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Abstract | This study examines the correlates of First Nations contact with the criminal justice system. Key risk factors include membership of the stolen generation, psychological distress, and having used illicit drugs and alcohol over the preceding 12 months. The latter increases the marginal risk of arrest by 14 percentage points. The strongest protective factors are completing school, having an income in the top four deciles, having a permanent home, being aged 51 or over and living in a remote area. Completing school is the strongest protective factor, reducing the risk of arrest by eight percentage points. Further research using a longitudinal dataset specifically designed to identify causal effects is required.

Towards an understanding of Indigenous arrest

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Introduction

We know a great deal about the characteristics that put non-Indigenous people at risk of contact with the criminal justice system (for a recent review, see Ellis, Farrington & Hoskin 2019). There is also a growing body of research on victims of violence in Australian Indigenous communities (see, for example, Buxton-Namisnyk 2022). Research studies on the correlates of Indigenous offending and contact with the criminal justice system, however, are few and far between. This is unfortunate because, while one might expect to see some similarity between the factors associated with non-Indigenous and Indigenous offending, the developmental, social, economic and cultural experiences of those who have been colonised and dispossessed of their land are likely to be very different from those of the colonisers and their descendants (Homel, Lincoln & Herd 1999).

The Indigenous imprisonment rate in Australia is 16 times the non-Indigenous rate of imprisonment. The starting point for any understanding of the high rate of Indigenous contact with the criminal justice system, in Australia or elsewhere, is the original trauma of colonisation and dispossession (Heart et al.

Celebrating
50 years

2011; Krieg 2009; Makwana 2019; Menzies 2019). The early stages of dispossession in most colonial settings typically involved a combination of massacre, murder and disease (Hunter & Carmody 2015; Rowley 1972). In Australia, however, the damage did not end there. Dispossession gave way to mass imprisonment (Finnane & McGuire 2001), the forced relocation of whole communities from their traditional lands and onto reserves (Finnane 1997), the forced removal of Indigenous children from their families (Australian Human Rights Commission 1997) and the gradual exclusion of Indigenous Australians from mainstream employment (Anthony 2007). The legacy of these traumatic experiences is a high level of stress among those directly affected by the events just described, and among subsequent generations.

Data from the 2018–19 National Aboriginal and Torres Strait Islander Health Survey (Australian Bureau of Statistics 2019) reveals that, after adjusting for differences in age structure between the two populations, Aboriginal and Torres Strait Islander people are 3.6 times more likely than non-Indigenous Australians to have reported alcohol and drug related problems; 2.5 times more likely to have cited the stress of not being able to get a job; 1.9 times more likely to have reported the death of a family member or friend; 1.7 times more likely to have reported mental illness; and 1.4 times more likely to have said that in the previous year serious illness had been a stressor for them, their family and/or their friends.

Criminologists have long known that personal stressors greatly increase the risk of involvement in crime, particularly when the source of the stress involves an injustice, is highly distressing and is associated with feelings of powerlessness (Agnew 2001). Being a member of the stolen generations—that is, having been removed from one’s family as a child and placed in an institution or adopted by a non-Aboriginal family—magnified the trauma resulting from colonisation and dispossession. De Maio et al. (2005) found that being a member of the stolen generation was linked with a doubling of the risk of arrest, a 150 percent increase in the overuse of alcohol, a doubling of the risk of experiencing betting and gambling problems, and a 150 percent increase in the risk of contact with the Mental Health Services of Western Australia. These effects were not limited to members of the stolen generation. The children of caregivers who were forcibly removed from their families have also been found to be more likely to experience emotional and behavioural difficulties and to consume alcohol and other drugs at levels twice those of Aboriginal children whose primary caregivers had not been forcibly removed from their families.

It is common for people to respond to stress by self-medicating with alcohol or other drugs (Sinha 2008). The high levels of drug and alcohol use among Indigenous Australians were likely a response to the stress and trauma they suffered and continue to experience. However, this substance use brought its own set of problems. Alcohol consumption increases the risk of violent behaviour among people who are frustrated or angry (Corman & Mocan 2015; Duke et al. 2018; Exum 2006). Psychostimulants such as cocaine and methamphetamine, if used frequently and over a long period, have a similar effect (McKetin et al. 2020). Dependent drug users often resort to income-generating crime (eg robbery, burglary, drug dealing) to fund their drug consumption (Corman & Mocan 2000; Wish & Johnson 1986). In the case of Indigenous Australians, simply being intoxicated is often enough to attract the attention of police, especially if it is accompanied by what police view as offensive language or behaviour, or a failure to comply with police directions.

Young men in every culture are prone to displays of aggression and risk-taking (see, for example, Sitter & Hautala 2016). This increases the likelihood of hostile contact with police, who tend to view young people as a problem to be managed rather than as citizens deserving of respect and support (Richards, Cross & Dwyer 2018). The hostile relationship between Indigenous Australians and the police is partly a reflection of this but is greatly exacerbated by a shared oral history of indiscriminate murder, forced removal, abduction, harassment and police brutality. Much of this harassment and brutality was and is directed at Aboriginal youth (Bonney 1989; Broadhurst 2002; Cunneen 2001; Green 2019; Jochelson 1997; Karskens 2010; Rowley 1972; Sentas & Pandolfini 2017; Weatherburn 2006). The result is an undercurrent of fear and hostility towards police that puts Aboriginal men at heightened risk of arrest for even minor breaches of the law.

