"Good kid, mad system": the role for health in reforming justice for vulnerable communities

Let's invest in better services for high-risk communities rather than in more prisons

Australia's prisoner population is expanding at an unsustainable rate. Incarceration rates are higher than at any time since federation, and substantially higher than those in most western European countries.[1-3] Incarceration rates of Indigenous Australians match those of African Americans; these are the most intensely incarcerated subpopulations in the world.[1] The over-representation of Indigenous Australians in all stages of the justice system is one of Australia's most significant social justice issues. Australian governments are grappling with the costs of building new prisons and, more broadly, fulfilling "tough-on-crime" agendas.[4] At the same time, human rights arguments for reducing overincarceration of Indigenous peoples are aligning with the economic imperatives to contain prison costs.[5]

It is time to redesign our criminal justice system to redress the over-reliance on incarceration as the means of achieving safer communities. In Australia, the Human Rights Law Centre has joined the call to tackle the causes of crime. Director of International Advocacy, Ben Schokman, said:

> The evidence is clear that governments should be spending less money on prisons and investing more in tackling the causes of crime. Every dollar spent on prisons is one less dollar available to spend on education, health, support services for people with disability, training and employment programs, or providing adequate public housing. There are much smarter approaches that build stronger communities, reduce crime and save taxpayers millions of dollars by avoiding wasteful prison spending.[6]

A substantive reconfiguration of mental health, disability and substance misuse services is essential to provide comprehensive treatment rather than punishment for vulnerable people.

The health of prisoners

Ill health, social disadvantage and incarceration are deeply interconnected and mutually reinforcing. Those most at risk of incarceration are among the most vulnerable in society, with a complex array of health and social needs and multiple risk factors for ill health.[5,7] Mental health problems, substance misuse, learning and cognitive difficulties, hearing loss and other physical health problems, including high rates of trauma and acquired brain injury, feature prominently. Prisoners have also experienced high levels of traumatic life experience, including family violence and sexual abuse in childhood and as adults (Box).[9] The interactions between encounters with the justice system by, and human services provided for Aboriginal people — particularly those with mental and cognitive disabilities — have been well articulated. Their needs are particularly acute and are poorly serviced by past and current policies and programs.[10]

While Australia-wide studies indicate that many prisoners report improvements in their health while incarcerated,[8] prison experience almost universally compounds their health and social disadvantage after release, and mortality rates are significantly higher for those who have been incarcerated and released. In a New South Wales data-linkage study, over an 8-year period after incarceration, men had 3.7 times the mortality rate of their age- and sex-matched peers, while for women it was 7.8 times greater.[11]

Mental health, traumatic stress and disability

Proper mental health, disability and substance misuse services are the cornerstone of an improved health service response for those at risk of offending.

Current mainstream mental health services — from primary through to tertiary level — are ill-equipped to respond systematically to the complexity of problems facing vulnerable clients.[2] Provision of comprehensive trauma-informed services is grossly under-resourced and is only available to a select few. People experiencing crippling levels of traumatic stress and emotional distress, outrage and anger problems, cognitive impairment and substance misuse concerns — often co-occurring — are rarely supported adequately when they present to mental health services.[10]

There is no evidence that vulnerable clients with a history of involvement with the justice system pose additional risk to service providers, yet they are, at times, excluded from mental health and substance misuse services. Discriminatory practices categorising people as "mad, sad or bad" are simplistic and unhelpful. Too often, clients are inappropriately deemed dangerous or undeserving and, based on an assessment of risk to staff, may subsequently be denied access to care.

People with an intellectual disability, and particularly Aboriginal people, are even more compromised. Support systems can break down at every point in the system — from police assessment and gathering of evidence to

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doi: 10.5694/mja15.00917

The health of prisoners in Australia[8]

Health factors	Percentage affected
Mental health	
Overall on admission	46%
Including substance misuse and personality disorder	Females, 90%; males, 75%
Traumatic stress	Females, 75%
Substance misuse	
Alcohol, risky use	54%
Illicit drug use in the past 12 months	70%
Tobacco smoking	
Currently smoking	Overall, 85%; Indigenous, 92%
Wanting to quit	46%
Disability	
Intellectual disability (IQ, < 70)	10%
Borderline intellectual capacity or lower (IQ, < 80)	30%
History of traumatic brain injury	80%
Physical health	
Chronic disease	32%
Hepatitis C	22%
Hearing loss	Northern Territory Indigenous people, 90%

advocacy during court and legal processes; from the lack of community alternatives to sentencing with the potential risk of further exploitation and recruitment into illegal behaviours to increased recidivism. Fetal alcohol spectrum disorder and acquired brain injury, as parts of the cognitive impairment spectrum, should be considered at every stage of the criminal justice system. Those with cognitive impairment and mental health or substance misuse problems — whose offences are predominantly non-violent — have among the highest rates of involvement with criminal justice services, and this involvement starts earlier in their lives and persists for longer. Those who are afforded support through disability services fare much better than those who do not receive such support.[10]

A better coordinated service system

Well designed service responses for those with the most complex needs have the potential to significantly reduce incarceration rates and to support vulnerable people to achieve satisfying, socially contributing lives. However, Australia's prisons are overflowing with people who, throughout their lives, have been denied appropriate health and social services. Many vulnerable people, often with limited capacity to advocate for their own needs, fall through very wide gaps in service delivery and are, in effect, efficiently channelled into the justice system from an early age.

