97.

[36] Weatherburn D, Jones C, Snowball L, Hua J. The NSW Drug Court: A re-evaluation of its effectiveness. Sydney: NSW Bureau of Crime Statistics and Research. 2008. Contemporary Issues in Crime and Justice No. 121.

- Reduced drug use, frequency of drug use and/or harmful use. For example the proportion of offenders who self reported as regular cannabis users decreased from 95% to 74% pre and post undertaking the Queensland Police Drug Diversion Program [37] and participants in the Western Australian Pre-sentence Opportunity Program also reported significant reductions in self-reported drug use and self reported frequency of desire to use. [38]
- Increased cost-effectiveness of responses. For example studies of the NSW Magistrates Early Referral Into Treatment court diversion program revealed that drug diversion offered savings equivalent to $2.98 for every $1 invested. [39] This was attributed to reductions in the costs of police investigation, hospitalisation, criminal activity and prison and probation supervision costs. Moreover, an evaluation of the cost-effectiveness of the Victorian drug court showed that for every dollar invested, the community benefited to the value of $5.81. [40]

Yet, while programs have done extremely well at targeting drug users detected for possession and use offences there remain much capacity to expand diversion for drug-related offenders. Forthcoming work by NDARC estimated the reach of police and court drug diversion programs in the ACT. [41] This showed that 71% of cannabis use/possess offenders were diverted, but only 16.2% of eligible drug-related offenders in court. Equally importantly, the equivalent court drug diversion program in NSW was diverting even fewer offenders: only 8.3% of eligible drug-related offenders. This provides strong evidence that while the current programs work well, many more offenders *could* be diverted, to the benefit of the broader community.

Of particular importance for the current inquiry, is that drug diversion policies, particularly those within the court are currently under-threat. [42]

- In June 2012 it was announced that all three drug courts in Queensland would be closed, in spite of ten years of operation, and proven evaluations of their cost-effectiveness.
- In July 2012 the NSW Youth Drug and Alcohol Court was axed.
- In December 2012 the Northern Territory announced their Alcohol and other drug Court Tribunal would also be cut.
- In November 1999 and December 2002 the Commonwealth government made considerable commitments to drug diversion through a national agreement to divert minor drug offenders and the provision of federal funds for program roll out (amounting to $325 million). But future commitment towards drug diversion and funding remains unclear.

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[37] Health Outcomes International Pty Ltd and Turning Point Alcohol and Drug Centre. Evaluation of Queensland Illicit Drug Diversion Initiative (QIDDI) Police Diversion Program. Kent Town, SA: Health Outcomes International Pty Ltd. 2004. Final Report.

[38] Crime Research Centre. WA diversion program – Evaluation framework (POP/STIR/IDP). Final report for the Drug and Alcohol Office. Perth: Crime Research Centre, University of Western Australia 2007.

[39] Northern Rivers University Department of Rural Health. Evaluation of the Lismore MERIT Pilot Program Final Report. Lismore: NSW Attorney General's Department. 2003.

[40] Acumen Alliance. Benefit and cost analysis of the drug court program. Canberra: Acumen Alliance. 2005.

[41] Hughes C, Shanahan M, Ritter A, McDonald D, Gray-Weale F. Evaluation of the ACT drug diversion programs. Sydney: Drug Policy Modelling Program. in press, accepted 15/1/13.

[42] Hughes C. The Australian (illicit) drug policy timeline: 1985-2012, Drug Policy Modelling Program, Last updated 14 September 2012: Available from: http://www.dpmp.unsw.edu.au/dpmpweb.nsf/page/Drug+Policy+Timeline.

Drug treatment/treatment systems

Treatment has a strong evidence base of effectiveness and cost-effectiveness. Moreover, the potential cost savings of expanding investment in drug treatment in community settings (and reducing investment in prison) are clear:

- For example, comparing costs of the different policy levers the cost of averting a year of heroin use is approximately AUD$5,000 for pharmacotherapy maintenance, AUD$11,000 for residential rehabilitation and AUD$52,000 for prison. [43] This suggests that pharmacotherapy is one-and-a-half and three times more effective than residential rehabilitation and between three and 10 times more effective than prison for a given amount of resources.
- Moreover, a newly completed Economic Analysis for Aboriginal and Torres Strait Islander Prisoners: Prison vs Residential Treatment compared the difference in costs between prison and drug treatment for non-violent indigenous offenders across Australia. [44] The report found that, nationally, the average cost of imprisoning a non-violent indigenous offender was nearly $115,000 annually compared with a cost of about $18,000 for residential drug treatment in the community. That is 6.4 times less expensive.

Australia has done well to get the mix of treatments it currently has, including good pharmacotherapy options for opioid users. But, similar with drug diversion, there is considerable unmet demand in Australia. In the case of opioid pharmacotherapy maintenance a recent modelling exercise suggested that there were about as many people who had cycled out of maintenance treatment as could re-enter. [45] This suggests that Australia only meets about 50% of the potential demand for opioid maintenance treatment.

It is also increasingly being recognised that mere provision of treatment is not enough and there remain considerable barriers to access. Of note in regards to pharmacotherapy, the most effective and most provided treatment in Australia:

- There are too few prescribers. For example a recent report by the Australian National Council on Drugs noted there were 92,503 registered medical practitioners in Australia of which only 1,444 were prescribers. [46]
- Many jurisdictions impose dispensing fees on clients, which many struggle to afford. However, modelling from NSW suggests that if dispensing fees were covered by government, there could be a 15% increase in patient numbers, or a 24% increase if existing users were attracted to enter treatment earlier. [47]

A greater investment in drug treatment and on improving systems of access to drug treatment would thus make considerable inroads to reducing drug and drug-related offending.