Human behaviour is as much a product of an individual's social environment as it is of their personal characteristics. Children exposed to family violence are more at risk of becoming violent themselves as adults (Herrenkohl, Jung & Lee 2017). Young people whose attachment to parents is broken, weak or absent are more likely to associate with delinquent peers (McGloin & Thomas 2019; Weatherburn & Lind 2001). Constant harassment by police, coupled with high levels of poverty and other stressors, can sometimes spill over into a riot, resulting in high levels of arrest (Weatherburn 2006). Young Indigenous Australians grow up in an environment marked by high rates of contact with police, high levels of domestic violence, widespread drug and alcohol use, low rates of school completion and high rates of unemployment. Exposure to these conditions inevitably fosters a devaluation of or hostility towards non-Aboriginal social norms and laws.

If this were all there was to say about the forces pushing Indigenous Australians into the criminal justice system, one would expect the vast majority to end up arrested. In fact, the majority of Indigenous Australians are neither arrested nor prosecuted (Skrzypiec & Wunderstutz 2005; Weatherburn & Ramsey 2018). One of the factors that limits Indigenous Australians' rate of entry into the criminal justice system is that, despite the legacy of colonisation and dispossession, most Indigenous Australians are 'socially embedded'—that is, strongly attached to a network of family and friends and actively involved in community activities. Control theories in criminology have long emphasised the protective effect of having strong social ties to institutions, such as one's family, peer group, school or community groups (Gottfredson 2003).

Employment and income also reduce the likelihood of involvement in crime. In his analysis of the relationship between wages and self-reported involvement in income-generating crime using the National Longitudinal Survey of Youth, Grogger (1998) found that, on average, a 10 percent increase in wages reduces participation in crime by 1.8 percentage points. Similar results have since been obtained by Machin and Meghir (2004). Studies of the relationship between unemployment and crime also highlight the importance of employment in preventing involvement in crime (Altindag 2012; Raphael & Winter-Ebmer 2001; Weatherburn & Schnepel 2016). Although the high rate of Indigenous unemployment is a topic of frequent discussion, around half of the working age Indigenous population is in paid employment. The available evidence suggests that employment for Indigenous people reduces the likelihood of involvement in crime.

Education is another vital protective factor (Fergusson, Swain-Campbell & Horwood 2002). We would expect lower rates of contact with the criminal justice system among those who are better educated if only because it means access to a wider variety of jobs and a better income. Education, however, arguably does more than this. As with income, employment and social embeddedness, education greatly increases the opportunity costs of involvement in crime or conflict with police. Chapman et al. (2002), in a study of trends in burglary in New South Wales, found that school completion rates and employment were both negatively associated with crime even after controlling for a wide range of other important factors. Similar results have been obtained in other more recent studies (eg Hjalmarsson, Holmlund & Lindquist 2014; Lochner 2020). In 2018–19, around 66 percent of Indigenous Australians aged 20–24 years had completed Year 12 or its equivalent. Improving Year 12 completion rates is another way of reducing Indigenous contact with the criminal justice system.

Police have considerable discretion in how they respond to what they see as a violation of the law. Because a disproportionate number of Indigenous Australians are homeless, suffering from a mental illness or living on the streets, they are more likely to experience police intervention than someone who behaves in a similar manner at home or lives in an area rarely visited by police (McNamara et al. 2021). Indigenous Australians, for example, are over-represented among those arrested for offensive behaviour by a factor of 4.4 in New South Wales, 11.2 in Queensland, 27 in South Australia and 10 in the Northern Territory. This suggests that any adequate explanation for the high rate of Indigenous arrest should make provision for the fact that those who have a permanent residence or who live in an area rarely visited by police are less at risk of arrest than those who are homeless or live in areas regularly patrolled by police.

The current study

Approval to conduct the current study was given by the University of New South Wales Human Research Ethics Committee on 29 June 2022 (application no. HC220348).

Data source

The analysis is conducted using data from the 2014–15 National Aboriginal and Torres Strait Islander Social Survey (NATSISS), a nationally representative stratified multistage national survey of Aboriginal and Torres Strait Islanders designed to collect information on a range of demographic, social, environmental and economic characteristics. Further details concerning the survey can be found in the explanatory notes section of the survey report (Australian Bureau of Statistics 2016).

Dependent variable

The dependent variable in the study is the probability of having been arrested in the previous five years. This was estimated from the weighted proportion of survey respondents answering, ‘yes’ to the question: ‘In the last five years have you been arrested by police?’

Covariates

Respondents were classified into five age groups: 15–20, 21–30, 31–40, 41–50 and 51+. The NATSISS asks respondents 25 questions dealing with stressors experienced over the preceding 12 months (eg mental illness, overcrowding at home, not being able to get a job, losing a job, being bullied or harassed, being a witness to violence, experiencing violence or violent crime). Preliminary investigation revealed that most of the individual measures of stress were rendered insignificant after controlling for psychological stress (Kessler et al. 2002). The single exception was membership of the stolen generation, which remained significant even in the presence of the Kessler score. We opted, therefore, to use the Kessler Psychological Distress Scale rather than including separate measures for each of the 25 stressors. Responses to the Kessler scale were grouped into two categories: low/moderate (coded 0) and high/very high (coded 1) and the resulting variable named *Kessler group*.

