

# Does Prison Work?

## A view from criminology

Timothy Ore and Astrid Birgden

In *Does Prison Work?* published in the Summer 2002-03 issue of *Policy*, Peter Saunders and Nicole Billante argued that recent reductions in the American crime rates have resulted mainly from more offenders being sent to prison. They considered prison to be effective for incapacitation and deterrence and concluded that Australia could reduce its escalating crime rates by making greater use of incarceration as in the US. There are three major concerns with this position.

### Deterrence versus rehabilitation

This first concern is substantive, that is, whether deterrence-based programmes are effective in reducing crime. Current scientific opinion on an international basis is that punishment through imprisonment does not reduce crime rates and, in some instances, even worsens crime rates. For example, in a recent review of 29 evaluation studies of boot camps, this approach was considered ineffective in reducing crime.<sup>1</sup> Analysis<sup>2</sup> of 50 studies from 1958, involving nearly 350,000 offenders, showed that prison slightly elevated the risk for recidivism. Also, lower risk offenders tended to be more negatively affected by the prison experience. Therefore, recent research has failed to establish a link between length of prison sentence and recidivism as predicted by deterrence theory.

As a product of numerous factors, crime requires varying interventions targeting problem-specific areas. Best practice rehabilitation programmes are those that target factors empirically linked to the risk for re-offending. These include pro-criminal attitudes, problem-solving deficits and creating opportunities for education and employment. Evidence from a wealth of studies shows that the risk for re-offending is modifiable when such programmes are delivered. For example,

recidivism rates in serious or persistent young offenders can be reduced by 40% in community treatment and 30% in institutional treatment.<sup>3</sup>

### Measures of incarceration propensity

A second concern is methodological, that is, whether the right measures have been used. Incarceration rates should have been computed as the ratio of persons admitted to prison for a particular offence in a given year to the number of persons arrested for that offence in the same year. In this way, the likelihood of the results accurately capturing cross-national differences in the willingness to incarcerate is enhanced. By using number of prisoners in custody on a given day (stock data), the authors have confounded sentence length with imprisonment rates. Stock data often over-represent more serious offenders with longer sentences, with the potential for over-estimation of the propensity to incarcerate in those countries with higher serious crime rates.

By contrast, the number of admissions to prison (flow data) is not affected by the accumulation of more serious offenders, thereby allowing the separation of the propensity to incarcerate from the length of sentence served. For instance, in a comparison of the use of incarceration in US, Canada, Germany and England, Lynch<sup>4</sup> found that, in terms of either population-based stock rates or population-based flow rates, the US was several times more likely than any of the countries to incarcerate for homicide, robbery, burglary, and larceny. For homicide, the US was incarcerating 7.5 times and 5.3 times more frequently than England and Germany, respectively. Flow rates based on police arrests revealed a different pattern, showing a broad similarity in the probability of incarceration for the offences.

It appears that Saunders and Billante have not adjusted for variations in size of unsentenced prisoners. Failure to make a distinction can affect comparisons of stock-based incarceration rates since not all those held in a prison have been convicted of an offence.<sup>5</sup>

To minimise bias in comparative studies, police arrests, rather than crimes reported to police, seem to be the most appropriate data to use. One of the reasons for establishing the International Crime Victims Survey (ICVS) was to provide an alternative mechanism to inaccurate police records on crime. The trends reported have not controlled for differences in the seriousness

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of crime across the countries compared. Countries could have similar crime rates but the nature of the crimes committed could vary. The ICVS (the fourth round, 2000) reported that 'there was a higher than average use of weapons in the US, Spain, Scotland and Portugal'.<sup>6</sup> Guns were used more often in the US and Spain. Without standardising for such variations, it is incorrect to attribute differences in incarceration rates to punitiveness. Therefore, offence-specific analyses provide a better approach.

