

WHY WESTERN AUSTRALIA NEEDS CRIMINAL JUSTICE REFORM

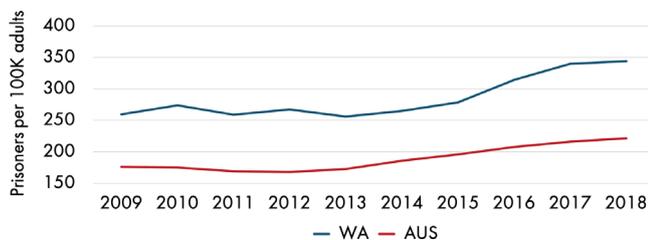
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Criminal justice reform is a combination of measures designed to arrest and reverse the rise of incarceration, reduce reoffending and crime, guarantee community safety, and save taxpayers money. This is an ambitious agenda but experience from the United States shows that it is possible—and for Western Australia, increasingly vital.

Rising incarceration, heavy costs

Western Australia has 15 state-operated prisons and two privately-operated prisons, with a combined population that has grown by 55 percent since 2009. The average daily prison population was 4,418 that year; in 2018 it was 6,865.¹ As shown in Figure 1, between 2009 and 2018, Western Australia's incarceration rate rose more than 50 percent. At 344 prisoners per 100,000 adults, the rate is the highest among Australian states and more than twice the rate in Victoria.²

Figure 1: Incarceration rate 2009-2018



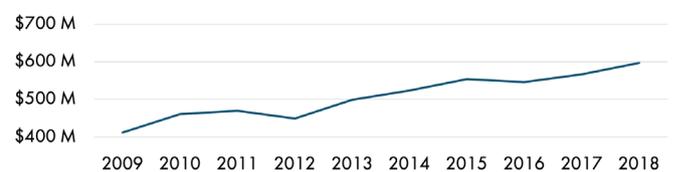
Source: ABS

The difference in incarceration between Western Australia and other states is partly but not exclusively attributable to the overrepresentation of Indigenous Australians in the prison population. The incarceration rate among Indigenous people in the state was 4,257 per 100,000, by far the highest rate in nation. This rate increased by 16.5 percent between 2009 and 2018. Indigenous Australians are widely considered the most heavily-incarcerated people on the planet.³

Over the same period, the incarceration rate among non-Indigenous people grew even faster, rising by 35 percent from 139 per 100,000 to 215 per 100,000—the highest rate of incarceration for non-Indigenous people among all Australian jurisdictions.⁴

This rise in incarceration has resulted in more taxpayer money being spent on prisons. In the financial year ending in 2018, Western Australians spent \$661 million on prisons and community corrections. Of this, \$596 million was on prison operations, up an estimated 45 percent from 2009.⁵

Figure 2: Operational costs of WA prisons 2009-2018



Source: Productivity Commission, IPA calculation

This figure does not include the cost of constructing new prisons. In April, the Western Australian Government committed \$186 million to the expansion of Casuarina Prison.⁶

As incarceration rises, it takes resources away from other parts of the criminal justice system, like the police. A recent IPA Criminal Justice Project research paper reveals that Western Australia dedicates more of its criminal justice spending to incarceration than other Australian jurisdictions and comparable European jurisdictions. The Western Australian pattern is more akin to American states, many of which are taking steps to reduce incarceration.⁷

This comparison matters because it is a persistent finding in criminology that policing is more effective in reducing crime than increasing the severity of punishments faced by offenders.

Three reform directions

1. Punishment reform for nonviolent offenders

For many nonviolent and low-risk offenders, punishments like community service, home detention, fines, and restitution orders, whether individually or in combination, are more appropriate, effective, and efficient punishments than incarceration.

- In Western Australia, the most serious offence of up to 47 percent of those in prison was a nonviolent offence.⁸

Punishment reform is an idea that has found favour in the United States.

