

PARLIAMENTARY RESEARCH BRIEF

A Research note from the Institute of Public Affairs distributed to all Australian parliamentarians



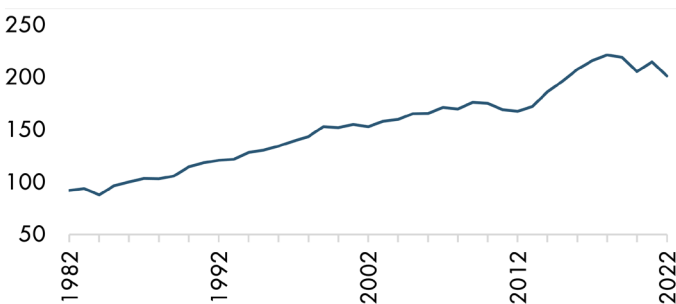
HOW SENSIBLE CRIMINAL JUSTICE REFORM WOULD HELP SOLVE OVER-INCARCERATION AND WORKER SHORTAGES

Australia is experiencing an incarceration crisis at the very time there is an unprecedented worker shortage. Sensible criminal justice reform by way of an ‘offender employment program’ could and should address both these problems.

Over-incarceration is expensive and fails to enhance community safety

Australia’s incarceration rate has increased by 240 per cent since the mid-1980s, which is three times our population growth rate.¹ This is much higher than that of other Commonwealth countries with similar legal systems, such as Britain and Canada, and more than double that of European countries such as Germany, The Netherlands, and Sweden.²

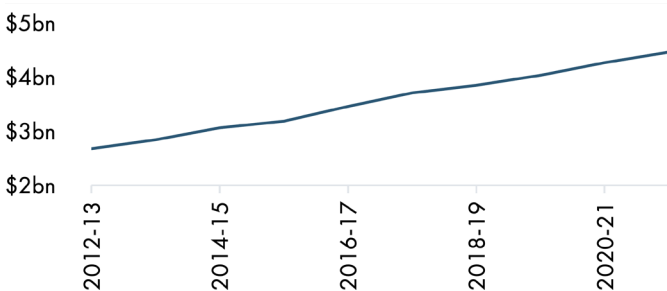
Chart 1: Incarceration rate (number of prisoners per 100,000 adults)



Source: Australian Bureau of Statistics Prisoners in Australia 2022

This is imposing an unsustainable burden on taxpayers. The net operating costs of Australia’s prisons is now \$4.4 billion every year, or 66% higher than it was a decade ago. The total (marginal plus fixed) costs to governments has now reached \$147,000 to detain each prisoner every year.

Chart 2: Prison operating costs



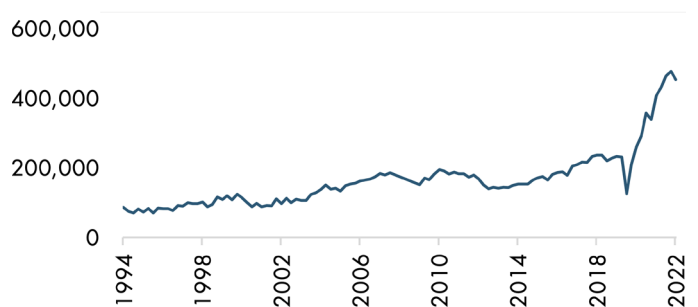
Source: Productivity Commission, Annual Report on Government Services 2023

Over-incarceration imposes an additional cost on Australians by depriving our labour force of healthy, working age men and women who could otherwise be productive members of society.

Australia is experiencing unprecedented worker shortages

According to the Australian Bureau of Statistics (ABS), there are currently close to 450,000 job vacancies across the economy, which is double the number of job vacancies prior to COVID-19.³ Nearly one in four businesses have stated they cannot find the workers they need.⁴ According to the ABS, the three industries which are most affected by worker shortages are health care and social assistance, accommodation and food services, and retail trade, where job vacancies have drastically increased since 2020.⁵

Chart 3: Job vacancies in Australia



Source: Australian Bureau of Statistics Job Vacancies, Australia 2022

Further increasing migration is not an adequate solution to this pressing problem. Of the almost 60,000 permanent visa applications the government is fast-tracking to address the worker shortage, just 438 are from health professionals, and just 32 are from registered aged care nurses.⁶ At a time when an estimated one-quarter of aged care shifts are going unfilled,⁷ there is a clear need for a more effective solution. Governments should immediately change policy settings to allow for greater workforce participation. One such policy setting that is available to lawmakers is allowing low-risk and non-violent offenders to work.

