OPENING ADDRESS: POLITICS AND PRISONS

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LET ME WELCOME YOU TO TASMANIA. IT REFLECTS GREAT CREDIT ON THE Australian Institute of Criminology that it has arranged to conduct seminars such as this in capital cities outside the Sydney, Melbourne, Canberra triangle.

I am very pleased to be able to welcome you here, and I am sure that the deliberations of this conference will be of major benefit not only to the participants, but also to Tasmanians generally, in raising the profile of criminology matters in this state.

I am a Tasmanian politician, and therefore it is appropriate that I should speak a little about politics, and a little about Tasmania. I want to start by examining some of the political motives for keeping people out of prison, and go on to describe the Tasmanian perspective on the issue, and some of the initiatives which we are taking.

There is no doubt that two of the major problems facing Australian governments in the criminal justice area are prison overcrowding and the enormous cost of keeping people in prison. This has forced governments to seek alternatives to imprisonment. I would like to be able to say that governments have introduced alternatives to imprisonment solely for altruistic reasons, but in the present climate the economic imperative looms very large.

Even looking back to the introduction of community service orders in Tasmania (or work orders as they then were) in 1972, it is interesting to note that the prison system was nearly full to overflowing. Tasmania was the first state to introduce community service orders, and no doubt the economic imperative helped to concentrate the minds of decision-makers at that time.

Introducing alternatives to imprisonment does cause, from time to time, political problems for governments. Whenever a government proposes the introduction of a scheme as an alternative to imprisonment, invariably there are accusations of 'going soft on criminals' both in the political spectrum and in the media. There is no doubt that responsible reporting of the crime and punishment debate in Australia represents a major challenge for the media.

Its reporting on this issue has been disappointing, resulting in misinformation to the public. The media often portrays the community as dissatisfied with the courts for being too lenient, and complaining that the criminal justice system is 'soft' on crime.

It has been argued that this perception of public attitude has inhibited politicians when it comes to proceeding with reform in the criminal justice system. However, a number of studies have shown that this portrayal of public perception is incorrect.

In particular, the 1987 report by David Indermaur entitled 'Public Perception of Sentencing in Perth Western Australia' found that public perception of crime is dominated by violence which in turn dominates people's attitudes to the punishment of offenders. Provided

the public is given proper information and detail, it is not as punitive as often portrayed. The report also found that the public favours certain reforms which would reduce the imprisonment rate.

It is therefore very important for conferences such as this, and the experts who attend them, to raise the level of debate in this country and to educate the public.

One factor which has been very successful in raising community awareness has been the concern about deaths in custody. The interim report of the Muirhead Royal Commission into Aboriginal Deaths in Custody (1989) maintains an underlying strategy of ensuring that contact with the criminal justice system is kept to the necessary minimum, because of the harm which can ensue to people within that system. A report such as this, which becomes a significant political document, represents a major impetus to government in pursuing a determination to keep people out of prison.

Quite apart from the obvious benefits to the individual offender, there are benefits that flow to the community from the use of non-custodial sentences. These can be assessed not just from the financial aspect, but also the sociological and penological aspect.

It is now well accepted that juvenile offenders ought not to be imprisoned because, amongst other reasons, they will learn a lot more about crime from fellow prisoners than they would ever learn outside the prison walls.

Similarly, many people do not accept that prisons rehabilitate criminals. In many instances they are likely to come out worse than when they went in. It is important that the public is made aware of these benefits so that there can be an informed debate.

Having pointed out the problems facing Australian governments generally in this area, I am in the happy position of saying that there are fewer problems in Tasmania.

At present there are 217 persons in prison in this state, and this is in a system which has 512 single cells: not including Port Arthur!

In 1971 the average prison population was 386 with a high of 414. In 1972 community service orders (or work orders as they then were called) were introduced. The dramatic impact that this has had on the prison population is self-evident. In comparative terms, today's prison population is about half that of 20 years ago.

Tasmania's adult imprisonment rate in December 1989 was 80.1 adult persons per 100,000 adults. When juvenile offenders are included the overall imprisonment rate drops to 52.1 per 100,000 people.

These are very low by Australian standards, and the important point is that the rate is on a downward trend after some alarms in 1987 and 1988. In 1989 the average prison population was 253 and it is expected to be a lot lower this year.

Why is it that Tasmania does not have a problem with numbers of people in prison? Tasmania's population is stagnant. It is also an ageing one, with a large exodus interstate of persons in the age bracket 18-25 years. However, Tasmania's low prison population cannot simply be attributed to demographics. The low number of people in Tasmanian prisons has been assisted by the fact that Tasmania's drug problem does not exist to anywhere near the same extent as some of the other states. It should also be noted that the National Committee on Violence (1990) has reported that the level of violent crime in Tasmania is actually reducing. But perhaps the single most important factor has been the high use of non-custodial orders by the courts in this state.

In the Institute's Trends and Issue Paper No. 14 entitled *Adults Under Supervision and Detention Orders*, it was noted that Tasmania's rate of non-custodial orders per 100,000 persons was double the national average. At the present time in Tasmania there are 1,244 persons undergoing supervision and 437 on community service orders, making a total of 1,681 persons on non-custodial orders in this state. The success of the community service orders scheme in this state is due to a number of factors.

Firstly, it has a high acceptability in the community. Secondly, magistrates in this state have what I regard as a 'probation culture', and the low imprisonment rate in this state is due in no small part to the sentencing attitudes of the magistrates. Thirdly, and by no means least, the Tasmanian system ensures community service activities are always available no matter in which part of the state an offender resides.

Unlike some other states, a community service order is never refused simply because activities are not available for the offender. A properly administered community service order scheme can result in considerable benefits flowing to the community, particularly in view of the fact that a custodial order is approximately twenty times more expensive. We recognise these benefits and will be moving to enhance the community service order scheme in this state.

Proposed changes to legislation will include an increased range of activities which can be undertaken to discharge a community service order. In particular the inclusion of alcohol education and driver training programs will be welcomed in the courts. It is envisaged that while community service will be primarily work-oriented, appropriate training or education that is instrumental in preventing offences may be a useful component of the order.

In a trial run some years ago it was clearly demonstrated that regular attendance at an alcohol education course organised by probation and parole officers, assisted by the Alcohol and Drug Service was more readily obtained from persons discharging community service orders than from those who were simply referred by supervising officers. It was also clear that 'coerced' attendance could have very positive results as interest and understanding developed.

The average length of community service orders in Tasmania at present is approximately eighty hours. It is unlikely that the number of hours devoted to educational and training purposes will exceed a third of this figure.

In addition, government has made changes in the administration of corrective services. It has brought together the responsibility for corrective services for adults and for young people in the new Department of Community Services. For the first time we will have the possibility of a properly coordinated range of policies for custodial and community-based corrective services for people of all ages.

One area where Tasmania does not have a particularly good record is the imprisonment of fine defaulters, despite the fact that community service orders are available as an alternative to imprisonment. Under the system operating in this state, where a defendant is brought before the court for failure to pay a fine, the magistrate can:

- grant further time to pay;
- order that the fine be enforced civilly;
- sentence the defendant to prison; or
- make a community service order.

The overwhelming majority of defendants opt for extra time to pay. Having taken this course the community service order option is no longer available, and subsequent failure to pay the fine results in imprisonment.

In the 1988-89 financial year, 956 prisoners were received and of these 173, or 18.1 per cent of admissions were in respect of non-payment of fines. This is unacceptable to the government and legislation will be introduced later this year to overcome this problem.

The legislation will empower the Administrator of Courts to extend time to pay to fine defaulters. Once a fine defaulter is brought before the court, the magistrate will no longer

have the option of granting further time to pay. Either a community service order will be made or the fine defaulter will be sentenced to imprisonment. The aim is that prison will only be used as a last resort for the most recalcitrant offenders. The tariff will be 14 hours of community service for every $50 of fine outstanding. In view of the ready availability of community service activities, it is expected that the great majority of fine defaulters will receive community service orders. Although this will increase the cost of the community service order scheme in this state, quite clearly this is a far cheaper alternative than imprisonment.

One area where governments have moved to reduce the use of custodial sentences effectively is in juvenile justice. It is now well accepted that juvenile offenders ought not to be imprisoned, and should only be placed in institutions as a last resort.

This state has, for many years, operated a juvenile justice system based on a welfare model. The cornerstone of this is Section 4 of the *Child Welfare Act 1960*, which states that:

> each child suspected of having committed, charged with, or found guilty of an offence shall be treated, not as a criminal, but as a child who is, or may have been, misdirected or misguided, and that the care, custody and discipline of each ward of the state shall approximate as nearly as may be that which should be given by parents.

Under the *Child Welfare Act 1960*, sentencing options for magistrates are limited. The most severe order that may be made (in other than exceptional circumstances) is to declare a child a ward of the state. This means that the decision as to length and place of custody has been a departmental administrative decision, primarily based on the perceived needs of the individual child while taking into account the seriousness of the offence and the interests of the community.

For at least fifteen years there have been determined efforts under this legislation to minimise the use of institutions based on:

- a recognition and understanding that in far too many cases placements in an Institution cause more problems than they solve;
- the recognition that community-based programs are more appropriate and effective in assisting young offenders to learn to live in the community; and
- the recognition that preventive and early intervention with young offenders is cost effective in financial and emotional/developmental terms.

The effect of this de-institutionalisation program is demonstrated by the fact that in 1970 there were four institutions with a population at any one time of around 90 young people. By contrast, in 1980 this population had reduced to around 40 young people in two institutions. This year there is only one institution with an average population of around 12 young people.

New juvenile justice legislation is proposed for later this year. This will separate young offenders from the 'child welfare' system and provide the courts with a more controlled range of sentencing options. Young offenders will no longer be made wards of the state.

Procedures designed to divert children from the formal criminal justice system, such as screening panels are being examined. However, in introducing diversionary procedures such as these, governments have to be sure that they do not result in net-widening, bringing more children into the system than would otherwise have been the case.

No doubt this conference will provide very useful information and will discuss a wide range of sentencing options for all offenders, young and old.

I wish you well in your deliberations.

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DECLINING NORTHERN TERRITORY PRISON POPULATION–HOW THIS WAS BROUGHT ABOUT BY EFFECTIVE COMMUNITY BASED PROGRAMS

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WHEN THE NORTHERN TERRITORY DEPARTMENT OF CORRECTIONAL SERVICES was first established in December 1984, its major priority was to reduce the inordinately high, and growing imprisonment rate. At the time, there were 304 prisoners, giving the Northern Territory an imprisonment rate of 220 per 100,000 head of population compared with the Australian rate of 63, and the next highest jurisdiction, Western Australia with a rate of 100 (*see* Figure 1).

In examining the make up of the Territory prison population in 1984-85, it became clear the challenge was to reduce the three major categories of prisoners:

- those on remand;
- fine defaulters; and
- those serving less than 12 months predominantly for offences of break, enter and steal, assault (of a non-sexual nature), drink drivers, and drive while disqualified.

Figure 2 outlines the size and nature of imprisonment in the Territory during 1984 and 1985.

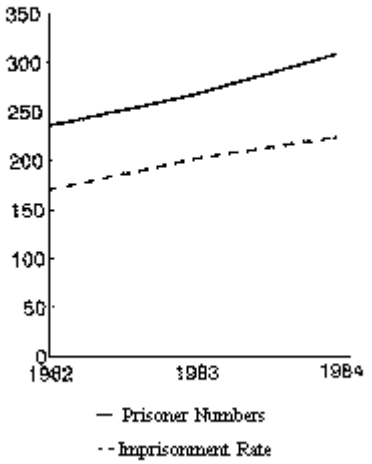
The second priority for the Department was to address the over representation of Aboriginals in the prison system. In 1984-85, Aboriginals represented 20 per cent of the

general Territory population and comprised 73 per cent of the prison population (*see* Figure 3).

The third priority was to address the high imprisonment phenomenon at its cause, or beginning; by preventing juvenile offenders from graduating to the adult criminal justice system.

Figure 1

Northern Territory Imprisonment Rate/Prisoner Numbers



Source: Biles 1985

Remand Imprisonment and the Bail Assessment Supervision Program

The Territory has the highest remand rate of prisoners in Australia. Currently (March 1990) the Northern Territory remand rate is 37 per 100,000 population, compared with the Australian rate of 11 and the next highest New South Wales of 16 (as at September 1989).

However, this situation is an improvement on past remand rates. In January of this year a Departmental evaluation study of the Territory Bail Assessment and Supervision Service (BASS) was completed. The results of this evaluation showed that the Territory remand rate reached an all time high in December 1986 of 55, compared with the then Australian rate of 10.6 and the next highest jurisdiction—New South Wales rate of 15.2. Since that time and due largely to the BASS scheme the Territory remand rate has steadily reduced to its current level of 50 prisoners held on remand (March 1990).

Figure 2

Northern Territory Prisoners by Reception
July 1984-June 1985

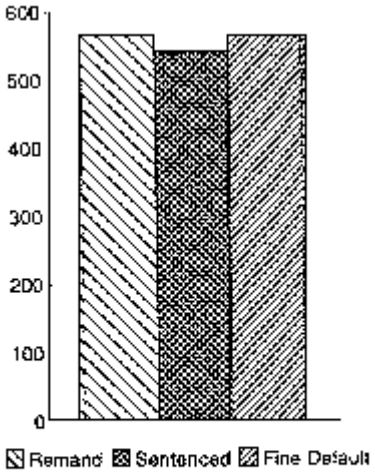
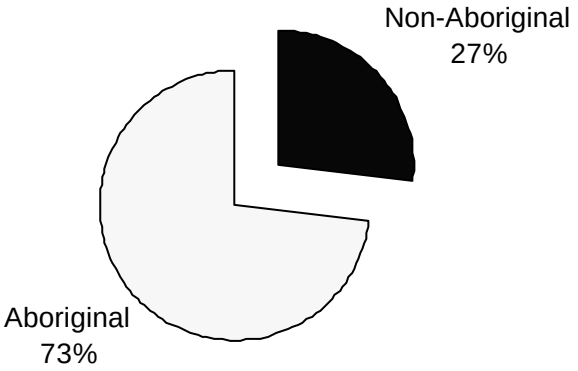


Figure 3

Northern Territory Prison Receptions 1984-85



The BASS scheme which was modelled on a New South Wales concept, provides judges and magistrates with an evaluation service on the suitability or otherwise of defendants to be granted bail. These evaluation reports, which are frequently verbal are provided by court based probation and parole officers.

If appropriate, a condition of bail can be supervision by a probation officer, who can provide assistance to the bailee with such things as accommodation and sureties.

It is intended in the near future, to strengthen the BASS scheme, by way of placing more probation and parole officers at court locations, to further reduce the number of people held on remand in the Territory.

Community Based Alternative Programs to Prison

During a two-year period, January 1987 to December 1989, there was a 25 per cent decrease in prisoner numbers. This was brought about by community based sentencing alternatives which were developed and introduced to reduce short-term, and unnecessary fine default imprisonment. Figure 4 shows the nature of this decrease in imprisonment.

Fine Default Diversionary Program

Prior to the introduction of the Fine Default Diversionary program on 19 January 1987, fine defaulters accounted for approximately 30 per cent of all prisoners received into Territory prisons. This figure has been reduced during 1989 to 17 per cent of all prisoners received.

During 1986, 584 people were imprisoned as a result of fine default. During 1989, 170 people were imprisoned for fine default.

The fine default diversionary program simply permits a fined person to work off the fine, on the community service order program; at a rate of $100 for every eight hours of community service work completed. Under this scheme the fined person applies at any probation and parole office in the Territory to work off the fine; 95 per cent of all people who apply are able to participate in this scheme. There are special projects and activities for those people who cannot undertake physical, or other work, because of some disability or special problem, such as alcohol abuse.

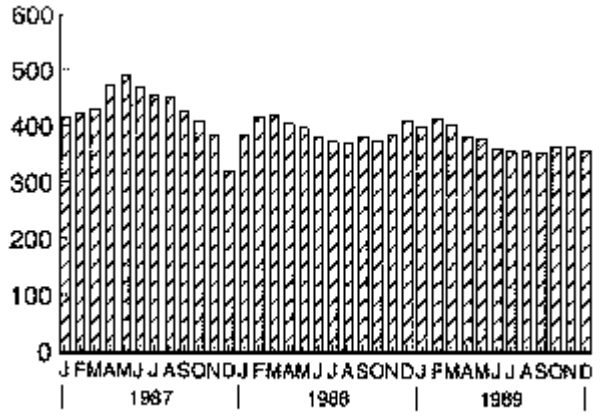
The community service order fine default diversionary program has been very effective in reducing fine default imprisonment and enjoys a consistent success rate of around 80 per cent. There have been substantial benefits to the Territory community, by way of the thousands of hours of unpaid community work completed since the scheme commenced in 1987.

Fine default imprisonment in the Territory has been significantly reduced, with only those persons who choose not to opt for community service work as an alternative to imprisonment, or those who blatantly breach their community service order, ending up in prison.

It is heartening to note that several states are following the Territory's lead in reducing fine default imprisonment, by use of the community service order program.

Figure 4

Northern Territory Prisoners
Monthly Daily Averages
January 1987-December 1989



Home Detention Program

Currently the Territory runs the only 'front-end' home detention program in Australia, as a direct alternative to imprisonment. Other jurisdictions—Queensland and South Australia operate 'rear end' programs which provide for the early release of prisoners.

Legislation to provide for the Territory scheme was proclaimed on 16 November 1987. Amendments to this legislation *The Criminal Law (Conditional Release of Offenders) Act* were passed during the February/March sittings of the Legislative Assembly, to provide for the electronic surveillance of offenders.

Over 70 per cent of sentenced prisoners received in Territory prisons are serving less than 12 months, for relatively less serious offences, such as drink driving, break enter and steal, and assault (of a non-sexual nature). The home detention program was therefore, developed to provide a punitive sentencing alternative to short-term imprisonment.

Under the Territory home detention scheme, an offender must be facing imprisonment, and before placing the offender on a home detention order, the sentencing authority must receive a report from a probation and parole officer to establish the following:

- the offender is facing certain imprisonment;
- the offender consents to such an order;
- the offender is suitable for home detention; and

- the offender's family and close neighbours are in agreement with a home detention order and will not be put at risk, if such an order is imposed.

As well, checks are made with welfare authorities to ascertain whether there is any history of child abuse, or serious family problems, that might be exacerbated by the imposition of a home detention order.

Under home detention in the Territory the offender can only leave home for work, treatment/counselling, necessary personal business, such as shopping, and serious family matters, such as a funeral.

Surveillance of offenders on home detention is carried out randomly 24 hours a day, by part-time surveillance officers and through an electronic telephone surveillance regime, whereby the offender wears a monitoring device on the wrist or ankle and is randomly called by a computer during those hours when he/she should be at home.

Conditions of home detention normally include abstinence from alcohol, or restricted consumption, for the duration of the order. These conditions are randomly checked by the use of an electronic breath analyser. Undertaking counselling or treatment for alcohol/drug abuse or mental health problems can also form part of a home detention order.

The home detention program commenced on 3 December 1988 and since that time to 31 December 1989:

- 111 offenders have been placed on home detention;
- 103 were men;
- 8 were women;
- 13 offenders were Aboriginal;
- 3.5 months was the average length of home detention order;
- types of offences committed by offenders placed on home detention: majority exceed .08 (42); drive while disqualified (38);
- there were 100 successful completions;
- there were 8 unsuccessful completions;
- and there were 14 active orders as at 12 March 1990.

The target group of offenders for diversion from imprisonment to the home detention program for the next twelve months is 500. This is the number of offenders sentenced during 1989 to less than 12 months imprisonment for offences of break enter and steal, justice procedures, minor assaults and drink driving related offences.

The home detention program has not, at this stage, had a significant impact on reducing the imprisonment of Aborigines. This is because the majority of Aborigines who are imprisoned in the Territory come from remote traditional communities, including Groote Eylandt and Port Keats. It would not be feasible, because of kinship relationships and the need for movement between outstations, for the formal home detention program to be implemented in these communities.

However, there are large numbers of Aborigines imprisoned each year (174—28 per cent of 618 sentenced prisoners 1989), who live in one of the main urban centres—Darwin,

Alice Springs, Katherine and Tennant Creek. There is therefore, the potential to divert a significant portion of these offenders to the home detention program. As alcohol abuse is a major factor with these offenders, it will be appropriate to couple the home detention program with a residential alcohol treatment program. This approach is currently being explored with health officials and local Aboriginal organisations.

Probation

Justice procedures is a major offence category for sentenced prisoners. During 1989, 73 prisoners were incarcerated as a result of breaching a justice order, for example, probation, community service order, or bail. This represented 11 per cent of total prisoners sentenced that year.

Probation numbers in the Territory have steadily increased since 1978 when Correctional Services were formalised.

There were:

78 probationers in 1978
134 probationers in 1979
210 probationers in 1980
225 probationers in 1981
236 probationers in 1982
300 probationers in 1983
326 probationers in 1984
318 probationers in 1985
431 probationers in 1986
556 probationers in 1987
637 probationers in 1988
745 probationers in 1989

While there has been a steady increase in the Territory population for this period—115,900 in 1979 to 156,100 in 1989—the increase in the number of probationers has far exceeded a proportionate rise in the general population.

It seems that probation is being over used in the Territory. That is to say, offenders who do not require guidance or professional help from a probation and parole officer, are placed on probation. Unfortunately, this Department currently has no say over who is placed on probation and why, with the result that probation has become the 'catch all', used when the courts do not know what else to do with an offender.

This situation causes the 'net-widening' effect, frequently mentioned by David Biles and other eminent criminologists, that is an offender who does not warrant or is not suitable for probation, is placed on the program, subsequently breaches and ends up in prison. In these cases, the offender may have been more suitable for a fine, community service order or some other non-custodial sentencing option.

To overcome this situation, two things are happening in the Territory:

- Legislation is being formulated which will require a probation officers evaluation report being considered by a court, before placing an offender on probation.

- An early termination of supervision program, will be vigorously implemented, to remove from supervision, those offenders who no longer need, or are not benefiting from probation supervision.

Aboriginal Issues

As mentioned earlier in this paper, a major priority of the Northern Territory Department of Correctional Services is to reduce the over representation of Aborigines in prisons and the criminal justice system generally.

Consistently, however, according to Australian Institute of Criminology research, Aboriginals are less likely to be imprisoned in the Territory than they are in other Australian jurisdictions, with the exception of the Australian Capital Territory (which does not have a prison for sentenced prisoners) and Tasmania.

Initiatives such as the fine default diversionary program and to a lesser extent, at this time, the home detention program, have reduced the number of Aboriginal prisoners serving fine default and short-term imprisonment.

There are two other programs which have been developed to involve Aboriginal communities more actively, and significant Aboriginal community members in the assessment, disposition and supervision of Aboriginal offenders. These are:

- Aboriginal Community Justice Project

  Under this scheme magistrates regularly convene Courts of Summary Jurisdiction in Aboriginal communities, including juvenile courts. At these courts significant Aboriginal community members, particularly the responsible relative(s) of an offender appearing before the court, are involved in the sentencing process. Quite often a traditional form of punishment may be imposed by the presiding magistrate, for example banishment with a responsible relative to a homeland or outstation.

- Aboriginal Community Corrections Officer Program

  Under this scheme Aboriginal community members are nominated by significant clan leaders, to be appointed as probation and parole officers. These persons are then supervised and trained by statutory probation and parole officers who normally reside in the Aboriginal community. These officers are proving to be invaluable in terms of more actively involving significant relatives of Aboriginal offenders in treatment and supervision programs. Aboriginal Community Corrections Officers (ACCO) also provide important advice to magistrates who are dealing with Aboriginal offenders.

It is intended that ACCOs will eventually take over all the statutory probation and parole functions in Aboriginal communities.

Summary

The Territory Government has a stated commitment to use imprisonment as a sanction of last resort. Recently, however, there has been a hiccup in the reducing trend of Territory imprisonment. Prison numbers, which have hovered around the 350 mark for the last 12 months, have sharply risen to 400. The possible causes for this increase are currently being examined and may include the fact that the courts, particularly the Court of Summary Jurisdiction which is the main sentencing court, has for the past few months been operating at full strength, with the resultant clear up of backlog cases.

Finally, it is heartening to note the importance that governments and the courts now give to community based sentencing alternatives. No matter how we improve conditions in our

prisons, and attempt to ensure that offenders leave prison no worse (preferably better), than when they entered; prisons will continue to be expensive, and damaging to inmates, because of their very nature. Practitioners in the criminal justice system now realise that imprisonment rates have no bearing whatsoever on crime rates. The deterrence argument is dead!

Therefore, let us reserve imprisonment as a sanction of last resort, for violent offenders and those who continue to have disregard for the rights and property of others; and promote the use of viable, low cost, non-custodial sentencing options that do not net-widen.

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MAXIMISING DIVERSION WITHIN THE CORRECTIONS CONTINUUM

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THIS PAPER WILL CONSIDER THE EXTENT TO WHICH THE VARIOUS DIVERSIONARY measures undertaken in Victoria in the last six years have succeeded. The underlying reasons for successive changes will be considered in the context of changing policies, and the factors which influenced the success or failure of programs. Current and impending developments in the light of those factors will be discussed and conclusions drawn as to what might lie ahead.

The corrections continuum referred to in the title, lies within a broader context of offending in the community. In discussing diversion, it is salutary to remember that of every 1000 offences committed, only 400 get reported; 320 are recorded officially as offences; only 64 of those are 'cleared up' and 43 result in a conviction. Only one will end up in prison (Mukherjee et al. 1987). As Mukherjee points out, a doubling of the rate of imprisonment would therefore only be affecting one-fifth of one per cent of criminal offending. Nonetheless, it is the public perception of the much larger problem (all crimes) and media highlighting of the minority of violent and horrific crimes that have such a significant influence on the forming of correctional and sentencing policies and make the task of maximising diversion more difficult.

In this paper, the corrections continuum is considered as commencing at the point at which the offender is before the court.

The continuum then encompasses all the dispositions available to courts through to imprisonment and includes post-custodial programs such as parole, pre-release (in Victoria) and home detention in some other states. This accords with the concept of continuum used by Chan & Zdenkowski (1986) who visualised two dimensions of degree of deprivation of liberty and status of the offender under law.

It is a continuum based upon a notion that the sanctions applied to criminal behaviour vary substantially not only in the degree to which they intrude upon a person's freedom but also in their punitiveness as effected in other ways.

Courts can thus sentence on the basis of the major sentencing principles of retribution, deterrence, reparation and rehabilitation, selecting from a range of dispositions which are

seen to have inherently varying degrees of those elements which meet the sentencer's expectations. A supervised community-based disposition thus punishes (typically in Victoria) mainly by requiring performance of unpaid community work; deters by being seen as intrusive on liberty because it requires attendance for specified purposes, being subject to surveillance and the like; offers reparation in that there is benefit to the community through the community work performed; and rehabilitates through the various interventions of community corrections staff and others to whom the person may be referred or with whom they are involved during the course of the order.

The principal value of conceiving of dispositions as positioned on a continuum lies in breaking down the popularly held view that imprisonment is the 'true' punishment and that all other dispositions are merely 'alternatives'. One only has to read the correctional and criminological literature or indeed reflect on the common parlance of practitioners to appreciate how pervasive the phrase 'alternatives to imprisonment' has become, and how much it subtly influences our thinking about community-based dispositions. McShane and Williams (1989) express it as an 'imaginative correctional task . . . to conceive not alternatives to prison, but of prison as an alternative to other sentences'.

It is already the case that in most jurisdictions two and a half to three times the number of persons imprisoned at any time are being managed under correctional supervision in the community. If we are to increase the proportion in the community without increasing the total number in the 'net', then it seems self-evident that we must become more positive about appropriately managing offenders in the community than merely to think about 'alternatives'. It follows from the notion of continuum that diversion ought not to be just diversion at one point, that is, diversion from imprisonment, important as this is.

In discussing the application of the principle that imprisonment should be the sanction of last resort, otherwise expressed as the principle of parsimony, in sentencing, the Victorian Sentencing Committee wrote that:

> The principle is generally stated in relation to the use of imprisonment, however, there is no reason why the principle could not be extended to differentiating between different penalties that may be imposed on an offender where such penalties are non-custodial, but are recognised as having different degrees of hardship on the offender (Victorian Sentencing Committee 1988).

The challenge then becomes that of identifying and satisfying the preconditions under which a less intrusive, less restrictive and less punitive option could be exercised by the court, in order to facilitate diversion. This may mean a fine instead of the supervised order first contemplated; 50 hours community work as the sanction without the added 12 months supervision that was being thought of; a period of supervision with stringent conditions relating to substance testing and treatment rather than short imprisonment; imprisonment with a minimum term at least to allow the possibility of parole rather than a long straight sentence; or being granted intensively supervised parole rather than serving out the balance of a sentence of imprisonment.

All of these can be described as alternative sentencing options, and whilst there may be arguments about, for example, whether 500 hours of community work is more intrusive than 4 months imprisonment, all of these choices can also be described as diversionary.

The Victorian Experience

Against this background, the Victorian experience over the past six years has provided something of a testing ground for those interested in the ramifications of sentencing for correctional services.

The financial year 1984-85 marked the beginning of a very significant developmental period. With a massive increase in resources all the then existing community corrections programs, namely probation, attendance centre orders and community service orders, were made fully available statewide from February 1985 and a properly resourced court advice service was also set up throughout the state. (Richard Harding writing on prison overcrowding provides a more detailed overview of the circumstances and events leading up to and surrounding this period; *see* Harding 1987).

It should be pointed out that Victoria had at that time lower rates per 100,000 of imprisonment, probation, parole and overall community corrections usage than any jurisdiction other than the Australian Capital Territory.

Increased numbers on community based corrections orders were therefore expected because of their availability in areas where previously courts effectively had only the one supervised option of probation. This increase in fact resulted, but Harding's analysis of the treatment of certain offender categories suggests that a gain from this expansion was greater credibility for community corrections programs among sentencers and 'successful front end mechanisms for keeping the imprisonment rate manageable' (Harding 1987).

From June 1986 a new single community based order was introduced, replacing probation, attendance centre and community service orders. This had been foreshadowed in the Sentencing Discussion Paper released by the Attorney-General and Minister for Corrections in January 1985 (p. 44) with the stated objectives:

The proposals set out below are designed to ensure two major objectives are achieved:

That the community-based facilities of the Office of Corrections which are to become operational on 1 February 1985 are fully utilised by the courts.

That the courts have a greater flexibility in the use of community based orders.

> The substance of the proposals is that there be a single form of community based order which extends for up to a period of two years, and which is tailored for each particular individual by the court, the court having the option to incorporate any one or more of the available forms of disposition into such an order. This is in contrast with the present situation where the court must choose to place the person on either an attendance centre order, Community Service Order or probation.

The new provision included a requirement that before making a community based order, the court obtain advice from a community corrections officer as to the offender's suitability and the availability of resources to give effect to the order. Harding comments that this requirement 'is immensely important if community corrections are to be fully accepted by the courts'—a point which will be addressed in discussing the effects of the changes (Harding 1987, p. 30).

The number of persons under community corrections supervision at June 1986 when the new order began was 6,080 or 146 per 100,000 population, the peak rate in recent years. That rate has in fact declined in the ensuing three and a half years, attributable to a number of factors:

- Reductions because of length of orders Probation orders which made up some 80 per cent of all community corrections orders, prior to 1986 had a maximum duration of five years. By contrast community based orders have an effective maximum of two years with special conditions being limited by statute to 12 months. Thus the majority of offenders are now under the conditions of orders for less time (a significant diversion in itself), and total numbers have dropped. There has not been any significant drop in the number of persons being admitted to community based supervision.

- The court advice report requirement Many magistrates (and even more lawyers) have expressed concern about the necessity of getting an assessment by a community corrections officer, as the matter must be stood down, whilst this is obtained. Comments made suggest that a community based order will not be used by certain magistrates particularly if a community corrections officer is not present, and must therefore be called to the court. As this is often the case, particularly as tighter budgets force staff restraints, this also affects the number of orders made.

- Sanction not punitive enough Despite the fact that the community based order maximum conditions (500 hours community work, 400 hours educational/personal development programs, two years supervision (or more in exceptional circumstances) plus others) make the order more punitive and intrusive than the maximum attendance centre order, many magistrates are expressing the view that they are not giving community based orders because the suspended sentence of imprisonment basis of the former attendance centre orders is no longer present.

  A very significant feature of the orders, however, is that where only 20 per cent of orders previously required the performance of community work (attendance centre orders and community service orders), 80 per cent of community based orders have this requirement attached. Coupled with the fact that 80 per cent of orders also still have the supervision condition added, this indicates significantly increased retributiveness and is most certainly anti-diversionary.

It should be said that this increased punitiveness has occurred in a context of significant judicial and public concern about the degree of executive interference in sentencing leading to a bipartisan push for truth in sentencing or real time sentencing. There has also been dramatically increased media and public concentration on the need for harsher penalties for certain types of offenders and more attention to be paid to the victims of crime.

On a more positive diversionary note, the period has almost seen an end to imprisoning fine defaulters and the effective substitution of community work as the fine default penalty. This has been achieved by the courts using their power to convert an unpaid fine to a community based order applying a statutorily determined formula; or if warrants are executed and people detained to serve default periods of imprisonment, by using Office of Corrections powers to grant leave on the condition that the person perform a predetermined number of hours of community work. Whilst the mechanisms may be cumbersome, the end result is that essentially only wilful defaulters serve imprisonment terms for non-payment.

Diversion, Net-widening or Appropriate Sentencing?

The continuing search for programs and approaches which can divert from imprisonment without net-widening tends to obscure the fact that what we fundamentally need are sentencing dispositions with their attendant activities which provide courts with sufficient options to be able to direct offenders appropriately in accordance with all the relevant sentencing principles. And it is of course the courts that decide which offenders go to which disposition. The point to be made is that if a magistrate or judge determines that offender 'X' should be placed on community-based supervision, that judgment is made on the basis of individual circumstances in that case and is subject to the usual appeal provisions, potential review and so on. To argue that the decision resulted in net-widening presumes there is a standard against which that judgment can be assessed.

A study undertaken by the Policy and Research Division of the Office of Corrections in April 1988, evaluated the diversionary impact of Community Based Corrections in Victoria from July 1984 to December 1986, and also the net-widening effect (Ross 1988). The results showed very wide variations in the changes in sentencing patterns in the five regions studied, and concluded that there had been significant diversion in two of the five and net-widening from non-correctional dispositions in at least three. An obvious conclusion from the variability of the results between regions is that individual sentencers can profoundly affect the extent to which diversion (or net-widening) will occur in the use of any disposition or range of dispositions.

It also raises the question of how much growth in number in community-based corrections can be interpreted in a positive way rather than condemned as net-widening. The former Director-General of Corrections in Victoria, Bill Kidston, said that an increase in numbers from 3689 in June 1984 to 6,078 in June 1987 was 'in the order of increase expected given the provision of a statewide service with flexibility in sentencing options and strict monitoring of all offenders' (Kidston 1987). This was after commenting that the success of a good diversionary program is the extent to which it limits the inevitable net-widening which comes from courts being more likely to use new viable options.

Morris and Tonry (1990) challenge the notion that 'intermediate punishments' should be seen as alternatives to imprisonment any more than an alternative to probation. They are therefore challenging the conventional wisdom that any person being sentenced to any disposition, as an 'alternative to an alternative' (Zdenkowski 1987), necessarily constitutes net-widening (Leivesley 1986). It may just be that a sentence which appears more intrusive may be entirely appropriate and justified in all the circumstances of the case.

One cost of the emphasis on targeting programs to achieve maximal division without widening the net is noted by Jones (1990) writing on community corrections in Kansas. He comments that 'support for rehabilitation has waned considerably, and the current predilection for a deserts philosophy combined with the seemingly intractable problem of prison overcrowding has shifted the focus of contemporary community corrections from rehabilitation to more utilitarian, system-oriented goals'.

Future Directions

Victoria could be said to be on the threshold of an exciting further stage in its sentencing history. The major recommendations of the Victorian Sentencing Committee have been incorporated into legislation to come before parliament in the current session (1990). A major change is that a hierarchy of sentences is included and all offences have been linked into the hierarchy. It is further proposed that a Judicial Studies Board will be established with the task of developing sentencing guidelines. As Morris and Tonry (1990) observe;

> Until sentencing guidelines direct judges to use intermediate punishments in appropriate cases, and to select among them and between them and jail or prison terms, these sanctions will continue to be underused, little respected adjuncts of probation (Morris & Tonry 1990, p. 9.)

The guidelines are also seen as necessary to avoid the failings of the alternatives to prison movement. The proposed Board in Victoria thus offers potential for developing much needed guidelines for sentencers.

A final development concerns the proposal for diversified supervised community-based dispositions in addition to the community based order. Firstly, it is proposed that a community work order be created with the sole condition that the person undertake a specified number of community work hours. The order will only be available for offences in the tenth and eleventh levels of a 12-level hierarchy of offences, and will avoid the current

net-widening effect of having a person who has completed their required hours of community work after, say, two months, but who is still under supervision because the court fixed a 12-month community based order, the core conditions of which must still be enforced. If the court wishes to impose drug testing and treatment conditions for example, then a community based order should be used. It is estimated that 40 per cent of orders where community work is required could be community work orders, thus offering significant diversion.

The second proposal is to enable conditions to be imposed when a suspended sentence of imprisonment has been fixed. The current suspended sentence provision does not allow for any treatment testing or other conditions to be added. As discussed earlier, there is a strong indication that many sentencers would impose a supervised community-based sanction if in so doing they could invoke an imprisonment term as the penalty suspended conditional upon certain stringent conditions being met. It is argued, of course, that such a degree of intrusiveness is required if there is to be any chance of extending further the preparedness of sentencers to see a community-based sanction as appropriate where imprisonment is currently being imposed. The risks, given experiences with other orders and in other places, are real, but there is the prospect of having guidelines promulgated which will provide direction as to the circumstances in which it is appropriate to impose such an order. One would be hopeful that such guidelines would exclude a suspended sentence with conditions if the circumstances equate to those where a community based order would currently be given. The sentence will only be available for offences in the more serious categories on the hierarchy, and this too should serve as a constraint to net-widening tendencies.

As can be seen, having come through one period of dramatic change, Victoria is poised to begin another phase in the continuing search for the elusive ideal range of sentencing options which satisfy all the expectations placed on the sentencing statutes and those who enforce them.

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EVALUATING IMPRISONMENT AND PAROLE: SURVIVAL RATES OR FAILURE RATES?

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RECENT EXPERT REVIEWS OF THE ROLE OF SENTENCING SUGGEST THAT 'JUST desert' should be the primary aim of sentencing policy and that the aims of deterrence and rehabilitation are relevant but secondary (Australian Law Reform Commission 1988; Canadian Sentencing Commission 1987). Thus 'just punishment' which stresses proportionality, certainty and limited executive discretion restricts the extent the sentencers can pursue deterrent or rehabilitative purposes.

This paper addresses the issue of the utility of parole in particular and penal sentences in general. Suffice to say that the notion of 'just desert' is vague and when realised as a practical tool of sentencing in the form of presumptive or fixed sentencing guidelines, may trade one set of problems for another.

Given the currency of such criticisms it is not surprising that parole, often described as the rehabilitative sentence, should be considered one of the chief causes of disparity and uncertainty. Consequently it has become the primary target of 'just desert' reformers and a symbol of the 'charade' in sentencing. Parole offends the principle of certainty by enabling the amount of punishment to be varied by a tribunal which may consider factors such as future risk and adjustment to custody more important than the culpability of the offender. In addition, parole tends to have the effect of producing 'sentence equalisation', that is it distorts the sentence relativities between offences of different seriousness (Dixon 1981; Canadian Sentencing Commission 1987; Great Britain 1988). However, parole's function is also control and must be considered in this light as well.

The focus on parole (a quasi-indeterminate sentence) is thus understandable in the light of the above discussion for it reflects the promise of 'positivism'—that the intervention of imprisonment and programs of correction will enable experts to fine tune the release of the offender to maximise the benefit of the intervention. In practice this so-called 'medical model' has little current relevance, for the benefit of parole is more likely to be seen in the additional control it provides on release and the reduction in the use of expensive custodial resources. Moreover, it hardly reflects the position of 'positive' criminology, as it would

now be formulated by its current advocates, who stress the utility of the scientific method rather than a deterministic theory (Gottfredson & Hirschi 1987).

Enthusiasm for the reformative benefits of parole had waned by the mid to late 1970s along with the general conviction that treatment interventions of all kinds made little or no difference to the success or failure of prisoner rehabilitation. Evaluation of the efficacy of prison 'treatment' programs by Lipton, Martinson and Wilkes (1975) and the more frequently cited summary by Martinson (1974) led to the pervasive view that 'nothing works'. While subsequent work tended to modify this view significantly (that is some things work for some cases), the issue is hardly settled (for example, *see* Van Voorhis 1987; Gendreau & Ross 1987; Doob & Brodeur 1989; Gendreau 1989). Furthermore, the cherished view that incarceration inevitably resulted in long-term negative side-effects has been rigorously challenged (Walker 1983).

The 1980 Australian Law Reform Commission (ALRC) interim report on sentencing endorsed the view that 'treatment' failed, prison was harmful and did not deter. The report ushered in the new neoclassical mood by recommending the abolition of parole or failing that, reforms aimed at reducing discretion and enhancing certainty—'just desert' reforms. The revised recommendations of the ALRC (No. 44, 1988) final report retreated only marginally from these views recognising the resistance to abolition and the possibility that community supervision had real merit (Vodanovich 1987). The final report in reality reconstructed parole as supervised remission albeit on the proviso that maximum penalties were reduced and the use of imprisonment statutorily limited. It was assumed that the new alternatives would also act to divert offenders and not net widen.

Two Western Australian government reports seriously questioned both the administration (Parker 1979) and the effectiveness of parole (Dixon 1981). The latter report suggested that parole contributed to the high rate of imprisonment because courts set unrealistically high head sentences. Lengthy parole periods meant that many persistent petty offenders were caught inevitably in the trap of never completing their sentences because the default provisions required that the whole of the parole period must be served as well as any new sentence. Thus for parole failures the system triggered lengthy incarceration. Neither of these reports addressed the relative efficacy of parole compared to other measures.

Public disquiet about sentencing practices and parole, and early release in particular (perennial by all accounts: *see* Radzinowicz & Hood 1986) has engendered a spate of politically inspired reviews of sentencing, especially parole. Significant changes to the operation of parole have already occurred in a number of states including a major overhaul of the Western Australian legislation. Yet despite this a Parliamentary Committee of Inquiry is currently conducting a broadly based review of parole in Western Australia seemingly inspired by the controversy surrounding the 'real' sentence served by the killer of a taxi driver. A history of these reviews tends to show that committees are prone to want to have 'a bet both ways' endorsing both retributive and preventive approaches. The difficulty with such reviews is that the temptation to 'tinker' with the criteria or the discretion to grant parole is considerable but the effects are likely to be inconsequential at best or at worst contribute to increases in imprisonment (Weatherburn 1986, 1984).

Legislative Action

Recommendations for the substantial curtailment of release discretion by the ALRC (1980) have largely been followed in principle by the amendments introduced by the Western Australian Parliament by the Acts Amendment (Imprisonment and Parole) Act 1987. In other jurisdictions a similar tendency to restrict early release—South Australia (in 1983), Victoria (in 1985) and New South Wales (in 1989)—has resulted in legislation to redefine parole and reconstruct penalties to enhance certainty. During the reform process aimed at

expanding alternatives to imprisonment, traditional sentencing practices have fundamentally changed, but the reductionist potential of parole remains as important as ever.

Despite the diversification of control, prison populations are high (most serving very short sentences) and alternatives may in fact colonise new populations whose failure to be diverted guarantees a stage army of recruits for prison.

The new Western Australian legislation (effective May 1988) removed the Parole Board's discretion for most common offences but created a special category of violent ('dangerous') offences for which release discretion was maintained. These special offenders were defined as those sentenced to terms of five or more years for offences against the person. The review of such cases required the discretion of the Parole Board. In effect, the new amendments created a fixed formula for calculating minimum or mandatory terms (s. 37A (a), (b)), set limits on parole supervision (to a maximum of 2 years) and allowed for the counting of 'clean street time' in the event of breach or re-imprisonment. Discretion was retained for the setting of parole conditions and advice on the release of offenders incarcerated for life terms, 'special terms' and Governor's pleasure sentences.

Thus recent reforms to parole legislation in WA have curtailed discretion on the release of parole prisoners but have reinforced judicial discretion at the point of sentencing. In New South Wales the situation is more complex with parole being more or less automatic for minimum terms of 3 years but entirely discretionary for longer sentences with the onus on the prisoner to establish suitability before the Board. Furthermore the new Act (Sentencing Act 1989) now permits courts to decline to fix minimum terms providing special reasons are given. Hence the situation in this jurisdiction can be characterised as very limited discretion at court, but wide discretion at release.

Thus, in contradiction, parole in the reformed states is either a reviewable (NSW, Victoria) or a fixed sentence (WA, SA) and the discretion to fix a parole sentence by the courts either significant (WA, Victoria) or restricted (SA, NSW). Moreover the discretionary release decisions, for indeterminate sentences such as life imprisonment (in all its various forms) and those arising from insanity and the rarer 'habitual' criminal statutes remain virtually intact. The exception appears to be Victoria where virtually all criminal penalties are fixed.

In Great Britain a recent review of parole (Great Britain 1988—the *Carlisle Report*) has led to the limitation of discretionary powers but the retention of significant discretion in the release of dangerous and uncooperative offenders (defined as those serving lengthy terms) (Great Britain 1990, p. 29).

In adopting the bulk of the *Carlisle Report*'s recommendations, the White Paper declared protection of the public, prevention of re-offending and successful reintegration the major aims of parole. In abolishing remission and replacing it with automatic parole (at 50 per cent of term) for sentences less than four years, and selective release for those serving four or more years, the reform of parole in the UK is a classic compromise. The need to recognise the claims of 'just deserts', the problem of overcrowding and demand for protection have combined to produce a reformed parole system which may not act to re-sentence but must predict 'serious harm to the public' (UK 1990, p. 33).

While the White Paper stresses the need for clear and published criteria for parole release decisions the main question is the potential risk to the public. American style parole hearings are not favoured but published criteria, the giving of reasons, less restrictive access to reports and mechanisms for direct input from the prisoner, are thought to provide enough openness short of costly formalisation of proceedings.

Ashworth (1983, 1989) has noted that with few exceptions sentencing policy and practice operates in a legislative vacuum, the role of legislatures (in common law origin jurisdictions) is usually limited to the expression of statutory maxima and give no general guidance as to the purposes of sentencing. Furthermore he has argued that given the

generally highly select nature of the offending population brought before the courts an unrealistic emphasis is placed on the 'crime control' function of sentencing. In other words, the importance of sentencing and the proliferation of alternatives as a solution to the crime problem is over-rated. Within such a context piecemeal changes to penalties and aspects of sentencing (such as parole) risk confusion of purpose, enhance inequalities and do little to address the issue of public confidence.

The question is, are there any benefits in the use of parole (irrespective of what the official intentions are) which we may need to weigh up in considering its suitability within an overall legislatively sanctioned sentencing policy?

Evaluating Penal Policy—Parole Effectiveness

Measuring the effectiveness of penal policy is inherently complex but a recognised method of evaluation is the incidence of recidivism (which may be defined as re-imprisonment or reconviction). While recidivism rates or the probability of recidivism can be compared for different release methods or sentence forms, any differences found cannot be attributed automatically to the penal method. In the absence of experimental research which meets the test of randomly assigned cases to control and experimental conditions, comparisons must be made using statistical methods of varying utility to simulate such conditions.

The main problem encountered is whether the differences produced (if any) can be attributed to a program effect or the selection of cases, that is its the people not the program that 'cause' the effect. Parole, in theory, is a classic form of this problem because at sentencing judges select offenders for parole on the basis of the offender's suitability for this form of sentence. However, the degree to which judges consciously select for success or 'suitability' when determining sentence is unclear. In Australia, the usual practice has been to grant parole to those eligible (usually defined by any sentence of prison one year or longer) unless there is strong evidence that the offender is unsuitable, dangerous, or has previously failed while on parole (although the latter criteria has not been decisive).

A further complication in Western Australia is that over time the eligibility for parole and the readiness of courts to utilise parole has changed. The presumption in favour of granting parole has undergone three distinctive (and overlapping) phases. Firstly, from its introduction in 1963 to the early 1970s parole was seen as a special sentence reserved for offenders who demonstrated some prospects of rehabilitation. From the mid 1970s to the mid 1980s the courts awarded parole sentences more or less automatically and only exceptional cases were given fixed sentences. Similarly the Parole Board also had developed practices that resulted in over 90 per cent of cases being released on or near their earliest eligibility date (usually about 40 per cent of the maximum sentence). By the mid 1980s the presumption had shifted back to a more discretionary approach by the courts (strengthened by amendments to the *Offenders Probation and Parole Act 1963* in 1985) and parole was again seen by judges as an 'individualised' sentence (*see* Figure 1).

Figure 1

Changing Discretion in Parole Provision and Release

1963-1973	1974-1983	1983-1987	1988 +
	COURTS		
high to medium	medium to low	medium to high	high
	PAROLE BOARD		
high	high	high	low

These stages can be seen as reflecting the ideological shifts in penal policy (from rehabilitative aims to 'just deserts' aims) and the result of an evolving case law guiding the decision to grant parole and specifically the rules for fixing of minimum and maximum terms. While the significance of selection in evaluating parole has varied over time, it is important to bear in mind that in terms of release, refusal and deferment were always the minority of cases despite the unfettered nature of the Parole Board's discretion. Nevertheless, from an evaluative perspective it can be deduced that in general terms those denied parole were selected by judges as bad risks or undeserving but those 'selected' for parole cannot be assumed to have been positively selected on the basis of an assessment of likely success.

In the absence of detailed research on the use of pre-sentence reports, the attitude of judges and the effect of crown appeals, it is difficult to be more precise about changes in discretion. Nevertheless the proportion of eligible prisoners on parole steadily increased in the 1960s and apart from a brief decline in the late 1970s has continued to represent the dominant sentence for the relatively small proportion of prisoners (<20 per cent) serving sentences greater than one year. While much has been made of 'unfettered' judicial discretion at the point of sentence, it seems apparent that the courts will not depart too readily from the existing presumption that parole ought to be granted unless the characteristics of the offence and the offender's prognosis are poor.

Parole Outcome and Parole Prediction

The research on parole effectiveness has generally taken two distinct but inter-related forms either concentrating on prediction of parole success or evaluating parole as a penal measure relative to other interventions. Difficulties encountered in predicting which factors are most material to success and consequently identifying high or low risk prisoners, require very different levels of precision than required by measuring whether or not one group or another fails less or more frequently.

It should be noted that the criticism of parole on the grounds of ineffectiveness (as distinct from the arguments based on the aims of sentencing) has not always been grounded in analysis of outcome studies. The main objection to the use of prediction methods is that the decision to release or not should not be made on the basis of the statistical prediction of subsequent behaviour—we should punish for past deeds not crimes that may be committed in the future. The perception of success or otherwise of parole has been inevitably caught up with the capacity to predict and to identify risk. This is a difficult if not impossible test for any penal measure to meet, and indeed to focus on this aspect of parole may well result in overlooking the more mundane benefits of improved control and less costly prisons.

In prediction studies the problem of 'false positives', that is over predicting the numbers of prisoners who will fail, has proved insurmountable. While prediction and follow-up studies mostly involving United States prison populations have consistently shown that some factors increase or reduce the probabilities of failure (Morris et al. 1975; Cavendish 1982) these methods are relevant to whole populations and not to individual prediction. Nevertheless, prediction models such as the Salient Factor Score are used by the United States Federal Parole Commission in its decision making guideline matrix (*see* Hoffman & DeGostin 1974 and Gottfredson et al. 1974). The prediction models are based on actuarial studies of parole outcome akin to general recidivism studies, but attempt to predict the outcome for individuals based on the relative weight attached to both legal (for example, prior to record) and extra legal factors (employment record). For ethical and constitutional reasons race, which has been shown to be highly predictive, is excluded.

Fundamental objections about the form of executive decision-making employed by parole statutes (the prisoner is not heard, meetings are secret) are grounds for discrediting parole and detracting from its usefulness. Australian authorities, like their English counterparts, seem reluctant to democratise parole decision making and subject the matter to public hearing. Such 'concessions' to public will and prisoners' rights have been avoided by the device of statutory mandatory release for most cases but the demand for prediction and the prevention of dangerous offending will always be a prime cause of public concern.

The study of parole as a penal sentence sheds some interesting light on this issue, for parole has been sold on the capacity both to reduce risks and to calibrate release to maximise the benefit of imprisonment. These days the realist would simply argue that it is 'cost effective'.

Western Australian Studies

Studies of the recidivism of Western Australian adult prisoners have been based on the population of prisoners released for the first time from Western Australian prisons between July 1975 and June 1987—some 16,400 cases. This database permits very long follow up of ex-prisoners and enables accurate estimates of recidivism (defined as re-incarceration) to be calculated. These studies have a bearing on the effectiveness question and are summarised below, but because the data are not available at present beyond July 1987, it is not possible to compare the old parole system with the new system of fixed release that became effective in 1988. Nor do we address the reactions of prisoners to any of the potential benefits supposed to arise from the removal of uncertainty except in a small minority of cases. Moreover, the nature of work release has also been fundamentally changed so that it is not possible to generalise precisely about the utility of existing practices.

Recidivism Base Rates—Western Australia

General estimates of the probability of ultimately returning to prison for any offence have been calculated by Broadhurst et al. (1988). These estimates are compared with a subsequent follow-up study using extended 1975-87 data in Table 1 (Broadhurst & Maller 1990a).

Table 1

General Recidivism in Western Australia

Category	Probability (per cent)		Median Fail Time	
database	1984	1987	1984	1987
Male Aboriginal	80 per cent	76 per cent	11 mths	11 mths
Male non-Aboriginal	48 per cent	45 per cent	18 mths	18 mths
Female Aboriginal	75 per cent	69 per cent	16 mths	16 mths
Female non-Aboriginal	29 per cent	36 per cent	20 mths	23 mths

In the later study it was found that generally recidivism was falling although the time to fail remained rapid bearing in mind re-arrest. The fall in recidivism was attributed to changes in the definition of police offences and sentencing policy rather than to the effect of prison programs (*see* Broadhurst et al. 1988, Broadhurst & Maller 1990).

Many factors apart from race and gender were found to vary recidivism significantly, such as:

- **age (the young did worse);**
- **length of incarceration and offence (more serious offences and those serving longer than six months did better);**
- **release type (participation in work release/parole reduced risk);**
- **prior imprisonment (those with prior imprisonment did worse);**
- **employment and education status (those with jobs and qualifications did better).**

Most of these factors interacted or were confounded, and effects including those attributable to education and work release programs (education, work and work release) were mostly observed in relation to non-Aboriginal subjects. Aboriginality was such a powerful discriminator that it tended to mask these factors for Aboriginal prisoners. The effects were not only limited to modest reductions in failure, but also to the time to fail. Interestingly, no evidence was found for a relationship between the commission of internal prison offences and a higher level of recidivism, although a past record of escape was related to higher recidivism for non-Aboriginals.

Certainly the main factors that required statistical control in order to assess effects specifically of a measure such as parole were identified (that is race, sex, age, actual term/offence and the number of prior terms).

Parole and Recidivism in Western Australia

Some 16 per cent of the study population were released to parole on their first term of prison. Those released to parole fared better than those released to finite sentences or those released following time served for fine default. As the number of female cases tended to be too small for reliable analysis using detailed covariate survival analysis, estimates of female parole are not reported here—they tend to follow the same pattern as males. The results reported in Table 2 are general estimates and do not take account of possible interactions between factors and provide only general estimates.

The results in Table 2 demonstrate that the differences between parole and finite sentences are significant. Seven per cent of the 32 per cent of parole failures were attributed to breaches of parole (that is either 'technical' violation of parole orders or reconviction during the parole period). Other factors such as employment, cash and accommodation on release had significant effects on lowering recidivism and obviously interacted with parole release.

Table 2

Recidivism by Release Type (Male only) 1975-87

Release Type	Aboriginal	Non-Aboriginal
parole	67%	32%
median time to face	14 mths	27 mths
n =	[188]	[2,194]
finite	77%	49%
median time to face	10.5 mths	17 mths
n =	[2,975]	[6,869]
fine	70%	46%
median time to face	22 mths	17 mths
n =	[232]	[1,162]

Parole prisoners ultimately do better on first release even after age and time served are controlled. The effect does not appear to diminish with each subsequent release from prison, however the number of cases rapidly falls away at each subsequent return making analysis less reliable (*see* Table 3).

The database also included some 623 (10) non-Aboriginal prisoners who participated in the work release program. Their recidivism was much lower at 25 per cent and those failing took longer to do so than average. There were only 38 male Aboriginal participants which did not permit reliable analysis, nevertheless the best fit estimated a lower recidivism of 43 per cent. Too few cases of females involved in work release were available for reliable analysis.

Table 3

Recidivism by Release Type compared for 1st to 5th Return (Male Non-Aboriginal)

	Release Type	% Fail
1st Release	Finite	48%
	Parole	32%
2nd Release	Finite	63%
	Parole	57%
3rd Release	Finite	70%
	Parole	60%
4th Release	Finite	70%
	Parole	*83%
5th Release	Finite	76%

* analysis shows that failure curves cross over but the rate of parole failure is less than for finite prisoners.

Parole—a Covariate Study

In the covariate study (that is, employing statistical control of the main effects by matched groups and using a log likelihood ratio test to measure significant differences) parole prisoners are matched with non-parole prisoners on key variables so that age, time spent in prison, prior prison record and offence are comparable for each group. Because too few

females and Aboriginals were the subject of parole orders, we exclude them from this analysis, thus the results refer to male non-Aboriginals only. The results for age and time in prison are shown in Table 4.

Table 4

Parole and Non-parole Prisoners—By Age and Time in Prison

(a) AGE AND RELEASE TYPE

	<20 Years	21-40 Years	40 + Years
Finite	66%	44%	37%
Parole	52%	30%	24%

(b) TIME IN AND RELEASE TYPE

	90-180 Days	181 + Days
Finite	48%	45%
Parole	37%	33%

In the analysis of offence type and parole little or no difference was found in ultimate outcome, but the time to fail was significantly later for the parole group.

The covariate analysis undertaken shows that parole prisoners have lower recidivism when age, period in prison, race, sex offence and prior incarceration are controlled. Thus the prima facie evidence is that parole prisoners have lower recidivism even after a number of important selection factors have been controlled. These results establish a positive case that parole as a penal measure is more effective than a finite sentence. The onus for establishing that parole should be abolished on the grounds that it does not work has shifted to its critics.

Other Australian Studies

Two other Australian studies are helpful here. Firstly, a South Australian study (Department of Correctional Services and Office of Crime Statistics 1989) evaluating the impact to legislative changes to parole in that state and an evaluation of New South Wales' controversial early release scheme (Thompson 1989). Both employ failure or survival rate analysis but opt for a non-parametric version. This method can be criticised on a number of technical grounds. Furthermore, as both studies did not control for prior incarceration, the estimates produced are confounded and cannot be compared with our own population. An additional difference is that both studies used reconviction as their definition of recidivism although estimates for re-imprisonment were also calculated.

In short the New South Wales study found that a sample of prisoners (n=762) released under the defunct release on licence scheme had significantly better two-year recidivism rates than those prisoners released on remission or parole. Parole prisoners performed only marginally better than those released unconditionally. The major problem with this study was that no attempt was made to control for selection factors, as the early release group was comprised of prisoners selected from both parole and finite sub groups and hence 'lower risks' were presumably selected out of both of these groups. The results for re-imprisonment after two years were 22 per cent for the licence ('select') group and 34.5 per cent for the combined parole/remission group and for reconviction 47 per cent and 63 per cent respectively.

The South Australian study (a sample of 886 prisoners released between 1982-85) attempted to determine if differences in the recidivism of prisoners resulted from the removal of discretion to set a parole release date. The South Australian Parole Board under the 1983 amendments no longer determined release dates, these being fixed by the sentencing court.

Thus under South Australian legislation parole release became fixed rather than discretionary and release on parole was no longer a matter for the parole authority. The situation is similar to the present legislation in Western Australia in relation to the discretion of the parole board, but the court is required to fix a non-parole period for sentences of imprisonment exceeding one year.

The South Australian study found that the 3 years and 6 months reconviction rate for 'selected parolees' (that is prior to the 1983 changes) was 47 per cent, for unselected parolees 60 per cent and for those released unconditionally 77 per cent. While re-imprisonment rates were computed only the five years re-incarceration rate is reported (across all cases) and this was 38 per cent. It is worth noting the conclusion of this study.

> It is an irony of a selective parole approach, such as the pre-1983 system, that prisoners who earn parole may be those who are least in need of supervision on release, while those who are denied parole may most need it (Department of Correctional Services & Office of Crime Statistics 1989, p. 60).

These lower levels of recidivism for paroled prisoners have been consistently found in many outcome studies (most researchers now concede a modest effect of supervision). However, few studies have controlled for prior record or prison terms and most have used samples rather than populations. Given the very different probabilities of recidivism for subsequent returns to prison that is from second to third and so on, a critical factor in these studies is the proportion of first, second, etc. offenders found in the sample. The composition of the sample thus could greatly affect the overall estimate.

Future Research: 'Criminal Careers' and 'Career Criminals'

In a preliminary study of criminal careers undertaken for the Australian Criminology Research Council (Maller & Broadhurst 1989) the probability of recidivism for each subsequent return to prison was estimated.

Table 5

One Step Probabilities of Recidivism 1975-87

	Males		Females	
Return	Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal
1	.76	.45	69	.36
	(3639)	(11,051)	(971)	(720)
2	.84	.63	.75	.43
	(2.292)	(3,538)	(490)	(153)
3	.88	.69	.79	--
	(1,598)	(1,603)	(209)	(48)
4	.89	.76	.84	--
	(1,147)	(803)	(192)	(14)
9	.95	.87	.97	--
	(278)	(40)	(65)	(1)

Table 5 shows that for each return to prison the probabilities of recidivism increase, eventually approaching absolute certainty. It was estimated that 19 per cent of the study population accounted for about 58 per cent of all the terms of imprisonment served by the population. From these results it was possible in another study (Broadhurst & Maller 1990b) to estimate the duration of a prisoner's career by calculating the number of prison terms expected over a lifetime. The prison 'careers' for our population were estimated in Table 6 as follows:

Table 6

Duration of Prisoners' 'Careers'

Gender	Race	Expected number of prison terms
Male	Aboriginal	11.3
	Non-Aboriginal	2.8
Female	Aboriginal	10.1
	Non-Aboriginal	<2.8

To illustrate the significance of these findings, suppose that by programs or some other intervention the probability of recidivism for male non-Aboriginals at the first return to prison could be changed from 0.45 to 0.36, a reduction of 20 per cent (the difference between prisoners released on parole and those released without). Then the expected number of imprisonments would be reduced to 2.41, and about 35 or the 276 imprisonments per 100 prisoners would have been averted. This is substantially less than 20 per cent. This is not a pro rata reduction in number of imprisonments for a fairly large reduction in first time recidivism probability. And no doubt second, third, or more, recidivism probabilities are more difficult to reduce. The implications for the evaluation of program interventions and the ultimate effectiveness of parole are profound.

