



No.27

# Remand Imprisonment in Australia

**David Biles**

*In recent times, the media has provided endless stories of escapes, escape attempts, strikes, riots, fires and other disturbances in our prisons. Underlying many of these problems is overcrowding in Australia's mainland prison systems.*

*The major cause of prison overcrowding has been a massive increase in the numbers of unconvicted prisoners, or remandees, over the past decade or more, rather than an increase in the numbers of sentenced prisoners. This is a matter of great concern, as both technically and legally, remand prisoners are innocent of any crime until it has been proven otherwise.*

*Earlier research by the Institute has shown that the majority of remandees are not sentenced to prison as they are either acquitted, sentenced to non-custodial penalties or released to bail before the court appearance. Why then were these people remanded in custody in the first place?*

*This Trends and Issues presents an original method of developing profiles of the structure of remand populations in order to identify the most appropriate strategy to reduce remand numbers in each jurisdiction. It therefore has important practical implications for both the courts and prisons.*

**Paul Wilson**  
Acting Director

**B**etween 1978 and 1990 the composition of Australian prison populations has changed markedly, largely as a result of the dramatic increases in the numbers of remand prisoners. Over the period for which full annual data for Australia as a whole are available - from 1978 to 1989 - the total prison population has increased by 31 per cent, and this has resulted in significant overcrowding in some jurisdictions. A closer examination of the figures shows that this increase is made up of an increase in convicted prisoners of just under 24 per cent, but an increase in remand prisoners of 88 per cent. The increase in the total number of convicted prisoners is only a little higher than the natural increase in the general population (estimated to have been 18 per cent) and therefore it is not overstating the case to say that the overcrowding problems are almost entirely due to the increase in remand imprisonment that has occurred in recent years.

This paper aims to present the facts about three separate but related aspects of the use of remand imprisonment in Australia. These are:

- the differences between jurisdictions in the use of remand;
- the statistical data indicating increased use of remand; and
- the structure of remand populations in terms of intake numbers and length of stay.

**AUSTRALIAN INSTITUTE  
OF CRIMINOLOGY**

*trends*

*&*

*issues*

in crime and criminal justice

December 1990

ISSN 0817-8542

ISBN 0 642 15844 4



Australian Institute  
of Criminology  
GPO Box 2944  
Canberra ACT 2601  
Australia

<http://www.aic.gov.au>

It will be suggested that these facts and figures provide guidance as to where changes are needed as well as an indication of the type of changes that are appropriate in particular jurisdictions.

The data used to illustrate the first two matters are all derived from *Australian Prison Trends*, a monthly collection of the basic correctional statistics that was started by the Australian Institute of Criminology in May 1976 and has included remand data since late 1977. While this data set is widely recognised as being of great value in any review of Australian imprisonment, it is, as its title suggests, limited to statistics about persons in prison. *Australian Prison Trends* does not include information about persons, either remanded in custody or serving short sentences, who are held in police facilities because of prison overcrowding or because of geographical isolation. (It is a matter of some concern that there is no monitoring at a national level of the number of persons in police watchhouses who would be in prison if there were sufficient space. The Institute has initiated discussions with the police forces to establish whether or not such monitoring is feasible.) The data used for the third sub-topic in this paper are derived from the results of the most recent national prison census, which is published each year under the title *Australian Prisoners*.

Each issue of *Australian Prison Trends* contains, among other things, the number of unconvicted prisoners on remand for each jurisdiction on the first day of the month, as well as the percentage of the total prison population that is comprised of remandees on that day. The percentages are of some interest in themselves, but they can be misleading in view of the very large differences in overall imprisonment rates between Australian States and Territories. Thus a jurisdiction with a low imprisonment rate may be shown to have a high percentage of remandees compared with another jurisdiction with a high imprisonment

rate. To overcome this problem, *Australian Prison Trends* also includes for each jurisdiction a remand rate, which is the number of remandees per 100,000 of the general population. For most purposes, comparisons of remand rates are preferable to comparisons of remand percentages. Annual averages of three indices for each jurisdiction for each year from 1978 to 1990 are given in Tables 1, 2, and 3.

