

Children's Court Section 16 Meeting, October 2014

**Disadvantage, disempowerment and Indigenous
Over-representation in Prison¹**

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¹ Portions of this article have been drawn from Weatherburn, D. (2014). Arresting Incarceration: Pathways out of Indigenous imprisonment. Aboriginal Studies Press.

Introduction

When the Royal Commission into Aboriginal Deaths in Custody (hereafter *the Commission*) produced its final report, it concluded that the high rate of Aboriginal deaths in custody stemmed from the general over-representation of Aboriginal people in prisons and police lockups (Commonwealth of Australia 1991: 6). The Commission made 339 recommendations, most of which were designed to reduce the rate of Indigenous imprisonment. The Keating Government accepted all but one of the recommendations and allocated \$400 million (or \$672 million in current terms) to put them into effect. Announcing this in Federal Parliament, former Prime Minister Paul Keating proclaimed:

“...there is no more central issue to our national identity and self-esteem than the injustices brought home to us all by the Royal Commission into Aboriginal Deaths in Custody.”²

Tragically, instead of falling, the rate of Indigenous imprisonment increased. The purpose of this article is to explain why. The central thrust of the article is that the Commission and the Keating Government failed to grasp the depth and breadth of Indigenous involvement in crime and failed to devise a set of policies capable of reducing that involvement. Future policy responses to Indigenous imprisonment, it is argued, should focus their attention on what alleviating the conditions that give rise to and sustain Indigenous involvement in crime, in particular: drug and alcohol abuse, poor parenting, school failure and unemployment.

The structure of the chapter is as follows. In the next section we discuss the Commission’s analysis of Indigenous imprisonment. This is followed by a discussion of the Keating Government response to the Royal Commission and its (lack of) effect on Indigenous over-representation in prison. In the fourth section we review the assumptions on which the Royal Commission recommendations were based. In the fifth section we pay special attention to the Commission’s views on Indigenous disempowerment. In the final section we discuss future options for reduce the rate of Indigenous imprisonment.

The Commission’s analysis of Indigenous imprisonment

The Commission blamed the high rate of Indigenous imprisonment on three main factors.

1. Racial bias in State and Territory criminal justice systems.
2. Indigenous economic and social disadvantage
3. Indigenous disempowerment.

² Parliamentary Statement by former Prime Minister, the Hon. P.J. Keating MP on the 24th of June 1992, announcing the Commonwealth’s response to the Royal Commission into Aboriginal Deaths in Custody. The speech is reproduced in Cunneen, C. & McDonald, D. 1997, *Keeping Aboriginal and Torres Strait Islander People Out of Custody*, Commonwealth of Australia, Canberra.

It gave numerous examples of the racial bias or discrimination in the response of State and Territory criminal justice systems to Indigenous Australians. It criticized the criminal law because a large percentage of Indigenous detentions in custody result from arrests for minor offences such as drunkenness, offensive language and fine default (Commonwealth of Australia, 1991. paras: 1.6.2; 13.2.3; 13.2.7; 13.2.20; 21.2.6). It criticized the police for failing to employ alternatives to arrest, arguing that over-reliance on arrest led to longer criminal records and therefore a higher risk of bail refusal and imprisonment (Commonwealth of Australia, 1991: paras: 30.2.2-30.2.14; 14.14.8-14.14.9; 21.1.7; 30.2.2-30.2.7). It criticized State and Territory bail laws because Indigenous defendants were said to lack the financial and social resources required to obtain bail (Commonwealth of Australia, 1991: paras: 21.4.2-21.4.5). The lack of community-based alternatives to prison in rural communities was criticized because it was said to force courts to rely more heavily on custodial sanctions when dealing with Indigenous offenders (Commonwealth of Australia, 1991: para: 22.4.11). The level of funding for Aboriginal Legal Aid Services was criticized on the grounds that it left many Indigenous defendants without legal representation (Commonwealth of Australia, 1991: paras: 22.4.52-22.4.75).