For male Aboriginals the situation is somewhat different, Here 44 with 1, 2 or 3 imprisonments ultimately, of an original 100, will be responsible for only 72 of an expected 1,129 imprisonments. Thus again most (in fact 94 per cent) imprisonments will be due to the 50 per cent of male Aboriginals accruing four or more sentences of prison. If the probability of recidivism at the first offence could be reduced by 20 per cent from .76 to .61, the expected number of imprisonments in a career would fall to 9.2, for a rather substantial decrease of 2.0 terms and 200 imprisonment overall.

Given the frequency of incarceration of these persistent offenders, attempts have been made to identify these 'high risk' offenders (Blumstein et al. 1986), but as discussed above, prediction methods continue to over-estimate failure substantially. While the selective incapacitation policies arising from this form of analysis may be appealing as a 'quick fix', the theoretical sophistication of prediction techniques exceeds the quality and comprehensiveness of available and foreseeable databases.

Seriousness of Recidivism

As the recidivism estimates generated so far have been based on the definition of return to prison for any offence, a rank order offence seriousness classification was introduced and estimates for returning for a more serious offence or the same or more serious offence calculated using failure rate analysis. Such a refinement addresses the criticism that

recidivism studies are too crude and fail to qualify whether or not recidivists improve in terms of the severity of their re-offending.

A simplified version of the severity code employed is illustrated in Figure 2.

Figure 2

Seriousness Scale—Summary

traffic offences	1
disorderly conduct	2
drunk driving	3
vehicle theft	4
hinder/resist police	5
simple assault	6
driving cause death	7
robbery	8
rape	9
murder	10

Estimates of recidivism were calculated using various versions of this severity code and seriousness measured only by the length of actual time spent in prison. Interestingly, virtually no differences in estimates were found as a result of using either classification method. The results suggest that current sentencing practice equates closely with the severity scale's measurement of progression, that is sentences match in an orderly way the appropriate severity of offences. The results of estimates of recidivism shown in Table 7 refer to the next most serious offence, and then the next offence equal or greater in seriousness than a first offence.

Table 7

Probability of Returning

Male		Female	
Aboriginal	Non-Aboriginal	Aboriginal	Non-Aboriginal
Probability of returning for a more serious offence			
46%	24%	48%	21%
Probability of returning for an equal or more serious offence			
63%	34%	62%	33%
Probability of returning for any offence			
76%	45%	69%	36%

Table 7 shows that 76 per cent of male Aboriginals return to prison for any offence, but 46 per cent will return for a more serious offence, whereas the 45 per cent of male non-Aboriginals will return for any offence, but 24 per cent for a more serious offence. It should be borne in mind that these estimates do not take account of the fact that some prisoners would have been imprisoned for very serious offences and thus the chances of committing a more serious offence is low.

A further study (Broadhurst & Maller 1990c) of the criminal careers of this population and in particular the 'careers' of serious offenders suggest recidivism qualified by the seriousness of re-offending is relatively high. In this study detailed analysis of criminal careers of sex offenders, homicide and narcotic dealers was undertaken. Homicide and narcotic sellers were found to have relatively low levels of repetition of offences and probabilities of returning for offences of violence. However, in relation to sex offenders it was found that approximately one out of five of the non-Aboriginals would return for a further sex or violence offence and that one out of two Aboriginals would do so. Those with prior records and under the age of 24 years had high risks of repeating further sex or violent offences. It should be borne in mind that some 80 per cent of non-Aboriginals and 54 per cent of Aboriginals were serving parole sentences for the initial sex offence. Violent offending was classed as any offence against the person and excluded offences against justice such as resisting arrest.

With such relatively high risks evident (given the conservative and limited offending index), it is not surprising that incapacitative and highly interventionist strategies continue to be sought and appeal politically. Public perception of dangerous offending and the assumption that the state can successfully intervene combine to require public safety agencies to employ means to reduce crime and contain known criminals. Thus while the importance of principle or 'just desert' is paramount in theory, in practice, real compromises must be engineered to ensure prevention is enhanced.

Summary and Conclusion

By assigning to 'just desert' the primary role, the nature of penal interventions must be consistent with certainty, fairness and equality before the law. Existing sentencing practices including parole violate this ideal because 'individualisation' of sentencing has prevailed. The success of parole lies in the compromise between certainty of punishment and individualised punishment, sufficient to improve control and to blur the issues. In the end this reflects the reality that our society is undecided and divided about what objects can be achieved by a penal system and what products such a system may create in its wake. As many prisoners eagerly remind us, it is the victim in the future that should most concern us. The kind of penal regimes we institute should bear this in mind and concentrate on the size and nature of the residuum who continue to offend.

Data available on the recidivism of Western Australian prisoners show strong evidence that the failure of parole prisoners (using the re-incarceration definition) is significantly less than for prisoners released unconditionally. Even after statistically controlling for important selection factors, the differences remained strong. These results tell us that parole works modestly better than unconditional release but we cannot be sure why. It appears that short-term benefits of community supervision plus selection factors account for the differences observed. Indeed the effectiveness of parole, in terms of lower recidivism, could be improved by more rigorous selection procedures of the kind used in the United States and Great Britain but no Australian jurisdiction has adopted such formal guidelines.

Although, for the most part, work release prisoners are a subset of paroled prisoners, the factors associated with employment also show an impact on ultimate survival rates and on lengthening 'survival' times. Prison and correctional authorities deserve to be encouraged by the modest reductions associated with these efforts, but as so few prisoners are involved in such programs any benefit tends to be obscured.

Of course this analysis does not tell us if parole is fair or renders sentencing practice more equitable.

Regardless of the difficulties of evaluating penal practices, legislatures should begin by deciding what kind of sentencing purposes should prevail and provide the means for

monitoring practices (for example, Chan 1989). If the legislature opts for 'just desert' as the primary aim, as recommended by the ALRC, then evaluation methods that monitor sentencing disparity will be essential. If, on the other hand, 'protection of the public' is the primary aim, as recommended by the Canadian House of Commons (Canada 1988), then methods that enhance prediction and improve risk assessment will be required. In either case the task of evaluation will be extremely difficult and likely to be inconclusive in respect to either identification of 'disparity' or 'high risk' given current data.

Thus the status and quality of criminal justice information will be critical and a major mechanism for feedback and review. While we should study the outcomes of law, the law must study humanity. 'Offender tracking' data is still largely undeveloped in Australian jurisdictions and integrated cross agency statistics rudimentary—thus our ability to evaluate penal policy is restricted to aggregate measures which lack precision. The evaluation of alternatives to traditional penal measures, given their diversity and uncertain relationship with prison and parole, remains to be done. We are still far from certain that they deliver more than cost savings, and even this has been questioned if net widening and re-stocking prison (those that fail the alternatives) is the ultimate consequence (Hampton 1979, Hylton 1982, Polk 1987). Nevertheless we can assess the performance of alternatives against the traditional measures because recidivism base rates provide a point of comparison.

Finally, it must be said that there are a number of mechanisms short of presumptive or fixed sentencing laws that will improve consistency and certainty, such as a more pro-active role from courts of appeal and the development of sentencing information systems. Likewise there will be circumstances when prediction and assessment of risk of serious re-offending will be necessary in the interests of public safety and the challenge is to qualify these circumstances in such a way as to ensure justice. Parole as a compromise penal measure still continues to offer the best means, if imperfectly, for reconciling these competing expectations.

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KEEPING PEOPLE OUT OF PRISON—WHICH JURISDICTIONS DO IT BEST?

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'IMPRISONMENT IS NOT THE MOST EFFECTIVE PUNISHMENT FOR MOST CRIME. Custody should be reserved as punishment for very serious offences, especially when the offender is violent and a continuing risk to the public.' Perhaps surprisingly this is a quotation from a recent policy paper published by the British Government (1988) when Margaret Thatcher was prime minister. It defines three principles of punishment for serious crime:

- 'restrictions on the offender's freedom of action—as a punishment' (retribution, incapacitation?);
- 'action to reduce the risk of further offending' (deterrence, rehabilitation?); and
- 'reparation to the community and, where possible, compensation to the victim'.

These three principles, it says, can often best be met by supervising and punishing the offender in the community. On average, holding someone in prison for a month in Britain costs twice as much as the average community service order. Imprisonment also has other drawbacks which reduce its effectiveness as a crime prevention measure. The Thatcher Government could not be regarded as being soft on criminals, but it did pride itself on its economic rationalism. Keeping people out of prison can be seen, then, as a result of its economic rationalist approach.

The range of sentencing options available to courts in Australia also includes a variety of means of supervising and punishing the offender in the community. The provision of a range of sentencing alternatives enables a number of distinct purposes of sentencing to be expressed, in different degrees reflecting the nature of the offence and the circumstances of the offender. These purposes include deterrence (both general and specific), retribution, incapacitation, rehabilitation and reparation.

Whether courts, and the sentences they impose, are actually effective, in the sense that they achieve any of these goals, ought in theory to be capable of determination. This should be achievable by reference to properly defined statistics of overall crime rates, rates of re-

offending, rates of reparation, or even in terms of broad community satisfaction. Whether they are **cost**-effective, which is the economic rationalist's means of evaluating public policies, is then almost a routine comparison of the relative costs of the various sentence types and their measured effectiveness. Maximising cost-effectiveness is a standard goal of public policy, once the objectives of that policy are defined.

Each of these types of measures of effectiveness in isolation presents major problems, however. We have no reliable ways of measuring how many crimes would have been committed **in the absence of** the sentences passed, so effectiveness in this sense cannot be measured. Indeed we have enough trouble simply measuring how many crimes are committed, as the wide differences between police figures and crime victim surveys demonstrate. Nor have we yet discovered any convincing way to measure the true costs of crime, so we are also unable to measure the extent to which our courts repair the damage it causes. We can, however, conduct surveys of public opinion on sentencing, although these too present a variety of methodological problems (Indermaur 1989; Police Commissioners' Australian Crime Statistics Sub Committee 1986; Walker et al. 1987; Walker & Hough 1988).

The results of such surveys tend to show that public opinion does not differ too much from that of the courts, since, when presented with the full set of circumstances about an offence and the offender, members of the public tend to select sentences similar to those actually handed down by the courts. Whether this means that the courts are actually expressing what the public wants, or that the public is being conditioned by its knowledge of what the courts actually do, is impossible to decide. It does, however, suggest that there is a considerable degree of consensus behind sentencing patterns.

However, consider the following statistics:

- The number of people sentenced to prison in Australian states and territories each year varies from around 70 per 100,000 adults to over 1,000 (Biles 1976-Jan 1988; Walker 1988-).

- The number of persons in prison per 100,000 adults varies from around 50 to over 300 (Walker 1988-).

- The rates of supervision in the community, not counting those under post-prison supervision, vary from less than 100 per 100,000 adults to around 1,000 (Walker 1987, Walker 1988).

- The rates of post-prison supervision vary from under 20 per 100,000 to over 170 (Walker 1987, Walker 1988).

- The average time served by sentenced prisoners in Australian states and territories varies from just over two months to over seven months (Walker 1989).

- The estimated average cost of imprisonment per prisoner per annum varies from about thirteen times the cost of a non-custodial order to almost forty times (Walker 1988).

These figures do not resemble the results of a considerable degree of consensus. In fact it looks as if there is considerable disagreement between Australian jurisdictions as to what forms of correctional treatment are most appropriate. As Table 1 shows, some jurisdictions have comparatively low rates of both imprisonment and non-custodial orders,

some jurisdictions have high rates of both, and some are high in one and low in the other. Surely, these cannot all be rational approaches to the penalisation of crime?

Perhaps differences in rates of crime are responsible for these different correctional approaches? Certainly, jurisdictions with higher rates of serious crime can justify higher rates of imprisonment, by reference to the need for emphasis on the incapacitation (and perhaps retribution and deterrence) functions of sentencing. If not, and if we can assume that each jurisdiction is attempting to maximise cost-effectiveness in sentencing, then there must be widely varying opinions between the states as to the relative cost-effectiveness of the various sentencing options. Costs alone are so divergent, with imprisonment being so much more expensive than community based options, that those jurisdictions which use imprisonment the most must value enormously the incapacitation and other effects which imprisonment is thought to provide.

Some crude calculations based on the rates and costs of Table 1 suggest that, if overall Victorian rates of imprisonment applied in the other jurisdictions of Australia, then total prisoner numbers would be cut by over thirty per cent resulting in potential cost savings of the order of $150 million per year. Specific groups would benefit more than others. For example, if age-specific Victorian imprisonment rates applied across Australia, sixty per cent of teenage prisoners would be serving other types of sentences, with obvious benefits in terms of reducing alienation.

These calculations, however, ignore the possibility that other jurisdictions have valid reasons for their higher rates of imprisonment. This paper attempts to provide a rather more sophisticated means of identifying potential reductions in the use of imprisonment in the Australian criminal justice systems.

The Borderline between imposing Prison Sentences and imposing Community Based Alternatives

Imprisonment and the various forms of non-custodial supervision are in some circumstances seen as alternatives (Walker et al. 1987, Wilson et al. 1986). Most people would agree that some term of imprisonment is absolutely required in some circumstances (such as an offender who is demonstrably a continuing danger to the community). Differences in rates of imprisonment could therefore derive from **differences in crime rates**, regardless of the effects of the various jurisdictions' sentencing policies. Thus a violent society would present its courts with more offenders requiring imprisonment, and could be expected to have more prisoners than a more tranquil one.

Table 1

Key Indicators of Correctional Processes, by Jurisdiction

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	Australia
Annual Receptions of Sentenced Prisoners per 100,000 Adults	164	71	234	491	353	214	1,108	--	206
Imprisonment Rate per 100,000 adults	126	83	133	161	94	83	340	52	116
Non-Custodial Supervision per 100,000 adults	247	135	285	229	200	488	889	94	228
Average Time Served by Sentenced Prisoners (Mths)	7.2	7.4	6.0	3.9	3.0	3.7	2.1	n/a	5.3
Average Cost per Prisoner in $000s per year (at 1988)	41	33	20	36	44	25	33	n/a	35
Average Cost per Community Based Order ($000s per year) (at 1988)	1.8	2.6	0.8	1.0	1.6	1.0	1.6	n/a	1.6

Source: Biles 1976-Jan. 1988; Walker 1982-, 1987, 1988, 1988-, 1989.

This assumed linkage between crime rates and imprisonment rates is, no doubt, affected by differences in the police forces' abilities to apprehend offenders and present a successful case to the courts. Nevertheless, this, in turn, is likely to be dependent upon the mix of offence types which present themselves, since some crimes are naturally easier to bring to a successful conclusion than others.

At the other end of the scale, most people would also agree that imprisonment is totally inappropriate in some cases (such as where a first-offender steals a small item from a shop). Many cases are however, borderline, where some people would impose custodial sentences and others would not. Equally, where a custodial term is imposed, some would have the prisoner serve only a short time in custody, perhaps followed by a period of parole supervision in the community; others would prefer to lengthen the custodial part of the sentence. The differences between jurisdictions may also then be the result of differences in where they draw the line between sending someone to prison and placing them under supervision.

Various reasons are brought forward for drawing the line in favour of a high rate of imprisonment. The argument that 'the public demands greater protection' assumes a knowledge of public opinion rather greater than most pollsters would be willing to admit. Two commonly heard rationalisations—'it works: crime is lower in areas with high imprisonment rates' and 'it is necessary: crime is much too high here'—both rest upon the unprovable assumption that greater use of imprisonment reduces crime.

Equally cogent reasons can be found for minimising the rate of imprisonment. Not least of these is the cost factor (*see* Table 1). The costs of imprisonment quoted in Table 1 do not include any non-correctional costs, such as the loss of productivity of persons previously employed and the costs of welfare support for the families of persons sent to prison. Costs such as these are avoided when the offender is allowed to serve a sentence at home.

A further reason in favour of low rates of imprisonment is the argument that offenders frequently leave prison with greater reasons for offending than when they went in. As the

British policy paper states: 'Imprisonment is likely to add to the difficulty which offenders find in living a normal and law-abiding life. Overcrowded prisons are emphatically not schools of citizenship (British Government 1988).' In other words, prison can **cause** crime. This too is little more than an unproveable hypothesis, however.

Nevertheless, honestly felt convictions such as these are powerful influences on politicians and legal advisers who determine the legislation which controls sentencing options, and thereby define the point at which we draw the line between imprisonment and the alternatives. The only 'hard' evidence either way, however, is the monetary cost, by which criterion it would appear that prison should indeed be used as a punishment of last resort. We could, therefore, regard those jurisdictions which use imprisonment no more than is necessary, given the incidence of crime, as relatively cost-effective.

Crime-Related Imprisonment and Discretionary Imprisonment

If all jurisdictions agreed on the proportion of offenders in each offence category who should be sent to prison, then rates of imprisonment for that offence would be in proportion to the crime rate in each jurisdiction. But as the data show, they do not appear to agree on this point. Even when adjusted for the effects of crime rates, some jurisdictions use far more imprisonment than others.

One could regard the jurisdiction with the lowest prisoner-to-crime ratio, for each type of offence, as being in a sense the most cost-effective. Certainly, they will have the lowest costs per offender. If they are no less effective than other jurisdictions, in the terms outlined above, then they must be the most cost-effective. In the absence of any convincing method of determining effectiveness, however, this must be relegated to an assumption. Any imprisonment in excess of this minimum ratio could be called 'discretionary' imprisonment; that is sentences of imprisonment have been imposed, rather than non-custodial sentences, because of the implicit sentencing preferences of that jurisdiction.

We hypothesise, then, that the reasons for the considerable variation between the Australian jurisdictions in their use of imprisonment and its alternatives can be divided into:

- differences between jurisdictions in crime rates; and

- differences between jurisdictions in where the line is drawn in borderline cases—what we have called implicit sentencing preferences.

Both types of differences may vary according to offence type. Firstly, some types of crime may be comparatively more prevalent than others in a given jurisdiction. Equally, some jurisdictions may regard a particular crime more seriously than others, and hence they may be more inclined to use imprisonment. Some jurisdictions, however, may have a **general** inclination to impose high rates of imprisonment, in which case their use of discretionary levels of imprisonment will be high for all offence types.

Finally, before we go into this attempt to actually measure differences, it must be noted that a pro-rata increase in imprisonment, as a reaction to higher levels of crime, is not necessarily the only valid scenario. Rates of taxation, for example, increase with higher incomes, and it would not be entirely inappropriate that rates of imprisonment **should** be higher than a simple pro-rata for high crime jurisdictions. This could reflect the imposition of increasingly tougher sentences on repeat offenders, for example, which is a common enough strategy.

Measuring the Differences Between Jurisdictions

Difficulties arise immediately, because there are problems in comparing levels of crime across jurisdictions. The two traditional sources of data—police statistics and crime victims surveys—have limitations. Police statistics are known to exclude large numbers of offences which were never reported, and consequently the figures are biased towards such offences as burglary or motor vehicle theft where reportability is high because of insurance requirements. Police figures on some serious crimes, such as homicide and breaking and entering are, however, regarded as reliable and reasonably comparable across jurisdictions. Crime victim surveys present other problems: it is known, for example, that responses vary considerably depending on the period over which the questions relate, the way in which the questions are phrased, and the population sample to whom the questions are addressed. Nevertheless, there is sufficient information for us to make an attempt to identify the level of 'discretionary' imprisonment in the various jurisdictions.

Further difficulties arise in the measurement of the use of imprisonment. Ideally, sentencing statistics should be used in preference to the data on numbers of persons in prison, which bias the analysis because of the way prisons 'hoard' long-term prisoners (Walker 1989). It is impossible to make inter-jurisdictional comparisons from official published data on sentencing. However, estimates of sentenced receptions to prisons, by jurisdiction for the year 1987-88, were presented in an earlier Trends and Issues paper, and these will be used here (Walker 1989).

An example: Homicide

Let us show the mechanics of this analysis by using the crime of homicide as an example. Homicide not only includes murder and attempted murder; in most categories of crime statistics it also includes driving causing death, aiding in a suicide attempt, infanticide, and killing in self-defence. In many cases, particularly in these last three categories, homicides would not necessarily be considered as warranting a prison sentence. It appears to be adequately measured by police statistics (victim surveys do not successfully measure the incidence of homicide, for obvious reasons), so we will start by comparing reported rates of homicide against rates of imprisonment (*see* Table 2).

The first step is to calculate the ratios of persons sentenced to prison to reported offences. Because homicides are rare, compared to property crimes for example, it is best to remove fluctuations in the reported incidence data, by averaging the most recent three years of data. (We probably do not need to do this for most other offence types). The data show that the Northern Territory had an extremely high rate of homicide, while Western Australia had the lowest. If differences in crime rates were the sole determinants of rates of imprisonment, we would expect the same rankings in the rates of imprisonment, but this is not exactly true. South Australia actually had the lowest rate of imprisonment for homicide, with only 0.15 persons sentenced to prison for homicide per reported homicide, while other jurisdictions ranged up to 0.56 persons sentenced to prison per reported offence. While we cannot assume that sentencers in South Australia do not imprison any discretionary cases, we can see that their use of discretionary imprisonment for homicide is **the lowest**; their use of imprisonment appears to be the most economical of all the jurisdictions.

What are the effects of the other jurisdictions' preferences for higher imprisonment rates for homicide? We can calculate an 'adjusted' rate of imprisonment by simply multiplying each jurisdiction's actual rate of imprisonment by 0.15 and dividing by its own prisoner-to-crime ratio. Thus, based on differences in crime rates alone, the Northern Territory would still have the comparatively high imprisonment rate of 2.52 per 100,000 for homicide, while Western Australia would have a rate of only 0.37 per 100,000.

The differences between the actual rates of imprisonment and these 'adjusted' figures can be regarded as estimates of the rates of discretionary imprisonment: that is, the number of prisoners per 100,000 who **could** have been given the less expensive non-custodial alternative punishments. The actual numbers of discretionary prisoners commencing sentence each year can then be calculated, by multiplying by the total population in the jurisdiction and dividing by 100,000.

So we estimate, for example, that 82 people in New South Wales were sentenced to prison terms for homicide during 1987-88 who would have been given non-custodial sentences if they were sentenced in South Australia for the same offence.

The estimates suggest that, for homicide, the Northern Territory and New South Wales are the most punitive, in terms of favouring imprisonment over community based alternatives. South Australia, Tasmania and Victoria are the least punitive.

It must be understood, at this point in the analysis, that these calculations should be used with care. Possible reasons for apparently anomalous rates of discretionary imprisonment in some jurisdictions include:

- homicide offences frequently result in lengthy court cases which may extend beyond the year in which the offence is reported. The rates of imprisonment in 1988 may then be augmented by offences which occurred in previous years, or may fail to account for offences for which offenders have yet to be sentenced;

- the ratio of serious crimes to less culpable crimes may differ between jurisdictions. In jurisdictions where serious offences are comparatively more prevalent, the greater probability of a prison sentence being imposed will increase the ratio of prisoners to reported crimes, and hence inflate the estimated rate of discretionary imprisonment. It appears that an effect of this sort could have operated in Western Australia in 1987-88, since over a quarter of persons sentenced for homicide were actually murderers—rather higher than appeared to be the case for other jurisdictions (Walker 1989).

Table 2

Separation of 'Crime-related' from 'Discretionary' Imprisonment: Example—Homicide*

		NSW	VIC	QLD	WA	SA	TAS	NT
a.	Estimated Annual Rate** of Imprisonment	2.05	0.97	1.87	1.40	0.79	0.89	4.47
b.	Annual Reported Rate** of Homicide	3.99	4.13	8.21	2.49	5.40	4.54	17.23
c.	Prison Sentences per Reported Crime (= row a/row b)	0.51	0.23	0.23	0.56	0.15	0.20	0.26
d.	Crime Related Rate of Imprisonment (= row a times 0.15/ row c)	0.59	0.62	1.19	0.37	0.79	0.65	2.52
e.	Discretionary Rate of Imprisonment (= row a minus row d)	1.46	0.35	0.68	1.03	0.00	0.24	1.95
f.	Number of Discretionary Prisoners Sentenced per annum (= row e times Total Population /100,000)	82	15	18	15	0	1	3

* Detailed figures for offending and imprisonment in the ACT are difficult to obtain, so that jurisdiction has been omitted from this and other tables. In any case, numbers are very small.
** For simplicity, all rates in this and later tables are calculated per 100,000 total population.
Sources: Mukherjee, S., Scandia, A., Dagger, D. & Matthews, W. 1987; Walker, J. 1982-.

The analysis can proceed to other offence types, however, on the assumption that effects such as these are unlikely to dominate, and are unlikely to affect all offence types in the same way. Thus a jurisdiction which appears to have high levels of discretionary imprisonment in **most** offence types, probably does have an implicit sentencing preference for imprisonment.

Extending the Analysis to Other Offence Types

Discretionary imprisonment is more likely to occur in the least serious offences. The majority of homicides are very serious crimes and result in very long prison sentences which few people would disagree with. Where some jurisdictions may be more 'economical' with imprisonment is in the comparative lengths of the custodial and post-custodial parts of the sentence. With less serious offences, the choice is much more often between prison or not prison, and as Table 3 shows, the levels of discretionary imprisonment are likely to be rather higher than for homicide.

It must be recognised that these estimates depend very much on the inter-jurisdictional comparability of data on crime incidence. Two sources of data are available for measuring crime incidence: published data on crimes reported and/or becoming known to police, and crime victims surveys. Police data are known to be compiled on different bases. The difficulties inherent in using police crime reports for interstate comparisons are well documented (National Uniform Crime Statistics Committee 1989; Van Dijk 1990). In

1983, the Australian Bureau of Statistics conducted a National Crime Victims Survey (Castles 1986), from which can be obtained estimates of the 'true' numbers of crimes occurring in the community. The figures are much higher than those produced by the police, since they include offences which, for various reasons, were never brought to the attention of the police.

Three categories of crime can be obtained which effectively match those for which we have police statistics—they are Assaults plus Sexual Assaults, which together match fairly closely the police category we call Other Violent Offences; Theft or Attempted Theft with violence or the threat of violence, which is equivalent to Robbery and Extortion; and Break and Enter plus Motor Vehicle Theft plus Other Theft, which is roughly equivalent to Property Offences. Table 3 compares the results we get from these two data sets.

The two sets of results presented in Table 3 differ in their estimates of the rates of discretionary imprisonment, particularly in the Robbery and Extortion category of crime. In this case, it may well be reasonable to give more credence to the results produced by using the victims survey data, dated though the survey may be, since the police data on robbery and extortion are not regarded as reliably comparable across jurisdictions (National Crime Statistics Committee 1989).

There is considerable similarity between the other discretionary imprisonment rates measured. The rank order of jurisdictions produced by the two methods is identical for Property Offences and differs only in its placing of South Australia in Other Violent Offences.

It appears that, for Other Violent Offences, the Northern Territory has the highest discretionary use of imprisonment, followed by Western Australia, Queensland and Tasmania. South Australia comes fifth or seventh, depending on which method is used. The rate of violent offences in the Northern Territory is very high, regardless of whether police or victim survey data are used, and it may therefore be perfectly rational for their criminal justice system to be designed in favour of imprisonment for these offences. (It may be argued that, in mathematical terms, an exponential relationship between crime rates and rates of imprisonment is more appropriate than the linear one assumed here). If the victim survey data are used, then Western Australia too has reason for some bias towards imprisonment. Queensland and Tasmania, on the other hand, appear to have comparatively low rates of violence, and would appear to have no need for such a sentencing preference.

Table 3

Crime Related versus Discretionary Imprisonment for Other Major Offence Categories: Comparison between Crime Report Based Estimates and Victim Survey Based Estimates

Rates per 100,000		NSW	VIC	QLD	WA	SA	TAS	NT
Other Violent Offences								
Crime Related	(P)	11.60	3.07	3.42	3.01	18.58	2.98	30.67
	(V)+	7.85	6.34	6.37	10.73	9.29	3.68	14.27
Discretionary	(P)	4.10	3.27	18.88	29.18	0.00	11.75	47.84
	(V)+	7.85	0.00	15.93	21.46	9.29	11.05	64.24
Robbery and Extortion								
Crime Related	(P)	4.26	2.42	1.36	0.83	2.92	0.44	*
	(V)+	3.19	1.61	1.21	2.46	1.53	2.46	*
Discretionary	(P)	0.53	0.00	2.56	2.24	0.52	2.02	*
	(V)+	1.6	0.81	2.71	0.61	1.91	0.00	*
Property Offences								
Crime Related	(P)	20.81	24.12	19.29	29.38	35.51	24.73	37.09
	(V)	27.75	24.12	27.01	35.26	35.51	21.43	53.78
Discretionary	(P)	20.81	0.00	34.73	41.13	0.00	39.56	178.01
	(V)	13.87	0.00	27.01	35.26	0.00	42.86	161.33

(P) Calculated on the basis of Police recorded crimes.
(V) Calculated from Crime Victim Survey results.
+ National average figures were used in components where survey responses for individual jurisdictions were too few for practical estimation.
* Sentenced Prisoners received during 1987/88 were too few to make useful estimates.
Sources: Castles 1986; Mukherjee et al. 1987; Walker 1989.

For Robbery and Extortion, apart from the fact that Queensland appears to be the greatest user of discretionary imprisonment by both methods of calculation, there is little similarity between the two sets of results. It is the least frequent type of offence of the three categories tested here, and the numbers of incidents or numbers of persons sentenced to prison in one year are quite probably too small for this type of analysis. Perhaps it would have been useful to average some recent years' data, as we did for homicide.

For Property Offences, again the Northern Territory has the highest rates of discretionary imprisonment, followed by Western Australia or Tasmania depending on which data are used. Queensland and New South Wales take fourth and fifth places, with Victoria and South Australia in equal last place. The notable feature of this ordering is the low ranking of South Australia, which has comparatively high rates of property crime in both sets of data.

To summarise this section, we can conclude that:

- The use of statistics on crimes reported to police or crime incidence as measured by crime victims surveys can be used as the basis for calculating rates of discretionary imprisonment. Results appear to be similar from the two methods, in that state and territories rankings are generally similar, except for the robbery and extortion category.

- The Northern Territory appears to have a high rate of discretionary imprisonment, particularly for property offences. Very high crime rates in both categories account for much of the Territory's high imprisonment rate, but there is still a high residual. Western Australia, Queensland and Tasmania have the next highest rates, albeit considerably lower than the Territory's. Victoria and South Australia appear to be the most economical users of imprisonment.

Discretionary Imprisonment for Less Serious Offences

The offences discussed above cover three quarters of the people who occupy prison cells at any point in time. However, about half of all persons **sentenced** to prison are convicted of other, usually (but not exclusively) less serious, crimes. These include drug offences, motoring offences, offences against good order, and breaches of court orders such as probation, good behaviour bonds, fines, maintenance or parole. Most of these are so-called **victimless** crimes, and are not covered, either in the national statistics on crimes reported to police or in surveys of crime victims.

With the exception of breaches of court orders, imprisonment would be rare for these offence categories, and would be reserved for the most serious repeat offenders or for exceptionally serious incidents. There is, therefore, considerable scope for discretionary imprisonment. They are also extremely common offences—motoring offenders alone being over a quarter of those who serve prison sentences. They are also offences which are usually detected by police, as opposed to being reported to them. This means that, in many respects, the entire process is a discretionary one. Few drug offenders, motorists or street drunks would even appear in court if the police had not decided to target them in some way.

We could therefore simply look at rates of imprisonment for these offences, and assume that differences between jurisdictions are **entirely** due to differences in the rates of discretionary imprisonment. Table 4 shows the results of such an assumption.

Table 4 shows considerable variation between estimated total rates of imprisonment for these offence categories. Since some jurisdictions very rarely use imprisonment in these cases, it would appear that **the majority** of imprisonment in other jurisdictions is discretionary imprisonment.

Most persons sentenced to imprisonment for breaches of court orders or other good order offences in the Northern Territory, South Australia and Western Australia appear to be discretionary prisoners. These jurisdictions imprison large numbers of offenders for good order offences whereas other jurisdictions imprison hardly any (Walker 1989). A similar ranking applies to motoring offences, except that Western Australia slips to the foot of the table with a comparatively low rate of imprisonment. Queensland appears to use discretionary imprisonment for drug possession offences.

Table 4

Discretionary Imprisonment for Other Offences

Rate per 100,000	NSW	VIC	QLD	WA	SA	TAS	NT
Breaches of Court Orders							
Total	3.19	7.15	9.97	39.05	49.06	28.35	49.15
Discretionary	0.00	3.96	6.78	35.86	45.87	25.16	45.96
Other Good Order							
Total	1.73	2.09	11.73	29.12	34.64	4.69	57.44
Discretionary	0.00	0.36	10.00	27.39	32.91	2.96	55.71
Motoring Offences							
Total	16.05	11.00	57.35	9.88	101.35	64.74	368.92
Discretionary	6.17	1.12	47.47	0.00	91.47	54.86	359.04
Possession of Drugs							
Total	2.92	0.38	9.53	6.46	4.23	0.67	0.64
Discretionary	2.54	0.00	9.15	6.08	3.85	0.29	0.26
Trafficking Drugs							
Total	11.14	4.35	6.58	9.40	1.58	4.46	3.83
Discretionary	9.56	2.77	5.00	7.82	0.00	2.88	2.25

Drug trafficking offences reflect Sydney and Perth's international port status, and probably ought not to be included in this group of offences. If statistics were available on the relative frequency of such offences in each jurisdiction, then the calculations of discretionary imprisonment should have followed the methodologies of Table 3. The results then would probably have shown New South Wales and Western Australia, in particular, having much lower rates of discretionary imprisonment.

The Costs of Discretionary Imprisonment

We can use these estimates, finally, to see what sort of effects would result from the replacement of discretionary prison sentences by community based alternatives. Table 5 shows estimated total numbers of discretionary prisoners in each jurisdiction, based on the preceding discussion. (The victim-survey based estimates from Table 3 were used for the Other Violent Offences, Robbery and Extortion and Property Offences in preference to the police-based estimates. The drug trafficking estimates were omitted entirely from the calculations.)

In these calculations we assume that the prisoners serving the shortest sentences (some of whom serve barely a week in prison) are the ones who are switched to non-custodial alternatives, resulting in a conservative estimate of cost savings. Average costs per prisoner and per non-custodial client are used, in the absence of estimates of the mathematically more correct marginal costs. The results suggest that there are net cost savings in most jurisdictions, even in the unlikely event of these short terms in prison all being replaced by the **maximum** probation term of three years.

In the more likely scenario of these offenders being supervised for an average of six months, the cost savings to the criminal justice budget alone would appear to be of the order of $40 million per year. Economies resulting from the employment of offenders, and their contribution to society and to their families would add considerably to this sum.

Many would argue that forms of supervision are already available in most jurisdictions which are more effective than imprisonment—particularly those which result in some positive by-product such as community service work or compulsory driver education. If these forms

of corrections are successfully replacing imprisonment in even one jurisdiction it is difficult to argue against their employment elsewhere. If even the distinctly 'law-and-order' flavoured government of the Margaret Thatcher era espoused such policies, it would be a bold government indeed which tries to explain to the taxpayers of its electorate why it chooses to take a different path.

Table 5

Calculation of Potential Cost Savings

	NSW	VIC	QLD	WA	SA	TAS	NT
Total Persons Sentenced	1,880	278	3,204	1,915	2,585	616	1,079
Average Time Served (weeks)	8.9	2.4	7.5	5.5	5.1	7.5	4.7
Total Prisoner Weeks	16,769	3,779	24,018	10,539	13,052	4,618	5,052
Total Cost Savings ($million)	13.2	2.4	9.3	7.2	11.0	2.2	3.2
Break-even Point (Months)*	47	40	46	47	32	44	22
Cost Savings for 6 Months Supervision ($million)	11.5	2.0	8.1	6.3	8.9	1.9	2.3
Annual Savings per Taxpayer ($)	4.9	1.0	7.9	9.7	14.3	10.0	43.3

* Average number of months of supervision which could be provided for the same costs as the prison sentences.

Conclusion

Sentencing strategies differ tremendously between the states and territories, in their use of imprisonment as a punishment.

This paper has presented some means of evaluating these sentencing strategies in terms of relative cost-effectiveness. The main purpose has been to devise a technique which can highlight where economies could be made, by the replacement of terms of imprisonment for offences which, in other jurisdictions, would not attract a prison sentence.

The paper explores the relationships between crime and imprisonment rates in each jurisdiction, and defines imprisonment in excess of the minimum prisoner-to-crime ratio as 'discretionary'. The concept of discretionary imprisonment can be further developed. High levels of discretionary imprisonment, as defined in this way, are not necessarily indications of a 'lock-em-up-and-throw-away-the-key' mentality, but could reflect a policy of increasingly tough sentences in jurisdictions with high crime rates. The components which lead to such a policy need much further study. But perhaps this methodology is a necessary precursor which allows us to think along these lines.

The methodology is at present necessarily simplistic, using, as measures of the relative prevalence of offending, data which are not particularly good indicators and in any case are some years old. Better data could bring greater confidence in the use of such an analytical method. The results presented here, therefore, should be taken at most as **indicative only** of the potential for economies in sentencing.

For the record, they suggest that New South Wales, Queensland, South Australia and Western Australia have the most to gain from reductions in imprisonment. On a per-taxpayer basis, the Northern Territory still appears to have the most potential for savings in spite of considerable efforts in this direction in recent years. The evidence for a greater than

pro-rata increase in imprisonment in high crime jurisdictions is particularly strong in the Northern Territory case, and the model's results would therefore exaggerate their discretionary component of prison use.

There has been a tendency, in recent times, to cut back on the resources allocated to research and management information systems, as an element of cost-cutting policies in the public services. This study would suggest that this is very bad economics. Savings of some hundreds of thousands of dollars in research are perhaps being achieved at the expense of the ability to identify potential saving of tens of millions.

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NON-CUSTODIAL SANCTIONS, PRISON COSTS AND PRISON OVERCROWDING

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KEEPING PEOPLE OUT OF GAOL IS NOT AS FASHIONABLE AS IT USED TO BE. PART of the reason for this is a growth in general disillusionment with the notion of rehabilitation. Part of it too has to do with a possibly related increase in public antipathy towards crime and criminals. There is nothing new in this. It is not caused by recent media hype or law and order rhetoric.

The trend to harsher law enforcement and penal policies around Australia, I think fairly reflects the prevailing mood of the general community toward offenders. If we believe John Walker (1985), we go through cycles of retributive and rehabilitative attitudes toward offenders.

Presently we have moved into a conservative phase in which the penal attitudes and values of the recent past are looked on with the same sense of disapprobation which marked the historical perspective of reformers in the early 1950s and 1960s.

It has been said that the cycle of penal reform and reaction is governed, like everything else, by economic factors. According to this view when times are good everyone feels more tolerant toward offenders but when economic winds are harsh we become more punitive in our outlook.

Whether or not this theory is true, there is no doubt that the present cycle of penal conservatism occurs at an inconvenient time economically. Most state governments are experiencing extreme pressure to cut back on spending. But everyone knows that among the criminal sanctions available to the courts, far and away the most expensive is that of imprisonment.

Professor Richard Harding reported in 1987 the annual per capita cost of imprisonment in New South Wales at over $26,000. The annual per capita cost of community supervision, on the other hand, he estimated at about $1,300.

We have reached a point in Australia then, when the political imperative of governments in fashioning penal policy is to some extent in conflict with their economic imperatives.

The conflict may be attenuated by looking at more efficient ways by which to manage our penal systems, though a nagging problem of public administration is the fact that control over the input to the penal system is substantially out of the hands of executive government. It is the courts not the government which determine who should go to gaol and for how long.

Parliament usually has to content itself with establishing various sentencing options in the hope that the courts will feel moved to use them on the appropriate sorts of offenders. There are all sorts of good reasons why the executive does not and should not play a direct role in shaping sentencing policy. The doctrine of the separation of powers under the Westminster System is one. The need for judicial discretion in the sentencing of individual offenders is another. Whatever the reason, it is plain the tension between the need to curtail government expenditure on prisons and the need to fashion a penal policy which preserves the confidence of the public are goals not easily pursued simultaneously. To make matters worse, if penal policy cannot be used as the vehicle for reducing prison populations the only arm of policy left is law-enforcement.

Rising rates of arrest over the last decade in New South Wales are largely responsible for the growth in court congestion and prison overcrowding in that state (NSW Bureau of Crime Statistics Research 1989). If fewer offenders were arrested, fewer would be convicted and fewer then sent to gaol.

What, then, is to be done? The purpose of this paper is to discuss the issue of prison costs and overcrowding in relation to the use of non-custodial sanctions. The paper proceeds in four parts.

The first part quickly traces the history of alternatives to custody in New South Wales and examines the evidence on their success in diverting people from gaol. The second part makes some attempt to explain why community service orders and periodic detention have not been used by the courts as alternatives to prison.

The third part looks at the scope for and benefits to be expected from diversion if a suitable method for diverting offenders can be found. The final part offers some brief suggestions on how we should go about assessing the diversionary potential of various non-custodial options.

The Use of Non-Custodial Sanctions in New South Wales

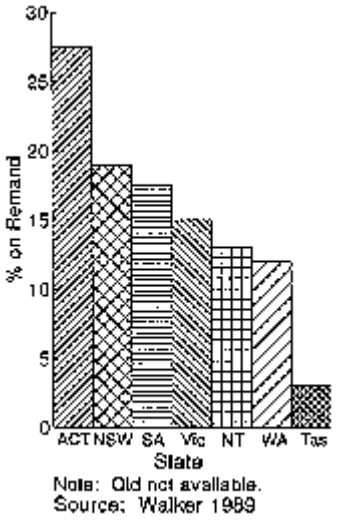
With the notable exception of Tasmania, the proportion of the prison population made up of prisoners on remand, that is unconvicted prisoners (and, in some states, prisoners who have lodged an appeal) is large in every Australian jurisdiction (Australian Institute of Criminology 1989).

Figure 1 shows the percentage of various prison populations on remand as at October 1989. In New South Wales for example, the remand component of the prison population is 19.4 per cent; in the Northern Territory the remand percentage is even higher, at 29.7 per cent.

An obvious suggestion for reducing prison costs and overcrowding is to reduce the number of unconvicted prisoners in New South Wales and other state's gaols. Unfortunately, the potential for reducing gaol populations through measures directed at the remand population is rather more limited than is commonly supposed.

Figure 1

Remand Population by Jurisdiction 1989



The fact of the matter is that the vast majority of remandees, in New South Wales at least, end up sentenced prisoners with their date of sentence backdated to the point of entry on remand. The NSW Bureau of Crime Statistics and Research Criminal Court Statistical Collection shows that only about 11 per cent of those defendants refused bail are acquitted or given a non-custodial penalty. The actual figure is probably lower than this because many of those we record as bail refused have had it refused only consequent upon conviction. It is possible that a few of these prisoners might not have been given custodial sentences if they had not been held on remand. It is also possible that some of them might have been given shorter custodial sentences if they had not been held on remand.

For this reason, the focus of this paper is going to be on the scope for reducing the prison costs and population through efforts directed at sentenced prisoners, specifically, those given non-custodial penalties.

The term 'non-custodial sanctions' is not used in this paper to include fines and various forms of bond, all of which on any literal reading of the term, are clearly non-custodial sanctions. Bonds and fines are excluded simply because they are not presently conceived of as alternatives to imprisonment. Periodic detention centre orders could also be included because, although they are nominally custodial sentences, they are generally considered to be an alternative to full-time custody. Whatever their form, all of these non-custodial sanctions were introduced with the intention of reducing the rate at which people were being sent to prison.

In this respect they are sometimes called front-end mechanisms for reducing prison overcrowding and contrasted with rear-end mechanisms which are designed to reduce prison numbers by increasing the rate at which people exit from prison (Weatherburn 1989).

The first of the front end options introduced in New South Wales was periodic detention. It was introduced in 1971 with some reference in the second reading speech to

the need to reduce the economic costs of imprisonment but more to the need for a broader range of sentencing options (Hansard, vol. 90, November 1987, p. 8041).

For reasons having little to do with the introduction of periodic detention, the prison population fell in the early 1970s but began to rise again during the second half of the decade. The increased demands on government spending this created were exacerbated at the time by a marked increase in the per capita costs of housing prisoners (Mukherjee 1981).

In November 1979, the then NSW Labor Government introduced the Community Service Orders Bill, the second reading speech which expressly identified as one of its objectives the goal of reducing the state's prison population. In 1981, the eligibility criteria for periodic detention orders were widened and the number of periodic detention centres substantially increased (Hansard, vol. 163, March 1981, pp. 4972-4974).

Since that time there has been a progressive increase in the availability of both periodic detention and community service orders. So what effect have these options had on the imprisonment rate they were partly intended to reduce? Figure 2 shows the imprisonment rate in New South Wales since 1960 and the points at which periodic detention and community service orders were introduced.

The data do not provide very compelling evidence that the rate of imprisonment dropped abruptly when these options were introduced.

Chan and Zdenkowski (1986) compared imprisonment rates around Australia with rates of offenders subject to various non-custodial sanctions and found little or no correlation between the two. They argued that if non-custodial sanctions had diverted people from prison then there should have been a negative correlation between the imprisonment rate and the rate of use of non-custodial sanctions.

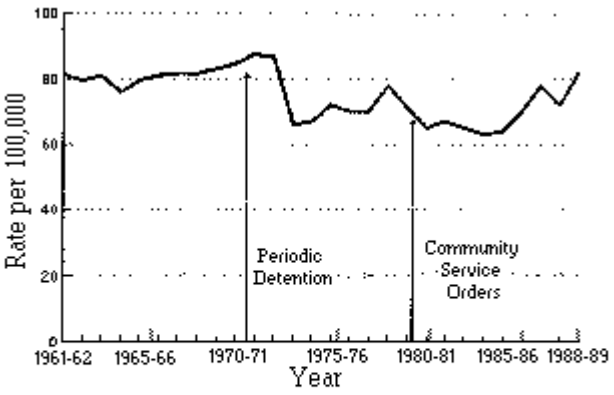
Since no such relationship existed, they were drawn to the familiar conclusion that net widening—already familiar from the United States experience—had occurred here (Hylton 1981). Their conclusions echoed earlier findings established by a different route in Victoria by Fox and Challinger (Fox & Challinger 1985).

Whatever their stated object, non-custodial sanctions in practice seemed to end up being used as not as alternatives to custody but as alternatives to sanctions such as fines. Before enquiring as to why this might be so, we need to take a critical look at the argument leading to Chan and Zdenkowski's conclusion.

Rates of imprisonment, or the use of non-custodial sanctions as Chan and Zdenkowski calculated them, confound the number of people given the relevant sanction and the duration of the sanction (Weatherburn 1987). Two jurisdictions may send the same proportion of their offenders to gaol but differ in their imprisonment rate because one jurisdiction sends them there for longer.

Figure 2

Imprisonment Rate in New South Wales 1961-89



Sources: Chan _Zdenkowski 1986; Walker 1966-89

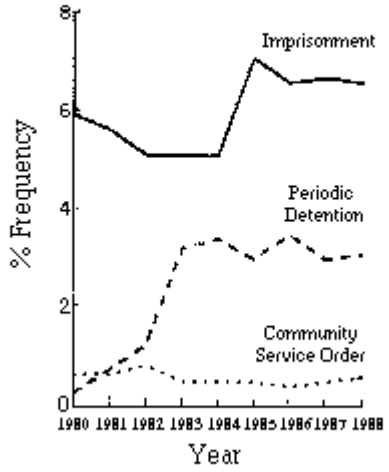
Equally, two jurisdictions may impose non-custodial sanctions on the same proportion of their offenders but differ in their apparent use of these sanctions because the average duration of community service orders in one jurisdiction is longer than that of the other state. Within a given jurisdiction, rising rates of imprisonment might be found together with rising rates of community service orders, not because the orders are failing to divert people from gaol but because, despite the diversion, those who do go to gaol, are going there for longer periods. The reliance on imprisonment and community service order rates has reduced the effectiveness of several analyses of the efficiency of various diversionary schemes (Harding 1987). An obvious way around the problem is to determine sanction usage rates by calculating the relative frequency with which particular sanctions are imposed rather than the number of people subject to a particular sanction (*see* Figure 3).

Obviously the growth in the percentage of people given non-custodial sanctions in New South Wales has not occurred at the expense of the percentage of people imprisoned (almost all of this growth is due to the increased popularity of community service orders rather than any increase in the popularity of periodic detention. Its use has remained steady at about 15 per cent of dispositions.)

Can we conclude from this that non-custodial sanctions have failed to divert people from gaol? Not quite: suppose over the period since 1979 that there had been a growth in the proportion of serious as against minor offences disposed of by courts. Since, in terms of severity, non-custodial sanctions are meant to lie between custodial penalties and penalties such as fines and bonds, one might expect a growth in both custodial and non-custodial penalties at the expense of fines and bonds. On this argument, the effect of non-custodial sanctions might have been to slow the growth in the proportion of prison penalties handed down, or keep it lower than it might otherwise have been.

Figure 3

Percentage usage of different Dispositions by Magistrates in New South Wales



Source: Bray 1989

How do we rule out this possibility? Rohen Bray at the New South Wales Judicial Commission tested it (Bray 1989) by carrying out a regression analysis on trends in the use of custodial and non-custodial penalties within each of the major offence categories encountered in local courts.

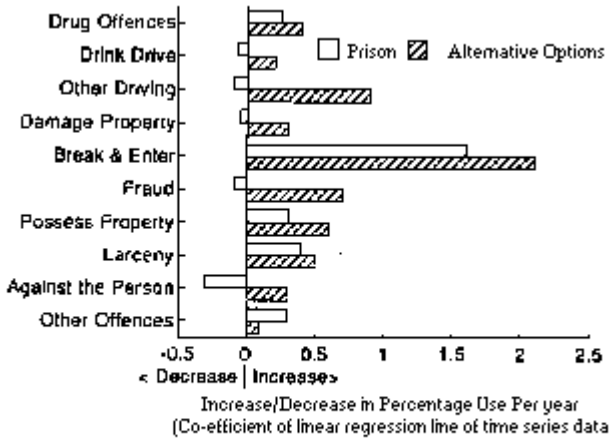
Figure 4 shows the results of his analysis. If the diversion hypothesis had been correct, one might have expected to see, within each offence category, an inverse relationship between the size of the percentage change in the use of custodial as against non-custodial sanctions.

Figure 4 shows little evidence of such a relationship other than for offences against the person. For this offence, the increased use of non-custodial penalties is matched by roughly similar decrease in the proportional use of imprisonment. Otherwise, the effects appear meagre.

Now, if you were really determined to save the diversion hypothesis, you might criticise Bray's conclusions by arguing that the growth in offence seriousness occurred within, rather than between, offence categories. However, Bray's data provides pretty cogent evidence that, in New South Wales at least, non-custodial penalties have not been effective in reducing the use of imprisonment by magistrates. The real question is why judicial officers have not been drawn to non-custodial penalties as an alternative to imprisonment.

Figure 4

Rate of Increase/Decrease in use of Alternative Options (PD/CSO) and Imprisonment of Offence Category (NSW Local Court: 1979-1988)



The Reason for their Failure to Divert

There seems to be little direct evidence on this question. A simple explanation sometimes heard is that the sentencing practices of judicial officers can only be altered by clearly directing required change in the exercise of their discretion. The solution on this account is explicit guidance from the legislature as to the kinds of offenders and circumstances under which non-custodial sanctions should be used (Knapp 1986).

Another better, though still incomplete, explanation lies in the administrative support provided to implement alternatives to imprisonment. It is one thing to create legislative alternatives such as periodic detention and community service orders. It is another to build periodic detention centres and provide community service orders work (Pratt 1987). Without the administrative backup, the legislative options cannot be used.

Periodic detention centres are still much more common in the city than in the country, despite the big increase in the number of facilities in recent years. Although work for those given community service orders is now fairly easily obtained, this may not always have been the case.

These practical considerations help explain the low overall use of non-custodial sanctions, but they do not explain why they are generally used instead of bonds and fines rather than imprisonment. To understand why non-custodial sentences have not been used as alternatives to imprisonment, two things need to be considered:

- one has to do with a tendency among judicial officers to move repeat offenders up the sanction hierarchy;
- the other is a big gap between the perceived severity of custodial versus non-custodial penalties.

Once non-custodial options have already been explored and the first custodial sentence has been imposed, there is considerable reluctance to impose a less severe penalty for a repetition of the same general kind of offence. In practice, this means that the pool of those able to be diverted into non-custodial penalties from custodial penalties consists of a fairly small group: those whose penalty experience and prior record has led them to the point where they are at risk for the current offence of going to gaol for the first time.

The research in this area shows a sharp jump in perceived severity between custodial and non-custodial penalties and not as much difference in the perceived severity of various non-custodial penalties (Erickson & Gibbs 1979). This means that someone who has reached the point where they are deemed unsuitable for bond, they are quite likely also to be deemed unsuitable for any other form of non-custodial penalty. To divert people from gaol through the use of non-custodial sanctions requires the creation of sanctions whose perceived severity is substantially higher than that of existing non-custodial penalties if less than that of prison.

To provide some evidence for this conclusion, your attention is drawn to a study conducted by Rohen Bray (1989) and presented at the last Australia New Zealand Criminology Conference. It is a study which deserves to be repeated in every Australian jurisdiction.

The argument about existing non-custodial penalties 'splitting the vote' is true, then we would expect to find much more similarity among offenders given various forms of non-custodial penalty than between them and those given custodial sanctions. Of course, a fair test of the proposition requires that we restrict our custodial comparisons to those at the least severe end.

We cannot compare the characteristics of offenders given long gaol sentences with those given bonds or fines. However, if we were to compare the characteristics of those given bonds or fines, those given periodic detention or community service orders and those given gaol sentences of six months or less, we might have a reasonable test of the hypothesis.

That is exactly what Rohen Bray did. First he chose two groups of offences which each account for a fair spread of different types of penalty. The two types of offence were break, enter and steal and drive while disqualified. Cases in each of these groups were then divided on the basis of whether the offender got a bond or fine, a periodic detention or community service order or a prison sentence.

Using discriminant analysis, he then examined the questions of how far the three groups in each offence category could be distinguished from each other in terms of the following sentence relevant factors:

- employment status
- legal representation
- gender
- age
- whether they were subject to a court order at the time of their offence
- whether they had previously experienced prison, community service orders or periodic detention
- the length and character of their prior criminal record

- and the characteristics of their current offence.

The results of the study showed much greater similarity between those who got bonds or fines and those given community service orders or periodic detention than between either of those groups and those who received a prison sentence of six months or less.

Table 1 shows the relationship between penalty type and the discriminant variables for the break, enter and steal cases. The column on the right labelled Cramer's V Simply measures the strength of the relationship between the categorical variables. The eta coefficient is used for the same purpose in relation to the continuous variables. The cell entries for categorical variables show the proportion of cases in each penalty group possessing the attribute shown on the left. The cell entries for continuous variables show the mean value on each attribute of each penalty group. There are two important points to note about the table: one is the greater similarity between columns one and two than between either of these columns and column three.

The results of the discriminant analysis confirm the visual impression in the table. Where AO was combined with FB, 88.7 per cent of the cases were correctly classified by the prediction equation, whereas when AO was combined with PR the prediction accuracy dropped to 63.1 per cent.

Table 1

Analysis of Bivariate Relationships between Outcome and Predictor Variables for Sample of Break, Enter and Steal Offenders

Predictor Variables	FB	AO	PR	
Categorical				**Cramer's V**
Employed (163)	40% (36)	36% (21)	13% (2)	.15
Represented (165)	88% (80)	83% (49)	93% (14)	.09
Males (165)	90% (82)	88% (52)	87% (13)	.04
25 years or less (165)	69% (63)	78% (46)	80% (12)	.10
Guilty Plea (165)	89% (81)	95% (56)	93% (14)	.10
Subject to Order (150)	17% (14)	28% (15)	83% (10)	.41
Prior Prison (150)	20% (17)	21% (11)	58% (7)	.24
Prior PD or CSO (148)	8% (7)	9% (5)	45% (5)	.30
Continuous				**Eta**
Num. Priors	6.7 (86)	7.8 (54)	15.3 (12)	.28
Num. Similar Priors	0.7 (86)	0.6 (54)	1.7 (11)	.20
Property Value	$1,230 (83)	$1,760 (55)	$981 (13)	.15
Concurrent Offences	1.2 (91)	1.0 (59)	2.2 (15)	.16
Number of Counts	1.2 (84)	1.2 (55)	1.1 (13)	.05

Note: For categorical variables, the percentage figures indicate the percentage of people receiving that outcome who were employed, legally represented, etc. and the figures in brackets are frequencies. Figures in brackets next to the variable name indicate the number of cases which returned data for that variable (i.e. were not missing). For continuous variables, the figures indicate the mean number of priors, etc. for people receiving that outcome.

The second point to note is the propensity for those who have committed their offence while already subject to a court order or who have already served a prison sentence to be given another prison sentence.

The results of the analysis for drive while disqualified cases show a somewhat greater similarity in the penalty characteristics of the three groups though the results of the discriminant analysis once again support the hypothesis of greater similarity between groups AO and FB (*see* Table 2).

Notice, too, that the biggest differences between PR and the other groups are to be found on those attributes having to do with the prior criminal record of the offender. This seems to provide indirect support for the proposition that, once a person reaches a point where, because of their prior record, they are usually considered underserving of any other non-custodial option.

The one caveat to this conclusion is that, because of the low frequency of periodic detention orders, Bray was forced to combine them with community service orders. The vast majority of cases in the AO group for both offences received community service orders.

Table 2

Analysis of Bivariate Relationships between Outcome and Predictor Variables for Sample Drive Whilst Disqualified Offenders

Predictor Variables	FB	AO	PR	
Categorical				**Cramer's V**
Employed (405)	73% (101)	65% (100)	46% (51)	.22
Represented (417)	85% (124)	81% (128)	79% (89)	.05
Males (417)	95% (139)	98% (155)	99% (111)	.12
25 years or less (417)	59% (86)	65% (102)	63% (70)	.05
Guilty Plea (417)	99% (145)	97% (153)	97% (109)	.05
Subject to Order (377)	15% (21)	18% (27)	30% (28)	.15
Prior Prison (393)	19% (27)	21% (32)	47% (47)	.26
Prior PD or CSO (387)	17% (24)	21% (32)	36% (35)	.17
Continuous				**Eta**
Num. Priors	9.0 (141)	9.2 (152)	17.0 (101)	.29
Num. Similar Priors	4.0 (141)	4.8 (152)	8.3 (101)	.34
Concurrent Offences	1.2 (147)	1.4 (158)	2.2 (112)	.22
Number of Counts	1.0 (141)	1.1 (153)	1.2 (103)	.14

For explanation of figures, *see* note for Table 1.

The comparability of persons receiving periodic detention to those receiving community service orders or imprisonment remains an open question. This is an important point because periodic detention is often considered to be a tougher penalty than community service orders. Bray's results should not be taken as providing evidence that this is not the case.

What advantages might we expect to accrue if non-custodial sanctions could divert people from prison?

The Scope for and Benefits for Diversion

At this point we need to make a distinction between reducing the cost of imprisonment and reducing the size of the prison population. The two are not linked in a straightforward way.

As everyone knows, although large numbers of people are sent to prison each year, most of them stay only a (relatively) short period. This means that the prison tends to fill up with people with (relatively) long sentences.

Technically, we refer to the characteristics of those we send to prison as characteristics of its flow, whereas characteristics of those who are held in prison are referred to as characteristics of its stock. The distinction is important because the offence profile of those who are sent to prison is quite different to that of those who, on any given day, are held there.

To help illustrate the point, refer to Figures 5 and 6. Figure 5 shows the distribution of prison sentence lengths handed down by the NSW courts, and Figure 6 shows the distribution of prison sentence lengths being served by people in NSW prisons.

Figure 5

Sentences imposed by New South Wales Courts

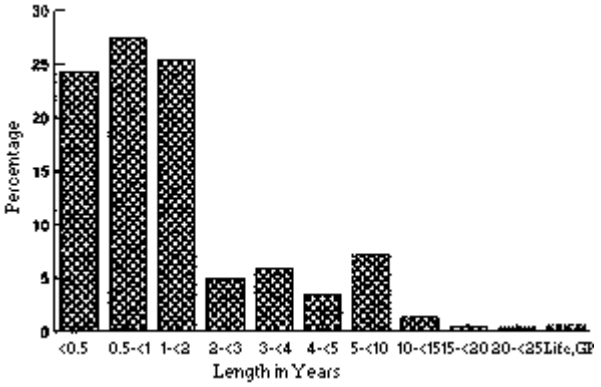
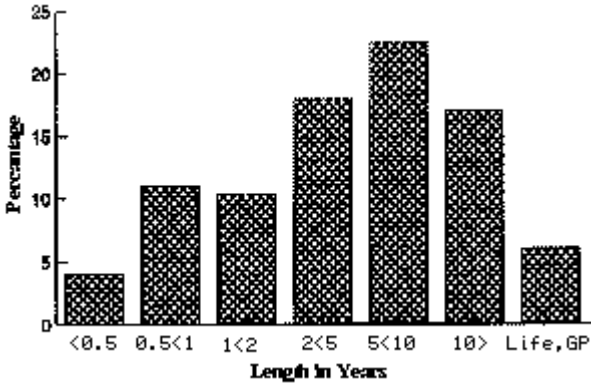


Figure 6

Sentences being served in New South Wales Prisons



In order to understand the potential impact of non-custodial sentences on imprisonment, we need to consider what sorts of custodial sentences they might reasonably be expected to divert people from. This is a somewhat arbitrary business, but clearly any diversion which does occur must make its impact at the low end of the distribution of sentence lengths.

For the sake of argument, we will assume that we develop a non-custodial sanction whose impact is felt most in the region of sentences up to six months imprisonment. To assess the maximum possible reduction in prison populations, suppose then we divert all prisoners given sentences of less than six months.

If we go back to Figure 5, the effects on the flow of people into gaol are quite dramatic. If every offender given a sentence of less than six months gaol was diverted, there would be a 25 per cent reduction in the number of people being sent to gaol. In 1988, this would have meant about 1,500 fewer offenders going to gaol.

In terms of the effect on the stock of people held in gaol, though, the results are quite disappointing. Even if all offenders given sentences of less than six months were diverted, there is only potential for a 3.6 per cent reduction in the gaol population. In other words, the gaol population would decrease only by about 187 prisoners.