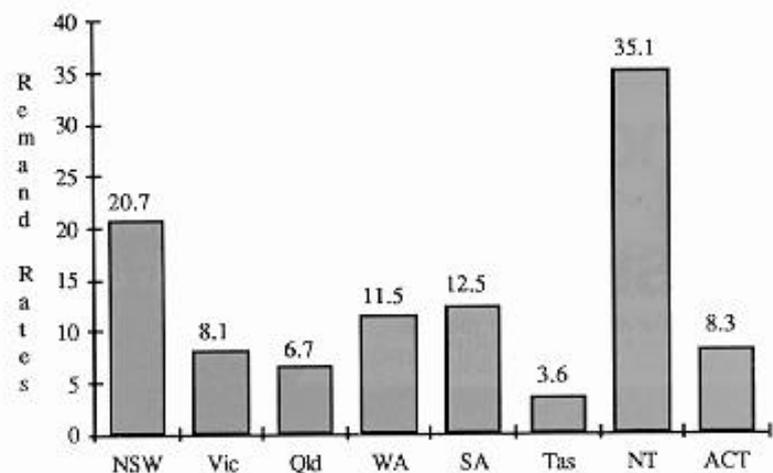
### Differences Between Jurisdictions

A simple illustration of the differences between Australian jurisdictions in the use of remand is shown in Figure 1,

which is a graphical representation of the average remand rates for each State and Territory for the first six months of the calendar year 1990.

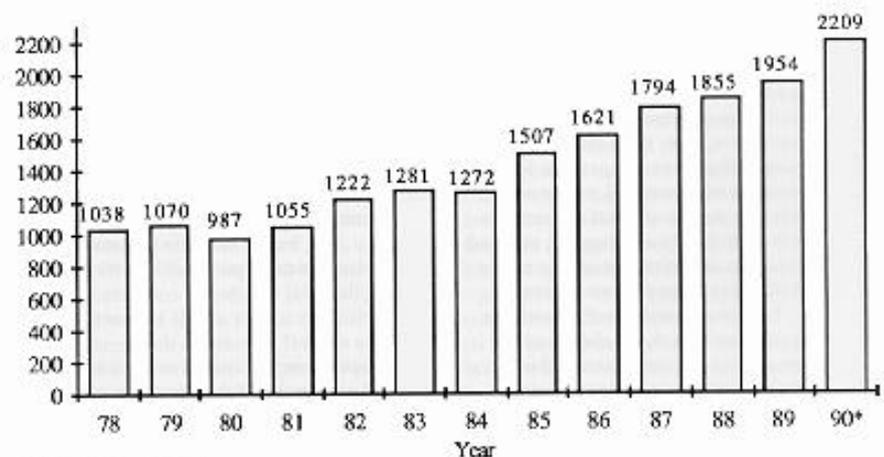
The numbers shown in this figure are reproduced from the bottom line of Table 3. A close scrutiny of figures in the table shows that the remand rates for all jurisdictions except Tasmania have increased markedly in the past decade or more. At all events, it is clear from this table that the four jurisdictions of the Northern Territory, New South Wales, South Australia and Western Australia are the ones which seem to make much greater use of remand than do the other jurisdictions.