The impression created by these criticisms was that Indigenous imprisonment was in large part due to deficiencies in state and territory criminal justice systems. It is true that the Commission at one point expressed doubts about the scope for reducing Indigenous imprisonment via criminal justice reform and even acknowledged, in passing, the reality of Indigenous offending:

“...changes to the operation of the criminal justice system alone will not have a significant impact on the number of Aboriginal persons entering custody or the number who die in custody; the social and economic circumstances which both predispose Aboriginal people to offend and which explain why the criminal justice system focuses upon them are much more significant factors in over-representation.” Johnston (1991), vol. 1, p. 15.

The claim that reforms to the justice system would not have a significant impact on Indigenous imprisonment, however, sat oddly with the Commission’s forcefully expressed concerns about the operation of state and territory criminal justice systems. The claim that social and economic circumstances ‘predispose Aboriginal people to offend’ and ‘explain why the criminal justice system focuses on them’, on the other hand, was the merest acknowledgement that the principal proximate cause of Indigenous over-representation in prison was Indigenous over-representation in crime. The failure to provide a detailed analysis of Indigenous offending left policy makers with little to work with beyond a general injunction to reduce Indigenous disadvantage.

To make matters worse, the forms of social and economic disadvantage listed by the Commission as contributing to Indigenous were legion. They included unemployment and poverty (Commonwealth of Australia, 1991, paras 14.4.8 and 17.1.10), alcohol abuse (Commonwealth of Australia, 1991, paras 15.2.24 and 15.2.37); poor school performance (Commonwealth of Australia, 1991, para 16.2.1); youth boredom (Commonwealth of Australia, 1991, para 14.4.58); family dissolution (Commonwealth of Australia, 1991, para 14.4.39) and overcrowded housing (Commonwealth of Australia, 1991, para 18.1.4).

The Commission did not explain how these factors contributed to Indigenous imprisonment. Nor did it list the forms of disadvantage in any order of priority, so far as their contribution to Indigenous imprisonment was concerned. The reason the Commission sidestepped these issues is that it regarded Indigenous economic and social disadvantage as a symptom of something much deeper, to wit: Indigenous disempowerment. In the Commission's own words:

“...running through all the proposals that are made for the elimination of these disadvantages is the proposition that Aboriginal people have for two hundred years been dominated to an extraordinary degree by the non-Aboriginal society and that the disadvantage is the product of that domination. The thrust of this report is that the elimination of disadvantage requires an end of domination and an empowerment of Aboriginal people; that control of their lives, of their communities must be returned to Aboriginal hands.” (Commonwealth of Australia (Commonwealth of Australia 1991: 1.7.5-1.7.6).

This assumption had no supporting evidence but nonetheless had a profound effect on subsequent policy responses to the Royal Commission recommendations, as did the Commission's belief that State and Territory criminal justice systems were biased against Indigenous Australians.

The Keating Government response

The Keating Government seized on the suggestion that Indigenous over-representation in prison was a product of racial bias. Keating himself referred to what he called 'entrenched, institutionalised racism and discrimination' as 'the real killer' [viz. of Aboriginal people in custody] (Keating, 1992, as reported in Cunneen & McDonald 1996). He insisted that State and Territory Governments reform their criminal justice systems to eliminate racial bias. He also insisted they produce an annual report detailing their progress in achieving this goal. Although there is ongoing debate about the extent of their commitment to reform,³ many of the most important recommendations were put into effect.

All States and Territories except Victoria, Queensland and Tasmania decriminalized public drunkenness (Cunneen & McDonald, 1996, p. 105); all States and Territories introduced some form of cross-cultural awareness training for officers in corrections (and, in some cases, court administration) (Cunneen & McDonald, 1996, p. 158) and all States and Territories introduced an arrangement whereby Aboriginal legal services were advised when an Aboriginal person was taken into custody (Cunneen &

³ The Australian Human Rights Commission (2001, p. 8) accused state and territory governments of taking a 'public relations approach' to the Commission recommendations. It also accused them of 're-packaging existing programs as an implementation response at the end of each year'. It branded the state and territory implementation reports as 'nothing but a piece of empty government rhetoric'. In their review of progress in implementing the Royal Commission recommendations Cunneen and McDonald (1996), for example, pointed out that there had been continuing complaints about police behavior and police attitudes toward Aboriginal Australians (Cunneen & McDonald 1996, 90-93).

