

NEWSLETTER



APRIL 2015

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APRIL MEETING CANCELLED

The meeting for Thursday 23 April has been cancelled.

The next FFDLR meeting will be at 7:30pm on Thursday 21st May 2015 at St Ninians Uniting Church, cnr Mouat St and Brigalow St Lyneham, ACT

Editorial

A better option than prison

In 2014 Australia hit a peak in its imprisonment rate. The number of prisoners rose from 24,171 in 2004 to 33,791 in 2014, almost a 40% increase. Some of course would be accounted for by a population increase but the imprisonment rate rose from 158.8 per 100,000 in 2004 to 185.6 in 2014, almost a 17% increase in ten years. Most, 59%, had been imprisoned under sentence previously.

At an average cost of \$297 per prisoner per day it is costing Australian taxpayers over \$3,600 million per year, not including the law enforcement and court costs to put those prisoners behind bars.

One could say that the prison system, sometimes called the correctional system, has failed to correct for 59% of those inmates and that 59% of the \$3,600 million has not been effective expenditure.

Disturbingly the "new" ACT prison has a much higher cost rate of \$465 per prisoner per day. The occupancy at 392 prisoners in 2014 represents a prisoner rate of 130.4 per 100,000 and with 76% of prisoners who had been imprisoned under sentence previously.

Data from Australian Bureau of Statistics, table 4517 - Prisoners in Australia 2014.

Recall that this "new" ACT prison began with an enlightened philosophy that promised, inter alia:

- a "Healthy Prison" in which everyone is and feels safe and is treated with respect as a fellow human being - a place that encourages a prisoner to improve himself or herself and is given the opportunity to do so through the provision of purposeful activity, is enabled to maintain contact with their families and is prepared for release.
- a primary concern in the delivery of health services in the correctional context is to ensure that the prison does

not become a crucible of contamination and thereby potentially compromise community health.

- the ACT prisoner population will be improved through the application of integrated health management services with programs targeted at reducing drug and alcohol addictions, making improvements in mental health, minimising self-harm, promoting a healthy lifestyle, and addressing the particular health and well-being of special needs and minority groups.

More information here: <http://www.correctionscoalitionact.org.au/ReportCard/ReportCard.htm>

If this prison was designed with such high ideals but it results in a recidivism rate of 76%, where the prison population is increasing such that prisoners have to be overflowed to another makeshift facility and a major ideal of not becoming "a crucible of contamination", then it is clearly not working. The latter point is a clear reference in the prison aims to a needle and syringe program similar to that which exists in the community. A program which is strongly opposed by the prison officer's union, which the ACT government finds itself ill-equipped (or worse) to deal with, and the Union through ignorance, a grab for power or obstinacy continue to put their own and the community's health at risk.

The reason why these ideals are not being met needs to be examined.

Is there a better option than imprisonment?

FFDLR's focus is generally on the drug laws and it is clear that applying the heavy hand of the criminal justice system to the drug problem and jailing as a path to a solution is not effective. While the Australian Bureau of Statistics does not define underlying causes for all prisoners (such as a person who has violently assaulted someone as a consequence of drug use) it does list – Acts intended to cause injury (21%) – Illicit drug offences (12%) – Unlawful entry with intent (12%), as the most common offences/charges for which prisoners were in custody. Many of which could easily be related to illicit drugs.

Thus dealing with illicit drug issues in a more effective way, rather than continuing as before and expecting different results, must be of benefit to the community. Here are some initial suggestions:

- adopt an evidence based approach to the application of prison;
- impose on the court system an upper limit on prison populations so that there is a smaller prison population and that courts and the justice system must be more creative in dealing with offenders;
- eliminate private prisons - it is a recipe for growth in

prisons and prison population;

- treat mentally ill and those with addiction in a system other than through prisons;
- adopt measures for rehabilitation services that are effective in treating problematic drug use. Note that there are no standard outcome/effectiveness measures and that these need to be developed.
- look to the quality of staff and training.

FFDLR Membership Fees Due

FFDLR membership dues fall due on 30 April.

Our only source of income is from membership and donations.

Membership remains at \$15 per year and concessional membership is \$5. Payment by 70 cent postage stamps to the value of your membership is also one option that we are happy to accept. The one membership covers a whole family.

Remember also to advise us if you change postal and email address or other details.

If you prefer, and we have not done so already we can email the monthly newsletter to you.

Payment details

- Please make cheques payable to FFDLR.
 - Mail to: FFDLR, PO Box 7186, Kaleen, ACT, 2617.
- If you prefer direct deposit our bank details are:
 - BSB Code 801009
 - Account code 1194974
 - Account Name FFDLR
 - Be sure to include your name so we know who it comes from.

Fifteen benefits from the 'War on Drugs

Buchanan, J; LinkedIn, 2015, <https://www.linkedin.com/pulse/fifteen-benefits-from-war-drugs-julian-buchanan> .