Two stolen generation measures were employed. The first, *Stolen generation (personal)*, measures whether the respondent was a member of the stolen generation. The second, *Stolen generation (relatives)*, measured whether the respondent's relatives were members of the stolen generation.

To measure substance use, we combined two variables measuring, respectively, alcohol and drug use in the previous 12 months. This variable takes the value 1 if the respondent reported having used neither drugs nor alcohol, 2 if the respondent reported alcohol but not drug use, 3 if the respondent reported drug use but not alcohol use, and 4 if the respondent reported both alcohol and drug use. Information on the existence of neighbourhood problems was captured using a variable (labelled *Neighbourhood problems*) that asked respondents whether they were aware of any neighbourhood problems, coded 1 if they said yes and 0 otherwise.

We measured exposure to arrest using two variables. The first (*Permanent home*) is coded 1 if the respondent reports that they have never experienced being without a home and 0 if the respondent reports otherwise. The second (*Lives in a remote area*) captures whether the respondent lives in a remote community and is coded 1 if the response is 'yes' and 0 otherwise. Being socially embedded was measured using two variables. The first captures whether the respondent is married, coded 1 if they are and 0 otherwise. The second (*Number of confidants*) measures the number of friends or family outside the household the respondent feels they can confide in. This variable is coded 0 if the answer is either none or only one or two and 1 if the answer is three or more.

Respondents were grouped into two categories based on their income decile. The first category, coded 0, consists of those whose income at the time of the survey was in the first six deciles of income. The second, coded 1, consists of those whose income at the time of the interview was in the top four deciles of income. The final construct, school completion, was coded 1 if the respondent had completed school and 0 otherwise. Table 1 lists each variable included in the study and its coding.

Variable name	Coding	Interpretation
Sex ^a	1	Male
	0	Female
Age group	1	15–20 years
	2	21–30 years
	3	31–40 years
	4	41–50 years
	5	51+ years
Stolen generation (personal)	1	Yes
	0	No
Stolen generation (relatives)	1	Yes
	0	No
Kessler group (psychological distress)	1	High/very high
	0	Low/moderate
Drug use in last 12 months	1	Yes
	0	No
Alcohol use in last 12 months	1	Yes
	0	No
Permanent home	1	Yes
	0	No
Lives in a remote area	1	Yes
	0	No
Married	1	Yes
	0	No
Number of confidants (three or more)	1	Yes
	0	No
Income in the top four deciles	1	Yes
	0	No
School completion	1	Yes
	0	No
Arrested in the past five years	1	Yes
	0	No
Imprisoned in the last five years	1	Yes
	0	No

a: The variable 'sex' in the NATSISS only takes on two values: 'male' and 'female'.

Analysis

We begin by providing a frequency table of the variables included in the study. We then report the results of fitting a logistic regression model to the data to determine which variables are independently associated with risk of arrest. To illustrate the strength of the relationship between each variable in the model and risk of arrest, we then computed the marginal effects of each covariate, holding the other variables constant at their mean value. Finally, we plot the predicted probability of arrest as a function of age, substance use and alcohol use. All analyses were conducted on weighted data using Stata.

Results

Sample description

Table 2 provides summary statistics for the variables included in the model. All are well represented, and few variables have missing values. Where data is missing, the proportion of data missing is comparatively small. The level of disadvantage is severe. More than 20 percent of respondents reported experiencing high or very high levels of psychological distress, more than 70 percent said they have problems in their neighbourhood, more than 40 percent have at some stage been without a permanent home and only 17 percent have completed school. Around 15 percent reported having been arrested in the preceding five years.

Table 2: Sample characteristics				
Variable	Frequency (n)	Weighted %	Missing (n)	Missing (%)
Arrested in last five years				
No	5,981	85.47		
Yes	1,036	14.53		
Imprisoned in last five years				
No	6,775	96.85		
Yes	237	3.15		
Sex				
Female	6,049	50.97		
Male	5,129	49.03		
Age group				
15–20	906	13.31		
21–30	1,501	15.68		
31–40	1,351	11.45		
41–50	1,267	10.63		
51+	6,153	48.92		
Substance use in last 12 months				
No drug or alcohol use	1,592	22.69		
Alcohol but not drug use	2,964	46.76		
Drug but not alcohol use	287	4.75		
Drug and alcohol use	1,499	25.43		
Kessler group (psychological distress)			67	0.60
Low/moderate	4,622	78.73		
High/very high	2,333	21.27		
Stolen generation (personal)			197	1.76
Yes	729	9.83		
No	6,096	90.17		
Stolen generation (relatives)			197	1.76
Yes	2,894	47.33		
No	3,278	52.67		