Figure 1: Remand Rates, Australia, 1990\*



\*First six months only

Figure 2: Annual Average Remand Prisoners, Australia, 1978-1990



\*First six months only

**Table 1: Annual Average Remand Prisoners, 1978-90**

Year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aust
1978	502.4	144.3	96.8	96.8	135.4	26.4	25.3	11.0	1038.1
1979	528.7	123.8	101.2	117.4	135.9	21.8	31.1	10.1	1069.9
1980	493.3	104.1	102.8	89.5	136.1	18.9	34.4	7.4	986.5
1981	521.4	126.3	115.9	108.4	125.0	15.0	35.6	7.3	1054.9
1982	627.1	154.5	127.0	112.8	137.6	14.6	39.9	8.7	1222.1
1983	633.8	176.3	137.6	136.7	130.9	13.8	47.8	12.8	1281.3
1984	609.2	183.4	131.9	131.0	139.8	13.8	47.5	14.5	1272.0
1985	753.6	191.6	157.8	150.8	162.6	19.1	58.4	12.9	1506.8
1986	792.7	231.8	154.5	159.9	173.7	29.1	66.0	14.4	1621.0
1987	909.8	265.7	146.8	184.1	174.5	36.3	50.4	8.5	1794.2
1988	966.9	270.0	177.1	165.3	179.0	28.0	54.4	14.7	1855.3
1989	1013.3	312.0	179.0	181.3	175.7	21.8	51.5	23.3	1954.0
1990*	1199.8	353.2	196.2	187.0	179.0	16.2	54.7	23.3	2209.4

**Table 2: Annual per cent Remand Prisoners, 1978-90**

Year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aust
1978	13.6	9.2	6.2	7.9	18.5	9.5	15.1	24.5	11.2
1979	14.0	7.6	6.3	8.0	17.1	7.5	12.6	23.9	10.8
1980	14.4	5.4	6.3	6.1	16.1	7.1	12.9	13.7	10.1
1981	15.0	7.1	6.8	7.8	14.9	5.9	12.3	15.3	10.8
1982	17.8	8.6	7.7	8.0	16.9	6.3	14.1	19.5	12.6
1983	17.9	9.2	8.2	9.4	16.7	6.1	18.9	22.6	12.9
1984	18.8	9.3	7.3	9.0	22.0	5.6	17.7	25.1	13.1
1985	20.3	10.2	8.0	10.0	21.9	8.1	16.9	18.3	14.4
1986	20.7	12.0	7.1	10.0	21.6	10.9	17.0	18.6	14.7
1987	22.7	13.4	6.5	11.1	22.3	12.9	11.5	10.3	15.5
1988	23.6	13.1	7.4	10.3	22.1	10.2	13.8	20.0	15.9
1989	22.2	14.1	7.6	11.4	20.5	8.3	13.7	25.7	16.0
1990*	23.6	15.6	8.9	11.0	20.0	7.2	14.2	22.0	17.2

**Table 3: Annual Remand Rates, 1978-90**

Year	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aust
1978	10.0	3.8	4.5	7.9	10.5	6.4	22.7	5.1	7.3
1979	10.4	3.2	4.6	9.4	10.5	5.2	26.7	4.5	7.4
1980	9.6	2.7	4.6	7.1	10.5	4.5	28.6	3.2	6.8
1981	10.0	3.2	5.0	8.4	9.6	3.5	27.8	3.1	7.1
1982	11.9	3.9	5.3	8.6	10.4	3.4	29.7	3.7	8.1
1983	11.5	4.4	5.6	10.2	9.8	3.2	36.6	5.5	8.4
1984	10.7	4.6	5.3	9.6	10.4	3.2	35.2	6.1	8.1
1985	13.8	4.7	6.2	10.8	11.9	4.3	41.0	5.1	9.6
1986	14.3	5.6	6.0	11.2	12.7	6.5	45.0	5.5	10.2
1987	16.3	6.3	5.6	12.5	13.7	8.1	33.6	2.4	11.1
1988	17.0	6.3	6.5	11.0	12.5	6.2	34.1	5.4	11.3
1989	17.5	7.2	6.4	10.9	12.3	4.3	33.3	8.3	11.6
1990*	20.7	8.1	6.7	11.5	12.5	3.6	35.1	8.3	13.0

\*First six months only

These tables have been constructed from the data published in *Australian Prison Trends* which relate to the first day of each month. The tables show respectively: the annual mean number of remand prisoners; the annual mean percentage that remandees represent in the total prison population; and, the annual mean number of remand prisoners per 100,000 of the relevant general population.

The differences in remand rates shown in Figure 1 are even greater than the differences in imprisonment rates. With remand rates, the highest (Northern Territory) is approximately 9.7 times higher than the lowest (Tasmania), whereas the highest imprisonment rate (Northern Territory) is approximately 6.6 times higher than the lowest (Australian Capital Territory). There is, however, greater variability over time with remand statistics as they are necessarily much smaller than total prison statistics.

