

## Raising the Bar Sydney 2018

### Garner Clancey – The prison paradox

**Welcome to the podcast series of Raising the Bar Sydney. Raising the Bar in 2018 saw 20 University of Sydney academics take their research out of the lecture theatre and into bars across Sydney, all on one night. In this podcast, you'll hear Garner Clancey's talk, The Prison Paradox. Enjoy the talk.**

[ Applause ]

Thank you. Thank you all for coming. A number of people, I know. I'm really surprised you're here. You will have heard me bang on about this for years, so apologies if you have heard some of it before. To the students who are here, thank you for coming. It's a great surprise that you're here, that you've come for additional tuition, but welcome. Good to see you and thank you for coming out on a relatively cold and slightly miserable night.

I want to say a few things before I begin and then kind of dive into some of the detail that we'll be discussing this evening. Firstly, if you were here for Ann's talk, Ann certainly raised the bar. There's a great likelihood I'll lower that bar. I've been teaching, in one form or another, for 18 years. The idea of talking for 25, 30 minutes without slides is both liberating and anxiety-provoking, so we'll see how we go.

The logic of tonight's discussion is on the 29th of March next year, we, most of us in this room, will go to a local school, town hall, community centre to vote, and as part of that vote, we'll be making a decision about criminal justice or law and order policies, and tonight, I just thought it was a good opportunity to dig beneath some of the facts, dig beneath some of the headlines that we've kind of bombarded with on a regular basis that often aren't particularly accurate or particularly true.

So tonight's a bit about myth-busting. It's to engage with some of the realities of the criminal justice system as they stand in New South Wales and to really be briefed in advance of the law and order auction, which tends to happen around election time. If history is anything to go by, we'll get a whole lot of silliness leading into the next election about the need for tougher, more punitive responses to crime that I'm going to argue we don't need, and they're often very expensive, and we could probably spend our money better elsewhere. That's the guts of what I want to say.

Now some of you may have been here before. Some of you may have had too many drinks, so I'm going to give you the take-out message now. Then we'll dig into the detail. Then we'll come back to the take-out message, and we may do that three or four times.

So take-out message is most crime categories in New South Wales are down, and when I say down, in some instances we're talking to historic lows. Some crime categories are the lowest they've ever been on record, and I'm going to unpack that, because I think that is not very well-known. It's probably known by the students who have suffered through many of my lectures, but beyond that, I'm not too sure it's very well-known, and I think it's crucial that we have that conversation in preparation for any kind of law and order auction that occurs.

Secondly, despite these falls, really substantial falls in some instances, our prison population has been nudging up quite rapidly in the last five years. We're at about 14,000 adult prisoners in New South Wales at the moment, and I want to talk about that, and I want to talk about who, who that is. Who are these prisoners? What part of the institutions are they held

in? What are the problems with those institutions, and why is it necessarily bad news that we continue to kind of binge on this law-and-order punitive policy-making?

The conditions in prison have been pretty horrific for a long period of time. Why? Because many of our prisons are very old. A number were built in the 1800s and are still operating today. Some of the prisons that were decommissioned have been recommissioned to house this growing prison population. Our prison population, because it's exploded in recent years, is running well over capacity, so our bed capacity is being exceeded on a daily basis.

What does that mean? It means prisoners are doubled and tripled up in cells, and we have the worst record in the country for time in cells per day. So if you're thinking about rehabilitation, the idea that you spend 16 hours in a cell with a cell mate or cell mates and you somehow get rehabilitated seems fanciful.

And it is fanciful, because data on recidivism and return to prison has shown in recent years that we're going backwards. One in two people released from prison return to prison within two years in New South Wales. We are only the – we are the jurisdiction that does it worst, apart from the Northern Territory, which is obviously no benchmark to aspire to.

So whilst the government has responded to this crisis in prison overcrowding with a massive investment of about 4 billion dollars, expanding the prison beds by anywhere up to 5,000 beds – there's some debate. It's actually quite difficult to know how many extra beds will be added, but it appears that an additional 5,000 beds will be added to our system over the next two years.

