



Australian
PolicyOnline

More NSW prisons: evidence free public policy

John Paget

Policy Online [APO]

Abstract/Description: The \$3.8 billion expansion of the prison estate in NSW represents a manifest and very expensive failure of public policy. There are three reasons why this is so. First, the lack of evidence to support the expansion; second, because prisons are a very blunt and inefficient crime control measure and finally, because of the opportunity cost of the expansion of the prison estate at the expense of productive investments to increase community well-being.

Number of pages: 9

Copyright/Creative commons license: Creative Commons Attribution-Non Commercial 3.0 (CC BY-NC 3.0 AU)

DOI 10.4225/50/5788223A0CC8D

MORE NSW PRISONS: EVIDENCE FREE PUBLIC POLICY

Dr J. Paget

Adjunct Associate Professor Charles Sturt University

The \$3.8 billion expansion of the prison estate in NSW represents a manifest and very expensive failure of public policy.

There are three reasons why this is so. First, the lack of evidence to support the expansion; second, because prisons are a very blunt and inefficient crime control measure and finally, because of the opportunity cost of the expansion of the prison estate at the expense of productive investments to increase community well-being.

The absence of evidence

What is striking in the NSW Government's statements announcing the expansion of the prison estate at a cost of \$3.8 billion is the absence of evidence that this is sound public policy.¹

Evidence based policy has been defined as a method that that *"helps people make well informed decisions about policies, programs and projects by putting the best available evidence from research at the heart of policy development and implementation."*²

In his comprehensive analysis of the design and delivery of major programs and projects by the Australian Public Service, Prof Peter Shergold observes that good policy depends on good advice which is factually accurate and is backed by evidence. He also notes that a policy cannot be elegant in its execution if it is poorly communicated, ineptly administered or inadequately evaluated.³

Given the Government's silence it is reasonable to conclude that the expansion of the NSW penal estate by 7,000 beds is neither backed by evidence nor has it been adequately evaluated against alternative solutions to achieve the policy objective.

To some extent this should not be surprising. The NSW Bureau of Crime Statistics (BOCSAR) has made the point that in Australia *"state and territory governments have generally acted as if the best way to control crime is to appoint more police and put more offenders in prison for longer but policies directed toward this end have rarely if ever been defended on the basis of evidence."*⁴

In contrast, in the United Kingdom on 4 November 2015, Michael Gove, Secretary of State for Justice addressed the Howard League for Penal Reform.⁵ He spoke of the principles upon which penal policies in the UK will be anchored. He also committed to basing all future action on solid evidence.

In the US, several states have legislated that public policy must be informed by evidence.⁶ The analyses of the Washington State Institute for Public Policy are exemplars of this trend.⁷

¹ NSW Government. 2016. Media Release. *NSW Budget: New Prisoner Beds, Record Corrections Funding*. 16 June

² Davies, P. 2004. Is evidence based government possible? Paper presented at the 4th Campbell Collaboration Colloquium. 19 February, Washington, DC

³ Shergold, P. 2015. Learning from Failure. Why large government policy initiatives have done badly wrong in the past and how the chances of success in the future can be improved. An independent review of government processes for implementing large programs and projects by Professor Peter Shergold AC. Canberra: Australian Public Service Commission. pp.iii, 4

⁴ Wan Yin Wan, Moffat, S., Jones, C. & Weatherburn, D. 2012. 'The effect of arrest and imprisonment on crime.' *Crime and Justice Bulletin*, No 158, February. Sydney: Bureau of Crime Statistics and Research. p.15

⁵ Howard League for Penal Reform. 2015. 'This will be a new era-Gove'. *The Howard*, Vol 2006:1. p.2

⁶ Pew Charitable Trusts & MacArthur Foundation. 2015. Legislating Evidence-Based Policymaking. A look at state laws that support data-driven decision-making. Washington & Chicago: The Pew Charitable Trusts and

In NSW, a recent and significant example of a lack of concern for evidence informing policy was demonstrated in the media driven changes to the *Bail Act 2013*. Notwithstanding that the latter had been crafted over a period exceeding 12 months by the Law Reform Commission and leading judicial figures, the *Act* was reviewed after one month's operation because of media attention directed at three high profile bail cases⁸. The subsequent, and evidence-free, changes to the *Act* were aptly described in the NSW Parliament as “*bad public policy created by a panicked government trying to curry favour with a reactionary media.*”⁹ The legal principles at the core of the *Act* were sacrificed, an outcome which has contributed to the demand for additional prison bedspace. As the Director of BOCSAR commented “*one thing is certain; when governments make policy decisions based on anecdote rather than evidence, the taxpayer ends up footing the bill.*”¹⁰ In this case, a \$3.8 billion bill.