On the whole, the results do not suggest there is much scope for reducing the gaol population through alternatives to fulltime custody. It turns out, however, that the size of the potential reduction in prison population is extremely sensitive to the class of offender you expect your non-custodial sanction to divert. If we make a slightly more generous assumption about diversion and assume that prisoners given sentences of up to a year are potential candidates for non-custodial sanctions, the minimum achievable reduction in prison population rises from 3.6 per cent to nearly 15 per cent.

The size of the effect, in other words, depends critically on two things. One is the willingness of courts to divert or, looked at another way, the diversionary capacity of a particular option. The other is the sentence structure of the prison population and, in particular, the proportion of it serving short sentences.

Notice then, that to the extent that individual states differ in these things—and they obviously do—the diversionary potential of various options will differ from state to state. This is a point which needs to be borne in mind by policy makers interested in the possibility of reducing the gaol population through the use of non-custodial sanctions. So much for reducing the prison population: the next question we need to ask is what savings we can expect under different diversionary schemes.

There are a few simple points that deserve the attention of prison financial controllers contemplating the savings potential of non-custodial sentences. If you will forgive the rudimentary approach, let us assume that prison costs consist of two components, one relatively fixed and the other variable. Fixed costs include the cost of buildings, for example, and variable costs include the cost of meals for prisoners, the cost of guarding them and all those other costs affected by the length of time people spend in prison.

Obviously, today's fixed costs are as variable next year as the prison population, but consider the variable costs as being those incurred over a reasonably short period. It is probably reasonable to assume that the variable cost component of most prison systems is very large.

If we divide the prison population on the basis of sentence length into those serving prison sentences of less than six months who we think can be diverted and those serving longer periods who we think cannot be readily diverted, then the variable costs of imprisonment might then be expressed in the following way:

Figure 7

VCP = a[(Ns x Ds) + (N1 x D1)]

where:
VCP = the variable costs of imprisonment
a = the cost of prison per man year served
Ns = the number of offenders given sentences of less than six months
Ds = the average duration of sentences less than six months
N1 = the number of offenders given sentences of more than six months
D1 = the average duration of sentences of more than six months

It is possible to give values for all of these parameters but for the moment let us concentrate on the variables in brackets. If we substitute values for these parameters from the Bureau of Crime Statistics Higher Court collection, we get:

Figure 8

VCP = a[(1,562 x 3) + (4,729 x 18)] = a(4,686 + 85,122)

The ratio between the two figures in brackets shows the relative contribution to the variable cost of imprisonment of those in gaol for less than six months compared to those in gaol for six months or more.

In percentage terms, prisoners serving sentences of less than six months constitute only about five per cent of the variable cost of imprisonment. The variable cost saving of diverting prisoners given sentences of less than six months away from gaol does not look large. However, if we apply a higher diversion criterion (of less than twelve months) and enter the relevant values for the parameters we get:

Figure 9

VCP = a[(3,239 x 6) + (3,052 x 18)] = a(19,434 + 54,936)

In this situation, short-term prisoners account for some 26 per cent of the variable costs of imprisonment.

Now the point of all this is not to justify the validity of the actual estimates of proportional expenditure reduction given here. To make reliable estimates, you would need more reliable data on actual custodial periods served than are currently available. It is also necessary to know what proportion of total prison cost is dependent on the aggregate demand for prison time.

The point of the exercise is to illustrate how sensitive the variable cost of imprisonment is to small variations in the assumed diversion threshold. In practice, the sensitivity may be even greater than depicted here once fixed costs are taken into account. A 10 per cent reduction in the gaol population, for example, might open the possibility of selling off a gaol and reducing the prison officer staffing costs by a correspondingly large amount. The result

may well be a considerably larger than 10 per cent reduction in the overall cost of imprisonment to the state.

To summarise, then, both in terms of the size of the prison population and the cost of running a prison, small diversionary differences have the potential to produce quite large effects. There is ample reason, therefore, despite our past failures, to continue the search for front-end strategies for gaining reductions in prison numbers and prison costs.

In the meantime, it would be well worth estimating the potential savings of differing amounts of diversion much more rigourously than has been suggested in this paper. This brings us finally to the question which has been ignored so far. What can we do to create non-custodial options that courts use as genuine alternatives to prison? This paper will conclude with a couple of points about this issue.

Creating Viable Non-Custodial Alternatives

Earlier it was noted that non-custodial options would have to be made more frequently as alternatives to gaol. This is not quite true. However, the same effect might be achieved if greater publicity were given to the onerous qualities of the existing non-custodial options. It is doubtful that many people, particularly in the media, stop to think about the embarrassment and disruption caused by a long stretch of periodic detention. Maybe the down side of staying out of gaol needs to be published.

At all events, the present climate toward offenders in Australia is certainly conducive to more onerous non-custodial sanctions. New South Wales has recently raised the maximum duration of periodic detention orders and the maximum number of hours which may be served by way of community service orders. Whether these initiatives will have the effect of diverting people from gaol or further splitting the non-custodial vote is something which remains to be seen.

Certainly, the aim of the initiatives was to strengthen their diversionary potential and for this reason they may be regarded as a step in the right direction. It would be preferable, nevertheless, to be able to formulate proposals for prison diversionary schemes on the basis of some understanding of their potential to divert. This may sound a fanciful hope, but the crucial piece of information we need to enable the required understanding is not, at least in principle, that difficult to obtain.

What is required is a standard scaling study of the how the courts perceive the severity of different amounts of different penalties varying in duration. There are plenty of examples of this kind of study carried out to determine the inter-penalty sensitivity of the general population. If they were carried out among judicial officers, we could determine for example, the periodic detention equivalent of twelve months imprisonment, information which we could then use to assess the diversionary scope of that option.

Scaling studies of this type may also be expected to yield valuable information about which sorts of offenders are most likely to be regarded by the courts as potential candidates for diversion. It is unlikely that the community service orders equivalent of twelve months gaol is the same regardless of the type of offence. If we find offence based differences, we may be better able to target our non-custodial options.

Of course, it is not known whether judges and magistrates in Australia could be persuaded to participate in the kind of study being envisaged, though they often say they would like greater consultation in the formulation of law reform proposals. It may be that this sort of consultation is a bit too close for comfort.

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INCREASED UTILISATION OF COMMUNITY BASED CORRECTIONS IN QUEENSLAND

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THE DATE OF 15 DECEMBER 1988 IS DESTINED TO BECOME PROBABLY THE MOST significant date in the history of Corrective Services in Queensland. It was on this date that the trilogy of: the *Corrective Services Act 1988*, the *Corrective Services (Administration) Act 1988*, and the *Corrective Services (Consequential Amendments) Act 1988* was introduced. Together, these provided for the most far reaching reforms of Corrective Services ever undertaken in Queensland.

Previously, on 29 February 1988, the Queensland Cabinet established the Commission of Review into Corrective Services in Queensland and appointed leading businessman, Mr. Jim Kennedy, as the Commissioner of Review.

Recommendations of Commission of Review into Corrective Services in Queensland

Queensland Corrective Services Commission

The major recommendation of the Commissioner's Interim Report in May 1988 was that the government establish a statutory body called 'The Queensland Corrective Services Commission' to take over the functions, role, responsibilities and staff of the Queensland Prison Service and the Queensland Probation and Parole Service (*Interim Report* of the Commission of Review into Corrective Services in Queensland 1988, p. 1). The Commissioner further recommended that the Board of the Commission contain members to represent churches, welfare groups, the Law, Civil Liberties and Aboriginal and Islanders (*Final Report* of the Commission of Review into Corrective Services in Queensland 1988, p. 35).

The purpose of this initiative was to ensure the involvement of the community in Corrections. Mr. Kennedy envisaged that 'all the major groups in the community with an interest in corrections (would) then (be) involved with the development and implementation of policy, overall supervision of the system and the monitoring of management performance'

(*Interim Report* of the Commission of Review into Corrective Services in Queensland 1988, p. 19). Other initiatives to integrate the community into Corrections were also envisaged.

Community Corrections Boards

Prior to the promulgation of the *Corrective Services Act 1988*, the Queensland Parole Board was the only authority in the state with the legislative power to release prisoners on parole.

In order to involve the community in the decision making process relating to the release of prisoners, the Commission of Review recommended the abolition of the Queensland Parole Board and the introduction of a two-tier system of Community Corrections Boards. The upper Board would be known as the Queensland Community Corrections Board and would be responsible for the transfer to community supervision of all prisoners serving sentences in excess of five years.

As well as the public sector members, the Queensland Community Corrections Board also comprises three representatives of the community, to include a female, an Aboriginal or Islander and a lawyer with an interest in corrections and civil liberties (*Final Report* of the Commission of Review into Corrective Services in Queensland 1988, p. 11). In addition to considering the release of prisoners to Parole, Community Corrections Boards also consider all applications for transfers to home detention, release-to-work and extended leave of absence (over seven days).

The lower tier of Community Corrections Boards comprises Regional Community Corrections Boards and they also have community representation. These boards have jurisdiction over the release to community supervision of all prisoners serving sentences of five years or under and consider applications for a similar range of community supervision options. Six such boards have been constituted throughout the state to service the Correctional Centres in their localities. Prisoners (or their non-legal representatives) have a right of appearance before a Regional Community Corrections Board.

Stakeholders

The Queensland Corrective Services Commission's Philosophy and Direction document defines stakeholders as 'the people or organisations who interact with Corrective Services and with whom it is absolutely critical that constructive relationships are fostered so that they can assist in the achievement of objectives'. A list of identified stakeholders is reproduced in Appendix A.

The Section concludes by stating:

> Strategies must be developed to ensure that all stakeholders receive appropriate information about the Commission and its operations. (Queensland Corrective Services Commission 1990, pp. 16-7).

Corporate image

The Commissioner also observed the poor corporate image presented by the previous Prisons Department and the Probation and Parole Service. In his *Interim Report* he stated:

> No modern organisation should operate the way Corrections in this state have presented themselves . . . a better image will have real positive benefits . . . I feel fairly certain that one reason why community sentences appear to be 'under utilised' is because of its failure to project its true image of professionalism and success . . . (*Interim Report* of the Commission of Review into Corrective Services in Queensland 1988, pp. 34-5)

Court advisory service

Continuing this theme of improving the community's education and awareness of Community Corrections, the Commission of Review perceived the need for a stronger, more effective court presence to 'sell' community based sentencing options.

Mr. Kennedy reported:

> A strong and professional court presence and availability of expert advice will strengthen the reputation of the service for professionalism, assist the growth in the confidence of the discipline of a community based sentence and will ultimately help the use of this kind of sentence. (*Final Report* of the Commission of Review into Corrective Services in Queensland 1990, p. 104).

Reasons for Accelerated Growth

The writer believes that the significant increase in the use of community based sentencing options is a direct result of the Commission implementing the above recommendations of the Commission of Review into Corrective Services in Queensland. Although the Commission has only been in existence for fifteen months, the trend is quite apparent and, in all likelihood, will increase as existing programs are enhanced and new initiatives developed.

This paper will now examine, in detail, where this significant growth has occurred and compare it with past trends.

Statistical Indicators of Growth

Appendix B demonstrates the significant growth that has occurred in the twelve-month period from February 1989 to February 1990.

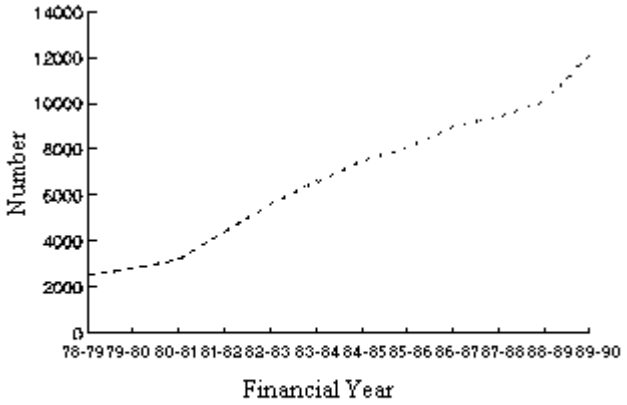
However, the following increases in caseloads by type of order were recorded:

Probation	16.37%
Parole	44.28%
Community Service Orders	45.49%
Fine Option Orders	80.33%

In summary, the average percentage increase in total caseload over this twelve-month period was 25.43 per cent which is considerably in excess of the growth rate in recent years (*see* Figure 1). Of particular significance is the fact that this dramatic increase has been accompanied by a real reduction in the populations in our Custodial Correctional Centres.

Figure 1

Community Corrections Workloads, Queensland, 30 June 1978-79 - 1988-89



There was a steady increase in the prison population from 1978 to 1988 (*see* Figure 2). However, the Commission's policies have halted this inexorable increase and are beginning to reverse the trend (*see* Figure 3). The prisoner population in Custodial Correctional Centres has now returned to the lowest level since January 1987, resulting in an extensive reappraisal of projected trends (*see* Figure 4).

Figure 2

Daily Average Occupancy, Custodial Centres, Queensland, 1978-79 - 1988-89

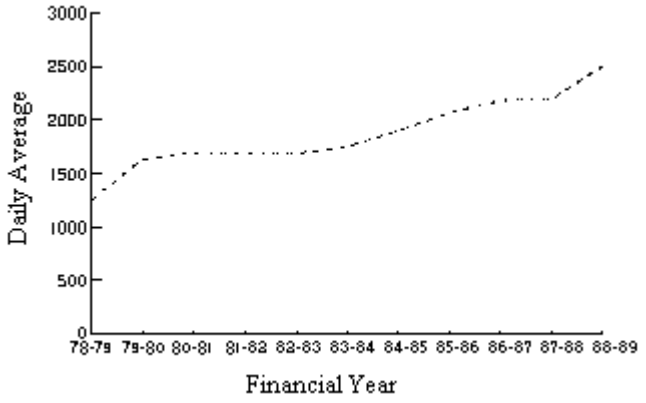


Figure 3

Daily Average Occupancy, Queensland, December 1988 - January 1990

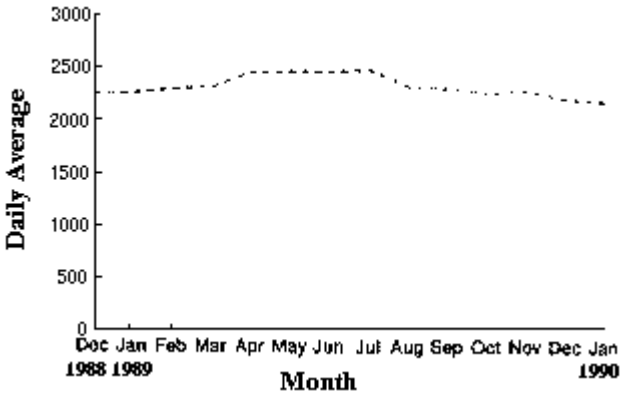
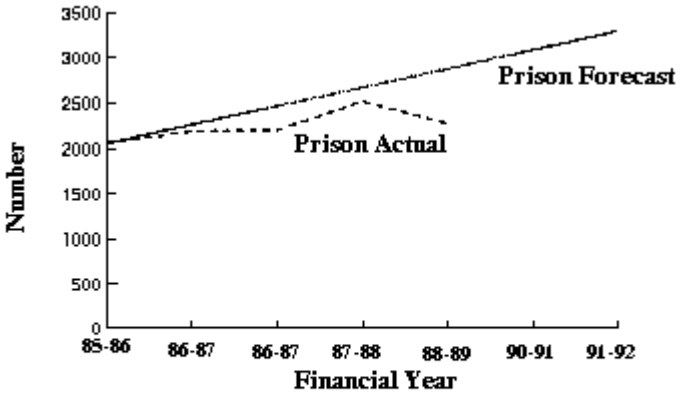


Figure 4

Comparison of Forecasted Daily Average Prison Numbers with Actual, Queensland, 1985-86 - 1991-91



Enhanced Programs

The only major enhancement to existing programs since the commencement of the Commission resulted from a legislative change in the Corrective Services Act 1988. Whereas offenders previously had to apply for a fine option order on the day that they appeared in court, under the new legislation, they are able to apply for a fine option at any time up until the expiration of the time allowed to pay the fine. This has resulted in a considerable increase in the number of offenders applying for fine option orders and has also resulted in a decrease in the number of fine defaulters being admitted to Queensland Correctional Centres.

New Initiatives

As a result of the recommendations contained in the Commission of Review into Corrective Services in Queensland, many new initiatives were introduced following the establishment of the Queensland Corrective Services Commission. Some of these initiatives have now been implemented while others are still in the developing stages.

The following is a summary of new initiatives being undertaken by Community Corrections in Queensland:

Assessment Units in Correctional Centres

Assessment Units have now been established in all Correctional Centres in the state. This enables all prisoners to be more thoroughly assessed before their applications for release to Community Corrections is considered by the relative Community Corrections Board.

At least one Community Correctional Officer is attached to each Correctional Centre to work with the Assessment Unit. Their responsibility is to interview each prisoner and to assess their suitability for transfer to Community Corrections.

In every instance, too, this officer will request a local Community Corrections Area Office to undertake a home assessment of the applicant's proposed residential address. When all this information is collated, together with institutional reports, the Community Corrections Boards are in a much better position to accurately assess each prisoner.

Community Corrections Centres

Prior to the commencement of the Commission, the previous Prisons Department was responsible for running only one Community Corrections Centre (a 24-bed facility previously known as a Release to Work Hostel). Two additional Community Corrections Centres have now been opened in the metropolitan area—a 16-bed facility for men and a 23-bed facility for women. Negotiations are also proceeding to purchase a further 24-bed hostel in Townsville in North Queensland. It is a goal of the Commission to have 100 prisoners detained in Community Corrections Centres by 30 June 1990.

As well as Community Corrections Centres housing prisoners on the Release to Work program, they are also being used as centres where selected prisoners can be transferred (by administrative arrangement) to undertake special programs in the community.

Management of Community Corrections Centres by community organisations

A further enhancement of the above program to expand the number of Community Corrections Centres in Queensland has been the decision to contract the management of certain Community Corrections Centres to community organisations. It is the Director of Community Corrections' intention not to staff the Townsville Centre with Commission staff but rather to contract its management to a local community organisation.

The Commission has also financially assisted two community organisations in Brisbane—the Prisoner and Family Support Association and the Catholic Prisoner Welfare Ministry—to provide accommodation for home detainees who would not normally be eligible for the scheme because they had no suitable private accommodation.

With the support of the Chief Stipendiary Magistrate in Queensland, magistrates will soon be able to impose residential conditions as a special condition of a probation order. This will require some offenders to reside in a supervised facility (such as those mentioned above) for a stipulated period of time.

Community based programs for prisoners

As mentioned above, some selected prisoners can now be transferred to the Community Corrections Centres to undertake approved educational and personal development programs in the community. This initiative is presently being trialled only with female prisoners but, if successful, will later be expanded to include male prisoners as well.

The programs presently being undertaken by the female prisoners are conducted by agencies in both the government and non-government sectors and are programs that are not normally available to prisoners within Custodial Correctional Centres. They are intended as a supplement to the normal educational programs available within Correctional Centres and are intended to equip the prisoners to be better able to reintegrate into society upon their release.

Initiatives in relation to Aboriginal offenders

The Commission has an objective of increasing the employment of Aboriginal staff to a level of 10 per cent of total staff establishment. In our northern region, this proportion has already risen to 20 per cent and is likely to reach nearly 30 per cent within the foreseeable future. Within head office, an Aboriginal adviser has been employed since the commencement of the Commission. This officer also has a heavy commitment to liaising with Aboriginal groups regarding initiatives proposed by the Commission as well as providing professional development programs (including cross-cultural workshops) for Commission staff. It is further anticipated that in the near future an Aboriginal educator from the University of Queensland, who also has social work training, will be employed by the Commission to develop programs specially for Aboriginal offenders.

As well, the regional manager in our northern region is likely to be travelling to Canada soon to study programs for indigenous Indians in the Alberta province. Much has been written about some of these programs and it is hoped that their experience will assist in the development of similar initiatives for Aboriginal and Torres Strait Islanders in northern Queensland.

Aboriginal Liaison Officers have been appointed to each of the four area offices within the northern region. These are responsible for liaising with Aboriginal communities and for visiting remote localities both to establish and oversee community corrections initiatives there. These four positions are being partly funded by the Federal Government.

The Commission has also financially supported an Aboriginal and Islander community group in Townsville to establish an alcohol rehabilitation facility there.

Further, the Commission is financially supporting, on a fee for service basis, an Aboriginal hostel (to be gazetted as a Community Corrections Centre) in Brisbane for Aboriginal prisoners to assist their post-release integration into society.

Target populations

A survey has been undertaken of all Community Corrections offices in the state to determine the number of offenders in the following groups:

- Intellectually Disabled
- Young Offenders (21 and under)
- Substance Abusers
- Mentally Ill
- Aboriginal and Islander Descent

The Griffith University Department of Education has just been contracted to conduct research into the needs of these populations. It is then intended to develop programs for each group. It is anticipated the sentencers will be more willing to make community based orders with conditions to attend these specially designed programs once their effectiveness has been demonstrated.

Drink driving program

A Project Officer has now been working for nearly six months developing a program for recidivist drink drivers. It is intended to provide a diversionary sentencing option for drink drivers sentenced on at least their second major drink driving offence. It is an intensive

program requiring weekly attendance for nearly seven months. Successful completion of the program may assist offenders to apply for the reinstatement of their licences earlier than the normal date.

Miscellaneous initiatives

A Community Corrections Policy and Procedures manual has now been completed and, when printed, will be distributed not only to Community Corrections staff but also to members of the judiciary and magistracy. As sentencers become more conversant with the policies and procedures of the Commission, it is anticipated that their confidence in our programs will also increase.

An operational audit of all Community Corrections programs is also being developed to ensure policy is being adhered to as well as seeing that consistency and equality is being achieved throughout the state.

Role change for Community Corrections supervisors

Since the introduction of community service orders in 1980, Community Corrections supervisors have been employed to oversee the Community Service scheme. In more recent times they have also been responsible for overseeing home detention.

The Director of Community Corrections is now proposing that experienced senior Community Corrections supervisors be involved in the supervision of non-intervention probationers and parolees. This initiative is about to be trialled in selected Community Corrections offices in south-east Queensland.

Proposed legislative amendments

A green paper has just been released by the government detailing its intention to legislate to divert all fine defaulters from Custodial Corrections to Community Corrections.

Another proposed amendment is for professional Community Corrections officers to assess every offender who receives a community based order. At the present time, offenders placed on community service orders and fine option orders are not assessed upon admission. Consequently, they have not been confronted about their offending behaviour but merely have been required to perform the required number of hours of community service to be deemed to be a successful completion.

Conclusion

It will be seen from the above list of current and proposed initiatives that working in the Queensland Corrective Services Commission, and particularly the Community Corrections Division, in 1990 is an exciting but extremely demanding place to work. Some of these initiatives have been trialled in other organisations at various times but it is unlikely that such a comprehensive array has been introduced into the one organisation in such a short space of time.

The next two to three years will certainly be a challenging time for Community Corrections in Queensland but the staff are presently motivated by the challenge to make Community Corrections in Queensland the flag bearer for Community Corrections in this country.

References

Commission of Review into Corrective Services in Queensland 1988, *Interim Report*, Government Printer, Brisbane.

Commission of Review into Corrective Services in Queensland 1988, *Final Report*, Government Printer, Brisbane.

Queensland Corrective Services Commission 1990, *Philosophy & Direction*, The Commission, Brisbane.

APPENDIX A — STAKEHOLDERS

The identified stakeholders of the Queensland Corrective Services Commission are:

Board
Queensland Corrective Services Commission Chairman
Minister
Cabinet Members
Honourable Minister's Parliamentary Committee
Parliament/Local Members
Opposition Parties' Spokespersons
Community Corrections Board
Official Visitors
Employees
Inmates and Families
Correctional Centres/Community Corrections Offices
Headquarters/Senior Administration
Unions
Media
Shire Councils
Churches
Voluntary support Organisations for Prisoners and their Families
The Aboriginal and Islander Community
Private Business Sector
Tertiary Institutions
Legal Assistance Organisations
Civil Liberties Council
Human Rights Commission
Victims of Crime Association
Citizens Against Prisoner Early Release
Treasury Department
Premier's Department
Judiciary
Justice Department
Family Services Department
Works Department
Police/External Investigations Unit
Other relevant state Government Departments including:

- Education
- Employment, Vocational Education and Training
- Health
- Community Services
- Commonwealth Attorney-General's Department

APPENDIX A cont'd

Other Commonwealth Departments including:

- Social Security
- Commonwealth Employment Service
- Aboriginal Affairs
- Australian Bureau of Statistics

Parliamentary Commission for Administrative Investigations
Australian Institute of Criminology
Other Correctional Jurisdictions

APPENDIX B — COMMUNITY CORRECTIONS

CASELOAD VARIATIONS
10 February 1989 - 8 February 1990

	Prob.	Pris/ Prob	Parole	I/S & Comm. Orders	CSO	FO	Total
8.2.90	5,751	733	958	310	2,341	1,659	11,752
10.2.89	4,942	786	664	448	1,609	920	9,369
Total Difference	809	-53	294	-138	732	739	2,383
% Variance	16.37	6.74	44.28	30.80	45.49	80.33	25.43

THE OFFENDER'S POINT OF VIEW

Ken Cook
Parolee, Victoria

As a current parolee I would like to share with you some of my experiences with the parole system in Victoria.

Like a lot of other things with the prison system, one's interview date with the Adult Parole Board to be considered for parole is kept secret until the day before. You are told in preparation for the next day to keep yourself tidy and to keep your ears open for when you are called for an interview. When this finally happens, you bubble over with excitement and anticipation, hoping through it all you will have given the Parole Board the right impression. Also, you have told yourself to be on your best behaviour. You feel you will never make the grade.

Finally, some weeks later, when you are told you have been accepted as a parolee and the starting date for your parole, it all sounds great at first. But after a little while, one's mind starts thinking a lot of negative things, such as, what if . . ., sure but . . ., maybe there is a mistake . . ., and so on. After pushing these types of thoughts out of my mind, I promised myself, and everyone, that as I had been granted parole I would do my utmost to prove I was worthy of it and not break it. I knew this was not going to be easy because, as well as a lot of temptations being out there and not knowing what the future holds, one could easily be led into activity that could lead back to prison.

Thanks to the good people at and connected with my Community Corrections Centre—especially the department's psychologist, Mr Joseph Lee, whom I visited for a few months—and mainly to the help and support from my wonderful wife and family, I am doing my parole comfortably.

At the time of discharge, you are so nervous and anxious that you do not really give the required attention to all forms you are putting your signature to, or to all the warnings being issued and directed at/to you. Prison authorities do not spend much time explaining the bits of paper you are expected to sign. All you do is keep saying yes, and nodding your head until finally you are actually out, and even then you cannot really believe that it is happening to you.

When you do realise you are out, right there and then, it is another thing because after all those years you have spent inside being told when, how and where to do each and every action, you now are about to make a decision of your very own: 'What do I do now?'

If you have a family and home to go to like me, it is not so bad, but if not, well there are lots of decisions to face. The decisions and events may not seem much to the ordinary person but, to a long-termer, it is frightening. These hassles do not have to come from the police, media or anyone else. It could be simply everyday things going wrong and you begin to feel maybe it is easier to go back and have decisions made for you with someone telling

you what to do, how, when and why. You have to learn how to make simple decisions again.

Developing trust in your fellow human being is a difficulty an ex-criminal faces. By being suspicious of everyone and everything inside, it is awkward outside having someone doing something for you, without being suspicious of them and their motives.

Inside it is part of the code that once someone does something for you, it requires something from you in return, and there are occasions you do not get to say what the return is to be or when. That same help outside does not require a return, hence an unwarranted suspicion.

Gaol suspicions work in strange ways. For instance, as a first-timer when you have been in for a few days and your head starts to clear you start noticing a lot of strange habits. This includes having something or everything of a private or personal nature taken from you by either officers or 'crims' with no reason given.

To make sure that most of these things are no longer visible, one starts carrying things around in plastic bags, if you can find them, or a cloth bag issued to you by the gaol. I have seen blokes trying to walk naturally humping up to six bags over their shoulders. These bags are used as portable wall safes. Using these bags led me to washing my spare underclothes, socks and hankies while at work during the day then taking them to my cell at the days end along with a piece of string and hanging them in the oddest but available places like from the back of the 'toot' to the end of my bed. If you leave your clothes on a clothes line, they are likely to walk.

There are also a lot of horrific things that happen to prisoners—especially first-timers—which leads some to be fearful of just about everything during their time inside and cautious upon getting out.

The 'crims' that are already in somehow find out things about newcomers and will use these things against them. These things vary like age, people with physical disabilities, those that have committed a sexual crime—especially against young children—and sometimes new migrants who cannot understand English properly.

The 'slimy crims in the know' take great delight in either taking part in a group bashing or having their pitiful group of hangers on do the deed. I have heard of or seen acts like sexual attacks and blokes held under steaming hot water and known of blokes who have had bits of glass or razor blades put in their soap or tooth paste. Pity help the bloke that tells on another.

Memories of these things do not help one's sleep either, and even writing of them now brings back other bad memories which I have no hope of forgetting—like the time after working with a young bloke all one day we shared lots of experiences. I am sorry now I had not asked him why he was upset, as it was obvious he had been having a rough time. This was more obvious the next day. He had hung himself overnight, probably because he could not take any more.

I know myself I have been affected by things I saw and what happened to me, and even though I had been to war and seen horrific things, it in no way prepared me for gaol. I honestly think these unwanted, unforgettable happenings always haunt you.

Once I had adjusted to the fact I was inside, I decided to do whatever needed to be done to keep me going and keep my mind active. Doing this sometimes brings out unknown or forgotten talents. In my case, through my job as the divisional writer, I kept busy helping my fellow 'crims'. Division 'G' was mainly for mentally sick blokes and some of these blokes needed a lot of help. Some could help others because we were not all sick or as sick as others. Anyway, there were times I worked up to twenty hours per day doing a variety of things beside my official work. This was my choice!

I did canteen orders both weekly and monthly involving not only doing some bloke's order slips with them, but doing complete balance sheets for the canteen. I was also

involved in obtaining sports gear to use daily, making sure we had a daily program of videos, music on tapes or records.

My cell had facilities for me to operate these things in the division. Also, with the help of officers and some of our civilian staff, Christmas parties with donations from outside of food, lollies and toys, were arranged and successfully held under the Governor's watchful eyes. These parties were considered by all to be of help not only to 'crims' but their families, as these Christmas parties were held in family contact. It helped to maintain some closeness with our families.

The shock for me came upon my release. My family were now all adults and there were two grandchildren. It was a whole new thing learning to communicate with these strangers.

Being a father to a child is one thing but being a father to an adult is, or was in my case, entirely different and, of course, being a grandparent, especially to a child you have never seen, has its own mystery. In both cases, you try hurriedly to call on all your resources to help in each situation, and like most things in life, this can sometimes be painful.

There is also the effort of trying to further educate your children not to follow the ways which caused the separation in the first place. You pass on all the benefits you have gathered in your prison time and hope it proves to be the right thing in keeping them from following your path in crime. There are so many practical problems facing a parolee on his release.

Firstly, you have to get to a place of accommodation and there is traffic and transport you do not understand. The fare in itself, of course, is not familiar and, to save further embarrassment, some grab a cab and spend much needed funds. This itself depends on which gaol you leave as some are hundreds of kilometres from where you really want to go.

I will tell you about two blokes who I had become friends with and who I had helped with various things, including their discharge. One chap, who had served 13 years, finished at Morwell like me. He had arranged and got permission on the day he left for me and an escort officer to accompany him to the rail station, 52 kilometres away. He then had to travel to Melbourne, another three hours away, on his own. This chap, after all those years, was now left to his own devices to get home.

The other chap I knew in 'G' division at Pentridge was not 100 per cent mentally fit or capable but was sent 'out', not home, as he had no home to go to. Because of his mental state, his parents did not want him, but thanks to the Salvos, he was found accommodation and fitting work. I, personally, had given him a stack of prepared notes telling him what to do in all sorts of given situations. He was out less than 48 hours when he was fleeced of his total life savings of over $5,000.

I feel sure it is an important thing that help be given weeks before. As part of discharge procedure, things should be explained clearly and simply, with up to date answers given to prisoners' questions. I also feel this help should come from someone in a civilian job such as the welfare officer not a prison officer.

Take, for example, money; our currency has changed with time and there may be some inside who do not know some notes have changed for coins. I did not, and in my first shopping spree I lost money because of it.

A leave program is an essential part for all parolees. Lots of needed things can be attended to while on leave, for example, preparing accommodation and looking for future work. By utilising this time, one can get re-established a lot easier.

I have already spoken positively to Mr Murray QC who headed an inquiry a while back into the leave programs and I say to you here as well, yes, the public get outraged at some blokes having a leave program. That is because of the type of crime they have committed. But in most cases, the bloke has to be released sometime and, of course, the

longer he has been in, the more preparation he needs for his release and this can partly be done whilst on leave.

I have known some really long-timers that really benefited from their leaves and have even noticed attitude changes for the better even after only their first leave. More to the point, they have committed no offence either while on leave or since release.

There are some who, because of the nature of their crime, will not get leave both for their protection and the protection of some in society. But they too must still eventually be released and I feel it is up to the 'brains' of the prison system to find a way to help these prisoners.

To prepare for going outside, I had the advantage of getting leave from the prison as part of my prison job. As stores billet at Morwell River, I would go with the stores officer into Morwell and Traralgon—50-60 kilometres away—to order stores each week. This was really great as I would keep up with lots of things in 'civvy' street like the different kinds and shapes of cars, clothing fashions and the variety of things in shops. At the places we shopped, I made quite a few friends.

Prior to my parole, I was involved in the pre-release program. I had eight months of that and came to the conclusion that this scheme was helpful to both myself and departmental people connected with the scheme. The community work done can be observed by the Officer-in-Charge and so an assessment of the person's adjustment can be done that bit easier.

My experience with community work was a little different to the norm in as much as the 'work teams' normally go from our centre to worksites designated by the Community Corrections centre and are supervised by a Community Corrections officer, but I suffer from skin cancer and, thanks to the decision of my supervisor, I was kept at the centre to work there.

Community work is unpaid work and I suppose, in a way, it is part of paying back society. No one really likes having to give up his/her own time to perform this work but it is part of the pre-release program conditions. At the same time, it allows us to be able to talk both with the supervisor and fellow workers and so makes all feel more comfortable. These sorts of things all help to make an ex-prisoner feel 'OK' in the normal world. The work itself may not be what we like doing, but it is normally in friendly and local surroundings and makes things just that bit easier or better.

The kind of work I started doing had gone on for a couple of months when I got a change from what I thought was menial work to something with a purpose; it came about after a discussion with my supervisor and the centre's director. They decided to allow me to work in the centre's small printing room, firstly learning to use the different bits and pieces connected with printing, and then to use the printing machine. Sometimes I worked on my own and sometimes accompanied by one of the young ladies from the centre who monitored the printing program.

It thrilled me to bits both by being entrusted to work on my own and also working in the company of this young lady. As an 'ex-crim', it was unusual to be trusted with either of these things, and here I was doing both.

We also had to attend two nights weekly at the centre for lectures, talks and activities of interest. Unfortunately, the department stopped this program and brought in another where we had to attend classes of our own choosing from a given list of courses available at local TAFE colleges and community houses. I preferred the earlier ìnhouse programs' because they gave me a sense of security.

At various times of my parole, my Corrections Centre has held TAFE 'tasting nights'. These nights are for the benefit of parolees and other offenders under the centre's supervision. These nights have been a great success. Classes included basic electronics, air brush painting, horticulture, computers, wood working, welding, lead lighting and literacy

classes; most of our people have taken advantage of these courses offered and often gone on to attend other classes.

TAFE Colleges offer many classes or courses to pick and choose from and it would be hard for anyone not to find a course which will take their fancy. While attending the TAFE building or other education facilities, parolees see other classes advertised on boards or walls. A lot have child care facilities for single parents. One of the things I have noticed with this way of education is the majority of our people 'want' to do this type of schooling without any or much pressure.

But while inside it is different. There may be attendance at various education classes, but it is mainly as a boredom release, not to gain anything specific.

Some of the classes I have done include two types of tai-chi, present wrapping, Shiatsu massage, the Alexander technique (body posture), hydroponics and public speaking. Now, as a parolee, it is not a requirement to attend such classes but I still do as I feel there is still a lot for me to learn and do in some areas.

Hassles and frustrations are some of the unavoidable things that happen while on parole and I wish there was a way to overcome these, if not wholly, at least to make it easier. My hassles started almost immediately I had left the gaol. We have to report to our given parole officer within a certain time—normally 48 hours. I called in there on my way home and came up against the first problem. My warrant from prison did not correspond with the one from the parole centre and eventually a new one was prepared there.

More was to come the next day when I had to fill out forms at the Commonwealth Employment, Social Security and Medicare Offices. I was also supposed to produce documents of identity which at that stage I did not have; a problem many experience.

Getting to these places can be frightening and embarrassing. It often means more cab fares. I used public transport, but even crossing main roads again—because of the unaccustomed high volume of traffic—was another frightening experience for me.

There are other upsetting and frustrating things even though they are simple things. For example, both my wife and I found it difficult sleeping in the same bed. It seemed for a while like an invasion of our privacy and both again jealously and selfishly guarded our personal possessions.

It took quite some time in overcoming these problems. Even being amongst one's loving and caring family can be overpowering, for example, even the smallest of things, like having someone doing something for you without any hint of reward or return as in gaol, takes some getting used to.

It is quite a peculiar thing, but there are times when you see police or hear police vehicles or even the police chopper and immediately you think, 'Look out here it comes' or 'What have I done wrong now?'

Some of us do get harassed by police for reasons unknown to us. Sometimes we may be in the company of or just talking to 'ex-crims' known to the police, but most of us long-timers seldom have many other friends except these 'ex-crims', and so there is another hassle we have to watch out for.

There are also hassles from the media, an example of this is the case of 'Mr Baldy' who is now on parole. His name, picture, and story of offences are often being brought up by the media. Why is it that parolees cannot enjoy the anonymity that others of society do. We have done our time. Are we now expected to bleed more at the hands of the media?

After only nine weeks I wanted to go back inside. I was finding it difficult to cope because of hassles, but owing to the attention given to me by my supervisor and psychologist, I am still on parole after sixteen months.

When first told at the early part of my pre-release that I had to see a psychologist, I was very angry. I had seen a lot of psychiatrists and psychologists, both before going to prison and while I was in there, and although I had freely attended and taken part in lots of

group meetings and activities, I felt these people had done exactly nothing for me. Hence my anger towards Mr Lee, the Department's psychologist, in that I had to see another one. Mr Lee told me months later that on our first meeting he had been frightened of me. Apparently my anger and aggression had shown through and I had actually seen him push himself away from his desk when he thought I had threatened him.

Joseph has helped me quite a lot and was even able to help me find some answers. I had been seeking some of those answers for over half my life time. I keep in social contact with Joseph now as we are both practising followers of Tai-Chi and Taoism, both of oriental back ground.

With varying hassles, frustrations, rules and regulations, it just seems like parole is only an extension of prison.

Even so, I again say yes, parole and pre-release is a real necessity in helping prisoners, especially long-timers, to become useful, and a proper part of society again.

CHANGES IN COMMUNITY CORRECTIONS– IMPLICATIONS FOR STAFF AND PROGRAMS

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THE PURPOSE OF THIS PAPER IS TO HIGHLIGHT AND ANALYSE SOME VERY recent changes to the philosophies in community based corrections, to examine the implications of those changes for Community Corrections officers and to document the probable outcomes for program development in Community Corrections.

The contemporary history of correctional thought has been described as 'a progression of fads, embraced with great enthusiasm and abandoned with chagrin' (Corbett 1989). In the 1960s, rehabilitation was the key. The 1970s saw the emergence of the 'nothing works' philosophy and a move towards deterrence and humane containment as the motivation in sentencing. In the early 1980s, incapacitation, or the deprivation of liberty, became the methodology and in 1990 another philosophy seems to have emerged that has its roots in all of the former philosophies.

Correctional management is an area characterised by change. Happily, in 1990 we have the makings of a more positive philosophy than in the 1970s, and one that is a product of our times shaped by other progress made in corporate management and technology.

The effects of computerisation, budgetary restraint, public accountability and corporate management principles in the late 1980s have had an impact for all government services. Correctional soul searching has been a characteristic of the last few years: we have been forced to examine what services we provide; why we provide them; whether they could be provided more effectively or efficiently by someone else; whether the costs outweigh the advantages and whether the community really wants or needs the service in the first place.

The effect of all this has been the development of clearer correctional goals, a better understanding of the purposes of corrections, more objective and valid measures of performance and, progression towards the development of a new correctional philosophy.

Philosophy

The late 1980s saw the rapid development of home detention, electronic monitoring, drug and alcohol surveillance and intensive supervision programs around the world. As well there was an increased emphasis on the involvement of correctional staff in community advocacy on behalf of offenders and specialised programs were developed for the management of intellectually disabled, psychiatrically disturbed, Aboriginal, young and female offenders. These changes have led to a philosophical position that contains elements of risk control and risk reduction as two separate approaches to the management of offenders.

Risk control has become a popular philosophy in correctional management. It allows discretion on the part of correctional managers to concentrate resources on those who present a higher risk to the community. It promotes the 'legitimate power of the state to intervene into an offender's life in ways that will reduce the probability that he or she will commit another crime' (O'Leary & Clear 1984).

In order to control risk, a range of surveillance and monitoring mechanisms are being progressively introduced around the world: electronic monitoring; urine analysis; breathalyser tests; intensive supervision programs; home detention and supervised_curfews. Risk is controlled not so much by the use of these mechanisms but by the deterrent effect they present to the individual offender—if you do something wrong, you will almost certainly be caught out.

Risk control concentrates on the likelihood of the offender committing further offences rather than on the offence for which he or she was actually convicted. Risk control, as a sole correctional philosophy, can overemphasise risk to the exclusion of all other considerations resulting in unjust sentencing behaviour. Offenders convicted of the same offence may be subject to different levels of intervention depending on the perceived risk they pose to the community (O'Leary & Clear 1984). In a risk control environment, therefore, a range of community penalties are necessary in order to set statutory limits on the amount of discretion allowed to correctional agencies.

Risk control relies on standardised risk measurement instruments in determining the level of intervention to which offenders will be subject. The use of standardised instruments to measure risk allows Community Corrections officers to justify and account for their choice of intervention with individual offenders. This ability to account in a 'scientific' and detached way is one of the main attractions of the risk control model. It fits in with the increasing demands placed upon government departments to account for their actions and to achieve productivity gains.

Risk reduction is an imperative counterbalance to the risk control philosophy. The biggest drawback with risk control is its emphasis on surveillance: 'even the best surveillance program can only catch people after a violation' (Cochrane 1989). Risk reduction emphasises the need for correctional administrators to become involved in social policy development, to advocate on behalf of the offending population for equity of access to community services and to develop opportunities for offenders to be rehabilitated.

The risk reduction philosophy advocates the development of community programs relevant to the needs of offenders such as substance abuse treatment programs (rather than the risk control emphasis on testing), adult literacy programs, employment training and school retention programs (Cochrane 1989). Risk reduction creates the environment for offenders to be rehabilitated, it gives offenders choices if they decide to give up an offending lifestyle. Correctional advocacy for the development of Spent Convictions Schemes throughout Australia is a good example of risk reduction—creating the opportunity for offenders to 'live-down' their previous convictions.

In Victoria, the development of targeted programs for special categories of offenders has been a natural consequence of both risk control and risk reduction philosophies.

Intellectually disabled, psychiatrically disturbed, Aboriginal, young and/or female offenders present different risks to the community and their different risks need different control and reduction responses. A young woman, for instance, may offend in order to finance a drug habit, the control mechanism may include drug testing, the same as her male counterparts; however, the underlying causes of her drug use may be quite different from the males and the risk reduction strategy entirely different. Similarly, an intellectually disabled sex offender will need quite different risk reduction strategies and may not be able to participate in the same risk control strategies as other male sex offenders.

The grouping together of categories of offenders on the basis of shared needs meets the requirements of efficiency and accountability. It allows risk control and risk reduction strategies to be developed to meet the needs of particular groups that can be implemented as required throughout the state. It prevents Community Corrections_officers 'reinventing the wheel' every time they are confronted with a new problem. It means that the intervention utilised with certain categories of offenders can be justified and accounted for in terms of evidence of success with other similar offenders.

Credibility

Community Corrections programs will never succeed in diverting offenders from imprisonment unless they have a high degree of credibility with the courts, the offenders and the community. Credibility was developed in the early 1980s by making community programs more stringent, by routinely returning breaches to court, and by introducing more punitive options such as unpaid community work. In the probation area, credibility was gained by achieving case load sizes small enough to enable staff to really know their cases and enforce the rules as well as to provide supportive counselling and referral assistance in areas of special need (Erwin 1990).

The political rhetoric to promote Community Corrections as a valid alternative to imprisonment has emphasised the punitive nature and the cost-effectiveness of non-custodial orders compared with imprisonment in the 'unchallenged belief' that the community demands 'retribution and a risk-free, tax-free environment' (Cochrane 1989). The community is thought to be fed-up with crime, to believe that imprisonment is the only 'real' sanction and to distrust the concept of rehabilitation.

This impression of community opinion is promoted, in particular, by the media. Politicians and correctional administrators feel they have to sell Community Corrections programs to the public as tough, punitive and cheap alternatives to imprisonment that are 'just as good as prison'. As a result, risk control aspects of correctional management have a tendency to be overemphasised. As a consequence of media and political pressure for more and more punishment at less and less cost, correctional administrators are rapidly moving to an 'anything-but-prison' theory where intervention in the community is 'tolerable irrespective of its intrusiveness as long as the resulting sanction is less onerous (and cheaper) than imprisonment' (von Hirsch 1990).

The emerging prominence of the risk control philosophy in correctional management, and the associated need to maintain or increase the credibility of community based programs for high risk offenders, has resulted in the situation overseas where risk control has become the only purpose in community correctional management in some jurisdictions. The increased emphasis on risk control in Australian correctional service must be tempered with risk reduction strategies in order to provide a balanced response to crime.

It is the rapid development of, and concentration upon, risk control strategies that has the major potential impact for staff roles in Community Corrections.

Implications for Staff

Community Corrections officers supervising offenders on Georgia's Intensive Supervision Program are issued with 'walkie-talkies, breathalysers, portable EMIT urine testing equipment, Roche urine analysis kits, and in 50 per cent of cases, firearms' (Erwin 1990). Community Corrections officers in Los Angeles have developed a cooperative program with the police where police are advised of the addresses and order conditions of all probationers within their beat and both police and Community Corrections officers may arrest probation violators and place them in custody immediately without the necessity of a court appearance (Nidorf 1989). In these two, albeit extreme, examples, it can be seen that the major impact of the emerging trend towards risk control in Community Corrections from a staff perspective must be the move towards a more intrusive 'policing' role with offenders and an increasing emphasis on technology.

Ronald Corbett paints a depressing picture of the potential effects an overemphasis on risk control technology, in particular electronic monitoring, may have over a period of time: human contact between offender and officer becoming ancillary to 'the machine'; officers becoming 'security guards' performing essentially technical and clerical tasks; 'machines' gradually replacing staff as budgets become tighter (Corbett 1989).

Joan Petersilia reported in 1988 that probation officers in the United States were 'worried that these (risk control) programs, particularly those that use electronics, will be the final blow to the rehabilitation ideal'. She notes that 'in moving from primarily rehabilitative to restrictive supervision, structural and organisational changes must inevitably follow . . . most dramatically, probation departments may need to change to 24 hour per day, 7 day per week services (and) probation agencies may need to recruit and train different types of personnel' (Petersilia 1988).

As evidence of Petersilia's assertions, Georgia's Intensive Probation Supervision Program involves a team supervision approach with two officers sharing a joint case load of about 25 offenders. One officer specialises in 'rehabilitative programming' and court liaison (risk reduction), the other in surveillance (risk control). It is presumed that the former officer is qualified in the welfare/social work area whilst the other officer is basically a security guard. This sort of diversification in staff recruitment is also advocated by other commentators.

Vincent O'Leary and Todd Clear in their 1984 paper 'Directions for Community Corrections in the 1990s' advocate the development of intensive supervision programs where the supervision is provided by specially trained and experienced staff because 'it is too difficult to manage a variable caseload, routine pressures would make it difficult to schedule the more intensive cases . . . and it is too difficult for staff to change supervision styles with individual offenders' (O'Leary & Clear 1984).

An emphasis on risk control strategies in the management of offenders may, therefore, have some startling impacts on the roles and functions of Community Corrections officers as we know them. The recruitment of specialist staff to fulfil technical and specialist counselling roles, as suggested by some commentators, may create, by implication, a hierarchy of base-grade Community Corrections officers ranging from technicians and security guards to specialist counsellors dealing only with the very highest risk cases.

Another potential impact for staff arising from a concentration on risk control strategies is higher risk work practices for Community Corrections officers—officers in a risk control environment are forced out of their offices to visit and check up on offenders at home and at work or school. Officers may also have to enforce and supervise drug or alcohol screening tests upon offenders. Because of the 'policing' role, Community Corrections officers operating in a risk control environment may be of higher risk than ever before of physical violence.

Risk control as the sole or dominant philosophy of a correctional agency is likely to have the effect of 'deskilling' Community Corrections officers (Corbett 1989). Risk control is essentially a reactive method of case management which limits the opportunity for officers to develop case plans with offenders beyond 'thou shalt not . . . '. Community Corrections officers in this environment will need skills in clearly articulating the rules, the maintenance and operation of technology, surveillance techniques and presumably_ prosecution skills as the higher levels of surveillance result in the discovery of a greater number of breaches.

Risk reduction is an established aim of many correctional agencies although not necessarily recognised as such. An emphasis or recognition of risk reduction as a strategy in Community Corrections will have some effects on the roles of staff in Community Corrections.

Risk reduction emphasises the development of community resources and opportunities for offenders and gives focus to the goal orientated supervision of offenders. In order to advocate and promote the needs of offenders, Community Corrections officers will again have to get out of their offices and market their requirements and ideas with government and non-government agencies. They may have to tackle bureaucracies who have traditionally seen the offending population as not of their concern. Community Corrections Centres will have to open their doors to the community so that the needs of offenders become common knowledge. Funding for non-government programs may have to be provided in order to promote the development of worthwhile and relevant community services to offenders.

Community Corrections officers working in the risk reduction environment require skills in marketing and advocacy and in the goal orientated supervision of offenders. They need professional welfare/social work skills in order to both recognise the needs of offenders and to have the credibility with other agencies to 'sell' them. They need skills to identify and fill 'service gaps' in the community.

In terms of staff roles, then, it seems that the newly emerging philosophies of Community Corrections—risk control and risk reduction—have already had, and will continue to have, an impact on staff roles in the 1990s. The changes resulting from the emerging risk control strategies may be seen entirely negatively by some staff, however, it is a question of balance. The balance of risk control and reduction strategies should create the potential for Community Corrections officers to be released from the 'drudgery' of providing routine case supervision to offenders who do not require it, to concentrate on the development of targeted programs for special needs groups, the management of high risk offenders and community advocacy: areas where their impact can make a real difference.

Balance in risk management should largely prevent the negative aspects of a concentration on risk control by providing the means to reduce the risk of offenders rather than just the means to catch them out.

Implications for Programs

Barry Nidorf (1989) enthusiastically lists a range of programs developed in the United States in the last year or so. The programs he describes are, briefly, as follows:

- Police/Probation Cooperative Action¾ Police and Community Corrections officers working together, sharing information about individuals and sharing monitoring and enforcement duties.

- Probation/Prosecution Cooperative Action¾ Community Corrections officers working together with prosecutors to have breaches dealt with quickly or without a further court appearance.

- Intensive Supervision¾ near constant surveillance sometimes involving two or more officers.

- Electronic monitoring¾ constant or near constant surveillance that is impersonal: 'the most promising program for toughening Community Corrections'.

- Drug deterrence programs¾ frequent random urine analysis.

- Probation violation and restitution centres¾ supervised residential centres for offenders who have breached probation or who are working to pay off victim restitution.

- Work sentencing¾ probationers sentenced to work on specific group programs where wages can be diverted to pay fines or victim restitution.

- Day reporting centres¾ probationers or parolees who are required to make multiple reports each day, sometimes coupled with surveillance at home and at work and the performance of unpaid community work.

All of the programs listed by Nidorf are based on risk control philosophies, some of which have already been incorporated into the range of Australian correctional programs. Nidorf's support for the developments is centred on their punitiveness: 'probation needs to work as a true judicial sentence that the courts can impose instead of gaol—with or without the consent of the offender'. He does not give any indication of whether the programs are balanced in their jurisdictions with risk reduction mechanisms (Nidorf 1989).

Risk control as a correctional philosophy has become the dominant force in terms of program development over the past two to three years. Home detention, electronic monitoring, drug and alcohol surveillance and intensive supervision programs are all relatively new developments, all of which are designed to control risk. Recent developments in risk reduction programs are much harder to identify on a worldwide basis. There have been risk reduction programs implemented in places, but the literature has tended to concentrate on the development of the 'more glamorous' risk control measures (Erwin 1990).

It seems that risk reduction strategies have been implemented on a much smaller scale, as one-off pilot programs or where 'spare' funding has been available (Morris & Tonry 1990). Risk reduction strategies may also be difficult for some commentators to recognise as being different from the older style of probation management programs and ideas that still cling to the supposedly 'outmoded' concept of rehabilitation (for example one-to-one supervision). It may also be that many risk reduction strategies are not recognised as 'correctional' work, being, as they frequently are, concerned with the enhancement of social support structures and access and equity issues.

Some examples of recent risk reduction programs in Australia include: the development of state and Commonwealth Spent Convictions Schemes; the involvement of Community Corrections Centres in Victoria in the Good Neighbourhood program; designing and implementing local youth activities; the funding of supported accommodation programs; the development of adventure-based activities for young offenders; the development of employment and pre-employment training options for offenders; the development of drug and alcohol treatment programs that recognise and accept the special needs of offenders; the development of programs for drink drivers and the development of strategies to support the families of prisoners and offenders.

The increased tendency in 1990 to advocate risk control programs as the focus of Community Corrections may, unless tempered with risk reduction strategies, result in

Community Corrections becoming tougher and tougher and the rehabilitation ideal being lost entirely. Community Corrections programs will become 'almost as good as prison' and the general public will continue in their reported belief that prison is the only really valid punishment for offenders.

The fact that risk control mechanisms are imperative in order to provide an alternative community management option for offenders heading towards imprisonment is not disputed. Risk control must be balanced by risk reduction in program development, however, in order to reduce the likelihood of offenders entering the prison system at a later time. Without risk reduction programs, Community Corrections can only delay the inevitable; that the offender will go to prison.

Conclusion

This paper outlines the dominant philosophies in Community Corrections in 1990. At the moment, risk control seems to be gaining more and more popularity at the expense of other equally valid philosophies. Risk control and risk reduction have an equally valid and important place in the future of Community Corrections.

Community Corrections has entered an era of major change. As prison populations continue to expand, Community Corrections will be expected to provide a greater range of more rigorous 'intermediate punishments' (Morris & Tonry 1990). In order to succeed, correctional agencies will need to find the right balance between the risk control and risk reduction philosophies and practices.

Community Corrections officers can only benefit from a correctional environment where their skills as social developers and community advocates are utilised and where their work in the supervision of offenders is targeted to the high risk and/or special need categories where their intervention is likely to make a real difference.

Community Corrections programs which complement each other and which both control and reduce risk must be the ideal to which we will aim in the 1990s.

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KEEPING ALTERNATIVES AS ALTERNATIVES

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TO COMMENCE THIS PAPER I WOULD LIKE YOU TO CONSIDER TWO DIFFERENT images. The first is the beauty and elegance of the living world. Complex biological systems such as ecosystems and individual organisms maintain their integrity and achieve their goals through the feedback of sufficient, timely and relevant information to the appropriate components.

For example, the human immune system provides remarkable protection for its host by early detection of any external or internal threat, conveying information of this threat to the appropriate parts of the immune system and controlling the level of response so that it is efficient and not damaging to the host. In so doing, this system continually monitors a huge amount of information, filtering out the irrelevant data and communicating just what is needed to each appropriate part of the system.

Whether we are viewing the blooming of the desert after rain, the grace of an Olympic athlete or even the maintenance of life on this planet we are looking at effective information feedback mechanisms.

In comparison, consider the information feedback in a typical community service order scheme somewhere in Australia. This scheme was introduced essentially to provide an alternative to gaol. Nonetheless, there is evidence that it has not acted principally in this way, but rather as an additional sanction for those who previously received a non-custodial order. Although the risks of such an outcome were widely recognised at the time of the scheme's introduction, there appears to have been little done to counter this.

The government and management of the organisation conveyed their goals for the scheme in legislation and media releases and in the training and manuals for field staff. They established a central coordinating position to assist with the implementation and to evaluate and promote the scheme. Information collected focussed on the number of community service orders (CSOs) given, the number completed successfully and positive stories of the types of work carried out. This coordinating position was phased out after 'successful' implementation.

In addition, the Correctional Department's research section carried out one-off studies of the scheme which focussed on staffing issues and identifying offenders unlikely to complete orders. Thus, almost from day one, the scheme and information feedback within the scheme focussed on the successful completion of CSOs and the resources necessary to achieve this.

Qualitative and quantitative information is collected about the CSOs and the department can tell you how many people are currently on CSOs and what types of work they are doing. But if you ask them if they are being used as an alternative to gaol or which courts or staff have achieved this goal and which ones have not, then you must look elsewhere for information. This means that policymakers cannot test the diversionary effectiveness of their scheme and, just as importantly, the field workers are given very little information to assist them in achieving the goals set for them by their department.

With the emphasis on the successful completion of orders, the objective of the CSO as an alternative to gaol has been largely ignored. There has been no real testing of the diversion effects, field staff seem to have confused ideas about the purpose of CSOs and in their reports they have mainly emphasised the likelihood of completion rather than the appropriateness of an order. As a result, the courts have had little assistance in ensuring that CSOs are only used as an alternative to gaol.

An Alternative Approach—Young Offender Services In New South Wales

At Family and Community Services (FACS), it was decided that if there were to be any chance of ensuring the very difficult aim of gaol as a last resort, then a great deal more would have to be known about the system than how many people completed their orders and what work they did.

In 1984, when FACS began to reorganise services for young offenders, there were 660 children in custody. The approach up to this time had largely been to provide passively any level of supervision or custody that was ordered by the courts. While FACS officers provided presentence reports, these largely focussed on the background of the offender and contained recommendations 'in the public interest'.

The quantitative data collected at that time was able to do little more than provide age, sex and broad offence characteristics of those sentenced and highlight which geographic areas provided the most clients. Most monitoring involved managers ringing up their colleagues and asking how things were going. The small amount of quantitative data available was used mainly to fill annual reports or selectively used to exaggerate the success of programs, justify any particular decision management wanted to make, or punish staff that management did not like. It was only after a full audit of the 660 children in custody that a detailed picture emerged of just who was being locked up.

While the principle of custody as a last resort had been widely supported, the authors of the custodial audit concluded that some two-thirds did not require custody at all (Report to the Minister for Youth and Community Service on Restructuring Services for Young Offenders, 1983). In order to reduce the institutional population, the Department decided to follow the advice of sentencers who said that they would institutionalise less children if they had alternatives. A strengthened probation service was introduced as well as community service orders and expanded day attendance programs. In addition, the Department sought and gained government approval to play a more active role in shaping the juvenile justice system—helping to build a clearer hierarchy of outcomes and advocating gaol as a last resort in both presentence reports and in general education programs. At the same time, in an effort to reduce the net-widening potential of the new alternatives, it was decided to structure the scheme tightly with clear objectives, enhanced training and an extensive monitoring scheme.

According to the work of Thorpe and others in Britain (Thorpe et al. 1980), effective monitoring of the programs would require very different data systems to those common in other human service organisations and in FACS itself. These systems, as in the typical CSO scheme described earlier, often provided data that was too late, too general, not related to

the program objectives, not going to the people who needed it, and usually too inaccurate to be useful anyway.

The impact of corporate planning theory had at least resulted in some emphasis on testing program objectives. Unfortunately, although the delays in measurement and the grossness of the indicators used (for example, statewide totals) may identify whether the objectives were achieved overall, in most corporate planning systems they do not assist with identifying how to achieve these objectives. Similarly, one-off or irregular evaluations often provide valuable information about a program but have limited value in keeping up with a constantly changing world.

What was needed was a system that could help FACS' juvenile justice staff at all levels **manage** their work on a day-to-day basis—a data system which could complement and inform the more personal and individual information traditionally used by welfare workers, and which would help to boost the bargaining position of FACS workers within the justice system. The work of Thorpe, the cybernetics theory which underpinned these British initiatives (Beer 1974), and the biological information feedback systems which informed this theory were used to develop a new system.

The monitoring scheme which grew from this analysis was designed to be:

- a continuous feedback system
- simple to collect and understand, using minimal resources
- sufficiently accurate
- up-to-date
- useful for field staff and field managers in identifying the local effects of their actions
- useful for state and regional managers in assessing the statewide and local impact of the programs
- able to satisfy the traditional reporting requirements of the organisation.

The result was a scheme which provided key indicators of workload, targeting and effectiveness intended to complement the qualitative information available. As the information was designed to monitor the justice system , and not just the individuals within it, there was a strong emphasis on system variables such as criminal record, sentencing history and bail status. The major components of the monitoring system are described in Appendix 1.

Unlike one-off evaluations, the data was continually collected and fed back to staff in order to help in refining the services. Unlike most data systems, about 50 per cent of the effort was put into ensuring the data was fed back to relevant staff at different levels of the organisation in a form which was understandable and at a frequency that was usable.

After some trials and errors, quarterly feedback to regional and state management and six-monthly detailed feedback to field staff was used. This feedback took the form of a one-day visit to each of the Department's ten regions. During these visits, the quantitative data on regional performance was presented to local staff and discussed in combination with their local, more qualitative knowledge. The result was a better understanding by state, regional and local staff of FACS impact, and, from this information, a plan for the next six months was developed by local staff.

Data was available down to the level of the basic operational units—the local court, police station or FACS district office. This allowed workers to identify trouble spots which needed more attention. Comparisons within and between regions also allowed staff to use areas which were performing well as models.

Examples of regional and sub-regional data follows. At the most detailed level of analysis, workers were provided with identifying information for children who had been incarcerated from their areas. Reviewing these cases helped to identify weak links in the diversion system.

The data was also made available to the courts and police. The elaborate computer system of the NSW Police, while able to provide detailed information about individuals, was not a good evaluation tool. But by using the FACS data, they were able to get a good idea which stations were not achieving the objectives of the Police's new diversion policies. These stations were then targeted for further specific training or more drastic measures. This was a more efficient method of achieving objectives than general staff memos and training.