McDonald, 1996, p. 121). In addition, New South Wales, Victoria, Western Australia, South Australia and the ACT introduced legislation establishing prison as a sanction of last resort (Cunneen & McDonald, 1996, p. 125). Several States also introduced legislation expunging criminal records after a set period of time (Cunneen & McDonald, 1996, p. 157) and most States and Territories expanded the number of alternatives to imprisonment.

The central thrust of the Keating Government's own response to the Royal Commission, was a suite of measures designed to empower Indigenous Australians. In keeping with the spirit of empowerment, the Aboriginal and Torres Strait Islander Commission (ATSIC) was given prime responsibility for developing these measures. ATSIC created sixty elected regional councils to make decisions on Indigenous priorities, needs and funding. The Keating Government reform package was based on advice about these needs and funding. As Keating put it:

“The initiatives I announce today constitute a renewed attack on economic and social disadvantages among Aboriginal and Torres Strait Islander people. They are initiatives with a difference - in that they are firmly based on the notions of empowerment and self-determination.” (Keating 1996, as reported in Cunneen & McDonald 1996).

Out of a total package of \$400 million:

- \$60 million was set aside for land acquisition and development,
- \$50 million for Aboriginal Legal Aid,
- \$23 million for a community economic initiative scheme,
- \$15 million for Aboriginal industry strategies in the pastoral, arts and tourism areas,
- \$23 million for a young people's development program;
- \$21 million for a young people's employment program; and
- \$7 million for an Aboriginal Resources Program.

Tragically, none of this and none of the criminal justice reforms undertaken by State and Territory Governments had any effect on the rate of Indigenous imprisonment. In 1992, the Indigenous imprisonment rate stood at 1,438 per 100,000 people. By 2013, it had climbed to 2,335 per 100,000 people, an increase of 62 per cent (Australian Institute of Criminology 1993; Australian Bureau of Statistics 2013). The gap between Indigenous and non-Indigenous imprisonment rates also widened. At the time of the Royal Commission, Indigenous Australians were about 14 times more likely to end up in prison than non-Indigenous Australians. By the end of 2013, they were 18 times more likely to end up in prison (Australian Institute of Criminology 1993; Australian Bureau of Statistics 2013). It is hard to imagine a more spectacular policy failure.

Reviewing the assumptions

Racial bias

When policies fail, it is always a good idea to examine the assumptions on which they are based. The Royal Commission and the Keating Government clearly believed that racial bias was one of the causes of Indigenous over-representation in prison. What evidence is there to support this assumption?

There is no doubt that Indigenous Australians have suffered at the hands of the police and agents of the criminal justice system. The history of abuse has been comprehensively documented by a number of scholars, including Rowley (1970); Critchet 1990; Finnane (1997a, 1997b); Finnane & McGuire (2001); Foster, Nettlebeck & Hosking (2001); Finnane & Richards (2010); and Karskens (2010). To take just one example; Queensland in the early years of the 20th century established a penal settlement on Palm Island and filled it with:

“...children, alleged troublemakers, unmarried mothers of ‘half-caste’ children, aged and sick, petty offenders and hardened criminals shipped from all over the state.” (May, 1987)

According to Watson (2010, 36), Murriss and Torres Strait Islanders were shipped to the Island throughout the 1920s, ‘like cattle’. By 1930, the population on Palm Island had grown to more than 1,000 (Watson 2010, 39). Some were sent there following sentencing and some were sent there following release from court. Some, however, were simply transported there in periodic roundups by police. Instances of manifest injustice, harassment and brutality continue to surface from time to time. Indeed, resentment at police treatment of Indigenous Australians has sometimes been so intense it has led to full-scale riots; in Brewarrina in 1987 for example, in Walgett and Bourke in 1997, on Palm Island in 2004 and again in Redfern in 2004 (Weatherburn 2006).

