Impacts of Imprisonment and Remand in Custody

Executive Summary

Research shows that imprisonment has negative impacts on the physical and mental health of incarcerated individuals, and these impacts persist after release.[1]

Lack of appropriate access to healthcare in prison can have adverse effects on the health and wellbeing of incarcerated people.[2] Government findings in multiple Australian jurisdictions have identified that people in prison experience numerous barriers to accessing healthcare of an equivalent standard to that available in the community.[3]

The 'demand for health services clearly outweighs the supply of health services' in NSW correctional centres,[4] and most NSW correctional centres fail to provide access to Justice Health & Forensic Mental Health network general practitioners and primary health nurses within required timeframes.[5] Older people in prison face additional challenges in accessing appropriate health care.[6]

Identified limitations on access to appropriate healthcare in prison include:

- lengthy waiting periods to see specialist health services, as well as general practitioners and primary health nurses,[7] meaning that even chronic health conditions may become acute because they are left untreated;[8]
- inadequate inpatient facilities and lack of medical services available at some regional prisons;[9]
- inadequate psychiatric beds for incarcerated people with mental health challenges and inadequate time for medical staff to conduct comprehensive medical assessments;[10] and
- a shortage of health staff in correctional centres, particularly in rural and remote areas, and particularly for Aboriginal health worker roles and mental health nurses.[11]

People on remand, people serving short sentences, and people serving long sentences all face difficulty accessing alcohol and other drug ('AOD') treatment in custody.[12]

Aboriginal and Torres Strait Islander people are less likely to be able to access culturally safe healthcare in prison than in the community.[13]

The experience of incarceration may result in poor mental health outcomes,[14] both by exacerbating existing mental health conditions and causing new experiences of poor mental health.[15] Adverse mental health impacts may be especially pronounced for people with backgrounds of trauma,[16] and may compromise a person's ability to engage with and benefit from support upon release.[17]

Other impacts of imprisonment may include loss of housing, barriers to employment and social exclusion,[18] with the potential for the impact and flow-on effects of incarceration, such as reduced access to employment and a lack of stable housing, to be lifelong.[19]

Longer periods of incarceration may have greater negative impacts on housing.[20] Social housing tenants who experience incarceration may be forced to relinquish tenancies while in prison if the period of incarceration they experience exceeds the period of time they are permitted to be absent from their housing.[21]

Incarceration has significant negative impacts on families and communities,[22] especially on the children of incarcerated individuals,[23] which may affect families and communities in different ways.[24] The family and community impacts of incarceration are more pronounced for Aboriginal and Torres Strait Islander people, particularly women.[25] Loss of culture and disconnection from Country and community due to imprisonment may have adverse impacts on the social and emotional well-being of Aboriginal and Torres Strait Islander people who experience incarceration.[26]

Even short periods of incarceration, including remand, can have wide-ranging adverse impacts and may be linked with subsequent contact with the criminal process.[27] People in prison serving short sentences are less likely to be able to access programs or training,[28] and may face more limited access to medical treatment,[29] including treatment for alcohol and other drug issues.[30] Research shows that people who receive non-custodial penalties are significantly less likely to be re-convicted within the next 12 months than those who receive sentences of imprisonment,[31] and it there is a growing body of evidence indicating that incarceration is of limited effectiveness in reducing recidivism when compared with community-based alternatives. [32]

In respect of young people, it is widely recognised that 'incarceration fails to meet the developmental … needs of youth offenders and is limited in its ability to provide appropriate rehabilitation'.[33]

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[1] See, eg, Senate Legal and Constitutional Affairs References Committee, Parliament of Australia, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia* (Report, 20 June 2013) 22–5; Australian Institute of Criminology, *Mortality and Morbidity in Prisoners after Release from Prison in Western Australia 1995–2003* (Trends & Issues in Crime and Criminal Justice No 320, July 2006) 2; Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 585; Health and Welfare, 'Snapshot – Adult Prisoners', *Australia's Welfare 2021* (Web Page, 16 September 2021). See also Australian Government Productivity Commission, *Australia's Prison Dilemma* (Research Paper, October 2021) 26.