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[43] Moore T, Ritter A, Caulkins J. The costs and consequences of three policy options for reducing heroin dependency. Drug and Alcohol Review. 2007. 26(4):369-78.

[44] Deloitte Access Economics. An economic analysis for Aboriginal and Torres Strait Islander offenders: prison vs residential treatment. Canberra: Australian National Council on Drugs. 2013. ANCD Research Paper No. 24.

[45] Chalmers J, Ritter A, Heffernan M, McDonnell G. Modelling pharmacotherapy maintenance in Australia: Exploring affordability, availability, accessibility and quality using system dynamics. Canberra: Australian National Council on Drugs. 2009.

[46] Australian National Council on Drugs. Medication-assisted treatment for opioid dependence (MATOD): 1st Canberra roundtable report Canberra: ANCD. 2012.

[47] Chalmers J, Ritter A. The NSW Opioid Treatment Program: exploring policy options using a system dynamics modelling approach. A report for NSW Health. Sydney: Drug Policy Modelling Program, National Drug and Alcohol Research Centre. 2009.

Other considerations

Would the public support change?

Australian public opinion shows broad support for decreasing funding on criminal justice and increasing on education and treatment. The preferences vary somewhat by drug type, but even for heroin the public has stated 42% expenditure should be on law enforcement, 33% on education and 25% on treatment. [48] This compares to the most recent national estimates of funding for drug policy in Australia which indicated 55% of government expenditure was directed at criminal justice, versus 23% prevention (education) and 17% at treatment. [49]

Impacts of laws and politics

Policies to be tougher through mandatory minimum sentencing and longer sentences often have intuitive appeal to politicians, but they increase imprisonment without necessarily any proven benefits on deterrence or community safety. For example a US study showed mandatory minimums for drug offenders were highly ineffective: increasing the costs without reducing crime. [50] Moreover, the mandatory minimums in the United States for crack cocaine fuelled over-imprisonment of crack cocaine users, mass racial disparities and the need to not only amend but also retroactively reduce sentencing inequities. [51] Conversely, measurable benefits can occur by switching from tougher to smarter laws. Indeed, many have said that legislative and policy reforms to probation and parole are the biggest contributor to US declines in imprisonment rates. [52]

Social policy investment

Drug and drug-related problems are strongly influenced by a host of social conditions: employment, housing, socio-economic status. We recognise the clear necessity and benefits of reducing social inequalities within Australia, particularly given evidence of increasing social inequalities, but we are also aware that these are long term solutions, which are unlikely to be able to offer a swift impact on drug use or recidivism.

Drug treatment and harm reduction still needs expansion within the correctional settings

While increasing diversion and community treatment should reduce the burden on Australian prisons, for those that need to enter prison, there needs to be adequate responses. Of particular importance is expanding prison-based methadone programs and reducing limits and barriers, including to those not currently in but wanting treatment provision. Needle syringe programs within prisons are also essential to reduce the high incidence of infectious diseases. There is a sound body of evidence supporting needle and syringe provision in custodial settings. [53] Finally, adequate through-care is essential to help inmates stay in treatment if needed, find stable housing, new networks and a job and remain in the community without re offending.

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[48] Matthew-Simmons F, Love S, Ritter A. Monograph No. 17: A review of Australian public opinion surveys on illicit drugs. DPMP Monograph Series. Sydney: National Drug and Alcohol Research Centre. 2008.

[49] Moore TJ. Monograph No. 01: What is Australia's "drug budget"? The policy mix of illicit drug-related government spending in Australia. Fitzroy: Turning Point Alcohol and Drug Centre. 2005.

[50] Caulkins JP, Rydell CP, Schwabe WL, Chiesa J. Mandatory minimum drug sentences: Throwing away the key or the taxpayers' money? Santa Monica: RAND. 1997. MR-827-DPRC.

[51] Yeh BT, Doyle C. Sentencing levels for crack and powder cocaine: Kimbrough v. United States and the Impact of United States v. Booker. Washington DC: Congressional Research Service. 2009.

[52] Hudson S. Panacea to prison? Justice reinvestment in Indigenous communities. St Leonards: The Centre for Independent Studies. 2013. CIS Policy Monograph 134.

[53] Jürgens R, Ball A, Verster A. Interventions to reduce HIV transmission related to injecting drug use in prison. The Lancet Infectious Diseases. 2009. 9(1):57-66.

In conclusion

There is clear evidence that drug and drug-related offenders account for the majority of Australian prisoners and that imprisonment can be not only ineffective but also counterproductive in dealing with such offenders. The National Drug and Alcohol Research Centre thus resoundingly support efforts to increase use of alternatives to prison. But we also recommend that this be done recognising the unique Australian context, opportunities and challenges: that is building upon the policies and strategies we know can make a difference. We thus recommend:

- A bipartisan agreement to stop law and order approaches: smarter not tougher – particularly for drug offenders but also for other offenders
- A renewed national commitment to drug diversion and keeping offenders out of prison
- Redirecting funds from prison to increase diversion for drug and drug-related offenders
- Redirecting funds from prison to increase drug treatment in the community and addressing known barriers to drug treatment access
- A commitment to ensure that Australian prisons provide adequate treatment, harm reduction and through-care for those prisoners who remain in the correctional system
- A long term commitment to address social inequalities

The evidence-base is strong that undertaking these steps offers considerable opportunity to reduce imprisonment, reduce the cost of responding and reduce the broader health and social harms from drug and drug-related offending.

National Drug and Alcohol Research Centre
The University of New South Wales
Sydney, NSW, 2052

Professor Michael Farrell
NDARC Director

Dr Caitlin Hughes
Research Fellow