What is particularly noticeable in the Government's decision to spend the \$3.8 billion to expand the prison estate is the absence of a transparent cost-benefit analysis, or rigorous examination, of the visibility and type required by both NSW *Open Government Principles*¹¹ and by NSW Treasury, which advises that an important part of economic appraisal is that various methods of achieving the stated objective, in this case community safety, are assessed.¹² There is no evidence in the public domain revealing what alternative measures to achieve the objective were considered, on what grounds they were rejected and why an expanded prison estate was the preferred solution. This does reflect the unfortunate reality that cost-benefit analysis in crime prevention is rarely used, even though crime costs the Australian economy approximately \$36 billion each year, or 4.1% of gross domestic product.¹³

Clearly, in NSW it remains a subversive notion that evidence and analysis might inform penal policy.

Prisons are a very blunt & inefficient crime control measure

The evidence is overwhelming that:

- Crime has actually decreased, but the prison population continues to increase¹⁴
- Data on re-offending in NSW over the past three years shows consistently deteriorating outcomes¹⁵
- Increasing the time spent in prisons (sentence length) has no measureable effect on crime¹⁶

the MacArthur Foundation; Pew Charitable Trusts & MacArthur Foundation. 2014. Evidence Based Policy Making. A guide for effective government. Washington & Chicago: The Pew Charitable Trusts and the MacArthur Foundation

⁷ e.g. Aos, S., Miller, M. & Drake, E. 2006. Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice System Costs and Crime Rates. Olympia WA: Washington State Institute for Public Policy

⁸ Brown, D. & Quilter, J. 2014. 'Speaking Too Soon: The Sabotage of Bail Reform in New South Wales.' *International Journal for Crime, Justice and Social Democracy*, 3, (3). P.76

⁹ Hoenig, R. 2014. Member for Heffron. Second Reading debate, *Bail Reform Amendment Bill*. Hansard, 10 September. Sydney: Legislative Assembly, Parliament of New South Wales

¹⁰ Weatherburn, D. 2014. 'Bail changes in NSW need to consider evidence'. *Sydney Morning Herald*, 27 June

¹¹ NSW Department of Premier and Cabinet. 2012. Premier's Memorandum. Open Government, 22 August. Sydney: NSW Government

¹² NSW Treasury. 2007. NSW Government Guidelines for Economic Appraisal. tpp 07-5. Office of Financial Management. Sydney: NSW Government. p.2

¹³ Cost of crime <http://www.aic.gov.au/crime-community/communitycrime/costs.html> Retrieved 30 June 2016

¹⁴ Mirko, B. & Pathinayake, A. 2015. 'Jail up; crime down does not justify Australia becoming an incarceration nation.' *Australian Bar Review*, Vol 40

¹⁵ Bureau of Crime Statistics and Research. Re-Offending Statistics for NSW

http://www.bocsar.NSW.gov.au/Pages/bocsar_pages/Re-offending.aspx Retrieved 26 June 2016

¹⁶ Wan Yin Wan, Moffat, S., Jones, C. & Weatherburn, D. 2009. 'The effect of arrest and imprisonment on crime.' *Crime and Justice Bulletin* No 158, February. Sydney: Bureau of Crime Statistics and Research. p.15

- Longer and harsher sentences have little deterrent effect; they increase post release criminal activity¹⁷
- Prisons increase the likelihood of re-offending on release¹⁸
- For 25 years the prison population has been rising (it has doubled in the last two decades) at a time when Australians were less likely to be a victim of crime¹⁹
- Beyond a 'tipping point'²⁰, higher incarceration rates are associated with higher crime rates.²¹

The research has consistently demonstrated that, generally, prisons are remarkably ineffective in deterring people from crime, in rehabilitating offenders and in protecting the public.²² The public is sceptical of claims to the contrary. The *Australian Social Attitudes Survey* reports that the public has very little confidence that prisons:

- | | |
|---------------------------------|-------------------|
| • Rehabilitate prisoners | 88% |
| • Teach skills | 68% |
| • Deter future offending | 85% |
| • Are effective as a punishment | 59% ²³ |

BOCSAR analysis has determined that a 10% increase in imprisonment only reduces crime by 1-2%.²⁴ Similar data are available in the UK, where Home Office modelling suggests that the prison population would need to increase by 15% to achieve a short term reduction in crime of 1%.²⁵ BOCSAR in 2006 reported that to achieve a 10% reduction in the current burglary rate the number of burglars jailed would have to be increased by 34%.²⁶ A similar picture emerges from US data, where incarceration is assessed as being responsible for only 5% of the drop in crime in the 1990s; since then the increase in incarceration has had zero impact on crime.²⁷ In the US, incarceration has been shown to have a limited and diminishing impact on crime.²⁸

¹⁷ Nagin, D.S., Cullen, F. T. Jonson, C. L. 2009. 'Imprisonment and Re-offending.' 38 *Crime and Justice*, 115. p.145; Smart Justice. 2011. More prisons are not the answer to reducing crime. Victoria: Federation of Community Legal Centres. p.2

¹⁸ Mirko, B. & Pathinayake, A. 2015. 'Jail up; crime down does not justify Australia becoming an incarceration nation.' *Australian Bar Review*, Vol 40 p.26; Weatherburn, D. 2010. 'The effect of prison on adult re-offending.' *Contemporary Issues in Crime and Justice*, No 143, August. Sydney: Bureau of Crime Statistics and Research

¹⁹ Mirko, B. & Pathinayake, A. 2015. 'Jail up; crime down does not justify Australia becoming an incarceration nation.' *Australian Bar Review*, Vol 40. p.15

²⁰ Morenoff, J. D. & Harding, D.J. 2014. 'Incarceration, Prisoner Re-entry, and Communities.' *Annual Review of Sociology*, Vol 40, July

²¹ Arment, C. 2011. Is incarceration still the answer? Report 04-2011, March. Columbia, MO: Institute of Public Policy, University of Missouri

²² Roth, L. 2015. Reducing adult reoffending. Briefing Paper 2/2015. Sydney: NSW Parliamentary Research Service. p.i; Ritchie, D. 2011. Does Imprisonment deter? A Review of the Evidence. Sentencing Matters. Melbourne: Sentencing Advisory Committee; Smart Justice. 2011. More prisons are not the answer to reducing crime. Victoria: Federation of Community Legal Centres

²³ Indermaur, D. & Roberts, L. 2009. 'Confidence in the Criminal Justice System.' *Trends and Issues in crime and criminal justice*, No. 387, November. Canberra: Australian Institute of Criminology; Roberts, L. & Indermaur, D. 2009. 'What Australian think about crime and Justice; The results from the 2007 Survey of Social Attitudes.' *AIC Reports, Research and Public Policy Series* 101. Canberra: Australian Institute of Criminology. p. x

²⁴ Olding, R. 2016. 'BOCSAR crime stats boss calls for lighter prison sentences.' *Sydney Morning Herald*, 17 February

²⁵ Home Office. 2001. Making Punishments Work. Report of a Review of the Sentencing Framework for England and Wales (The Halliday Report). London: HMSO. p.130

²⁶ Weatherburn, D., Hua, Jiuzhao & Moffat, S. 2006. 'How much crime Does Prison Stop?' The Incapacitation Effect of Prison on Burglary. *Crime and Justice Bulletin*, 6. Sydney: Bureau of Crime Statistics and Research. p.1

²⁷ Chettiar, I. M. 2015. 'The many causes of America's crime decline.' *The Atlantic*, 11 February

²⁸ King, R.S. 2005. Incarceration and crime: A complex relationship. Washington: The Sentencing Project. p.6

In Canada, of 50 studies involving 300,000 offenders, none showed that imprisonment reduced recidivism, but did demonstrate that longer sentences actually increased recidivism by 3%.²⁹

In NSW approximately 44% of inmates are incarcerated for non-violent crimes.³⁰ The median sentence is 43 months and remand period is 3.3 months; approximately 40%³¹ of the latter do not receive a custodial sentence, so those months in custody have been at a cost to the taxpayer of \$237 per day (cheaper accommodation may be found at the Sydney Hilton).³²

In 2014, 76% of prisoners had a prior period of imprisonment (including remand)³³ and approximately 50% of those released from NSW prisons served short, that is six months or less, sentences. These prisoners simply churn through the system at high cost to the taxpayer.³⁴ Many also re-offend at a higher rate than do similar offenders serving community sentences.³⁵

And while incarcerated for these short periods, what happens to these prisoners?