[2] See, eg, Victorian Ombudsman, *Investigation into Deaths and Harm in Custody* (Report, March 2014) 106.

[3] Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 594 (Finding 55); Victorian Ombudsman, *Investigation into Deaths and Harm in Custody* (Report, March 2014) 8.

[4] NSW Inspector of Custodial Services, *Health Services in NSW Correctional Facilities* (Report, March 2021) 124.

[5] Ibid 114.

[6] Ibid 135–6. See also NSW Inspector of Custodial Services, *Old and Inside: Managing Aged Offenders in Custody* (Report, 2015).

[7] Victorian Ombudsman, *Investigation into Deaths and Harm in Custody* (Report, March 2014) 8; NSW Inspector of Custodial Services, *Health Services in NSW Correctional Facilities* (Report, March 2021) 114.

[8] NSW Inspector of Custodial Services, *Health Services in NSW Correctional Facilities* (Report, March 2021) 114.

[9] Victorian Ombudsman, *Investigation into Deaths and Harm in Custody* (Report, March 2014) 8.

[10] Victorian Ombudsman, *Investigation into Prisoner Access to Health Care* (Report, August 2011), cited in Victorian Ombudsman, *Investigation into Deaths and Harm in Custody* (Report, March 2014) 105–6.

[11] NSW Inspector of Custodial Services, *Health Services in NSW Correctional Facilities* (Report, March 2021) 129.

[12] NSW Special Commission of Inquiry into Crystal Methamphetamine and Other Amphetamine-type Stimulants, *Report – Volume 1* (January 2020) Ii [197].

[13] Australian Institute of Health and Welfare, 'Health of Prisoners' (Web Article, 7 July 2022). 'This is despite the recommendations of the Royal Commission into Aboriginal Deaths in Custody for Aboriginal people in prison to have access to culturally safe health care and Aboriginal-specific health services': Sacha Kendall et al, 'Incarcerated Aboriginal Women's Experiences of Accessing Healthcare and the Limitations of the "Equal Treatment" Principle' (2020) 19 *International Journal for Equity in Health* 48, 50.

[14] See, eg, Australian Institute of Health and Welfare, *Improving Mental Health Outcomes for Indigenous Australians in the Criminal Justice System* (Report, 14 July 2021) 7; NSW Inspector of Custodial Services, *Full House: The Growth of the Inmate Population in NSW* (Report, 2015) 58–9, citing Coroner of South Australia, *Finding of Inquest: Marshall Freeland Carter* (2000).

[15] Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 594 (Finding 55).

[16] Ibid 594.

[17] Ibid 593. See also Australian Institute of Criminology, *Interventions for Prisoners Returning to the Community* (Report, Commonwealth of Australia, February 2005) 37; Craig Haney, 'Psychological Impact of Incarceration: Implications for Post-Prison Adjustment' (Conference Paper, US Department of Health and Human Services, 30 January 2002).

[18] Queensland Productivity Commission, *Inquiry into Imprisonment and Recidivism* (Final Report, August 2019) vol 1, 89–90 (citations omitted); Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2018* (Report, May 2019) 24; Eileen Baldry et al, *Ex-prisoners and Accommodation: What Bearing Do Different Forms of Housing Have on Social Reintegration?* (AHURI Final Report No 46, August 2003) 22; Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report No 133, December 2017) 356 [11.41]. **See also *Bugmy* Bar Book chapters 'Unemployment', 'Social Exclusion' and 'Homelessness'.**

[19] Australian Institute of Health and Welfare, *Improving Mental Health Outcomes for Indigenous Australians in the Criminal Justice System* (Report, 14 July 2021) 2.

[20] Homelessness Taskforce, Department of Families, Housing, Community Services and Indigenous Affairs (Cth), *The Road Home: A National Approach to Reducing Homelessness* (White Paper, December 2008) 27.