In the FACS monitoring scheme quantitative information did not replace qualitative information—it simply complemented it. After initial fear of the scheme, staff began to understand and use the system more. Many staff who had experienced years of feeding information to head office and never seeing it again said that the six-monthly reviews were the best support they had ever had from central office.

What was Achieved

NSW now has about 430 children in custody at any one time, this is a drop of 35 per cent since 1984. It is important to remember that this was achieved despite very poor resourcing (no extra costs to be spent on diversion schemes) and little political support (during a time of increasing youth crime rates) and with a series of ministers and departmental heads who appeared to formulate policy on the basis of what was on the front pages of the Sydney tabloids. These figures have even largely been maintained under a Liberal minister who had in opposition condemned the diversion programs in place.

The Department's basic approach was to provide a hierarchy of penalties and to emphasise strongly to the police and courts the value of minimum intervention. This emphasis was achieved through legislative provisions, general education and liaison with courts and police, highlighting inconsistencies in cautioning and sentencing and through strong emphasis in court reports on minimum intervention. In a sense, this work aimed to 'operationalise', or make real, the principle of gaol as a last resort—not just leave it at the level of a motherhood statement.

The success of the approach is demonstrated in Figures 1, 2 and 3. Figures 1 and 2 show how the introduction of cautions and CSOs had not led to a 'blow out' in the numbers drawn into the system. Figure 3 plots the numbers sent to institutions, demonstrating how the younger, less serious and less experienced offenders have been diverted from custody.

Figure 1

NSW Juvenile Justice System—6-Monthly Time Series
Final Court Appearances, Cautions and Total Interventions

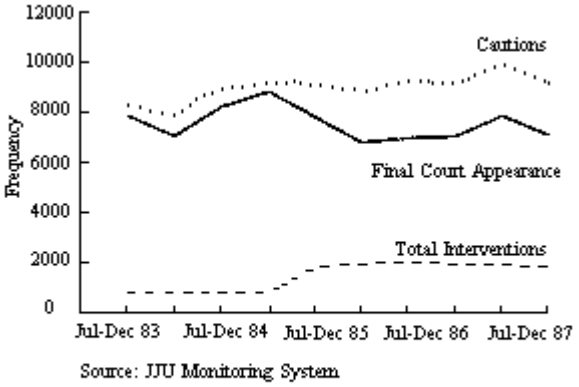


Figure 2

NSW Juvenile Justice System—6-Monthly Time Series
Number of Committals, Community Service Orders and Community Service Orders + Committal

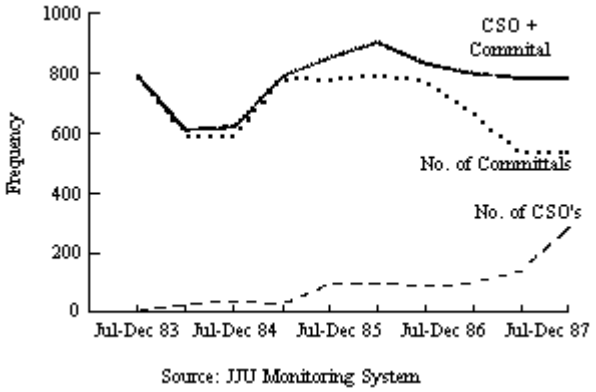
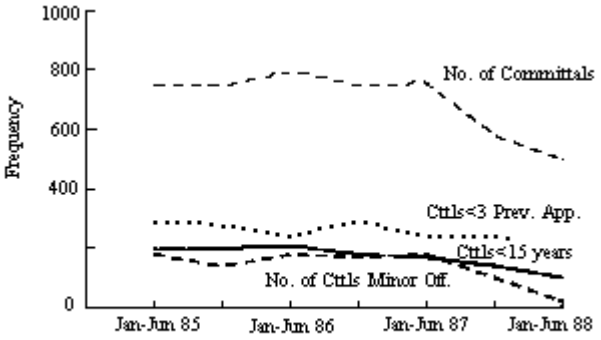


Figure 3

NSW Juvenile Justice System—6-Monthly Time Series
Committals to Institutions of Younger, Less Serious, or Less Experienced Offenders.



Unfortunately, the achievements up to 1989 have been diluted by more recent management of the system. While still relatively low, the numbers in custody are increasing and net-widening appears to be increasing also. A number of events have combined to cause this.

The lack of support for community based alternatives (some 85 per cent of juvenile justice resources are still devoted to custody) is central to the current difficulties. Probably just as important is the lack of control of the system—the Minister and Director-General have disbanded the central coordinating unit and the monitoring scheme has been taken over by the Department's data analysis unit. The generalised research staff of this unit have little interest in juvenile justice, little understanding of the real world they are trying to monitor and the quality of the information has suffered accordingly. While the monitoring reports are still being produced in the same format, they have lost both accuracy and timeliness. One glimmer of hope is that the national Social Welfare Administrators' conference has agreed to develop a national data collection system which will focus on relevance and usefulness to the practitioners.

The world is a very complex, changing place—we can maximise our freedom by keeping our eyes open and continually assessing the effects of our actions. It is very difficult to achieve effective diversion—there are so many forces against this—but there is no chance of ever achieving it with our eyes closed.

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APPENDIX 1

FACS JUVENILE JUSTICE MONITORING SYSTEM — MAJOR COLLECTIONS

Children's Court Information System: a mainframe based criminal record system which recorded all police cautions and court outcomes for children. As a full criminal record was held on each young person, it was possible to obtain essential criminal history data. Major variables: name, age, sex, offence, sentence, police bail status, final bail status, number of previous cautions, number of previous proven appearances, number of previous CSOs, number of previous institutional orders, court, pleas, area of residence, sentence data. Limited data also available on Aboriginality.

Young Offender Support Team Collection: a regionally based PC system with data sent to central office on disk. This system covered all clients of the community-based programs. Major variables: name, age, sex, offence, area of residence, ethnicity (including Aboriginality), Youth Offender Support (YOS) office, YOS worker, court, report recommendation to court, sentence, number of previous appearances, number of previous institutional sentences, bail status, length of custodial remand.

Residential Youth Centre Collection: a centralised PC based system obtaining information from each institution's admission/discharge registers. Major variables: name, age, sex, area of residence, ethnicity (including Aboriginality), institution, period in custody, escape data, offence, accommodation immediately before placement, discharge placement.

THE CHANGING ROLE OF PROBATION IN SOUTH AUSTRALIA*

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PROBATION ORIGINATED IN ENGLAND OVER ONE HUNDRED AND FIFTY YEARS ago. Most Anglo-Saxon countries enacted probation legislation in the latter part of the last century. In many parts of the world, including Australia, probation has been one of the most utilised strategies for keeping people out of prison.

Probation legislation in South Australia was first established in 1887. In 1954, South Australia became the second state in Australia to establish an Adult Probation Service staffed by social workers (New South Wales inaugurated an adult probation service on 30 July 1951). During the following twenty-five years, the service expanded as the courts placed more offenders under the supervision of probation officers. However, during the 1980s, probation gradually declined as a sentencing option. This decline may seriously damage the balance between deterrence, punishment and rehabilitation which is crucial for equitable sentencing.

Knowledge of incremental changes which have occurred over the past one hundred and fifty years, combined with our understanding of current social problems and needs, should enable us to assess whether probation has outgrown its usefulness or whether we are doing ourselves a disservice by allowing it to decline.

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Early Experimentation—Nineteenth Century England and America

The roots of modern probation can be traced to judicial experimentation which occurred in England in 1820, in the Warwickshire Quarter Sessions. Magistrates began the practice of releasing suitable young offenders, following a nominal day's imprisonment, on condition that they returned to their parents or masters who were to supervise them more closely in the future (Jones 1965). This was not a suspension of sentence, but rather represented a mitigation of punishment. This reflected an emerging belief that guidance and assistance could be more beneficial than punishment in curbing the recidivism of certain types of young offenders.

Twenty years later, Matthew Davenport Hill, the Recorder of Birmingham, applied the Warwickshire practices in a wider and more systematic manner and pioneered the informal use of probation. He suspended the sentence and began releasing young, first offenders into the community where he thought there was a reasonable chance of their reformation. He ordered that they be placed in the care of people who were willing to take them into their homes and act as guardians (King 1964). By 1857, he reported that 483 offenders had been dealt with in this manner, and only 78 (16 per cent) were known to have re-offended within twelve months of appearing in court (Radzinowicz & Hood 1986).

In the early 1840s, Edward William Cox, the Recorder of Portsmouth, made considerable use of the recognizance. This consisted of 'binding over for good behaviour' first and minor offenders.

Matthew Davenport Hill and Edward William Cox invoked an assumption in British Common Law that the court had the power to suspend a sentence under certain conditions. In 1847, when asked for an opinion by Lord Brougham's committee (on the execution of the criminal law) most British judges had little enthusiasm for the initiatives (Radzinowicz & Hood 1986).

In America, there was also movement towards reform of the criminal justice system. In 1841, John Augustus, a Boston shoemaker, observed the repeated re-offending of drunkards and concluded that imprisonment was not an effective deterrent (Mueller 1969). He obtained permission from the courts to guarantee their bail, and he then proceeded to find them employment and change their personal conditions under which they had previously offended. He was convinced that many offenders needed no more than the sincere interest of another person to be able to overcome their problems (Dressler 1969).

Augustus believed that the object of the law was to 'reform criminals, and to prevent crime and not punish maliciously, or from a spirit of revenge' (Dressler 1969, p. 26). His success in reforming habitual drunkards, who were considered hopeless cases, greatly impressed the Boston judges and was instrumental in inducing Massachusetts to become the forerunner in introducing legislation regarding probation (Clegg 1964). Augustus is credited as being the first person to apply the term 'probation' to his correctional practice (Dressler 1969, p. 21; Beard 1969, p. 16).

In Britain the social changes of the Victorian era began to have a significant impact upon the penal system. The dominant ideology of British society which emerged between 1850 and 1880 was structured around three main supports; classical economics, utilitarian philosophy, and evangelical religion.

The later years of the nineteenth century saw the development of psychiatry, psychology and sociology, and, although in their infancy, these medical and social sciences were becoming influential in the area of justice by promoting the concept of rehabilitation and a more humane approach to the implementation of legal sanctions.

The humanitarian movement had developed since the middle of the nineteenth century, and the 'science of criminology' was emerging. This led to the proliferation of research and the assembly of an international social movement which pressed the claims of criminology

upon legislatures and penal institutions (Garland 1985). Penal institutions which had been established to confine and punish were condemned as being inefficient. Recidivism rates indicate that the imposition of both short and long prison sentences did not deter, reform, or reduce criminal behaviour (Garland 1985).

A strong religious influence also contributed to the development of probation by extending the concept of supervision. In 1876, the Church of England Temperance Society placed a 'police court missionary' in the Bow Street Police Court in London in an attempt to 'reclaim' drunkards (Jones 1981, p. 194). There was a belief that offenders could be improved by direct moral instruction. By 1900, there were a hundred men and nineteen women working as missionaries in the courts on a voluntary basis (King 1964).

Despite the advances being made in Britain, it was in America that probation was legally established as an administrative device available for the judiciary. In Massachusetts in 1878, a law was enacted authorising the Mayor of Boston to appoint a paid probation officer as a member of the police force, with jurisdiction in Boston's criminal courts.

The (British) Probation of First Offenders Act of 1887

Howard Vincent, Conservative Member of Parliament for Sheffield (who had been the first Director of Criminal Investigation at Scotland Yard), became a prominent campaigner for new methods in dealing with juvenile and adult offenders. He introduced the Probation of First Offenders Bill in 1886.

Vincent's proposal that probationers be placed under the supervision of the police created the impression that probation was to be a form of police supervision. The Permanent Under Secretary of State at the Home Office stated that to apply such severe conditions to first offenders was 'perfectly monstrous' (Lushingham 1886).

In rejecting Vincent's proposal, the House of Commons demonstrated that the philosophy of probation had its roots more in humanitarianism and the concept of rehabilitation within the community. The dominant ideology underlying probation was that certain types of offenders would benefit more from help or treatment than the existing range of sentences which had been devised to extract retribution or act as a deterrent.

Radzinowicz and Hood have noted that even in its drastically amended form, the Probation of First Offenders Act of 1887 was needed urgently. One-third of the prison population were first offenders convicted of relatively trivial offences. Eighteen per cent were under the age of 20, and 72 per cent had been sentenced to less than twelve months imprisonment.

The (British) Probation of Offenders Act of 1907

In 1907, the British Liberal Government, anxious to promote a range of social reforms, introduced a Bill to establish a probation system which included supervision. Courts were given the power to discharge offenders upon them entering into a recognizance for any period up to three years. As a condition of recognizance, an offender could also be placed under the supervision of a person named in the order, and the Petty Sessional Divisions were given the authority to appoint probation officers (Radzinowicz & Hood 1986, p. 642).

The Probation of Offenders Act of 1907 also allowed for the conditional release, by higher and lower courts, of recidivists as well as first offenders. The new legislation made it clear that probation was not simply an alternative to imprisonment, or an act of mercy. It was to have a positive function in promoting the rehabilitation of offenders and preventing crime by befriending, advising, assisting, and supervising them.

The Probation of Offenders Act of 1907 was the first legislation in Britain to grant the courts the power to deal with the offender as an individual and consider his rehabilitation, in contrast to the predominantly punitive approach implicit in the nineteenth-century legislation (Thomas 1979). The effect of the legislation was that it created two distinct systems of sentencing, reflecting different penal objectives and governed by different principles. Probation was not about punishment or deterrence, rather it attempted to change offending behaviour through befriending, advising, and assisting. Probation established social work within the criminal justice system.

The early probation service and its methods had a strong religious influence. When probation officers were appointed under the new Act, most courts appointed the existing police court missionaries and, therefore, many of the probation officers were parish priests and ministers who combined their pastoral duties with their court work. However, the establishment of full-time probation officers saw a move away from the generally religious approach and began to see the emergence of more secular, though no less humanitarian, notions (Walker 1973). The Probation of Offenders Act of 1907 was evidence that the legal and religious approaches to reforming the criminal justice system had slowly converged. The legislation served as a model for probation systems which developed throughout many other parts of the world, including Australia.

The Development of Probation Legislation in South Australia

The South Australian Offenders Probation Act of 1887

In September 1887, the Honourable Maurice Salom, member of the South Australian Legislative Council, introduced the Criminal Law Amendment Bill. At the second reading, he stated that the Bill was an attempt to deal with persons found guilty of first offences of a minor nature and involved the suspension of penalty and the placing of the offender on probation. No conviction was to be recorded. The Council was informed that this legislative initiative was based on a Bill first introduced into the Queensland Parliament by Sir Samuel Griffith which had passed into law. Sir Samuel had been influenced by Howard Vincent and the legislation that had been enacted in Britain only months earlier. Salom advocated that legislation similar to the English Probation of First Offenders Act of 1887 be implemented in South Australia (South Australia *Parliamentary Debates* 1887, p. 696).

Salom was convinced that probation would be a successful means of preventing first-time offenders from the 'contamination of the association with hardened criminals'. Such was the support for the Bill in the Legislative Council that the Honourable Samuel Tomkinson stated that 'it is a wonder that such a Bill has not been passed long ago'.

Although Salom told the Legislative Council that probation in Britain had 'saved no inconsiderable sum of money to the Government' (South Australia *Parliamentary Debates* 1887, p. 697), the debate in both chambers focused almost entirely on the question of rehabilitation. There was no mention of overcrowded prisons or the high costs of imprisonment. The question of 'contamination' of first offenders with hardened criminals and the belief in the principle of a 'second chance' appears to have been of greatest concern. The negative impact of the 'prison taint' was clearly recognised by the Honourable members, and they were keen to implement a more effective means of 'reforming the character' (South Australia *Parliamentary Debates* 1887, p. 1159).

The South Australian Offenders Probation Act of 1913

The amended Offenders Probation Act became law on 11 December 1913. The Act provided for the appointment of probation officers by the Chief Secretary and gave the

courts the power to release offenders conditionally on a recognizance with a condition being supervision by a probation officer. The court was empowered to take into account:

> (a) the character, antecedents, age, health, or mental condition of the person convicted; or
>
> (b) the trivial nature of the offence; or
>
> (c) the extenuating circumstances under which the offence was committed (South Australian Offenders Probation Act 1913, Section 4 [2]).

By regulations gazetted on 26 February 1914, authority was given for the appointment of a Chief Probation Officer who was to supervise the work of the probation officers. The Comptroller of Prisons was assigned the extra duties of being the Chief Probation Officer. His new duties were far from onerous as only one part-time probation officer was appointed under his administration.

The use of volunteer probation officers

Between 1914 and 1926, only twenty-one offenders were placed under the supervision of the part-time probation officer who was assisted by volunteers. In 1924, the government amended the *Prisons Act* to allow for the early release of prisoners on 'probation' once they had completed half of their sentence. (This early release became known as 'parole' in 1969.) The government appointed twenty-four voluntary probation officers to supervise the prisoners. At the time of this amendment, the part-time probation officer was supervising three probationers.

In the mid-1930s, the courts began to make greater use of probation (*see* Table 1). Voluntary probation officers who were supervising the prisoners released on 'probation' were also used to supervise the probationers who were released by the courts. The volunteers were usually ministers of religion, social workers and other 'worthy citizens' (South Australian Adult Probation Service Annual Report 1954).

Despite the availability of these 'worthy citizens', the courts were still conservative in their use of probation. There is evidence to suggest that the courts had misgivings about the absence of trained, professional probation officers.

Magistrate Halcombe's 'Royal Commission' into Probation

In 1930, G. W. Halcombe, a Stipendiary Magistrate and Royal Commissioner, 'had a royal commission from the South Australian Government to investigate Probation as it was carried out in Canada and England' (Halcombe 1937, p. 84). Upon his return, he made a recommendation to the Chief Secretary that South Australia establish an adult probation service based on the English and Canadian models. In 1937, he complained that the Government 'had done nothing about his recommendation' (Halcombe 1937, p. 84).

A possible reason for the lack of action was that the Chief Probation Officer and Comptroller of Prisons, H. W. Whittle, had not supported Halcombe's recommendation. Whittle argued in a report to the Chief Secretary that the establishment of an adult probation service similar to those in England and Canada would be expensive and difficult to administer. He argued that South Australia did not have a dense urban population as was the case in England and that it would be too difficult to supervise probationers who could be moving constantly seeking work. He thought that the English system would be very costly, though he never explained the reasons for this.

Another possible reason why Whittle opposed Halcombe's recommendation to establish an adult probation service was because Halcombe had advocated the English

system whereby social workers were employed as probation officers. Whittle preferred the New Zealand Probation Service which was administered by the Comptroller of Prisons and employed prison officers and police officers to act as probation officers. He had no regard for the British parliamentary debates which had concluded that police officers were not suitable to be employed as probation officers, and he recommended that they be used for the 'oversight of probationers' (Whittle 1931, p. 4).

It is possible that Whittle's attitude towards probation was influenced by his own vested interest. He may have been concerned that the Prisons Department would lose control of the probation service if it was developed according to Halcombe's recommendations. The Chief Secretary would have encountered difficulties implementing Halcombe's recommendation in the face of opposition from Whittle, and this may account for the lack of action.

The South Australian Offenders Probation Act of 1913-45

By the mid-1940s, various factors were emerging which led to further amendments to the Offenders Probation Act. In October 1945, the Honourable Alexander McEwin introduced a Bill to amend the Offenders Probation Act of 1913. McEwin told his parliamentary colleagues that Adelaide was experiencing a problem with a large number of chronic alcoholics (approximately 150) who were consistently appearing before the metropolitan courts. The Government had received a proposal from the Methodist Church to establish a camp at Kuitpo to treat alcoholics. However, under the existing provisions of the Offenders Probation Act, the court did not have the power to require that a person released on probation should reside in any particular place. In practice, an offender had little choice but to enter into a bond when the alternative was imprisonment.

The Government was also responding to recommendations from the Judges of the Supreme Court who, in their report for the year 1944, had called for the need to amend Section 5 of the *Offenders Probation Act*. They recommended that the Court's power under this section should be extended. They considered that such power would enable them to make greater use of probation as a sentencing option.

The Leader of the Opposition, The Honourable Francis Condon, supported the Bill. He believed that he and his colleagues were 'living in different times and our desire is to help people to reform'. He believed that the other members of Parliament would be 'staggered' if they realised the harshness of the penalties prescribed in some Acts passed 50 or 60 years earlier (South Australian Parliamentary Debates 1945, p. 412). However, the expansion of powers granted to the courts concerning the conditions of a supervised bond were difficult to enforce without the provision of full-time probation officers.

The move away from voluntary probation officers

In 1946, a statutory full-time probation service was initiated for juvenile offenders. However, the system of volunteer probation officers in respect of adult offenders remained until 1954. The courts were conservative in their use of the *Offenders Probation Act* in the early years following its enactment (*see* Table 1). It is likely, however, given the foregoing observations, that the major reason why more offenders were not placed on probation was the absence of a reliable, accountable, professional probation service, rather than a lack of faith on the part of judicial officers to utilise probation as a sentencing option.

Eight years later, in 1952, the issue of supervision was raised by the government committee enquiring into the treatment of sex offenders. The committee recommended that probation officers be attached to the courts to assist the judges in the collection of information prior to sentencing, and the supervision of offenders during their period of probation. It was noted that since judges had been releasing offenders on probation with a

condition that they should receive psychiatric treatment, that 'on no occasion has any such offender ever attended to receive full treatment' (Treatment of Sexual Offenders Committee 1952). The committee recommended the appointment of full-time probation officers in order to overcome the problem.

Table 1

Offenders Released on Probation in South Australia, 1914-53

Year	Male	Female	Total
1914	2	--	2
1915	--	--	--
1916	--	--	--
1917	2	--	2
1918	1	1	2
1919	1	--	1
1920	5	--	5
1921	3	--	3
1022	1	--	1
1923	1	--	1
1924	--	1	1
1925	--	--	--
1926	3	--	3
1927	6	1	7
1928	8	2	10
1929	11	1	12
1930	14	--	14
1931	16	1	17
1932	--	2	2
1933	3	--	3
1934	2	--	2
1935	38	2	40
1936	68	4	72
1937	86	5	91
1938	119	6	125
1939	40	2	42
1940	91	3	94
1041	67	2	69
1942	79	6	85
1943	69	7	76
1944	43	9	52
1945	47	2	49
1946	34	3	37
1947	17	3	20
1948	13	--	13
1949	13	2	15
1950	14	--	14
1951	12	4	16
1952	20	3	23
1953	9	1	10

Source: SA Department of Correctional Services Annual Reports

The South Australian Offenders Probation Act of 1913-53

In 1953, the Attorney-General, the Honourable Reginald Rudall, supported an amendment to the *Offenders Probation Act* to allow the courts to proceed to a conviction prior to placing an offender on probation. The Leader of the Opposition, the Honourable Francis Condon, opposed the legislation on the grounds that the recording of a conviction could be used against an offender in the future, therefore defeating the rehabilitative intention of the legislation. The legislation, however, was enacted on 5 November 1953 (South Australia *Parliamentary Debates* 1953, p 963).

The *Offenders Probation Act 1913* had clearly stated the duties of probation officers. It is significant that the *Offenders Probation Act 1953* reiterated those duties.

The worldwide trend away from voluntary probation officers toward full-time staff was recognised in South Australia on 15 March 1954 when the Adult Probation Service was inaugurated under the direction of the Chief Probation Officer, J. H. Allen (Comptroller of Prisons). The first full-time probation officer to be appointed continued to receive support from the volunteers until their caseloads gradually expired.

A feature of the service was that, in addition to supervision of offenders, it was to provide pre-sentence reports—that is, comprehensive investigation into the social backgrounds of defendants—to the courts to assist the judiciary in the sentencing process. The Chief Justice, in supporting the service, stressed the value of pre-sentence reports and adequate supervision.

The South Australian Adult Probation Service

In 1952, the Economic and Social Council of the United Nations called probation 'one of the most important aspects of the development of a rational and social criminal policy'. The Council urged all governments to adopt or extend the system as a 'major instrument of policy in the field of the prevention of crime and treatment of offenders' (United Nations 1952). The creation of the South Australian Adult Probation Service in 1954 provided the opportunity for the development of a professional rehabilitation program. Probation, and the concept of granting a 'second chance' for rehabilitation rather than imprisonment, has never assumed the dominant role within the South Australian criminal justice system that it has in other countries. Successive governments continued to focus on the prison system, and the result has been that, in the past three and a half decades, probation has failed to achieve the status of a 'jewel in the crown of the new penology' (Bottoms & McWilliams 1979, p. 159-202) that it did in many Western cultures. In South Australia it has remained under the shadow of the prison system.

In the past decade, South Australian courts have gradually utilised probation less as a sentencing option. Convictions have more than doubled, but probation orders have declined by 20 per cent (*see* Table 2). Probation is now used almost three times less frequently as a sentencing option than it was a decade ago.

Is the rehabilitative ideal declining?

In the 1980s, both Liberal and Labor governments focused on expanding the range of community based sentencing options available in the courts. In 1981, a Liberal government established the community service work program. In 1984, the Labor government took further action to reduce the prison population when it enacted legislative changes which resulted in parole becoming automatic, rather than at the discretion of the parole board. The result was a significant increase in prisoners released on parole. Throughout the 1960s and 1970s, parolees had been approximately 10-15 per cent of probation and parole officer caseloads. This rose to 25-30 per cent in the 1980s. In 1987, home detention was introduced and the following year the fine option program began.

Table 2

South Australian Convictions and Probation Orders 1979-1988

Year	Convictions	Probation Orders
1979	10,023	1,249
1980	15,258	1,286
1981	20,885	1,317
1982	21,538	1,191
1983	24,083	1,461
1984	25,819	1,279
1985	23,742	1,376
1986	23,017	1,146
1987	20,947	950
1988	22,384	997

Note: This is not a direct comparison as the conviction figure is recorded per calendar year whilst probation orders are recorded per financial year.

Sources: Mukherjee et al. 1988; and the South Australian Department of Correctional Services Annual Reports.

The legislative initiatives were primarily concerned with reducing the costs of crime by keeping offenders out of prison. They did not address the question of rehabilitation and the need to resolve the social and personal problems that had precipitated the offending.

Community service work is one alternative to imprisonment. Offenders compensate the community for their criminal behaviour, but community service work does not involve treating offenders or helping them to overcome the problems that may contribute to their offending. It is a reflection of the 'just deserts' approach to criminal justice which focuses on the need to deter others from future offences and expresses the retribution of society. The sentence may contribute to the rehabilitation of the offender, but this is not its primary purpose and may be no more than an arbitrary result of it. There is a contention that community service work is rehabilitative because it enhances the work skills and self-esteem of the offender. This view appears to be based only on anecdotal data, rather than valid research evidence.

In contrast, probation was never designed to be a punishment, although it has always been recognised that there is a punitive element involved in being subject to supervision. The intention, however, was for the probation officer to assist the probationer to complete a good behaviour bond. The legislation explicitly spoke of probation officers as having a duty to 'advise, assist and befriend' (South Australian Offenders Probation Act 1913-1953, Section 7 [d]).

Probation reflects the 'welfare' approach to criminal justice and emphasises the need to treat offenders as individuals. Probation evolved to facilitate those individuals whose offending is regarded as being more the outcome of social disadvantages or disorganisation. They often lack the social, economic, emotional and family supports which protect or prevent them from developing criminal associations and then criminal behaviour. The welfare model regards rehabilitation as the best protection for the community when it is applied to those offenders who have the capacity to be rehabilitated (Parsloe 1976).

The success of the criminal justice system rests upon its ability to develop sentencing options which contain an appropriate balance between 'just deserts' and 'welfare' (Parsloe

1976, pp. 72-3). In certain circumstances, the principle of deterrence will take precedence over the need for rehabilitation and the offender will be imprisoned, ordered to complete community service work, or be ordered to pay a fine. However, there are many circumstances in which rehabilitation is the prime concern, and for that purpose probation was developed.

If probation is declining in South Australia, we must consider whether a serious imbalance is developing between 'just deserts' and 'welfare'. If society does not rehabilitate those offenders who are capable of being rehabilitated and are in need of it, they could remain at risk of further offending. It would be difficult to argue that fewer offenders need to be rehabilitated as the past decade has been characterised by relatively high levels of poverty, unemployment, and drug and alcohol abuse, all accepted precipitators of crime. Many offenders are in need of professional assistance to overcome the problems that are associated with their offending.

The Need for Evaluation

The legislation regarding probation was reasonably clear and precise. The theory was that certain types of offenders could be rehabilitated more effectively within the community rather than in prison. Social work methods were to be the primary tools to achieve this objective. The legislators, however, failed to establish a system which monitored the implementation of the service.

Over the past three and a half decades, probation has provided a humane alternative to imprisonment for some offenders, but it has not yet been demonstrated whether those offenders have benefited from the professional supervision that they have received. The impact of probation has not been evaluated and there has never been an independent appraisal of the implementation of probation to determine whether a genuine probation service has been established which is capable of achieving the legislative objectives.

The South Australian Adult Probation Service expanded throughout the 1960s in accordance with a worldwide trend which placed emphasis on rehabilitation and decried the failure of imprisonment. In the more economically restrictive 1970s, governments became increasingly concerned with the steadily escalating costs of imprisonment. The South Australian government followed the international and national trend and became interested in developing community corrections as an alternative to imprisonment. There was a perceived need to divert more offenders from the prison system in an effort to improve prison administration and reduce costs.

In the 1970s, the Adult Probation Service expanded three-fold in terms of probation and parole officer personnel. Staff levels increased from 17 in 1970 to 54 in 1980. Although there was rapid growth in the size of the service, there appear to have been no independent evaluation studies to establish whether the service was being implemented effectively, and whether the goal of rehabilitating probationers was being achieved in the manner that the legislators envisaged.

Moves toward evaluation appeared to be enhanced when a Liberal government was elected to office in 1979. It had an explicit policy regarding the processes and practices of government financial management (Strickland 1982, p. 114). Program-performance budgeting (PPB) was to become the basis of reporting of and accounting for the government's expenditure with the aim of increasing the effectiveness and efficiency of government expenditure. In September 1980, the Legislative Assembly of the South Australian parliament established two estimates committees to examine the 1980-81 state budget. As part of the exercise, each government department was required to produce a statement of objectives and functions, a division of each agency's activities into programs

and components of programs, and a written description of each program and program component.

In 1981, in accordance with the government's program-performance budgeting program, the Department of Correctional Services issued a statement of purpose and objectives. The statement outlined an intention to divert more offenders from the prison system by supervising them in the community on probation. Offenders were to receive a more professional social work service in an attempt to give them practical help and facilitate their rehabilitation.

Were these good intentions ever implemented? In the absence of reliable evaluation research, it is not possible to answer this question. More probation officers were employed and they had superior academic qualifications to their earlier counterparts, but it has not been demonstrated whether the service they provided was more efficient or effective than the service provided in the 1950s and 1960s. As Walter Williams, the noted American social scientist stated:

> the failure to focus on implementation has blighted not only program administration but also policy research and analysis. In the former case, policy ideas that seemed reasonable and compelling when decisions were made often have become badly flawed and ineffective programs as they drifted down the bureaucratic process. It is not just that programs fall short of the early rhetoric that described them; they often barely work at all (Williams & Elmore 1976, p. XII).

Until an implementation evaluation has been completed in conjunction with an impact study, it is not possible to state accurately whether probation is achieving its objectives.

Conclusion

Probation has not been 'a major instrument of policy' within the South Australian criminal justice system. In the last decade, two new prisons have been built and more community based sentencing options have been developed, but the one program that was specifically designed to rehabilitate offenders is being used almost three times less frequently than it was a decade ago. Research is needed to determine why this is occurring.

In the absence of evaluation studies, critics of probation in South Australia have claimed that it does not work. They want to reduce the role of social work and rehabilitation, and favour more authoritarian social control methods. However, they have not produced reliable research evidence to support their opinion. There is research evidence which demonstrates that a correctly implemented probation service targeted to the appropriate individuals can be both efficient and effective in contributing to less crime.

Historically, the philosophic core of probation has always been humanitarian. Rejecting the harsh concept of punishment, it has insisted that in many instances the best protection for the public from crime is the rehabilitation of the offender (McAnany 1976). Rehabilitation has been accepted as a legitimate means of dealing with offenders. Rehabilitation has achieved an 'entrenched and established position' in many parts of the world (Bean 1976, p. 3). There is a difference, however, between acceptance and practice, and this may help to explain the decline of probation in South Australia.

If we do not rehabilitate those offenders who have the potential to be rehabilitated, they could remain at risk of reoffending. For these offenders, community service work may merely delay their entry into the prison system. Community service work was designed as one alternative to imprisonment. If it becomes an alternative to probation, not only will our criminal justice system become less humane, but also less effective and efficient at combating crime. When probation is implemented in accordance with its objectives, it has the capacity to keep people out of prison.

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JUVENILE OFFENDER DIVERSIONARY PROGRAMS IN THE NORTHERN TERRITORY

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A JUVENILE JUSTICE REVIEW COMMITTEE WAS ESTABLISHED WITH THE implementation of the *Northern Territory Juvenile Justice Act* in 1984. The review took several years and much research. Based on recommendations of the review, juvenile justice functions were transferred to the Department of Correctional Services in early January 1986, and the Legislative Assembly passed wide-ranging amendments to the *Juvenile Justice Act* as part of a total overhaul of the legislation.

This initiative was taken by the government in order to separate clearly the delivery of welfare-type services and juvenile justice services, which tended to overlap. As well, this move was seen as a realistic way of ensuring that young offenders were held accountable for their actions. There was little doubt that the majority of adults who end up under the Corrections umbrella, are merely juvenile offenders who graduated to the adult scene. Therefore, it was reasonable to assume efforts to divert offenders from further conflict with the criminal justice system, should start when a person first penetrates the system.

The main thrust of juvenile justice correctional activity in the Northern Territory is directed towards the diversion of offenders from the criminal justice system and, in particular, a custodial sanction. The merging of juvenile justice with other correctional services has proven that an overall approach to offender treatment is practical and effective. The merger has successfully reduced the rate of imprisonment of juvenile offenders and there has been a wide range of programs introduced to meet the needs more effectively of those young people who come into conflict with the law.

The evidence is clear that the more access juveniles have to the criminal justice system, the more frequently and deeper they will penetrate it. Correctional Services strives to establish a series of barriers to this penetration with efforts to divert offenders from further contact.

It has been shown that punishment of criminal offenders through incarceration in a juvenile detention centre or a prison, despite the best of intentions and availability of rehabilitative programs, has little positive effect. What happens in many cases is that the detainees learn from their fellow inmates how to become more effective at committing crime.

Correctional Services endeavours to divert offenders from the criminal justice system in the firm belief that the quality of life of individual offenders is by this means improved, costs of detention and supervision incurred by the community are reduced as diversion occurs, and the 'unseen' social costs of broken families and unemployment is much reduced.

Sentencing Options Available through the Courts

Under Section 53 of the *Juvenile Justice Act 1983* and *Juvenile Justice Amendment Act 1987*, the following penalties are available to the Juvenile Court upon finding a charge proven:

- Discharge without penalty.
- Adjourn the matter for a period not exceeding six months. If no further offending occurs, the juvenile may be discharged without penalty.
- Fine not exceeding $500 per offence.
- Good Behaviour Recognizance (bond) not exceeding two years. An example of this would be where, without conviction, a juvenile is released upon entering into a recognizance him/herself in the sum of $200 own recognizance (O/R) to be of good behaviour for a period of twelve months. If further offending occurs, the bond is breached and the sum of $200 may have to be paid to the court. The charges which were the subject of the bond may be dealt with afresh, incurring a greater penalty.
- Perform unpaid community service work.
- Probation for a period not exceeding two years. This involves supervision by a probation officer and may provide directions as to residence, associates, reporting, persons whom to obey, participation in juvenile justice programs, or any other condition the court thinks fit; for example, will attend school or will repay money, and so on.
- Detention, or imprisonment not exceeding twelve months per offence. To be imprisoned, a juvenile must be at least fifteen years of age. For serious offences, the Supreme Court has the power to order detention or imprisonment for a period that, if committed by an adult, is punishable. The court has the power to suspend all or part of any period of detention on conditions as it thinks fit. There is provision under the Act for periods of detention/imprisonment to be served periodically. An alternative may be for the court to specify that a juvenile perform periodic detention each weekend for three months from the date of the Order.
- Order a juvenile to participate in a project or approved program.

Community-based Juvenile Justice Programs

Community service orders

Community service is defined as a term of unpaid work performed by the offender for the benefit of the community. It is essentially a punitive sanction which offers elements of rehabilitation, together with reparation.

In the Northern Territory, there are essentially two forms of community service orders:

- court-made order, where the sentencing authority has the power to order the offender a set number of hours (not exceeding 480 hours) of community work;
- director-made order, where the offender may apply to the Director of Correctional Services to perform community service work in lieu of payment of a fine imposed by the court. The application may be made in one of two situations; as a fine option, where the offender makes application to perform community service prior to the expiry of the time given to pay the fine; or fine default, where the time to pay has expired and a warrant has been issued and possibly executed.

All community service projects are approved by an advisory committee to ensure certain criteria are maintained. These criteria include: the work is for non-profit or charitable organisations or needy individuals; volunteers from within the sponsoring group or organisation are in attendance during the performance of community service and preferably able to work with the offender; work performed would normally only be carried out by volunteer labour, and would therefore not detract from paid employment opportunities; work will not be of a demeaning or degrading nature; and the work to be done will benefit the general community, the person or organisation for whom the work is done, and the offender.

Probation

The sentencing authority has a number of options when sentencing an offender to probation. One of these options is to place the offender under the supervision of Correctional Services. The aims of the supervision process are:

- community protection;
- the diversion of offenders from further conflict with the law;
- the development of the offender, for example, education/work skills training, and personal development programs.

The aims are achieved through the following activities:

- Surveillance: offenders resident in town are required to report to the office on a regular basis and home visits are made periodically. Offenders resident in remote communities receive visits from their probation officer every four to six weeks. Contact is also made with the offender's family and with relevant agencies such as police, education or welfare.
- Assistance: the probation officer attempts to establish a relationship with the offender and work with that person towards the resolution of any difficulties

he/she may be experiencing at home, school, place of employment, or amongst peers.

- Referral: it may often be appropriate to refer the offender to other agencies for assistance, for example, welfare, counselling services, or skill share programs.

- Direction: in certain circumstances, offenders may be directed by their probation officer to undertake a certain course of action, for example, attend school. Failure to do so may result in breach action.

The supervision process follows a casework model, with input from the offender in the development of casework goals. Case plans are regularly reviewed by senior officers and, where necessary, case conferences are held.

Juvenile Offender Placement Program

The Juvenile Offender Placement Program (JOPP) provides community placements for juvenile offenders under court orders for a period no longer than 28 days, as a specific alternative to detention. The high remand rates in juvenile detention centres—often not leading to a sentence of detention—warranted Correctional Services investigating and developing its own care program, based on the successful Welfare Division 'Community Care Program'.

JOPP families and individuals are recruited from the community to provide care and a supportive home environment for juvenile offenders who have been bailed or released to probation. Those juveniles targeted for JOPP have experienced some form of family dislocation or trauma. Placements with a specific and individualised program of in-care treatment, will be provided for the juvenile. Such a placement will be made available where, in the opinion of an assessment panel, the juvenile will benefit from care in a supportive family environment as opposed to being detained in custody, and where the juvenile:

- is prepared to sign a contract specifying responsibility and commitment to developed objectives of the in-care treatment program;

- will commit him/herself to working with the program family, and developing reasonable rapport with the family.

Juvenile remand and detention

In the Northern Territory, a juvenile, for the purpose of the administration of law, is anyone between ten and seventeen years of age. As already indicated, the courts of the Northern Territory have a wide range of dispositions available when dealing with juvenile offenders. The majority of cases are dealt with in a summary manner by the Juvenile Court with sentencing powers restricted to the provisions of Section 53 of the *Juvenile Justice Act*.

The Supreme Court of the Northern Territory may determine a matter involving a juvenile in accordance with the provisions of the *Justices Act* or the *Juvenile Justice Act*. Where the Supreme Court deals with a juvenile under the *Justices Act*, the court may impose any penalty it has the power to impose were the offender an adult.

The *Juvenile Justice Act* does not contain provisions for automatic remission when sentenced to a term of detention. Under normal circumstances, an adult sentenced to a period of imprisonment automatically receives a reduction of one-third upon admission to a prison where the sentence is greater than 28 days. There is, however, provision under Section 61 of the *Juvenile Justice Act* for the reconsideration of sentence during any time

of the sentence being served by the juvenile. Reconsideration of sentence is not the right of a detainee and an application can only be made by the Minister or his delegate. Where practical, the application is brought before the original sentencing authority.

A reconsideration of sentence is usually made by the Department after the detainee has demonstrated a sustained change in attitude and behaviour, and it is considered to be in the best interest of the juvenile to be released early in order he/she may continue to develop within the community. The following areas are addressed when making the application for reconsideration of sentence to the court:

- conduct/behaviour while in detention: general attitude to detention/sentence; response to programs conducted by institutions; response to staff; response to peers; conformity to rules in institutions; changes in behaviour/attitude during detention;

- post-release plans: family situation: independent living arrangements if applicable; employment if applicable; education; on-going counselling; other support arrangements if applicable;

- any special conditions or arrangements required by the court;

- any additional reasons to support the application;

- any special recommendations from Department, such as probationary period or attendance orders.

Remand and detention centres

The primary functions of a detention centre are the protection of the community by the safe and secure custody of juveniles sentenced to a period of detention, and the reduction of recidivism amongst juvenile offenders. The detention centre provides the community, through the courts, with a sentencing option which is punitive, has deterrent value and which minimises the detrimental sociological and psychological effects of institutionalisation in comparison to a normal prison environment.

Detention at a centre is punitive only in that the juvenile's freedom has been restricted and that he/she is required to conform to a closely supervised and structured regimen. No form of punishment is administered by staff to detainees in relation to the offences for which they are detained, though punitive measures may be taken as a result of failure to behave in accordance with the rules of the institution.

In support of the primary function of juveniles in detention, the following are related objectives:

- supervision and management: the provision of adequate supervision and effective management which seeks to promote, rather than inhibit, personal autonomy and self-discipline;

- assessment: the provision of accurate assessment of individual needs and abilities;

- training: the provision of maximum opportunity for positive self-development through effective and relevant training;

- reintegration: the preparation of the individual juvenile for resumption of life within the community following detention.

There are three detention centres in the Northern Territory: Giles House in Alice Springs; Malak House in Darwin; and the Wilderness Work Camp at Wildman River, about 200 kilometres from Darwin. Both Giles House and Malak House could be considered as traditional detention centres. Both centres offer secure placements to ensure community protection, enable assessments of offenders to take place, and offer a number of programs including educational, vocational, recreational and life skills.

Much has been written and said concerning specific issues and problems affecting Aboriginals throughout Australia. In particular, in the area of criminal justice, much emphasis has been placed upon the disproportionately high rate of imprisonment and detention amongst Aboriginals. The Northern Territory, therefore, set out to identify factors which cause or contribute to this problem as the first step in developing programs to reduce and minimise it.

The Northern Territory consists of an area of approximately 1,346,000 square kilometres. South Australia, Victoria, Tasmania and the ACT have a combined area of approximately 1,281,800 square kilometres. The total population of the Territory (1986 Australian Bureau of Statistics Census) was 154,848 while the combined populations of the states and other territory mentioned, was 6,051,283. At this time, the Aboriginal population in the Northern Territory was 22.4 per cent of total population, while the combined total of Aboriginals in the other areas was 0.57 per cent of total population.

The Territory obviously is a vast area where a comparatively high percentage of Aboriginals are contained in the total population. Significantly, the greater proportion of Aboriginals live in remote localities, mostly in a tribal situation. Seventy per cent of Northern Territory Aboriginals live in population centres of 1,000 or less people; 30 per cent live in population centres of 200 or less (1986 Australian Bureau of Statistics Census). These groups maintain, as much as possible, their traditional lifestyles and culture while being exposed to the European influences and they are, of course, subject to European law. In some areas it is not uncommon to meet an Aboriginal who can vividly recall the first time he saw a white person. This allows some concept of the actual isolation of some Aboriginal communities.

As a result of commercial activities commencing in several areas over the past three decades, tribal Aboriginals within those areas became exposed to some of the de-stabilising aspects of European culture such as alcohol. In the case of many juveniles, substance abuse, in the form of petrol sniffing, became prevalent. The effects were devastating, often culminating in an appearance before a court.

Such problems were compounded by the fact that most tribal Aboriginsls are bilingual, with English the secondary language. The individual's own language is used more extensively in everyday communication with relatives or clan members. As a result, the full impact of court appearances and subsequent matters was frequently not comprehended. This is not indicative of a lack of intelligence but having no previous exposure to legal proceedings or legal jargon. An Aboriginal offender in such a situation cannot be expected to understand the significance of bonds, parole or other forms of conditional release or community based correctional programs.

As substance abuse and a variety of other social problems appeared to snowball and problems became evident, solutions were sought. There was an apparent need to educate Aboriginals to the disastrous effects being created through alcohol and other problems, which were contributing to the erosion of their culture, to the loss of traditional power of elders of the clan or tribe, and to the moral and physical disintegration of the young people.

A real effort was needed to reinstate traditional tribal authority by returning responsibility for the management of their own affairs to members of the clan or tribe. This effort could not be achieved solely by social work practices and self-management is not a reality if constantly subject to white intervention. From this was born the Aboriginal community corrections officer concept.

Aboriginal Community Corrections officer program

This program is based upon the concept of self-determination for Aboriginals. It is intended as providing a real and tangible method of involving Aboriginal people in undertaking responsibility for the resolution of problems within their own communities. It is structured to maximise the greatest involvement of individuals, family groups, and others in countering the problem of both adult and juvenile offenders and addressing the root causes of that problem.

Aboriginal corrections officers engaged in the program are part of an on-going process of educating their people about the cause and effect of crime, in human and financial terms. They address a wide range of social issues including alcohol abuse, gambling, and child neglect. Each officer provides input to their own local Community Councils in recommending the establishment of recreation and entertainment facilities. They liaise closely with health and education personnel in developing suitable educational programs designed for the community needs.

These officers have direct and specific involvement in supervising and monitoring the behaviour of probationers, parolees and persons involved in the community service order scheme. They provide advice to visiting magistrates, upon request, concerning the disposition of matters before the court in connection with Aboriginal offenders.

Correctional Services—through Aboriginal community corrections officers and remote-based probation and parole officers—strives to involve significant community members and family in the court process. As a result, standard corrections-type sentences are tailored to fit the unique circumstances in Aboriginal communities. As an example, a community service order, in some regions, may require young offenders to participate in 'culturally relevant' instruction conducted by elders, such as bark painting or dancing. Another condition of probation orders frequently requires a juvenile offender to reside at an appropriate traditional homeland in an effort to re-integrate him into the tribal social network and lifestyle.

All Aboriginal people who come into contact with the criminal justice system in that jurisdiction are provided with a proper understanding of that system, of penalties incurred and of the various conditional liberty programs. Because there is no language barrier, the individual offenders and the community at large are involved in a better understanding of their responsibilities.

The broad objective is to reduce the rate of imprisonment amongst Aboriginals by educative measures, providing programs and facilities appropriate to the needs and encouraging responsibility for managing their own affairs and by specific involvement in the resolution of social and other problems.

Selected officers must be able to communicate effectively with both whites and Aboriginals, and have the respect of the community generally. Educational standards are not regarded as the most significant attribute, though basic literacy skills are required. A willingness and commitment to training, to exercise authority with discretion, and a demonstrated desire to advance the standards of their own communities are the most desirable qualities. To date, officers have been appointed at Angurugu, Umbakumba and Port Keats in the Top End, and Hermannsburg, Papunya, Yuendumu, and Ali Curung in the Alice Springs region.

With respect to juveniles in detention, it was apparent there was also a disproportionate number of Aboriginals represented. Many had low educational standards, had been

substance abusers, and were unlikely to respond to the more traditional aspects of programs being run in detention centres. For those youths, it was considered appropriate to focus on basic life and work skills. Two of those programs will be discussed.

Wilderness work camp

In May 1986, Northern Territory Correctional Services embarked upon an innovative program aimed at recalcitrant juvenile offenders who have been sentenced to a period of detention in the Northern Territory. The program is based on the Outward Bound paradigm of structuring a series of challenging events which increase in difficulty. The program is primarily aimed at developing basic work and life skills to prepare the individual for their eventual return to the community.

The camp is a minimum security facility situated on a ten-acre block in a bushland setting. The boundary is enclosed with a normal cattle fence about one and a half metres high. Detainees at the camp enjoy relative freedom during the day and are locked in their dormitory at night. Detainees are generally aged between 15 and 17 years with provision for sentenced juveniles to be kept up to their 18th birthday.

Juveniles are selected for placement at the camp by means of a classification process which is designed to determine the suitability of offenders to participate in the various programs conducted by Correctional Services. These juveniles usually have an extensive criminal history and may come from any of the cities, towns or isolated communities within the Northern Territory.

During the dry season, staff and detainees work in close cooperation with the Conservation Commission of the Northern Territory in the preparation and construction of recreation facilities for amateur fisherman and other tourists in designated conservation reserves. Shady Camp on the Mary River has been extensively developed by the Wilderness Work Camp and is rapidly being recognised nationally as a prime destination for amateur fisherman. To date, in excess of 40 kilometres of fencing has been constructed by detainees to protect the Mary River conservation area from feral cattle, buffalo and pigs.

The program is designed to encourage the juveniles to achieve goals which on the surface, appear to be beyond their capacity. The aim is to help juveniles develop a sense of purpose, enhance their self-esteem and desire for achievement. Through the development of individual skills and teamwork, the participants experience growth in their ability to make decisions, set and reach goals and work with others in relationships of trust and respect.

In the work program, juveniles learn basic skills in welding, concrete finishing, carpentry, plumbing, fencing, use of hand and power tools, horticulture, animal husbandry and cooking. For recreation, the juveniles participate in the various codes of football, cricket, volleyball, softball, basketball, running, fishing and bush camps.

The key feature of the camp is 'self-help'. This is incorporated into some of the recreational activities, but is also brought about by way of participation in every aspect of the day-to-day activities of the camp including its construction, the provision of meals, and the industries of the camp.

Station placement for juvenile offenders

The Juvenile Offender Station Placement Program currently operates in the Alice Springs region. It is very much a pre-release program designed to take selected juveniles under detention or a prison sentence to be placed on rural properties where they receive training in stock-handling and property maintenance skills. This program aims to help the young offenders concerned develop a work ethic and build up a reservoir of skills that will encourage self-reliance, give them some dignity and enhance their employment prospects. A juvenile is matched to a particular station owner or manager and is put to work with other

station hands doing whatever work may be required. Departmental supervision is minimal, though always available, should problems arise.

The program is open to both Aboriginal and non-Aboriginal offenders: however, care needs to be exercised when placing juveniles so that local Aboriginals working on the station are not offended by a stranger coming amongst them and working side by side. Some stations offer to pay the juveniles for their services, and, although wages cannot be accepted while an offender is under sentence, arrangements can be made for some money to be put into a trust account to be ready for the juvenile on discharge. The managers of the properties who provide the training and supervision of the offender receive a payment to compensate for the provision of board, keep and training costs.

Both the Wilderness work camp and the Station Placement Program have the capacity to teach the juveniles worthwhile work skills, to improve their self-image and to minimise the problems associated with institutionalism, particularly where full-blood Aboriginal youths are involved. Both offer a break from the more traditional treatment programs for juvenile offenders and are viewed as innovative and viable alternatives to simply locking a juvenile away for the period of his sentence.

Conclusion

Northern Territory Correctional Services realises the necessity to reduce the disproportionate number of Aboriginal offenders coming into conflict with the criminal justice system. By implementing what are considered to be more culturally appropriate and relevant practices, and providing alternatives to traditional correctional programs, it is anticipated there will be longer term positive results. These results may take a generation or more but the emphasis has been shifted away from surveillance type activities to emphasising vocational and life skills.

Through the use of community corrections officers, an educational process takes place within communities to increase community involvement and create an awareness of social problems which can then be tackled by the community with a coordinated approach.

COMMUNITY BASED PROGRAMS FOR YOUNG PEOPLE

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THE SERVICES AND PROGRAMS AVAILABLE IN THE BARWON REGION (VICTORIA) for young people who are involved in the Children's Court system, or who are at risk of involvement in that system, are offered in a manner that is unique in relation to other comparative agencies across the state.

The process to reach present-day service provision has been a developmental one that has occurred in several stages. The 'end product' was not planned and has only developed over the years as resources have become available and needs in the community identified. Only as each stage consolidated has further progress been made. There is, therefore, a strong degree of stability in the agency and confidence in the service provision by both statutory authorities and the community sector.

The initial model for the Youth Support Unit commenced with a youth hostel. Today, many services are offered in a cooperative manner between the statutory authority (Community Services Victoria) and the non-statutory agency (Barwon Association for Youth Support and Accommodation). Six of these programs are co-located.

Historical Perspective—Victoria

During the past fifteen to twenty years in Victoria, there has been a steady development of community-based services for children and young people involved in the statutory system. There has been a major thrust of deinstitutionalisation, or the provision of community based alternatives for young people who would otherwise be placed in children's homes, reception and youth training centres.

During the 1960s and early 1970s, major concerns within the then Social Welfare Department (now Community Services Victoria) were raised in relation to the negative effects of custodial placements, especially for those who may be placed in custody for the

first time. Together with the increasing problem of overcrowding within institutions and the high cost factor of such care, the Social Welfare Department (SWD) embarked upon a course of investigating and developing alternatives for this client group.

The pattern of intervention became known as community treatment, and between 1970 and 1975, six Youth Welfare Services (now Youth Supervision Units) were opened throughout the Melbourne metropolitan area. Such services were seen as milestones in the juvenile justice system.

Development of Non-Government Youth Support Units

Between 1975 and 1980, the development of several specialist youth hostels occurred, as did the first non-government Youth Welfare Service—namely Grassmere, which is located in Doveton, an outer Melbourne suburb. In 1980-81, the then Youth Welfare Division of the SWD further developed the model of Youth Welfare Services to include the gazettal of non-government agencies—known as Youth Support Units—which received salary and resident subsidies and subsidies for overall running costs.

The Youth Support Units were similar to the Youth Welfare Services in staff models and general objectives but were regionally based agencies. The establishment of Youth Support Units reinforced the notion that it was preferable to maintain many young people in need of support and supervision in their own locality rather than transferring them to metropolitan institutions such as Baltara, Turana and Winlaton. There was also a greater recognition from the Department that increasing numbers of young children and adolescents from rural and country regions were being placed in central facilities/institutions in Melbourne, which not only imposed enormous strains on families—and to a great degree lessened the possibility of reconciliation—but quite clearly negatively affected the young person both socially and emotionally.

Youth Support Units are managed by a Committee/Board of Management comprising community representatives. The intention was that involvement of the community in such a project would promote a widening awareness within that community of the plight of many of its young members.

Barwon Association for Youth Support and Accommodation Development

Following several studies of the placement of young people from the Barwon Region to central institutions (Melbourne), a submission, supported by Community Services Victoria (CSV) Barwon, for the establishment of a non-government Youth Welfare Service—namely a Youth Support Unit—was successful. A public meeting was held in Geelong in 1981, and an incorporated association named the Barwon Association for Youth Support and Accommodation (BAYSA) was formed. The memorandum of the Association espouses the organisation's objectives:

- to provide referred young persons community based alternatives, instead of Institutional placement, through Community Support and Accommodation Programs;

- to encourage personal development, education and employment opportunities, community responsibility and recreational skills for those young people in Community Support and Accommodation Programs;

- to provide a range of accommodation options including emergency, short and long term to young persons irrespective of their ability to pay fees or charges;
- to assist with the reintegration of referred young people into the community;
- to encourage the participation of the community in the assessment of local youth needs and in the development of piloting of new service models;
- to promote the rights of youth, including legal and human rights, so they may become fully functioning members of the community;
- to encourage and develop a network of organisations with similar objectives for the provision of youth support services.

Barwon Youth Support Unit Development—1981-1990

With the incorporated Association (BAYSA) now formed, service delivery commenced under the operating name of the Barwon Youth Support Unit. A property was purchased—Lismore House—with an initial staff of four. A social worker and youth worker commenced the Community Support Program.

Other programs which were established were the Youth Accommodation and Supervision Scheme (YASS), the Health Access Program (HAP) and Youth Attendance Order Program (YAO). These three programs were co-located at the Youth Support Unit. Two youth houses were also acquired via the Ministry of Housing and Construction.

In addition to these CSV funding programs, BAYSA auspice employment education and training programs. Commencing with the 'Outlook' Community Training Program from 1987-89 to a SkillShare program, 'Workshop 25' from 1989 onwards.

Following the defunding of the Community Youth Support Scheme (CYSS), BAYSA accepted the auspice of a SkillShare and Jobtrain program in January 1989.

The SkillShare program is located in the same building as the Barwon Youth Support Unit and is locally known as Workshop 25. There are three other SkillShare programs operating in the Geelong district under the management of other organisations.

Young Offender Services—Barwon

Further to the programs outlined above, CSV conducts several additional programs which, combined with BYSU programs, offer a range of services for young offenders in the Barwon Region.

Court reports

Supervised by the Coordinator of Probation and Parole, these reports are prepared by either honorary probation officers or staff at the BYSU.

Barwon Children's Court Advisory Service

The Barwon Children's Court Advisory Service consists of the Coordinator Probation/Parole (stipendiary CSV staff member) and a roster of honorary probation officers (HPOs) trained in court procedures. The Coordinator has responsibility for the efficient running of this service and for preparing ongoing rosters.

The goals of service are to provide a high quality information service to the magistrate, other court personnel, children and parents attending court, the legal profession, police and other members of CSV. Members of the Barwon Children's Court Advisory Service ensure that:

- all children and parents understand or are helped in regard to court procedures;
- linkages occur as necessary between children/young people and duty or other solicitors;
- the presiding magistrate—or judge in higher courts—is provided with all relevant information in regard to such matters as CSV role and supervision as required;
- reports are handed to the court once guilt has been established in Criminal Division matters;
- parents and child/young person have an adequate understanding of what has occurred in court and what the proceedings entail for them, such as explanations regarding wardship, probation and appeals;
- all results are recorded and returned to CSV Regional office by the Coordinator;
- all results are transcribed onto a computer program.

All Children's Court results have been recorded on computer since August 1987.

Probation and parole

The Probation and Parole Coordinator is responsible for the oversight of all probation orders allocated to HPOs and for decision making in regard to placing some young people into the intensive stream of supervision which is conducted by Barwon Youth Support Unit. Liaison between the Youth Parole Board and CSV/BYSU in regard to such matters as work release, parole plans and progress reports is conducted through the Coordinator Probation and Parole.

Employment Access Program

The Employment Access Program (EAP) was a joint proposal of CSV and the Department of Labour. The pilot program commenced in 1985. The EAP aims to increase and maintain long term employment and training opportunities for young people on court orders. The EAP worker works with young people who are either supervised through CSV, ex-CSV clients, or those young people deemed to be at risk of entering the statutory system. In the Barwon Region, the EAP worker shares offices with other youth employment and generalist youth work programs.

Programs Operating from the BYSU

Health Access Program

The Health Access Program (HAP) is a joint Health Department of Victoria/CSV initiative funded by the Health Department. It is aimed particularly at those young people who are supervised by, or in the custody of, CSV and who are 'at risk' because of their substance abusing behaviour.

In Barwon, the HAP worker, based at the BYSU, works directly with young people. The HAP worker is also a support worker/consultant to those who are supervising and supporting young people either on statutory orders or young people who are at risk of being on statutory orders. In addition to focussing on substance abuse, the worker is involved in issues related to sexuality; sexually transmitted diseases, contraception, nutrition, fitness and relationships. (This program was defunded in July 1990).

Youth attendance orders

Commencing in the Barwon Region in August 1988, the youth attendance order (YAO) provides a community based alternative to a custodial sentence for young offenders who are assessed as being suitable for such a program. In the Barwon Region, the YAO program is based at the Barwon Youth Support Unit, and is managed by a CSV officer and supervised by the Regional Centre.

Young people are placed on YAOs for a period of 16 to 52 weeks. The order has two components: one being community work, the other personal development. The community work component is a compulsory allocation of four hours per week. The personal development component is an important feature of the order and can be used for up to six hours per week. In this component, each youth is assessed as to his/her needs, which may include employment, accommodation, health, education, basic skills training, numeracy and literacy and personal fitness.

The young people are monitored on a daily basis by the Coordinator, though their actual attendance at projects is supervised by trained sessional supervisors. Their duty is to be present at the project and to ensure attendance, punctuality and performance.

In an attempt to ensure the smooth running of the program the Coordinator will allocate a supervisor who will 'match up' as well as possible with a youth. This match up process may result in a relationship where the youth will look up to the person as a friend rather than a departmental officer.

Since the commencement of the program, 23 young people have been assessed for youth attendance orders and 19 have been placed on the order. Of these 19, there are:

- four currently being supervised;
- eight successfully completed order;
- seven breached order.

It is interesting to note that, as the program progresses, so does the success rate of the clients.

The Barwon Youth Accommodation and Supervision Scheme

The Youth Accommodation and Supervision Scheme (YASS) program is a partnership project of CSV and the BYSU, and is based at the Barwon Youth Support Unit. The primary purpose of the YASS program is to provide community based accommodation and supervision for young people who would otherwise be placed in the central CSV institutions of Winlaton, Turana and Baltara. Therefore, program staff recruit, train and support families, individuals and groups who are required to provide short-term accommodation and support to young people. YASS targets young people between the ages of 12 and 17 years.

Having a pool of trained volunteers who are prepared to provide intensive support and accommodation increases the options for young people needing placement. It has been possible to use accommodation providers to successfully divert some young people away from local residential services.

The YASS program has proved to be very successful in a number of areas including the quality of care it provides for difficult young people. These young people are much better off in many ways than those maintained in central institutions. They are maintained in their own schools or employment, they maintain their emotional and recreational links with their local community, and they enjoy relationships with stable consistent caregivers, rather than with rostered staff who lead separate lives away from the young people they care for. Their peers are everyday young people as opposed to a concentration of young people who are labelled with serious social, emotional and legal problems.

The scheme also provides care at considerably less expense than institutions.

Performance Figures

Accommodation

In 1987-88, the YASS program made 58 placements involving 47 young people. The total bed days provided by the program for the year was 2,731. In 1988-89, the program made 40 placements involving 35 young people.

Altogether, over two years, the YASS program diverted 82 young people from placement in central institutions on safe custody orders, remands and a number of court orders, either from the criminal or family division. The overwhelming majority of placements (86 per cent) were for less than three months, and in only two cases did placement breakdown eventually leading to placement in a central institution.