These facts, however, do not establish the claim that racial bias is a significant cause of Indigenous imprisonment. To secure such a claim we need evidence that Indigenous Australians are more likely to be arrested, refused bail or given a custodial sentence, even after we control for factors that police and courts are allowed or required to take into account when making arrest, bail and sentencing decisions. Early studies claimed to have found such evidence (e.g. Eggleston 1976; Gale, Bailey-Harris & Wundersitz 1990). These studies, however, failed to control for a number of key factors, such as plea, offence seriousness, and the nature of an offender’s prior criminal record.

More recent research tells a very different story. Once you control for the full range of factors that courts are allowed or required to take into account, Indigenous status exerts either no effect or very little effect on bail and sentencing decisions (Luke & Cunneen 1995; Gallagher & Poletti 2000; Jeffries & Bond 2009; Bond & Jeffries 2010; Bond & Jeffries 2012a; Bond & Jeffries 2012b; Snowball & Weatherburn 2007; Weatherburn & Snowball (2012)). As Jeffries and Bond (2012) noted in their review of the evidence regarding sentencing:

“Once crucial sentencing factors are held constant (especially, current and past offending), sentencing outcomes for Indigenous and non-Indigenous offenders either achieve parity or the gap [in sentencing outcomes] is considerably reduced...In circumstances where disparity remains, there is evidence to suggest that, Indigenous defendants are at times treated leniently in comparison with their non-Indigenous counterparts.” (Jeffries & Bond, 2012, p. 24).

Indigenous Australians are over-represented in prison, not because they are disproportionately targeted by police for committing minor offences or because they are treated more harshly by the courts than their non-Indigenous counterparts. Less than one per cent of the Indigenous sentenced prisoner population is serving time for a public order offence. The majority (62%) are in prison for a serious violent offence⁴, break and enter) (15%) or breaching a non-custodial order imposed on them for earlier offending (11%) (Australian Bureau of Statistics 2013). Indigenous Australians are over-represented in prison because they are over-represented in crime, particularly violent crime.

Table 1 illustrates the point. It shows the ratio of the rate at which Indigenous Australians are arrested and charged with criminal offences of various types to the rate at which non-Indigenous Australians are arrested and charged for the same offence types.

Table 1: Ratio of Indigenous arrest to non-Indigenous arrest by principal offence type (2012-2013. Selected States.

Principal offence	NSW	Qld	SA	NT
Homicide	5.3	5.4	10.8	6.3
Acts intended to cause injury	9.8	12.7	14.7	13.9
Sexual assault	3.8	6.3	6.0	4.8
Dangerous/negligent acts	6.5	6.9	13.5	2.9
Abduction/harassment	7.8	6.8	6.0	14.4
Robbery/extortion	14.8	12.7	40.2	3.4
Unlawful entry with intent	17.6	17.2	19.7	22.6
Theft	6.5	6.0	9.8	3.9
Fraud/deception	2.6	3.6	6.1	2.3
Illicit drug offences	2.3	3.3	2.3	2.7
Prohibited/regulated weapons	2.9	4.5	6.8	8.0
Property damage	7.9	8.4	12.7	8.2
Public order offences	6.1	11.5	13.8	6.9
Offences against justice	6.8	7.9	10.2	7.4
Miscellaneous offences	1.7	1.2	4.7	0.6
Total	6.7	7.3	11.3	8.5

⁴ The term serious violent offence in this context includes any offence that has an ANZSOC code from 111 to 621. (Australian Bureau of Statistics 2011).

The rate of Indigenous arrest for serious crime is higher in every category of crime. The differences in some categories of violent crime (e.g. homicide, acts intended to cause injury) are particularly pronounced. It is not just police data (which some might regard as biased) which shows evidence of Indigenous over-representation in crime. Surveys of self-reported involvement in crime and rates of hospital admission for violent assaults also show higher rates of Indigenous offending (Weatherburn, Fitzgerald, & Hua 2003).

