Caring for the incarcerated: Lessons from the past, policy for the future

A/Prof Louella McCarthy
A/Prof Kathryn Weston
School of Medicine
The project: The NSW Prison Medical Service 1788-1988

- The NSW prison medical service is the oldest civilian medical service in Australia. It is possibly the oldest continuously operating prison medical service in the world.
- Better appreciation of the development of this service can help us to better understand the history of Australia.
- Understanding the legacy of this history can help us ensure the best medical service for a disadvantaged and expanding population.
Project Origins

• Drivers
  – The NSW prison medical service is the oldest civilian medical service in Australia but its history has never been systematically recorded
  – There have been many inquiries and reports in to people in custody but the recommendations (and outcomes) relating to health care can be hard to find
  – The system would benefit by having an articulated history of the challenges, models of care and lessons learned throughout history
  – An historical context would assist those unfamiliar with custodial health to see its value

• Origin
  – Coincidence – prison medicine director meets medical historian!

• Current Funding
  – UOW Global Challenges program; SMAH; SOM
The project is currently organised around four key periods, using the *Prison Acts* as key markers of change:

- **the early colonial period (1788-1840)**, in which the context of the convict system was the main factor shaping the provision of medical care and legislation under the *Imperial Adoption Acts*.

- **the end of transportation (1840-1874)**, which also saw the introduction of the *Prisons Regulation Act 1840*, the first colonial legislation regulating prisons.

- **the consolidation of the prison system (1874-1952)**, following the *Prisons Act 1874* and creation of the Department of Prisons.

- **the making of the current prison system (1952-present)**, following the *Prisons Act 1952*. 
Prison Legislation 1828-2009

- Offenders Punishment and Justices
  - Summary Jurisdiction Act (1832) 3° Gul IV, s23
  - Imperial Acts Adoption Act (1837) No. 3a 8° Gul IV, Ch3, S1
- Prisons Regulation Act (1840) No.34a, 4° Vic, XXIX
- Dangerous Lunatics Act (1846) No 4a, 9° Vic, XXXIV
- Criminal Lunatics Act (1861) No. 16a, 24° Vic, XIX
- Infant Convicts Act (1849) No 21a, 13° Vic, XXII
- Dangerous Lunatics Act (1843), 7° Vic, XIV
- Female Transportation Abolition Act (1839) 3° Vic, XXII, S1
- Offenders' Punishment and Transportation Act (1830) 11° Geo IV, s5

Imperial Criminal Acts Adoption Act (1828) 9° Geo IV, s15

1828 | 1833 | 1838 | 1843 | 1848 | 1853 | 1858 | 1862
Prison Legislation 1828-2009

- Prisons Act (1874) No. 9a, 37° Vic, XIV
- Lunacy Act (1878), No.3a, 41° Vic, XI
- Appropriat Act (1891) No.32a, 54° Vic
- Prisons Act 1899, No.27
- Habitual Criminals Act, 1905, No. 15; Neglected Children and juvenile Offenders Act 1905, No. 16
- Prisons Act 1898, No. 45
- Infants Convicts Adoption Act 1901, No.15
- Prisoners Detention Act 1908, No. 11
- Prisons (Amendment) Act 1918, No. 20; Prisoners Detention (Amendment) Act 1918, No. 34
- Prisons (Amendment) Act 1918, No. 20; Prisoners Detention (Amendment) Act 1918, No. 34
Prison Legislation 1828-2009

- Prisons (Amendment and Validation) Act 1980, No. 88; Prisons (Coroners) Amendment Act 1980, No 34
- Mental Health Act 1983, No. 178; Prisoners (Amendment) Act, No.132
- Prisoners (Amendment) Act, No. 26
- Prisoners (Amendment) Act 1981, No. 19
- Prisoners (Amendment) Act, No.109; Prisoners (Further Amendment) Act 1986, No. 188
- Prisoners (Amendment) Act 1988, No. 46
- Mental Health (Criminal Procedure) Act 1990, No. 10; Prisoners (Medical Tests) Amendment Act 1990, No.40
Prison Legislation 1828-2009