Supervision

The 'minder' program supported 33 young people in 1987-88 enabling them to remain at home while on bail, remand or while on summons (as alternative to immediate apprehension). In other cases, young people already on orders were supported in order to prevent a breakdown or breach. A total of 2,729 days of supervision were provided for the year. In 1988-89, the 'minder' program provided support and supervision for 33 young people, for a total of 2,913 days.

Altogether, over the two years, 66 young people were supported in the community. Six people eventually went on to youth training centres, although two were sentenced following supervised bails—an outcome which was beyond the control of the minders.

Cost Comparisons

As an alternative to institutional care, the YASS program is not only a significant improvement in the quality and style of care, but is also remarkably cost effective. The following statistics illustrate this point. In 1987-88, Winlaton provided 16,644 bed days accommodation. Total operating and salary cost for the year—2,343 bed days—was $3,232,000. A weekly cost per head of the provision of care and accommodation in Winlaton in that year was $1,359 per week.

In 1987-88, YASS provided 2,731 bed days accommodation, and 2,729 days of supervision. Costs for the YASS Program in 1987-88 were as follows:

Accommodation	$76,409

Supervision	$9,304
Salaries and Operating	$64,761

The cost per head per week for accommodation is calculated at $279 per week—around 25 per cent of the cost of institutional care for the same target group. Supervision costs are even lower—$107 per week.

The figures for 1988-89 are as follows:

Winlaton	14,176 bed days @ $3,447,000 = $1,702 per week
Baltara	18,758 bed days @ $3,167,000 = $1,182 per week
YASS Accommodation	2,315 bed days @ $94,944 = $287 per week
YASS Supervision	2,913 bed days @ $24,093 = $58 per week

The Adolescent Placement Scheme

The Barwon Adolescent Placement Scheme (TAPS) commenced late in 1989, is funded through CSV, and is managed by and operates from the BYSU. The TAPS Program grew out of a concern that there was a gap between youth services provided in the region. There were very few appropriate accommodation options for those young people, aged 14 to 17 years, who are on a Children's Court order, or who have experienced a history of institutionalisation and involvement with CSV, or who are permanently unable to live with their family of origin, thus needing long-term accommodation.

A long-term supported and supervised accommodation option is required for young people who fall between services. Many of the existing models seemed either too specialist or too costly. The young people assessed as being suitable are considered too old for children's homes, and congregate care is not thought appropriate. They are not old enough to live independently; in particular, under 16-year-old wards who are not able to receive Social Security Benefits.

As with the Barwon YASS program, it is felt necessary also to continue with the development of community involvement and responsibility for these young people in their community. It is important that the scheme continues to promote community responsibility for young people who, for one reason or another, are not able to live with their own family. Currently there are two young people being accommodated in the community through the TAPS program.

Community Support Program

The Community Support Program (CSP) offers support and supervision to:

- young people placed on probation orders requiring intensive supervision;
- youth parolees;
- wards of state and young people on supervision orders who have offended or require intensive support for difficult to manage emotional or behavioural problems;

- non-statutory clients who may be either ex-CSV clients, or at risk of entering the statutory system.

When appropriate, young people involved in the CSP have frequent contact with workers in the program. In addition to focusing on offending or anti-social behaviours, workers and young people are involved in issues relating to education, training, employment, family and peers, income, accommodation, recreation, travel and health. Cases are contracted from the regional office (CSV) to the CSP on a case by case basis.

Lismore House Youth Hostel

Lismore House—originally established for both young women and men in the Barwon Region—now provides accommodation only for males. Lismore House is an eight-bed residential setting which provides a supervised living arrangement for young males, aged 16 to 18 years. There is a requirement within the working agreement between BAYSA and CSV to provide two-thirds of bedspace for departmental referrals. Therefore, it is expected that the majority of residents will have had previous contact with the criminal justice system, whether it be the Children's Court or youth institutions.

An internal living program—'Lismore Living'—operates within the hostel. The Lismore Living program is designed especially for youth who may present 'acting-out' behaviour or exhibit an inability to cope with their existing authority structure—be it parents, schooling or general community acceptance. Immediate gains are seen by the residents because the consequences of change are concrete and relevant. Through their active involvement, they observe the progression of others and experience benefits themselves as they move toward re-integration with the community.

Conclusion

The Barwon Youth Support services provide support and supervision for statutory clients in the Barwon Region. The Barwon Youth Support Service is only one of several models that operates in Victoria to provide support and supervision services. It has developed to this point from specific needs in the community, availability of resources, a joint vision of individuals both in CSV and BAYSA, and the cooperation of these two bodies. It is through these factors that this model is a viable alternative to the traditional services available and should be considered as such in the ongoing development of such services in the state.

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YOUTH TRAINING CENTRES IN VICTORIA*~

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Youth Training Centre System

COMMUNITY SERVICES VICTORIA OPERATES FOUR YOUTH TRAINING CENTRES for young male and female offenders between the ages of 15 and 21 years. Their functions are as follows:

- Turana: youth training centre for 15 to 17 year old males; remand centre for 15 to 17-year-old males; classification centre for 17 to 21-year-old males.
- Winlaton: youth training centre for 15 to 17-year-old females; remand centre for 15 to 17-year-old females; youth training centre for 17 to 21-year-old females; remand centre for guardianship 10 to 17 years.
- Malmsbury: (adult) youth training centre for 17 to 21-year-old males.
- Langi Kal Kal: (adult) youth training centre for 17 to 21-year-old males.

Youth training centres for 15 to 17-year-olds receive young people who receive sentences from the Children's Court, while the (adult) youth training centres receive 17 to 21-year-olds who receive sentences from the adult courts as an alternative to imprisonment. This latter situation is termed the 'dual track' system and is unique to Victoria. Essentially, young offenders receive a Children's Court disposition rather than a prison sentence from the adult court.

Males aged 17 to 21 are classified at Turana prior to being transferred to Malmsbury or Langi Kal Kal and, at present, some young people sentenced to Turana transfer to Malmsbury and Langi Kal Kal after reaching 17 years.

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* This paper was correct at time of writing (March 1990). Changes to the Victorian System have subsequently been made—call 03-4127310 for details.

~ The views are those of the author and not necessarily those of Community Services Victoria.

Trainee numbers

The approximate number of trainees at each youth training centre (YTC) at any point in time is shown in Table 1.

Table 1

Approximate Number of Trainees at each Youth Training Centre at any one time

	Children's Court	Adult Court	Remand Court	Total
Turana	60	20	20	100
Winlaton	5	5	5	15
Malmsbury	0	70	0	70
Langi Kal Kal	10	50	0	60
Total	**75**	**145**	**25**	**245**

Trainee characteristics

Trainees in Victorian YTCs are probably not too different from other young offenders elsewhere. The following characteristics were obtained from a recent census of YTC trainees (Youth Support Branch 1989):

- 36 per cent offended under the influence of alcohol;
- 40-50 per cent offended to obtain alcohol/drugs;
- 50 per cent were unemployed at the time of the offence;
- 75 per cent came from families where death, separation, divorce, and/or remarriage had occurred;
- 75 per cent had education levels of Year 9 or less; and
- 40 per cent had completed Year 8 or less.

While some care has to be taken with these statistics because of 'self report' errors, they are indicative of the kinds of young people at youth training centres in Victoria.

It also should be noted that because of the community based hierarchy in Victoria, the Youth Training Centres only see the young person who has penetrated the incarceration system—the most damaged and most hardened. Also seen are those adult young people aged 17 to 21 years who have left the adult community based system due to breaches, for example.

Objectives of Youth Training Centre

The relevant legislation establishing YTCs does not specify the objectives of the YTC system. However, the following list of objectives is seen as a guide to the thinking and actions of Youth Support Branch in developing and operating youth training centres.

- To purposefully detain young people sentenced to a period of detention in a youth training centre;

- to assist young people so detained to cope with their dysfunctions and resolve their conflict with society;

- to experience positive social and emotional development and rehabilitation generally in a 'normalised' and caring setting;

- to enhance the life opportunities, circumstances and skills of young persons so detained;

- to minimise the chances of penetration further into the welfare, juvenile justice and correctional systems;

- to maximise the young person's chances of successful re-integration into society including family reintegration.

Keeping (Young) People out of Prison

Strategies

Keeping in mind the objectives listed previously, the strategies focused upon in Victorian YTCs can be summarised as:

- improving the self-concept and esteem of each trainee;
- improving the trainee's capacity to cope with life after YTCs;
- changing the trainee's outside environment and/or their responses to their environment;
- reducing substance abuse/use.

If these strategies could be successfully implemented, many young people who pass through YTCs would be kept out of prison.

YTCs are a complex field requiring dedicated resources for staffing, staff development, facilities, programming and so on. In many of the past 20 or 30 years, these resources have not been forthcoming, resulting in a system that requires quite systematic and dedicated actions to make it appropriate for modern day philosophy and expectation. And, more importantly, to reduce the incidence of young people leaving it, to eventually enter prison.

Developing self-concept and self-esteem

Central to the work of all YTCs is that of developing the self concept and self esteem of all trainees in the belief that they will:

- act more appropriately on their return rather than act out;
- minimise their dependence on drugs and alcohol;
- try to develop their contribution to the community; and
- see the benefits of being more successful in their relationships, leisure time and employment.

The key methods YTCs utilise in this area include:

- outward bound—'challenge' activities such as rock climbing, camps, treks;
- human relations activities, under the Health Access Program, where trainees are informed about the basis of their behaviour and personal development issues generally;
- group counselling;
- participation in the temporary leave program where trainees are 'trusted' to visit their families and meet the program's conditions such as returning on time;
- participating in programs and activities that lead to achievements on the part of trainees (sport, farming, leisure, vocational and craft).

One of the best outcomes from this area came from Malmsbury, where a trainee undertook the sailing program for the first time. He became so proficient, that on release he joined a prominent sailing club in Victoria. Not only did this give his self-esteem a boost, but it changed the young person's environment on parole.

One of the issues facing YTCs in this area of programming is that of finance. Suitable outdoor challenge programs are costly to mount and purchase. Accordingly, not all trainees get access to this activity. Over time, it is hoped that YTCs will assemble the equipment, locations and external contacts to ensure widespread participation. It is pleasing to note that Winlaton, our female YTC, also participates in outdoor programs; although their major approach to self-esteem development is through group counselling.

With respect to personal development issues covered by the Health Access Program, youth officers and trainees are exposed to skill acquisition and knowledge sessions covering a range of issues. These include:

- relationships and problem solving;
- sex roles;
- communication and assertiveness;
- values clarification;
- anger and stress management;
- risk taking and phases of adolescence.

Practical sessions are operated to impart these issues in a meaningful way. 'Tagged' workers within each facility are being trained to impart such material and skill to trainees.

Improving the Capacity to Cope with Life after YTC

Together with the Youth Parole Board, CSV places a high priority on trainees obtaining employment, either prior to their release on parole, or on release. It is felt that employment has a number of advantages for the trainee—thus the importance being placed upon sound vocational planning for all trainees.

CSV is working toward each trainee having a vocational plan that is developed by the allocated youth officer and the assigned employment access worker. Ideally, the plan should be established soon after the trainee arrives at the YTC and include where necessary components like credentialed vocational/TAFE training, remedial mainstream educational, career planning and 'work release'.

The importance of the role of education and vocational training has been recognised by both the Ministry of Education and CSV by the establishment of a joint Interdepartmental Committee (IDC) to improve all facets of education and training for trainees. In the past, there has been a tendency to rely on the early formulae of trade and vocational training and remedial education. It is now time to ensure that trainees obtain access to contemporary, relevant and interesting education and training to reduce further their chances of recidivism and deeper penetration into the justice system, that is, access to all opportunities that all other people obtain.

It is worth noting the important role the employment access program (EAP) workers play in this facet of YTC operations. By being regionally based—that is, in the community—the EAP worker can make links with the trainee and his/her parole officer once they are on parole in the community. Additionally, EAP workers aim for quality employment opportunities rather than 'bums on seats', thus ensuring that every opportunity is given to ensure trainees succeed on release.

Success at employment will have a large bearing on whether or not the trainee maintains his/her self-esteem and stays free of the law. Additionally, employment means income, which assists trainees in obtaining independent living—preferably away from the former influences leading to YTC sentencing.

While there is some concern about de-skilling of youth officers in our system by the employment of specialists such as employment access workers, having such skilled and specialist 'access' workers can provide the necessary information support, networks and rehabilitation to all of the players including the trainee, YTC youth officer, parole officer and significant others. Such contact can only improve the skills and knowledge of the other players. These specialists should not be confined to employment, but include:

- health;
- accommodation; and
- education.

Another focus of CSV at present within the YTC system, is that of health. When you look at some of the characteristics listed earlier, particularly those related to substance use, health is the threshold issue facing YTCs—staff and trainees alike. Whether it be diet, substance abuse, HIV infection, sexuality, basic medical, or mental disturbance, any one of

these issues (or a constellation as is usually the case), can determine whether the trainee will return again or enter prison.

Unfortunately, health issues are the hardest to deal with, mainly because of their complexity, cost, elusiveness and extent. Additionally, organisations have tended not to respond as quickly as they might have in terms of :

- staff training;
- expert care and treatment;
- provision of community based support;
- information and advice.

CSV is currently engaged in the following health related activities:

■ development of 'health' plans at all YTCs to ensure an integrated approach to health issues is taken based upon a thorough analysis and audit of existing gaps;

■ formulation of a Young Offender Health Board/Interdepartmental Committee between Health Department of Victoria and CSV along similar lines to the very successful Office of Corrections Health Board in Victoria;

■ submission to the Victorian Drug Research and Rehabilitation Fund for four Health and Drug Access workers to ensure that health issues—particularly drug issues—receive more systematic attention and support;

■ continuation of the Health Access Program for the delivery of training, information and support to trainees and staff alike in areas such as, personal development, infection control, substance use and abuse, and sexuality;

■ upgrading of orientation and in-service training to include relevant health issues;

■ introduction of contemporary instructions, policy and practice for infection control—particularly in the areas of HIV and Hepatitis B;

■ production and distribution of a manual on drug issues for staff called *Opening Doors* **(Youth Support Branch 1989).**

The health issue is important in determining whether a young person makes a life of crime or breaks the cycle. As young people are in custody for relatively long periods (6-12 months), there is an excellent opportunity to improve all aspects of their health. For example, sexuality issues relating to contraception/parenting, sexual violence, infection control, and substance use and abuse.

Changing the Trainee's Environment

It is not enough to change an individual's behaviour and expect to have a successful, rehabilitation process and one that lasts. It is necessary to change the individual's environment or their interaction with their environment.

It is no use having the trainee undergo a drug rehabilitation program or a vocational course and then have him/her return to a completely dysfunctional family or law breaking peer group involved in drug taking and pushing, for example.

This is an extremely important area for keeping young people out of prison. If they have just left a YTC on parole or on remission, there are not too many stops in the hierarchy to prison. The 15 to 17-year-olds probably would pass through an adult YTC prior to prison, but most 17 to 21-year-olds, if they continue to offend, go to prison after one to three stays at a YTC.

While parole officers are utilised extensively as a community-based resource/support for the parolee, more needs to be done to change the trainee's environment and the way he/she reacts to it.

Some of the approaches taken to improve this part of the jigsaw include:

■ Forging closer links between the parole service and youth training centres for each trainee. This should ensure improved information exchange between all of the players and integration of the YTC and community-based components of the trainees' programs.

■ Trainee familiarisation, whilst in the YTC, of the resources available in the community on return in the areas, for example, of needle exchange, sexuality counselling and family planning, substance use and abuse, employment—employment access worker, accommodation, and legal aid.

■A more disciplined temporary leave program.

While each trainee can be eligible for weekend leave, work release, health leave and special leave, improved planning and monitoring occurs with each leave taken. Youth officers check carefully the location of any leave taken and debrief the experience with the trainee.

Leave provides the opportunity for trainees to develop family and community relations that may have been strained in the past or not have existed. Objectives for individual leaves are set in conjunction with trainees. In some cases, conditions are attached to leave to ensure that trainees do not, for example, continue with drug/alcohol taking, meet with certain peers, return late or make contact with victims.

Finally, leave programs ensure that trainees maintain their links with the community to which they must return and not become isolated by the experience of incarceration.

A More Systematic Approach to Case Planning

While all YTCs operate a case planning system, it is believed that the present system can become more systematic over the coming year. The proposal is for the case planning system to have the following characteristics:

- commencement on arrival at the centre;

- based upon a complete assessment and on all information known by CSV;
- known to all staff and the trainee and agreed by all;
- documented with objectives, timelines and review points;
- comprises key elements such as: career and employment; education, technical education; accommodation; health; recreation; family reunification; community reintegration; and special interests;
- resourced to the limits upon the centre;
- monitored and reviewed;
- linked to the YTC period with the parole period and beyond;
- responsibility rests with a designated youth officer for each trainee.

The introduction of the proposed system will take a fair degree of planning and consultation with staff. Staff training of course, will be a key element. It is believed that with systematic case planning, there will be a better chance of the trainee surviving the post YTC period without re-conviction.

YTC Staff

One of the key determinants of whether trainees re-enter the justice system is the effect and influence that staff have upon them. Direct care staff are the trainee's 'parents' for a large part of their time. If staff are experienced, caring, knowledgeable, understanding and committed, then many of the objectives will be met and strategies will be implemented effectively and efficiently.

Accordingly, staff issues should be considered. Excellence is required in the following areas:

- management and supervision—particularly first line;
- staff training at all levels;
- effective recruitment methods may broaden the chances of getting the best staff;
- sharp selection techniques that pinpoint the best staff member from the largest possible pool;
- clear policy and practice manuals;
- the necessary degree of discipline (for staff and trainees) including sanction;
- team building and morale;
- safety, security and occupational health;
- working and living environments for trainees and staff.

At a recent conference of managers, operators and policy makers of the state and territory juvenile justice systems, one of the topics that received the most attention was that

of staffing. Most states were concerned about staffing of institutions and thus it is a national problem that needs to be addressed. To conclude, the best insurance against recidivism is staff. That is why attention to the points listed above, plus a mix of specialists, is so important.

Some Concluding Remarks

To conclude, it seems that the Victorian direction is correct. However, there is an immense amount of work to be done to ensure the system is developed further to ensure the number of young people entering prisons is reduced.

There are a few other issues that will have an effect on our capacity to achieve our objectives which require thought. These include :

- Changing community attitudes to criminal acts that are committed by young people and the resultant law making by politicians, prosecuting behaviour of police, sentencing practices of courts, and the reaction of perpetrators, victims and staff;
- increasing accountability of public institutions for the (human) services they provide and the role of watchdog bodies and inquiries, for example, Muirhead Royal Commission, Burdekin Royal Commission, and the Jika Jika Coronial Inquiry;
- shrinking budgets in the public sector—particularly for low priority groups such as offenders;
- rising costs—such as salaries, operations, and subsidies—associated with providing meaningful and desired programs similar to those listed above. For example, a good in-house drug rehabilitation program is expensive;
- ageing facilities in a tight climate for capital works.

A commitment must be maintained to those who enter the system and an effort made to assist them to remain free of prisons (and YTCs).

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PRISONS, PARENTS & PROBLEMS

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> . . . the proposition between the penalty and the quality of the offence is determined by the influence that the violation of the pact has on the social order (Foucault 1979).

TODAY, THE GREATER SOCIETY'S OUTRAGE AT A PARTICULAR BEHAVIOUR, THE greater the penalty: the function of the penalty being punishment for the offence itself and as a deterrent both to the person concerned and to future imitators.

It appears that for more than a century, for convicted women—particularly prisoner-mothers—the perceived 'violation of the pact' is all the greater. In 'Women, Crime and Punishment', Windshuttle (1981) notes an article in the *Cornhill Magazine* of 1866.

> . . . It is notorious that a bad man—we mean one whose . . . training has led him into crime—is not so vile as a bad woman. If we take a man and woman guilty of a similar offence in the eye of the law, we shall invariably find that there is more hope of influencing the former than the latter . . . Women of this stamp are generally so bold and unblushing in crime, so indifferent to right and wrong, so lost in all sense of shame, so destitute of womanhood, that they may be justly compared to wild beasts.

> . . . If women deserted their roles this threatened the family and thus the fabric of society . . . The female deviant, whether she be a prostitute, alcoholic, vagrant, murderess or thief, doubly threatened the social order, first by sinning and second by removing the moral constraints she held on the rest of society. Also, if a woman sinned, then, through her influence as a wife and mother, she spawned other sinners. Thus women were judged more harshly than men and a great social stigma was attached to their misdemeanours . . . If women committed crime, they were destroyed utterly. They were irreclaimable. (Windshuttle 1981)

These views still prevail. However, there is a sharp contrast with convicted women of the 19th century and those of today. It was then customary for convict women to have their children with them in prison, yet in the 20th century, that practice is now seen as either undesirable for the children or as a privilege to be applied for and won by the mother, rather than accepted as appropriate and natural for the families concerned.

Compare the story (Robinson 1988) of Catherine Elliot—who in the 1820s was found guilty of shoplifting from the Sydney shop of Charles Pickering—with the reported

sentencing of Anne in the Melbourne County Court 1989. Catherine Elliot was sentenced to the Factory (Female Factory at Parramatta) for three months: her four small children were allowed to accompany her.

The report in the newspaper (*The Age*, 6 March 1989) detailed the sentencing judge's comments to a 30-year-old mother of three children. The convicted woman had pleaded guilty to several offences including theft and forgery. The judge said Anne had limited education, and had used cannabis, heroin and alcohol. He urged Anne to rehabilitate herself for her children, if not for herself. The mother was admitted to Fairlea, the children to care. The judge's remarks took no account of her disadvantaged status, they had little insight, nor did they suggest a mechanism through which she could change her life and the lifestyle of her children. She had violated the social order; it was Anne's fault and, of course, her responsibility to rehabilitate herself.

These comments are symptomatic of the 19th century attitudes towards women prisoners criticised by Martineau (cited in Windshuttle 1981), who in 1865 pointed out that women had been forced into antisocial behaviour by the ravages of their environment: '. . . Most miserable they are: for the most part prostitutes, or ruined by betrayal and poverty'.

In November 1988, Andrew Stephens, *The Age* Community Affairs reporter, observed that '. . . Single mothers forced by poverty to earn extra money above their income-support levels face unfair imprisonment and victimisation according to welfare rights groups'. The groups said women often committed fraud to try to get out of poverty, or simply through ignorance of regulations, and often received gaol sentences more severe than other individuals convicted of similar crimes.

So it is apparent that in the 20th century, women in Australia are punished not only for the offence, but also for betraying their children and their womanhood. They effectively receive a double sentence; the first of imprisonment and the second in separation from their children.

True, there are some programs in some prisons allowing children to stay with their mothers, but all are for infants and all places have to be applied for and won by the mother. There is no automatic right of mother and child, even of breast-feeding mothers and babies, to stay together. This applies equally to women on remand, for unconvicted women are also separated from their children for prolonged periods of time.

Fairlea prisoner, Angie, 24, who has two children, aged seven and 13 months, was jailed eight months ago and is still on remand. 'My kids have been wards . . . It took them (Community Services Victoria) five months to get into contact with me.'

> '. . . I'm in a cottage. You think he'd be better off in here with me. I breastfed him for 14 months. I haven't seen him for four weeks, he's in Bendigo (in foster care). He's at the age when he's learning everything. Everything's been taken off me and now my baby has. My baby shouldn't have to suffer', said Vicky (Cafarella 1989).

Opening his comprehensive and detailed discussion on prisoner mothers, Challinger observed in 1982 '. . . there can be few more emotional issues in penology than female prisoners' relationships with their children'. Reviewing Australian and overseas literature on the topic, Challinger clearly and precisely describes the problems and issues confronting both the families and the prison authorities focusing his attention on the Victorian prison system and Fairlea prison in particular.

Two years later, a Fairlea prisoner wrote her own moving account of being the first and, to date, the only woman to have her child with her in Fairlea for four years. The woman entered the prison in 1980 to commence her sentence of 15 years with a 12-year minimum. Her daughter Alice, then eight months of age, entered the prison only to leave four months later when she turned one year in 1981; a year which proved to be a significant one for a change in policy in Victoria. In September of that year, the report of the

(interdepartmental) Committee to Consider the Admission of Infants to Prison was presented to the then Minister for Community Welfare Services and paved the way for substantial change in the Department's thinking and later in legislation for the children of imprisoned parents.

In 1982, Alice rejoined her mother and stayed with her until she was four. And, although they were separated once again when Alice went to live with her uncle, her mother wrote:

> I think it imperative that Alice spent the first four years of her life in here with me. Had we not been able to share that time together and thus form the necessary bond between mother and child, then I feel that it would have made it far more difficult for Alice and me to adjust to our life together after my release from Fairlea.

Both commentaries raise matters of the trauma of separation; the difficulties created by the prison environment; the importance of the mother maintaining her prison duties and not being seen as privileged; the difficulties of institutional pressures in having 24-hour responsibility of child care such as problems of general child care facilities and nutrition.

When Tarrengower prison, near Maldon in country Victoria, opened in December 1987—just seven months after plans for the new women's prison were approved—it was the first Victorian prison to include a bunkhouse for children. The bunkhouse, funded by VACRO (Victorian Association for the Care and Resettlement of Offenders), was purpose-built for children to spend weekends with their mothers.

Tarrengower was designed for the possibility of children living-in, but since the first prisoners entered the prison on 5 January 1988, few have actually done so. It took two years for a child-care course to be developed and this is limited to one day a week for four weeks. The prison social worker, who is enthusiastic and eager, will require additional support; for example, a multidisciplinary advisory committee to develop a pro-active, comprehensive program that will better equip mothers for their release from custody.

Release from prison, rejoining with family and rejoining the greater community are the last stages of the trauma experienced by separated families before the difficulties of coping with the future begins. In exercising the power of the state, many judges and magistrates acknowledge concern for the children of female offenders. Convicted males are assumed to have wives, de facto wives, mothers or sisters to raise their children. Sentencing judges rarely, if ever, refer to paternal responsibilities. Nevertheless, it goes without saying that the problems under discussion affect all imprisoned parents, particularly single parents.

A sentencing judge or magistrate can, in some matters—and within the parameters of the legislation appropriate to the offence—sentence the convicted person to a community corrections program. The first Australian legislation to provide for this was in Tasmania in 1972. But the first Australian settlement was, by its very nature, also the nation's first community-based corrections program.

The history of community-based punishment can probably be traced to the medieval practice of placing offenders in village stocks and later to the Insolvent Debtors Relief Act of 1696 which provided that fine defaulters could be released from prison on condition they enlisted in the army or navy; to slavery, chain gangs and the like.

Contemporary emphasis on community corrections comes not only from change in corrections philosophy, but also through disillusionment with prison as a place of reform or rehabilitation. A dramatic escalation in the costs of building and running such establishments adds to the current interest in alternatives to imprisonment.

Community corrections must be consistent with public safety plus provide for the assessed needs and risks posed by the offender. The Victorian Community Service Order Scheme Manual September 1982 stated that the development of additional non-custodial measures including CSOs, arose from:

- the consideration that existing non-custodial measures, for example, fine, probation, were no longer thought appropriate for every situation in which a non-custodial option might be contemplated;

- the demand for sterner non-custodial measures (arising from the view that too little attention was being paid to deterrence and protection of the public, with some resentment that offenders were getting off too lightly);

- the concern that certain offenders should be compelled to make amends by some form of reparation to the victim; and

- that the community should be involved on rehabilitative effort. A re-integrative penal model involves the restoration of the offender to a position of worth in society by the involvement in the community and the community's involvement with him.

Community corrections must not be seen as a soft option for an offender with children. It should be viewed as an appropriate alternative to imprisonment by providing a sufficiently severe punishment while allowing the breadwinner to remain in the family unit. For whilst other factors may outweigh it '. . . a growing stability in family and work is the very best evidence of a tendency to turn from crime' (Johnston 1976). Community corrections should enable a family to stay together and provide a convicted parent with an opportunity to work and to gain additional insights into personal relationships and skills for effective child rearing.

In Victoria, there is a policy of addressing the needs of parents sentenced to community based orders. Mark Filan, Assistant Director Community Based Corrections, conducted a survey of programs and the provisions made for single parents (unpublished). In summary the results were:

Programs

Q. Estimate of number of offenders (include parolees) who could benefit from Life Skills/Parenting programs.
A. Here the responses were the most varied, from approximately 40 estimated in the southern region, to four to five per month in Gippsland where a comment was added 'almost any parent'.

Q. Past/current/planned programs (in-house) on or including parenting skills.
A. No programs at all with the exception of western region who attempted programs but 'clients not interested'.

Provisions

Q. Specific arrangements for single parents with community work conditions.
A. Provided a range of opportunities for child placements.

Q. Community-based programs (external) to which offenders may be referred (include also referral mechanisms and usage rates).
A. An impressive list of community health centres and family support homes resulted. However, this is in sharp contrast to the perception of the CBO women who declare '. . . that women serving community-based orders have a right to free, adequate childcare and are in no way penalised for breaches of such

> orders because of childcare difficulties'. ('Wring Out Fairlea' pamphlet advertising Fairlea demonstration, Sunday, 25 March 1990).

It appears that no community based correction facility has a permanent, well promoted, high profile program available. As with most merchandising processes, to be in demand an item needs to be advertised as attractive and useful. It is all very well to offer job skill opportunities to fill an eight-hour day, but it is doubly important to have a content and effective human person 24 hours a day. Additionally, the latter as a job applicant is more likely to achieve success. A community-treatment alternative which keeps mothers of young children out of the prison environment altogether, is possibly the best alternative for the majority of cases.

Undoubtedly, ultimate responsibility for sentencing offender-mothers lies with the court; however, there are two important issues that will influence that decision-making process:

- community attitudes of the time; and
- permanent, structured, effective programs.

Scutt (1981) commented that any assessment of where women stand in relation to the criminal law '. . . must take into account the manner in which that law has been designed. The law that is in force in Australia has been built up over many years by judges—all male until recently—and by legislators—predominantly male'. Add to this the community perception, described by Windshuttle (1981), of female deviants doubly threatening the social order, and powerful pressures to imprison women become apparent. The impact of this was graphically illustrated by remarks from the Bench in the matter of Tippett and Ball, Supreme Court of Victoria 1989, when the presiding judge referred to the female accused as 'the dregs of society' and although concerned at her being separated from her children, felt that they may be 'better off without her influence'. Thus women were/are judged more harshly than men and a great social stigma was/is attached to their criminal activity. There is absolutely no research material to support a label of bad woman, bad mother. It is the labelling of a vengeful society.

The second factor that may encourage greater use of community corrections for this particular group of offenders is the structuring and expansion of programs specific to their needs. But here an important word of caution is needed. The term encouragement most certainly is not meant to imply influencing magistrates or judges to use community corrections because they have programs for disadvantaged families; to do that would be an unconscionable use of social control. Community corrections should only ever be used because they are an appropriate and credible alternative to the last resort—imprisonment. Society must always be aware that the diversionary techniques that will protect offenders from the greater rigours of imprisonment, may lead to a substantial extension of social control by official state processes rather than to a reduction (Morris 1974). Having absolutely, and with vehemence, discarded the over-use of social control in these matters, it is necessary to carefully consider appropriate program designs.

Ample research and anecdotal material describes the personal/social disadvantage of the corrections populations placed either within the community or the prison system. The issues are, of course, much broader than child-rearing and involve all levels of human relationships, from the most basic to the most complex; from understanding and expressing affection and respect, to managing anger and rejection. Appropriate responses to challenging emotions are learnt from effective role models together with the more general matters of values and standards of behaviour. A child, striving to be similar to its parents will absorb parental moral standards, behaviours, and prohibitions in the same way that it adopts other parental behaviours (Conger, Mussen & Kagan 1974).

Satisfactory and satisfying interpersonal relationships provide a background of strength to coping with life experiences. It is, therefore, important for disadvantaged sections of the community—in particular those undergoing corrections, who are individuals seen to be a community responsibility—to have access to programs addressing these issues. Such programs should be routinely available, run continuously—not ad hoc as they have appeared to be in the past—and part of a policy range included with such things as education and Alcoholics Anonymous. The programs need to be attractively designed and supervised by a multidisciplinary team and be enthusiastically promoted as a life skills opportunity. Although based in the prison system, models for design can be found in some states of Australia, USA, Sweden, Germany and some other jurisdictions and are noted by both staff and inmates as effective.

Programs of this nature have a logical extension into good and satisfying child rearing practices and are particularly appropriate to the age range of the corrections population. The period of time that they spend in custody presents a unique opportunity to offer important learning experiences to women and men, parents or not.

There is little, if any, evidence to support the suggestion that some mothers view their period of incarceration as an opportunity for time out and, therefore, have no wish to have their children with them. Mother and Child Live-In Programs should be available but not compulsory, for if the latter applied it too would lead to Morris' substantial extension of social control by official state processes (Morris 1974).

The proposition is for the establishment of a high profile, permanent, formal and structured Mother and Child Live-In Program at Fairlea Women's Prison—not ad hoc and occasional as previously provided. In effecting such an important, creative change within the correctional system, the Office of Corrections has within its grasp a unique opportunity to provide an avenue of positive rehabilitation for all individuals involved. Further than that, it also has the opportunity to improve the parenting of some possibly disadvantaged children and thus ensure they do not enter the correctional system at a later date.

The Program

The Mother and Child Live-In Program is seen as part of the total prison program regime. All participating women will be required to fulfil normal prison duties as prescribed. Mothers entering the prison system with their children must not be seen as privileged by other members of the prison population.

After an appropriate assessment/reception scheme, the program should be available to all women with children, and be immediately accessible for women with infants under three years. Courts and police will need to be advised so that the present process of wrenching mother and infant apart ceases at the earliest opportunity.

A multidisciplinary committee will be required, initially tasked to advise on program design options, and later to take responsibility for consultation and supervision. The Committee will include: Governor of Fairlea, Fairlea Social Worker, Fairlea Education, two representatives from the Office of Corrections (one of which to be Programs Officer), Child Psychologist, Family Therapist and representatives from the Nursing Mothers Association and Institute of Early Childhood Development.

The Mother and Child Live-In Program, comprising three independent units, will be available from January 1991. A team of three child-care and parent-aide officers will be on a 24-hour roster (*see* Unit 3 below—Children in Residence). An outline of the proposed Program follows.

A suggested option

Unit 1 Child Care/life Skills Education to be available for all prison population

- Dynamics of interpersonal relationships
- perceptions of parenting experience and parent models
- parenting needs of child ¾ long-term psychological impact
- pre and post-natal development
- physical child care ¾ bathing, feeding
- developmental milestones; for example, coping with fear, discipline

A certificate would be presented on completion of the program. This may be of assistance at a later date when reclaiming children from foster care.

Unit 2 Overnight Stays For Children Of Imprisoned Mothers

- Preference to be given to children who visit mothers infrequently due to distance
- cottages near Administration block are ideally situated

Unit 3 Children In Residence

- The children to be housed in a unit attached to the outside perimeter wall of Fairlea Women's Prison. Access to the unit to be through a security doorway from the prison.
- Children's residential unit (bedrooms, playrooms, bathroom, kitchen and staff rooms ¾ possibly built in a square with courtyard garden) to be developed on a kibbutz model with 24-hour professional child-care supervision. (Consideration could be given to children sleeping in the mother's cottage).
- Mothers ¾ including breastfeeding mothers ¾ to participate in general prison duties.
- Mothers to attend to child's daily needs and to be rostered for general child-care tasks. Pre-school and school-aged children to be sent by bus to and from local school (as in Odyssey program). Consideration to be given to kindergarten on premises.

This proposition is introduced for the following reasons:

- The philosophy behind the imposition of custodial sentences in Victoria is that they are a punishment of last resort. To increase the severity of a prison sentence on a woman because she is a mother, by separating her from her child, is to be deplored.

There is total powerlessness and continuing anguish for imprisoned mothers who have a label of 'bad woman, bad mother' thrust upon them. No research data exists supporting such a claim. It reflects an attitude of discrimination by a vengeful section of society and must not be supported by the administration of a concerned and responsible custodial system.

The immorality of punishing the children for the sins of the mother must also be deplored.

- The age range of women in prison indicates the continuing nature of the problem. The problem/s will not disappear but can, if sensitively handled, be turned to the creative advantage of the families concerned, the management of prisons, and the enrichment of the community at large.

- A period of imprisonment has potential to be the time when in a controlled, monitored environment, women can be offered education, understanding, and skills to better equip them for the important responsibilities of motherhood.

- For these mothers to have 'hands on' experience with their children in the prison will enable the practice of skills and the consolidation of knowledge within the carefully monitored environment.

- Presently, both mother and child experience grave trauma in the initial shock of separation. The trauma is later exacerbated by difficulties with meaningful relationships and communication during the mother's imprisonment. The mothering experience may be lost for months or years. It will never be recaptured. The trauma may later be compounded by a rapid rejoining when the mother is released from custody, the lost months and years then creating insurmountable barriers.

- Visits are frequently fragmentary treats for both child and mother. Such visits do not provide the solid foundation for child-rearing at a later date.

- Additionally, it must be emphasised that some families are never reunited. When this occurs, the mothers have little or no focus to their lives, may reoffend and be returned to gaol (case of Chrissy returned to Fairlea 1988). Many children of women in these circumstances then wander through a process of repeated foster care experiences, to homelessness, and then later into correctional and prison systems, as was illustrated in the sentencing of Anne mentioned earlier.

- There is ample research and anecdotal information demonstrating the failure of alternative systems of caring for children who are separated from their mothers. Comments in the 1989 Burdekin paper on Homeless Children in Australia highlighted the issue of disadvantaged children being caught up in a world of homelessness, hopelessness, and helplessness. This matter was also raised by Jane Cafarella in her article 'When Mummy Goes To Jail', *The Age*, 10 February 1989, which focused on the anxieties of mothers in Fairlea.

- The (United Nations Declaration of the Rights of the Child November 1959) Principle 6 states . . . a child of tender years shall not, save in exceptional circumstances, be separated from his mother. The circumstances of imprisonment are not necessarily exceptional, unless created so by the

> administration of that prison system. Examples in Sweden and Italy of mothers and children remaining together during the mother's term of imprisonment illustrate that such schemes conditions can prove successful.

This proposition is not a new one. Many individuals have worked towards similar goals but with as yet no positive and lasting outcome.

Opportunities have been taken to canvas these concerns at considerable length. The compassionate and informed responses from many members of the Victorian prison staff have been notable. Their interest, and the warm support they offer to the mothers and their children, demonstrate a rewarding awareness of humane and progressive professionals. Such staff provide the essential background for a creative opportunity towards positive life goals for sentenced women in correctional services.

The above is in marked contrast to the change in policy of Minister Michael Yabsley, Corrective Services, New South Wales as observed by Peter Roberts, *Australian Financial Review*, 14 March 1990: '. . . New South Wales seems determined to turn back the clock to the good old days when it was a colony for the punishment of a supposed criminal class'.

And here we seem to have come the full circle in the philosophy of keeping people out of prison—there are most certainly creative and positive possibilities within the largest power that the state exercises, be it inside or outside the prison walls. The key to these opportunities lies in the climate of attitudes of the communities concerned.

Imprisonment must be the punishment of last resort. But inside or outside the prison walls, effective programs can be developed to prevent the sins of the fathers/mothers being visited upon their children.

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DRINK DRIVING COURSES AS AN ALTERNATIVE TO PRISON

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THIS PAPER IS A DESCRIPTION OF A DRINK DRIVING PROGRAM IN QUEENSLAND which has been developed over the last two years. The writer designed the drink driving program in response to an expressed need by the court. The program is positively reducing terms of imprisonment for drink drivers and, in some cases, offenders are avoiding a prison sentence. Prisoners are being released to home detention and parole to attend the program.

The idea for a reward-based drink driving program conducted under the supervision of the Queensland Corrective Services Commission as an alternative to prison arose in October 1987. A magistrate was expressing frustration that punitive sentences were not a sufficient deterrent for many multiple drink driving offenders. The magistrate was in the process of sentencing a recidivist drink driver to a further term of imprisonment. The offender had previously been sentenced by way of driving disqualifications, fines, community service and imprisonment.

Obviously, none of the above penalties—including a term of imprisonment—had been of sufficient deterrent for this offender. Added to this, magistrates in Queensland are sentencing in excess of 3,000 second drink driving offenders and over 800 third plus offenders per annum.

Prior to the introduction of the pilot program for drink drivers in May 1988 by the Probation and Parole Service, there was no alternative to the imposition of a punitive sentence. The Transport Department tried to establish an education program for drink drivers which, unfortunately, was not successful for three reasons:

- it could not be enforced in the extramural situation;
- it was not available throughout the state, therefore the magistrates did not see it as equitable to all offenders; and
- the magistrates lost faith in the program.

It was evident that the magistrates were frustrated with the lack of sentencing options. There was no education program in place and the one education program which had been tried failed because it had not used the Queensland Corrective Services Commission. The Commission is the designated body which has the authority and the expertise to enforce a community based court order throughout the community of Queensland.

The Commission's authority to enforce a court order within the community is the keystone for the coordination of the drink driving program. It is also the reason why the Commission can assist a variety of government and private sector organisations wanting to do some constructive work towards changing anti-social behaviour in the extramural situation.

New Sentencing Option

Community Corrections has been the 'Sleeping Beauty' of corrections for too long. It is all too frequently overlooked by professionals in other fields outside the law such as Health, Transport and, regrettably, often by the legal fraternity of which Community Corrections is an integral part. Organisations looking for a way of correcting anti-social behaviour within the community fail to consider the option of Community Corrections and lean towards punitive penalties such as prison or fines. Much of the blame for this oversight should be accepted by Community Corrections. Community Corrections had been hiding its light under a bushel for too many years, lacking in imagination and innovative projects and unwilling to take risks in establishing new trends in the treatment of offenders within the community.

Under the direction of Mr Keith Hamburger, Director General of the Queensland Corrective Services Commission, staff are encouraged to find new ways of involving the community in the management of offenders in the extramural situation. The challenge to staff is to assist the offender to correct anti-social behaviour by means of self-development and to put in place a reward system which will re-enforce behavioural change for the betterment of both the individual and the community.

Encouragement for new ideas led to the development of new sentencing options in Queensland for drink drivers. A probation order combined with a special condition to undertake the reward based program for drink driving offenders offers the courts a mix of sentencing options as alternatives to imprisonment:

- A sentence may be imposed with a reduced term of imprisonment combined with a probation order including life or absolute disqualification from driving;

- probation combined with a community service order as an alternative to imprisonment including life or absolute disqualification from driving;

- probation order not to apply for or obtain a drivers licence until the successful completion of the drink driving program as certified by the correctional officer.

Regrettably, in Queensland, the courts do not have the option of sentencing an offender by way of a fine and probation for an offence, although this option is currently under review.

The writer was able to respond to the expressed needs of the court by developing a reward based program for drink drivers which actively sought the involvement of the community and offered the offender some hope of regaining his driving licence. This offered magistrates the opportunity of changing offending behaviour by way of combination of punishment and reward. The offender is required to contribute to the financial cost of his rehabilitation. He is required to pay a fee to attend some of the courses which are open to the public.

What the Offender can Expect from the Program

Offenders who successfully complete the six and a half month drink driving program to the satisfaction of the correctional officer will be supported in their application to the court for the lifting of the driving disqualification. The other purpose of the drink driving program is to return offenders to the court if they default on the program.

Reports on defaulters are made available to the police and the Transport Department so the information will be available to the court at some future date should the offender reapply to the court for the lifting of the driving disqualification. Prisoners regarded as suitable to undertake the program may be released to home detention and parole with a special condition attached to their order obligating them to undertake the drink driving program.

The Structure of the Drink Driving Program

Most drink driving programs are run over a period of four weeks. In developing the structure for this program, it was decided to design a long-term program which required the offender to make a commitment around which he would have to plan his life for the next six to seven months.

The purpose of the program is to separate the irresponsible drivers from those who can be taught to be responsible drivers. The program takes approximately six and a half months to complete, attending one night per week.

The offender is placed on probation for a period of three years with a special condition attached to the order: 'That the probationer submit himself to the drink driving program conducted by the Queensland Corrective Services Commission, participate in a satisfactory manner and not attend the said program under the influence of alcohol or drugs and pay any necessary fees to take part in that program as directed by and to the satisfaction of the community correctional officer', and is disqualified from driving for a period of three years, life, or absolutely. The probation order may be accompanied with either a prison sentence or a community service order.

The offender is required to pay $10.00 for the Program Builder book, attend the program and pay the following fees of $60.00 for the psychology segment, $65.00 to attend the first aid course and $25.00 to attend the defensive driving course making a total of $160.00.

One Week: The Queensland Corrective Services Commission inducts the offender into the program. An explanation of the probation order and special condition to attend the drink driving program and the consequences of failing to abide by the condition is given. The offender is informed that reporting requirements are suspended provided he continues to cooperate with the requirements of his order whilst attending the course. He is given the Program Builder which costs $10.00 and sets out what is required of him over the next six and a half months. The onus is on the offender to manage his own affairs.

Six weeks: Group counselling sessions specifically related to drink driving and developing skills in an active situation likely to produce a change in attitude are conducted by private psychologists and the Health Department.

Six weeks: A first aid course is conducted by the Queensland Ambulance Transport Brigade. If the offender fails to attend on any two nights, he automatically

fails the course and breach of probation proceedings may be initiated, or he may be required to repeat the course. On successful completion of the course the offender receives a first aid certificate.

Four weeks: A defensive driving course is conducted by the Transport Department. If the offender fails to attend for one night, he fails the course or he may be required to repeat the course. On successful completion of this course the offender receives a certificate.

Four weeks: A police discussion group is held. Films and slides are shown, and practical demonstrations of equipment such as radar and the breathalyser are given. The following subjects are discussed: safe driving, road safety, accident appreciation, legal rights, arrest procedure, traffic law. The attitudes of police and offenders are discussed openly.

One week: The Royal Automobile Club of Queensland conducts a lecture on road engineering and road safety.

One week: The Insurance Council of Australia (ICA) presents a program on the cost of drink driving to the community. The ICA is also looking at shortening the five-year insurance disqualification period to two and half years for those offenders who complete the course.

One week: Legal advice is given on how to reapply for the lifting of the driving disqualification.

Two weeks: Debriefing is conducted by the Queensland Corrective Services Commission. Offenders are informed of their success or need to undertake further counselling in a particular area.

It is intended to conduct follow up lectures with several groups at once. Other community organisations such as Citizens Against Road Slaughter and the possible use of some personalities within the motor industry will be invited to give talks during the remainder of the probation period.

The Development of the Drink Driving Program

A frustrating problem in developing a drink driving program is the lack of a designated body which oversees road safety in Queensland, or for that matter in Australia. There are numerous organisations and committees but there is no coordinated approach. There is some cooperation between the Health and Transport Departments but there is a need for a more wholistic approach which will include: the magistrates, police, insurance, traffic engineers, motor vehicle engineers, legal advice and enforcement, hoteliers and the breweries. The breweries are supporting the Queensland Corrective Service in the program and they have shown a degree of responsibility in the production of low alcohol beer.

A further difficulty is that each professional organisation attacks the drink driving problem from its own professional perspective. The drink driving program developed by the Queensland Corrective Services Commission has brought together diverse organisations which have a vested interest in the drink driving problem. The Commission is trying to

mould the various segments into an integrated and coordinated unit which will provide a cohesive plan, otherwise the program will not succeed.

The first decision was to run a drink driving program using the resources of Corrective Services as a coordinating body and the expertise of organisations within the community which understood the problem. This decision was founded on the observation of past attempts to run programs which had failed because of a lack of specialist knowledge and high cost. Why start up another program when there are specialist organisations already working on the problem within the community? Therefore, a more professional approach was needed if the program was to be successful. Thus, it was decided to use the expertise of the professional people in the variety of fields related to driving behaviour and road safety. They were offered the opportunity of dealing directly with drink driving offenders and given the freedom to design and run their own program. Furthermore, by using organisations already running programs it would be cost effective.

It was decided to target the third time offender with a major offence (.15 plus) within a five-year period who was looking at a mandatory prison sentence. This was seen as a starting point towards the second offenders.

The majority of drink driving programs are run over four weeks and a few are run for eight weeks. It is highly questionable to believe one can change five, ten, fifteen, thirty years of drinking behaviour over a period of eight weeks let alone four. It was, therefore, decided to run the program over several months.

It was agreed that there was a need to include an incentive: there had to be a reward as well as punishment. Therefore, the offender's application to the court for the lifting of the driving disqualification would be supported. Finally, it was decided to develop the program to a stage where management would be able to see it had some value, was actively accepted by the courts, and could be used throughout the state.

These decisions left no alternative other than networking. This was not a problem as there are numerous government departments, quasi-government bodies and private companies interested in the drink driving problem. The list of organisations was considerable and was eventually narrowed down (*see* Figure 1).

All of these organisations volunteered their support. The high level of enthusiasm demonstrated by the private sector and quasi-government bodies in development of the program was most unexpected.

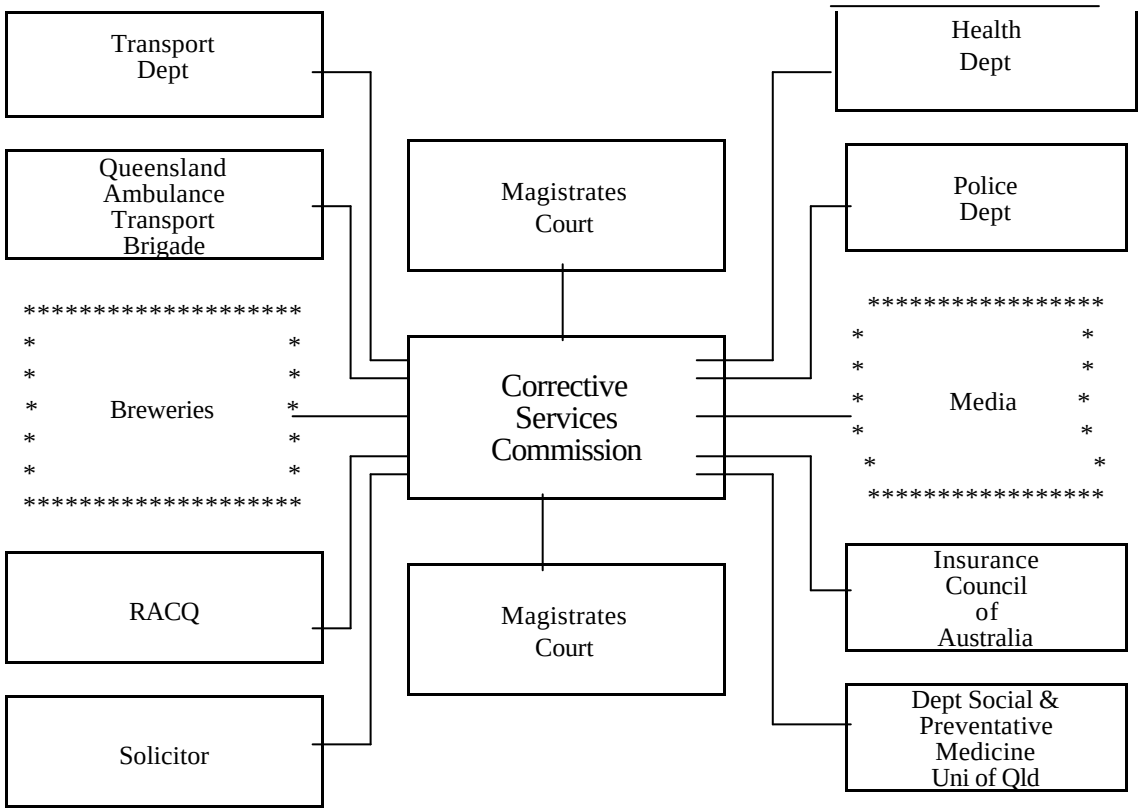
The drink driving program was presented to them in the following manner:

> Your organisation has been involved with the problem of drink drivers; this program will allow you the opportunity to confront the offenders face to face and it is up to you how you wish to run your segment of the program. The Corrective Service does not wish to interfere with what you are doing. The only information we require is the content of the program and notification if an offender fails to report as required or is uncooperative in any way as the recalcitrant offender will have to be returned to the Court for breach of the order.

A close working relationship is developing between the different stakeholders in the program. Indeed, the concept of allowing each stakeholder to operate independently appears to have developed a respect for each other's role and a desire to know what the other stakeholders are doing in their segment. Consequently, there is a willingness on the part of the various participants to work together. The Commission must now follow through to develop an integrated program.

Figure 1

Agencies Involved in the Queensland Corrective Services Commission Drink Driving Program



The Objectives of the Drink Driving Program

The first objective was to give the magistrates an alternative sentencing option. The availability of a drink driving program which magistrates could direct offenders to attend under the control of a probation order increased the sentencing options for magistrates. Magistrates could admit an offender to probation in lieu of a prison sentence or reduce the term of the prison sentence from months to days through the use of a probation order or a combined probation/community service order or use probation on its own. One magistrate is sentencing second offenders by imposing a two-year period of probation and disqualifying the offender from applying for or obtaining a drivers licence until successful completion of the drink driving program as certified by the correctional officer.

The second objective was to reduce the number of drink driving offenders who were being sentenced to terms of imprisonment through the use of an education program which gave magistrates a 'cocktail' sentencing option.

The third objective was to reduce the period of imprisonment being imposed by the courts.

The fourth objective was to structure the program in such a way that it would give feedback to the magistrates as to the impact the program was having on offenders. Thus, offenders who completed the program successfully are returned to the court after two years to apply for the lifting of their driving disqualification. There have been two applications so far and both have been successful. Following the lifting of the driving disqualification, the offender remains under probation supervision for one more year. Should the probationer reoffend, he can be returned to the court during his last year of probation. This means the court can be confident in the knowledge that the offender is still under supervision for the first year he is driving. Under this system, the magistrates are seeing offenders who successfully complete a probation order. Normally, the magistrates only see probationers who are returned to the court for failing to comply with the requirements of their order.

The fifth objective was to establish the program statewide. The establishment of the program statewide is important to the magistrates and fundamental to its success.

The Queensland Corrective Services Commission will have to coordinate the courts and all the organisations running the program so it will be available throughout the state. The Commission has been fortunate to have a commitment from stakeholders who have wide interests throughout the state of Queensland. However, given the problems of distance in Queensland, it may not be possible to service some of the far western areas adequately. Nevertheless, the magistrates know Corrective Services will make every effort to cover the state, despite some limitations of which the magistrates are also aware.

The sixth objective was to design a cost effective program and make the offender contribute financially to his own rehabilitation. The offender should, therefore, value what has been achieved as well as take some of the cost off the taxpayer.

Finally, it is intended to introduce the program into prisons. This would enable offenders in prison for drink driving offences to commence the program and continue it under home detention and parole supervision.

Problems

A problem which was not foreseen in the beginning was that many offenders are working from six to seven days a week in the building industry. In general they are motivated people supporting a family and, because the program was targeted at the third time offender, some

of them may have in excess of a thousand dollars in fines from previous drink driving offences which they are still trying to pay off.

Because they are third time offenders, some magistrates are also giving the maximum number of community service hours—200 to 240—in the correct belief that the community expects to see the offender punished. Whilst this is understandable, it will result in some offenders failing as they do not have the free time to perform the community service. Of course, it can be said that, had they received a term of imprisonment they would not have had a choice between work or doing community service. Nevertheless, it may well be a choice between losing one's employment and financial ruin, or doing community service. The same magistrates have agreed they would be prepared to impose a further fine, but this cannot be done in Queensland until the legislation is changed to allow for a fine to be imposed with a probation order.

Evaluation

The Queensland Corrective Service is conscious of the fact that the program was developed in the field, and there is a need to evaluate both the various modules and the overall program. Magistrates were looking for a program which would provide both punishment and rehabilitation, and the Commission responded to this need. The Commission is also cognisant that the Minister for Corrective Services has stated that 'Prison is the sanction of last resort'. These factors need to be considered as they lend some urgency to the ongoing implementation of the program throughout the state. At the same time, the Commission is conscious of the need to evaluate the program as it is being established.

Dr. Mary Sheehan, at the Medical School of the University of Queensland, is assisting with the evaluation of the program. Over one hundred offenders have been admitted to the program to date. In some cases, offenders have avoided a prison sentence, while others have received sentences for a matter of days or weeks. As it is not possible to know for how long a period a magistrate may have sentenced someone, it is not possible to work out the actual savings (*see* Table 1).

Table 1

Drink Driving Program

Date 7.3.90	Offenders by Order
Probation	17
Probation CSO	57
Probation Prison	16
Probation Prison CSO	3
Probation CSO Fine	5
Probation Fine	3
Probation Prison CSO Fine	1
Home Detention	0
Parole	2
Home Detention Parole	3
Interstate	2
Volunteer	1
Total	**110**
No. First Offenders	2
No. Second Offenders	20
No. Third Offenders	88
Total	**110**
Warrants	1
Breaches Completed	3
Total	**4**
Disqualification lifted	2
Disqualification rejected	0
Total	**2**

Whilst the program has not been perfected at this stage, it can truthfully be said that it is effectively reducing prison sentences for drink drivers. Therefore, it is saving the state government money; indeed, it is making money for the both the state and federal governments. The offenders are able to maintain themselves in employment and continue providing for their families, whereas a prison sentence may have forced the family to apply for welfare assistance.

Finally, it is possible to make changes in a working program when something is found to be wrong. This drink driving program is an active program, it sets out the direction it intends to go but it is not cast in stone. To set down a program which cannot be changed would be

a retrograde step. The program has to be able to be modified to keep up with the demands of the community.

ATTENDANCE CENTRES

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A Brief History of the Attendance Centre Program

IN 1985-86, THE NSW PROBATION AND PAROLE SERVICE APPLIED TO THE Commonwealth Government for Commonwealth Employment Program (CEP) funding to pilot group programs for offenders. A number of day attendance centres were established in the Sydney metropolitan area and operated on a 'drop-in' basis and provided a limited ad hoc range of social and developmental programs.

The potential benefits of this program encouraged the Probation and Parole Service to continue with the basic concept of attendance centres once the CEP funding ceased. Funds to continue this program came from the Department's existing budget. However, it was recognised that the 'drop-in' philosophy and ad hoc range of programs were inadequate. It was decided to provide a more relevant, structured and integrated program which was underpinned by a rationale and philosophy.

One clear indicator gleaned from the 'drop-in' Centres was that some form of coercive factor, such as a court order, was needed to ensure that offenders attended the program. In short, this program needed to be underpinned by some form of legislation. This was provided by the *Community Service Order (Amendment) Act 1987* and inexorably linked attendance centres with the community service order scheme.

The attendance centre program, therefore, provides the courts with an alternative sentencing option to imprisonment via the *Community Service Order (Amendment) Act 1987*. Further, it also meets the needs of offenders who are placed under the Probation and Parole Service's supervision on a referral basis.

In setting up the centres, two main factors had to be considered. The first concerned public relations with the judiciary, probation and parole service and the local community; the second concerned the location and type of accommodation required to operate the attendance centre program successfully. Public relations focused upon information regarding the program, processes and location of the centre.

In the Sydney metropolitan area, it was decided to lease factory-type premises in commercially-zoned areas which were within reasonable proximity to public transport. These premises were basic, bare shells requiring fit-out which would make them suitable for

the attendance centre program. To accommodate the program in the country area, the decision was made to lease premises, as required, in close proximity to the Probation and Parole Office. To date, four centres are operating in the Sydney metropolitan area:

Annandale Attendance Centre	(April 1989)
Emu Plains Attendance Centre	(November 1987)
Liverpool Attendance Centre	(June 1987)
Pendle Hill Attendance Centre	(November 1987)

At present, there are four country programs operating at:

Dubbo	(May 1989)
Goulburn	(June 1989)
Orange	(October 1987)
Tuggerah Lakes	(July 1988)

Broad Aims of the Attendance Centre Program

The Attendance Centre Program in New South Wales has the following broad aims:

- to provide a relevant, comprehensive and coordinated program aimed at meeting the individual needs of offenders;
- to provide the courts with an alternative form of punishment to imprisonment;
- to have all programs statewide follow the same philosophy, rationale, structure (core and satellite programs), aims and objectives, as specified in the 'Time Out Program' (Allanson & Caruana 1987), now modified to the attendance centre program;
- to encourage and facilitate offenders in utilising relevant community resources.

Rationale and Philosophy

The attendance centre program is based on a set of aims, objectives and philosophies which act as the mortar to bind the whole program together. These in turn dovetail with the broader aims, objectives and philosophies of the NSW Probation and Parole Service.

The rationale and philosophy of the program is one which highlights the fact that the individual needs to accept that s/he has patterns of behaviour which need to be modified. To achieve this, a relevant, comprehensive and coordinated program has been designed which addresses offenders' individual needs and assists them in developing the internal resources required to initiate a change in attitudes and negative patterns of behaviour.

Emphasis is placed on the fact that the individual can accept responsibility and, hence, actively control most situations. This aspect of accepting responsibility and making decisions is one of the cornerstones of the program. It follows from this, that the individual is also expected to accept the consequences of his/her actions. To quote Lord Stamp (1854):

> It is possible to dodge one's responsibilities. It is not possible to dodge the consequences of dodging one's responsibilities.

An integral part of the program deals not only with the presenting problem (symptom), but also its underlying causes. Hence, the program avoids the narrow 'one-shot' approach where only the presenting symptom is addressed.

Specific Aims and Objectives

The more specific aims and objectives of the program are as follows:

- Basic problem areas: program addresses the basic problem areas often identified in offenders;
- Underlying problems: to make attendees aware not only of the presenting problems which may have led to the offending behaviour, but also underlying problem areas;
- Individual needs: to address attendees' individual needs initially through the core program, then in more depth through the satellite program;
- Internal resources: to assist attendees in building up internal resources which are required to initiate changes in attitudes and ultimately negative patterns of behaviour;
- Skills: to provide skills in interpersonal, job seeking and social areas;
- Self-esteem/confidence: to provide attendees with the opportunity of building up their self-esteem and confidence;
- Stepping stone: to assist attendees to utilise community resources effectively and to encourage community agencies and personnel to participate in the program.

Program

Program structure

The program is centred around group work and has been designed to involve all participants actively. This should ensure that a didactic approach in the presentation of material is not undertaken. Hence, it should enable the individual to collect and collate information about him/herself in a practical and concrete manner.

The program comprises four separate components which are:

- Induction: The induction is an important aspect of the attendance centre program, since it is the offender's first contact with the centre. It enables the staff to immediately begin the process of thrusting responsibility onto the offender. It is also aimed at establishing the roles and relationship of all those employed at the centre. The offender's legal obligations are highlighted as are the centre's rules. The induction enables centre staff to familiarise offenders with group processes and deal with 'anger' or 'hostility', for example, associated with being at the centre prior to commencing the core program.
- Core program: consisting of six interrelated topic areas: employment, personal development, money management, drink driving, dependencies and shopstealing.

