

No. 137

Australian Corrections: The Imprisonment of Indigenous People

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Rowena Conroy

The operation of the criminal justice system, including police, the courts and incarceration, is a public policy matter that impacts on some sectors of the Aboriginal and Torres Strait Islander population. The disproportionate level of Aboriginal deaths in custody that occurred nationally in the 1980s, was, according to the Royal Commission into Aboriginal Deaths in Custody, a result of their disproportionate level of incarceration, rather than systematic patterns of foul play, deliberate violence or brutality on the part of police or prison officers.

The Australian Institute of Criminology has been a significant contributor to research on Indigenous Australians and the criminal justice system. As part of a current series of reports on Australian imprisonment, this paper examines trends and characteristics of Aboriginal and Torres Strait Islander prisoners during the 10 years from 1988 to 1998. More specifically, this paper:

- *examines trends in Indigenous imprisonment in recent years;*
- *analyses the major features of Aboriginal and Torres Strait Islander prison populations and their changes over the 10-year period from 1988 to 1998; and*
- *compares the characteristics of Indigenous and non-Indigenous prison populations in terms of demographic composition, legal status, most serious offence leading to imprisonment, sentences imposed by courts and time spent in prison.*

The disproportionate involvement of Aboriginal and Torres Strait Islander people in the criminal justice system has been explained in terms of such factors as (Royal Commission into Aboriginal Deaths in Custody 1991):

- *differences in levels and patterns of offending compared to other Australians; and*
- *lifestyle differences, with Aboriginal and Torres Strait Islander people being socially and economically disadvantaged relative to the rest of the population.*

The results discussed in this paper are based on analyses of data from the National Prison Census (Australian Institute of Criminology 1988 and ABS 1998). A discussion of the main features of the National Prison Census is contained in Carcach and Grant (1999).

Adam Graycar
Director

Trends in Aboriginal Imprisonment

Trends in imprisonment are assessed from the magnitude of and changes in imprisonment rates. Imprisonment rates are calculated relative to the total population of imprisonable age (that is, people aged 18 years or over). The Indigenous status of prisoners was recorded for the first time in 1987 (Australian Institute of Criminology 1988), except for Queensland, where data on Aboriginality was not collected until the 1988 National Prison Census (Australian Institute of Criminology 1989).

November 1999

ISSN 0817-8542

ISBN 0 642 24137 6



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Table 1: AUSTRALIA, STATES and TERRITORIES 1988-98

Number of Indigenous Prisoners and Indigenous Imprisonment Rates per 100,000 Population Aged 18 Years and Over

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT ¹	Aust
Number of Prisoners									
1988	384	65	431	528	114	10	276	1	1809
1989	415	86	412	558	102	9	243	0	1825
1990	579	88	367	585	124	12	286	0	2041
1991	662	91	346	577	150	10	328	2	2166
1992	648	106	370	574	187	13	322	3	2223
1993	725	105	427	637	185	14	319	4	2416
1994	827	141	554	688	231	26	331	2	2800
1995	888	128	638	714	258	14	342	3	2985
1996	952	110	809	751	259	28	360	4	3273
1997	1003	132	942	750	269	34	439	11	3580
1998	1090	126	1033	758	243	28	461	11	3750
Rate per 100,000 Population aged 18 years and over									
1988	987.4	677.4	1130.9	2325.0	1249.5	220.5	1212.9	125.2	1233.9
1989	1032.0	869.6	1046.0	2387.2	1085.9	190.1	1031.9	0.0	1204.7
1990	1396.2	865.3	903.2	2439.0	1287.2	243.2	1182.6	0.0	1308.4
1991	1208.6	767.9	672.0	2027.5	1334.6	135.9	1244.0	144.2	1122.1
1992	1143.8	871.1	692.4	1955.4	1618.9	170.2	1175.5	205.5	1112.9
1993	1253.2	846.9	780.9	2125.9	1567.9	178.9	1135.9	263.3	1183.0
1994	1399.8	1115.9	990.2	2249.0	1916.1	324.0	1149.7	126.4	1340.8
1995	1473.3	994.6	1115.4	2287.8	2095.8	170.2	1159.9	181.9	1399.2
1996	1568.4	845.2	1397.1	2383.9	2072.5	336.0	1205.3	232.4	1517.7
1997	1541.5	977.1	1535.9	2288.5	2072.4	369.5	1424.8	576.2	1572.2
1998	1560.2	897.7	1590.2	2221.0	1796.9	274.9	1452.2	515.9	1557.9

¹ ACT total includes prisoners held at the Belconnen Remand Centre and sentenced prisoners held in NSW

Source: National Prison Census (Australian Institute of Criminology 1988-93) and Prisoners in Australia (ABS 1994-98).