Table 2: Sample characteristics (cont.)				
Variable	Frequency (n)	Weighted %	Missing (n)	Missing (%)
Neighbourhood problems			184	1.65
No	1,632	29.15		
Yes	5,206	70.85		
Permanent home				
Yes	2,971	41.28		
No	4,051	58.72		
Lives in a remote area				
No	7,190	79.06		
Yes	3,988	20.94		
Marital status				
Married	3,127	58.17		
Not married	3,895	41.83		
Number of confidants				
Fewer than three	3,652	55.53		
Three or more	3,370	44.47		
School completion				
No	5,391	83.37		
Yes	1,631	16.63		
Income			526	4.71
Decile 6 and below	4,245	64.98		
Decile 7 and above	2,251	35.02		
State or territory				
New South Wales	1,683	31.19		
Victoria	1,197	7.27		
Queensland	1,969	28.68		
Western Australia	1,694	12.74		
South Australia	1,080	5.55		
Tasmania	1,198	3.75		
Northern Territory	1,947	9.91		
Australian Capital Territory	410	0.91		

Bivariate analysis

Table 3 shows the bivariate relationships between each covariate and the risk of arrest.

Table 3: Bivariate correlates of Indigenous arrest			
	Arrested in past five years?		p-value
	No (%)	Yes (%)	
Sex			<0.001
Female	90.06	9.94	
Male	78.78	21.22	
Age group			<0.001
15–20	87.09	12.91	
21–30	79.15	20.85	
31–40	80.09	19.91	
41–50	83.11	16.89	
51+	93.83	6.17	
Substance use in last 12 months			<0.001
No drug or alcohol use	93.08	6.92	
Alcohol but not drug use	88.19	11.81	
Drug but not alcohol use	79.44	20.56	
Alcohol and drug use	71.85	28.15	
Kessler group (psychological distress)			<0.001
Low/moderate	88.07	11.93	
High/very high	79.59	20.41	
Stolen generation (personal)			<0.001
No	86.23	13.77	
Yes	77.64	22.36	
Stolen generation (relatives)			<0.001
No	87.58	12.42	
Yes	82.47	17.53	
Neighbourhood problems			<0.001
No	88.65	11.35	
Yes	84.18	15.82	
Permanent home			<0.001
No	79.36	20.64	
Yes	89.55	10.45	
Lives in a remote area			<0.001
Yes	81.43	18.57	
No	87.36	12.64	
Marital status			<0.001
Married	83.76	16.24	
Not married	87.07	12.93	

Table 3: Bivariate correlates of Indigenous arrest (cont.)

	Arrested in past five years?		p-value
	No (%)	Yes (%)	
Number of confidants			<0.001
Fewer than three	82.43	17.57	
Three or more	88.28	11.72	
School completion			<0.001
No	83.44	16.56	
Yes	91.17	8.83	
Income			<0.001
Decile 6 and below	82.70	17.30	
Decile 7 and above	89.51	10.49	
State or territory			<0.001
New South Wales	88.44	11.56	
Victoria	86.06	13.94	
Queensland	86.35	13.65	
Western Australia	79.49	20.51	
South Australia	82.57	17.43	
Tasmania	90.09	9.91	
Northern Territory	83.40	16.60	
Australian Capital Territory	88.21	11.79	

All variables are significantly associated with the outcome, so all are included in the multivariate model described below.