Each core consists of eight units of approximately two and half hours duration. Thus a core program will take twenty hours to complete.

Each core has been designed so that there is a logical, sequential progression of subject matter. This allows for meaningful reinforcement throughout the core. This approach is critical to any learning process, and reinforcement of concepts and skills are necessary at this stage of the offender's development.

To ensure that the program retains its structure and consistency statewide, each unit of the core includes very specific aims and objectives.

- Satellite program: this gives flexibility to the overall program and allows the centres to address more individual needs in a group setting. The satellite programs are directed towards self-development and vocations and can operate over a single session or be extended over a longer period.

- Basic education: this program caters for all offenders who are not functionally literate. Where possible, Technical and Further Education (TAFE) tutors are employed at the centres. Many of these are also qualified to teach English as a second language.

Evaluation

An important aspect of the program is the evaluation process. Upon admission into the centre, offenders are asked to complete a 'pre-evaluation form'. This enables them to identify perceived problem areas and provides the basis on which they can negotiate with staff on the program they will undertake.

Each core program concludes with a 'feedback and evaluation' session. This provides feedback on the progress the individual perceives they are making and highlights any changes which may need to be made to the program.

Program processes

The program is divided into four phases through which all participants progress. The initial phases are aimed at addressing broader issues which are less threatening and anxiety producing to them. They are mainly aimed at building up communication skills, an understanding of group work and initiating the processes of developing some internal resources. This approach enables offenders to deal more effectively with the later phases of the program which are more intensive and threatening to them, since they focus on more specific problem areas.

Outlined below are the four phases of the program:

Phase 1
a) Induction.
b) Core program—personal development.
c) Basic education (if necessary).

Phase 2
a) A combination of the remaining core programs.
b) Less intense satellite programs; for example, nutrition and health, legal issues, and office skills.
c) Basic education (if necessary).

Phase 3
a) Intense satellite programs; for example, self-esteem, assertiveness, anger management, relaxation.
b) Basic Education (if necessary).

Phase 4
a) Exiting program—assist clients to utilise suitable community resources.

All aspects of the program require the active participation of offenders. This approach results in material being dealt with in a practical and concrete manner. Although anxiety levels are raised, an effort is made by the staff not to overwhelm the participants to the extent that they avoid recognising they have problems which need addressing. This facilitates the process whereby offenders can develop skills in resolving problems in a more effective manner.

Assessments

For any program of this nature to be viable and effective, two main elements are required. The program itself must be relevant to the offenders' needs and aptitude, and assessment procedures must ensure that only appropriate individuals are directed to the attendance centre. To disregard the latter might set up the individual to fail and could even threaten the program itself.

Following assessment, offenders are placed on the attendance centre program via the following process:

- Community service order: this legislation enables the courts to sentence offenders to the attendance centres as an alternative to imprisonment. It enables the judiciary to sentence offenders to a minimum of 20 hours and a maximum of 500 hours, which must be served within 18 months.

- Recognizance: courts may direct offenders to attend an 'education and/or developmental program'.

- Referral: probation and parole officers refer offenders to the centres from their caseload.

All three processes require the offenders' consent to be placed on the program and to serve a specified number of hours.

Initial assessments

All initial assessments are generated by probation and parole officers attached to district offices. In the case of a community service order or recognizance order being considered, the court may require a full pre-sentence report or a short verbal report from the court duty officer.

In the case of a community service order, the officer is required to take the following into account:

- Eligibility: over 18-years-old; facing a prison sentence; offenders' consent.

- Suitability: initially assessed by a probation and parole officer; discussed with the centre manager; ability to attend: travel, work, baby sitting, and so on; present with needs in areas which the attendance centre program addresses.

- Unsuitable: severe mental retardation; danger to the community; severe addiction.

For those offenders being placed on an attendance centre program through a recognizance or referral, the probation and parole officer is required to consider the community service order categories dealing with suitability and unsuitability.

In all cases, the attendance centre manager has the ultimate discretion in accepting or rejecting offenders for the program. This is a safeguard in ensuring that unsuitable clients are not placed on the program.

The above process limits the opportunity for the courts to net-widen, a fact which seems to be supported by recent statistics indicating that 68 per cent of those sentenced on a community service order to the attendance centres had dual (work/attendance centre) orders.

Ongoing assessments

To ensure that each individual's set program remains relevant, a process of ongoing assessment is included. This is mainly achieved through weekly team meetings which require an input from all staff members. Thus, a weekly monitoring of all attendees takes place, in which their progress and problems are noted and appropriate action taken.

The ongoing assessment, as described above, usually identifies those problem areas on which offenders still need to work. At this point, they are given the opportunity of continuing this work at a relevant community agency.

Staffing

The attendance centre scheme is a probation and parole initiative and is the sole responsibility of this division of the NSW Corrective Services Department. In the metropolitan attendance centres, there is a minimum staff of three, which consists of:

One full-time manager:	this person is a probation and parole officer who manages the centre. S/he is responsible for the administration of the centre and also for group work.
Two sessional supervisors:	each of these is employed for 15 hours per week and their main duties are to deliver the program to the offenders.
Basic education teacher:	employed for an average of 5 hours per week.
External facilitators	(paid and unpaid): employed to deliver specific units of the program. These are usually employed by the Department or have links with community agencies, such as TAFE, Department of Health and Drug Agencies.

The centre staff deliver two-thirds of the program. External facilitators, who are either employed by another government agency (state or federal) or are freelance, are contracted to facilitate in areas of the program where they have specialised skills and/or expertise.

A formula has been developed to provide extra staffing as the centre numbers increase. The initial increase in work is handled by employing an extra sessional supervisor for 15 hours per week. Sessional supervisors are employed at 15 hours per week to provide the manager with more flexibility in organising groups. As the numbers further increase, the centre's administrative workload also expands. This necessitates the input of a second probation and parole officer, who is responsible to the manager.

Staff at the centres are required to work during the day and in the evenings. Day groups operate to cater for those offenders who are unemployed, whilst the evening groups tend to accommodate those who are employed. Generally, the metropolitan centres are open four evenings per week. At present, the majority (78 per cent) of offenders attending the metropolitan centres are employed. This has necessitated 85 per cent of groups being scheduled to operate in the evenings. Offenders only attend at those times they are scheduled for group work, unless one-to-one discussion is required.

Attendance Centre Data

Data discussed below has been taken from the last six-monthly progress report which was compiled in October 1989. However, we do not expect the data in the interim period to have varied to any great extent.

In September 1989, there were 610 offenders on the attendance centre program statewide (*see* Table 1). In January 1989, there were 305 offenders on the program, which indicates a doubling of offences in the last seven months. The attendance centre program has been operating for two years. We have now reached the stage where offenders are regularly exiting the program. This observation is supported by the figures (*see* Table 1). During the last seven months, 267 offenders finished the program, whilst in the previous 18 months, 271 offenders finished. From February to August 1989, 877 offenders joined the program statewide (*see* Table 1).

Table 1

Breakdown of Offenders who have attended the Metropolitan and Country Attendance Centres February-August 1989

Centre	Offenders Currently involved with Program	Offenders Finished with Program	Total
Emu Plains	130	80	210
Leichhardt	59	0	59
Liverpool	113	61	174
Pendle Hill	216	82	298
Dubbo	0	14	14
Goulburn	21	4	25
Orange	0	10	10
Tuggerah Lakes	71	16	87
Total	**610**	**267**	**877**

The difference in the numbers attending each metropolitan centre could possibly be explained by such factors as 'location of feeder' district offices and philosophies and attitudes of the judiciary and probation and parole officers. The figures for Dubbo and Orange are based on one program each (*see* Table 1), whilst the data for Tuggerah Lakes and Goulburn are based on programs operating on an ongoing basis, with fewer core programs offered compared with the metropolitan area.

Table 2 highlights that 74 per cent of offenders currently attending the centres are on a community service order. Further, 68 per cent are serving a dual order (work and attendance centre) and 32 per cent an attendance centre order. Finally, 17 per cent and 9 per cent are attending the centres on a recognizance and referral basis respectively. These figures reflect those of previous Progress Reports (February 1989).

Table 2

Breakdown of Orders/Referrals for Offenders presently attending the Metropolitan and Country Attendance Centres, August 1989

Centre	*CSO Dual Order, Work & Attendance	*CSO Attendance	Recognizance	Referral
Emu Plains	55	25	42	8
Leichhardt	22	20	7	10
Liverpool	33	50	17	15
Pendle Hill	141	47	9	15
Dubbo	0	0	0	0
Goulburn	6	1	10	4
Orange	0	0	0	0
Tuggerah Lakes	46	1	21	3
Total	**303 (50%)**	**144 (24%)**	**106 (17%)**	**55 (9%)**

*Note: Numbers are based on actual offenders attending, rather than on the number of CSOs offenders may have received.

Table 3 highlights that 89 per cent of offenders currently attending the centres are male, while 11 per cent are female. This seems to reflect current sentencing practices in New South Wales.

The majority (72 per cent) of offenders currently attending the centres are between 17-28 years old (*see* Table 4). However, by far the greatest age group is 17-22 years old (49 per cent). Those aged 23-28 years old comprise 23 per cent of offenders and the next highest category (13 per cent) is the 29-34 years age group. In comparison to the last progress report (February 1989) the category of offenders in the 35-40 years age groups has increased from 4 per cent to 8 per cent. These age breakdowns reflect those of probation and parole clientele.

The average number of hours allocated to offenders at the metropolitan attendance centres was 72 hours. These hours have been influenced by the weighting a judge or magistrate gives between the type of offence, the prison sentence and the hours to be served. As can be observed from Table 5, the range of hours falls between a minimum of 10 hours to a maximum of 200. The average maximum is 150 hours, which is manageable

for both the offenders and the centres. This allows the offenders to work through a number of problem areas without overloading them with information. The average minimum number of hours (24), however, still remains too short to deal with any problem.

Table 3

Sex Breakdown of Offenders who are presently attending Metropolitan and Country Attendance Centres, August 1989

Centre	Male		Female	
Emu Plains	115	(88%)	15	(12%)
Leichhardt	49	(83%)	10	(17%)
Liverpool	103	(91%)	10	(9%)
Pendle Hill	196	(91%)	20	(9%)
Dubbo	0		0	
Goulburn	20	(95%)	1	(5%)
Orange	0		0	
Tuggerah Lakes	59	(83%)	12	(17%)
Total	**542**	**(89%)**	**68**	**(11%)**

Table 4

Age Breakdown of Offenders currently attending the Metropolitan and Country Attendance Centres, August 1989

Age Group*

Centre	1	2	3	4	5	6	7	8
Emu Plains	79	19	14	8	8	0	1	0
Leichhardt	19	13	12	8	3	2	1	1
Liverpool	59	20	14	8	0	1	0	0
Pendle Hill	108	62	1	14	11	5	0	0
Dubbo	0	0	0	0	0	0	0	0
Goulburn	6	7	4	2	2	0	0	0
Orange	0	0	0	0	0	0	0	0
Tuggerah Lakes	22	15	19	10	4	1	0	0
Total	**293**	**136**	**79**	**50**	**28**	**9**	**2**	**1**
Percentage	49%	23%	13%	8%	5%	1%	0.3%	0.17%

*Key:
1 17-22 years old
2 23-28 years old
3 29-34 years old
4 35-40 years old
5 41-46 years old
6 47-50 years old
7 56-65 years old
8 66-years-old

Offenders on the Orange and Dubbo programs receive a set number of hours (*see* Table 5). This was necessary since the program in each area operates twice a year. The

judge or magistrate is still able to operate the weighting system between type of offence, the prison sentence and hours served by allocating work hours to the CSO.

Table 5

Breakdown of Average Hours allocated to Offenders at the Metropolitan and Country Centres February–August 1989

Centre	Average Hours	Highest	Lowest
Emu Plains	73	200	40
Leichhardt	75	130	10
Liverpool	74	150	25
Pendle Hill	65	150	20
Dubbo	65	65	65
Goulburn	50	60	40
Orange	70	70	70
Tuggerah Lakes	74	150	20

Average hours for both Tuggerah Lakes and Goulburn were comparable to the metropolitan centres. Programs at these centres are operated on a modified basis compared to those in the metropolitan centre.

Table 6

Breakdown by Order/Referral of Offenders who have finished at the Metropolitan and Country Attendance Centres and the Reasons for Finishing February–August 1989

Reason	CSO	Recognizance	Referral	Total	
Completed	116	19	22	157	(60%)
Breached	33	1	0	34	(13%)
Withdrawn	0	13	39	52	(19%)
Transferred	4	1	2	7	(3%)
Change of Order	6	0	0	6	(3%)
Rehabilitation/ Psychiatric Centre	0	0	2	2	(0.8%)
On hold	2	0	0	2	(0.8%)
Deceased	1	0	0	1	(0.4%)
Total	**162**	**34**	**65**	**261**	**(100%)**

Table 6 indicates that 60 per cent of offenders who have finished at the centres have completed the program. The majority of these offenders (74 per cent) were serving a CSO, which is a reflection of the type of order offenders attending the centres received. The next highest category was for offenders who 'withdrew' from the program. The majority (75 per cent) of these were referral cases followed by recognizance type orders (*see* Table 6). This was then followed by breach proceedings (13 per cent).

In the category of CSO offenders, 20 per cent were breached in comparison to 31 per cent from the last progress report in 1989. This seems to uphold the view laid out in that report, which predicted a higher breach rate at the centres in the initial stages of establishing the program whilst minimum standards of behaviour were being set down.

Attendance Centres—An Effective Alternative to Keeping People out of Prison?

If the theme of this conference is 'Keeping People out of Prison', then superficially, attendance centres can be regarded as achieving this objective. However, the question which must follow is how effective is this option in comparison to incarceration? This question is not as simple as first appears and, in fact, raises a number of other questions. For instance, what do we mean by effectiveness? Should it be related solely to recidivism or should it be viewed in a broader context? We suggest that the latter proposition is the more viable one to adopt.

The authors view 'effectiveness' in its broader context as follows:

- **Successful completion of the community service order**

Table 6 indicates that 72 per cent of offenders on a community service order successfully completed their hours. Of the remaining 28 per cent, 20 per cent breached their order, whilst the remaining 8 per cent were either transferred, had their order changed or held over, or were deceased.

- Length of time between offences

  As yet, no data is available due to the short period of time the scheme has been in operation.

- Aims and objectives of the Attendance Centre Program

  Written and verbal feedback has been obtained from participants, attendance centre staff, external facilitators and, in some instances, from offenders' families and friends. The following summation can be made:

  - offenders' needs are being addressed in a structured and concrete manner, often for the first time in their lives;
  - there is a perceptible change in many of the offenders' attitudes, which often leads to a change in negative patterns of behaviour;
  - there is evidence of offenders building up self-esteem and internal resources;
  - participants appear motivated to be more self-directing and accepting responsibility;
  - links with community agencies have been established and many attendees are availing themselves of the services they offer after completing their hours at the centre;
  - there is a perceptible reduction in alienation from the community.

- Cost

The cost of operating the attendance centre program compares more than favourably with the cost of incarcerating individuals.

The unit cost per annum for each individual at the metropolitan centres is approximately $1,100. When compared with the unit cost of incarcerating an individual for a year¾ which is over $30,000¾ there is a dramatic saving.

Conclusion

After two and a half years of the operation of the Attendance Centre Program in New South Wales, the courts are increasingly using it as a viable sentencing alternative to incarceration. Whilst it is true to state that net-widening has been kept to a minimum, it must also be recognised that it does happen. This can be mainly attributed to some judges and magistrates who view a community service order not only as an alternative to gaol, but as a sentencing option to be used as they see fit. This makes it more imperative that the probation and parole service and, in particular, the managers of the centres have a substantial input in accepting the suitability of an offender for the program.

It is the authors' contention that the attendance centre program is achieving more than merely keeping offenders out of gaol, or even that it saves the community a great deal of expense through its relative cost effectiveness. It provides a medium by which probation and parole officers can deal personally with offenders' problems in a positive and structured manner. Officers of many years standing have consistently echoed the same comments: 'We have a much greater face to face contact with offenders, and through the program we are observing changes in attitudes and sometimes even behaviour.'

Offenders are making gains in terms of building up their internal resources, reducing feelings of alienation towards the community, and improving interpersonal skills, to name a few. The combination of offenders making positive gains and the job satisfaction of probation and parole officers, in feeling that they are having some impact in their work with offenders, means that attendance centres achieve more than just 'Keeping People out of Prison'.

Reference

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INDEPENDENT PERSPECTIVES ON NSW COMMUNITY CORRECTIONS

Nigel Stoneman
President
Probation & Parole Officers' Association of New South Wales

KEEPING PEOPLE OUT OF PRISON IS NOT JUST A MATTER OF MORE COMMUNITY corrections. It is a matter of proactive use of crime prevention measures and effective use of all correctional options. It requires a comprehensive community and criminal justice system approach towards our response to crime, including the treatment of victims of crime. Moreover, it is a matter of long-term attitudinal change leading to non-violent and more cooperative lifestyles.

Politicians and the Media

In NSW, politicians and television media, in particular, have been vying with one another to take up the law and order debate. It is obvious that they believe that they are responding to public demand, although research surveys do not indicate that the general public is as punitive as the content of recent legislation and the nightly fare about criminal injustices would have us believe (*Sydney Morning Herald*, 9 March 1990).

Interwoven in the political and mass media approach to criminal justice is, first, the notion that dramatic events are the important issues and, second, the false notion that victims of crime are some discrete group who will be comforted and mollified by the increased punishment of the offender. These approaches lead to the repeated and graphic coverage of such atrocities as the Anita Cobby murder while the community is still quietly organised to produce thousands of future atrocities. Worse still, current cost-conscious governments are eroding the resources in education and social welfare required to combat the problem.

Victims of Crime

Even the victims are sadly deceived by the media to express viewpoints on the punishment of the offender at times of extreme emotional distress. Thus their prospects for rehabilitation are dealt a serious blow by their being led to believe that a successful outcome for the victim only occurs when the offender is caught and punished severely. Frozen at the events

surrounding their offence, their states of mind become embittered and disillusioned as the chronic delays of the criminal justice system deny them relief. Others, with wiser counsel, quietly get on with their life in a much more positive fashion, but out of the limelight.

It was inevitable that victim and community attitudes would turn against the concept of early release of prisoners, especially in view of the grossly disorganised state of criminal justice in New South Wales (NSW). The processes which ended in the imprisonment of a former Minister for Corrective Services for his activities while Minister, the imprisonment of a former Chief Stipendiary Magistrate for activities while Chief Magistrate, and the imprisonment of senior police officers has undermined the drive for so-called alternatives to imprisonment and has finally led to a huge increase in imprisonment. Consequently, NSW's rate of imprisonment is all but double that of Victoria's.

The Increased Prison Population

Until 1988, for two decades the NSW prison population had been reduced and kept in check by an odd assortment of legislative change, administrative procedures, use of community corrections previously not available and good times. By 1988, the good times had gone and the voters elected a government which had, in opposition, campaigned heavily on law and order issues. A potent combination of factors has led to record levels of imprisonment and also record levels of alternatives to imprisonment in 1990.

Coming back to the title of this conference—'Keeping People out of Prison'—experience and analysis of events have shown in NSW that it is not a matter of producing more alternatives to imprisonment or community corrections. The notion that a community correctional program is a valid alternative to imprisonment is sorely tested by the question: alternatives to how much imprisonment?

Looking around the world, it would appear that large and well-based probation services in the UK, USA and New Zealand go hand in glove with high imprisonment rates.

Raising the Tariff

More recently in NSW, legislative change has targeted life sentences as really meaning 'life' and, under the so-called 'truth in sentencing' slogan, the percentage of the total sentence to be served in prison has been nominally trebled—from approximately 25 per cent by way of a non-parole period, to 75 per cent under the new minimum term.

Although the government stated it was reforming the legislation to bring back credibility to sentencing, it failed to institute any safeguards or define any guidelines. In the two years since it took office, the prison population has soared by more than a thousand to record levels in excess of 5,200 prisoners. While the government is not responsible for all of this increase, it is responsible for introducing a rigid approach to sentencing which has a built-in tendency to increase the imprisonment rate.

The immediate problem is that NSW does not have the prison accommodation to cater for the increase and that progress towards achieving reforms by the NSW Royal Commission into Prisons (1978), and United Nations Standards for the Treatment of Prisoners, has been halted and reversed.

The Correctional Creep

In these circumstances, keeping people out of gaol and supplying alternatives to imprisonment take on new meanings. Who is to be kept out of NSW gaols and for what reason? The probability is that more people will go to both prisons and alternatives.

The legal system, which is notorious for operating on precedents rather than the best option for the particular matter, will gradually start using the extra punitive power granted to it by the 'truth in sentencing' program. This, in turn, will lead to reference points by which the new 'tariff' of sentences will be judged.

If the courts do not assiduously cut back their minimum terms of imprisonment to reflect the effect of non-parole periods with remissions, the gap between the most common sentences leading to gaol and the alternatives such as community service orders, attendance centre orders, and probation will widen. The result will be that some people for whom imprisonment was not previously a serious option will now go to gaol. We will be talking about alternatives to imprisonment or some people who would not even have been considered for supervised alternatives, and these people will be sentenced to probation. Almost in anticipation of such a scenario, the government has increased the maximum number of community service order hours to 500—a 66 per cent increase and the time allowed to complete the order to 18 months—a 50 per cent increase.

The Community Correction Cringe and Research

Since the 1970s, many have associated the false doctrine of 'nothing works' almost exclusively with parole and often with probation, instead of with the whole criminal justice system. We do not shut down prisons, police stations and the courts when research shows they are obviously not effective in terms of recidivism, nor should we turn away from Community Corrections. They are still incredibly cheap compared to imprisonment and offer closer interaction with normal community functioning.

In the 1980s, our Community Corrections were trapped into accepting too many unsuitable offenders by the 'cheap alternative to imprisonment' argument. Researchers then applied traditional, recidivism-oriented studies which virtually made small Corrective Services units responsible for the whole functioning of the community. We have a desperate need to get away from the general research of past years with its emphasis on recidivism and over-representation of parole outcome material.

It is time for our researchers to look more closely at such issues as school retention and truanting rates. These need to be related to specific geographical areas and their crime rates. We need action-oriented research to help us fine tune our operations.

Recent staff reductions halved Corrective Services' research staff. If Community Services does not patrol its territory adequately by research, it will be unprepared for future problems and fail to accumulate new skills.

Accountability and Workload

During the 1980s, the admirable aim of accountability in NSW Community Corrections came into conflict with excessive workload pressures caused by the emphasis on cost control, leading to reduced resources. While prison officers staff posts and receive overtime to relieve in vacant positions, no such procedure exists in Community Corrections.

Vacant caseloads of probationers and parolees, together with their 'accountability', are distributed among surviving staff. Worse still is the practice of terminating cases according

to workload needs. It may be practical, but it is hardly 'truth in sentencing'. It tends to downgrade the status of Community Corrections.

What happens is that most NSW probation recognizances have a proviso allowing for release from supervision at the discretion of the officer-in-charge of the case. These provisos were sought by the Probation and Parole Service in the early 1970s as both productivity measures and workload controls. The problems have been that they have not been used consistently from office to office and have given too much discretion to public servants in the administration of a punishment. We would throw the baby out with the bathwater if we removed all flexibility from probation, which is still the most-used supervised correctional measure in NSW. However, when terminations have been used as workload control, they have accelerated the pace of work, the turnover, and thereby disguised considerable workload for which productivity little credit has been given.

It is an extraordinary self-indictment that, in a changeover to computer record operations in recent years, that Community Corrections failed to produce accurate statistics of the rate of incoming work. Management, itself, has usually been given to stating workload in static, caseload terms, ignoring the differences in turnover, local differences, and staff availability. The tension is finally getting to the hitherto elastic probation and parole officer.

Communications and Administration

The administration of Corrective Services has been plagued by long delays in making senior appointments and a secrecy in decision making which has engendered mistrust and loss of morale. In any large-scale change, hard decisions have to be made and staff will be affected.

The administration has not helped its own cause by seeing communication as a one-way process rather than consultative process which will enhance decision making. Staff, in their turn, often feel threatened by change and look to short-term interests rather than long-terms benefits. For example, in relation to mooted changes to an Institutional Service Officer, the fears have been that some impossible combination of prison officer, psychologist and parole officer was being proposed, rather than a more natural combination of duties.

It might come as a surprise to many probation and parole officers that Association policy favouring determinate sentences, in place for many years, would have inevitably led to a revision of institutional work (Corrections Position Paper July 1988). In the past, we have pointed out some of the duplications in institutional work and the need for reform and do not resile from our past support for change. We do object, however, to the inefficient way in which change is being effected.

In 1989, a Departmental Community Corrections Act Committee canvassed the service for ideas for the streamlining and improvement of Community Corrections. In early 1990, this Association, as a courtesy, requested a copy of that Committee's report. It was refused by the Minister on the grounds that changes had already been made and that the report might confuse the public as to the current state of Community Corrections in NSW.

On 9 March 1990, the *Sydney Morning Herald* reported that its freedom of information application for an independent research report on public attitudes to sentencing—commissioned by Corrective Services in August 1989—had been rejected by the Premiers' Department. However, it was later released in 1990. In 1989, the government had been seeking to get its truth in sentencing legislation passed. The report's finding would have given little support to the government. It revealed a thinking public opposed to the death penalty, in favour of remissions for good behaviour, and lesser sentences, in some circumstances, for those charged with murder.

For a government seeking to abolish remissions, institute a term of natural life sentence and reduce parole opportunities, this report would have been unpalatable reading; but how can a government on a truth in sentencing program deny the general public the results of research funded by public money? Most of us working in the correctional field would be conscious of the many complexities, dilemmas and problems facing governments. The government would get a much better reception for its programs if it consulted more freely.

Assessment and some Predictions

In general, the NSW government is not in a happy situation with tight finances, an environment levy to combat massive tourist-threatening pollution, and now a prisons levy to fund new prisons. The government had set out with a mandate and sense of mission to reform the archaic criminal justice system it had inherited. However, regardless of catchy slogans like 'truth in sentencing' and the best of intentions, the problems will not go away.

Despite tougher sentencing laws and increased imprisonment, the perception of crime and violence in the community has not eased. The police force, itself, has added to the perception of violence by accidentally shooting an innocent Aboriginal man in its search for a police killer, and then following up with mass raids in sensitive areas. Regrettably, police blundered by arresting one of their own for a series of rape offences. The humiliating withdrawal of the much publicised charges for lack of evidence and subsequent revelations of incompetence has hardly reassured the public which now knows that at least one serial rapist, as well as a 'granny killer' are still at large.

Throughout all, the legal profession has been slow to meet modern demands despite chronic court delays and the inability of the average person to afford legal services. The government can only be reassured that one week is a short time in gaol by its own calculations but a long time in politics.

It is difficult to see the prison population problems getting better for ten years given the current age structure of the general population whereby the most crime-prone age groups are not expected to peak, in effect, before 1995. In addition, the government has denied itself safety valve programs such as remissions for good behaviour, early licence releases, and reduced the effect of releases on parole in keeping with its truth in sentencing formula. This means that it can only rely on a few options which it can sell to the public as tougher options.

Home detention and electronic monitoring are two such possibilities, but they are not without cost and have limited application. Community service and attendance centre orders cannot be increased any further without destroying the integrity and practicality of those schemes. Further bail and probation hostels will be necessary, especially when acting as alternatives for drug addicted offenders and defendants.

Two major options are left: the manipulation of policing numbers and operations which would not be popular as well as self-defeating; and a reassessment of sentencing legislation in line with the government's original intention not to increase imprisonment. It is feasible to adjust the sentencing tariff down according to the most likely effects of the new legislation and to systematise it as a guideline for courts and appeal courts. This would leave truth in sentencing principles intact and acknowledge sound business sense when it comes to costs and the achievable.

Paradoxically, Community Correction staff at all levels should do well from the difficulties confronting the prisons, despite anxieties over changed roles, privatisation trials and restructuring. The stagnation of recent years, whereby inward looking administrations seemed more concerned with accountability for narrowly defined performance indicators rather than real productivity, need to be challenged. The problem has been that the change and the challenge have not been mounted well to date. So badly is the administration by the

Corrective Services Department and Minister perceived by probation and parole officers, that their branch of the Public Service Association recently passed a motion seeking to leave the Department as an independent statutory authority under the auspices of the Attorney-General. No clearer indication of problems and discontent at the workplace can be given.

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BAIL ASSESSMENT PROGRAM

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'BAIL' ORIGINATED IN MEDIEVAL ENGLAND AS AN ALTERNATIVE TO HOLDING untried prisoners in custody. Inadequate and disease-ridden gaols and lockups, and inordinate delays in trials by travelling justices made the development of some workable alternative to holding accused persons in pre-trial custody a necessity.

There are at least two other principal theories attributing the origin of present bail procedures to the early days of the common law. One is the ancient Anglo-Saxon practice of hostageship whereby one person was held hostage until a promise was fulfilled by another. The other traces bail to the ancient practice of "'Weregeld"—an assurance to the creditor by a third party that the debt would be paid' (Roulston 1972, p. 468). However, this paper will not cover the historical developments and the theories but will focus mainly on the Bail Program in South Australia at a practical level.

The Bail Assessment Program in South Australia was established in November 1988 as a result of the Adelaide Remand Centre reaching capacity and the subsequent overcrowding of untried defendants in the City Watchhouse. Something had to be done to alleviate the problem, make the bail legislation effective and establish a program to facilitate keeping people out of prison when appropriate.

Some valuable work has already been done in the area, such as the paper presented by Brenda Smith (1988), presently the Acting Executive Director of Department of Corrective Services New South Wales, at an Australian Institute of Criminology Conference in Adelaide in November 1988. The issues raised included the philosophy behind the Manhattan Bail Project, and the establishment of the Trial Bail Assessment and Supervision Service (BASS) program in New South Wales.

Another paper presented at the same conference by Mr John Richards (1988), Supervisor of the Courts Unit for the Community Corrections Division in South Australia, is also acknowledged. His paper highlights a number of areas such as problems with the South Australian *Bail Act 1985* and why Correctional Services is best placed to provide Bail Reports.

Finally, the evaluation of the Bail Report Review (PILOT) Program completed by Ann Lange in June 1989 highlights the objectives of the Bail Program, cooperation with members of the criminal justice system, home detention, bail supervision and numerous other aspects of the Program.

Department of Correctional Services Involvement

The Community Corrections Division of South Australia, since the proclamation of the South Australian *Bail Act 1985* and amendments to the Act in 1987, has an active role to play in the area of bail. Namely, the provision of bail enquiry reports and the supervision of defendants who are granted bail with a condition to be supervised by a probation and parole officer.

The Operations Division is often involved in concert with the Community Corrections Division in the provision of a home detention report. The Operations Division is involved in the surveillance of defendants who have been released on bail with a condition of home detention.

Bail Enquiry Report

Unless the court otherwise determines, a probation officer will keep in mind the following matters when providing a report:

- the living arrangements;
- available accommodation to a defendant without a fixed address;
- employment status;
- relevant information about the health, medical or psychiatric, drug or alcohol use if necessary to enable the Court to determine any need for assessment and/or treatment of the defendant;
- response to current or previous supervision inclusive of any interstate involvement;
- particulars of guarantors; and
- the suitability of the defendant for supervised bail.

The essential purpose of the report is to provide verified information for the court to consider together with other information already provided.

Bail enquiry reports provided by the Correctional Services staff do not express an opinion or recommend bail be granted or not granted—the report will, however, comment about the suitability of Departmental supervision and/or home detention should the defendant enter a bail agreement. Comments about the willingness or attitude of the defendant to be the subject of Departmental supervision, or surveillance in the case of home detention, should be included in the report.

If a home detention aspect to the report is requested by the court, the expertise of the home detention unit within the Operations Division is required. The following issues have to be considered:

- matters which might jeopardise a defendant's ability to observe such a bail condition;

- possible objections of the occupiers of the defendant's nominated address; and

- a telephone connected is essential to ensure surveillance of a required level.

Bail enquiry reports are usually given orally to enable matters to be dealt with expediently. As reported by Ann Lange (1989), magistrates have differing opinions on the status of departmental representatives providing oral reports in court. The majority do not require reports to be given under oath and certain magistrates consider that we are not, in fact, witnesses and, therefore, cannot be cross-examined.

The credibility of every report prepared by a probation officer depends largely on the objectivity of the report contents. Cross-examination of the bail assessment officer providing a report rarely occurs and it is considered that this is because of the quality of information presented and the sources of verification.

Bail Supervision

The requirements of the legislation follow:

Where it is a condition of a bail agreement that the person released in pursuance of this agreement will be under the supervision of an officer of the Department of Correctional Services and obey the lawful directions of that officer to whom the person is assigned for supervision may give reasonable directions:

a) requiring that person to report to him on a regular basis

b) requiring that person to notify him of any change in his place of residence, or in his employment; and

c) on any other matter stipulated by the bail authority.

If the bail authority does not stipulate any specific conditions, departmental standards are that defendants report to the supervising officer once a week. The probation officer must endeavour to ensure that conditions of the bail agreement are complied with by the defendant. Where a bail agreement includes a condition related to social work intervention, the supervising officer must ensure the defendant complies. The nature of the supervision will be determined by the specific conditions worded in the bail agreement.

If no specific mention of intervention is made by the court, the supervision may only be limited to a monitoring function. This does not prevent service provision to a client under bail supervision who requests assistance or who is prepared to accept a direction. Accordingly, the officer is expected to provide the intervention deemed appropriate.

The supervising officer will conduct home visits, attend court, report any non compliance of the bail agreement and provide updated reports or information as requested by the court. When defendants first report for supervision, they are expected to sign a notice and acknowledgement of the conditions of a bail agreement. Each time the defendant reports for supervision, a reporting card is signed. Any other intervention is detailed and included on file as soon as possible.

Multi-Disciplinary Approach

A committee of representatives from the magistracy, public solicitor, police prosecution and the probation and parole service established a number of key objectives for a bail assessment and supervision program.

The former bail program coordinator of the Department of Correctional Services in South Australia, Julie Dini (1989), described, in an evaluation of the bail report/review program (February 1989), the objectives and process of developing a program. Consultations were held with magistrates at the Adelaide Magistrates Court, the superintendent of police prosecutions and senior police prosecutor. A meeting was held with solicitors from the Legal Services Commission. The bail program developed was successful and has continued to operate on a permanent basis, although mainly confined to the Adelaide Magistrates Court.

Magistrates have continued to utilise the program by request of reports and the use of supervised bail. Solicitors and prosecutors are cooperative with the bail assessment officer and other Correctional Services staff when involved with bail enquiry reports.

The courts unit staff maintain open lines of communication with all members of the criminal justice system, welfare agencies and other service providers making the program a success. This 'multi discipline' approach, as found by the BASS program, is an essential ingredient to the effectiveness of the bail assessment program in South Australia.

The Truth of the Matter

Correctional Services staff are very well placed to get to the truth of the matter and subsequently be of assistance to the court, particularly when providing magistrates with the information contained within a bail report.

Correctional Services has a well established network of communication and has ready access to records within the state of South Australia and to interstate authorities. The officer assigned to prepare a bail report will verify claims made by the bail applicant in the established network. When appropriate, contact is made with other agencies the defendant may be involved with, including medical practitioners, psychologists and social workers. Other sources of information will include family, relatives, employers, landlords and nominated guarantors.

The bail applicant is informed at an interview that the facts provided will be checked and that an authority to disclose information will be required. If the applicant prefers that certain people are not contacted, the reasons will be conveyed to the court.

The Department of Correctional Services has an integral part to play in the justice system and, since the inception of the South Australian Bail Act now have that opportunity to participate at the pre-bail decision stage.

Acceptance of Bail Program

Despite some difficulties that can be encountered with a relatively new community based program, the acceptance of the program must be acknowledged. The Department's involvement in the program remains, as courts continue to request information in relation to bail applicants.

The benefits of informed decision making on bail and associated conditions are obvious. Cooperation with the other parties involved in the decision making of bail is maintained. The bail assessment officer provides valuable information to the parties involved in relation to appropriate social welfare facilities. Assisting defendants find accommodation

and making the information available to the court are valuable contributions to all parties, as are referrals to specialist counselling or medical assistance.

However, as reported by A. Lange (1989, p. 9) in the Bail Report/Review (PILOT) Program, criticisms have been levelled at bail supervision from within the Division, relating to the belief that bail applicants had nothing to do with the Community Corrections Division. However, approximately half of the defendants interviewed were current or previous clients of the Community Corrections Division and a quarter were current clients.

A similarity existed with the BASS program as reported by Brenda Smith in her paper (1988, p. 6). A surprising amount of resistance was experienced from officers within the New South Wales Probation and Parole Service. Many officers who had traditionally worked with offenders only after conviction had felt that bail applicants were outside the traditional sphere of the probation and parole service and were unwilling to accept involvement with bail. As it turned out, over fifty per cent of the bail applicants interviewed were either current, or had been previous, clients of the probation and parole service.

Other areas of difficulty are: supervision of itinerant defendants; time used in administering transfer of paper work from one location to another and problems with continuity of supervision. Also, the bail supervision period is often of short duration when compared to probation or parole supervision. The bail assessment officer, Ann Lange, has suggested centralised supervision for itinerants which will generate specialist knowledge of various accommodation resources and enable a more efficient and effective divisional response to the client group. With adequate resources, the difficulty can be overcome and be of benefit to service delivery and enhance the Division's credibility.

The program, to a large extent, is currently restricted to the Adelaide Magistrates Court. Although a major court complex, this restriction reduces the effectiveness of the remands in custody and reduces the participation by Community Corrections staff throughout the Division. If increased participation by staff occurs, resulting in a need to understand the program from a working viewpoint, the value of the program throughout the state will become more visible and further acceptance by staff is likely.

In recent times, some Correctional Service locations in the metropolitan area have already acceded to magistrates requests for bail enquiry reports. However, to develop the program further, in locations additional to the Adelaide Court, resources may be needed and, if the present trend of reduced numbers on probation supervision continues, the probation staff could increase their presence in the local metropolitan courts for the purpose of developing and expanding the Bail Assessment Program.

Keeping People out of Prison

The overall theme of this conference is 'keeping people out of prison'. One may have expected from the proclamation of the South Australian *Bail Act 1985* and amendments in 1987, that a reduction in prison/remand population would have occurred. However, the Community Corrections report—contained in the Department of Correctional Services *Annual Report 1988-89*—indicates that there was not a significant impact upon the high numbers of persons remanded in custody for hearing.

Concerns resulted in the establishment of the Bail Assessment Program in late 1988. The objective was to provide courts with information so as to enable magistrates to make as fully informed a decision as possible. The 1985 Bail Act (and amendments in 1987) appeared not to be achieving the aims of reducing custodial remands and providing community based alternatives.

Has the established bail program in Adelaide, South Australia contributed to a reduction in prisoners on remand? The manager of the Adelaide Remand Centre, Kevin McKusker, indicated the Bail Program has undoubtedly reduced the number of prisoners on

remand. However, formal research has not been done at this stage. Of significance is the requirement under section 11(9) (b) Bail Act 1985—that is:

> the applicant remains in custody because the condition is not fulfilled, the applicant must, not more than five working days after the condition is imposed (if he or she is not sooner released) be brought back before a bail authority for a review of the condition.

The manager, Adelaide Remand Centre, considered that in about nine out of ten cases, whereby a review is conducted, some relaxing of imposed conditions has placed bail within the reach of the applicant. This is self-evident in a reduction in the numbers returned to be further remanded in custody.

During the bail pilot, the former bail program coordinator interviewed prisoners and found 2.7 per cent to 6 per cent of those prisoners with bail were unable to meet conditions during the period of the review. Julie Dini reported that it was relevant to consider that the data was drawn on a relatively small sample (thirty-three prisoners). The majority were unable to meet financial conditions and were unable to secure a guarantor. Out of the thirty-three remandees interviewed, twenty-seven eventually met bail conditions and were released, the other six did not have bail on other charges.

It seems that a number of bail applicants who cannot meet a financial condition or find a guarantor are often the subject of a condition to be supervised by a Department of Correctional Services officer. The manager, Adelaide Remand Centre considers the bail program and the staff's close liaison with the courts, and the requirement in the legislation to review bail conditions have resulted in a drop in the occupancy rate of remandees.

Closing Remarks

This paper has not attempted to be academic about the concept of a 'Bail Assessment Program'. However, the information has reflected the South Australian experience.

The Bail Program is effective—albeit restricted to one major court complex at this stage—because the program is 'keeping people out of prison' when appropriate. The Department of Correctional Services provides supervision and/or surveillance strategies, thus providing alternatives to custodial remands should the courts deem such a course appropriate.

The Program is accepted by others involved with the Criminal Justice System, both directly and indirectly. The established cooperation of various disciplines has contributed to the success of the program and is of paramount importance.

The Community Corrections Division is very well placed to provide bail enquiry reports because of an established network and policy to verify information provided by the bail applicant. Gaining the true picture of a bail applicant's situation is a key issue in the Department of Correctional Service's role, particularly before a bail decision is made.

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SENTENCING—ANOTHER OPTION: THE COMMUNITY AID PANEL

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> It is certainly about time that someone in the law-enforcement and legal profession came up with a system of helping people to rehabilitate rather than seeing them merely as offenders (Ian Morton, State Field Officer, The Boys' Brigade Australia, after hearing Co-Ordinator Paul Dixon on 2BL discussing the Community Aid Panel).
>
> The Community Aid Panel is not a soft option, and used effectively, it will increase an offender's appreciation of those `other' 3 R's, Responsibility, Respect and Remorse (Mr Geoff Thomas, Magistrate).

IN THE LATTER PART OF 1987, AN ALTERNATIVE TO EXISTING SENTENCING options titled 'Community Aid Panel' commenced at Wyong. First offenders (both under and over 18 years of age) of less serious offences, who enter pleas of 'guilty' and who volunteer to attend the Panel are now afforded an adjournment of approximately three months before sentence is imposed. The Panel consists of an experienced police officer, a solicitor, one or two respected members of the community and a young person.

At the Panel, the offender and parents (where possible) discuss openly and frankly the offence and the circumstances which lead to its commission, and suggestions are made which encourage the person to undertake some community oriented activities. Because the person is a volunteer, he or she is able to go into the community and perform community involvement with dignity because he or she has elected to do so and was not under any compulsion to do so.

'There but for the Grace of God Go I'. How many of us would be in our present positions, if our every indiscretion had been identified and we had been brought before a court?

Could we ever know just what effect a conviction for a first offence might have on a person who may be poised on the brink of choosing his/her future career path. Would it be possible that a person denied his/her chosen profession, through frustration develop a 'chip on his/her shoulder', that society will pay for during the remainder of his/her life?

Currently Available Options

If it is considered that sometimes harm will flow from a 'first offence' being discovered, then what are the options open to the court? Usually gaol or a community service order—the last alternative to gaol sentence—would not be considered appropriate. A deferred sentence or a fine still has the effect of potentially damaging career paths while a S.556A dismissal or recognizance in protecting his/her career paths could prove little deterrent to a person re-offending, certainly fails the expectation of the public, and no doubt proves a discouragement to police which eventually leads to the breakdown of law and order.

The Community Aid Panel Presents a Fresh Option

If this situation presents a dilemma then the Community Aid Panel presents an answer. The Community Aid Panel does more than resolve that dilemma. It acts in a far more positive way than other options.

When a person appears before the Panel, efforts are made to identify why the offence was committed and, whether or not the base cause is identified, efforts are made to ensure that there is no repetition of such offence or other offence by the offender.

The early intervention in the 'criminal life' of the offender can seek to address drug or alcohol or psychological problems which are often at the heart of the offence so that re-offending does not occur. It also provides an opportunity for family and friends to gather round an offender, in a positive way, to enhance their self-esteem, so often a problem with the young and unemployed.

If a person's attitude towards one's self improves so will their attitude towards others. The interest shown in an offender by the Panel and family and friends is often all that is needed, particularly when the offence itself is really a 'cry for help'.

An Alternative to High Cost Supervision

It is obvious the state cannot afford to provide supervision and guidance (for example, Family and Community Services or Probation and Parole Service) for every person who comes before the court. The cost would be prohibitive; therefore, such assistance is usually reserved for the third or fourth or more time offenders.

The Panel takes up the challenge at a minimal cost to the community because it draws on the community for voluntary assistance. At Wyong, voluntary assistance is willingly provided and the concept of the Panel was readily accepted after some initial hesitation on the part of people worried that they were dealing with dangerous criminals.

The Farce of Cutting Out Fines

The Panel was conceived at a time when payment of fines could be virtually avoided by 'cutting out' numerous warrants at the one time—for example, Mr Frank Hardy cut out about $5,000.00 of parking fines in one short spell—at a time when amendments to the *Justices Act 1986 (NSW)* required courts to take into account an offender's ability to pay when imposing a fine; at a time when an unemployed youth who would have difficulty paying a fine could not be the subject of a community service order (as the court was not contemplating a gaol sentence)—even though the community service order might have proved a positive force in getting him/her into the workforce.

As time passed, further changes arose where those who did not pay their fines did not go to gaol but, after a lengthy process, were ordered to undertake community work and in default were sent to gaol. These same people would more easily have been ordered to perform community service at the first appearance at court with much less expense, but could not have been ordered to do so.

The Recovery of Compensation Outside the Judicial Control

Orders for compensation for damage have been made over the years and many of these result not in the victim being compensated for his/her loss but in the default provisions being invoked and the offender 'cutting out' the amount in gaol. The victim is not forgotten by the Panel and the offender is encouraged to meet the compensation payment at the earliest opportunity.

At the moment, compensation is not able to be imposed by a court on a person under 16 years of age. However, the Panel has successfully obtained compensation from youths as young as 12 years of age from money they earned themselves. In appropriate instances face to face apologies are arranged by the Panel.

Much of what has already been written has been concerned with the benefits that flow to the offender. By far the greatest winner since the Panel commenced has been the community.

The tasks undertaken on a voluntary basis in the short time since the Panel began have been varied and very beneficial. There are many spin-offs to the community involvement carried out by the offenders. One of the benefits is the closing of the gap between police and the offenders, police and the community, and offenders and the community. A strengthening of the family unit will often flow from attendance at the Panel and this can never be measured in financial terms, nor can the good that flows from this re-enforcement of family values.

We often hear of the circles of misery that emanate from the criminal actions of one person, for example, a drug user. The Life Education Centre suggests that each fully addicted heroin addict costs the country about 1.5 million dollars. It could be that one potential addict stopped in his tracks and turned around might save the community that much or more.

The Workings of the Panel

The Panel, which sits in a building away from the court house or police station, is relaxed without being totally informal and offenders are encouraged to bring their parents with them when it is appropriate.

The Panel seeks to ascertain why the offence occurred and address the particular problems that lead to the offence. Access to various types of counsellors who deal with adolescents, the problems of drugs and alcohol, homeless and potentially homeless youth, allows the Panel to operate with ordinary commonsense knowing that expert assistance is provided on the referral basis. The old, the poor, the sick and the lonely are only some who are reaping the rewards of the offenders' efforts.

The magistrate does not form part of the Panel—it has a coordinator, a solicitor, a member of the community and a young person. The police officer is an integral part of the Panel and is usually the coordinator. If a person appearing before the court pleads guilty and wishes to volunteer to attend the Panel prior to being sentenced, then an opportunity to do so is afforded to that person. The offence prepares a form of consent and the matter is adjourned for sentence for about three months.

After attending the Panel the offender has about three months to undertake some form of community involvement, be it counselling, literacy or education courses, donating blood or considering some form of volunteer work. At the conclusion of the three months, the coordinator prepares a report for the magistrate who can then take this community involvement into account in sentencing.

Attacking the Root Cause of the Problem

With the Panel meetings conducted away from the court and in view of their relaxed attitude, the Panel members feel the offender can open up, sometimes for the first time in years, so that the root cause of the offence can be attacked. If an offender can stay out of trouble for three months awaiting sentence, it is a base to build on to try and stay out of trouble for a much longer period.

Particular areas can have particular problems and needs. In the Western suburbs, ethnic groups might form a large part of the court's population, while in the country many Aboriginals may form part of the court's population. In those instances, respected representatives from the ethnic or Aboriginal people might be asked to sit on the Panel. The Panel might consider suggesting to the ethnic offender that the person consider undertaking some further education in the English language and Australian history and culture, and with the Aboriginal offender, courses might be held in an attempt to give offenders a greater knowledge of Aboriginal culture.

> It is one of the most beautiful compensations of this life that no man can sincerely try to help another without helping himself (Ralph Waldo Emerson).

The community is ready to help, the Police Department is only too willing to be involved and the legal profession in the Newcastle and Central Coast area have shown that they are ready to assist. It leaves only the magistracy to consider their position and, if in favour of having a Community Aid Panel in their town or circuit, to give the necessary indication to senior police in that district or to Senior Constable Paul Dixon of Wyong.

It should not be considered that the Panel is just another alternative as much of its success rests on the genuine desire of the people undertaking it to be involved.

The Voluntary Nature of the Community Aid Panel

Because the Panel is a self-help program, those who volunteer to attend are likely to be more motivated than those forced to be involved in a project. Many a good program can start off well and turn into a failure. The Panel has a most impressive list of success stories. Of course a few of the 429 initially seeking to attend the Panel did not attend the Panel, while others attended the Panel and declined to be involved. A few said they would become involved but failed to do so.

The Current Success Rate

On the credit side, over 400 have performed very credibly, benefiting themselves and the community. The Panel is not a soft option. The volunteers appreciate this and when they return to court, it is easy to see that they feel they have achieved something. Their self-esteem is visibly enhanced.

The Panel carries no insurance coverage and pending such cover from Government sources, the volunteers are encouraged to consider attending only those places that carry their own insurance.

Community Aid Panel (CAP)—A Summary

The initials CAP stand for 'Community Aid Panel' but could equally apply to 'Community and Police' or 'Crime and Prevention' for these are the objectives behind the establishment of the Panel. If successful, the Panel will bridge a gap between police and the community, between police and the offenders, and between the offenders and the community.

These aims are achieved by involving the community and the police in the sentencing process while allowing the offender the opportunity to repay the community with dignity. At the same time, a foundation is provided for diversion of the offender from crime into community based pursuits.

In short, the Panel meets an offender who has volunteered to attend. The Panel discusses with the offender, and their parents where possible, the circumstances of the offence. The causes of the offence are ascertained and the Panel then suggests certain rehabilative opportunities such as counselling or literacy courses for example, which may act to prevent a repetition of the offence. In addition, the Panel will consider what tasks the person could undertake on their own behalf which may assist them when they return to court for sentence. (The court, on accepting a plea of guilty and on hearing a person wishing to attend the CAP, adjourns the matter for sentence for about three months, with extension of time if the need arises).

This process means that the community is 'repaid' for the offence; the offender may not receive a criminal record—important in many cases because of the impediment it causes to employment; the offenders get a better appreciation of the role of the police officer—the offender and his/her parents are often brought closer together; the offender is 'steered' away from committing further crime; and, as the matter is hanging over the head of the offender for three months, this will increase his/her awareness of the risks of committing further offences.

A further benefit to all concerned occurs when the Panel can detect and assist with some shortcoming, such as the inability to read or write, or perhaps assistance can be given to a 16-year-old pregnant girl who had not seen a doctor and is two months from giving birth. Additionally, the Panel endeavours to encourage in the young an interest in community projects such as State Emergency Services (SES), Volunteer Bush Fire Brigade, or Red Cross Blood donations. The Panel has found a closer tie between children and parents resulting from attending the Panel and a greater awareness of the needs of the young person.

Because the offender is a volunteer, it is possible to go into the community and perform work with dignity because he or she elected to do so and was not under any compulsion to do so.

How the Panel Works

The Panel consists of a police officer, a solicitor, a young person and a respected member of the community. On most Panel meetings, one of each category is in attendance. The panel has weekly meetings in a room owned by the Council, away from the police station and the court house.

The coordinator is the linchpin of the CAP. It is obvious that any member of the Panel must be enthusiastic, realistic, able to interact with younger persons and members of the community. In the case of the police officer, this is most important—clearly it must not just

be the next most senior person to be allocated to the Panel. In some ways, the position is a public relations one as far as the Department is concerned because he or she is trying to win over the hearts and minds of young people brought up in an environment which is often hostile to police.

The police officer is expected to attend and address meetings from time to time—during the evenings—at community groups such as Lions, Apex, and the Community Youth Support Scheme. The enthusiasm of the police officer is most important as he/she may influence future support of the CAP.

The Panel receives volunteers from the Local and Children's Court at Wyong. A person who pleads guilty and wishes to attend the Panel prior to being sentenced indicates this to the Court. If he/she has a nil record, or in some cases a record well before the recent offence, and the co-ordinator feels the offender and community will benefit, then the magistrate finds the offence proved, adjourns the case for sentence about three months ahead and fixes a date for the offender to attend the Panel—usually on the next Wednesday evening. There is a small notice attached to the papers by the magistrate indicating to the court staff that CAP forms are to be prepared and, in the office, three copies of the form 'Annexure A' and a copy is placed on the court papers, another directed to the Panel and the other to the offender.

On the return date at court, the offender presents Constable Dixon with documentation of the work/tasks performed and a report is then prepared by the constable for the magistrate.

CHRISTIAN JUSTICE ASSOCIATION ABORIGINAL DRIVER TRAINING PROGRAM

Christabel Bridge
Chairperson
Christian Justice Association &
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Management Committee
Western Australia

EUROPEAN CULTURE IN WESTERN AUSTRALIA IS IN CONFLICT WITH ABORIGINAL culture and has been for 150 years. Prison represents an integral part of the European attempt to assert control. In this context, prevention of imprisonment of Aboriginal people is more than the attempt to respond more effectively to the problem of crime or deviance. It is demanded by an innate and growing sense of injustice being articulated by Aboriginal people and to which European Australia is just beginning to respond. The Christian Justice Association (CJA) basis for action is more than keeping people out of prison because it is not doing them or us any good. It is rather an attempt to redress injustice and the inequity to which Aboriginal people have been subjected by the criminal justice system.

> The estimates reveal, in particular, that Aborigines are sentenced to prison at twenty times the rate of non-Aborigines, and that they tend to go to prison for less serious offences than non-Aborigines. Having been instrumental in legitimising the confiscation of Aboriginal lands and livelihoods in the creation of modern Australia, it would appear to be the clear duty of Australia's criminal justice systems to investigate this apparent disparity (Walker 1989).

Community groups do not have to apologise for their crusading zeal. In many ways they can supply the drive that is needed to introduce change to the criminal justice system in a way that bureaucracies that control the system are unable to do. The failure of prison as an appropriate response to crime and offenders and the value of community participation and reintegration programs are receiving increasing recognition. As Mary Tuck, from the

British Home Office, stated in the International Congress of Corrective Services in January 1988:

> . . . let me point to the empirical results of 'what works' in the treatment of offenders. Influential reviews of the literature . . . have shown that it is 'treatments' or 'disposals' which assist in the re-integration of offenders into law-abiding communities which show most success . . . But, in traditional 'corrections' philosophy, such disposals are placed at the margins of the system an 'alternatives to custody'. They need to move to the centre; to be strengthened and developed.

Community-based preventive programs and alternatives to custody come from two different philosophical positions. When community groups can tap the resources of bureaucracies and vice versa, community-based programs become viable and resources are being transferred from remedial to preventive programs.

It goes almost without saying in Australia that imprisonment is a completely inappropriate response to the historic clash of European and Aboriginal cultures. However, as a society, and as professionals, the challenge is to translate our widespread concerns for social change into programs which redirect individuals away from the prison system, or for that matter, any other substitute forms of control.

Alternative penalties are not the solution for Aboriginal people, they simply extend the social control and oppression further into the community. This could be the reason that they have been, relatively speaking, a failure with Aboriginal people. A redirection of resources is needed not only away from imprisonment of Aboriginal people but towards affirmative action, or positive discrimination for Aboriginal people. The following statistics applying to Western Australia support the idea that this group should receive positive discrimination.

> Aborigines were 43 times more likely to be held in WA police cells than non-Aborigines, according to a report released yesterday. Nationally, Aborigines were held in custody at a rate 27 times higher. The Royal Commission into Aboriginal Deaths in Custody report was based on 28,566 custodies in Australia during August 1988. The report found that Aborigines made up almost 29 per cent of the custodies, although they were only 1.1 per cent of the population aged more than 15 years (*West Australian*, 9 March 1990).

Description and Aims

The Christian Justice Association (CJA) was formed by 20 people in 1985 in response to our concerns to reform the criminal justice system (CJS). In April 1986, a lawyer with previous experience with the Aboriginal Legal Service (ALS), and Christabel Bridge, a Clinical Psychologist with 12 years' experience of working in Fremantle prison, proposed the Aboriginal Driver Training Program (DTP) in direct response to the dramatic overrepresention of Aboriginal people in the prison population.

The statistics of the 1986 *Annual Report* of the Prisons Department together with those from the *Dixon Report* (1981) established that significant numbers of Aboriginal people, particularly young people, were being imprisoned for driving without a licence. In setting up the ADTP several considerations remained uppermost in the minds of the Management Committee.

The cause of much of this imprisonment has been that young Aboriginals are often unable to find employment or to borrow money from friends or relatives, which in turn denies them access to driving instructors or other legitimate ways of obtaining a driver's licence. Many of them are not sufficiently trained in English and the rules of the road, and

some of them lack the confidence to approach the authorities for help. Very often they resort to taking other people's vehicles and driving them dangerously without being licensed.

The aims of the ADTP are to remedy this situation and to assist the youths to obtain employment and be on equal footing with other youths in the community. This is particularly important for those Aboriginal youths in the country areas of this state. It is very difficult to obtain employment and keep it in these areas without a driver's licence.

The Aboriginal Driver Training Program also operates as a crime prevention program and saves the costs—monetary and social—associated with unnecessary court proceedings and imprisonment. The target group is socially disadvantaged Aboriginal and other youths in a similar situation in the 15 to 25 age group. The ultimate responsibility for the Program lies with the Christian Justice Association but it is managed by an independent committee.

The instruction is largely given by volunteer driving instructors from the community generally. At present, the scheme operates at Clontarf Aboriginal College due to the kind cooperation of the Christian Brothers. Funding has so far been obtained from the Western Australian and Commonwealth governments and from church and private sources.

Aims

The aims of the Aboriginal Driver Training Program are:

- to help and encourage Aboriginal and other youths to obtain their driver's licence as soon as they are of age or legally eligible;
- to assist Aboriginal and other youths to equip themselves with driving licences (ultimately of all types including trucks and bulldozers) so that their possible spheres of employment are expanded—including employment in country areas where a driving licence is often essential;
- to lower the number of Aboriginals imprisoned for driving-related offences.

As of 26 October 1989, we have assisted 134 people to receive Learner's Permits and 108 licences. Out of these figures, 52 are young men who have a past history of committing traffic offences against the law. The majority of them stated that they would not have bothered about sitting the theory and practical tests if the ADTP was not available.

There is also an Aboriginal Alcohol Education course at Canning Vale Prison. Fifty per cent of the Aboriginal inmates who participated in the course claim they would not have been in prison now if they had received their licence at the required age of 17 years. A favourite 'cop-out' for juveniles is the phrase, 'I've got nothing to lose!'. The aim of ADTP is to get as many Aboriginal and non-Aboriginal youth a better opportunity of obtaining their licence upon reaching the required age in order that they have got something to lose.

Due to limited resources (two cars, one full-time instructor, five voluntary instructors, driving lessons one hour/week) the program has faced numerous difficulties. The selection of an excellent coordinator, and the way in which she has grasped the vision of the Program, is the key to its success. This form of selection looks not for formal qualification so much as willingness to learn, commitment to people and good relationship skills.

Results to Date

The number of Learner's Permits and Driver's Licences obtained during the period 1987 to 1989 are shown in Table 1.

Stage 1—August 1986 to December 1987

This stage involved building the program from the point of having no resources, to recruitment of the coordinator in the first months, establishment of theory classes, acquisition of two dual-control vehicles and recruitment of volunteer instructors and student participants. Only five learner's permits and two driver's licences were achieved in the six months, but the whole structure of the course was established.

CEP funding expired after five months, illustrating the unrealistic nature of funding guidelines. Recurrent funding is very difficult to obtain and the problem has still to be resolved. Also, CEP funding comprised only the coordinator's salary and some money for fuel. Lotteries Commission funding provided the cars and the Catholic Social Welfare Commission and Law Society provided additional funds. Results at this stage cannot be evaluated in numerical terms.

Stage 2—January to December 1988

It will be seen that learners' permits built up over the year to reach a total of 73, while drivers' licences lagged, reaching 41. In the last quarter of the year, the employment of an Aboriginal driving instructor produced a significant increase in licences obtained.

An evaluation report of the first 16 months was compiled as at the end of 1988 and has more specific information.

Table 1
Aboriginal Driver Training Program
Number of Learner's Permits and Driver's Licences Issued
1987-1989

	1987		1988		1989	
Month	LP	DL	LP	DL	LP	DL
January	--	--	2	--	--	--
February	--	--	4	--	1	4
March	--	--	1	3	3	2
April	--	--	4	--	10	1
May	--	--	5	1	6	3
June	--	--	5	--	7	5
July	--	--	11	--	5	4
August	--	--	11	7	7	18
September	--	--	7	4	7	6
October	3	--	10	5	7	11
November	--	--	11	9	9	6
December	2	2	3	10	5	7
Totals	**5**	**2**	**73**	**41**	**67**	**67**

[Jan '90 2 1]
[Feb '90 -- 3]

Summary	Learner's Permit	Driver's Licence
1987	5	2
1988	73	41
1989	67	67
1990	2	4
Program Total as at February 1990	**147**	**114**

Stage 3—January to December 1989

The second full year of operation shows a more even spread of learners' permits and drivers' licences over the full year (67 of each). A major achievement at this stage was that three Aboriginal volunteer instructors completed their driver instructor qualifications.

Up to this point, only motor car (manual or automatic) licences have been obtained. However one instructor has a B Class Licence (trucks and buses) and we are preparing to offer instruction to upgrade licences. This will allow students to gain entry into training courses for earthmoving equipment.

Strengths and Limitations

A cooperative ethos has developed. The program has provided a degree of interaction between individuals from government and non-government agencies which is not usually seen. Not only that but, over time, the program has been accepted increasingly by Aboriginal people as a useful and effective support service. Consequently, the program has developed a community spirit with an underlying network of referral and support.

The program is cost effective compared with the cost of imprisonment of one person at $3,500 per month, it costs $3,500 per month to run the entire program. Furthermore, as illustrated, the program has assisted instructors as well as students to develop employable skills.