It is widely assumed that the so called 'war on drugs' (the war between drugs) has been a terrible failure, and faced with the mounting evidence governments would want to change. This evidence is based largely upon an analysis of the failure of drug prohibition to reduce the demand and supply of banned substances, and a consideration of the associated harms caused in the process of prohibition.

However, with a different agenda and focus it might be that this 'evidence' in terms of the failure to dent supply and demand, has over time, become secondary to other government and business interests. Seen in a different light, the Drug War has been a major success, providing many opportunities and benefits:

- It protects the market share and place of the privileged and promoted legal drugs – alcohol, caffeine, tobacco, sugar and pharmaceuticals.

- It provides the police with easy powers to stop, search, arrest and interrogate.
- It attracts much needed funding for police, armed services and security services.
- It provides excellent opportunities for significant additional resources for the police/state through the seizure of assets.
- It provides excellent business opportunity for the ever burgeoning penal industrial complex.
- It provides considerable opportunities for new technologies in the invasive drug testing industry.
- It provides the drug rehabilitation business with an endless supply of illicit users who have to abstain.
- It provides excellent opportunities for the state to monitor, control and punish the poor, indigenous people, Black and minority ethnic groups and people of colour.
- It provides politicians with a societal scapegoat and the chance to rally support and votes by getting 'tough' on this constructed enemy within.
- It provides the news media with easy, cheap and dirty stories and pictures of the apparent horrors associated with illicit drug use, which sell 'news'.
- It provides a much needed distraction from the serious problems caused by the more harmful legal drugs – alcohol, tobacco, sugar and pharmaceuticals.
- It rallies otherwise disparate nations together to find common ground to fight a shared war against a global enemy.
- It provides the Banks with massive investments from money laundering.
- It allows governments to detract attention from the real structural drivers behind most addiction (inequality, stigma, exclusion, poverty and blocked opportunities) and instead concentrate attention on the 'demonising power' of the illicit drug.
- It provides employment for drug policy and drug enforcement entrepreneurs (particularly associated with the UN), and it spawns numerous meetings, events, conferences, working parties, inquiries, reviews, committees allowing opportunities to travel, conference, dine and socialise.

If these are some of the key drivers that sustain the war between drugs, then endless research and campaigns directed towards the beneficiaries of this drug war, seeking to illustrate to them, the limited harms posed by properly regulated illicit drugs, or highlighting the failure of prohibition upon supply and demand, are likely to have little political impact or sway.

The Danish Prison System

Galen Foote, November 30, 2012, Berkley Centre, <http://berkleycenter.georgetown.edu/letters/the-danish-prison-system>

There are two competing theories regarding the way societies should treat criminals. One is the theory of retribution; the idea that criminals must pay for their crimes through punishment that is proportional to their crime. This theory is focused on punishment and less on the factors, including societal ones,

that may have lead to the crime. Around the world studies have shown that a retributive system creates a divide between prisoners and society, encourages future criminality and thus the rate of recidivism.

Then there is the theory of rehabilitation, which is the core philosophy of the Danish prison system. It encourages solving the problems that led an individual to crime rather than punishing the crime itself. It works to retrain and reintegrate criminals back into society.

The features of this system are based on the idea of “normalization,” where the prisoner’s environment closely resembles the outside world that they will ideally return to and function in. In fact, most Danish prisoners, usually those with sentences shorter than 5 years, live in open prisons, which typically lack walls and the security features we normally associate with prisons.

The prisoners attend classes, work a standard Danish workweek (37 hours), and even do their own shopping and cooking. Married couples are often allowed to live together and even with their children if under 3 years old. The result, seemingly, is an extremely low rate of recidivism. Inmates are able to easily transition from prison to everyday life.

In comparison with the US, Denmark has 73 prisoners for every 100,000 residents, while the US has 730. Denmark has a recidivism rate of 27% while the US has one of 52%.

Danish system also relies on handing out short sentences. The average sentence is six months and only two percent are over two years. In fact, more than half of sentences are three months or less. Not surprisingly, a Danish man facing child pornography charges in the United States requested to be sentenced in Denmark, where he would likely only face six years.

Of course the worry some Danes have is whether the system is too soft. One value of a system of retribution is that it could deter future crime. Life in a Danish open prison is far from ideal, but it is much better than most prisons in the United States. One prison guard found a 100 gram lump of hashish in a visitor’s pocket. The guard was reprimanded for breaking the rules by frisking a visitor.

One conservative politician summed up this sentiment: “When we go to the football game, our pockets are checked, when we get on a plane, our pockets are checked, but if you visit a criminal, you can just walk right in.”

While it is often under debate, the Danish model does seem to be effective. The real question is are we looking at causation between the Danish system and low re-incarceration rates, or simply correlation. The Danes live in a country with very low poverty, a low income gap, one of the world’s best social safety nets, and almost no access to guns. Is the success of the Danish model something that can only work in such a society, or should we be experimenting with it in the US?