We turn, then, to the Commission's explanation for Indigenous offending: the thesis that it is a product of Indigenous disadvantage and, more fundamentally, of Indigenous disempowerment.

Disempowerment and disadvantage

The Oxford English dictionary offers two interpretations of the term 'empowerment':

- Give (someone) the authority or power to do something
- Make (someone) stronger and more confident, especially in controlling their life and claiming their rights

On either of these interpretations, the process of colonisation and dispossession left Indigenous Australians disempowered. They were removed from their traditional lands and herded onto reserves. Many had their children taken from them. In more recent times, policies have been propounded, programs put in place and assistance offered in a form which had been largely pre-determined by bureaucrats, with minimal or no Indigenous input (Johnston 1991, vol. 1, para. 1.7.22). According to the Commission, this process of disempowerment was responsible for the high level of Indigenous economic and social disadvantage and, therewith, the high rate of Indigenous imprisonment.

This is an argument whose premise is true but whose conclusion is false. Indigenous Australians are disempowered but the Commission presented no evidence to support its claim that disempowerment is the cause of Indigenous economic and social disadvantage. The closest the Commission came to presenting such an argument is to be found in its comment that:

“The confined and controlled way in which most Aboriginal people have lived for much of their recent history [has] left many poorly equipped to deal with the many social problems they experienced.” (Johnston 1991, vol. 24, Chapter 26).

There are two problems with this hypothesis. The first is that it is not supported by evidence. The fall in Indigenous imprisonment in the early part of the twentieth century coincided with the adoption of protectionist policies toward Aboriginal people. It coincided, in other words, with the period during which non-Indigenous domination and control of Indigenous Australians reached its peak. Indigenous imprisonment rates increased rapidly during the 1990s when governments around Australia were dismantling (or had already dismantled) their paternalistic policies in favour of policies that fostered, or were meant to foster, Indigenous empowerment and self-determination.

The second is that the thesis that empowerment reduces offending is hard to reconcile with the existence of crimes of the powerful; such as fraud, political corruption, tax evasion and insider trading. It is also hard to reconcile with the fact that some of the most important measures to empower Indigenous Australians have had no visible effect on crime. The Native Title Act provided long overdue recognition of prior Indigenous custodianship of the land. It is a pre-eminent example of Indigenous empowerment. There is no reason to believe, however, that successful claims to native title have helped reduce Indigenous offending or imprisonment.

It could be argued, in response, that the Keating Government reform package was as much about reducing disadvantage as it was about Indigenous empowerment. The young people's employment program and the Aboriginal industry strategies in the pastoral, arts and tourism areas, for example, were clearly designed to create more jobs for Indigenous Australians and reduce the number living in poverty. Here, though, we strike another problem. There is little reason to believe that measures designed to reduce poverty and unemployment, have any measurable effect on crime.

Crime rates in the United States rose following the US War on Poverty (Weatherburn & Lind 2001). The most rigorously evaluated labour market program (in terms of its effect on crime) is Job Corps; a program in the United States which involves residential training directed at improving academic and vocational skills. A randomised trial evaluation of the program found it produced a reduction in the rate of re-arrest but there are doubts about the durability of the reduction. In their review of research on labour markets and crime, Bushway and Reuter (2001) concluded that:

“...the overwhelming evidence from thirty years and billions of dollars of government spending is that it is very difficult to change an individual's employment status and earnings level (and therefore their crime participation), especially for those individuals most embedded in criminal activity.”

The problem, as Heckman (2006) and others (e.g. Shonkoff & Phillips 2000) have pointed out, is that the mastery of skills essential for economic success is a hierarchical process in which later attainments are built on foundations laid earlier. It is difficult to succeed in the labour market if you fail to complete or do poorly at school. It is difficult to perform well at school if you are ill; malnourished; abused; neglected; live in a home environment antithetical to study; lack attachment to school; and/or are dependent on alcohol and/or drugs. Yet these are the sorts of problems that plague Indigenous communities.