### The Increasing Numbers

The trend of increasing remand numbers can be seen in Table 1 for each jurisdiction and for Australia as a whole, and the national picture is shown in Figure 2.

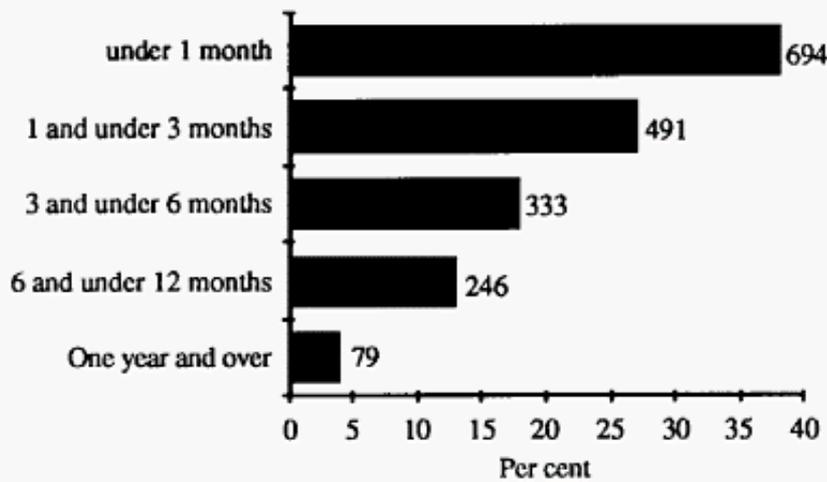
It can be seen from Figure 2 that the average number of remand prisoners has more than doubled in the past twelve years. The trend of increasing numbers has been almost constant with very small divergences occurring in 1980 and 1984. In summary it can be said that in 1990 there were over 1,000 more unconvicted prisoners throughout Australia than there were at the start

of the decade. The increase has been particularly marked in New South Wales and Victoria, the two larger jurisdictions, as shown by the figures in Table 1. The figures have virtually doubled in New South Wales and trebled in Victoria over the past decade.

### The Structure of Remand Populations

In this section the structure or composition of remand populations is examined with a view to identifying for each jurisdiction the relative significance of the numbers of persons

Figure 3: Structure of the Australian Remand Population, 30 June 1990



entering remand populations or the average length of stay in custody of those persons. The most up to date figures from the annual census of prisoners conducted on 30 June 1990 include the numbers of remandees in each jurisdiction as well as the time that they had served on remand on that date. These figures will shortly be published by the Institute under the title *Australian Prisoners 1990*. For Australia as a whole the census identified 1,843 remandees on that date, 4.3 per cent of whom had served more than one year and 13.3 per cent of whom had served from six to twelve months. These data are presented graphically in Figure 3.

In this figure the actual number of remandees in each time-served category is shown at the end of each bar and the percentages for each category can be read off the horizontal axis. Figure 3 shows, for example, that as at 30 June 1990 there were 79 persons in prison in Australia who had been held for more than one year as unconvicted remandees, and a further 246 persons had been on remand for over six months. The numbers who had been on remand for shorter periods are also shown, with the largest single category being those who had served less than one month. In Figure 4, the remand populations for each jurisdiction as at 30 June 1990 are shown. (Attention is drawn to the fact that different scales are used for the horizontal axis according to the

distribution of cases in each jurisdiction.) From this collection of graphics it can be seen that New South Wales had by far the highest number of remandees who had served over one year, but Victoria had the highest proportion, while some jurisdictions (Western Australia, Tasmania and the Australian Capital Territory) had no cases in that category.

The data presented in Figures 3 and 4 can be used to calculate a notional estimate of the mean period of stay on remand for each jurisdiction

and for Australia as a whole. (The method that is used is necessarily inexact and will over-estimate the mean period of stay on remand as very short stay remandees are undercounted in any census. For this reason those jurisdictions with proportionately more short stay remandees will suffer some bias in these calculations.) The method simply assumes that the midpoint of each time-served category is the average for that category. Thus it is assumed for Australia as a whole (from Figure 3) 694 remandees had served 0.5 months, and 491 remandees had served 2.0 months, and so on. For the 79 remandees who had served over one year, the average was taken as 15 months. For each time-served category these two numbers were multiplied (to give a notional indication of the space occupied by each category), the products were summed, and divided by the total number of remandees held at the date of the census to yield a notional mean time served for the whole group. This is illustrated for Australia in Table 4.