- In Texas, the state congress reallocated money from new prison construction to probation and parole services for nonviolent offenders. In the decade following the adoption of this strategy, Texas avoided \$3 billion in new prison spending and saw violent, sex, and serious property crimes decline by more than 12 percent.⁹
- President Donald Trump signed into law the First Step Act, passed in 2018, which repeals mandatory sentences and creates incentives for federal prisoners to participate in education and training.¹⁰

2. Alternatives to prison

Punishment reform is inseparable from viable alternatives to prison. There are two main advantages of community corrections:

- It is much cheaper per offender. In Western Australia, one day of prison costs taxpayers \$285, whereas one day of community corrections costs \$34.¹¹
- There is some evidence that community service orders are more effective in reducing reoffending than prison.¹²

In the United States, governments have expanded the range of diversion options for nonviolent offenders. Texas used some of the savings from avoiding prison construction to fund residential rehabilitation programs and “intermediate sanctions facilities”.¹³

The development of residential options is likely of particular importance in Western Australia, with the state’s geographic size and the location of many offenders, especially those of Indigenous backgrounds, in rural areas.¹⁴

3. Reoffending and work

One of the main drivers of the rise in incarceration is the rate of reoffending.

- In Western Australia, 39 percent of offenders return to prison within two years of their release.¹⁵

- Sixty-three percent of prisoners have been in prison before, including 80 percent of Indigenous prisoners, compared to 50 percent of the non-Indigenous prisoners.¹⁶

Along with reducing the number of prisoners, reformers have focused on making prisons more corrective. This includes expanding education options and participation, providing prisoners access to work, and developing new models for managing re-entry into society.

United States experience has shown there are roles to play in all these developments for civil society, religious groups, and business. The Joseph Project in Milwaukee, Wisconsin, for example, is run by a church and connects released prisoners with small business. In Kansas, prisoners have been allowed to work at market rates for private companies.¹⁷

The common thread is employment. We know that unemployment is correlated with offending, so a crucial part of reducing reoffending is providing prisoners with marketable skills. Western Australia has a much lower prisoner work participation rate (75 percent) than New South Wales and Victoria. Participation in commercial industries is just 16 percent, compared to 49 percent in New South Wales.¹⁸

Conclusion

The Western Australian Government has recently announced reforms of criminal justice in the state, including preventing fine defaulters from going to prison, tackling the number of people on remand by hiring more judges, and more drug and alcohol beds.¹⁹ Also welcome is the establishment of the WA Office of Crime Statistics and Research, with data analysis having been critical to reform efforts elsewhere. These are all steps in the right direction. Criminal justice reform should not be just about augmenting services, but about achieving greater cost-effectiveness as well. A broader approach to reducing incarceration for nonviolent offenders and expanding work and education options for those in the system should follow.

Endnotes

1 Corrective Services WA (2019), “Prisons”, accessed 22 May 2019. <https://www.correctiveservices.wa.gov.au/prisons/>

2 Australian Bureau of Statistics, *Prisoners in Australia 2018*, Table 19

3 Thalia Anthony (2017), “FactCheck Q&A: are Indigenous Australians the most incarcerated people on Earth?”, *The Conversation*, 6 June 2017

4 Australian Bureau of Statistics, as above, Table 20

5 Productivity Commission (2019), *Report on Government Services*, Table 8A.2; Productivity Commission (2014), *Report on Government Services 2014*, Table 8A.8; IPA calculation

6 Kate Campbell (2019), “Casuarina prison to become WA’s biggest a/c with \$186 million funding boost”, *The West Australian* 7 April 2019

7 Andrew Bushnell (2019), *Skewed priorities: comparing the growth of prison spending to police spending*. Melbourne: Institute of Public Affairs

8 Australian Bureau of Statistics (2018), as above, Table 23

9 For more information about Texas and other states that have pursued this reform direction, see Andrew Bushnell (2017), *Criminal justice reform: Lessons from the United States*. Melbourne: Institute of Public Affairs

10 Andrew Bushnell (2019), “US criminal justice reform a lesson for us”, *The Australian* 12 April 2019

11 Productivity Commission (2019), as above, Table 8A.17

12 Andrew Bushnell (2018), *Making community corrections work*. Melbourne: Institute of Public Affairs

13 Bushnell (2017), as above

14 A national overview of some of these challenges as they relate to Indigenous incarceration is provided in Andrew Bushnell (2017), *Indigenous Australians and the criminal justice system*. Melbourne: Institute of Public Affairs

15 Productivity Commission (2019), as above, Table CA.4

16 Australian Bureau of Statistics (2018), as above, Table 14

17 Flaherty et al (2016), *Unlocking potential Milwaukee*: Badger Institute

18 Productivity Commission (2019), as above, Table 8A.11

19 Government of Western Australia (2019), *WA state budget 2018-19: fact sheets*, available at: <https://www.ourstatebudget.wa.gov.au/2018-19/2018-19-fact-sheet-set.pdf>