Multivariate analysis

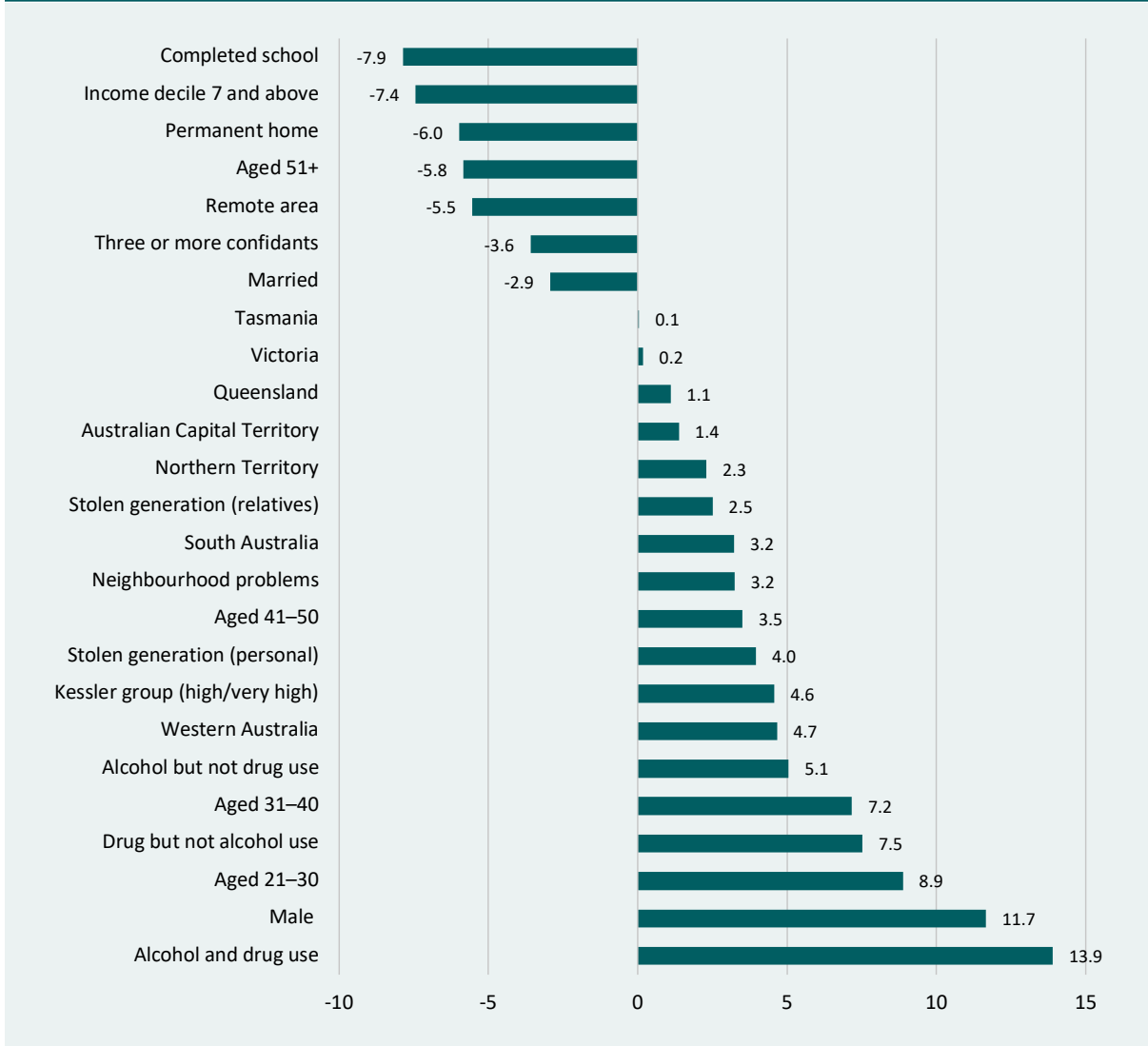
Table 4 shows the results of the logistic regression analysis. The reference categories for the variables in the model are only shown for multi-category variables (ie 15–20 is the reference category for age group; NSW is the reference category for state or territory). In all other cases the reference category is a person without the listed characteristic. For example, the reference category for ‘married’ is an unmarried person. All the covariates are significant, and all have the expected effect. The narrow confidence intervals indicate that the effects are precisely estimated. After adjusting for other variables in the model, the odds of arrest for males are more than three times higher than for females. The odds of arrest peak at age 21–30, before declining with age. By age 51+, the odds of arrest fall below those in the reference age group: 15–20. All have odds ratios greater than one (indicating a higher risk of arrest).

Table 4: Logistic regression model of arrest				
Arrested in last five years	Odds ratio	<i>p</i>	Lower 95% CI	Upper 95% CI
Male	3.069	<0.001	2.565	3.672
Age group (vs 15–20)				
21–30	2.149	<0.001	1.581	2.921
31–40	1.893	<0.001	1.375	2.606
41–50	1.403	0.041	1.014	1.941
51+	0.456	<0.001	0.323	0.644
Substance use in last 12 months (vs no alcohol or drug use)				
Alcohol but not drug use	1.813	<0.001	1.392	2.363
Drug but not alcohol use	2.282	<0.001	1.497	3.478
Alcohol and drug use	3.739	<0.001	2.835	4.930
Kessler group (high/very high)	1.529	<0.001	1.276	1.832
Stolen generation (personal)	1.427	0.009	1.093	1.863
Stolen generation (relatives)	1.273	0.016	1.046	1.548
Neighbourhood problems	1.366	0.008	1.086	1.718
Permanent home	0.563	<0.001	0.468	0.677
Lives in a remote area	0.587	<0.001	0.470	0.734
Married	0.755	0.002	0.630	0.905
Three or more confidants	0.708	<0.001	0.590	0.850
Completed school	0.469	<0.001	0.370	0.595
Income in decile 7 and above	0.489	<0.001	0.400	0.599
State or territory (vs New South Wales)				
Victoria	1.167	<0.001	0.696	1.492
Queensland	1.215	<0.001	0.802	1.561
South Australia	1.469	<0.001	0.943	1.977
Western Australia	1.358	<0.001	1.111	2.159
Tasmania	1.076	0.042	0.685	1.475
Northern Territory	1.337	<0.001	0.888	1.775
Australian Capital Territory	1.319	<0.001	0.661	2.001
Constant	0.070	0.000	0.037	0.105

The strongest risk factor is drug and alcohol use. The odds of arrest for those who have used both drugs and alcohol in the last 12 months are more than 3.7 times higher than for someone who has used neither drugs nor alcohol in the previous 12 months. Strong effects can also be seen for psychological distress (odds ratio: 1.6), being a member of the stolen generation (odds ratio: 1.4) and having relatives who are members of the stolen generation (odds ratio: 1.3). The odds of arrest are higher for those who have neighbourhood problems (odds ratio: 1.4) and, somewhat surprisingly, for those who live in any state or territory other than New South Wales. The strongest protective effect is that associated with completing school (odds ratio: 0.5). However, the odds of arrest are also substantially lower for those who have always had a home, those who are in the top four deciles of income and those who live in a remote area.