Whilst some of that is useful, because it will relieve the overcrowding, I want to argue that expanding the prison bed capacity is really not in our best interest. I want to argue for alternatives to prison. It's kind of a no-brainer as far as I'm concerned. Financially, the human cost of imprisonment is too much to bear. We should be looking for alternatives, and tonight, I want to introduce some alternatives that we should be considering and that should be advocated in the lead-up to the next election. So that's kind of the take-out message. Crime down, prison up, prison expensive. Let's find alternatives that are cheap and effective, and let's not do the kind of tough on crime stuff that we traditionally do. Let's do kind of smart on crime. That would be null.

Okay, so let's talk about the crime decline for a few minutes. I could talk about it for much longer, but I've watched people kind of glaze over as I move into the 15th statistic and 24th crime category. I'm going to talk about New South Wales. I'm really focussed on New South Wales tonight. I'll talk a little bit about some data from other jurisdictions, but I'm very interested in our jurisdiction.

And I'm going to gloss over some of the heavier – some of the difficulties of talking about crime data. There are all sorts of challenges about some of what I'm going to say, but go read the textbooks. Call me after. Do something. But don't kind of hold me too much to account tonight for some of the things I'm going to say. That said, I did fact-check myself, and I'm very accurate. [Laughter]

So, crime down. Let's talk about some of the major falls in crime, and I want to do something that most criminologists don't like doing, and I want to talk about raw numbers. Why do I want to talk about raw numbers? Because they are very compelling. When we talk about rates of crime, the number of offences divided by the population, it often gets a bit confusing, and I just want to kind of give you a really clear picture.

So most of our major crime categories are down, and when I saw down, in some instances, they've fallen year on year for 16 years. This is a kind of substantial message that has been very hard to get anyone interested in. The media are not all that interested in telling people

crime's down. They're very happy to kind of tell you that crime is bad and crimes occur, but not so interested in telling a nuanced story about declining crime.

So a couple of key crime categories. Robbery. In the financial year, and I'm going to use – this is kind of a benchmark, because it's really when our decline began. 2000, 2001, the year that the Olympics were here, that financial year, we had about 13,500 robberies in New South Wales. That's kind of collapsing a number of robbery categories, but kind of stick with me. Thirteen and a half thousand. Last financial year, we had about 2,500. The same year, we had 82,000 incidents of burglary. Last year, we had 27,000 incidents. 2000, 2001, we had 55,000 incidents of motor vehicle theft. Last year, we had about 12,500. 2000, 2001, we had about 120, or we know quite clearly the number: 120 homicides were perpetrated in New South Wales. Last year, it was 54.

Now, they are just some of the declines, right, and they're big. They're big declines, big figures. Through that period, if you think about our population, you would also know that our population increased by about 1.2 million, so if we represented that as a rate, that decline, those declines, are really quite substantial. Why don't people know about it? Well, I don't think there's necessarily a lot of appetite for discussions about falls in crime, and "if it bleeds, it leads" is kind of a mantra that still exists. The media still kind of report all the gory detail of multiple crimes, and therefore people don't realise crime's declined.

I also think there's a kind of phenomenon that some of my colleagues have written about, where the police media units package up footage of incidents and kind of give them to reporting outlets that just run them. Reporting outlets that are kind of having diminished resources just take the footage from Pol Air. The cops kind of – Air Wing, they take that footage and just easily package it, put it on the news. Everyone goes [gasp]. Crime must be up. So people generally don't know that crime's down, and I think that's part of the reason.

Why have those offences declined? And we've had declines in other offences. We had kind of a rise in assaults, but in recent years, they've started to go down, too, and in the most recent years, it appears domestic violence has been declining as well. Now kind of watch this space, because there's debate about those figures. Watch this space over the next couple of years, but I think they're starting to decline as well. So why has crime declined? Are we the only state in the world that crime has declined? No. We've seen crime declines in lots of jurisdictions around the world. There's kind of a great book published on the international crime decline, so it looks like something much bigger than the New South Wales government of the New South Wales criminal justice system is the explanation from the crime decline.

The difficulty that we have is having a clear explanation for all of those offence categories, why they've all fallen. So a local explanation is opiates had become very expensive towards the end of 2000, and lots of people moved into treatment. It's kind of one argument, and it's an argument that's often run by Dr. Tom Weatherburn, the head of the Bureau of Crime Statistics and Research. He also says good economic conditions have helped, and I suspect that's true.