The Indigenous/non-Indigenous ratio in alcohol-induced death rates ranges between 5.4 in Queensland and 11.1 in Western Australia. Large numbers of Indigenous children grow up in families plagued by violence. The Indigenous/non-Indigenous ratio in substantiated child abuse and neglect ranges from 5.8 in Queensland to 11.4 in Western Australia. Indigenous school completion rates are 27 percentage points lower than non-Indigenous school completion rates. The gaps between Indigenous and non-Indigenous school achievement of national minimum standards in reading, writing and numeracy are 26.6 percentage points, 22.6 percentage points and 22.3 percentage points, respectively (Weatherburn 2014).

Recent analyses of the Pilbara mining boom vividly illustrate the difficulties involved in stimulating Indigenous employment when the labour market lacks the skills for the jobs on offer (Taylor & Scambary 2005; Langton 2010). In 2000 alone, Hamersley Limited paid \$133 million in wages and salaries to 2050 employees. Ninety per cent of this money was paid in the Pilbara (Robson 2012). According to Langton (2010), exploration expenditure in the Pilbara topped \$6 billion in 2008–09. If any regional economic stimulus had the potential to enhance Indigenous employment, this was it. The benefits to the region's Indigenous inhabitants, however, have been meagre. Taylor and Scambary (2005) estimated the Pilbara region to have 4,749 Indigenous inhabitants over the age of 15 but in 2001, only 1,808 of these adults were employed. More than 200 were not even in the labour force.

The reason for this is simple. Of the 4749 Indigenous inhabitants in the Pilbara, over the age of 15, 88 per cent had no post-school qualification, 32 per cent left school before the age of 10, 59 per cent had been hospitalised in the previous year, 21 per cent had diabetes, 22 per cent had been arrested in the previous year and seven per cent were in custody or under correctional supervision.

As with labour market failure, most serious and persistent offending has its origins in infancy and adolescence. The key risk factors in the pre-natal/perinatal period include being a sole parent; parental substance abuse; maternal depression; poor child nutrition; and birth injury. The key risk factors in infancy and adolescence include weak parent-child attachment; child neglect and abuse; and inconsistent, erratic and harsh discipline. The key risk factors in the teenage years are delinquent peer influence, substance abuse and school failure (Weatherburn 2014). Unemployment does increase the likelihood of involvement in crime but mainly among those who are already disposed to involvement in crime (Farrington et al. 1986). If you want to produce a lasting reduction in offending, you need to start by improving developmental outcomes in infancy and adolescence.

Viewed in this light, it is easy to understand why the Keating Government reform package had no effect on the rate of Indigenous imprisonment. No funds at all were set aside to reduce Indigenous child abuse and neglect. No funds at all were set aside to improve maternal health. The funds set aside to improve Indigenous school retention and performance were meagre (\$10 million or 5% of the package). The most valuable parts of the package were the investment in Indigenous drug and alcohol treatment (\$71.6 million) and the Community Development Employment Program (\$43.9 million). Without measures to improve developmental outcomes for Indigenous children, though, spending on Indigenous business enterprises and labour market programs was never likely to have much effect.

Looking back and borrowing a phrase from Peter Sutton; the Commission and the Keating Government seem to have proceeded on the basis that the old pre-colonial systems of Indigenous social discipline and control would miraculously revive the moment they were given a chance, despite having been thoroughly 'smashed and displaced' from one end of the country to the other (Sutton 2009). This was naïve. The problems facing Indigenous Australians were not and are not the result of blocked social opportunity. They are the aftermath of successive assaults (e.g. colonisation and dispossession, the spread of alcohol and drug abuse, the forced removal of Indigenous children, loss of employment in the rural economy) on their traditional way of life.

Where to from here?

The Royal Commission's analysis of Indigenous imprisonment may have been mistaken but that analysis has to be understood in context. The Commission started out as a series of discrete coronial enquiries into the causes of a number of Indigenous deaths in custody. When it concluded it had become a general investigation into the causes of Indigenous over-representation in prison. The Commission was never equipped to undertake such an investigation. Indeed much of the information needed to undertake it would have been difficult if not impossible to obtain at the time the Royal Commission began its work. Much of what we know now is wisdom with the benefit of hindsight. The question we need to address in conclusion is where we go from here.