For change to occur, health services, social services and justice services must work collaboratively with improved information sharing and shared management plans. Currently, health services are not always aware if their clients are concurrently involved in the justice system. Those who are rarely confide such information for fear of discrimination, or because they are not asked. Similarly, magistrates and the police are not always adequately aware of health and social problems that may be influencing a person's offending.

There are encouraging innovative models at the interface of health, social and legal services. Advocacy health alliances, such as the Health Justice Partnership project in Bendigo, Victoria, are providing legal services to patients within health care settings. The Neighbourhood Justice Centre in Collingwood, Victoria, employs therapeutic jurisprudence principles in a problem-solving court to link sentencing to community-based health and social support services, creating complete treatment, rehabilitation and social support for offenders with a broad range of health and substance misuse problems.[12]

It is time for a transformation. A dedicated focus by *all* levels of government, including the federal level, on reducing incarceration is needed, in proper partnership with Indigenous communities and organisations. This would acknowledge the connection between health and social interventions and justice outcomes so that services could be adequately resourced to tackle the health and social determinants of crime.

A new policy response — justice reinvestment

Imprisonment is expensive. Adult prison beds cost between $250 000 and $500 000 for infrastructure and around $100 000 to run each year.[13] Youth justice beds cost around $200 000 per year.[13] In the 2013–14 financial year, direct costs of imprisonment increased nationally by about $1million every day.[13]

An innovative policy idea that is gaining traction is justice reinvestment (JR). JR can be conceived as both a philosophy for justice reform and a set of strategies that examine spending on incarceration, so that funds that might be spent on incarceration are instead reinvested into health and social interventions that reduce offending in communities with the sociodemographic features that disproportionately contribute to prisoner populations. The idea springs from an understanding that overincarceration affects communities in ways that perpetuate cycles of crime. As a systems-based approach, JR encompasses a comprehensive range of areas such as health, housing, employment, justice, family support, mental health and substance misuse services. It impels policymakers to consider the implications of current punitive policies that result in more incarceration, particularly of Indigenous Australians, and instead fund initiatives that redress the health and social determinants of incarceration.[14]

In the United States, JR strategies have had some success in ameliorating health and social disadvantage associated with offending and, depending on the JR model implemented, have achieved reductions in offending and incarceration rates. For example, in Texas since 2007, investing in community-based drug and mental health treatment services and improved supervision has averted $US1.5 billion in prison construction costs, saving $US340 million in annual operating costs.[15] Evidence from US initiatives suggests better outcomes are achieved when responses are data driven, evidence based and directed at those at highest risk.[15]

While JR policy has not yet been adopted by any Australian jurisdiction, so local evidence of its effectiveness is not yet available, preliminary work is being undertaken in several regional locations, including Bourke and Cowra in NSW, Ceduna in South Australia and Katherine in the Northern Territory. In 2014, the Australian Capital Territory Government announced a commitment to developing a JR strategy, using data-driven evidence to guide stakeholder consultations across health, human and justice services systems.

Proponents of JR do not claim it to be *the* solution in the Australian context, nor will it automatically solve problems of racial disparity. However, it has the potential to offer a shared framework for government, non-government organisations and other services to explore and commit to holistic community investment and solutions.[4]

Conclusions

Prisons exist as part of the comprehensive response to keep communities safe. However, when overused, prisons can break spirits and further alienate and disenfranchise many who would be capable of being engaged, contributing members of families and communities if they were supported rather than punished. Health care practitioners have an important role to play in understanding the many needs of clients at risk of engagement with the justice system and in advocating strongly for community-based service models that provide for these clients.

"Those most at risk of incarceration are among the most vulnerable in society, with a complex array of health and social needs and multiple risk factors for ill health"

No matter how well health care in prisons is administered, incarcerating people does not constitute a cost-effective "opportunity" to invest in their health. Providing responsive, community-based health and social services attuned to the needs of those who are vulnerable to imprisonment represents a highly preferable allocation of resources. Achieving successful outcomes depends largely on increased interdisciplinary collaboration and the greater availability of safe, well designed and resourced community-based options within health and social services, in urban, regional and remote settings.

High-quality responses may appear costly and even politically elusive. But such a reinvestment of funds and redesign of the system would unquestionably deliver far greater individual and societal benefits — indeed, better justice — than our current inequitable, outdated and costly services.

Acknowledgements: The research reported in this article is a project of the Australian Primary Health Care Research Institute, which is supported by a grant from the Australian Government Department of Health and Ageing. The information and opinions contained do not necessarily reflect the views and policy of the Australian Primary Health Care Research Institute or the Australian Government Department of Health and Ageing.

Competing interests: No relevant disclosures.

Provenance: Not commissioned; externally peer reviewed. ■

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