The 1996 Census of Population and Housing count for Indigenous people was 352,790, a 33 per cent increase from the 1991 Census. This compares to an increase of 5 per cent in the census count for non-Indigenous Australians (ABS 1997). It is estimated that about 50 per cent of the increase in the Indigenous population is due to different responses to the Indigenous origin question in successive census, a phenomenon known as category movement (ABS 1997, p. 9). This “reflects the combined results of greater willingness by Indigenous people to nominate their Indigenous origins at census time and more effective census collection by the Australian Bureau of Statistics” (ABS 1997, p. 9). This effect varied among states and territories. Category movement explains the major part of the 45.2 per cent increase in the Indigenous population in New South Wales; however, it has been less significant in the 16.3 per cent population increase aged 18 years and over in the Northern Territory (ABS 1997).

Table 1 shows that, nationally, the number of Indigenous prisoners has increased by 107 per cent, from 1809 in 1988 to 3750 in 1998. It is impossible to determine what proportion of this increase can be attributed to category movement, but together with the impact on the general Indigenous population, it affects comparability of imprisonment rates, over time and across jurisdictions. In relative terms, the rate of Indigenous imprisonment has varied between a low 1113 per 100,000 population aged 18 years and over in 1992 and a high 1572 per 100,000 population aged 18 years and over in 1997.

As shown in Figure 1, Indigenous prison populations have grown faster than non-Indigenous prison populations in all jurisdictions. Nationally, the number of Indigenous prisoners increased by an average 6.9 per cent a year during the period from 1988 to 1998. This is 1.7 times the average annual growth of the non-Indigenous prison population. This trend has been followed by the jurisdictions with exception of Western Australia and the Northern Territory where Indigenous and non-Indigenous prison populations have grown at the same rate.

Figure 1: AUSTRALIA, STATES and TERRITORIES 1988-98
Average Annual Growth of Indigenous and non-Indigenous Prison Populations