Finally, 6226.5 is divided by 1843 to yield 3.38 as the notional mean time served by remandees in months in Australia as at 30 June 1990. This

Table 4: Notional Mean Time Served on Remand, Australia, 30 June 1990

Time served	Assumed mean time	Number of remandees	Product
Under 1 month	0.5	694	347.0
1 and under 3 months	2.0	491	982.0
3 and under 6 months	4.5	333	1498.5
6 and under 12 months	9.0	246	2214.0
1 year and over	15.0	79	1185.0
<b>Total</b>		<b>1843</b>	<b>6226.5</b>

Table 5: Remand Rates, Notional Time Served and Estimated Intake Rates, Australia, by Jurisdiction, 1989

	Remand rate	Time served	Intake rate
NSW	20.7	3.83	5.4
Vic	8.1	3.87	2.1
Qld	6.7	2.78	2.4
WA	11.5	1.80	6.4
SA	12.5	3.05	4.1
Tas	3.6	1.81	2.0
NT	35.1	2.51	14.0
ACT	8.3	2.33	3.6
<b>Aust</b>	<b>13.0</b>	<b>3.38</b>	<b>3.8</b>

exercise has been repeated for each jurisdiction separately to yield a range of figures for notional mean time served from 3.87 months in Victoria to 1.80 months in Western Australia.

The figures derived from these calculations can be then related to the known facts about remand rates (as shown in Figure 1, or as shown in Table 3) to establish an estimate of the intake rate for each jurisdiction. The basis for this is the widely accepted fact that any institutional population is a function of the intake and the mean time served. It follows that the remand rate is a function of the rate of intake and the notional mean time served. Thus, for Australia as a whole, a remand rate of 13.0 (remandees per 100,000 of the general population for the first half of calendar year 1990) may be divided by 3.38 (the notional mean time served established above) to yield a figure of 3.8 which is the remand intake rate, or an indication of the number of persons remanded in custody per 100,000 of the general population per unit of time. (The size of the unit of time is of no consequence in this exercise as the same method is to be used for all jurisdictions, and the purpose of the exercise is to compare jurisdictions rather than to describe the operation of the remand system.) Strictly speaking, the mean times served by the actual persons remanded in custody should be used in this calculation, rather than the mean times served by the remand populations on hand. However, such data are not available, and for the purposes of this exercise the population means provide a reasonable substitute. The intake mean times would be lower than the population mean times, which would in turn increase the estimated intake rates. However, interstate relativities would remain basically unchanged.

Using this method, estimated intake rates have been established for each jurisdiction as shown in Table 5.