The international crime decline has been explained in different ways, and I'm just going to give you a couple of little elements of that discussion. One part of that discussion is to say that demography matters. The falling percentage of young people in your community probably is meaningful. China, as a manufacturing sector, has meant that a whole lot of stuff that we now have is much cheaper, so why would you break into someone's home to flog it?

There's some discussion about some of that crime moving online, but I have to say that doesn't completely convince me, because a lot of the people who are committing those offences are not really necessarily adept at, you know, kind of hacking your home computer and stealing your bank account, so I don't think there's a – that's a complete explanation. Some Dutch

theorists are saying that mobile technologies – kids who commit a lot of crime are now stuck in front of their iPhones and the like, and they're not out in public space. They're not causing mayhem. Maybe there's something in that.

There's also a bit of a discussion about risk-taking behaviour, and there's lots of data sets that say young people are probably less risk-taking today than they were in previous years. A wonderful study that was done by Dr. Jason Payne at ANU with Rick Brown at the Australian Institute of Criminology compared kids born in '84 to kids born in '94 in New South Wales. What did they find? Fifty percent reduction in virtually all offence categories.

Why? Well, we're not completely sure, but we think perhaps some of this kind of risk-taking stuff is altered over that period. It's a really fascinating study. We're going to run an event at City Uni on the 29th of November with those speakers coming to tell us "Where Have all the Young Offenders Gone." It's a great title. It's a great title of a paper, and it's a great opportunity to get on the back of it before the next election to say people, young people are not the problem they once were.

Young people absolutely aren't the problem they once were in New South Wales. We've had, in the last eight years, 50% reduction in police cautions, youth justice conferences, and a 33% reduction in children's court matters. Something has happened where young people aren't committing the crime that they were in previous years.

Okay, so I could talk about the crime decline and nauseam, but I'm going to shift focus a little bit. Just remember those kind of key headline figures, and if you get the numbers wrong, I don't really care, but tell people you know. Tweet it, Facebook it. Do whatever you can. Get the word out there. A former student who has a background in marketing – I was saying to her, you know, "Why is this message not getting through?" and she said you need big, red hands, like on the Kohl's and, and I need to kind of keep going around. Crime is down, down, down. Crime is down, down, down. I'm not sure that will get the cut-through that I'm after, but a useful –

I'd try.

>> Let's give it a crack. Everyone get a pair of gloves or whatever they used.

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Okay, so it challenges me to then think why has our prison population increased so dramatically in the last five to six years. Some people say, "Wow, the two are related." No, the two are not related. We have very good evidence that increasing your prison population has a very modest impact on crime, so it is not about increasing the prison population that's brought about the crime decline, and in fact, we had a drop in the prison population around 2008, 2009, and since 2011, it has been going up every time we get recorded figures. So we're at about 14,000. We predict about 15,000 in 2020.

What's been driving that, and what does that look like? I just want to talk to that for a few moments to kind of take you into that world just a wee bit. A couple of comments that are worth considering: A massive over-representation of indigenous people in the criminal justice system. Well-understood, about, you know, depending on the figures, 25% of males, 33% of women in prison are indigenous. One of the fastest-growing bits of that population, groups of that population, are aboriginal women, up 75% in the last five years. Women have gone up 50% in the last five years.

Why are we seeing this increasing incarceration? There seem to be a few reasons. One is increasing use of bail refusal and remanding in custody. So we take people. We put them in custody for, often, a few days or a few weeks. They then go to court and then often don't get

sentenced to imprisonment. So it's a very expensive and disruptive activity. That's one part of it. It appears that there's also some questions about sentence length and increasing punitiveness through the courts. That appears to also be an explanation.

But why am I concerned about the increasing prison population? Twenty-six years ago, I started work in a juvenile justice centre. I was completely ill-prepared for the experience, and it was life-changing. I was subjected to witnessing a whole lot of degradation in custodial environments, not necessarily about the system, but about the loss of liberty, the loss of freedom, and I came to question this kind of simple dichotomy, perpetrators, victims.

