

## 10 ways to sustain crime

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### Abstract

This editorial briefly mentions 10 ways in which we can encourage people to remain criminals. This is tongue-in-cheek, of course, but the principles involved are uncomfortably close to the truth. Most Australians would like prisoners to reform in prison and to reintegrate into society upon release, but we fail to make arrangements for this. In fact, we throw up barriers to make such restoration difficult. Why we do this comes down to such reasons as misguided fear, false economies, the popularity that comes with toughness on crime, and unwillingness to act or change.

*Content warning: This story contains details that some readers may find distressing.*

## 10 ways to keep a person in criminality

### 1. Strip away dignity

Prisoner dignity is stripped away on a daily basis, starting with transport in a prison van that often has broken ventilation and intercom. This has led to deaths including those of Mr Ward (first name not used for cultural reasons) who died of severe heat stroke (Sonti 2011; Hirini 2018), and Mark Holcroft who died of a heart attack while the guard ignored calls for help (Brown 2011). Near-deaths are also common as prisoners gasp for air along the cracks around the door. Upon arrival, there are strip searches and confinement in a filthy holding cell (often without food or water while waiting hours to be processed). Men are commonly told to 'lift your balls' or 'bend over' in strip searches. For women previously subject to abuse, strip searches can be traumatic yet reasonable force may be applied upon refusal (Schwartz and Lachs 2021; Redfern Legal Centre 2021). There are then shared toilets and showers with no privacy.

## **2. Ensure the prison is overcrowded**

Most prisons were built over 30 years ago when any idea of human rights for prisoners was rarely entertained. Even so, the design capacity of most prisons has been exceeded by introducing 'temporary' bunk beds in each tiny cell originally designed for one, or by spreading an extra mattress on the floor. Over the years, the temporary has become permanent, so instead of speaking about prison 'design capacity', prisons have changed the definition to 'operational capacity' (counting all beds and bunk beds, but excluding mattresses on the floor). Overcrowding leads to poorer health, loss of dignity and greater stress, violence and danger to correctional officers.

## **3. Place the prisoners in the wrong place**

Nearly 35% (14,250) of prisoners are currently unsentenced (ABS 2021). Some may be innocent yet held for a year or even two in remand before their case comes to court. For first-time, minor and young offenders, prison has a criminogenic effect on them as they try to fit in with the hardened criminals who rule prison life. While in remand, they may be in a higher security prison than necessary pending sentencing. Many of the sentenced prisoners also have short terms for summary or minor indictable offences which could be better dealt with using community-based orders. Finally, there is a huge percentage of prisoners in prison that have mental illness and who are placed in custody rather than community-based treatment due to a severe shortage of beds.

## **4. Prescribe methadone, buprenorphine and Seroquel**

Many prisoners enter prison with a minor or developing drug problem but emerge with serious mood-altering addictions to methadone, buprenorphine (bupe) and/or quetiapine (common brand name, Seroquel). All three substances are in great demand amongst prisoners and are widely traded (Hickey 2021), so prescriptions are unnecessary for supply. Methadone and bupe are prescribed for the medical treatment of heroin and other opioid dependencies. Both bupe and Seroquel are mainly approved and subsidized to treat bipolar diseases and schizophrenia (and to a restricted extent for depression and anxiety), but in

prisons there is frequent off-label prescription as a sedative or to subdue prisoners (Brett 2015; Sawa 2014). They are generally to be prescribed for a limited time due to the serious side effects (Mayo Clinic 2022a, 2022b; ADF 2021), but in prisons a large proportion of prisoners are prescribed these drugs throughout their prison term.

## **5. Bore them senseless**

Almost every prisoner wants to work productively during the day. They say it is to 'kill time', but they enjoy excelling in what they do. Many want to work seven days per week or double shift, again to make their time go faster. Some will be lazy or disruptive but they are the minority. Prisoners also enjoy sports, training, education, reading books, art and other programs, religious activities and visits, but often have limited access to these pathways to rehabilitation. For example, training can be difficult to access and when it is provided, it may be just one or two units of competency rather than a useful qualification. Being locked in for longer than normal is considered severe punishment because there is a deep desire for any person to be engaged in positive activities. Because of boredom, prisoners often get restless, violent or engage in other hazardous activities.