- They risk sharing a needle, contracting HEP or HIV and turning prisons into epicentres of infection, thus posing a risk to the health of the community to which most will return³⁶
- They learn new criminal skills and potentially increased future criminal earnings³⁷
- They link up with other offenders, adding to increased co-offending³⁸
- They lose their employment
- They lose their homes
- Their families suffer.³⁹

And what happens to them on release? The UK National Audit Office estimates that 75% of the cost of re-offending on release (£9.5 to £13 billion) is caused by those on short sentences.⁴⁰

²⁹ Bonta, A. 1999. 'The Effect of Prison on Crime Control.' *Research Summary*, Vol 4, No 6, November. Ontario: Solicitor General of Canada

³⁰ Corben, S. 2014. Statistical Publication No.42. NSW Inmate Census 2014: Summary of Characteristics. Sydney: Corrections Research, Evaluation and Statistics, Corrective Services NSW

³¹ Weatherburn, D., Corben, S., Ramsay, S. & Fitzgerald, L. 2016. 'Why is the NSW prisoner population still growing? Another look at prison trends between 2011 and 2015.' *Crime and Justice Statistics, Issue paper* No.113, Table 7. Sydney: Bureau of Crime Statistics and Research

³² Productivity Commission. 2016. Report on Government Services 2016. Chapter 8, Table 8A-7. Melbourne: Australian Government

³³ Corben, S. 2014. Statistical Publication No.42. NSW Inmate Census 2014: Summary of Characteristics. Sydney: Corrections Research, Evaluation and Statistics, Corrective Services NSW

³⁴ Inspector of Custodial Services. 2015. Full House: The growth of the NSW inmate population. Sydney: Inspector of Custodial Services. p.65; NSW Law Reform Commission. 2103. Sentencing. Att 1. Discussion Paper. Sydney: Law Reform Commission.p.52; Lind, B. & Eyland, S. 2002. 'The impact of abolishing short term prison sentences.' *Contemporary Issues in Crime and Justice*, No 73. Sydney: Bureau of Crime Statistics and Research. p.4

³⁵ Mews, A., Hillier, J., McHugh, M. & Coxon, C. 2015. The impact of short custodial sentences, community orders and suspended sentence orders on re-offending. London: Ministry of Justice

³⁶ Bretana, N. A., et al. 2015. 'Transmissions of Hepatitis C Virus among Prisoners, Australia, 2005-2012.' *Emerging Infectious Diseases*, May; Levy, M., Treloar, C., McDonald, R. & Booker, N. 2007. 'Prisons, Hepatitis C and harm minimisation.' *Medical Journal of Australia*, 186 (12)

³⁷ Hutcherson II, D. T. 2012. 'The Connection Between Time in Prison and Future Criminal Earnings.' *The Prison Journal*, 92 (3)

³⁸ Roxell, L. 2011. 'Co-Offending Among Prison Inmates.' *The Prison Journal*, 91 (3)

³⁹ Mowen, T. J. & Visher, C. A. 2016. 'Changing the Ties that Bind. How Incarceration Impacts Family Relationships.' *Criminology and Public Policy*, Vol 15 issue 2; deVuono-powell, S. et al. 2015. Who Pays? The True Cost of Incarceration on Families. Oakland, CA: Ella Baker Center, Forward Together, Research Action Design

⁴⁰ National Audit Office. 2010. Managing Offenders on Short Custodial Sentences. HC 431 Session 2009-2010. London: HMSO. p.17

It's not as if the lessons and evidence which would guide an approach contrary to that taken by NSW are hard to come by. The US has retreated from its incarceration binge, driven in part by common sense, in part by the courts, in part to correct manifest injustices and in part by budget realities. In the US over the period 2014-2015, 46 states enacted at least 201 bills or executive orders to reform at least one aspect of their sentencing and corrections systems. Most policy changes focussed on three areas:

- Creating and expanding opportunities to divert people away from the criminal justice system
- Reducing prison populations
- Supporting re-entry into the community from prison.⁴¹

Between 2011 and 2013 at least 17 US states reduced prison capacity by over 35,000 beds.⁴² The Center for Effective Justice & Right on Crime at the Texas Public Policy Foundation, in cooperation with the American Conservative Union and the Justice Fellowship, is supported by luminaries of the conservative side of US politics in pursuing penal reform, frequently under the label of justice reinvestment. US Congress legislative activity also reflects a belated, but welcome, bi-partisan recognition of the futility and expense of the incarceration excess, passing the *Fair Sentencing Act* in 2010 and the *Sentencing Reform and Corrections Act* in 2015, both of which will contribute to reducing the nation's prisoner population. It is not just politicians driving prison reform in the US. Perhaps the most noteworthy development there has been the emergence of law enforcement leaders, a group of some 130 US police chiefs, sheriffs and prosecutors whose website advises "*extensive reliance on prison as a punishment does not keep people safe. Imprisoning people at today's exorbitant costs have little crime control benefit, especially for non-violent offenders. Research shows that incarceration can increase crime in some cases, as prison acts as a 'crime school'.*"⁴³

And what has been the result of decarceration in the US? Has public safety been compromised? In 2011 the US Supreme Court ordered⁴⁴ the state of California to reduce its prison population to 137% of its prison estate design capacity.⁴⁵ In a 15-month period the population was reduced from 181% to 150% of design capacity, at a saving of \$453 million, with no adverse impact on public safety.⁴⁶ Over the period 2006-2012 California reduced its prison population by 23% and violent crime actually fell by 21%.⁴⁷

In NSW there is ample evidence that the already harsh system on which the NSW Government is poised to spend an additional \$3.8 billion, simply does not work:

- In 1989 the NSW Government implemented harsh measures to "*put the value back into punishment.*" This had an entirely predictable result of prison disturbances⁴⁸

⁴¹ Silber, K., Subramanian, R., & Spotts, M. 2016. Justice in Review. New Trends in State Sentencing and Corrections 2014-15. New York: Vera Institute of Justice

⁴² The Sentencing Project. 2013. On the Chopping Block 2013: State Prison Closures. Washington: The Sentencing Project

⁴³ <http://www.lawenforcementleaders.org> Retrieved 26 June 2016

⁴⁴ *Brown v. Plata* 131 S.Ct. 1910 1944-47.

⁴⁵ On the issue of design capacity, see Inspector of Custodial Services. 2015. Full House: The growth of the NSW inmate population. Sydney: Inspector of Custodial Services. pp. 23-28

⁴⁶ Sundt, J., Salisbury, E.T. & Harmon, M.G. 2016. 'Is Downsizing Prisons Dangerous? The Effect of California's Realignment Act on Public Safety.' *Criminology and Public Policy*, Vol 15, Issue 2

⁴⁷ Maur, M. & Ghandnoosh, N. Fewer Prisoners; Less crime. A Tales of Three States. Policy Brief. Washington: The Sentencing Project <http://sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf> Retrieved 26 June 2016

⁴⁸ Brown, D. 2015. 'State of Imprisonment: prisoners of NSW politics and perceptions.' *The Conversation*. 21 April; Inspector of Custodial Services. 2014. The invisibility of correctional officer work. Sydney: Inspector of

- The Corrective Services NSW (CSNSW) recidivism rate is the worst in Australia after the NT (50% return to prison after two years).⁴⁹ This is not evident from reporting against the *State Plan*, because reconviction in the latter is measured over a 12 month period only⁵⁰
- There is a tacit acknowledgement of recidivism failure from the NSW Government. The original *NSW State Plan 2021* had a Goal to reduce reoffending by 5% by 2016; in *State Plan 2021 Making NSW Number One* this has now slipped out to 2019⁵¹
- CSNSW provides the lowest hours out of cells in Australia⁵²
- It also has high and rising assault rates⁵³ - prisoner on prisoner assaults in NSW are the highest in Australia⁵⁴
- For the staff and prisoners the quality of life within the estate is declining in multiple domains⁵⁵.