The kids that were in the centres that I worked in were absolutely heavily victimised. They were kids who'd come from out of home care. They were state wards. They were kids who were criminalised because of behaviours that were probably tolerated in my house, but were criminalised in their environments. So if they lived in a group home, if they broke something, they were charged with malicious damage. If they got into a fracas with one of the other kids, they're charged with assault and offensive language. On the way out, they're being dragged out by the cops. They resist arrest. They get that as an additional charge.

So these kids whose lives were fractured and broken get classified as offenders and dealt with as offenders, and yet, for me, it was very apparent that the kids passing through juvenile justice centres had experienced horrendous kind of loss and damage, and we didn't acknowledge that, and we didn't repair it nearly well enough.

When I said adults return to prison at about one in two in two years, juveniles return to juvenile justice centres much quicker, and here's a figure for you. Ruminates on this, because it kind of concentrates my mind: 335,000 dollars a year to lock one kid up in custody for a year. That's one figure. The Productivity Commission – that figure's from the auditor general, New South Wales auditor general. The Productive Commission say it's more like 500,000.

I think they're both wrong, to be honest, and I think it's higher. Why do I think it's higher? I think there are a lot of hidden costs that aren't woven into this. Some of the hidden costs are about the fact that all of our juvenile justice centres have schools, and those school costs are phenomenal, and they're not factored into some of those analyses. What could we do with that money if we were looking to repair damaged lives? I think we would do much better than locking kids up for a year and then watching them return pretty quickly.

So a couple of other just comments about the use of imprisonment and our prison system. Like the rest of the community, but at a much more rapid rate, for a variety of reasons, we're seeing an ageing population. I take students into some prisons as part of their course, and always, they say, so surprised how many people with grey hair they see. As my hair turns grey, I'm kind of going, "Watch what you're kind of saying there," but I get your point. You know, these aren't places necessarily full of young men that they once probably were.

So we know that across the country – this isn't New South Wales. Across the country, we've had 140% increase in prisoners aged over 65. We have a real crisis about how we respond to that population. They require very different things. They require much higher and appropriate medical care. They require all sorts of sensitive care about dispensing prescription drugs, kind of having redesigned cells to respond to their disabilities and their other needs. It's a kind of an aspect of the system I think is poorly understood.

The other thing that I want to make mention of is that this rise in women being imprisoned, and rapid rise, causes me concern because 60% of women in prison have dependant children. I think there's a real risk that we're creating perpetual imprisonment as a result, and we've seen it generationally. We know from our health surveys of kids and adults in custody that they've

often had parents in prison. It kind of repeats itself, and it's a tragic, expensive kind of waste of human opportunity.

So there is some reasons. You know, it's expensive, about 200 dollars a day to lock up an adult, about 1,300 dollars a day to lock up a juvenile. There's kind of a really strong financial argument to say let's do it less and let's re-divert some of that money into the areas that I'm really interested in, which is prevention. So I want to spend a few moments talking about some alternatives. Some of these alternatives you will have heard about, you will have known, but I just want to kind of be a kind of flag-bearer for a focus on prevention.

Now, there are a variety of ways that we can prevent crime effectively. One of the reasons that we think we've had an international crime decline is really quite confounding for some criminologists. Now, a whole lot of my colleagues would shout me down if they were here, but they're not here. One of the things that seems to have occurred is opportunity reduction has led to falls in crime.

Opportunity reduction is the stuff where we just make crimes harder. We make them riskier. We make them less rewarding. So we don't actually change the motivation of people. We just change the environment and the circumstances in which crimes occur. Why is that a bit of a conundrum for criminology? For lots of the history of criminology, we've been talking about the kind of biographies, the histories, the difficult circumstances, the social structures, and a variety of kind of other explanations for crime. This goes against that, and I have to say there's a risk with this perspective, but I actually think we should engage with it more and have a conversation. So that's one form of prevention. It's called situational prevention, and I think we should certainly consider it.

The other form of intervention that we have excellent evidence for its effectiveness is early intervention. The people who work in this space find the term early intervention a bit problematic. Why? Because it almost suggest if you don't intervene early, it's too late. We're fixated on the first thousand days of life. Well, does that mean we can't intervene effectively the thousand and first day? Absolutely not, but that's the risk of using the term early intervention.