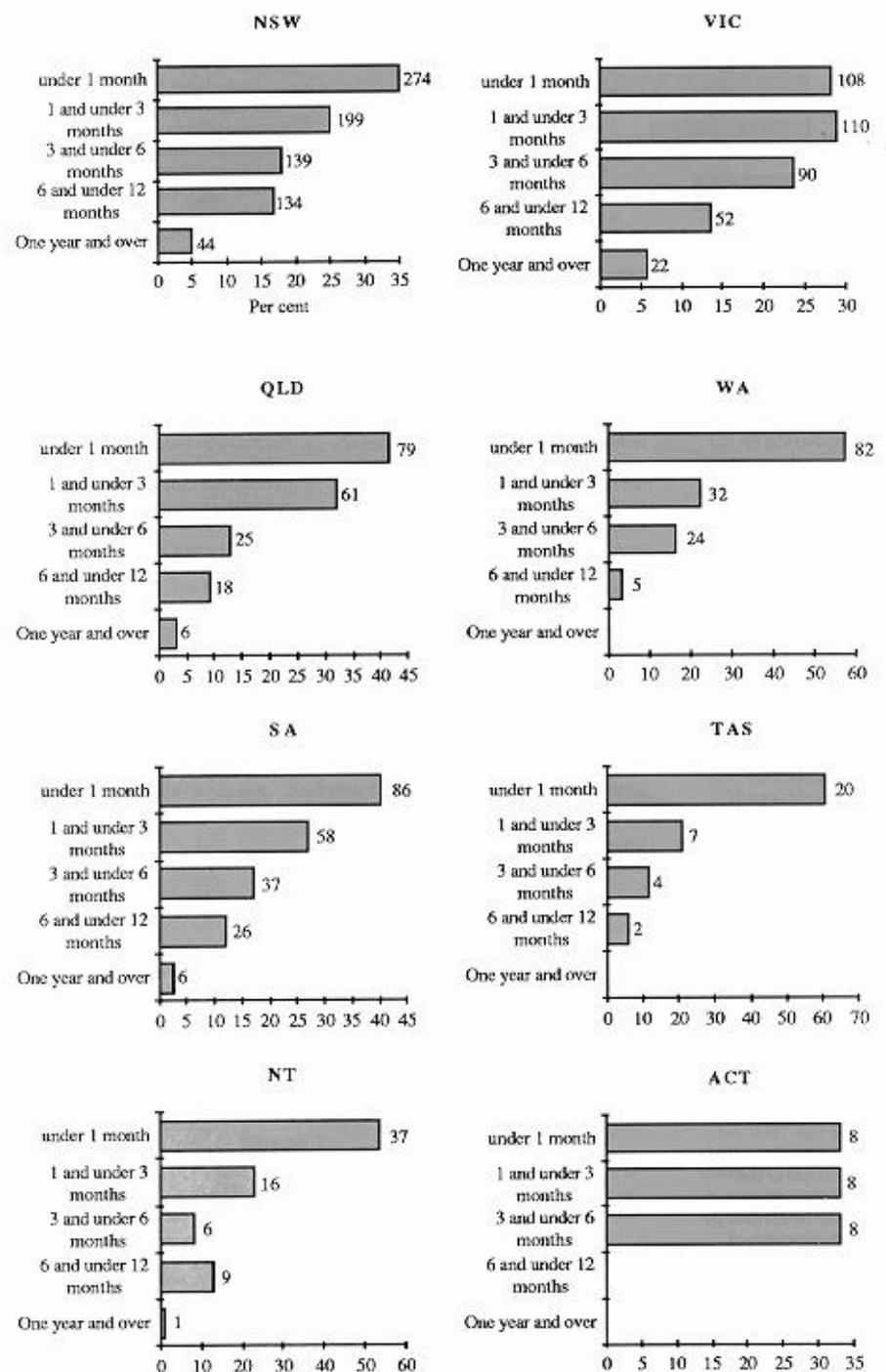
From Table 5 it can be seen that New South Wales has higher than average indices for both time-served and intake, while Victoria is only above the national figure with regard

to time served. The Queensland figures are both below the national averages, while Western Australia and South Australia both have relatively low time-served figures but above average intake indices. The Western Australian intake figure is particularly high but its time-served figure is the lowest in the nation. Tasmania is low on both figures. The Northern Territory can be seen to have an extremely high intake index but a time-served figure which is well

below the national average, while the Australian Capital Territory is below average for time served but close to the national average on intake.

The concepts of mean time served and intake rate suggest the two separate strategies that may be pursued to reduce the size of remand populations. In the first place, if the intake rate is high, efforts may be made, either by legislation or by education, to encourage magistrates and judges to order remand in

Figure 4: Structure of Australian Remand Populations by Jurisdiction, 30 June 1990



custody as sparingly as possible and thus to keep the remand intake to a minimum. The submissions made by prosecutors are also relevant to this issue. The second strategy is to ensure that the time spent on remand is kept as short as possible by increasing the efficiency of the court system, particularly the efficiency of the higher courts. The second strategy may require the appointment of additional judges, while the first focuses on the decision making (largely) of magistrates in relation to bail or remand in custody.