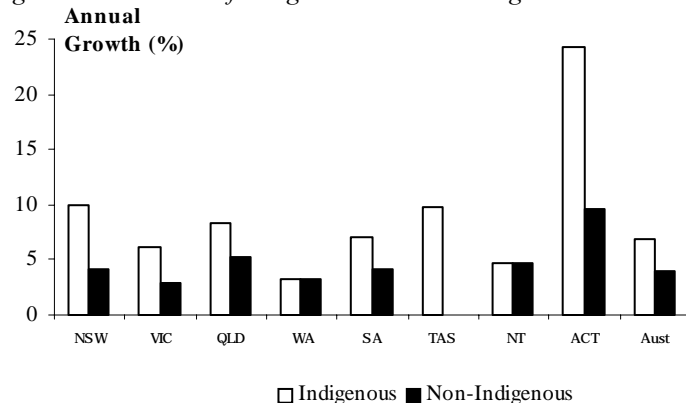
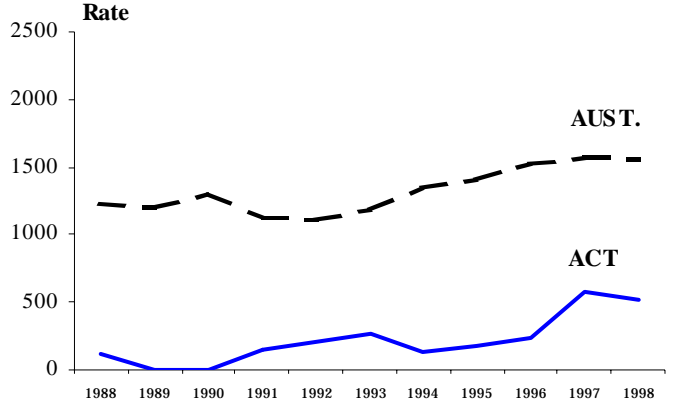
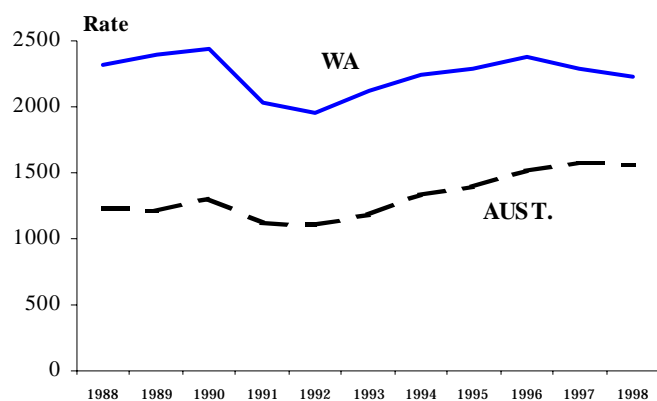
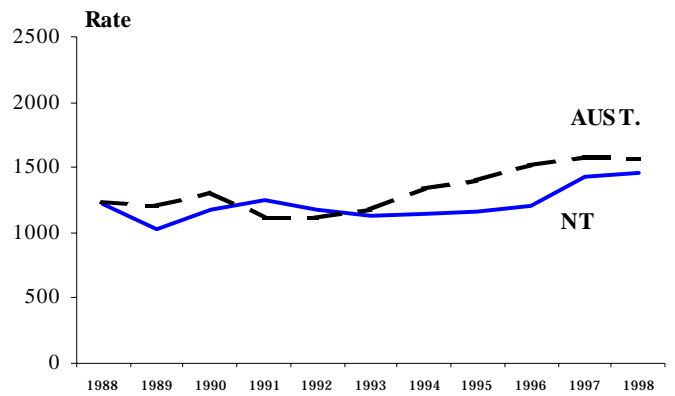
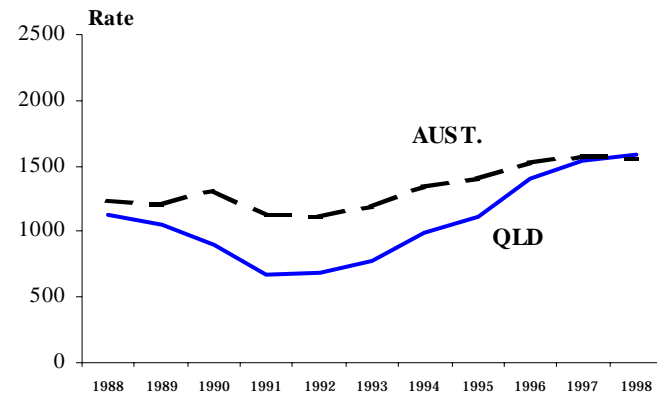
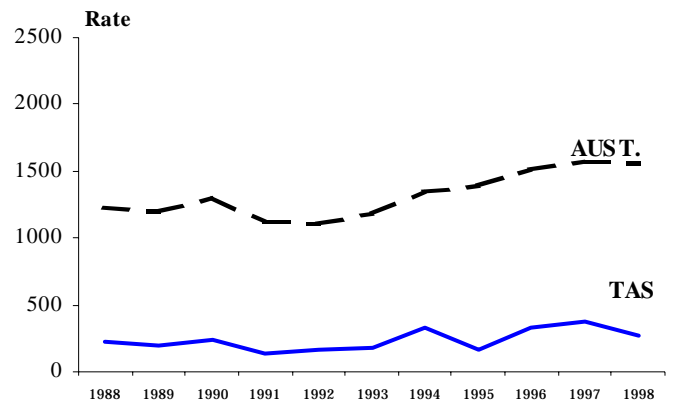
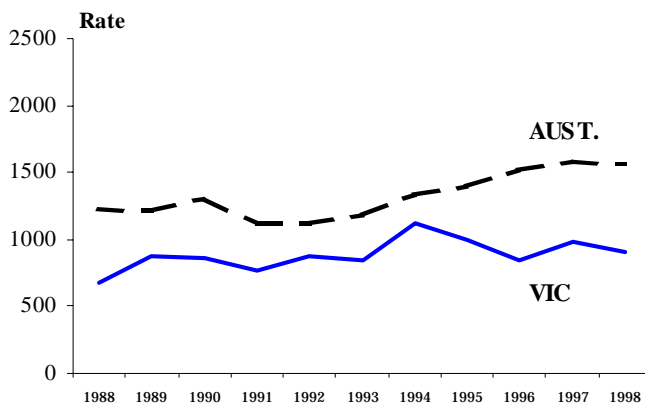
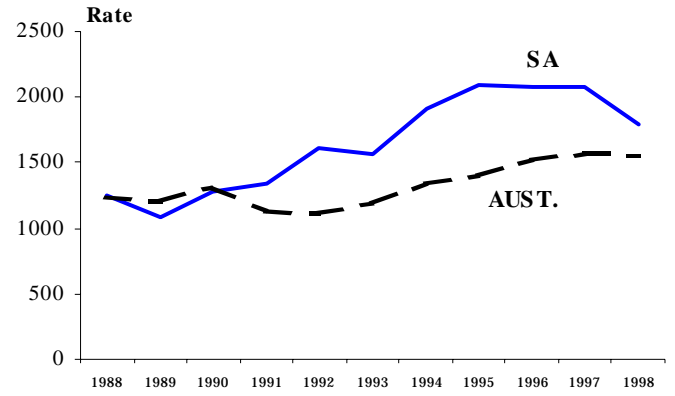
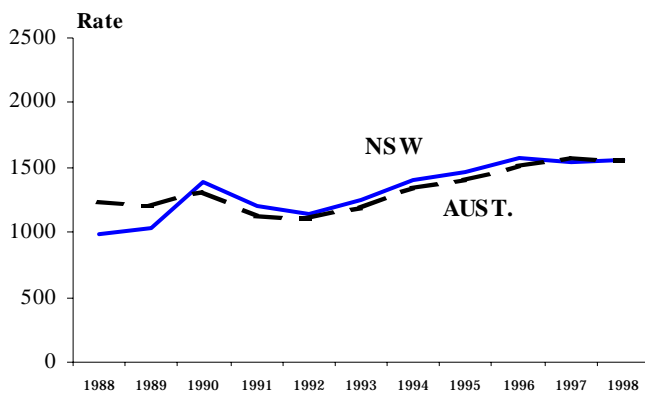