The offender employment program can reduce worker shortages

Approximately 42 per cent of prisoners have not committed sexual or violent offences.⁸ Not imprisoning these low-risk non-violent offenders would support their rehabilitation.⁹

When similar schemes have been implemented in the United States, the research has shown that many employers are prepared to employ people who have prior convictions for non-violent and non-sexual offences, and when they do employ such people they are invariably pleased with their decision.¹⁰

Matching prisoners to jobs is a readily achievable goal given that most inmates are young and healthy. Approximately 77 per cent of prisoners are under the age of 45 and the median age of prisoners is 35.9 years.¹¹ While most prisoners do not have a tertiary education, there is currently a huge labour shortage in areas which do not require formal education, such as the hospitality and retail sectors.

If Australian governments reformed sentencing so that low-risk non-violent offenders were not detained at taxpayer expense, but rather were put to work in industries which urgently need workers, this would deliver substantial benefits to taxpayers without compromising community safety.

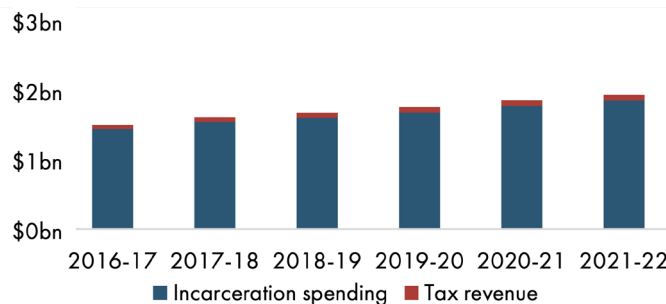
Putting offenders to work can save taxpayers money without compromising community safety

Where low-risk non-violent offenders are imprisoned, taxpayers bear the burden of detaining the offender in prison, while also being deprived of the taxation revenue that would flow from that offender being employed.

Presently, the marginal cost of imprisoning a low-risk non-violent offender is \$107,709 per annum,¹² but if this kind of offender were sentenced to an alternative sanction and able to work for just the weekly minimum wage of \$772.60,¹³ and pay tax on that income at a rate of \$94 per week,¹⁴ it would result in a net benefit to the budget of \$112,597 per prisoner, per year.

If this reform had been implemented in 2021-22, as many as 14,000 young and healthy adults could have been added to the workforce, which would have improved government budgets by \$1.95 billion in reduced incarceration costs and increased income tax revenue. If this reform had been implemented between 2016-17 and 2021-22, total budgetary savings would have been in the order of \$10.4 billion in reduced incarceration costs for state governments and additional income tax revenue for the federal government.

Chart 4: Potential budgetary savings if offender employment programs were implemented in 2016-17



Diverting low-risk non-violent offenders from prison and giving them the opportunity to work would enhance their lives and prospects, promote community safety, improve the economy through increased productivity, and reduce net government spending and debt.

End Notes

1. Australian Bureau of Statistics (ABS), 'Prisoners in Australia, 2022' (February 2022).
2. Mirko Bagaric, Dan Hunter and Jennifer Svilar, 'Prison Abolition: From Naïve Idealism to Technological Pragmatism (2021) 111(2) *Journal of Criminal Law and Criminology* 351-406.
3. ABS, 'Job Vacancies, Australia, November 2022' (January 2023).
4. Ibid.
5. Ibid.
6. David Marin-Guzman, 'Of 60,000 visa applicants in the queue, 32 are aged care nurses,' *Australian Financial Review*, 24 July 2022 <<https://www.afr.com/work-and-careers/workplace/of-60-000-visa-applicants-in-the-queue-32-are-aged-care-nurses-20220724-p5b419>>.
7. Sarah Martin, "'Absolutely a crisis": almost a quarter of Australia's aged care shifts unfilled each week,' *The Guardian*, 3 February 2022 <<https://www.theguardian.com/australia-news/2022/feb/03/absolutely-a-crisis-almost-a-quarter-of-australias-aged-care-shifts-unfilled-each-week>>; ACIL Allen, Implications of Labour Shortages in the Aged Care Sector (Final Report, December 2021) 13 <https://acilallen.com.au/uploads/projects/445/ACILAllen_ImplicationsLabourShortages_WA_2022.pdf>.
8. Mirko Bagaric, *Australia's Emerging Incarceration Crisis: Proposed Reforms of the Australian Sentencing System* (Institute of Public Affairs Research Report, October 2022) 5.
9. Mirko Bagaric and Morgan Begg, *Let them Work: How Criminal Justice Reform can Help Address Australia's Worker Shortage* (2023) 11-12.
10. Peter Atherton, 'Employing with conviction: The experiences of employers who actively recruit criminalised people' (2021) 68(2) *Probation Journal* 186-205.
11. ABS, 'Prisoners in Australia, 2022' (February 2023).
12. Ibid.; Productivity Commission (2023), *Annual Report on Government Services 2023*, p. C.8.
13. Minimum wage for the financial year 2021-22.
14. Australian Taxation Office, 'Weekly tax table,' <<https://www.ato.gov.au/rates/weekly-tax-table/>>.

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