To provide a more intuitive picture of the main results, we calculate the marginal effects of key factors on the predicted probability of arrest. To calculate the marginal effect of a factor, say sex, we first use the model to estimate the probability of arrest for each person on the assumption that everyone is female (all other covariates being held at their actual values). We then estimate the risk of arrest for each person on the assumption that everyone is male (all other covariates being held at their actual values). This gives us two predicted risks of arrest for each person in our sample. The marginal effect of sex is the difference between the average risk of arrest if everyone in the sample were male and the average risk of arrest if everyone was female (with all other features of the two samples held constant at their actual values).

Figure 1: Marginal effects of all covariates on risk of arrest (percentage points)



It is clear that (apart from age and gender), the four strongest influences on risk of arrest are:

- alcohol and drug use in the previous 12 months (which increases the risk of arrest by 13.9 percentage points);
- drug but not alcohol use over the previous 12 months (which increases the risk of arrest by 7.5 percentage points);
- alcohol but not drug use over the previous 12 months (which increases the risk of arrest by 5.1 percentage points); and
- having a high or very high level of psychological distress (which increases the risk of arrest by 4.6 percentage points).

Turning to the protective factors, compared to the typical respondent, completing school reduces the risk of arrest by 7.9 percentage points. The three other strongly protective factors are:

- having an income in the top four deciles (which reduces the risk of arrest by 7.4 percentage points);
- having a permanent home (which reduces the risk of arrest by 6.0 percentage points); and
- living in a remote area (which reduces the risk by 5.5 percentage points).

These are effects averaged over the full sample. In a logistic regression model, however, the effect of any given factor depends on the value of other factors in the model. Figure 2 shows the marginal effect of substance use on the risk of arrest for respondents in each age group.

This analysis indicates that the four strongest influences on risk of arrest are:

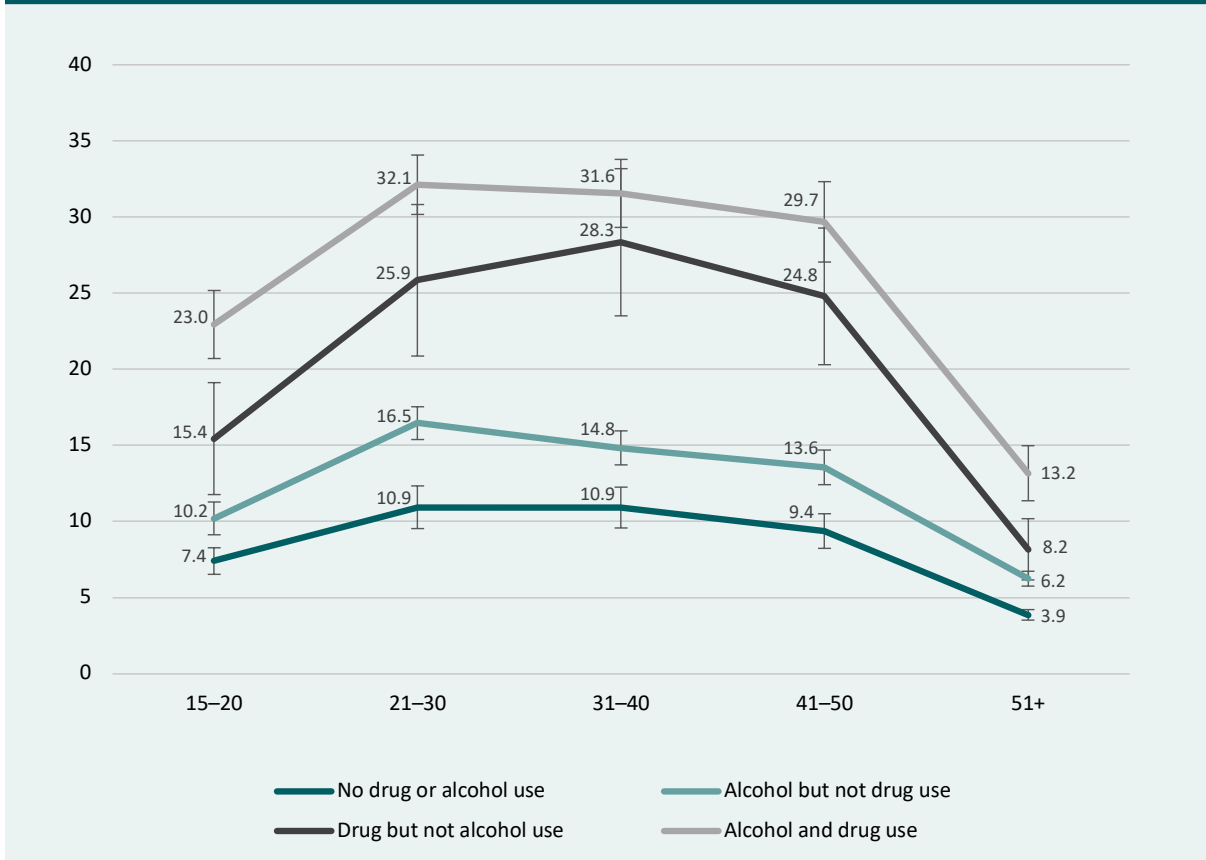
- alcohol and drug use in the previous 12 months (which increases the risk of arrest by 12.2 percentage points);
- drug but not alcohol use over the previous 12 months (which increases the risk of arrest by 8.2 percentage points);
- alcohol but not drug use over the previous 12 months (which increases the risk of arrest by 6.2 percentage points); and
- having a high or very high level of psychological distress (which increases the risk of arrest by 4.6 percentage points).