Prisons policy is turning Australia into the second nation of captives

Mirko Bagaric, Dean and Head of School of Law at Deakin University, 10 April 2015

The Conversation: <http://theconversation.com/prisons-policy-is-turning-australia-into-the-second-nation-of-captives-38842>

Sometimes you don’t need hindsight to identify broken social and legal policy. Such is the case with Australia’s slide into

following the US lead and becoming a nation of captives. A little known, but alarming fact is that imprisonment numbers in Australia – both the number of offenders incarcerated and the growth in numbers – are now at record highs, and by a considerable margin.

Incarceration rates have fluctuated considerably since federation. At the turn of the 20th century, the imprisonment rate per 100,000 (adult) population was relatively high: 126 persons per 100,000 adults. This dropped to 52 per 100,000 by 1925. Following a period of moderate fluctuation, in the last two decades the prison population has more than doubled: an unprecedented occurrence in Australian history.

The number of prisoners broke through the 30,000 mark for the first time on June 30 2013, at which point the rate of imprisonment was 170 prisoners per 100,000 adults. The current imprisonment rate is 186 per 100,000 people.

In contrast to most other developed countries, this rate is palpably high. The rate in Canada is 118 per 100,000. The incarceration rate in Australia is nearly three times higher than in Scandinavian countries.

Standing apart from these trends is the world’s greatest incarcerator, the United States, which imprisons more than 700 people per 100,000 - an increase of more than 400% in three decades.

While the Australian incarceration rate is low compared to the US rate, we are highly inefficient at locking up prisoners. It costs every state and territory at least A\$80,000 to house each prisoner for a year, compared to around A\$30,000 in the US. Hence per capita our spending on prisons is significant in relative and absolute terms.

And it is to the US where we should now be looking to ascertain the fall-out from an unabated tough (and dumb) on crime policy. The extensive use of imprisonment in the US has finally reached a tipping point. The community can no longer readily absorb the cost of a US\$60 billion annual prisons budget.

Radical measures are being implemented to reduce prison numbers. The most recent is effectively opening the prison gates to release thousands of sentenced offenders.

In April 2014, the US Sentencing Commission voted to reduce the sentencing guideline level for most federal offences of drug trafficking. These changes will apply retroactively, meaning that more than 46,000 prisoners are eligible to have their cases reviewed for a penalty reduction. On average, penalties are likely to be reduced by two years and one month, resulting in savings of approximately 80,000 prison bed years.

Imprisonment isn’t working

Increasing prison numbers might be tolerable if this achieved a positive community outcome. However, the evidence is to the contrary (the author analyses the Australian data in a forthcoming article for the Australian Bar Review, entitled “Jail Up, Crime Down Does Not Justify Australia Becoming an Incarceration Nation”). It does not reduce the rate of serious crime, discourage potential offenders or reduce re-offending rates.

In many cases, imprisonment is just the wanton infliction of gratuitous punishment by an unthinking legislature and a reflexive judiciary.

Sentencing is the area of law where there remains the biggest gap between what science tells us can be achieved through a

social institution (criminal punishment) and what we actually do. We will continue to have a runaway incarceration rate until governments and courts start making evidenced-based policy and sentencing determinations. This would mean imprisonment is essentially reserved for the offenders we have reason to fear or who have inflicted serious suffering on others, not those that we simply dislike.

It is repugnant that more than 40% of prisoners in Australian prisons are serving sentences for non-violent or non-sexual offences. White-collar criminals, drug traffickers and social security cheats irritate us and inconvenience our lives, but they should only go the jail in the rarest of circumstances. The pains of imprisonment are normally a disproportionate response to their crimes.

Time to reverse the trend to excessive punishment

There is also a powerful normative basis for limiting prison numbers. Imprisoning offenders for a moment longer than is necessary to achieve a demonstrated (attainable) objective of sentencing constitutes a violation of one of the most universally held moral norms: the prohibition against punishing the innocent. The violation of this norm is so prevalent in Australia that it is in fact in our prisons where the greatest number of human rights

infractions occur.

And this is one problem that is not the total fault of populist politicians. Our courts have considerably contributed to the crisis by unilaterally increasing sentencing tariffs for drug and white-collar offenders over the past decade. This is supposedly in order to deter other offenders.

The strategy has been a brilliant failure. To appreciate the extent of this debacle you don't need to look out of your window to see that illicit drugs are increasingly available on every street corner. You merely need to ask criminologists, who are overwhelmingly convinced about the failure of general deterrence theory.

Australian governments need to develop a strategy to reduce incarceration numbers to about 100 per 100,000 (consistent with historical trends). Without a systematic overview, the unprecedented increase in incarceration levels has the potential to contribute to a fiscal crisis and an ongoing human rights tragedy, devoid of a principled solution – as we are witnessing in the United States.

The start and endpoint to the solution is to confine jails (almost exclusively) to those we have reason to be scared of: sexual and violent offenders.