Figure 2: AUSTRALIAN STATES AND TERRITORIES 1988-98,
Indigenous Imprisonment, Rates per 100,000 Indigenous Population Aged 18 Years and Over



As shown in Figure 2, the national trend tends to follow that of New South Wales, whilst Victoria, Queensland, Tasmania and the ACT have had imprisonment rates below the national average. Note that in Queensland, the rate has increased over the 11 years under study to reach the overall national rate in 1998.

South Australia and Western Australia recorded rates above the national average, with the latter following the national trend. The rate for the Northern Territory has oscillated around the national average.

These trends result from the combination of real increases in the numbers of Indigenous prisoners and improved identification. It is not possible to separate the magnitude of these effects on the imprisonment rates.

Indigenous Overrepresentation

The relative risk of imprisonment as measured by the ratio of Aboriginal to non-Aboriginal rates (that is, the overrepresentation ratio) is useful in understanding Aboriginal imprisonment in the jurisdictions. Indigenous Australians continue to be more likely than non-Indigenous Australians to be in prison; however, nationally, the rate of Indigenous overrepresentation declined from 14.2 in 1988 to 11.0 in 1998, a trend followed in most jurisdictions.

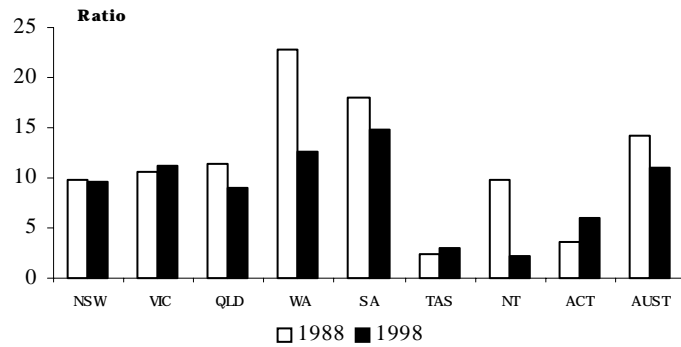
As shown in Figure 3, Victoria, Tasmania and the ACT were the exceptions to this general trend. These jurisdictions have experienced increases in the ratio of Indigenous overrepresentation.