It is quite evident from this data that NSW taxpayers have been spending and continue to spend more than a billion dollars year after year on a failed system. The Minister for Corrective Services states that there is a high demand and high need for additional prison capacity, but building more prisons will feed demand, rather than meet demand.⁵⁶

In addition to the frequently invoked mantra of public protection, the expansion of the prison estate is justified in the name of community expectations. This raises two issues: First, who is the arbiter of these expectations? Talk back radio? The tabloid media? TV? While the primary sources of public access to information on the criminal justice system are TV (73.9%); tabloid press (34.9%) and talkback radio (21.6%),⁵⁷ which almost guarantees distorted and incomplete information, there is also evidence that the public is actually less punitive when provided with the appropriate information.⁵⁸ The second issue is that donning the cloak of an ill-defined notion of community expectations allows policy-makers to avoid exercising the moral leadership that comes with their positions.

If penal policy is not based on evidence the void will be filled with the ignorance and prejudice promoted by the noisy populism of the tabloid media and, particularly, talk back radio which, according to the Australian Broadcasting Tribunal, “*encourages robust debate on issues by people*

Custodial Services; Cunneen, C., Baldry, E., Schwartz, M. & Steel, A. 2013. *Penal Culture and Hyperincarceration. The Revival of the Prison.* Farnham, Surrey: Ashgate. p.58

⁴⁹ Roth, L. 2016. *Reducing adult reoffending.* Briefing Paper No 2/2015. Sydney: NSW Parliamentary Research Service, Parliament House. p. i

⁵⁰ Roth, L. 2016. *Reducing adult reoffending.* Briefing Paper No 2/2015. Sydney: NSW Parliamentary Research Service, Parliament House. p. 14

⁵¹ Roth, L. 2016. *Reducing adult reoffending.* Briefing Paper No 2/2015. Sydney: NSW Parliamentary Research Service, Parliament House. p.14

⁵² New South Wales Auditor General. 2016. *Report Performance Audit. Performance frameworks in custodial centre operations.* Sydney: Audit Office of New South Wales; Inspector of Custodial Services. 2015. *Full House: The growth of the NSW inmate population.* Sydney: Inspector of Custodial Services

⁵³ New South Wales Auditor General. 2016. *Report Performance Audit. Performance frameworks in custodial centre operations.* Sydney: Audit Office of New South Wales

⁵⁴ *ibid*

⁵⁵ Inspector of Custodial Services. 2015. *Full House: The growth of the NSW inmate population.* Sydney: Inspector of Custodial Services

⁵⁶ Nicholls, S. 2016. ‘NSW Budget 2016: \$3.8 billion for new jail capacity to cover surge in prison population.’ *Sydney Morning Herald*, 16 June

⁵⁷ Butler, A. & McFarlane, K. 2009. *Public Confidence in the NSW Criminal Justice System.* Monograph 2, May. Sydney: NSW Sentencing Council. p.17

⁵⁸ Lovegrove, A. 2013. ‘Sentencing and Public Opinion: An empirical study of punitiveness and lenience and its implications for penal moderation.’ *Australian and New Zealand Journal of Criminology*, 46 (2)

*who are not fully informed.*⁵⁹ Using evidence as the basis of penal policy is not being soft, it is simply being smart, on which point the US Attorney General Eric Holder commented *"getting smart on crime means moving beyond useless labels and catch phrases and instead relying on science and data to shape policy."*⁶⁰

Opportunity Costs

The \$3.8 billion expansion of the NSW prison estate is indefensible, not only because it is evidence-free, because it extends a deeply flawed approach to crime control, and ignores the evident lessons from the US, but also because of the opportunity costs. This has been succinctly put by the Nobel economist, Joseph Stiglitz: *"the prodigious rate of incarceration is not only inhumane, it is economic folly."*⁶¹ Baroness Vivien Stern referred to this level of incarceration as a *"sin against the future because it is consuming large amounts of public expenditure in non-productive negative ways and reducing the resources available for economic and social investment."*⁶²