- Prisons (Syringe Prohibition) Amendment Act 1991, No. 87
- Mental Health (Amendment) Act 1994, No. 25
- Prisons (Amendment) Act 1996, No. 25
- Mental Health (Criminal Procedure) Amendment Act 2005, No. 109
- Mental Health Act 2007 No. 8
Colonial setting. The birth of a penal colony
Prisons and Indigenous experience
Indigenous Incarceration

• As of 30 June, 2016 Aboriginal and Torres Strait Islander prisoners accounted for just over a quarter (27%) of the total Australian prisoner population. (despite being only ~2% of the Australian population)

• Although few Aboriginal people were imprisoned in the 19th an early 20th centuries, the broader history of confinement (on missions, reserves and other institutions) is highly implicated in the high rates of Aboriginal imprisonment today.
“There was a great demand for scented handkerchiefs.”

DEATH IN GOULBURN GAOL

ANOTHER FEVER VICTIM.

Another death—the second—from typhoid fever has occurred at Goulburn Gaol, a prisoner succumbing to the malady on Saturday. The authorities have been conducting close inquiries to ascertain the cause of the outbreak, but so far have met with no success.

Typhoid fever outbreaks were common in gaols; reports of swine fever from contaminated pig carcasses also occurred.

Sanitary conditions in prison contributed to spread of disease.
Managing contagion in the era of AIDS

Prison AIDS Project: “…the AIDS issue confronts traditional beliefs and values about sex, death, drug abuse and prisoner management ….” L. Scagliotti, 1990

- Compulsory testing of prisoners
- Methadone programs for drug addicts
- Bleach for prisoners to clean equipment
- Counseling & education
- Segregation
The most vulnerable...

On entry to prison:

♦ Three-quarters are smokers

♦ Two-thirds have not finished secondary school

♦ Those sentenced are more likely to have been recently unemployed or homeless compared to the general population

♦ In 2014, one-third had a long-term health condition or disability which limited daily activities, or restricted participation in education or employment

♦ In 2014, two-thirds had used illicit drugs in the 12 months before their imprisonment
Who cares for the incarcerated?

- Complex environment

Health care professionals work alongside Corrective Services staff in an environment with distinct non-medical priorities e.g. security and control

- Health-related work may be undertaken by different groups:
  - Health care professionals
  - Corrective Services staff
  - Prisoners
  - Volunteers/Casual staff

- Literature has focussed on prevalence, nature and treatment of health conditions, models of health care in the prison settings and discrete professional issues e.g. job satisfaction, ethics

- Little is known about health-related work, yet this is likely a significant element of prison health care
Wrap up

• Bringing together medical and psychiatric expertise with history, public health, criminology and Indigenous expertise.

• Contemporary work in all of these areas will be significantly enhanced by a detailed understanding of the historical factors/influences that shape the present.

• Our partnership with JH&FMHN will have direct impact on NSW prison medical service policies; new partnerships we are forming will expand this impact.

• Expansion of Junee project to other prisons. This will be assisted by work which demonstrates its utility for health/mental health.

• Overall, phase 2 should do more to answer the question: How can we learn from this history to plan a stronger, more effective system of prison health for the future?
The Team

- A/Prof Louella McCarthy, Medicine, UOW
- A/Prof Kathryn Weston, Medicine, UOW
- Dr Stephen Hampton, Medical Director Justice Health and Forensic Mental Health network.
- Dr Jane Carey, History, UOW
- Dr Tobias Mackinnon, Statewide Clinical Director Forensic Mental Health, Justice Health & Forensic Mental Health Network
- Dr Natalia Hanley, Criminology, UOW
- Aunty Barbara Nicholson, Wadi Wadi Elder, Member Aboriginal Deaths in Custody Watch Committee.
- Fabienne Else – PhD student UOW Law School;
- Andrew Weglarz, State Wide Museum Manager, Corrective Services
- Friederike Krishnabhakdi-Vasilakis, Director South Coast Writers Centre
1. How can we enrich rural medical education?
2. What can the students learn from prison medicine?
3. What's the relevance to rural communities?
SOCIAL DISADVANTAGE
RURAL MEDICINE
RURAL HEALTH
DEVELOPING ADVOCACY
DARK TOURISM
A DIFFERENT VIEW OF PRISONERS
CRIME AS A DISEASE

RURAL MEDICAL EDUCATION