### Correlation between crime rates and imprisonment rates

A third concern is largely empirical, that is, whether crime rates can necessarily predict imprisonment rates. Simple correlation analyses are insufficient for exploring the complex and multi-dimensional association between crime and incarceration propensity.<sup>7,8</sup> Several studies have shown the influence of crime rates on imprisonment rates to be limited.<sup>7,9,10</sup> In Canada, where the criminal law is the same across the country but administered provincially, Sprott and Doob<sup>11</sup> found that crime rates did not predict incarceration counts. Numerous and complex factors, such as the organisation of the criminal justice system and reward structure, need to be examined. More detailed analyses are required to substantiate Saunders' and Billante's claim that 'the rate of crime and incidence of punishment are closely associated'.

### Conclusion

The observed differences reported by Saunders and Billante in the propensity to incarcerate cross-nationally have been made in terms that are too general to serve as a useful and valid basis for policy guidance. Stringent requirements focusing on more sensitive measures and specific crime categories are critical. Analyses of comparable crimes minimise the effects of variations in crime seriousness cross-nationally, thereby yielding more credible results. Well-designed studies show that deterrence-based programmes are ineffective in reducing crime and the focus should be on developing rehabilitation programmes that do reduce the likelihood of recidivism. The case for Australia adopting the US approach to crime reduction through the use of imprisonment has not been established.

### Endnotes

- <sup>1</sup> D.L. Mackenzie, D.B. Wilson, and S.B. Kider, 'Effects of Correctional Boot Camps on Offending', *Annals of the American Academy of Political and Social Science* 578 (2001), 126-43.
- <sup>2</sup> P. Gendreau, C. Goggin, and F.T. Cullen, 'The Effects of Sentences on Recidivism', Cat. No. J42-87/1999E (Ottawa: Public Works and Government Services Canada, 1999).
- <sup>3</sup> J. McGuire, 'Integrating Findings From Research Reviews', in J. McGuire (ed), *Offender Rehabilitation and Treatment: Effective Programs and Policies To Reduce Re-offending*, (Chichester: John Wiley & Sons, 2002), 3-38.

- <sup>4</sup> J.P. Lynch, 'A Comparison of Prison Use in England, Canada, West Germany and the United States: A Limited Test of the Punitive Hypothesis', *Journal of Criminal Law and Criminology* 79 (1988), 180-217.
- <sup>5</sup> D. Brown, 'Battles Around Truth: A Commentary on Sentencing Act 1989', *Current Issues in Criminal Justice* 3 (1992), 329.
- <sup>6</sup> International Crime Victims Survey (The Hague: Ministry of Justice, WODC, 2000).
- <sup>7</sup> A. Freiberg and S. Ross, *Sentencing Reform and Penal Change: The Victorian Experience* (Melbourne: The Federation Press, 1999).
- <sup>8</sup> M. Tonry, 'Crime and Punishment in America', *Overcrowded Times* 19 (2).
- <sup>9</sup> R. Michalowski and M.A. Pearson, 'Punishment and Social Structure at the State Level: A Cross-sectional Comparison of 1970 and 1980', *Journal of Research in Crime and Delinquency* 27 (1990), 25.
- <sup>10</sup> W. Young and M. Brown, 'Cross-national Comparisons of Imprisonment' in M. Tonry (ed), *Crime and Justice: A Review of Research* (Chicago: University of Chicago Press, 1993), 17.
- <sup>11</sup> J.B. Sprott and A.N. Doob, 'Understanding Provincial Variation in Incarceration Rates', *Canadian Journal of Criminology* (July 1998), 305-322.

## A view from sociology

Peter Saunders and Nicole Billante

**T**imothy Ore and Astrid Birgden have written a very interesting and informative response, but it does not address the core concerns in our original article.

Following Charles Murray's lead, we charted crime rates against the rate of imprisonment per recorded crime. We did this over time, and we did it across several different countries, and the results were striking. As the chances of criminals getting locked up fall, so the number of serious offences rises; when more criminals get locked up, the rate of serious crime drops.

Few people outside of academic social science would be surprised by these correlations, for they confirm what common sense tells us. If you ease up on the punishment, you get more of the crime.