## **6. Force prisoners to follow all your decisions and rules**

People inside and outside prison have rules to follow and prisoners generally follow reasonable rules. They will, however, resist and get frustrated and angry about harsh or unreasonable rules. It has to be appreciated that Australian prisoners make less decisions for themselves so the smarter inmates will find good or bad ways to keep making decisions while the more passive and sedated inmates will slowly become comparatively institutionalized.

## **7. Make it 'us versus them'**

In recent times, the police and correctional officers have started to communicate with offenders and even young people to help them stay out of trouble. We still have a long way to go before we are at the level of Norwegian prisons where correctional officers are highly trained and act as friendly mentors alongside the inmates (with rare violence between the

two groups and amongst prisoners, and much lower incarceration and recidivism rates). Dinosaurs amongst Australian correctional officers still show their derision for prisoners every day, setting up an 'us versus them' dynamic that partly justifies why they are inside and any bad behaviour while inside. Norwegian prisoners who are treated well cannot blame the system and instead focus on reforming themselves (Larson 2013).

### **8. Release prisoners with little support**

The level of support for most released people is minimal. They usually have little money and perhaps a transport smart card and accommodation for a couple of nights in a run-down hostel if they are lucky. Without work, accommodation or support, a large proportion of ex-prisoners go straight into poverty and homelessness (which are major predictors of further crime and returning to prison – Baldry et al. 2006). Even if ex-prisoners return to a home, it is highly likely that they will return to similar circumstances of unemployment, poverty, drug-taking, risky behaviour and entrenched disadvantage that are again indicators of crime and recidivism.

### **9. Set up to fail**

One of the most common pronouncements of prisoners is that they have been 'set up for failure.' This is usually used to describe their release under parole or other stringent conditions requiring good behaviour on the outside. They expect to return to prison after they fail to meet all conditions. Sadly, a couple of the business meanings for this phrase may also sometimes apply:

- Living down to the low expectations that your boss or manager has for you (or in the case of prisoners and ex-prisoners, it could be the low expectations of police, correctional services or society generally) (Manzoni and Barsoux 1998)
- Being given unrealistic expectations or too difficult a task or insufficient support, particularly in order to make you a scapegoat (or in the case of prisoners, as retribution) (Burton 2020)

## **10. Discriminate in employment, insurance, voting, candidacy and accommodation**

Once a person is released from prison, they continue to be discriminated against in employment. Potential employers can ask whether they have a criminal record in interviews and most job advertisements require a police check or include a criminal record tick box. This effectively reduces employment opportunities for ex-prisoners and makes a return to crime more likely. Victoria has been congratulating itself recently because it joined other States and Territories in limiting how far back a criminal record check can go, but it is still 10 years from the time of sentencing if the person was 18 years or over when sentenced (or 5 years if under 18). A freed person is therefore discriminated against for up to 10 years plus the period of remand, and it can be even longer where certain agencies have an exemption (DJCS 2022). Freed people are also discriminated against in insurance. For example, of three major car insurance comparison sites, providing 9-12 quotes from insurance companies, not one of the quotes was available for someone with a criminal record. After finding such an insurance premium elsewhere, the premium will usually be much higher than the average price in the industry. Being unable to obtain or afford car insurance has a bearing on a range of reintegration factors, including employment, socialization, meeting parole conditions, time available, family well-being, positivity and self-respect.

Voting and candidacy for election can also be restricted for ex-prisoners depending on the jurisdiction and offence (Holland 2003). The High Court of Australia held in *Vicki Lee Roach v Electoral Commissioner and Commonwealth of Australia*, 30 August 2007 that the Howard Government's *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006* (Cth) (which restricted the right of prisoners to vote) violated the Australian Constitution and was therefore invalid. Indigenous activist Vickie Roach refused to be disenfranchised and marginalized by being denied the fundamental right to vote. This meant that prisoners serving a sentence below three years could vote in a federal election, but those serving a sentence of three years or more were still ineligible to vote in federal elections for the duration of their imprisonment.

Some argue that it may be reasonable to punish prisoners who have committed serious crimes by depriving them of the right to vote. However, the Australian Human Rights

Commission believes that enfranchisement is a powerful and positive tool to assist with the rehabilitation and social reintegration of prisoners.

Ex-prisoners are also discriminated against when looking for accommodation and lack of finances is another barrier. All five areas of discrimination should be removed by legislation except where a judge or parole board makes an order to allow discrimination due to perceived continuing risk to the community.

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