A 2001 report of a roundtable conference in London convened by the International Centre for Prison Studies noted that, in Brazil, funds used to house non-violent offenders could have been otherwise deployed to build 23,900 homes or 504 schools; California from 1985 to 2001 built 21 new prisons, but only one new university.⁶³ In the *Sydney Morning Herald* earlier this year Ross Gittens reported that what is spent on prisons nationally would put 100,000 students through university.⁶⁴ Jacob Saulwick, also in the *Sydney Morning Herald*, on 23 June 2016 observed that for every one dollar spent on buses, the NSW Government will spend 10 dollars on new jails. What is provided to school buildings is half of that for prisons.⁶⁵ The cost of the Northern Beaches Hospital build is \$600 million; NSW could have perhaps three such hospitals instead of the planned new prison beds.⁶⁶ Clearly, one such hospital is urgently needed in Western Sydney, where \$360-370 million is required for a rebuild of the severely stressed Nepean Hospital.⁶⁷ The communities in northern NSW or the Southern Tablelands have not, of course, been asked whether they would like a \$600 million hospital or a new prison.

The opportunity costs associated with prison expenditure have been recognised in many US states where years after years of funding of corrections has resulted in significantly less money being available to make real investments in other priorities, such as public transport, education and infrastructure.⁶⁸

New prisons in regional and rural areas are frequently sold to their communities on the basis of their economic benefits, but there is little evidence to support this premise. The benefits are generally

⁵⁹ Cowdery, N. 2001. *Getting Justice Wrong. Myths, Media and Crime.* Crows Nest: Allen & Unwin. p. xi

⁶⁰ Holder, E. 2013. Address to the American Bar Association House of Delegates. 12 August. San Francisco, CA.

⁶¹ Stiglitz, J. Foreword in Roeder, O., Eisen, L. & Bowling, J. 2015. *What Caused the Crime Decline?* Brennan Center for Justice. New York: New York University School of Law. p.1

⁶² Stern, V. 1996. 'Mass incarceration: a sin against the future?' *European Journal on Criminal Policy and Research*, Vol 4-3. p.19

⁶³ The Restorative Prison Project. 2001. *Measuring the Impact of Imprisonment.* Paper from a roundtable held in London on 9 November 2001. London: ICPS, Kings College

⁶⁴ Gittens, R. 2016. 'Prisons trap our money along with crooks.' *Sydney Morning Herald*, 16 February

⁶⁵ Saulwick, J. 2016. 'Mike Baird's jail bonanza a sign of a broken system and bad choices.' *Sydney Morning Herald*, 23 June

⁶⁶ Nicholls, S. 2014. 'Revealed: The real \$2 billion cost of privatised Northern Beaches Hospital.' *Sydney Morning Herald*, 31 October

⁶⁷ Aubusson, K. 2016. 'NSW state budget: \$1m to fund Nepean Hospital planning as doctors warn of "crisis" now.' *Sydney Morning Herald*, 16 June

⁶⁸ Harris, P. M., & Clear, T. R. undated. *Literature Review Cost of Incarceration Policies.* New Jersey: School of Criminal Justice, Rutgers University. p.7; The National Association of State Budget Officers. 2013. *State Spending for Corrections Long Term Trends and Recent Criminal Justice Policy Reforms.* Washington DC: The National Association of State Budget Officers. p.4

overstated, and, in some cases, prison construction actually hinders growth.⁶⁹ The media ‘spin’ in support of new prisons may also refer to prisons as an investment, but that is simply a contradiction in terms.

Politicians and officials rarely, if ever, alert host communities of the difficulties which flow from the establishment or expansion of a prison in their midst. The communities learn the hard way. For example, an *Impact Analysis* of the Maryborough Correctional Centre in Queensland, which was completed in 2005, when the centre was only at 40% capacity, revealed that the community was struggling to meet the needs created by released prisoners and by prisoners’ families. These needs included a lack of accommodation, assistance with medical and health issues, lack of transportation, assistance with financial counselling or with issues related to attaining a job or accessing Centrelink benefits.⁷⁰