Turning to the protective factors, compared to the typical respondent, completing school reduces the risk of arrest by 11.2 percentage points. The three other strongly protective factors are:

- having a permanent home (which reduces the risk of arrest by 7.3 percentage points);
- having an income in the top four deciles (which reduces the risk of arrest by 6.5 percentage points); and
- living in a remote area (which reduces the risk by 6.2 percentage points).

Marginal effects show how a much a factor increases or reduces a risk but do not provide information on the absolute size of that risk. We use the logistic regression model to calculate the risk of arrest. The vertical bars show the 95 percent confidence intervals around the point estimates.

Figure 2: Predicted risk of arrest by age and substance use (%)

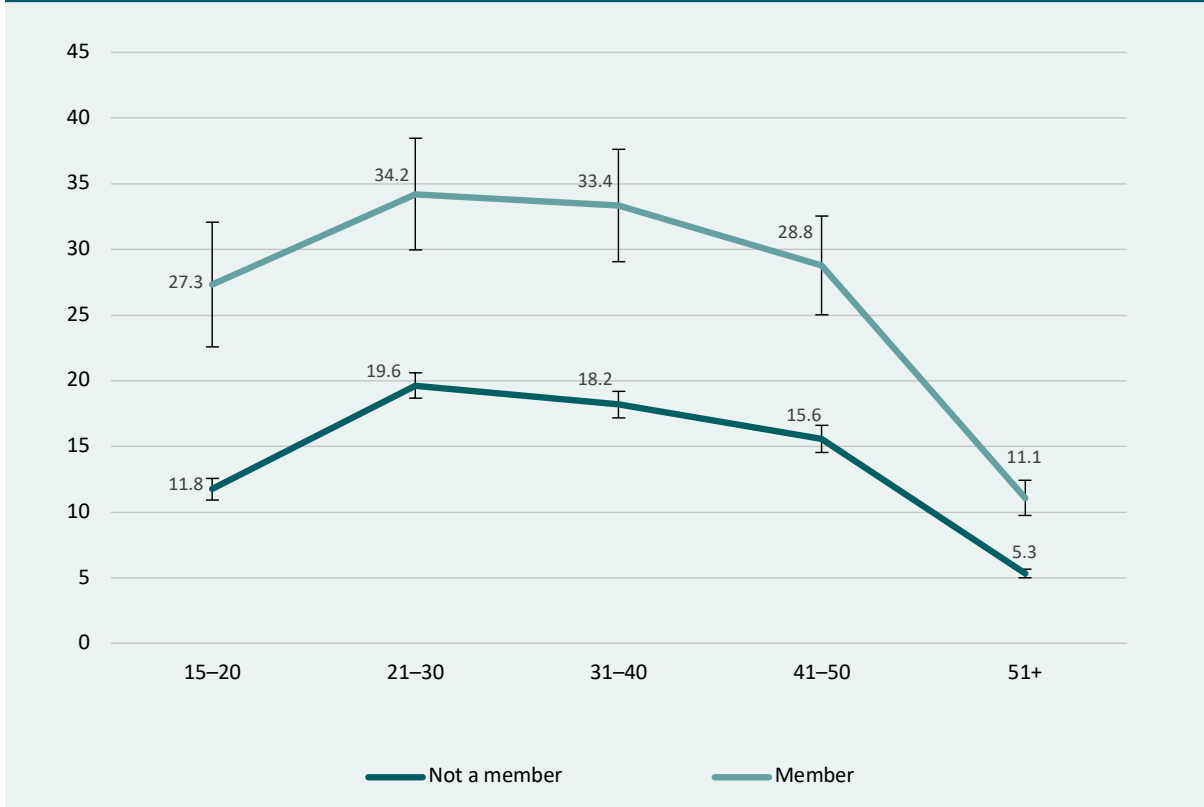


Note: Includes 95% confidence intervals

The bottom curve shows the effect of age on the predicted risk of arrest for someone who has in the past 12 months used neither illicit drugs nor alcohol. There is a slight rise in risk between age 15–20 and 21–30. The risk then remains stable until the ages 41–50 years, then drops sharply for those aged 51 and over. The pattern across age groups for those who have used alcohol but not illicit drugs in the previous 12 months is much the same, but the risk of arrest is higher in every age group by an amount ranging from 5.6 percentage points (at age 21–30) to 2.3 percentage points at age 51 and over. Using illicit drugs but not alcohol produces a marked upward shift in the risk of arrest at all ages. An estimated 15 percent of those aged 15–20 have been arrested in the past five years, rising to 25.9 percent at age 21–30 and peaking at 28.3 percent at age 31–40. The top curve shows the risk of arrest for those who have consumed both illicit drugs and alcohol in the previous 12 months. The risk of arrest rises from 23.0 percent in the age group 15–20, and to 32.1 percent in the age group 21–30. It then remains near this level before declining sharply after age 51.