Funding and assistance has always been the most difficult. While each person or agency considers it an innovative and impressive program, it invariably does not fit the funding criteria of the particular agency. This preventive program needs to be seen as a high priority in any number of government departments—Aboriginal Affairs, Community Services, Corrective Services and Police. Another problem is that, at present, we can only service the metropolitan area. Similar programs are needed in the country, particularly since public transport is unavailable and lack of a driver's licence more severely limits employment.

Criminal justice system/Aboriginal relationships

The earlier-mentioned clash of cultures has led to a fear of anything to do with the police or the legal system among Aboriginal people. The Program has been breaking down this fear among participants, but for some people, it deters them from joining it.

Outstanding warrants and fines represent an actual risk upon entering a police station for a learner's permit. In order to maximise participation, more innovative government action would be required in the form of an amnesty for past offences.

Similarly, accumulation of suspension periods after completion of a prison sentence defers the date of obtaining a driver's licence to such a degree that it actually encourages offending.

Cross cultural communication problems

The services of non-Aboriginal volunteers, while improving cross-cultural relationships, has presented a barrier to learning as described by the coordinator:

> We find we need more Aboriginal involvement in the program as a lot of the Aboriginals we deal with are very tense, nervous, overly shy and sometimes scared when in a car with a non-Aboriginal. This is no fault of the voluntary

> instructor but something that seems to be inborn in Aboriginal people. Even though one of our goals was to encourage interaction between Aboriginals and non-Aboriginals, I feel that we cannot afford the lengthy time it takes to break down this barrier.

Conclusion

In setting up the ADTP, several considerations remained uppermost in the minds of the Management Committee:

- to set up a pilot program that could serve as a model in other settings—both as a Driver Training Program for Aboriginal people and as a crime prevention program;
- to secure the cooperation of government and community agencies and utilise their resources (for example, the Police Department, Clontarf Aboriginal College);
- to maximise Aboriginal representation at all levels of the program, not merely to reduce costs, but to enhance relationships between Aboriginal and non-Aboriginal people.

It will be seen that all of these aims reflect a concern for social change. People who—whether as officials, politicians or members of non-government organisations—are contemplating community-based and preventive programs would be well advised in all cases to reflect on the underlying philosophy of their program. The fundamental question to be asked is whether the program is in fact community-based or whether the community is being coopted for the purposes of the state. The former poses high risk but with more likelihood of being effective—both in terms of social change and bureaucratic terms of, for example, cost effectiveness. The latter is 'safer' but continues the historic process of oppression by which deviance is reinforced.

This program is relatively insignificant to others in terms of cost and numbers of participants. Its significance is in the successful demonstration that community development principles are not only relevant to the criminal justice system but essential if we are to realise our ambitions for a shift of resources to preventive programs.

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SOME IMPLICATIONS OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY FOR COMMUNITY BASED CORRECTIONS

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ON APRIL 1989, COMMISSIONER J. H. WOOTTEN QC RELEASED THE REPORT OF the enquiry into the 1983 death of a New South Wales prisoner Malcolm Charles Smith. In accepting Commissioner Muirhead's view that investigations of the deaths required investigation not only of how the deaths occurred but why they occurred, this report devoted a major section to what are called the underlying issues.

The underlying issues included an overview of Aboriginal life since occupation, with particular reference to the interactions with government policies and instrumentalities, and the dominant society and culture in the area and time of Malcolm Smith's developmental history.

The matter of community-based correctional endeavour, in both the juvenile and adult arenas, is identified as an underlying issue deserving special comment and attention. However, it was the Royal Commission, and not the advocates of community corrections, that identified the relevance of the underlying issues. The Commissioner observed 'Counsel for the NSW Government submitted that consideration of the role of the Probation and Parole Service does not arise as an issue for consideration by this Commission' (Wootten 1989, p. 83).

Why this should be so remains a puzzle. It could be that the Probation and Parole Service saw the enquiry as being outside their own terms of reference. It could also be the result of the perceived marginality of Community Corrections generally. There is no doubt in the mind of the Royal Commission as to the role of Community Corrections. They 'should be important in providing feasible alternatives to imprisonment and in reducing recidivism' (Royal Commission 1989, p. 7).

A Truncated Biography

The year of Malcolm Smith's birth was 1953. A comparative study of the period declares a total mismatch between the galloping development of the nation on the one hand and the circumstances and management of its indigenous people on the other.

Malcolm was born and raised on the Darling as one of thirteen children. His first encounter with the law was at the age of eleven with the immediate consequence of being committed to an institution at Kempsey. Over the next nine years he was free for a total of eight months—comprising five separate periods of conditional liberty, each of which failed. He had no family contact during this time.

His correctional management during these nine years was at the hands of juvenile authorities before his graduation to the adult system in 1973. In the subsequent ten years to his death on 5 January 1983, a further three periods of conditional liberty totalled about four or five months.

The latter months of his life in custody saw the onset of a psychotic illness. His tragic death was the result of his endeavours to be obedient to the New Testament's injunction 'if your eye offends you pluck it out' (Matthew 5: 29). This all happened in the loneliness of a toilet cubicle in the Long Bay prison complex and its significance was soon submerged in the euphoria of Princess Diana's pregnancy and the election of the first Hawke government. Now it has surfaced again.

The Royal Commission has been quite unambiguous in what it perceives the role of correctional endeavour with Aboriginals to be—the provision of feasible alternatives to imprisonment and reducing recidivism.

Feasible Alternatives

Before the Court

At the time of Malcolm's initial committal, he was without legal representation and the matter proceeded without reference to child welfare authorities. It seems that no alternative to a committal was considered. However, the court records suggest that the cultural context of 'neglect' was neither comprehended nor expressed. On a later occasion, a court received information from an officer that placement with his father was not required, and on another occasion that both his parents were dead. Both represent errors of fact.

The Royal Commission also saw the infiltration of stereotyping in relation to assessments and departmental records—presumptions about low intelligence, low levels of family attachment and laziness. The Commission concluded:

> The evidence provides a case study in the dangers of accepting 'expert' assessment at their face value. It illustrates too, the danger of readiness to accept stereotypes, something which obviously affects many judgments on Aboriginal people (Wootten 1989, p. 71).

The problem of value-infected reports and records is still with us. It is doubtful whether all community correctional workers have received adequate training in Aboriginal studies and whether sufficient have developed an adequate awareness of the issues that prevail in their pluralistic community. Judgments about cleanliness, nutrition, family interactions, attitudes to work and leisure have a cultural context for many Aboriginal people; the moral and middle-class high ground is not necessarily a position of advantage from which to evaluate such circumstances.

The reports, assessments and submissions presented to releasing authorities have an enormous bearing on adjudication, and both their authors and their audience need to be vigilant against the subtle but persuasive infiltration of prejudicial material.

Strategies in the Community

The unfortunate dichotomy between the community being perceived as the arena for rehabilitation and prisons being the arena for punishment prevails. While community service orders represent a challenge to this dichotomy, community correctional workers have generally protected their rehabilitative role and resisted becoming the supervisors of punishment regimes.

This analysis could in part explain the over-representation of Aboriginals in Australian prisons. In New South Wales, Aboriginals number 0.8 per cent of the population but are 8.8 per cent of the sentenced receptions in NSW prisons. The national figures indicate that Aboriginals are over-represented in Australian prisons by a factor of 20.5 (Walker 1989).

Since Malcolm's death, there has been an expansion of the NSW Probation and Parole Service into the western region of the state; but despite this and other material put before the Royal Commission, the Commission's report still noted:

> it is a matter of concern to it if the service (sic) does not have the capacity to operate effectively in areas of high Aboriginal population, particularly in view of the high imprisonment rate of Aboriginals, or is for any other reason ineffective in reducing Aboriginal recidivism (Wootten 1989, pp. 83-4).

While the NSW Probation and Parole Service can point to increased levels of staffing and the expansion of specialised programs such as community service orders, attendance centres, community service for fine defaults, and more regular oversight of probationers and parolees, there remains the evidence that Aboriginal receptions into our prisons remain stubbornly high.

There are two broad responses that can be made in the search for feasible alternatives to imprisonment. One is the long-term approach. The long-term assault on the number of Aboriginals received into custody will depend upon programs and legislation that rebuild self-esteem, community identity and power back into Aboriginal communities; the lead time for such undertakings will be substantial. Aboriginals have a long history of managing deviance within their own communities, but cultural dilution and a substituted legal system has largely seen the demise of that capacity.

As long-term programs such as improved community resources, health and nutritional practices, 'staying-on' school programs and the like are implemented, the incidence of Aboriginal offending behaviour will be gradually lowered.

The Royal Commission has identified changes in legislation, police practices, bail and community-based orders as short-term strategies which can impact on prison-bound Aboriginal offenders. The Commission has also expressed concern that net-widening with some community-based sanctions and the cross-infecting influences of the prison experience for Aboriginal offenders increase the likelihood of custodial sentences being applied.

In a submission to the Royal Commission, the former Director of the Probation and Parole Service in NSW advocated the provision of greater resources for Aboriginal community groups to work in cooperation with the Service (Wootten 1989, p. 84). The challenge is to identify or even create resources to absorb the referral of Aboriginal offenders in the remoter western regions of NSW.

A sad parallel with Australian Aboriginals is recent research among native American people in the State of Wyoming (Mills 1989). Despite the practice of probation, the data

proposed that in almost 70 per cent of felony convictions, the perpetrator was intoxicated at the time of the offence (Mills 1989, p. 15). The difficulty for Community Corrections to discover both the model and the space for effective intervention is limited. Mills' conclusion readily translates to the Australian scene:

> The probation officer must be a realist in identifying what is possible in light of the problem and limited resources. The officer must realise he is working with a very different culture. Even a native American probation officer is viewed as an outsider who represents an authority that has not always dealt fairly with Indian people. The effective probation officer should have an appreciation of the social milieu of the reservation and be tolerant of the special problems faced by such a case load. At the same time, the officer must be willing to hold clients accountable, as accountability is the cornerstone of ultimately guiding a client toward sobriety. This is a client population which can frustrate, and the officer must be willing to measure success by somewhat smaller increments (Mills 1989, p. 15).

The Malcolm Smith story also profiles the vulnerability of institutionalised people when catapulted to independence. As previously indicated, Malcolm's total period of freedom in nearly eighteen years of institutional and prison life totalled no more than twelve months and even this was comprised of nine or ten periods of conditional liberty.

Maybe Community Correction services should be in a position to supervise a graduated restoration of independence. Release via 'home detention' could be a consideration. Release to parole for people such as Malcolm Smith could involve them being met at the prison gate by supporting personnel (whether they be family, carers or community correctional officers) and transported to their nominated place of residence. If the distance between the two is in excess of 1,000 kilometres—as it was on more than one occasion for Malcolm—then it is probably even more critical that such support be provided. One of the Commission's identified factors that contributed to Malcolm's repeated collapses into re-offending was 'the total lack of Probation and Parole Service support in Dareton' (Wootten 1989, p. 40).

The NSW Probation and Parole Service has attempted to buttress the needs of fragile offenders such as Malcolm Smith with the skills and resources of Community (Aboriginal) Liaison Officers and designated Aboriginal Probation and Parole Officers in strategic locations. The recruitment and maintaining in employment of suitable Aboriginal persons to fill these positions has been very difficult for the Department.

Reducing Recidivism

Reducing recidivism has become an elusive commodity for both planners and researchers. However, the Royal Commission is expressing the common perception of the relationship between Community Corrections and recidivism.

Since Community Corrections worldwide have moved away from the caring/supportive role that is associated with the history of probation, substitute role definition and performance indicators have not come easily. In the United States, there has been substantial support for the 'nothing works' proposition, and this has seen a contraction in rehabilitative programs and a renewed emphasis on social control programs. The hesitancy in accepting the reduction of recidivism as a performance outcome has to be seen in both this context and the ambiguity of recidivism research studies.

Obviously recidivism is a function of many variables, not only whether there is a community correctional service (Department of Corrective Services 1989, p. 20). But despite the research and role difficulties with reducing recidivism, it remains an unavoidable

perception and conclusion that, in the case of the Dareton area, if there is a community correctional presence, then it can be anticipated that offenders are expected to re-offend less.

What can Community Corrections do? They can effect regular contact and have planned activity with persons on conditional liberty orders. Just how regular will depend on the resources of the service provider and the needs and number of service consumers they assess for needs and risk. They can assist the service consumers to sculpture their general situations and circumstances so that strengths are confirmed and weaknesses are not so exploitable. They can report to sentencers and releasing authorities on the potential and capacity for offenders to comply with a community-based order.

While the range of activities may look impressive and convey the notion that such a role must impact on the potential to re-offend, the capacity for such community correctional work to become social control in practice is very limited. In the final analysis, it is the service consumer not the service provider who is the dominant shaper of outcomes. This signals the hesitancy of proposing causal connections between correctional endeavour, or the absence of it, and recidivism.

However, in the context of Aboriginal social behaviour—particularly the repeated offending collapses experienced by Malcolm Smith—maybe there is the need to consider community correctional services on a broader and bolder scale—regulating social movement, constantly and specifically addressing skill deficits, nominating conduct that must or must not be exercised.

While this scenario may have some instant appeal it throws into relief the observation of the Royal Commission:

> It has been suggested that, on the one hand, offences which may have been overlooked are now made the subject of charges because of the availability of such options as community service orders. On the other hand it has been suggested that unrealistic expectations of the condition of bonds and community service orders can lead, ultimately, to an increase in the incidence of offenders being placed in custody (Royal Commission 1989, p. 6).

The problem of double jeopardy and net-widening remain two of the unresolved philosophical issues in corrections. Sentence on recognizances can be activated, not necessarily because a subsequent offence has taken place, but because there has been non-compliance with a condition attached to a community-based order.

Conclusion

It is a truism that there is no effect that is the result of a single cause, and a review of the range of social, cultural, legal and medical factors that each contributed to Malcolm's death suggests that a wholistic analysis must prevail. This paper is an attempt to distil out of this mix the correctionally specific issues that address community-based corrections.

Correctional workers are not welfare or social workers, nor medical or educational service providers. The Royal Commission has identified the provision of feasible alternatives to imprisonment and the reduction of recidivism as the preferred parameters of community correctional practice.

From the report into the death of Malcolm Charles Smith, the Probation and Parole Service can and should be responsive to the deficits in its operations that made their own contribution to the death of Malcolm. These may include:

- the greater provision of and utilisation of pre-sentence assessment services for all Aboriginal offenders facing imprisonment;
- the need for both assessment and supervision services to be sensitised to the cultural context of Aboriginal social behaviour;
- the need for Aboriginal communities to be incorporated into the total process of offender management;
- the need for supervisory 'weak spots' (immediate post release period, for example) to be identified and strengthened;
- the need for stronger definition of the role of Aboriginal people as community correctional workers;
- the provision of community resources for Aboriginal offenders to be specific to the needs of offender groups (for example, violence or alcohol-related problems);
- the need for the urban vis-a-vis rural issues to be identified in Aboriginal offender management;
- the need for conditional liberty orders to be in phase with the competencies, capacities and will of the offender;
- the need for staff recruitment and training to be specific and comprehensive in its address to the issues of Aboriginal people, culture and offender management;
- the need to identify and specify realistic performance outcomes in relation to Aboriginal offender management so that the efficiency, effectiveness and appropriateness of correctional endeavour can be measured.

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A PROFILE OF ABORIGINAL AND ISLANDER PRISONERS IN NORTH QUEENSLAND

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IN OCTOBER 1989, THE QUEENSLAND CORRECTIVE SERVICES COMMISSION undertook, as part of its philosophy and direction, to contribute to the percentage of Aboriginal and Torres Strait Islander inmates being reduced from 20 per cent to 10 per cent of the total prison population. To help achieve this goal, the first step was to undertake a profile of Aboriginal and Islander inmates in North Queensland Correctional Centres.

Method

Data was collected by an examination of prison file records on a nominated day for two consecutive months to determine characteristics of Aboriginal and Islander inmates. The material gathered fell into two main categories—personal and offending characteristics—and was used to construct a detailed profile of Aboriginal/Islander prisoners in North Queensland Correctional Centres.

To ensure accuracy of detail, data was collected from both Correctional Centres on a nominated day for two consecutive months: 12 September 1989 and 10 October 1989. For ease of analysis, noting only a very minor divergence in figures, the former census was decided upon as the principal data base.

Study Outcomes

The number of Aboriginal and Islanders in North Queensland Correctional Centres on 12 September 1989 was 224:

Townsville	166
Lotus Glen	58
	224

Personal Characteristics

Sex:	
Male	218
Female	6
	224

In the following tables, comparisons will be drawn with the Queensland prison average found in the Australian National Prison Census (30 June 1988).

An analysis of the ages of prisoners in Table 1 shows that the age groups, ranging from 20 to 40 years were the predominant offending population for this region, accounting for 75 per cent. Fewer than 13 per cent of the prisoners were under 20 on each occasion (September to October).

Table 1

Aboriginal/Islander Prisoners by Age

	North Queensland	%	Queensland Prison Average
	No.	(%)	(%)
17 years under 20 years	29	13	11
20 years under 25 years	59	26	25
25 years under 30 years	61	27	20
30 years under 40 years	49	22	24
40 years plus	20	9	18
Unknown	6	3	0

Table 2 shows that in excess of 75 per cent of prisoners were classified as 'never married' as compared to the Queensland percentage of 60 per cent. This figure is consistent with that found in the Groote Eylandt studies of 1982 and 1983.

The majority of Aboriginal/Islander inmates (71 per cent) have received at least some secondary education (*see* Table 3). This is not much less than the Queensland prison average of 83 per cent. It may be worth investigating the actual standard of education acquired, rather than number of years spent in the education system.

While Table 4 does not note a great difference between the employment/unemployment status of Aboriginal/Islander inmates and the Queensland prison general rate, it is worth noting that a large number of prisoners from remote communities are employed under the CDEP scheme. As a consequence, real employment rates would be much less than indicated.

Table 2

Aboriginal/Islander Prisoners by Marital Status

	North Queensland	%	Queensland Prison Average
	No.	(%)	(%)
Never married	171	76	60
Married/defacto	47	21	31
Separated/divorced	3	1	8
Unknown	3	1	1

Table 3

Aboriginal/Islander Prisoners by Education Level

	North Queensland	%	Queensland Prison Average
	No.	(%)	(%)
Under 1 year	1	45	1.1
1 yearÏ7 years	62	28	13.4
8 yearsÏ10 years	133	59	70.9
10 years	26	12	*12.3
Unknown	2	1	

* 12.3 includes tertiary, trade and completed secondary education.

Table 4

Aboriginal/Islander Prisoners by Employment at Time of Arrest

	North Queensland	%	Queensland Prison Average
	No.	(%)	(%)
Employed	70	31	49
Unemployed	122	55	47
Home duties	N/A	N/A	N/A
Student	N/A	N/A	N/A
Pensioner/other	3	2	2
Unknown	24	11	

N/A Not Available

The average imprisonment rate for remote Aboriginal/Islander communities is 1,758/100,000 compared to the Queensland population rate of 122/100,000 (*see* Table 5). Therefore, Aboriginals and Islanders from remote communities in North Queensland are imprisoned at a rate of at least 14 times that of the general population.

Table 5

Imprisonment Rate—Remote Communities
12 September 1989

Community	*Population	Prisoners	Imprisonment Rate per 100,000 population
Palm Island	942	17	1,804
Yarrabah	822	8	973
Wujul Wujul	176	1	568
Hopevale	379	6	1,583
Lockhart River	227	9	3,964
Bamaga/Thursday Islands Other Torres Strait Islands	2,000	11	550
Weipa South	219	5	2,283
Aurukun	467	12	2,569
Edward River	259	8	3,088
Kowanyama	475	12	2,526
Mornington Island	495	9	1,818
Normanton	1,200	1	83
Doomadgee	473	5	1,057

* This imprisonment rate has been calculated on adult (i.e. 18 and over) population figures for remote communities (1986 Census) and, therefore, may represent a slightly inflated figure

The following tables give a detailed account of the nature of these offences, sentencing periods and recidivism patterns.

As the figures in Table 6 show, the bulk of Aboriginal/Islander offending falls in the two main categories: offences against the person (58 per cent), and offences against property (27 per cent). The latter is a slight decrease as compared to the Queensland average. However, the former category is almost twice the Queensland average rate. An additional area of concern is the high number of secondary offences (of a violent nature) also committed.

Table 7 outlines the most serious offences committed by inmates from remote Aboriginal/Islanders communities. From this data offences against the person represent 66 per cent of most serious offences as compared to the Queensland average of 33 per cent. This figure is twice the Queensland average and represents a major area of concern; particularly as the majority of these offences are committed in the offender's own community. As remote communities comprise 50 per cent of Aboriginal/Islander inmates in North Queensland Correctional Centres, this is a significant imprisonment rating given the comparatively low population figures from these communities.

Table 6

Types of Offences—Remote Communitites

Offences	Aboriginal/ Islander		Queensland General All Prisoners
	No.	(%)	(%)
Offences against the person:			
Physical	85	38}	18}
Sexual	44	20} 58%	15} 33%
Robbery & extortion	9	4	10
Offences against property	62	27	31
Offences against good order	6	3	3
Drug offences	0	0	9
Traffic offences	12	5	10
Other/unknown	7	3	3
3 remand			

Table 7

Aboriginal/Islander Prisoners Remote Communities
Percentage of Prisoners by Most Serious Offences

	Remote Communities		Queensland Average
	No.	(%)	(%)
Offences against the person	68	66	33
Robbery & extortion	2	2	10
Offences against property	22	21	31
Offences against good order	5	5	3
Drug offences	3	3	10
Traffic offences	3	3	10
Other	3	3	3

Table 8 indicates that the majority of inmates were dealt with in the higher courts, particularly the Supreme Court. This is consistent with the types of offences committed.

The legal status of inmates demonstrates that a very small percentage of inmates were unconvicted at the time of the census (*see* Table 9). Therefore, the provision of remand hostels would have little impact on numbers.

Table 8

Percentage of Aboriginal/Islander Prisoners by Level of Court of Sentence/Remand

	Remote Communities	Queensland General
	(%)	(%)
Magistrates Court	33	28
District Court	21	32
Supreme Court	44	38
Other/unknown	2	2

Table 9

Percentage of Aboriginal/Islander Inmates by Legal Status

	Remote Communities		Queensland General
	No.	(%)	(%)
Convicted	*221	97	88
Unconvicted	3	3	8

* 2 appeals.

An assessment of Table 10 shows the bulk of inmates (44 per cent) are in for sentence periods of between two and ten years with another 11 per cent in for more that ten years and life. While this is consistent with Queensland average figures, it belies the generally held assumption that Aboriginal/Islander people are over represented in the short range sentence categories.

Table 7 gives some additional insight to this as the majority of offences committed by this population group are of a more serious physical and sexual nature and therefore incur longer sentencing options.

Table 11 shows alcohol presents as a significant factor in Aboriginal/Islander offending patterns. It is highly likely that the percentage is much greater than was retrievable from prison and sentencing records. Indeed, conservative estimates rate alcohol as contributing to in excess of 80 per cent of Aboriginal/Islander offences.

An early parole recommendation does not seem to be a feature of Aboriginal/Islander sentencing with only 17 per cent being noted. Of the 38 people paroled or recommended for parole, four were returned to prison for breach of conditions.

Table 13 and 14 show the recidivism rate for these prisoners as 90 per cent with prior convictions and 76 per cent with prior custodial experiences. This is extraordinarily high as compared with 55 per cent of Queensland prisoners having prior custodial experience.

Table 10

Percentage of Aboriginal/Islander Prisoners by Aggregate Sentence

	Aboriginal/ Islander		Queensland General
	No.	(%)	(%)
Under 1 month	5	2	.7
1 month under 3 months	12	5	4.7
3 months under 6 months	23	10	7
6 months to 1 year	28	13	12
1 year to 2 years	32	15	12
2 years to 5 years	49	22	27
5 years to 10 years	49	22	20
10 years and over	14	6	14
Life	12	5	6.4

Table 11

Percentage of Aboriginal/Islander Prisoners where Alcohol was a Significant Contributing Factor in Offending

	Aboriginal/ Islander	Queensland General
	(%)	(%)
Alcohol as contributing factor	47	10.6
Not a contributing factor	7	N/A
Cultural aspect	.89	.1
Unknown	45	N/A

N/A Not Applicable

Table 12

Percentage of Aboriginal/Islander Prisoners with Parole Recommendation

	No.	(%)
Parole recommendation	38	*17
No parole recommendation	141	63
Unknown	45	20

* 4 breached parole conditions.

Table 13

Percentage of Aboriginal/Islander Prisoners with Prior Convictions

	No.	(%)
Previous convictions	201	90
No previous convictions	17	8
Unknown	6	2

Table 14

Percentage of Aboriginal/Islander Prisoners with Prior Custodial Sentences

	Remote Communities		Queensland Average
	No.	(%)	(%)
Previous custodial sentence	171	76	55
No previous custodial sentence	40	18	43
Unknown	10	4	0.7
Fine default/watch house	3	1	

Table 15 gives an indication of the number of prisoners with prior community based sentences. From this information it is clear that most prisoners have had exposure to the benefits of community supervision prior to custodial sentencing.

Table 15

Percentage of Aboriginal/Islanders with Previous Community Supervision

	No.
Probation	*99
Community Service	69
Fine Option	0
Parole	10
Home Detention	3
Other States	4
Unknown	0

* 21 breached conditions

NB some prisoners have had more than one order.

In summary, the data obtained from the census indicates that Aboriginal/Islander prisoners in North Queensland are likely to be unmarried, unemployed males in the 25 to 40 year age bracket, who are highly likely to have been incarcerated on previous occasions and dealt with in the Supreme Court for offences of a violent nature. These prisoners are likely to be serving sentences of between two and ten years and have a need for educational and counselling programs to enhance poor literacy and numeracy skills and alcohol problems.

Conclusions and Recommendations

Given the information gleaned from the profile, rather than concentrate on reducing the Aboriginal and Islander prison population, Queensland Corrective Services Commission resources would, initially, be better spent by releasing all prisoners who fit a set criteria to community supervision and provide maximum programming opportunities for the remaining prisoners. This is supported by Rev. Shane Blackman's (Aboriginal member of Regional Community Corrections Board) comments that most, but particularly Aboriginal and Islander prisoners, have not been exposed to needs-based or culturally relevant counselling or programming during their sentence periods. A natural extension of this notion is a graduated needs-based program starting from the induction and assessment phase and concluding with a bridging course to the community.

A further recommendation is the establishment of graduated release hostels, preferably in the communities most affected by offending behaviour. It is envisaged these hostels would provide a constructive environment in which prisoners could gradually return to community life. Thus far, due partly to economic restraints, and a lack of understanding of the laws and culture of Aboriginal and Islander people, our intervention efforts have been largely restricted to the sponsorship of existing Aboriginal and Islander programs in return for guaranteed accommodation and treatment for our clients.

Nevertheless, it is apparent that the Queensland Corrective Services Commission needs to establish broad interconnecting strategies (based on accurate data) in the development of community-based responses to sentencing options and, in the long run, crime prevention strategies for Aboriginal and Islander people. These linkages should occur at a number of levels across the Commission, for example, at the base—through the Aboriginal Liaison Officers and middle-Area Supervisors—and at the higher policy and decision making levels.

Moreover, since the responsibility for the well-being of Aboriginal and Islander people falls within an increasingly fragmented government and non-government sector, the establishment of integrating committees to discuss the relevance and impact of proposed interventions would seem to be a logical step.

This study, while not conclusive, does provide a profile of Aboriginal and Islander prisoners in North Queensland which will aid future direction setting and resource allocations. It also highlights problem areas which require a more detailed examination of the social and cultural economic and political aspects of offending behaviour in remote communities.

KEEPING ABORIGINES OUT OF PRISON: AN OVERVIEW

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THE PURPOSE OF THIS PAPER IS TO PROVIDE AN OVERVIEW OF THE QUESTION 'Keeping Aboriginal People Out of Prison'. The perspective of this paper will be that the rate of Aboriginal imprisonment will be reduced only by an improvement in the socioeconomic position of Aboriginal people, a change in attitudes and policies of non-Aboriginal institutions and the provision of programs and resources for Aboriginal people by Aboriginal people and organisations.

Preliminary Comments—National Aboriginal and Islander Legal Services Secretariat Surveys

During 1989, the National Aboriginal and Islander Legal Services Secretariat (NAILSS) carried out two surveys of Aboriginal prisoners in NSW gaols. The aim of the surveys was to find out from Aboriginal prisoners their history, their perception of the prison system and how it treats them, and the changes they would like to see in the prison system.

The first survey (NAILSS Survey I) was carried out in June-July 1989 over nearly all gaols and was concerned with the history of the prisoners and perception of the system and attitudes to change. The second survey (NAILSS Survey II) was carried out over a one-week period in all gaols in NSW and was concerned with obtaining further information on the background of prison offences committed and relationship between drug/alcohol use and crime. A third survey (NAILSS Survey III) combining and analysing the first two surveys, was applied at Stuart Creek Prison (Townsville) and Lotus Glen Prison (Cairns) in November-December 1989. It is hoped that this survey will be applied in all prisons in Australia over the next few months. The results referred to in this paper from the three surveys are preliminary only and more comprehensive reports will be completed in the near future.

Land Rights

Fundamental to the question of the plight of Aboriginal imprisonment is that of land rights. As a result of the use of the dual tools of the legal fiction of *Terra Nullius* and social policies based on paternalism, Aboriginal people have been the victims of genocide.

These policies have resulted in Aboriginal people being among the most socially disadvantaged in the world. Their rights as indigenous people have been destroyed.

Ultimately, any real attempt to improve the socioeconomic position of Aboriginal people and to reduce the rate of imprisonment must come through the recognition of the invasion and confiscation of the land, compensation for the invasion (including recognition of effective land rights) and the development of Aboriginal structure controlled by the Aboriginal community to deal with Aboriginal problems and develop and enhance Aboriginal pride and culture.

The first two steps must be taken by the non-Aboriginal community and the third by the Aboriginal community and not by bureaucrats—whether white or black.

Police Aboriginal Relations

The starting point for the over-representation of Aboriginals in custody (both adult and juvenile) are policing practices and police/Aboriginal relations. A study of juvenile arrests in seven NSW country towns (Brewarrina, Dubbo, Bourke, West Kempsey, Walgett, Wellington and Moree) conducted by the Juvenile Justice Unit of NSW Family and Community Services can be seen in Table 1.

Luke's (1988) comment that the level of over-representation increases as one penetrates the juvenile criminal justice system is justified by these figures. Similarly, the way in which juvenile offenders are dealt with by the police officers on an Aboriginal/non-Aboriginal axis reflects this bias.

Table 1

Young Offenders NSW Towns 1988

	% Aboriginal representation
Population	<20.0
Apprehensions	62.6
Cautions	34.2
Court appearances	68.7
Charges	72.2
CAN'S, summons	57.6
Police bail refusal	63.2
Final bail refusal	76.6
Custodial sentences	81.3

The figures in Table 2 demonstrate quite clearly that there is a distinct bias by police in how they deal with Aboriginal juvenile offenders as opposed to how they deal with non-Aboriginal juvenile offenders. This bias is further demonstrated by the police use of cautions for first offenders (*see* Table 3).

Table 2

1987 Apprehensions

Cautions

Station	% Aborigines Cautioned	% Non-Aborigines Cautioned
Bourke	6.7	18.8
Coonamble	0.0	8.3
Dubbo	5.6	15.3
Gunnedah	0.0	32.6
Moree	16.5	32.0
Narrabri	0.0	22.6
Walgett	10.9	26.3
West Kempsey	10.6	22.1

Charges

Station	% Aborigines Charged	% Non-Aborigines Charged
Bourke	75.0	62.5
Coonamble	100.0	91.7
Dubbo	87.0	59.0
Gunnedah	100.0	41.3
Moree	60.5	30.0
Narrabri	42.9	24.5
Walgett	77.2	63.2
West Kempsey	81.8	58.4

Source: Police Juvenile Report Forms

Table 3

NSW Towns Cautions

	Non-Aboriginal	Aboriginal
Sex	%	%
Female	21.5	39.0
Male	78.5	61.0
Age		
<15	52.0	63.5
>15	48.0	36.5
'First' offenders		
% cautioned	49.3	28.9

McDonald (1990) illustrates the over-representation of Aboriginal persons taken into police custody Australia-wide (*see* Table 4).

Table 4

State and Aboriginality

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aust
Aboriginal	774	198	1,740	2,921	697	43	1,659	24	8,056
Non-Aboriginal	4,647	4,679	4,295	2,464	2,494	530	515	460	20,084
Not Known	161	59	108	31	26	17	17	7	426
Total	5,582	4,936	6,143	5,416	3,217	590	2,191	491	28,566

State and Aboriginality: Percentages

	NSW	Vic	Qld	WA	SA	Tas	NT	ACT	Aust
Aboriginal	14.3	4.1	28.8	54.2	21.8	7.5	76.3	5.0	28.6
Non-Aboriginal	85.7	95.9	71.2	45.8	78.2	92.5	23.7	95.0	71.4
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: McDonald 1990.

Thus the process of Aboriginal people being involved with the revolving door syndrome continues.

Commissioner Muirhead (Australia 1989), in his *Interim Report*, recommended that public drunkenness should be abolished as a crime (Recommendation 3) and that its abolition should be accompanied by adequately funded programs to establish and maintain facilities for the care and treatment of intoxicated persons (Recommendation 4).

In NSW, South Australia, Northern Territory and the ACT, public drunkenness is not an offence, yet in those states a large percentage of persons taken into custody are for drunkenness (NSW—20 per cent of all persons taken into custody, SA—14 per cent, NT—70 per cent, ACT—36 per cent and nationally—11 per cent).

The reason is quite simple: decriminalisation has not been complemented by funding. In a large number of country towns in NSW, there are simply no places proclaimed under the *Intoxicated Persons Act 1979* to place intoxicated persons and thus they are kept in police cells. Some 21 per cent of Aboriginal persons taken into custody in Australia are for being intoxicated (8 per cent of non-Aboriginal and 11 per cent overall).

The NSW Police Department has provided figures for the period 1 January to 30 June 1989 of persons passing through police cells in six NSW country towns (*see* Table 6).

Many of those being detained are for intoxification because there is no proclaimed place. The Commonwealth Government offered a grant of $1.3m to implement Muirhead's recommendations (to be matched by the state governments). Despite the proposal of NAILSS to use the money to provide alcohol rehabilitation services in country towns, the money is to be spent up-grading police cells in the above towns.

Table 6

NSW Country Towns Police Cell Occupancy
1 January - 30 June 1989

	Aborigines	Non-Aboriginal	Total	Aboriginal %
Wilcannia	227	16	237	97.6
Bourke	134	17	151	89.0
Brewarrina	33	2	35	94.0
Walgett	226	5	231	98.0
Moree	912	509	1,421	64.0
Tamworth	895	625	1,520	58.8
Total	2,427	1,168	3,595	67.5

Source: NSW Police Department.

Based on McDonald's (1990) study, the rate at which Aborigines are placed in custody are 68,000 per 100,000 as compared with less than 2,000 per 100,000 for non-Aboriginals. The figure for adult Aboriginal males is over 100,000 per 100,000 during any one year.

Although McDonald does not provide a breakdown of arrests on a city/country basis, it can be assumed that, based on the figures from the Police Department and from the nature of matters for which people are taken into custody, there is a heavy Aboriginal bias in the numbers taken into custody in rural areas.

One further note, based on McDonald's figures, is that Aboriginals are over 35 times more likely to be placed in police custody than a non-Aboriginal person.

Juvenile Institutions

In NSW, some 25 per cent of inmates of juvenile institutions are Aboriginal. This tragically high figure has remained consistent throughout the 1980s—similar figures were found by the Aboriginal Children's Research Project (Milne Report) when it conducted a survey in 1980.

Although Luke (1988) maintains that the over-representation of Aboriginals in juvenile institutions 'does not seem to be due to bias by courts', he does state that statistical data available in NSW does not reveal 'where these children came from, or whether their extreme over-representation was due to the children's behaviour and/or a combination of community, police, Court of FACS bias'. It is suggested that there is bias, and that the bias is not a strict Aboriginal/non-Aboriginal bias but rather a city/country bias. (Although this does not deny the Aboriginal/non-Aboriginal bias in policing methods.)

In NSW, special magistrates sit in Children's Courts in Wollongong, Sydney metropolitan and Newcastle areas. Outside of these areas the local adult court magistrate also sits as the Children's Court magistrate. Furthermore, the options available in the sentencing of young offenders is much wider in the metropolitan areas. For example, there are a number of alternative drug and alcohol programs and state and community-based resource centres (FACS offices, church run centres such as Come In Centre at Paddington, and Aboriginal Children's Services discussed above). Where such alternatives are available, the option of committal becomes more remote. Table 7 is instructive.

Table 7

NSW Children's Court Tables—Criminal Matters
12 Months Ended 30 June 1987

Final Court Appearances Resulting in Control and Supervision Orders
Shires of Central Darling, Brewarrina, Bourke, Bogan, Cobar, Walgett, Broken Hill, City

LGA	Control (committal)	CSO	Community Supervision	Other	Total Proven
Bogan	2	0	5	7	14
Bourke	12	0	13	40	65
Brewarrina	7	1	13	10	31
Broken Hill City	11	1	21	50	83
Central Darling	15	0	24	23	62
Cobar	2	0	5	8	15
Walgett	16	0	17	33	66
Totals	65	2	98	171	336

Table 8

Towns from which Greatest Committed Number of Individual Aboriginals in 1987

Moree	16
Griffith	11
Redfern	11
Wellington	11
Bourke	9
Walgett	9
Taree/Purfleet	9
Dubbo	7
Forster	7
Orange	6
Tamworth	6
Wagga Wagga	6
Wilcannia	6
Kempsey	5

Source: Juvenile Justice Unit (NSW FACS) Residential Youth Centre Collection

Some 20 per cent of persons were sentenced to control; however, it is contended that if community service had been available this figure would have been greatly reduced. The majority of Aboriginal juveniles committed are from non-metropolitan NSW.

It is submitted that this is due firstly to policing practices in those areas, and secondly to the lack of resources to those areas to provide a real alternative to imprisonment. The process of institutionalisation of Aboriginal persons begins at the level of the juvenile justice system.

Imprisonment

The imprisonment rates for Aboriginal persons—as evidenced by Australian Institute of Criminology Prison Census—has remained fairly constant at about 14 to 15 per cent over a number of years. This figure, however, does not represent the number of Aboriginal persons serving sentences over any one year.

Walker (1989) has demonstrated that Aboriginal prisoners make up about 22.7 per cent of all prisoners in Australia in any one year. Based on his figures, an Aboriginal is 28 times more likely to go to prison than a non-Aboriginal.

There are three reasons for the belief that the figure is still underestimating the number of Aboriginals serving sentences in any one year:

- In Queensland, no record is kept at point of entry of Aboriginality and that stated figures are based on identification provided by prison officers;

- In NSW, where such information is recorded, it has been found by NAILSS that the records of the Department of Corrective Services are incorrect and NAILSS officers have found as many as up to 20 per cent more Aboriginal prisoners in some prisons than is recorded in departmental records.

- McDonald (1990) has shown that some 1377 persons completed their sentence whilst in police custody and these people were never received into the prison system. Over the course of a year, this would be about 16,000 persons or over three-quarters the total number of persons received into the prison system in 1988 (Walker 1989).

Many of those who complete their term of imprisonment in police custody are there due to fine default or short sentences imposed by the courts. (For example, in Queensland, prison sentences of up to 31 days can be served in a police watch-house.) These sentences and fines are imposed for relatively minor offences where the over-representation of Aboriginals is greatest. Thus, it can be assumed, a highly disproportionate number of these persons will be Aboriginal. Furthermore, the Queensland figures do not include those persons detained in community prisons on Aboriginal reserves which would further increase the rate of imprisonment. It is interesting that the one state which has introduced the most effective program for non-custodial alternative fine default—NSW—has the lowest rate of persons completing sentences in police custody (McDonald 1990).

In NSW, there is a distinct city/country dichotomy in the offences for which Aboriginal persons are in prison. Of the 247 sentenced Aboriginal prisoners, 87.13 per cent come from the Wollongong, Sydney, and Newcastle area and 160 (65 per cent) from country areas. This is a direct reversal of the trend statewide where about 72 per cent come from the city areas and 28 per cent from country areas (Walker 1989).

Furthermore, some 39 per cent of city prisoners are sentenced for murder/manslaughter, rape, robbery with wounding and assault, as compared with 28 per cent of prisoners from rural areas. For crimes such as stealing, break, enter and steal, steal motor vehicle and assault, the figures are 35 per cent for city areas and 45 per cent for country areas.

The relationship between alcohol/drugs and imprisonment shows a similar dichotomy.

Table 9

Relationship Between Alcohol/Drugs and Imprisonment

	Alcohol	Drugs	Both	Neither	Total
Rural	85	11	35	29	160
Non-rural	25	33	11	18	87
Total	110	44	46	47	247
	%	%	%	%	%
Rural	53	6	22	19	65
Non-rural	28	38	12	22	35
Total	44	18	19	19	100

(Source: NAILSS Survey II)

In the Northern Queensland survey, no person stated they were under the influence of drugs alone at the time the crime was committed but 80 per cent stated they were under the influence of alcohol and 7.5 per cent under the influence of alcohol and drugs (NAILSS Survey III).

Just as disturbing as the incidence of alcohol-related crime is the incidence of violent crime in Aboriginal communities where the victim is Aboriginal. Of the 21 persons (14.2 per cent total) serving a sentence for murder/manslaughter, 11 were living on an Aboriginal reserve at the time of being charged. In each case, the victim was Aboriginal whereas the victim was Aboriginal in 6 of the other 10 cases.

Of the 32 prisoners sentenced, 29 (21.6 per cent of total) were living in Aboriginal communities at the time of the incident and, in 15 of those cases, the victim was Aboriginal whereas, in the remaining 14 cases, in only four cases was the victim Aboriginal.

For those convicted of assault occasional/unlawful wounding, of the 14 in custody (9 per cent of the total) the victim was Aboriginal in nine cases. For those convicted of assault, of the 26 in custody (17.6 per cent of total) the victim was Aboriginal in five cases (NAILSS Survey III).

What emerges from these figures is that alcohol is destroying Aboriginal communities. Aboriginals are going to gaol for murdering and assaulting other Aborigines due to alcohol.

The Need for Change

The attitude that led to the theft of Aboriginal land and policies of genocide continue to pervade the criminal justice system. The attitudes today are reflected in the bias exhibited by some police in dealing with Aboriginal people and the lack of resources provided by the community to address those issues.

As stated at the beginning of the paper, it is essential that recognition be given to the Aboriginal claim of prior title to Australia and that land rights be recognised and compensation paid for the theft of that land and related policies (as recommended by Royal Commissioner Hal Wootten (1989) in his report into the death of Malcolm Smith).

As well as this fundamental change, it is also necessary that:

- the provision of alcohol rehabilitation programs be directed to rural communities;

- that drunkenness be decriminalised and alternative arrangements be made to remove intoxicated persons from police cells;

- that education and employment opportunities be increased in Aboriginal communities (only one-third of prisoners in North Queensland prisons were employed—NAILSS Survey III);

- that those dealing with Aborigines—police, court officials, probation and parole officers, magistrates, and judges—receive training and education as to Aboriginal history, culture and aspirations;
- that imprisonment be a last resort and that resources be allocated to provide alternatives to imprisonment—such as community service orders, community-based attendance programs, and community supervision;

- employment of Aboriginals in positions which make decisions affecting Aboriginals and providing services to Aboriginal people—such as probation and parole officers, drug and alcohol counsellors, members of classification committees, and parole boards;

- the building of gaols and gaol wings for Aboriginal prisoners providing rehabilitation services for Aboriginal prisoners but not used as tools of oppression as the dormitories at Townsville prison were used in the past and continue to be used; and

- greater resources allocated to rehabilitation services for juvenile offenders.

The cost of such programs can be met from the compensation due to Aboriginal people for the theft of their land. The above is by no means a fully comprehensive list of the changes needed to address the problem of the over-representation of Aboriginal people in prison but they all have one thing in common: they require a change in attitude and policies of the non-Aboriginal community.

The most important change, however, is to encourage and facilitate the growth of Aboriginal organisations and infrastructures to provide services for Aboriginal people. The revitalisation of Aboriginal culture and identity has come through the emergence of Aboriginal community organisations such as the various Aboriginal legal services, medical services, housing companies, land councils and arts and craft cooperatives. These organisations were founded by Aboriginal people and controlled by Aboriginal people providing services for Aboriginal people. It is through organisations such as these that the avenue for change must emerge.

We need to look to the overseas experience such as the use of the Nature Counselling Service in Alberto, Canada, as models for change but, most importantly, we must not be afraid to work for change.

Postscript

All the statistics quoted in this paper—with the exception of the NAILSS Surveys and the NSW Aboriginal Children's Research Project—have been collated and collected by non-Aboriginal people. It is the experience that such information continually underestimates the impact of non-Aboriginal society on Aboriginal society. It is necessary, for more accurate pictures of this impact to be obtained, that such a study in the future be carried out by Aboriginals from an Aboriginal perspective.

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MENTALLY DISABLED PRISONERS–PLANNING RESOURCES

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THE TERM 'MENTALLY DISABLED' IS DELIBERATELY USED IN THIS PAPER TO encompass psychiatrically disordered, intellectually disabled (ID) and dually diagnosed offenders. Offenders who display maladaptive behaviours are seriously limited in their opportunities for integration into educational, residential, employment and recreational facilities both inside and outside prison.

It is usually the presence of antisocial maladaptive behaviours which is a major deciding factor in imprisonment for either psychiatrically ill or ID offenders. It is indisputable that another major deciding factor is the absence of appropriate alternative sentencing resources. Judges are concerned about imprisoning offenders with an obvious mental disability, particularly as they are likely to be placed on protection in the gaols and yet still be a target for victimisation by other prisoners. Furthermore, the likelihood of receiving in protection any relevant programs which would enhance an independent, non-offending lifestyle is remote. Lawyers, care-givers, and expert witnesses are all aware of the dreadful disadvantages of imprisonment for mentally disabled offenders.

The problem begins well before the ultimate sanction of imprisonment occurs. Numerous studies over 40 years have documented the fact that problem behaviours and antisocial acts are, next to severity of ID, the most significant factor in influencing initial placement in an institution and decisions for re-institutionalisation (Bruininks et al. 1988). Various studies have found between 20 and 45 per cent of ID clients have limited community participation, particularly community living, owing to behaviour problems. It appears that 20 to 40 per cent of ID people in various samples and service programs exhibit serious problem behaviours, and between 5 and 13 per cent have the dual diagnosis of mental illness (Bruininks et al. 1988).

The significant issue for correctional services is, if such people cannot live in the community because of problem behaviours, where can they live? The option of institutionalisation becomes remote as institutions either close down, reduce client numbers or change their functions. Whilst there is no suggestion that institutions should be re-opened

to cater for the dually diagnosed client, the reality is that there are few residential facilities with the resources to cope with problem behaviours. The baby has been thrown out with the bath water and has gone down the plughole that leads to imprisonment.

The aim of this paper is to describe a model of service delivery for mentally disabled offenders which will enable non-custodial sentencing options to be utilised effectively for the benefit of the offender and the community.

The Current System

There are a number of drawbacks to the present system of addressing the problem of mentally disabled prisoners. First, there is the feeling by convicted persons that the process leading up to trial is so punishing that they feel that they have then discharged their obligations and 'made up for' the crime.

Second, probation and parole services are generally overstretched. Professionals have large case loads and lack the training to identify and assist mentally disabled offenders (White & Wood 1988). Specialist services are frequently unwilling to accept responsibility for those of their clients who commit crimes and, furthermore, are untrained in criminal justice issues—they may even do their client more harm than good in the court.

Courtroom personnel at all levels are unfamiliar with all but the broadest issues regarding mental disability. The expectation of the criminal courts that they are dealing with 'the dregs of humanity' predisposes a situation where no-one is surprised that an accused is illiterate, or unable to communicate competently in the verbal arena. When these phenomena are uncritically accepted as 'normal', it is highly unlikely that the accused will be referred for expert assessment.

The expert assessment may be inappropriate or unhelpful. A psychiatric examination may shed little light on the offender's deficits in intellectual, social and adaptive skills. A report by a physician or general practitioner is likely to be even more general. Comprehensive multidisciplinary assessment is the exception rather than the norm.

The final and most pervasive obstacle, however, remains the dearth of appropriate services—residential, educational, vocational, interpersonal relationships and adaptive skills programs—which will admit a mentally disabled offender, particularly one who is regarded as violent or dangerous. Inexorably, the wheel turns back to the realisation that prison is the one residential service which cannot abrogate responsibility.

Model Service Provision for Mentally Disabled Offenders

Identification

There is no service program which will ensure that an offender's mental disability will be recognised by police, lawyers, judges, parole officers, health professionals not expert with mental disability, or other involved parties. It is not unusual for an accused to be unaware that he or she has a mental disability—or when they know they have a mental disability, they may do their utmost to conceal it, to appear normal.

Training for awareness of mental disability is an important and fruitful step. No-one has ever been disadvantaged by undergoing full assessment and being found not to have a problem, but the reverse situation is not so benign in its consequences.

Criminal justice personnel can be educated to enquire about likely indicators of mental disability, including questions concerning school history, numbers of schools attended, special school or class placement, truancy. The usual pattern of assumed causality needs to be set aside—an offender is often assumed to be illiterate owing to a fragmented school

history. Too often the fragmented school history reflects an inability to cope in the education mainstream and desperate attempts by parents or teachers to find a suitable placement, or equally desperate attempts to dump the individual in someone else's 'too hard' basket. Slow speech, poor memory, poor sequencing of events, childhood history of institutional placement, and psychiatric hospitalisation are all factors to which criminal justice personnel can be alerted as potential indicators. There is certainly an educational effect. For example, when lawyers recognise the presence of mental disability in a client and seek expert assessment, they become much more likely to refer subsequent clients.

Comprehensive expert assessment

In a straightforward case of ID, a comprehensive psychological assessment of cognitive, social and adaptive skills deficits will suffice. Other valuable input, particularly for dually diagnosed offenders, will be provided from psychiatric, medical, vocational, educational, personal relationships, physical therapy, and financial management assessments.

Case management

Mentally disabled offenders too readily fall between the gaps in educational, health, intellectual disability, psychiatric, probation and parole, and vocational rehabilitation services. The solution is a team approach incorporating representatives from all services, one of whom is appointed as case manager.

Locating the team physically together is significant in ensuring communication. Because of the complex and demanding nature of the cases, a smaller than usual caseload is desirable (White & Wood 1988).

Probation

Mentally disabled offenders can easily be placed in a 'no win, back to gaol' situation through the demands of probation or parole conditions which they cannot meet. The simplest tasks—catching public transport to the probation and parole office, using a telephone to make appointments, telling the time, knowing the date, paying fares, negotiating time away from work or sheltered workshop, responding to long term goals, attending Alcoholics Anonymous programs, enrolling in a suitable educational course, keeping away from negative peer group influences—may prove insurmountable barriers for the mentally disabled offender. Once having breached the conditions, the severity of sentencing escalates.

It is essential that an assessment be undertaken of the offender's daily living skills and abilities to meet the conditions, and appropriate support services (such as travel training) be provided.

Reinforcing non-offending behaviour

The attention received, albeit negative, and the lure of the illegal activity itself are strong reinforcers. Somewhat less reinforcing are monotonous, time-consuming and brief visits to an off-hand and possibly unhelpful service.

The Lancaster County (Pennsylvania) mentally retarded offenders [sic] program builds in strong positive reinforcement for compliance with community-based sentences, which includes time off reporting when improvements in social and adaptive skills are achieved (White & Wood 1988).

The regional secure unit

The 1975 *Butler Report* in the United Kingdom (Home Office and DHSS 1975) recommended secure hospital units for mentally abnormal offenders, and the establishment of joint forensic psychiatric services between regional health authorities and prison medical services. This idea, or a version of it, has been used in a number of places including New Zealand (Barrington 1982) and Canada (Arboleda-Florez 1981).

A regional secure unit is usually run by health services rather than correctional services and, therefore, custodial officers are not employed. Violent and dangerous patients are dealt with by medical and nursing staff. The medical model tends to prevail. The patients may be on remand, or sentenced, or non-offenders. Important questions of human rights revolve around the mechanisms for admission, review, release, and transfer back to the prison system (Spry & Craft 1984; Hayes & Hayes 1984).

The major ethical problem with existing regional secure units for ID offenders is that the medical—specifically the psychiatric model—is an inappropriate treatment and containment environment. If ID or dually diagnosed offenders are to be kept out of prison, there must be regional secure units with specialist staff (not necessarily medical or nursing staff) trained in the area of ID, and offering appropriate rehabilitation programs in the areas of daily living skills, communication, interpersonal relationships, sexuality, financial management, vocational training, coping skills, and drug and alcohol addiction. The idea is not new. The *Richmond Report* (1985) states:

> For persons with a developmental disability who manifest severe and seemingly intractable behavioural disturbance which is unresponsive to in situ intervention, specialist behaviour management services will be available on a cross-regional basis in small, special purpose units (p. 19).

In 1988, a proposal for such a unit in NSW was put forward by staff of a centre for ID clients. The proposal stated that the reasons for the lack of service delivery to this group were:

> (i) the cross-over of separate departmental responsibilities;
>
> (ii) the inter-departmental fragmentation and protectiveness of service-delivery agencies;
>
> (iii) the complexity and isolation of expertise from direct care providers and the lack of access to such expertise; and
>
> (iv) as a minority sub-group (intellectually disabled offenders and behavioural 'problems') the direction of service delivery has been to care for rather than treatment [sic] (Jones et al. 1988, p. 2).

As far as can be determined, no action on this proposal has been taken. An important feature of a regional secure unit for ID or dually diagnosed offenders is the establishment of staged levels of supervision; from intensive supervision through to unsupported living and the opportunity for eventual integration into the community.

The correctional continuum

Regional secure units serve the dual goals of providing appropriate containment and programs for mentally disabled offenders whilst allowing the court to feel that the community is protected from violent or dangerous offenders. There is, however, still a need for appropriately staffed but less secure or restrictive environments for offenders who are not a

threat to themselves or others but who nevertheless require intensive programs, and supervision.

Any professional who has attempted to find a community residential placement and entry to appropriate programs for an offender who has been charged with arson, sexual offences, or assault will know that even if the individual is not violent or dangerous, it is virtually impossible to obtain placements in either government or non-government facilities. If probation or parole is contingent upon such conditions, by default the offender may end up in gaol.

It appears that no government department is willing to accept responsibility for providing appropriate resources for this category of offender. Bureaucrats mouth the cliches about 'people like this should not be in prison', but inevitably inertia coupled with the ever-present arguments about lack of funding mean that no action is taken.

The 'lack of funds' argument reflects the shallowness of problem-solving in dealing with mentally disabled offenders, when clearly the most expensive option is imprisonment. Prior to the abolition of the New South Wales Corrective Services Commission by the Greiner Liberal Government in 1988, the Commission established the policy of accepting responsibility for such offenders and providing appropriate resources and facilities in less restrictive but nevertheless appropriately secure and supervised community-based residential environments. Cost savings to corrective services would occur through not having to contain these offenders in a maximum security strict protection environment, and to the community in terms of having offenders returned to the open community with skills, resources and supports which may enable them to live a non-criminal life.

Some of the specific techniques which can be employed with mentally disabled offenders in the community include (Stumphauzer 1986):

- behavioural family contracts to assist families to change behaviour which contributes to offences;
- social skills training, including cooperation with probation requirements, job skills, problem solving, assertion training, resisting peer pressure, drug and alcohol counselling, and educational skills;
- behavioural contracting in probation and parole; defining the specific expected behaviours and those to be avoided, rather than generalised statements 'to be of good behaviour';
- implementing programs in schools and further education institutions;
- specialised behavioural therapies including cognitive restructuring, self-control training, aversion therapy stress and coping techniques; problem-solving; and
- occupational skills training.

Conclusions

Keeping mentally disabled offenders out of prison is a worthwhile aim, both in terms of cost benefits to governments (which is the most persuasive argument) and humanitarian goals for the individual and the community. The extent to which a community 'punishes' the mentally disabled for their condition while simultaneously refusing to provide resources, treatment and appropriate sentencing alternatives, reflects the degree to which any and every minority

group is alienated from the mainstream of society. By any barometer, the 'us and them' mentality is flourishing in Australia currently.

There are two key elements to preventing inappropriate imprisonment of MD offenders: the first is the existence of a humanitarian and ethical policy towards provision of appropriate sentencing alternatives; and the second is the implementation of cooperative and problem-solving approaches within and between government departments, so that programs such as the Lancaster County project (White & Wood 1988) can exist.

> Short-sighted politicians and professionals act to maintain current programs of institutionalisation, the 'mental health industry', and the 'get tough' programs of . . . justice. At the same time, budgets have been cut for broader community programs which might have had long-term gains . . . What would it take to change our behaviour so that we could help [offenders] change? (Stumphauzer 1986, pp. 194-5).

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THE HALFWAY HOUSE–A PROGRAM FOR CURRENTLY SERVING PRISONERS

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THIS PAPER WILL ADDRESS THE CREATION OF A SPECIFIC COMMUNITY BASED and managed prison alternative program funded by the Queensland Corrective Services Commission (the Halfway House Program) and the difficulties experienced in the implementation of the project as a consequence of the apparent lack of conviction by the former Queensland Government to fully support the initiatives of its commission.

Background

In a submission to the Committee of Review into Corrective Services in Queensland, this writer and others recommended, amongst other matters, the creation of various community based correctional facilities for currently serving prisoners as alternatives to traditional forms of imprisonment.

The purpose for developing such facilities was proposed as being; the potential reduction in recidivism rates, the inception of proactive community responses (participation by the community in Corrections) and the possible cost efficiencies that community based corrections could theoretically provide.

The methodology to be applied in the realisation of these objectives was to be found in a model of structured interventions and programs created from (and actively involving) the community, utilising projects, either existing or to be designed. This notion actively defies the traditional view of prisons as closed systems.

The general proposal suggested the expansion of available options for the detention of offenders, including a range of community based correctional venues that would have differential levels of security, decreasing as inmates approached a re-integration into the community. It was argued that the various types of community based and managed correctional venues would provide the environment to elicit responsiveness from prisoners to re-integration or rehabilitation programs that would 'break the cycle' of offending behaviour.

The model would utilise modified nursing homes/boarding houses or suburban housing—dependent upon the type of offender housed within each. The model acknowledged that inmates, by virtue of their offence, history, social skills and capacity (or

lack thereof) to adapt to environments would require different forms of incarceration and that inmates could advance from higher levels of containment to the lower levels as a consequence of reasonable performance. The model requires significant interaction between Community Corrections staff and practitioners in the non-government sector.

In effect, the various facilities proposed would operate as a stepped security system involving self-contained accommodation units with prisoners remaining on the premises except when engaged in approved activities (for example, work, medical, special purpose courses). At the same time whilst in the facilities, inmates would be obliged to voluntarily participate in self-management and discipline exercises involving cleaning, cooking, budgeting, education, self-esteem and other such programs of self-development.

The continuum of proposed community based facilities suggested halfway housing at the lowest level of a ladder above fine option programs, community service orders and home detention. The Halfway House would have a caretaker 'presence' from 6.00 pm to 6.00 am which would have no overt security role. On the stepped security ladder and above the Halfway House would be the various hostels (release to work and other forms of release that require more constant supervision of offenders). Further along the continuum or on higher rungs of the notional ladder would be the detention centres which would have a 24-hour security system and where the share living and intensive programming would be exclusively 'inhouse' without the provision for inmates to attend outside activities. Beyond this range of community based correctional systems would be the more formally structured mainstream prison system—prison farms, medium security prisons and ultimately maximum security prisons.

Logically, this system implies that a failure at the lower levels of the program would not lead the prisoner directly into the more secure environment of maximum security prisons (a situation that has inappropriately occurred in the past).

The summary position of the proposal is a system that integrates the following

- a stepped range of security systems for the housing of_prisoners in the context of a quasi-normal community setting that recognises the varying risk levels that inmates present to the community;

- prisoners to contribute to their reintegration through participation in house based and community based programs, including the payment of a 'fee for service'.

In the original submission to the Committee of Review (Begg et al. 1988) it was proposed that _the non-government sector should be involved in the development and operation of those facilities up to but not including state farms. At a later stage there was to be significant discussion as to whether or not non-government _agencies should be involved in the provision of security _services within such projects. This notion was rejected by the Prisoner & Family Support Association (Queensland) who proceeded upon the basis of operating Halfway Houses (the lowest rung on the notional ladder) which, whilst providing a 'caretaker presence' at night, had no security responsibility.

The Halfway House—A Program for Currently Serving Prisoners

Within an historical context, a 'halfway house' is an_ aftercare service for people on release from prison. The Halfway House Program suggested from this paper is a community based and managed share housing project for currently serving prisoners approved for release by Community _Corrections Boards (formerly known as Parole Boards) and who _meet the eligibility criteria for release by the sponsoring agency in the non-government sector.

The project is designed to assist prisoners to make the transition from institution to community living as smooth a process as possible by _providing a monitored and structured environment in which residents could gradually accept the responsibility of self-management as members of the normative society through graduated and increasing interaction with its members.

The facility is specifically designed for low security prisoners and provides a range of programs of reintegration _and self-management designed within the non-government sector and approved by Community Corrections staff. It forms the _lowest rung of a ladder of release above community service orders and fine options orders and below detention centres such as the release to work hostel. In an ideal situation, it_would house fine defaulters and home detention applicants who are otherwise homeless. It would also, at a time in the future (following the long awaited review of sentences and _penalties in Queensland), provide a venue to which the judiciary could directly sentence offenders without recourse_to a prison term in the conventional sense.

The Halfway House provides one of the more innovative possibilities for not only dealing with burgeoning prison populations (with its associated costs) but also for dealing with the apathy of the community in the area of corrections. _The proposal lends significant scope for a positive involvement by local residents in the development of the _project, as well as integrating a series of pre-existing _community programs across a number of non-government agencies _in a wholistic approach to the correction of criminal _behaviour and the prevention of crime. In Queensland, the _provision of services by the non-government sector in this _area is funded on a 'fee for service' basis from the _Queensland Corrective Services Commission.

The Halfway House is designed for those low to medium risk _offenders and others released to the project by Community _Corrections Boards who fulfil the following criteria:

- those of adult age ;
- those who have already demonstrated a capacity for self-management (for example, trusted position within the _Correctional Centre; attendance and/or completion of study and/or training programs);
- those who have conformed to the good order requirements of the Correctional Centre (for example, no _internal charges over the past twelve months);
- those recommended for inclusion in the Program by the _Community Corrections Unit at the Correctional _Centres;
- those persons who, but for their homelessness, would _be eligible for release into the Home Detention _Program who fulfil the above conditions.