While prisons are clearly a poor crime control measure and come at the expense of other much needed social infrastructure, they appeal to particular sections of the community because they are tangible and demonstrate action, however myopic. They also provide photo opportunities for politicians to burnish their ‘tough on crime’ credentials. Building new prison capacity also allows politicians to avoid other challenging, but potentially more effective, crime control measures. BOCSAR has noted that “...measures that affect the economic wellbeing of the community provide more potential leverage over crime than measures that influence the risk of arrest and the severity of the punishment imposed on offenders.”⁷¹ For example, a 10% increase in household income was estimated to produce an 18.9% reduction in property crime and a 15% reduction in violent crime.”⁷² This is consistent with findings in international research literature that identify low socio economic status in childhood as a predictor of subsequent criminal and substance abuse behaviours.⁷³ A Swedish study found that teenagers who had grown up in families whose earnings were amongst the bottom fifth were seven times more likely to be convicted of violent crimes and twice as likely to be convicted of drug offences as those whose family incomes were in the top fifth.⁷⁴

There is now a growing acknowledgment in the US, but clearly not in NSW, that public safety is produced, not by expanding the prison estate, but by providing a complex mix of family and community support, education and economic opportunity and social interventions to address individual deficits.⁷⁵ This is not easy, but it the business of governments.

⁶⁹ Kirchhoff, S. M. 2010. Economic Impacts of Prison Growth. Report for Congress. Washington DC: Congressional Research Service, pp. 1, 30; Hooks, G. et al. 2010. Revisiting the Impact of Prison Building on Job Growth: Education, Incarceration, and County-Level Employment, 1976–2004. Olympia WA: Washington State University

⁷⁰ INCorrections Network. 2006. Decarceration. An argument for reducing prisoner numbers in Queensland. A Discussion Paper. Brisbane: INCorrections Network. p. 18

⁷¹ Wan Yin Wan, Moffat, S., Jones, C. & Weatherburn, D. 2012. ‘The effect of arrest and imprisonment on crime.’ *Crime and Justice Bulletin* No 158, February. Sydney: Bureau of Crime Statistics and Research. p.17

⁷² Patty, A. 2012. ‘When it comes to crime, harsher punishment doesn’t pay.’ *Sydney Morning Herald*, 14 March

⁷³ Sariaslan, A. et al. 2014. ‘Childhood family income, adolescent violent criminality and substance misuse: quasi-experimental total population study.’ *British Journal of Psychiatry*, 205 (4), October. p.286; Kearney, M. S., Harris, B. H., Jacome, E. & Parker, L. 2014. The Economic Facts About Crime and Incarceration in the United States. Policy Memo, May. Washington DC: The Hamilton Project & Brookings

⁷⁴ Sariaslan, A. et al. 2014. ‘Childhood family income, adolescent violent criminality and substance misuse: quasi-experimental total population study.’ *British Journal of Psychiatry*, 205 (4), October. p.286

⁷⁵ Maur, M. & Ghandnoosh, N. Fewer Prisoners; Less crime. A Tales of Three States. Policy Brief. Washington: The Sentencing Project <http://sentencingproject.org/wp-content/uploads/2015/11/Fewer-Prisoners-Less-Crime-A-Tale-of-Three-States.pdf> Retrieved 26 June 2016

Conclusion

Expenditure on the expansion of the NSW prison estate of the magnitude forecast represents an absence of political leadership and imagination to conceive of what an alternative approach might look like. It represents a rejection of evidence based penal policy.

Ministers and Corrective Services will always promote the notion that new prisons are part of a grand plan to address offending and re-offending. They have been doing that over the past 25 years and each year a billion dollars is spent repeating the same response with the fiction that it will, this time, produce a different result.

Where jurisdictions have turned the tide against penal excess it has been because of political will. In 2013 the US Attorney General Eric Holder said that *"too many Americans today go to too many prisons for far too long for no truly good law enforcement reason"*⁷⁶ and announced initiatives the US Government was taking to redress that.

In NSW, a previous Attorney General, Greg Smith, also sought to redress a similar situation but was sacrificed as the media polemic against evidence and expertise was permitted to prevail.⁷⁷

Sound bites trumped sound science, again.

15 July 2016

⁷⁶ Holder, E. 2013. Address to the American Bar Association House of Delegates. 12 August. San Francisco, CA

⁷⁷ Brown, D. 2014. 'Is rational law reform still possible in a shock-jock tabloid world.' *The Conversation*, 15 August; Olding, R. 2016. 'Call for complete rethink as prison population, recidivism explode.' *Sydney Morning Herald*, 20 February