But read their response carefully. Ore and Birgden never actually deny our core premise, that imprisonment rate has an effect on the crime rate. Not once in their critique do they directly address this question, still less try to refute it.

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Rather, they question the *reasons* why the connection exists. In particular, they claim right from the start that prison is an ineffective deterrent, and that preventative measures are better.

They may be right. We noted in our original article that the probability of getting caught tends to be more of a deterrent to many people than the severity of the punishment. This suggests that money spent on policing may generate a better return than money spent on prisons, which is why we went on in subsequent work to look at the relation between police numbers and crime rates (sure enough, as with prison, so with policing, we found *prima facie* evidence of a strong association between them).

But this does not mean that prison is ineffective. Be in no doubt—if we stopped locking away serious offenders, crime would go through the roof, no matter how many of them got caught. The reason is that prison does not work wholly, or even mainly, by its *deterrence* effect. It works most crucially by physically removing the worst offenders from society so they cannot go on committing crimes (that is, by *incapacitation*).

This is precisely what the Americans realised from the 1980s onwards, and the result has been bulging jails and a plummeting crime rate. Most Americans think that's not a bad trade-off. In Australia, by contrast, we made it less and less likely as time went on that robbers, thieves, rapists and thugs would end up in prison, even if they were caught. Not surprisingly, our crime rates just kept on climbing.

**W**hat of the 'methodological issues' that Ore and Birgden raise? They make some good points.

It would, for example, make a lot of sense to follow their advice and break the statistics down into the different categories of serious crime to see how well the overall association between crime rates and probability of imprisonment stands up for, say, robberies as compared with rapes. But the way Australia's statistics were compiled prior to the 1990s makes it very difficult to do this over the sort of time period we are interested in analysing.

Ore and Birgden also argue that we should measure offenders rather than offences and convicted prisoners rather than all prisoners. Both probably very sensible, assuming it were possible to do so over a nearly 40 year period. But even if we recomputed our data in this way, it would make little difference to our findings because we are interested in overall trends, not precise figures.

Ore and Birgden are concentrating on the trees and failing to see the wood. What our graphs show is a clear *trend over time*. Even if our annual measures of crimes and prisoners are a bit crude and imprecise, it doesn't matter very much for the trends we have plotted because the same indicators were measured in the same way each year. Any error will therefore occur in the same way

throughout the graph and will effectively cancel itself out. Maybe we could get more precise in the way each year's figures are measured, but this will have little impact on the trend-lines we have plotted.

Some of Ore and Birgden's suggestions are not very helpful. For example, they say we should use police arrests, rather than offences reported to the police, as our indicator of crime trends, but this makes little sense. Police arrest rates will depend as much on the effectiveness of policing as on the number of crimes being committed

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(if the police become less effective, then the number of criminals processed will fall, even if the actual number of crimes is still rising). They are not therefore a good indicator of changes in crime.

Similarly, they say we should have measured the flow of prisoners rather than the stock, but this argument only holds if (like them) you want to measure only the deterrent effect of penal policy. If you also want to measure the incapacitation effect, however, then it is perfectly reasonable to focus on the stock of prisoners as your key indicator.

**H**ave Ore and Birgden refuted the association that we found between crime rates and the probability of imprisonment? No they haven't. They say that other factors, including 'socio-economic conditions', are important in influencing the rate of crime, and they may be right. But this does not mean that penal policy has no effect. Criminal behaviour, like almost every other aspect of social life, is influenced by the interaction of many different factors. One of them is the probability of imprisonment.

Have Ore and Birgden shown that the association between crime rates and imprisonment is not a causal relationship? No they haven't. We showed that penal policy and crime are statistically associated over time, and across countries. Our hypothesis is that this is a causal connection. If Ore and Birgden think we are wrong, it is incumbent on them to come up with a better explanation for this pattern (for as the philosopher of science, Imre Lakatos argues, no hypothesis should be discarded until a better one is found to put in its place). They have not done so. Until they do, the case for prison stands.