Over the long-term we obviously need to address the principal underlying causes of Indigenous involvement in crime, but this will take time. Even if we had the means to reduce the rate of Indigenous child neglect and abuse within a year, the benefits in terms of reduced offending would not become apparent for several years after that. The benefits of improved maternal health on crime would take even longer to become apparent. This does not mean that we should ignore the need to improve the conditions in which Indigenous infants and children develop. We also need to face some harsh political realities. It is often difficult to secure and maintain political commitment to policies which involve substantial up-front investment but long-delayed returns. To capture that commitment we need some short-term strategies that deliver relatively quick results.

Our traditional response to this challenge has been to create some new procedure for dealing with Indigenous offending (e.g. Circle Sentencing) or some new alternative to imprisonment (e.g. Intensive Correction Orders) in the hope this will reduce the flow of offenders into custody. The big problem with these 'front-end' approaches is that there is little evidence they work in reducing either the rate of Indigenous re-offending or the rate of Indigenous re-imprisonment (Weatherburn 2014). In most cases creating an alternative to imprisonment simply inserts another step in the ladder of non-custodial sanctions an offender ascends before ending up in custody. The best that can be hoped for from such strategies is a transient reduction in the rate of entry into prison.

'Back-end' strategies (i.e. strategies that seek to reduce the rate of return to prison) offer far more promise. The vast majority (81%) of Indigenous offenders in prison have been previously imprisoned. When rates of return to prison are high, a fixed percentage reduction in the rate of return to prison can be shown to produce a much larger reduction in the rate of imprisonment than the same percentage reduction in the number entering prison for the first time (Weatherburn 2014). Weatherburn et al. (2009) have shown that a 20 per cent reduction in the rate of re-imprisonment of Indigenous offenders would reduce the NSW Indigenous prison population by 600, whereas the same sized reduction in the number of Indigenous offenders ever imprisoned would reduce the number imprisoned by 333.

The rate of return to prison could be reduced if we had more effective systems of community-based supervision. The problem with existing systems is that they are under-resourced (particularly in remote areas) and not well designed. The design

problem is that most systems of community supervision (particularly those involving parole) combine harsh penalties for breach an order with a low risk of detection. Increasing the risk of detection for offending is a much more effective deterrent than increasing the penalty for offending (Weatherburn 2004). Community supervision would be more cost-effective if it combined a high risk of detection with less draconian sanctions for offenders who breach their orders but not by committing a further offence (Kleiman & Hawkin 2008).

So far as long term is concerned, the top priority is a reduction in Indigenous substance abuse. A reduction in substance abuse would produce an improvement in maternal and child health. Given the close relationship between substance abuse and child maltreatment (Chaffin, Kelleher & Hollenberg 1996) it would also produce a reduction in child neglect and abuse. That, in turn, would set the stage for better Indigenous school and employment outcomes.

There is now persuasive evidence that strengthening the capacity of Aboriginal people to restrict the sale of alcohol in their communities reduces alcohol-related harm (Gray, Saggars, Sputore & Bourbon, 2000). Effective strategies include restrictions on trading hours; days of sale for licensed premises; liquor outlet density; and access to high risk alcoholic beverages (Chikritzhs et al. 2007, pp. 181-206). All of these strategies require close consultation and partnership with Indigenous Australians. The ideal regulatory model is one in which there are statutory controls that enable Aboriginal communities to apply for various restrictions on alcohol, backed up by an enforcement regime which limits the scope for 'sly-grogging' and the risk of drug substitution and/or illegal alcohol production (d'Abbs 1989).

Reducing Indigenous drug and alcohol abuse is important but if we are serious about reducing the rate of Indigenous imprisonment we cannot afford to focus on one factor alone. We need a comprehensive strategy; one that helps existing Indigenous offenders find a way out of the endless cycle of crime, arrest and imprisonment but which also helps prevent the next generation of Indigenous children from following in their footsteps.

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