A statement of intent was drafted by the writer in May of 1989 which formed the basis of initial discussion in the development of the Halfway House project. This statement articulated the nature of the services provided and suggested minimum guidelines for the operation of the Halfway House. These minimum guidelines covered such matters as the classification of those to be housed in the project (who would be eligible), what programs of rehabilitation and support would be advisable, the responsibility for the security of the project (specified as being solely with the Queensland Corrective Services Commission in the case of the Prisoner & Family Support Association, Queensland), operational policy for the house (outlining the aims and objectives for the facility), and the rules, regulations and rights of staff and residents with the_clear position to make such organisational charts and

policy statements available to all involved in the house. This statement foreshadowed the applications for funding to the Commission in April of the same year.

Following the development of a program, logic and the acceptance of this logic by the Committee of Review into Corrective Services funds were sought and a seeding grant was made available to the Association for the establishment of two such facilities—one to be situated in the South Queensland region and one to be situated in North Queensland.

The Difficulties

The state's first Halfway House for currently serving prisoners was opened at Paddington (Warmington Street) in Brisbane by the then Minister for Justice and Attorney-General on 2 August 1989 in a highly public manner. The Minister was anxious to be seen to be involved in the commissioning of this house. In his press release at the time, he spoke of the facility as 'an example of the community and government working together to provide necessary welfare services at the best possible price for the taxpayer'. He accentuated that the house is for 'offenders who are eligible to serve the final part of their custodial sentences under home detention but are 'homeless' or 'low risk' offenders—none of whom would be a security risk (such as fine defaulters)'.

The opening of the house should have provided a conspicuous endorsement for the initiative by the government and should have signalled the beginning of a service that would be in great demand. However, this was not to be the case. It was always a concern that community reaction to the proposal was going to be negative; however this concern was not justified. Following reasonable visual and print media coverage of the opening, a public expression of interest and support was forthcoming from a local community support collective (this included an offer to assist in the operation of the house).

During September, October and November of 1989, meetings were convened between the representatives of the Commission and the Prisoner & Family Support Association (Queensland) to discuss the use of Warmington Street. The Association had concerns that no resident applicants had been referred to the house, and that there were ongoing delays in considering and executing a contract between the parties in the operation of the service. It was becoming apparent at this stage that, whilst the Commission had taken on board the concept of community based correctional facilities (specifically in the funding of the Association's Halfway Houses), they had either given little thought as to how this project was to work in practice from their viewpoint, were making decisions 'on the run' or were overwhelmed by the myriad of other matters before them.

The argument was consistently put to the Association that 'eligible' people could not be 'identified' for inclusion in the program. The present Queensland Minister for Justice and Corrective Services recently stated that some 22 per cent of the Queensland prisoner population were identified as fine defaulters. This statement tends to contradict the view of the Commission that eligible prisoners to the project cannot be identified. The reality is that the Halfway House project was positioned on the notional continuum as a structured accommodation environment specifically for a number of potentially eligible classes, including both fine defaulters presently serving time in Queensland prisons and those subject to community service orders for whom a default would involve immediate imprisonment.

The horrific circumstances of Bradley Engelmann's death in Queensland (a community service defaulter who was imprisoned and died as a result of drinking a 'brew' at the prison hospital), the assault on Jamie Partlic in New South Wales, and the allegations by a Victorian fine defaulter that he contracted AIDS as a result of a prison rape, crystalised the view of the Association that alternatives to imprisonment for minor offenders was a priority issue.

The Association's Executive Committee became increasingly concerned about the delays in referring appropriate candidates to the program and there was a genuine concern that the under-utilisation of the project could present auditing difficulties for the project, the Commission and the Association. The argument that community based halfway houses (and community based detention centres) were cost efficient and effective became more spurious with each passing day without occupancy. As a result of the failure to operationalise the project at Warmington Street, the Executive Committee of the Association had no option but to place in abeyance its plans to develop a similar project in North Queensland pending a resolution of the problems in Brisbane.

During the period 2 August 1989 to 31 January 1990, the house had only one person referred to it and this person resided within the project for a two-week period. The matter of the under-utilisation of the facility which was consistently raised with the Commission as a matter of concern always elicited the same response—'eligible_prisoners cannot be identified'. The Commission insisted that it had made appropriate personnel aware of the scheme.

The apparent failure to find 'eligible' applicants was raised as an argument for the Association to have the project accommodate an 'overflow' from the release to work hostel operated by the Commission. The range of offender types_housed at this hostel was clearly outside the Halfway House project parameters set by the Association in the first instance and the Association consequently rejected the proposal. It appeared as if the attempts to 'kick start' the_Halfway House project in its original form was a secondary consideration to an apparent 'need' by the Commission to find accommodation for prisoners housed at this hostel.

Whilst the project provides a degree of flexibility, the housing (without a security consideration) of prisoners whose offences are far from minor in community based and managed facilities suggested an unacceptable imposition on the non-government sector. In these circumstances, the project becomes an adjunct to the government sector rather than a separate project 'owned' by the community which augments services provided by government. The independence of the non-government sector in this situation is potentially compromised.

Solution

A resolution of the difficulties confronting the program was effected through direct communication with the 'decision_makers' in the field at a 'grass roots' level.

A questionnaire was forwarded to all Correctional Centres in Queensland to ascertain why Warmington Street was not being offered as an option to prisoners by 'decision making' personnel. At the same time, staff were asked to indicate if they felt that eligible prisoners were available in the system. The response was highly significant in that not only were these 'operators' unaware of the project, but they also had eligible prisoners that they wanted to refer to the Association immediately.

Responses to the questionnaire disclosed the following facts:

- there are prisoners who immediately meet the eligibility criteria for the project regardless of the view of 'head office';
- prisoners had not been made aware of the project and _were therefore not making application for inclusion in the program;
- Assessment and Programs staff were under the mistaken _impression that a day-time support system was not _available to prisoners at the house;

- the option to use 'Warmington Street' went 'cold' as no feedback was received from prisoners who had completed a stay within the facility;

- one Correctional Centre programs manager first heard of Warmington Street on 2 February 1990 (six months after the House was officially opened);

- Correctional Centre Assessment Staff seemed unsure _about eligibility criteria.

As a result of the information disclosed by workers through this questionnaire, the Association has committed resources to the development of an integrated information package that not only provides facts on the Halfway House project aimed at both assessment team member/professional level and prisoner level, but also provides advice on the range of service options offered from within the non-government sector that could augment the project. This questionnaire was followed up by personal visits by the Manager (Housing) to all Correctional Centres in South Queensland.

During the past few weeks, the following number of applicants for residency have been reviewed and approved by the Association for inclusion in the Halfway House project as a direct result of the interventions outlined above :

- home detention (eligible for program but homeless);

- home detention (breakdown in home arrangements with a return to prison as an outcome in the absence of the Warmington Street facility);

- parolees (who have no fixed or suitable address and who otherwise would remain in prison);

- bail applicant.

At the moment, Warmington Street is housing four residents (two below capacity), three of whom are approved for and involved in activities during the day—one employed worker, one voluntary worker and one resident attending_college (undertaking studies at Grade 11 level and as a trainee cook).

The success of this approach is not to be discounted, particularly given the situation where previously only one eligible person could be identified as suitable for inclusion in the project over a five-month period.

As a further consequence of the success of the recent interventions, the Association will be proceeding with the establishment of a Halfway House facility in North Queensland, at Cairns. Provided the impetus can be maintained and the community can be stimulated into action to support the initiative, it may well be that Halfway House style facilities will proliferate and the concept of correcting behaviour will proceed beyond an academic proposition or a government responsibility.

Summary

There can be no doubt that the winds of political change have blown across Queensland. The implications of this change may only become apparent in the long term as the questionable ad hoc structures of the former government are slowly replaced through legislation by more formal and accountable structures which will reflect the present government's philosophical position.

In the case of Corrections, a series of inquiries were forced upon the former government. The establishment of the Queensland Corrective Services Commission from

the latest Inquiry has, de facto, provided the mechanism for positive achievement. The Commission is now strategically placed within the milieu of political change to effect long-term and meaningful reform within the correctional system in Queensland. Part of its strategy will be to support and develop community based initiatives that address the issue of correcting behaviour whilst having regard for the needs of crime victims and a concern for the prevention of crime.

A proposal suggesting a range of community based and managed corrections, from this writer and others, which implied a notional ladder of community based 'correctional centres' has been supported. This paper has attempted to present the position that, whilst the conviction of the Corrective Services Commission to explore the potential for community based and managed housing as alternative prison venues was apparent, the constraints upon the Commission from the former government in a broad sense (during the Commission's first year) precluded the reasonable development of such strategies.

A Halfway House proposal for currently serving prisoners is _being operated by the Prisoner Family Support Association (Queensland). Significant difficulties in having eligible people referred to the house appear to have been overcome in recent weeks through 'grassroots' intervention and also as a consequence of resolution of the beforementioned matters.

A second Halfway House will open in Cairns, operated by a regional branch of the Association, in the coming months. It is anticipated that 'profit' derived from the operation of these two facilities will be applied in the creation of a third.

Such community based alternatives to imprisonment provide the potential for correcting offending behaviour and for reducing the rates of reoffence. These facilities not only provide alternative prison accommodation, but an entree for offenders into more normal communities and more acceptable behaviours.

FINE OPTIONS–SOME PROBLEMS

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THE INTENTION OF THIS PAPER IS TO ILLUSTRATE SOME OF THE PROBLEMS THAT have occurred and, in some cases, are still occurring in South Australia with the administration of the Fine Default/Options Scheme. The paper will describe why the scheme started, its basis in legislation, how it is structured and operated by the Department of Correctional Services (DCS) and some of the problems that have occurred since its inception.

It should be noted that this is a descriptive paper and reasons given for the problems described are the author's and may not necessarily be borne out by thorough research.

The Correctional Services Department in South Australia, in common with most jurisdictions, has for many years been under pressure to accommodate all of its prisoners. Each day, the number of prisoners is frighteningly close to the number of beds available. The current figures are beds available daily—899, average number of prisoners—856. Forefront in the mind of any prison administrator, therefore, is how to keep the beds available figure higher than the number of prisoners.

Every analysis of prisoner intake figures in South Australia—and probably in other states—reveals that a large proportion of prisoner intakes are for fine default. The majority of these prisoners stay less than two weeks.

This large number of short-term prisoners, created mainly by fine default, causes enormous problems for the authorities. Costs incurred in admitting, discharging and monitoring short-term prisoners are obviously disproportionately high in comparison with those for long-term prisoners. The pressure to provide sufficient beds to accommodate the high numbers who rotate through the system very quickly is also enormously costly.

Two strategies were developed in South Australia in an attempt to overcome these problems. One was by the government allowing the Chief Executive Officer of the Department to discharge prisoners up to 30 days earlier than their required release date. The other was to provide within the legislation the opportunity for offenders to perform community service instead of alleviating their fines in prison.

The purpose of this paper is to examine the second strategy and illustrate some of the problems that have been experienced during the two and a half years that the Fine Options

Scheme has been in force. The effects of administrative early release on the Fine Default Options Scheme will also be examined.

Legislation (to gain access to the scheme)

The legislation governing the Fine Default Options Scheme is now enshrined in the *Criminal Law (Sentencing) Act 1988*. This Act allows for settlement of a 'pecuniary sum' by means of community work. Pecuniary sum is defined as a fine, compensation, costs, any sum payable pursuant to a bond or to a guarantee ancillary to a bond, or any other amount pursuant to an order of the court. It can be seen, therefore, that almost any monetary debt subject to a court order can be 'worked off' by community service.

The criteria which determines whether or not a person should be permitted to do community service instead of paying in cash is if payment in cash would cause 'severe hardship'. What constitutes 'severe' hardship is not defined but is left to the discretion of individual clerks of court, who are designated under the legislation as the appropriate officers to make the decision.

Applications to the appropriate officer must be in writing, must include statements of income, recurrent expenditure, liabilities and assets plus any other prescribed information. On receipt of an application, each clerk of court or sheriff in the case of the higher courts, makes an individual decision on whether or not the applicant is in severe hardship.

Once approval has been given for a person to 'work off' a pecuniary sum, which is usually a fine, they are referred to the Department of Correctional Services. There is no legal obligation, however, for the Department to accept them into the Community Service Scheme.

The Undertaking—or agreement between the individual and the Department—sets out conditions which the client must agree to before he can begin work. For example, the client:

- must report to a Community Service centre;
- must obey reasonable directions;
- must notify change of residence;
- must follow any instructions given by a community service officer;

Community service must be performed over a period not exceeding 18 months and the amount of community service is calculated at the rate of eight hours for each prescribed unit of the pecuniary sum.

A prescribed unit at the moment is $100. A person, therefore, with a fine of $200 would work for 16 hours and a person with $220 fine would work for 16 hours plus 8 hours for the additional $20 as part of a pecuniary unit.

If the person fails to abide by the conditions of the undertaking, then the Director has the power to cancel the undertaking. The person would then be required to pay off the balance of the pecuniary sum minus any amount that he may have worked off. There are also provisions in the legislation for a person to pay off the outstanding balance of any pecuniary sum at any time. Once the community service hours are completed the Department notifies the court and their records are amended.

If the appropriate officer is not satisfied that payment of a pecuniary sum would cause hardship, he must give the applicant notice in writing to the effect which then allows the applicant to apply to the court for a review of the decision. The court may then reverse the appropriate officer's decision.

The other major power in the Act is to allow the Director to cancel a person's undertaking if he fails to comply with any of the terms of the undertaking.

Departmental Structure

For work purposes, the Fine Options Scheme is integrated into the Community Service Scheme. The difference between the two schemes lies mainly in the administrative procedures which have been developed, and the number of hours that individuals work on the scheme.

Fine options clients are obviously processed at a more rapid rate. On average, each client spends 36 hours on the scheme as opposed to 150 on a community service order/bond. Once the applicant for Fine Options has been cleared by the court to perform community service, he presents himself within two days to a community service officer who takes some minimum personal details and details of the fine. These details are the amount owing, the court of origin and the offence. The number of hours that must be worked are also recorded at this stage. The offender is required to sign the undertaking that he will work those hours and that he will abide by certain conditions. He is then assigned to a workplace.

The numbers now coming on to the scheme, and the rapid turnover, have implications for the development of projects and the allocation of resources. Projects are needed which will absorb large numbers of people, and which require few resources in the way of tools and equipment.

Community Service

The day-to-day operation of the Community Service Scheme is administered by community service officers who are located in each Community Corrections Office throughout the state. These officers have the responsibility for inducting offenders on to the scheme, maintaining accurate records of hours worked, breaching those people who do not comply with the rules regulating their behaviour. Their other main function is to find work for the offenders.

Voluntary agencies and aged or infirm pensioners absorb most of the available labour with the remainder working in and around our bases or local schools. The projects are usually serviced by a group of six or eight offenders and a paid casual supervisor with tools and equipment. They are driven to the pensioner's home and work together to complete the job. A good group can service six to eight pensioners per day. Any rubbish created is usually removed to the local dump.

Fine option offenders work on the same projects as the mainstream community service offender.

Problems

Many years ago, the Scottish Poet Robert Burns said, while describing a family of mice losing their homes under the plough, 'The best laid plans of mice and men aft gang awa' (go astray) and so it has been with the Fine Options Scheme.

Initially, separate and joint working parties were set up in and between the Department of Correctional Services and the Courts Department, research papers were written, proposals and counter proposals were put up for consideration. When the final version emerged from the parliamentary process and was enshrined in legislation, more discussion between departments took place to develop the administrative procedures At the end of

this process, which took place over about three years, it was thought that the foundations had been laid for a sound Fine Options Scheme. However it was not to be without teething problems.

These include:

- communication;
- publicity;
- education; and
- internal administrative problems.

Communication

The scheme involves two departments: the Courts and Department for Correctional Services. Each department plays a separate role, one authorising the offender to work, and the other actually working the offender. Although these roles are well-defined, there had to be developed a clear and reliable channel of communication so that one department was aware of what the other was doing.

The system was developed whereby an offender, who was granted permission to work off his fine, presented himself within two days at a DCS office. A community service officer would sign that person onto the scheme and then notify the court in writing that he had done so. At that stage, if a warrant was in force it would be withdrawn.

This is a relatively simple procedure and, on paper, should not have caused many problems. What has happened, however, is, as occurs in any bureaucracy, papers have sometimes gone astray and people who have worked off their hours have found themselves arrested for non-payment of fines.

A second issue that has arisen falls roughly under the heading of communications and concerns the time allowed by the legislation for a person to work off his fine. The legislation states that 'community service must be performed over a period not exceeding 18 months'.

Applicants are aware of this provision and many of them interpret the 18 months allowed as a means of delaying the issue of a warrant. Their initial belief is that if they apply for community service, they will have 18 months to work it off, so if they do not work it off, they get 18 months to pay off the fine instead of the usual 3 or 6 months. Unfortunately, this idea is perpetuated by some magistrates who advise offenders to apply for community service if they cannot afford to pay the fine, and they will have 18 months to work it off.

The offender leaves the court thinking he has 18 months grace. He/she applies to be admitted to the scheme on the grounds of hardship and is referred on to Correctional Services. Only at this stage is he told that he must work as and when directed and that the Correctional Services Department expects him to work off his fine as quickly as possible.

The problems that ensue for the community service officers because of this mistaken belief are that the person can become aggressive, they are reluctant to work on the days designated, they are often absent without leave and when they do turn up for work they are disruptive to the other workers. These problems compound to make it difficult for community service workers to plan the work for their particular projects.

It would theoretically be possible for the community service officer—via his/her manager—to either refuse to sign the person on to the scheme or, if they were already on, to suspend them from it and refer them back to court. Rightly or wrongly, departmental officers have adopted a practice of trying to assist offenders to complete their hours, whether those hours are for community service or fine option.

Publicity

Before legislation was proclaimed and the scheme began in October 1987, it was expected that probation staff, the police and the courts would publicise the new alternative to fines. The planning within the Department for Correctional Service was aimed at dealing with a flood of applicants. The expectation was that there would be difficulty finding sufficient work to accommodate the rapid increase in numbers.

After day one, departmental staff waited! and waited!! and waited!!! and nothing happened. In the first two months of operation, only 23 people came onto the scheme. Many more may have applied to the court, but only the 23 actually came onto the scheme. This lack of referrals caused grave concern within the Department, which submitted for and been given extra resources to cope with the expected huge increase in numbers of people on community service. The other side of the coin concerned the prison administrators. If people did not apply for the Fine Options Scheme, then the prison numbers were unlikely to show any significant decrease.

Several factors were isolated as being responsible for the lack of public interest. These were lack of publicity, complicated application procedures, and reluctance by some clerks of courts to approve applications.

Initially, officers from Correctional Services saw the responsibility for advertising the scheme to be with the courts, but soon after its inception it was realised that we would have to begin our own publicity campaign. Posters were prepared advertising community service as an option to paying a fine. These were distributed through the neighbourhood houses, community centres, courts, police stations and even in some hotels. Those offenders who are in the courts frequently soon became aware of the scheme. Those who visit the courts very rarely are still not fully aware of their rights.

Education

In the initial stages of the scheme, several factors emerged which seemed to contribute to the low referral rate. Two of these were an initial reluctance on the part of the public to complete what was a very comprehensive and complicated analysis of their financial position—somewhat comparable to an application for bankruptcy. The second was a reluctance by some clerks of court to approve an application.

A reason that was mooted for this reluctance included that the Fine Options Scheme was seen as 'getting away with it'. Another reason was that, for many years, clerks of court had been committed to recovering money from fined offenders and they found it hard to change their attitudes.

On the other hand, some clerks of court believed it to be an excellent scheme and were perhaps too liberal in interpreting what constituted severe hardship. These clerks referred anyone who applied. Throughout the state, the attitude of the clerks of court determined the numbers flowing onto the scheme.

Meetings were held between departments at senior management and at local level. Community service officers were encouraged to contact their local clerks of court and invite them to observe the scheme in action. The situation has now changed dramatically and now all courts are referring applicants in increasing numbers. At 28 February 1990, there were 783 orders with 36 hours as the average time spent on the scheme.

The other problem of the complicated means test has largely been overcome by the clerks of court accepting a much simplified version of the original.

Internal Administrative Problems

One of the main purposes in developing the Fine Options Scheme was to reduce prison numbers. In 1984, when the scheme was still in the planning stage, 80 per cent of all sentenced intakes into departmental institutions were for fine default. In 1989, the figure was 74 per cent.

The conclusion from current figures is that the Fine Options Scheme has had little effect on prison numbers and those who now participate in the scheme are those who would eventually have paid their fines under the old system.

The people being admitted to prison now for fine default are for some reason choosing a course which at first glance appears to be the more unpleasant. In South Australia, fines are alleviated at the rate of $50 per day in a prison and $100 per day on community service. It would seem infinitely preferable to most people to alleviate a $500 fine by five days' community service rather than spend 10 days imprisoned. When the legal and administrative procedures are examined, reasons start to become obvious why some people prefer prison to a few days community work.

In South Australia, it is the responsibility of the authorities to ensure that all existing warrants are called in while a prisoner is in custody, or they are considered to be satisfied if they are later found to be in existence. Any person, therefore, who is a frequent offender and who tends to accumulate frequent fines and prison sentences can dispose of both sentence and any number of warrants at the same time.

The other reason, and possibly the more important in relation to the Fine Options Scheme, is directly related to departmental administrative procedures. Section 39(2) of the *Correctional Services Act 1982* (SA) gives power to the Chief Executive Officer to release prisoners up to 30 days before the due date of release. In times of prison overcrowding, this section permits the Chief Executive Officer to retain some control over prison numbers. Because South Australian prisons are, unfortunately, always operating close to capacity, this provision is in regular use and is applied to fine defaulters as well as sentenced prisoners. What has developed is a system that is known colloquially as a 'turn around'.

It works as follows: a fine defaulter is arrested or gives himself up to the police. He is taken to police cells where he may wait a few hours or overnight depending, usually, on the time of his arrest. He is then taken to a prison where he is admitted and sometimes discharged the same day. At best, he will remain in custody a few days but rarely will he serve the full time on the warrant because of the pressure on institutional beds. In this way, he may cut out one, two or several warrants at the same time. The 'bush telegraph' is such that this practice is widely known among the frequent offenders. Not surprisingly, they opt to cut out their warrants that way rather than by 'working' for several days.

A 'Catch 22' system has developed in that the Department can only keep its prison numbers within the total capacity by using administrative discharge procedures. On the other hand, by doing so it encourages people to opt for the 'turn around' rather than community service which in turn puts pressure on the prison. The Department is currently examining ways to avoid this dilemma created by Section 32(2).

Current Issues

Of all the problems facing the Fine Options Scheme, possibly the greatest is the lack of use of the scheme by Aboriginal people. This is despite the fact that the Department operates a special Aboriginal-only community service scheme wherein Aboriginal offenders work together on projects for the Aboriginal community or on an Aboriginal pensioner scheme.

The Courts Department has made the observation that in the Adelaide metropolitan courts, it is almost unknown for an Aboriginal offender to return to the court to seek any variation or extension of a court order to enable that person to meet a fine commitment. In the last three months, the average number of Aboriginal people on the scheme was 24 males, 9 females. The average number of non-Aboriginal was 282 males, 76 females.

This problem is currently being addressed by the Aboriginal Liaison Officer who spends a part of each week in Aboriginal drop-in centres or neighbourhood houses. There she answers any questions put to her by Aboriginal people about the Correctional Service Department and its community services scheme.

The other approach being tried is to design and produce a poster aimed specifically at Aboriginal people using their traditional art forms. It is an attempt to educate them into accepting the Fine Options Scheme as something which is of benefit to them and is not just for white people.

Conclusion

Judges and magistrates in South Australia are now prevented by legislation from ordering a defendant to pay a pecuniary sum, unless they are satisfied the defendant has the means to comply with the order, or that for him/her to comply with the order would prejudice the welfare of the dependents of the defendant. The court, however, is not obliged to inform itself of the defendant's means, but it must consider any evidence that the prosecutor or defendant places before it.

It is not possible to say just how much this provision is being used, or how much it will affect the numbers that eventually flow through on to the Fine Options Scheme. What can be said is that from a very slow beginning in 1987, the numbers on the scheme escalated rapidly in the latter half of 1989 and, to date, they show no signs of abating.

The early teething problems of lack of publicity and complicated application procedures seem to have been overcome. Applicants are now coming in from all suburban courts and many of the country courts. There are still some areas in the state that Department of Correctional Services cannot service with its community service scheme but these are diminishing with time. Other problems of people being given incorrect information, and paperwork sometimes going astray will no doubt continue to happen, but hopefully with decreasing frequency as more and more people become aware of their rights.

The 'turn around' system—which is the big incentive for frequent offenders not to apply for community service—is under regular review and hopefully will soon be stopped. It will be interesting then to see if the Fine Options Scheme does start to impact on prison numbers. If it does not and numbers of fine defaulters going to prison stays high, then it will need some serious and detailed research to uncover reasons.

It will be interesting during the next 12 months to judge the effects of the Aboriginal Liaison Officer's work in the neighbourhood houses. Any increase in numbers applying for fine options will create optimism in the Department from both institutional staff and those in community corrections.

In South Australia, there is a sound and effective Fine Options Scheme. Though there have been some problems, we believe the scheme now operates efficiently.

AFTERCARE IN THE NINETIES

Ray Kidney
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IN THE 1980S, STATEMENTS FROM PRISON ADMINISTRATORS ADMITTED THAT prisons themselves do not rehabilitate. In the 1970s, one of the stated aims of imprisonment was rehabilitation, but now secure humane containment is of more concern. At the recent 'Prison, The Last Resort' seminar held in Adelaide, Mr John Dawes, Executive Director of the Department of Correctional Services in South Australia said in a keynote address—'the notion of correctional services is a romantic descriptive term that appeases those who believe that prisons in the 20th century reform lives . . . The concept of sending persons to prison for treatment which will somehow impose change upon them is a goal which is fanciful.'

Dr Tony Vinson, at the same conference, compared Australia's para-military style prisons with those of The Netherlands and Sweden where there is a high degree of officer involvement with prisoners and their daily lives. The prison officers' role is pivotal; and productive work by prisoners is required as a way of keeping in touch with and preparing for return to the community.

> The prison officer's work is interesting and not dehumanizing, and the kinds of aggression, both self-directed and towards others, which are commonplace in Australian prisons, occupy a minor place in Dutch and Swedish prisons.

Offenders Aid and Rehabilitation Services (OARS) has worked hard for years and continues to work at building relationships with inmates. Behind every case of success, there has been a personal relationship between some person and an ex-offender. The South Australian Department of Correctional Services is providing more opportunities than ever before for inmates in education, work, recreation, sports, arts and crafts, entertainments and other amenities, in the hope that they might find interest in some of these things and, in finding a sense of achievement, turn away from crime.

Personal relationships must play an important part if these options for inmates are to succeed. Love, that divine quality, has been described as the 'expulsive power of a new affection' and is 'fundamental to positive change in attitudes, direction and behaviour'. If the correctional process is not intervening in the lives of inmates to change their behaviour, it is not living up to community expectations.

As the Prison the Last Resort Report has highlighted, another problem seems to be the negative influence upon better prisoners by those who are worse. Why imprison those who are not violent with the same degree of security as those who are?

The system works against commonsense solutions; during imprisonment the prisoner is housed at the taxpayers' expense and can do little to make recompense, he does not have to face the community, his neighbours, friends or his victims. He is relieved of responsibility of earning a living, relating to his wife and caring for his family, and does not have to make any decisions about living on the inside. On release into the community, he is expected to do all the things he was not required to do in prison. Little wonder so many go back to prison, either by choice or more often because of total inability to cope.

This is why the relationships that can be built by volunteers and social workers on the inside can assist ex-inmates through this difficult period. Like Mr Dawes, OARS believes that the community must accept more responsibility for the re-settlement of offenders.

Somehow we have to mobilise community action for rehabilitation—can Neighbourhood Watch become Neighbourhood Care, where the community works together to re-establish offenders? The kind of work that OARS and other organisations is doing in finding people to be interested in the resettlement of a particular offender needs widening to reach everyone released from prison.

It has been demonstrated that where community volunteers get involved in this way, the crime rate comes down. The offender becomes a productive member of society—there are no victims and no further correctional costs for the community. The challenge of the nineties will be to rely less on prisons as more community-based alternatives are developed. At the end of the eighties, South Australia has four times more people under community corrections than in prison, so hopefully this is a start in 'prisons' being displaced from the centre of the correctional system. Even so, there is need to spend more money now on community correction and, particularly, aftercare. Non-government organisations have an advantage in building relationships with offenders, as they are not seen as part of the system.

The biggest challenge facing 'aftercare' is community attitude towards ex-offenders. The introduction of community service has shown the community that offenders can contribute something if given the opportunity. If prisoners were able to do more work in and for the community, then perhaps their re-settlement on release could be made easier by more ready acceptance. Aftercare organisations need to foster the neighbourhood care/good neighbour concept. In some other cultures such as Japan, China, or Papua New Guinea, the community cares for dependants during imprisonment and welcomes the offender back by openly assisting in re-establishment.

There are advantages to the community in assisting ex-offenders in resettlement which needed to be explained, for example, crime is being prevented, no victims, money saved, ex-offenders potential in good citizenship—these are the positives about which the community needs educating.

The three basic areas to be addressed in aftercare are:

- relationships;
- accommodation; and
- employment

Inmates have plenty of time to build up expectations about what it is going to be like on release, but sadly reality often does not match. Things have changed and it is not just a matter of carrying on as before.

Stable family relationships today are fewer, but a starting point is to encourage existing relationships to continue during imprisonment. Prisons damage relationships, wives have to become independent and accept total responsibility for the family while the husband can become institutionalised, influenced by prison morals and regress emotionally. Marriage re-establishing seminars are needed three to twelve months before release, or they could be run in conjunction with day leave. These should involve both the inmate and his partner.

A home environment to which to return lessens the likelihood of an ex-offender re-offending. This is the reasoning behind OARS establishing the Someone Cares Housing Cooperative (thirty houses) in 1984. This has enabled more direct contact with ex-offenders and their families and has given opportunity to organise appropriate courses.

The support of a community volunteer during this period is invaluable especially if the relationship commenced during imprisonment. Such a volunteer may be the key to opening up the community and its resources to the ex-offender. Their support should work towards the time when the ex-offender no longer needs support but is still aware that in a crisis there is someone to whom he can turn. A few inmates without families make arrangements before release to live for a while at a post-release house. OARS has six of these facilities (forty-five beds) in metropolitan Adelaide and five in four country centres (thirty-two beds) of the state.

Most ex-inmates come to see us after the failure of their expectations are realised. Things have not worked out as they had expected and they then see signs that they do not like, and for fear of getting into further trouble, they approach OARS and seek help and accommodation.

Post release houses are only second best to placing people with families. There are several communities around Adelaide, that are offering this help as well as a few individual families. Post release houses must offer much more than a roof, bed and meals. Welfare support is needed to assist with daily programs for each resident, covering counselling, budgeting and employment. It is helpful to have a vegetable garden or hobby shed along with recreational equipment onsite to provide added interest for residents. Reference to a Day Centre is desirable for the long-term unemployed.

At OARS Living Skill Work Camps for unemployed residents are conducted at our property Karingal. These camps cover a four-day period and are held every few weeks. The program covers discussion groups (living skills) and work parties (work skills) plus free time and recreation. These camps enable assessment of work attitudes and skills for finding employment later on. People with addiction problems need reference to specialised treatment agencies. Some counselling is available through OARS resources—a psychologist and a trained nurse.

Employment, especially for people without skills is an ongoing problem. Prison authorities need to improve trade and apprenticeship training. A partnership with private industry to assist with prison industries could possibly improve job opportunities. Staff of post-release houses can organise mini seminars with residents, Commonwealth Employment Officials and local employers. Residents should be encouraged to list every kind of work experience they have had as it is good for encouragement and assessing potential.

Effective aftercare needs organisation and coordination. As mentioned earlier, the community needs to be challenged as to its responsibility in assisting people who have paid their penalty required by law. Governments do not have sufficient resources to tackle this problem: the answer is found with volunteers who are prepared to give a minimum of three hours of their time per week.

A non-government agency or a departmental volunteer unit is ideally suited to organise and coordinate regional committees (north, south, east and west and any other geographic suburban areas) to:

- provide in the community an organised group of volunteers who will individually sponsor, advise and offer friendship to prisoners and their dependants and who will assist ex-offenders in re-establishing in the community;

- provide training and education for volunteers;

- provide a framework upon which may be developed a better community involvement in and an understanding of, the work of aftercare; and

- assist in providing temporary or permanent employment for ex-offenders.

Membership of these committees should consist of public spirited citizens who represent widely divergent interests and all walks of life including practical representatives of the legal and medical professions, the public service, trade unions, industry and business, service clubs, churches and ethnic groups.

What does a volunteer (sponsor) or regional committee member do?

- accept assignments—the responsibility of a prisoner, for visitation or letter writing;

- with the inmate's consent, make contact with the family and meet the inmate on release if appropriate;

- be available to advise and assist with accommodation and employment—maintain regular contact;

- try to help re-establishment in the community—action should only be taken with the ex-inmate's consent and approval.

Meetings of the Committee are of secondary importance to individual sponsoring. Occasional meetings could attempt to solve problems, exchange ideas and provide information.

A sponsor is primarily an adviser; one to whom the ex-offender and family may turn with confidence for advice and guidance and to whom they may ask assistance in finding accommodation, employment and basic necessities, but not to be regarded as one who gives hand-outs. In the long-term, a sponsor is a person to whom the ex-inmate can turn in times of trouble and frustration, which arises in the months and years after a prison sentence.

General Advice for the Volunteer

The person being assisted will need close individual attention, maintaining a good relationship from the beginning. The sponsor may be treated with suspicion until he has earned the inmate's respect. The sponsor should not allow the ex-offender to become too dependent, but should encourage a mature outlook on life and offer hope, in helping to find solutions to problems such as insecurity and loneliness.

They should keep regular contact, for example at birthdays and Christmas. They should create a relationship based on good will, confidence and mutual respect. Problems that need specialised advice should be referred to experts. Liaison should be maintained with the central agency.

Volunteers should avoid:

- becoming over involved, allowing judgment to be swayed by emotions;
- offering sympathy instead of hope and encouragement;
- appearing condescending and patronising, prejudging and pestering, allowing themselves to be 'used'. Getting 'out of depth'—volunteers should not advise on matters about which they are not qualified.
- avoid giving help unless a genuine need exists and should not give opportunity to have their friendship misused;

Volunteers should:

- respect privacy and give notice when calling—especially in early contact;
- discover what the needs are and not rely on the assessment of the ex-offender;
- not usurp his authority in the family;
- not undertake work with a child of the family without consent of the parent or guardian;
- not give up because of disappointment or seeming failures—failure is not final unless someone makes it so.

Conclusion

Community participation in corrections had its beginnings, arising from Judaeo-Christian influences inspired by humanitarianism philanthropy and religious revivals.

Prisoners Aid organisations of the fifties stated their belief that every offender must be offered hope of reform and rehabilitation. Right from the beginning it must be remembered that rehabilitation and reform are generated in personal relationships—'Prisoners are people'.

As Ronald Reagan (former President of the United States of America) once said: 'The solution to the crime problem will not be found in a social worker's files, a psychiatrist's notes, or a bureaucrat's budget: it is a problem of the human heart, and it is there we must look for the answer'.

*It takes very special people to make programs in this kind of work succeed. Behind every successful program it is usual to find someone motivated by love. Only such people can accept the philosophy of the International Prisoners Aid Association which states:

> Since the object of the Prisoners Aid Societies and aftercare agencies is the reformation of the offender, we affirm that no-one should enter in or remain in this work who is not committed to the principle that every offender offers hope of reclamation.

As we know, reformation comes from change within, which leads to new values, new beginnings, and a new way of life. This is the ideal to which we work with many stages in between right down to continued care and hope for those who continue to fail. Only people

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* (These final paragraphs are an extract from the conclusion of the opening address of welcome given by Ray Kidney as President at the 11th meeting of The International Prisoners Aid Association, August 1987.)

motivated by love are able to keep on keeping on with such people. They are those who are prepared to work beyond the call of duty and reward for the sake of others. We may even have great skills and much knowledge about correctional processes—we may be prepared to give sacrificial service and even donate money towards our cause.

People motivated by this love do not remember the bad things about people—nor do they condone the evil done by those who commit crime. Let us remember that the character and quality of any society is judged by the way it treats the least of its members.

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EMPLOYMENT ¾ THE KEY TO KEEPING PEOPLE OUT OF PRISON

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THE APPROACH TAKEN IN THIS PAPER IS THAT KEEPING PEOPLE OUT OF PRISON not only involves stopping them from getting into the prison system in the first place, but also at trying to stop them from re-entering this system.

It is the belief of the Western Australian Department of Employment and Training in Perth that achieving economic independence through employment can play a vital role in reducing crime within our community. In many cases, individuals who are involved in the criminal justice system are there due to a series of factors, the key one being that they lack an economic base from which to operate. The bottom line for many individuals is that they are caught in a poverty trap and do not have enough money to provide for their needs. They, therefore, resort to criminal activities to satisfy these needs.

To enable an individual to achieve economic independence, we need to ensure they have the necessary skills to do so. Therefore, punishment (custodial or non-custodial) given to individuals as a result of them committing an offence needs to address the skills shortages of the person in question so that, upon completion of the punishment, their chances of actively participating in the workforce and the community at large are increased.

Employment is not the only factor determining whether a person commits or re-commits an offence, but it needs to be addressed if we are to achieve the goal of keeping people out of the prison system. The WA Department of Employment and Training has taken up this issue and, to date, has instigated two specific strategies. First, an equity and access officer within the Department has been allocated the portfolio of ex-offenders and unemployment. The responsibilities of this officer are to:

- encourage individuals/organisations/governments to become more aware of and, where possible assist with, the effective employment placement of offenders or ex-offenders;

- provide information/resources/assistance for the development of programs/policies that will assist and improve the employment rate of offenders and ex-offenders;

- inform the Minister for Productivity and Labour Relations on the role that this Department can play in addressing the above issues.

In addition, a community organisation known as 'Outcare' recently received departmental funds to place people into employment and training. The objectives of the Outcare employment and training service are to:

- place unemployed ex-offenders into employment;
- increase ex-offenders' employment skills;
- assist ex-offenders to find their own employment;
- encourage employers to utilise Outcare for job placement.

If we are serious about preventing people from entering or re-entering the prison system, we need to take a serious look at the reasons why individuals offend in the first place. The main motivating factor is the perceived personal advantage gained by committing that offence. If we look at the characteristics of offenders in the judicial system, we find the following:

- Individuals have limited social, education and employment skills.

  Of those in prison in Western Australia, 78 per cent had an educational level of less than Year 10 with only 3.7 per cent having completed Year 12 or tertiary studies. Only 22 per cent had professional or trade qualifications. The figures for juvenile institutions in WA are even more revealing. In some institutions, up to 95 per cent of those incarcerated have an educational level of less than Year 10 and some have not even reached secondary school level.

- They have limited support structures and limited access to resources and, in many cases, the resources they have knowledge of or access to are welfare-related;

- they have a low self expectancy, that is they expect that they will fail, they expect that the community will be against them due to the fact that they have a criminal record, and they expect that unless a miracle happens they will continue to remain in an environment where they have little money, few skills and little opportunity to improve that situation;

- in more recent years, it can be seen that they may come from a generation or second generation of individuals who have been placed in the same situation, therefore providing no positive role models to assist in changing the above three factors.

This scenario is even more evident in the Aboriginal population. Although Aborigines make up only 3 per cent of the WA population, they comprise more than 80 per cent of the juvenile and 40 per cent of the adult prison population (Department of Corrective Services 1989; Department of Community Services 1989). Statistically, it has also been shown that they have a recidivism rate of 80 per cent for males and 75 per cent for females (Broadhurst 1986).

To keep people out of prison, we need to ensure that alternatives to incarceration, or activities undertaken while incarcerated, provide individuals with the skills to enable them to achieve an economic base as well as to participate in their community.

There are presently two key approaches to preventing crime.

- Discourage individuals from participating in criminal activity through the implementation of schemes such as Neighbourhood Watch and School Watch.

- In the case of juvenile crime, provide social and/or recreational activities in a bid to offer constructive entertainment for those individuals, thereby ensuring they do not participate in criminal activities due to boredom.

There is a continuing argument as to whether Neighbourhood Watch and similar strategies actually reduce crime or whether they merely divert criminal activity to another location. The provision of constructive entertainment through social or recreational activities addresses part of the problem, but not the whole problem. For young people who continue in crime, such activities provide a form of entertainment but do not address the base problem, which is that they do not have the skills to actively participate in their community and be considered a constructive community member. Juvenile crime prevention strategies need to be linked to other programs addressing issues such as employment, education and training, as well as constructive support networks so these young people can successfully get out of the criminal justice system.

The custodial or non-custodial penalties imposed upon people who have offended have limited or no connection to the learning of skills. Nor do they address why individuals offend in the first place. In many cases, the punishment is driven by political and community agendas in that individuals need to be seen to be punished, and the form of punishment needs to be seen as appropriate. The community often does not understand the reasons why people offend and, therefore, the punishments they believe need to be given are more punitive than rehabilitative.

Even in cases where the community sees that an individual's offences are not serious enough to warrant imprisonment, the community-based alternative(s) in most instances provide little opportunity for that individual to develop marketable skills. The individual is involved in mostly repetitive and low skill based activities such as raking up leaves or cleaning up rubbish. Little time is spent looking at what the individual offender has to offer the organisation and vice versa.

However, within some of the community-based sanctions provided, attempts are being made to ensure that positive skills are imparted to the participating offender. This can be seen, for example, in the 'Station Alternative Custody Program' conducted by the WA Department for Community Services. This program provides the opportunity for youths to live on a pastoral station where they work alongside the station owner and employees, learning a range of skills from fencing to basic mechanics and cooking. This raises the question as to the relevance of the skills being taught. Will they help that individual establish an economic base and become a contributing member of society?

In providing skills development opportunities through custodial or non-custodial sanctions, we must ensure that the skills being imparted are relevant and usable. Many offenders have limited support structures, therefore the provision of skills needs to be complemented by the provision of other services to address problems such as a lack of accommodation or lack of family support. Without this support network, the impact of providing skills to achieve economic independence will be greatly reduced.

The WA Department of Employment and Training believes that unless we develop early intervention strategies, the longer term impact on juvenile crime will be negated. To this end, the Department in Perth has undertaken two specific strategies.

First, an equity and access officer has been allocated the portfolio of 'youth at risk' and unemployment. 'Youth at risk' are young people who cannot or will not access employment, education and training. The responsibilities of this officer are similar to those mentioned earlier for the ex-offender equity and access officer. Extensive work is presently being done to link up with organisations providing social or recreation or welfare services to these young people. Such services include drop-in centres, supported accommodation projects, streetwork programs and schools.

Second, the Department has jointly funded—with the Department for Community Services—a community-based organisation known as Step 1 Inc. This organisation aims to reduce the number of young people 'at risk' in the inner city by:

- improving the ability of young people to achieve independence through enhanced skills, linkage with relevant services and provision of information; and

- encouraging government, private sector and community involvement in addressing employment, education, training and other needs of youth at risk, particularly in the inner city.

It is hoped these two strategies will raise the awareness of youth organisations as to the role employment and training can play in addressing young people's needs.

Community alternatives to incarceration must achieve two things. First, they need to encourage wider community involvement and second, they need to provide the opportunity for individuals to develop relevant employment and life skills so they can become effective and contributing members of the community. One such project is Individual Opportunities Unlimited (IOU), developed by the Comprehensive Offender Employment Resource System (COERS) operating out of Boston, Massachusetts. This program targets probationers who, in most cases, are referred by the courts, providing judges with an effective alternative to incarceration. The training program revolves around the concept of a job finding club. It runs for five evenings, providing about 12.5 to 15 hours of training with eight to twelve people in each group. Once the participants have finished the training, they make a commitment to stay on for eight weeks or until they get a job. More than 85 per cent of its graduates have found employment, with about 65 to 70 per cent maintaining employment over the course of the year.

Extensive efforts need to be made to redevelop the Community Service Order (CSO) scheme within Western Australia. CSOs do not presently achieve a positive outcome for the individual or the community at large. There is limited community involvement in providing relevant community service projects and, in many cases, projects undertaken provide limited skill enhancement for the people involved. In developing the CSO scheme further, the principal aim would be to strengthen the scheme's links with skills, training and employment placement. This could be achieved by extending the range of options and opportunities for community service orders.

Some examples of these are:

- participation in recognised training programs such as Skillshare projects and TAFE courses;

- offenders could identify and develop community projects following the lead of Western Australia's Youth Participation Grant scheme. Under this scheme, the individual identifies a community need and designs and implements a project, with support from a youth worker or project worker, to satisfy that need successfully;

- to involve a broader range of community-based organisations and agencies in the identification, development and monitoring of community projects. For example, local councils, community groups, service clubs and schools could identify possibly six to twelve projects a year that could be completed through community service orders.

  The identification of skills required to undertake these projects would also be necessary. Much could be achieved in this way. For example, a project involving the construction of a playground in a kindergarten would involve individuals learning carpentry, planning and erection/construction skills. By combining with local skills providers such as Skillshare and TAFE, the necessary skills could be taught to individuals before they participated in the program. Having gained these skills, they could then link in with community-based organisations or service clubs to build the playground.

  The outcome of such an approach would be threefold. First, the people in the community would have had some involvement with the offenders. Second, the offender would have gained marketable skills and, finally, the community has gained a service or product which would not otherwise have been gained.

The projects developed and utilised in the scheme need to provide the opportunity for offenders to develop both personal and vocational skills that will assist future placement into employment, education and training and positive participation in community activities.

An interesting program that runs parallel to the CSO program in Los Angeles, USA is conducted by the Foundation for People Incorporated. Under the CARES Program, ex-offenders attend three-hour support sessions each week for eight weeks. These sessions focus on getting the offender to accept responsibility for his or her behaviour. A crucial aspect of the program is an exploration of the thought process and behaviour that leads to the criminal act. The Foundation for People Incorporated use this program to identify individuals who are appropriate to place on CSOs. More than 85 per cent of graduates of the CARE program have had no further contact with the law. When individuals recognise that it is their responsibility to redress their current situation, there tends to be a more positive attitude to undertaking programs that will assist in their reintroduction to the community.

In Hartlepool in the United Kingdom, two organisations—Society of Volunteer Associates (SOVA) and the Cleveland Country Probation Service—have established a joint program known as HOPE (Hartlepool Offenders Partnership Endeavour). The project aims to recruit local people to work with offenders and people at risk guided by probation officers. The principle objective is to help offenders get back into the community, expressly through increasing their chances of finding employment.

Offenders are encouraged to take advantage of available literacy courses, social and life skills training and further education schemes. The two organisations decided to utilise volunteers in this project as they believed volunteers could offer their time, commitment, personal qualities and numerous personal skills to individuals. The scheme provides one-to-one support from a member of the community to the offender. Although the project has only been operating for a short time, it has become evident that the level of crime within the Hartlepool area has been reduced significantly while the employment rate of offenders and youth at risk has increased.

Another interesting program providing an alternative to incarceration is 'Sentenced to Read' Incorporated, operating out of Moorehead, Kentucky, USA. 'Sentenced to Read' is a structured alternative for young offenders who would otherwise be sentenced to gaol or work programs. The program was the brainchild of C. J. Bailey, who put forward the idea after watching juveniles return to court time after time because of their frustration and failure

in school. Once sentenced to the program, the youth's reading and life skills problems are diagnosed and he or she begins a weekly schedule of one-to-one instruction with a trained tutor. The three components of the program are:

- basic remedial education;
- pre-employment and employability skills training; and
- a try-out employment setting which ultimately leads to being employed by the business or employer.

The program services all offenders aged 14 to 21 years and has had significant success with individuals completing the course. Program founder, C. J. Bailey claims nearly 80 per cent of its participants successfully complete the program. Of those who return to school, 80 per cent stay while 70 per cent entering try-out employment are hired permanently by the participating business. Others are referred to skills training programs.

Perhaps the most telling statistic is the rate of recidivism among 'Sentenced to Read' clients—it is only 20 per cent compared to 80 per cent statewide and nationally. Two key factors in the program's success are:

- within Kentucky, education groups, business leaders and civic organisations have joined forces to combat the literacy and school drop-out rate of young people. These problems contributed greatly to the number of people in the criminal system;
- the program's success also relates to the fact that it is conducted on a one-to-one basis. All services are provided by an individual tutor to one individual—a situation alien to many of the offenders. This also gives the program the flexibility to cater for the different needs of each individual.

As mentioned earlier, keeping people out of prison involves stopping them from returning to the prison system. The following discussion highlights programs that aim to address this issue.

Changing demographics in the United Kingdom have created a shortage of skilled labour. As a result, employers have been forced to look at the disadvantaged in the labour force as a possible source of skilled labour. One such target group is ex-offenders.

Two key organisations—namely the Apex Trust and the National Association for the Care and Resettlement of Offenders (NACRO)—have worked hard to encourage employers to consider ex-offenders as a possible pool of skilled labour. The Apex Trust established an Employers Advisory Committee, bringing together key employers for twelve months to review the current status of prisons and post-prison services. This resulted in a report titled 'Crime, Employment and Ex-Offenders—the Employers' Perspective' which has, in turn, resulted in the establishment of a range of projects. Three of these are discussed below.

- A two-year research and development project is under way to investigate a range of ways to introduce employers into the prisons and help prepare inmates for work;
- the establishment of a skills audit research project to identify local labour market skills requirements and compare those to identified skills of offenders. Where possible, linkages are made and/or programs established to provide the

necessary skills training to ensure effective employment placement of offenders upon release;

- after discussions with local employers, the Holloway Prison in the UK developed a scheme to allow prisoners nearing release to leave prison one day a week for work placement. Where possible and appropriate, individuals are placed with employers on release.

In conjunction with these three projects, extensive efforts are also being made to ensure that any developments link in to other support structures, therefore ensuring that individuals gaining skills and exposure to employers will also be aware of services and programs that can address other social and welfare issues they may face.

Similar efforts are made in the United States by the Missouri Department of Corrections. The Department has established an advisory committee of labour, business and industrial leaders to advise and assist prisoners and prisons in developing relevant industry work and training programs suited to the region in which the prison is located.

In the United States of America, extensive efforts have been made to try to ensure that individuals gain relevant skills within the prison system. For example, in some prisons, it is compulsory for individuals to take classes which aim to improve their literacy and numeracy skills. There are also extensive efforts to involve employer bodies in the establishment and operation of private companies within the prison system.

As is often publicised, one of the big moves in the United States is the privatisation of prisons. The implications of this move are continually being argued by various community sectors; however, there are some very positive outcomes as seen in Florida's Pride Program. The mission of Pride is to manage existing and future prison industries and enterprises as profit making ventures. There are now programs in 17 state prison institutions, employing 200 qualified managerial and supervisory staff who work with the public sector to ensure the skills taught are parallel to those in the community. The emphasis on relevant skills training greatly helps Pride when it assists with job placement of the trained prisoners on their release.

Another example of employer involvement in institutions is the Free Venture Program, run by the Californian Youth Authority in partnership with private industry. It aims to train offenders for meaningful jobs while assisting victims of crime and reducing institutional costs. Two distinct models undertaken within this program are outlined below.

- An Employer Model, where a company owns and operates a business inside the prison. The company has direct control over hiring, firing and supervision of the prison-based workforce and individuals are paid award wages. An example of this particular model can be seen in the Transwest Airline (TWA) project—a telephone computer-based service taking reservations for the airline—at the Ventura School in California. This business employs up to 68 young inmates on a part-time basis and guarantees them a minimum of four hours employment a week. When the project initially started several years ago, the company had concerns about prisoners' ability to carry out the tasks given. Now, the company directs most of its overload work to the prison.

- A second model, known as the Customer Model, is where the company contracts with the prison for the provision of goods or services for a fee. The prison has direct control over the hiring, firing and supervision of its prison-based workforce. This is similar to schemes currently operating in Australian prisons although, in America, individuals are again paid an award wage.

> In some instances, individuals can, while undertaking this customer model, also learn enterprise skills to enable them to become self-employed or employed in this area upon release. An interesting example of this is an animal grooming business at the Ventura School. Individuals participating in this program spend three days providing grooming for animals and two days undertaking an enterprise skills course. In several cases, students have established their own successful business upon release from prison.

In both these models, individuals are exposed to real-life working conditions, preparing them for employment upon release. What presently happens in Australian institutions is that the prison-based industry operates on contract models, but the offenders are not expected to work at a level expected in the regular workforce. This generates problems for individuals obtaining employment upon release and then working at the same pace that he or she worked while in prison.

As highlighted within the Free Venture Program, individuals are paid award wages. In receiving wages, they also have to pay taxes, and after tax is deducted, the wages are divided into the following categories; 25 per cent goes to the state to offset room and board costs; 15 per cent is paid in restitution for crime victims; 40 per cent is put aside in a forced savings account; and finally, 20 per cent is made available to the youthful offenders canteen fund.

Operating on this principle achieves three things: first, individuals can participate in a quality workforce; second, they can be seen to pay some form of restitution to the victims of crime; and third, a forced savings account ensures that they leave the prison system with some money in their pocket. This is often not the case in Australia where individuals leave prison with little or no money. In one particular case from the Ventura School, an individual who had participated in the animal grooming business while incarcerated was able to save more than $2,000. She used these funds, and the skills gained through the self-enterprise component of the grooming business, to establish her own business upon release.

The Customer Model as outlined above has also been undertaken at various work release facilities in the United States. This provides those on work release with an opportunity to establish a financial base while still under a sanction from the courts. It also enables them to enhance skills gained within the prison system and/or learn new ones that will benefit them when they are released. Having seen the skills and abilities of offenders undertaking these particular projects, employers will in many cases look more favourably on employing offenders upon release.

A new and innovative joint project—undertaken by the WA Department of Employment and Training and the Department of Corrective Services—revolves around individuals taking a self-employment course while in prison. The program is known as the 'Prisoners Self Employment Program' (PSEP) and two successful pilots were conducted in 1989. The program aims to:

- provide the opportunity for offenders to explore whether self-employment is a viable employment option for them on release; and

- coordinate community and government resources to assist offenders to develop a viable business idea(s) and upon release support them while they establish and maintain that enterprise/business.

The three key components of the program are:

- the course, which involves 35 hours of tuition on subjects ranging from life planning and goal setting to market research and business planning. The course

has been adapted from an existing program run by the Department of Employment and Training for the general community;

- post course forums, providing individuals with one-to-one support to further develop their business plan;

- linkage to a business mentor before release who provides assistance and advice during development of the business plan and in the early stages of operation.

Although it is yet too early to qualify or research the impact of the program, the reactions of offenders and employers to date has been very positive. Two course participants have, upon being released, undertaken the similar course run in the general community. Several others have indicated that the course helped them gain employment upon release, even though it is not self-employment.

The exercise has also provided the opportunity for employers to become more informed and better educated as to why people are in the prison system. This initial involvement has made them realise that there needs to be closer liaison between employer bodies, Corrective Services and other institutions dealing with offenders and ex-offenders. They also recognise that most people entering the judicial system are unemployed and lack skills.

Skills training in prison is another issue that needs to be seriously looked at. In many Australian prisons, individuals can gain some skills through employment in the secondary or primary prison industries. In many cases, however, the training and skills gained within those industries are not recognised in the labour market.

Bathurst Prison in New South Wales has an extensive apprenticeship program whereby individuals with long terms of imprisonment can complete a formal apprenticeship. Upon release, they are fully qualified tradespeople. Individuals in WA can also undertake apprenticeships but legislation prevents them from becoming fully qualified tradespeople until they are formally indentured by an employer once released. There is also very limited trade union involvement in Western Australian prisons, creating another hurdle that needs to be overcome.

In Europe, the unions are involved in the provision of trade training in prisons. This greatly enhances an individual's chances of gaining employment upon release because their certificate is widely recognised throughout the field and there is no reference as to where the individual gained the trade skill. The unions recognise that individuals from the prison system should have equal opportunity to access the employment market.

As mentioned earlier, company and institution partnerships have been established where companies provide relevant skills training direct to offenders to ensure they have the skills to fill vacant company positions. This principle of providing relevant and recognised skills training to individuals to satisfy current labour market demands should, where possible, be incorporated into prison training. Having taken the time to appropriately skill prisoners, they must then be linked to suitable jobs upon their release.

The New York State Department of Corrective Services has established a state-wide computer system to address this issue. The system contains information on all offenders in prison and/or on probation, listing their level of skills and what they have achieved while in prison and on parole. This listing is then matched to a list of all identified job specifications and opportunities to inform the offender what types of jobs he could gain upon release. This system is also linked to the Department of Employment to assist with job placement of offenders released from prison.

Individuals gaining a whole series of skills to compete in the labour market often still have a limited support structure to help them achieve economic independence. This, combined with the community's negative attitude towards employing ex-offenders, means

appropriate support networks must be established to place individuals into employment, education or training and enable them to access other support services such as accommodation. Several projects addressing such issues are outlined below.

Victoria's Second Chance Business Register has only one objective: to provide a database of employers prepared to offer, without prejudice, employment to individuals with a prison record or currently serving community-based sanctions. All referring agencies dealing with offenders and ex-offenders can access this database. The Second Chance Business Register aims to:

- maintain a computer register of businesses offering employment to ex-offenders;
- increase employer awareness of the needs of ex-offenders and enlist their support in rehabilitation;
- link employers with referring agency staff seeking to place ex-offenders in the workforce;
- develop a support network for ex-offenders in employment;
- work with referral agencies to help motivate ex-offenders to take and retain jobs.

People who can access the Second Chance Business Register are those who:

- have a criminal record and are actively seeking work;
- prefer to be honest about their past; and
- have access to a referring worker who can provide support for three months after placement.

A key element in this project's success is the fact that an individual placed with an employer is supported for up to three months by that agency, thereby addressing the ex-offender's needs outside the workplace. In addition, the employer, by taking on the offender without prejudice, makes a commitment to provide that employee with additional support, reducing the chance of failure. Such support includes allocating a good role model from their staff to help the new employee settle into the workplace and the community. The result is a permanent change in the offender's life, rather than merely a change in his or her employment status.

Although the Second Chance Business Register has only been operating since late 1988, it has had, and is continuing to have, success with Melbourne businesses offering employment, training, and professional support to assist individuals to attain and retain employment. Second Chance is convinced that the increased employer awareness also provides unforeseen benefits to the client group, regardless of whether they are referred to Second Chance. There is growing optimism in the client group about their ability to enter and remain in the workforce. They see employers viewing them as individuals, not just ex-offenders. Second Chance would argue that placements are not the project's sole indicator of success. Wide publicity has opened up other non-quantifiable areas which benefit the whole client group.

A series of support agencies assist in the welfare concerns of Australian offenders, ex-offenders and their families. The only organisation providing such a service in Western Australia is Outcare, which was mentioned earlier.

The Outcare program, and others throughout Australia, provide accommodation, welfare and, in some cases, employment assistance. However, many of these organisations operate on a welfare model, perpetuating the low self-esteem, low self-expectation problems mentioned earlier.

Pioneer Human Services—a privately funded, non-profit organisation operating out of Seattle, Washington—offers similar services, but attacks the problem using an enterprise model. The organisation provides a positive role model to the ex-offenders whom it is trying to assist. The organisation works to sell its skills through the provision of services rather than asking for government handouts. It provides a range of services including housing, alcohol and drug treatment programs, and contracted correctional programs including work release facilities and an electronic home detention monitoring service. Finally, it conducts a range of enterprises, providing marketable services to the community while providing jobs, training and work experience for ex-offenders.

This organisation has an annual turnover of more than $13m, of which 75 per cent is gained through commercial operations and 25 per cent through government contracts! Of its 200-strong workforce, 80 per cent are ex-offenders, mostly people with an alcohol and drug abuse problem. Pioneer Human Services provides a complete range of support services for ex-offenders. Individuals can be housed, employed, and have their social problems addressed through services provided by the organisation. In addition, several of the organisation's enterprises involve the preparation of the buying and selling of food—giving the ex-offenders a low-cost but quality food source.

Pioneer Human Services' main enterprise is Pioneer Industries—a light metal fabrication facility contracting with the Boeing Commercial Airplane Company and other Seattle firms. This industry was established following an approach to Boeing for the opportunity to undertake a percentage of their light fabrication work. Several other US firms, like Boeing, have a corporate philosophy to offer a percentage of their contract work to non-profit organisations rather than offer them money in the hope that it will benefit disadvantaged groups in the labour market. Such an approach has the potential to allow Australian organisations to expand their existing welfare and accommodation services to include an enterprise component.

Pioneer Enterprise employees must be free of alcohol and drug use and are required to undergo a urine test before and during employment. Employees must also undertake a minimum of three hours on-the-job training as part of their 40-hour week. The training can be job specific or relate to basic education or personal development. Employment is provided for an 18-month period and is undertaken in three stages. Each six-month stage is progressively more challenging.

Upon completion of their term, assistance is given to the individual to be placed into employment in Seattle or other States. In some cases, particularly in the light metal fabrication industry, several offenders have established sub-contracting businesses with the company so it can meet the contracts given by Boeing.

There is a staff turnover of about 180 per cent in the enterprise area, most of which occurs in the first 30 to 60 days of employment. One of the main reasons for the high turnover is that individuals return to alcohol or drugs. Those who do are channelled back into the organisation's alcohol and drug treatment programs or linked to other government and non-government programs. This provides an ongoing support structure for each individual, in the hope that he or she will eventually return to Pioneer Industries as a positive contributing member of its workforce.

Pioneer Human Services also runs a hotel in downtown Seattle. The hotel is 'dry' and has 132 rooms—of which 45 are used for alcohol and drug free living, 50 are allocated for paying guests and 37 are occupied by long-term residents who lived there before it was bought by Pioneer Human Services. The hotel has a year-round 95 per cent occupancy. A drug rehabilitation program is run in the hotel to help residents address their alcohol or drug abuse problem. Anyone—without exception—caught in possession of alcohol or drugs is asked to leave the hotel within 24 hours. This provides a secure environment for those people trying to beat an alcohol or drug problem. It also exposes the wider community—the hotel's paying guests—to people who are usually seen as social drop-outs. Incredibly, this hotel, given all the services it provides, is self-financing.

The cost of crime in terms of money and resources, and also in human terms, is enormous. The hardships faced by the victims and the offenders have long-term effects on the development of all communities. To keep people out of prison and reduce the impact of crime on the community, programs developed within prisons, or as alternatives to prison must enable individuals to obtain skills so they can participate equally in the community. Individuals must have the opportunity to break the crime/unemployment/crime cycle by securing their economic independence through work. The community must also get more involved in providing sanctions (custodial or non-custodial) to individuals. If not, individuals will continue to commit crimes because they do not have the skills and abilities to participate in the community legitimately.

The offenders, and the community, deserve to have that chance.

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