These two strategies are obviously quite different, even though they both aim to reduce remand numbers. The central point of this exercise is that one is unlikely to know which of these two strategies is more appropriate (or whether neither is, or both are, appropriate) in particular jurisdictions unless one undertook the type of analysis of the data that has been demonstrated in this paper.

Bearing these different strategies in mind as well as the statistical information presented earlier, the following observations are made in relation to remand in each Australian jurisdiction:

### *New South Wales*

The doubling of remand numbers over the past decade is a particular cause of concern. The data suggest that this increase has resulted from **both** a high intake and a high average length of stay. Both strategies to reduce remand numbers should be pursued simultaneously

### *Victoria*

Even though the Victorian remand rate is still relatively low, the actual numbers have trebled in a decade. If that trend continues there will be severe problems in the near future. The pattern shown in Figure 4 suggests that there is a log jam of remandees in the three to six months period, which possibly explains the high time-served figure in Table 5. Efforts should be made to reduce the length of stay in custody on remand.

### *Queensland*

The Queensland remand rate is the second lowest in Australia, but that rate has been steadily increasing in recent years, and the actual numbers have nearly doubled in a decade. Nevertheless, neither of the reduction strategies seems to be urgently required at this time.

### *Western Australia*

The remand rate in Western Australia has doubled in the past decade, but the 1990 rate is considerably lower than that of New South Wales. The pattern shown in Figure 4 and the figures in Table 5 indicate relatively small numbers of long-serving remandees and therefore reducing the intake will be the principal strategy for reducing the overall numbers.

### *South Australia*

The rate of increase in South Australia's remand rate has been slower than in most other jurisdictions, but at the beginning of the past decade, South Australia had a remand rate which was higher than all other States. There is therefore still a problem in South Australia and that seems to be largely due to high intake numbers, but concern must also be expressed about the number of remandees who have been in prison for relatively long periods.

### *Tasmania*

The available evidence suggests that Tasmania has a low remand rate and no particular problem with the length of stay on remand or the intake.

### *Northern Territory*

The Northern Territory has by far the highest remand rate in the nation, but only very small numbers are held for lengthy periods. To reduce the rate, it will be necessary to reduce very substantially the intake into remand.

### *Australian Capital Territory*

The low numbers of remandees in the Australian Capital Territory make comparisons with other jurisdictions problematic, but the remand rate is in

the middle of the range for all Australian jurisdictions and some problems may be expected in the future, especially with the intake rate.

---

## **Conclusion**

---

No attempt has been made in this paper to explain why remand numbers have increased in such a dramatic manner, but some speculation may be permissible. The increases may be due to the increase in serious crime that has occurred, particularly drug-related crime, together with legislation in some jurisdictions which reverses the presumption in favour of bail for drug-related offences. It may also be the case that in some jurisdictions police numbers have been increased without increased facilities being made available to the courts and to corrections authorities, with the result that court delays are exacerbated. Finally, it is possible that the provision of modern remand centres, such as in Adelaide and Melbourne, may have the effect of reducing the reluctance of magistrates to remand suspected offenders in custody.

Whatever the underlying reasons, the overall picture presented in this brief paper must be a cause of serious concern. No society which places high value on respect for the human rights of individual citizens can be complacent about well over 2,000 of its innocent, but suspected, members being held in custody, in many cases for considerable periods of time.

---

## **References**

---

- Biles, D. 1976-88, *Australian Prison Trends* (monthly), Australian Institute of Criminology, Canberra.
- Walker, J. 1990, *Australian Prison Trends* (monthly), Australian Institute of Criminology, Canberra.
- Walker, J. 1991, *Australian Prisoners 1990*, Australian Institute of Criminology, Canberra

**Note:** This is a revised, updated version of a paper that was originally prepared for the annual conference of Ministers responsible for corrective services held in Canberra in June 1990. All Australian correctional authorities have assisted in the preparation of this version by making available the basic data on remandees from the 1990 census of prisoners before the full census data had been collated.



Inquiries about the Trends and Issues series should be forwarded to:  
The Director  
Australian Institute of Criminology  
GPO Box 2944  
Canberra ACT 2601 Australia