Nonetheless, pressing on, despite the criticisms of the term, we know that early intervention, if done well, can be a massive cost-saver. So the best studies from overseas point to, you know, the heavily-cited figures: a dollar spent, seven dollars saved over the life course. How do we do that? We do that through home visiting programmes. We do that through parental training. We do that through school enrichment.

So our focus is not prisons. Our focus is, early in life, improving the circumstances of kids and families, and particularly families at risk, so that we invest heavily there to get good outcomes, and we get dividends later in their lives. It's very hard to get governments to kind of shift the focus from the vote-winning, fear-mongering back end to the, "Okay, so you're telling me you want to invest for a dividend in 15 years, so someone else is going to inherit the benefit of that outcome? Convince me further."

Okay, the kind of one programme that I think is showing great promise in New South Wales, it kind of replicates aspects of what's happened in the US. It's called Justice Reinvestment. Many of you will know about Justice Reinvestment, but I want to plug it, and I want to encourage some thinking about the three key elements of Justice Reinvestment that are being applied in New South Wales in very few cases. There seems to be a slight reluctance to fund this stuff properly. Just to reinvest, to do this work, are asking for modest amounts of money. I say give them triple what they're asking for.

What are the three key elements of their work? Justice Reinvestment says we should be community-led, so we should listen and talk to communities about their crime problems. We should be place-based. We should think about geography. Why should we think about geography? I can tell you that a small number of post codes in New South Wales are responsible for the bulk of the prisoners. Well, let's invest in those places. Let's not kind of keep producing the data that says, Why is it these post codes keep producing a whole lot of prisoners?" Let's invest in those locations.

The third bit that they work off is data-driven. It's a very data-centric model, and I love that notion, because it's forcing government agencies to cough up data that historically they've never shared. If you work in this space, it's a source of great frustration to go to meetings and people go, "Well, we can't share the data about truancy or suspension." Yeah, well, it's pretty important to the youth crime picture here. "We can't tell you about notifications in the child protection system." It's absolutely crucial to any discussion about future crime. So the data-driven element of Justice Reinvestment, I think, is particularly powerful.

There's one more element of this that also appeals to me. It's called collective impact. It's understanding that in communities, there are lots of things that are working that actually contribute to good outcomes. We are fixated on funding a programme. "Here you go. Here's some money. Change the world. Here you go. Here's some money. Change the world." It doesn't work that way. Agencies, programmes, and initiatives often leverage off each other, and we should be mindful of that.

Okay, I'm going to try and conclude, so you can ask me some questions or leave the room and get a drink. So I've said crime is down, and crime has, as said, plummeted, year on year declines. People live Don Weatherburn – and if you know Don or you don't know Don, he's the chief crime statistician. Has been for years. He's not prone to floral language or kind of flights of fancy, yet he has been saying for some years now we are seeing historic lows, lows that have – you know, comparing the 1970s, crime rates in the 1970s, to what we're experiencing now.

So they are demonstrable. People say, "Oh, but maybe it's an artefact of people not reporting crime anymore." I go, "Wrong." People report crime at the same level, some offences, because of insurance policies, and we know that they're reporting these crimes. So it's a real drop in crime. It's not an artefact of reporting. Crime is down. That's good news. Tell everyone. Shout it from the rooftops as you go home tonight.

Secondly, punishment is up. Punishment is expensive. We're spending a billion dollars a year on running corrections. We should invest some of that money earlier. I want to encourage the politicians and us as a populace to push back when we're told that this is the solution to crime. It's not the solution to crime. We will never imprison our way into a crime decline or a crime reduction. We would have to lock up very large sections of our population to achieve modest reductions in crime.

Thirdly, I want to be an advocate and continue to be an advocate for prevention and for us to think downstream and not worry about kind of what's happening at the back end and be fixated about the very expensive criminal justice system. Let's invest our energies. Let's take some of what's spent at the back and put it at the front. Let's really think about initiatives like Justice Reinvestment and get behind programmes that are proven to work, have a good evidence base, but also are economically sound.

So for me, to conclude, I want to say that having worked in a juvenile justice centre when I was 21, 22, 26 years ago, having seen the degradation that occurs in custodial environments, having seen the damage and heard the damage that they've caused to victims, families, and

communities, I think it is time that we take a much smarter approach to criminal justice policy-making in this state. Hope you agree with me.

[ Applause ]

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