Membership of the stolen generation and age also interact. Figure 3 shows the predicted probability of arrest as a function of age and membership of the stolen generation.

Figure 3: Predicted risk of arrest by age and membership of the stolen generation (%)



Note: Includes 95% confidence intervals

Being a member of the stolen generation increases the risk of arrest regardless of a respondent's age. Among those aged 15–20, the risk of arrest is more than twice as high for those who are members of the stolen generation (27.3%) than for those who are not (11.8%). It remains much higher for members of the stolen generation in the later age groups, shrinking only among those aged 51 or over. Even at this age, however, the risk of arrest (11.1%) remains twice as high for those who are members of the stolen generation as for those who are not (5.3%).

Discussion

The findings reported are consistent with our conjecture that the risk of Indigenous arrest is influenced by two opposing sets of factors. On the one side are factors that increase the risk of arrest, including exposure to psychological stress, being a member of the stolen generation (or having a relative who is a member), having used drugs and/or alcohol, and living in a crime-prone neighbourhood. On the other side are protective factors, such as being socially embedded, having a permanent home, living in a remote area, having a higher income and having completed school.

The explanation we have outlined might appear to ignore the influence of many other important factors, such as mental illness, overcrowding at home, not being able to get a job, losing a job, being bullied or harassed, experiencing racism, experiencing or witnessing violence, and being able to get support in a time of crisis. It is important to remember, however, that the influence of these factors is captured by variables that are in the model. The Kessler Psychological Distress Scale captures the influence of almost all stressors other than membership of the stolen generation. Participation in sporting, social or community activities captures the influence of being able to find support in a time of crisis (94% of those who said they participated in sporting, social or community activities also said they could get support in a time of crisis from someone outside the household). It also captures willingness to provide social support.

The two most important risk factors in the model are substance use and psychological stress. We saw the magnitude of the effect of substance use in Figure 2. After adjusting for a wide range of other factors, Indigenous Australians who reported using drugs and alcohol were observed to be more than four times more likely to have been arrested than Indigenous Australians who reported not having used drugs or alcohol in the preceding 12 months. We see this effect even more convincingly demonstrated in the results of interventions designed to reduce alcohol and drug use, whether they involve treatment (Darke, Lappin & Farrell 2019), increases in the price of alcohol (Chikritzhs, Stockwell & Pascal 2005) or reductions in alcohol availability (d'Abbs & Togni 2007; Margolis et al. 2011; Nepal et al. 2020). Such interventions provide unmistakable evidence that, when alcohol consumption decreases, violence (Indigenous and non-Indigenous) falls with it.

The remaining factors in the model, though less influential, are nonetheless important. The true effect of being a member of the stolen generation (or having a relative who is a member) is probably larger than it appears, if only because some of its effects are probably captured by other variables, such as substance use and stress. The neighbourhood effect is a reminder that crime prevention is a whole-of-community challenge, not one to be addressed solely through programs focused on individuals. The protective effects of being in a relationship, completing school, earning a decent income and being actively involved in community life, though unsurprising, are nevertheless extremely important. The variables relating to exposure to arrest (having a permanent home, living in a remote area) speak to the vulnerability of those who choose to live or are forced to live in public places.

These observations are, of course, based on a cross-sectional survey and must therefore be regarded as conjectures in need of more thorough testing before they can be accepted. The NATSISS, unfortunately, was not designed to identify the causes of Indigenous arrest. We have no way of sorting out the causal order of events. The variables we have posited as causes and effects are almost

certainly far more entangled than we have allowed. These problems, nonetheless, must be weighed against the strong empirical evidence supporting our claim that factors like stress, substance use, delinquent peer influence, employment and income do affect the likelihood of involvement in crime and the risk of contact with the criminal justice system. Until better data emerge, the NATSISS data are the best we have on which to base policies to reduce the rate of Indigenous arrest.

If the results of the current study are accepted at face value, it is clearly imperative to tackle the problem of Indigenous drug and alcohol use, since this would have an immediate effect on rates of Indigenous contact with the criminal justice system. Alcohol use can be reduced by increasing its price or reducing its availability. Unfortunately, there is little public support in Australia for increasing the tax on alcohol (Livingston, Callinan & Wilkinson 2019) or reducing liquor licence trading hours (Weatherburn 2022). Another obvious approach is to increase the availability of Indigenous-led drug and alcohol treatment services. However, as Peter d'Abbs (2011) has pointed out, governments that are willing to change regulations governing the sale of alcohol are often much less energetic when it comes to finding the resources for treatment and rehabilitation centres.

All Australian governments recently committed themselves to reducing Indigenous juvenile imprisonment by 15 percent and adult imprisonment by 30 percent by 2030 (Joint Council on Closing the Gap 2020). Without a better understanding of the factors bringing Indigenous Australians into contact with the criminal justice system, that goal is unlikely to be achieved. This article has made a modest contribution to that understanding using the limited national data available. The evidence base for Indigenous justice policy, however, would be far stronger if Australian governments invested in a national longitudinal survey of child development that included questions about Indigenous contact with police.

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Conflicts of interest

None to declare.

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