Indigenous Prisoners Compared to Non-Indigenous Prisoners

Gender and Age Composition

The data show that there is no difference between the gender composition of the Indigenous and non-Indigenous prison populations, and that it has

Figure 3: AUSTRALIA 1988 and 1998, Rate of Indigenous Imprisonment to Rate of non-Indigenous Imprisonment



remained unchanged between 1988 and 1998. Males contribute 95 per cent of both prison populations.

Children and young people less than 18 years of age account for a very large proportion of the total Aboriginal population and there are very low proportions of older Aboriginal people (ABS 1998). At the time of the 1996 Census, the median age of the Aboriginal and Torres Strait Islander population was 20 years whilst the median age of the total Australian population was 33 years (ABS 1997), a difference of 13 years.

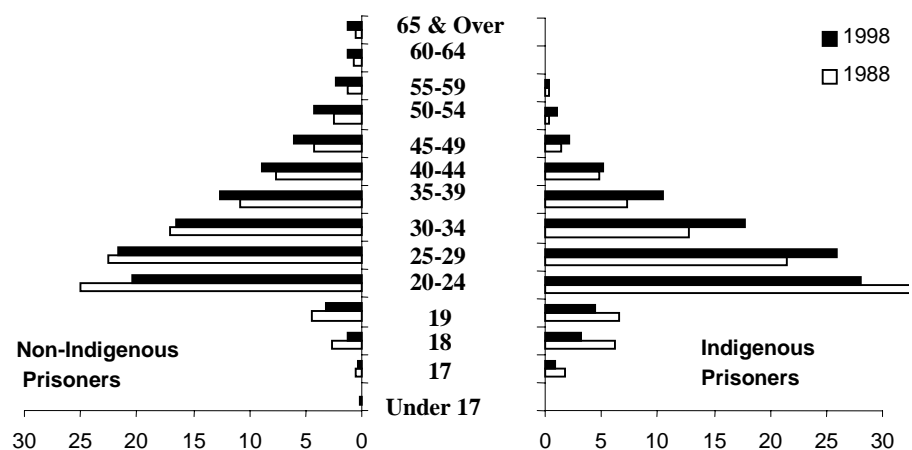
Figure 4 shows the age distribution of the Indigenous and non-Indigenous prison populations on the prison census nights of 1988 and 1998. The median age of both Indigenous and non-Indigenous prison populations has increased between 1988 and 1998, with the latter recording a larger increase

(8.8 per cent, from 28.3 in 1988 to 30.8 years in 1998). The average age of Indigenous prisoners increased by 6 per cent, from 25.4 in 1988 to 27.1 years in 1998.

Both Indigenous prisoners and non-Indigenous prisoners are on average younger than the population of imprisonable age. The difference between the median ages of Indigenous and non-Indigenous prisoners remained stable between 1988 and 1998.

As shown in Figure 4, the age distribution of Indigenous prisoners is more skewed towards the younger age groups than that for non-Indigenous prisoners. The graph suggests that the age composition of Indigenous prisoners may be changing. Note that during 1998 there was, relative to 1988, an increase in the proportion of Indigenous prisoners aged between 25 and 49 years. Note also that apart from the older age

Figure 4: AUSTRALIA 1988 and 1998, Indigenous and Non-Indigenous Prison Populations Age Composition



	1988	1998
Indigenous Prisoners	25.4	27.1
Non-Indigenous Prisoners	28.3	30.8

groups, in 1998, the age distribution of Indigenous prisoners seems to be closer to that for non-Indigenous prisoners.

Legal Status

The legal status of prisoners counted on census date can be classified into the broad categories of remand and sentenced. The data show that there is no difference between the composition of the Indigenous and non-Indigenous prison populations regarding legal status, and that it has remained unchanged between 1988 and 1998. Sentenced prisoners contribute 86 per cent of both prison populations.

