

Crime and criminal justice research at the University of Sydney

Research brief 2

At the University of Sydney we're conducting exciting research into diverse crime and criminal justice issues.

This is the second in a series of briefing papers showcasing some of our projects and introducing you to our research staff. It looks at the work we're doing in law, criminology, business and accounting.

Understanding the impact of new technologies in the criminal justice system Do audio visual technologies change the experiences of prisoners accessing justice?

Is providing evidence via a video link from prison the same as giving evidence in person? Are there any unintended consequences of this approach?

Technological linkages between justice and law enforcement agencies are radically altering criminal process and access to justice for prisoners. For many criminal proceedings, New South Wales has reversed the traditional presumption of a prisoner's physical presence in court, to a presumption in favour of appearance by audio visual link. AVL studios in the state's prisons let prisoners access legal advice, and 'appear' in remote courtrooms. Approximately 70% of court appearances are now facilitated by AVL.

Dr Carolyn McKay has spoken to prisoners to find out how appearance by AVL affects their experience with the law. Identified benefits included avoiding prison trucks and strip-searches. Nevertheless, many prisoners still expressed a desire to be in court in person – as a human, not a 'generic prisoner' on a screen. The research has revealed that technologies can challenge procedural justice and profoundly recompose prisoners' legal experiences.

Find out more about Dr McKay and her work:
<http://sydney.edu.au/law/about/people/profiles/carolyn.mckay.php>

Increasing our knowledge of private prisons in Australia – are they a better alternative to state-run prisons?

How accountable and effective are private prisons? Are they cost effective? How do they perform in relation to their quality of services?

Australia has one of the highest rates of private incarceration per capita in the world, and yet research about private prisons has been limited.

Associate Professor Jane Andrew led a group of researchers from the University of Sydney Business School who investigated the impact of private prisons, and how they have evolved.

Drawing on her expertise in business and accounting, Jane and her team reviewed publicly available information on private prisons across Australia. They found a dearth of available data for an evidence-based case for increasing prison privatisation. They also found that while each state varied for each measure, any evidence of performance and efficiency gains remains patchy and opaque, systems of accountability vary significantly, public reporting remains poor, and the total cost of private prisons remains unknown.

The lack of public information on costs, performance and efficiency has a negative impact on public accountability. It also reduces the capacity to properly scrutinise the case for prison privatisation.

Find out more about the research:
http://sydney.edu.au/business/_data/assets/pdf_file/0008/269972/Prison_Privatisation_in_Australia-The_State_of_the_Nation_June_2016.pdf

Promoting justice

WrongTrac: A national registry of exonerations

How often do wrongful convictions occur? What are the causes? How can they be avoided and corrected?

Wrongful convictions raise crucial questions about the effectiveness of the criminal justice system. But these questions are difficult to answer because the

underlying data has not been reliably and authoritatively gathered, particularly in Australia.

The university is seeking to remedy this by providing the University of Sydney Law School with funding to establish a national registry of exonerations.

WrongTrac's objective is to establish a comprehensive registry of post-appeal exonerations across all Australian jurisdictions, dating from 1984, the year of the Splatt Royal Commission report and the Chamberlain High Court appeal.

The WrongTrac registry will be published online in a searchable and accessible format. The website will also provide individual case summaries, links to published research, and news about cases and relevant law reform. Once established, WrongTrac promises to become a hub of wrongful convictions research in Australia and internationally.

This work complements the Not Guilty project (featured in research brief 1). WrongTrac will be launched in late 2017.

Identifying the impact and outcomes of delayed reporting in child sexual abuse

Are historical cases of sexual abuse less likely to be prosecuted than those reported closer to the offence? What factors make a case more likely to proceed to prosecution?

Victims of child sexual abuse may not disclose the abuse for a long time – sometimes decades. This can add layers of difficulty prosecuting historical cases. There are the challenges of understanding why the complaint was delayed, dealing with degraded evidence such as fading memories and lost evidence, or the death of witnesses.

Commissioned by the *Royal Commission into Institutional Responses to Child Sexual Abuse*, the University of Sydney Law School academics conducted an investigation into whether prosecuting historical sexual assault cases had any particular effects on the prosecution and outcomes of the case.

The team reviewed trends in delayed disclosure and reporting of the abuse, and mapped the prosecution processes and outcomes, taking into consideration different characteristics of complainants.

A key finding was that historical matters were more likely to result in legal action, and are more likely to result in conviction and imprisonment. Reasons behind why a case proceeds vary, particularly between jurisdictions, however a person

was more likely to be prosecuted if they were in a position of authority over a child.

Find out more:

<https://www.childabuseroyalcommission.gov.au/getattachment/e3312f1c-d58f-490d-a467-221684c050c9/The-impact-of-delayed-reporting-on-the-prosecution>

Learning lessons from death – advancing coronial justice

How has coronial justice evolved in Australia? Do inquests only have a fact-finding purpose?

Dr Scott Bray and **Associate Professor Greg Martin** from the Faculty of Arts and Social Sciences have been exploring the many ways that coronial inquests have been, and can be used, to deliver justice.

They found that Australian coronial reform has often had a unique, progressive 'rights-attuned focus'. This has evolved, remarkably, even in the absence of specific human rights legislation in all but two Australian jurisdictions (ACT and Victoria). Reform has also centred on managing the deceased and related coronial practices, the place of prevention in the legislative framework, and how recommendations are made and followed up.

Australian coroners tend to use their recommendatory functions to adopt a proactive rather than a reactive approach to death investigations. They often use a narrative form to present coronial findings, which provides crucial insights into the circumstances of a person's death.

The researchers found that contemporary coronial inquiries have multiple functions, and can play a significant role in 'setting the record straight' and delivering justice. However, coronial outcomes can also challenge justice expectations. The researchers identified critical needs – including ensuring that the lessons learnt from coronial investigations are not lost, and how to best incorporate rich coronial insights into better prevention and enforcement strategies more broadly.

Find out more about the researchers and their work:

<http://sydney.edu.au/arts/staff/profiles/rebecca.scottbray.php>

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