[21] Australian Housing and Urban Research Institute, *Exiting Prison with Complex Support Needs: The Role of Housing Assistance* (August 2021) 30.

[22] See, eg, Queensland Productivity Commission, *Inquiry into Imprisonment and Recidivism* (Final Report, August 2019) vol 1, 89–90.

[23] Committee on Children and Young People, Parliament of New South Wales, *Support for Children of Imprisoned Parents in New South Wales* (Report 4/75, June 2022) 1 (Finding 1).

[24] See, eg, Australian Government Productivity Commission, *Australia's Prison Dilemma* (Research Paper, October 2021) 67.

[25] Legislative Council Legal and Social Issues Committee, Parliament of Victoria *Inquiry into Children Affected by Parental Incarceration* (Report, August 2022) 29; Human Rights Law Centre and Change the Record Coalition, *Over-Represented and Overlooked: The Crisis of Aboriginal and Torres Strait Islander Women's Growing Over-Imprisonment* (Report, May 2017); Victorian Equal Opportunity and Human Rights Commission, *Unfinished Business: Koori Women and the Justice System* (August 2013) 91.

[26] See, eg, Australian Institute of Health and Welfare, *Improving Mental Health Outcomes for Indigenous Australians in the Criminal Justice System* (Report, 14 July 2021) 7; Vanessa Edwige and Paul Gray, *Significance of Culture to Wellbeing, Healing and Rehabilitation* (Report, 2021) 42; Ed Heffernan et al, 'Mental Disorder and Cognitive Disability in the Criminal Justice System' in Pat Dudgeon, Helen Milroy and Roz Walker (eds) *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Commonwealth of Australia, 2nd ed, 2014) 174; Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 594; Senate Legal and Constitutional Affairs References Committee, Parliament of Australia, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia* (Report, 20 June 2013) 22 [3.20].

[27] Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report No 133, December 2017) 269 [7.157]–[7.158]; Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 586; Maria Borzycki and Eileen Baldry, *Promoting Integration: The Provision of Prisoner Post-Release Services* (Australian Institute of Criminology, Trends & Issues in Criminal Justice No 262, September 2003) 2.

[28] Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report No 133, December 2017) 269 [7.155]; NSW Inspector of Custodial Services, *Women on Remand* (Report, February 2020) 76;

[29] Australian Law Reform Commission, *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report No 133, December 2017) 353 [11.25].

[30] NSW Special Commission of Inquiry into Crystal Methamphetamine and Other Amphetamine-type Stimulants, Report – Volume 1 (January 2020) Ii [193]–[194].

[31] NSW Bureau of Crime Statistics and Research, *Reoffending Statistics for NSW* (Web Page, 15 August 2022). See also Joanna JJ Wang and Suzanne Poynton, *Intensive Correction Orders Versus Short Prison Sentence: A Comparison of Re-Offending* (NSW Bureau of Crime Statistics and Research, Contemporary Issues in Crime and Justice No 207, October 2017);

[32] Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 636–41. See also Denis Yukhnenko et al, 'Recidivism Rates in Individuals Receiving Community Sentences: A Systematic Review' (2019) 14(9) *PLoS ONE* e0222495:1–15, 1; Karen Gelb, Nigel Stobbs and Russell Hogg, *Community-Based Sentencing Orders and Parole: A Review of Literature and Evaluations across Jurisdictions* (Report, Queensland University of Technology, April 2019) 84; Clare Ringland and Don Weatherburn, *The Impact of Intensive Correction Orders on Re-Offending* (NSW Bureau of Crime Statistics and Research, Contemporary Issues in Crime and Justice No 176, December 2013) 1.

[33] Ian Lambie and Isabel Randell, 'The Impact of Incarceration on Juvenile Offenders' (2013) 33 *Clinical Psychology Review* 448, 448. See also Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (Report, March 2022) 445; Elizabeth S Barnert et al, 'How Does Incarcerating Young People Affect Their Adult Health Outcomes?' (2017) 139(2) *Pediatrics* 1, 7.