Most Serious Offence of Imprisonment

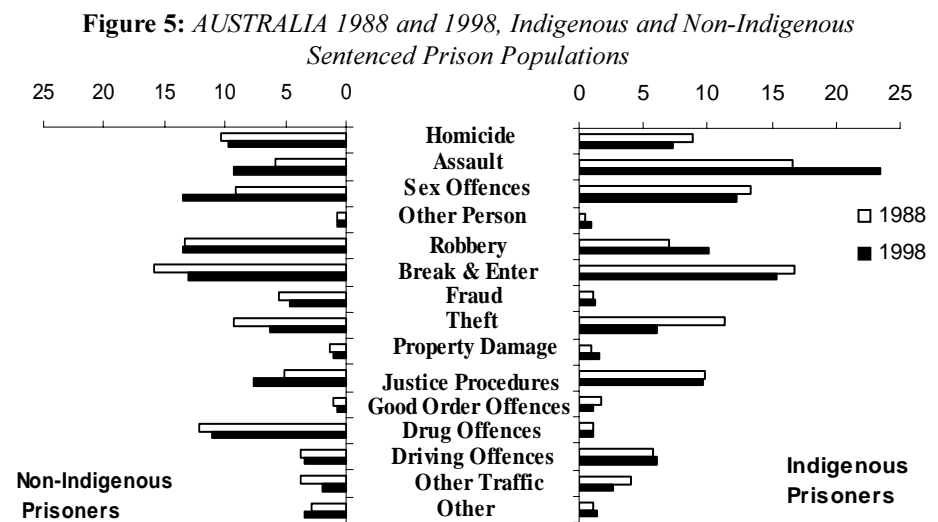
As shown in Figure 5, the most dramatic changes in Indigenous offence structure over the period under consideration have occurred for assault, robbery and theft. The percentage of Indigenous prisoners sentenced for assault has increased by 6.8 per cent between 1988 and 1998, whereas the percentage of those sentenced for robbery increased by 3.1 per cent. On the other hand, the percentage of Indigenous prisoners sentenced for theft declined by 5.4 per cent over the same period.

Most Serious Offence

It is noteworthy that the percentage of Indigenous prisoners sentenced for relatively minor offences such as those against justice procedures, good order and other traffic offences has experienced a slight decline between 1988 and 1998. The percentage due to break and enter experienced a decline over the period.

Among non-Indigenous prisoners, increases were observed for the offences of assault (3.5 per cent), sexual assault (4.3 per cent) and justice procedures (2.6 per cent). Declines were observed in break and enter, theft, good order and other traffic offences.

Differences in the offence composition of Indigenous and



non-Indigenous prison populations could reflect jurisdictional differences in charging and sentencing practices. Changes in the offence composition of Indigenous prisoners may be the result of changes over time in the geographic distribution of Indigenous prisoners.

Aggregate Sentence and Expected Time to Serve

There has been much discussion recently regarding the sentencing of prisoners in general and the sentencing of Aboriginal prisoners in particular. Vinson (1998), using New South Wales data, found that there did not appear to be any difference in the sentencing of Aboriginal or non-Aboriginal offenders once the variables of age and seriousness of offences were taken into account. From the data here, it appears that sentences served by Indigenous prisoners appear significantly shorter than those served by their non-Indigenous counterparts.

Table 2 shows aggregate sentence length and expected time to serve controlling for most serious offence. The data show a decline in aggregate length of sentence. Note that while non-Indigenous prisoners experienced a 6 months decline in sentence length between 1988 and 1998, among Indigenous prisoners the median decline was only 3 months.

There is variation in the changes in median aggregate

sentence according to most serious offence. Among Indigenous prisoners, there was an increase in the median sentence for homicide, sex offences, robbery, theft and other traffic offences. Apart from homicide and other traffic offences, the median sentence length for non-Indigenous prisoners declined.

For all the remaining offences, the median sentence length of Indigenous prisoners declined between 1988 and 1998, but this decline was always less than for non-Indigenous prisoners.

The data in Table 2 show that expected time to serve has increased between 1988 and 1998, with the largest increase corresponding to non-Indigenous prisoners (3.2 months compared to 1.6 months for Indigenous prisoners).

Among Indigenous prisoners, there has been an increase in the expected time to serve for all offences except for break and enter and other against the person. Homicide, sex offences, drug offences and robbery recorded the largest increases.

Among non-Indigenous prisoners the only offences recording a decline in median expected time to serve were assault, other offences against the person and offences against justice procedures.

With the exception of homicide, the increase in expected times to serve among Indigenous prisoners has exceeded that for the non-Indigenous group.

Table 2: AUSTRALIA 1988 and 1998, Indigenous and Non-Indigenous Sentenced Prisoners, Median Aggregate Sentence Length and Median Expected Time to Serve (Months), Most Serious Offence

Most Serious Offence	Median Aggregate Sentence Length (Mths)				Median Expected Time to Serve (Mths)			
	1988		1998		1988		1998	
	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous
Homicide	84.0	120.0	120.0	168.0	41.9	49.7	72.9	118.7
Assault	20.1	42.0	18.0	30.0	8.7	15.4	10.3	14.4
Sex Offences	78.0	84.0	84.0	72.0	39.7	35.6	51.2	44.5
Other Against Person	60.0	84.0	40.0	40.0	26.2	31.7	24.0	22.6
Robbery	60.0	96.0	68.5	72.0	28.1	40.2	36.0	41.8
Break & Enter	32.3	36.0	23.0	24.0	13.4	14.1	12.9	14.6
Fraud	23.0	28.0	18.0	30.1	7.5	10.8	11.8	14.1
Theft	9.2	19.0	12.0	12.0	4.8	7.8	7.9	8.7
Property Damage	18.0	36.0	9.0	36.0	3.9	14.2	8.0	16.0
Justice Procedures	12.0	24.0	9.0	9.0	5.7	8.1	6.5	6.9
Good Order Offences	5.5	24.6	4.0	14.0	3.2	9.1	3.5	10.2
Drug Offences	42.0	72.0	27.0	54.0	8.0	26.7	17.7	30.0
Driving Offences	8.1	6.0	7.1	6.0	3.3	3.5	5.9	4.8
Other Traffic Offences	7.0	6.0	8.0	6.0	3.8	3.5	5.4	4.3
Other	13.5	24.0	9.3	16.0	4.5	8.0	7.4	9.5
All Offences	27.0	48.0	24.0	42.0	12.4	19.5	14.0	22.7

Source: Data derived from unit record files. *National Prison Census* (Australian Institute of Criminology 1988) and *Prisoners in Australia* (ABS 1998).

Conclusion

Prison populations throughout Australia continue to increase. Indigenous prison populations are increasing faster than non-Indigenous prison populations. Rates of imprisonment, however, indicate that, nationally, the level of Indigenous overrepresentation in the correctional system has declined, but there are, however, jurisdictional differences. Those jurisdictions with the lowest rates of Indigenous imprisonment have experienced increases in the level of Indigenous overrepresentation.

The Indigenous prison population tends, on average, to be younger than the non-Indigenous prison population. However, there has been a shift in the age structure of Indigenous prisoners in recent years, which makes the age distribution of Aboriginal prisoners more closely resemble that of non-Indigenous prisoners. The gender structures of both populations are similar and have remained stable over the period under study.

As discussed above, the data reveal important differences between Indigenous and non-Indigenous prisoners, in particular regarding offence composition, length of sentence and expected time to serve in

prison. After controlling for differences in offence structure, our findings suggest that Indigenous prisoners have experienced lower reductions, in both sentence length and expected time to serve, than non-Indigenous prisoners.

Altogether, our findings raise the issues of whether the observed changes in Indigenous imprisonment are caused by changes in seriousness of Indigenous offending patterns, changes in Indigenous recidivist rates or changes in sentencing of Indigenous offenders, relative to non-Indigenous offenders.

The reasons for the observed reduction in Indigenous overrepresentation cannot be identified from the available data. Whether it has been caused by improvements in identification of the general Indigenous population, or the cause has been a declining rate of growth in numbers of Indigenous prisoners relative to the rate of growth of the Indigenous population of imprisonable age, is an issue requiring further research.

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