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CURRENT ISSUES IN CORRECTIONAL TREATMENT AND EFFECTIVE COUNTERMEASURES: OVERCROWDING OF PRISONS, THE MANAGEMENT OF WOMEN, FOREIGN PRISONERS AND THOSE CONVICTED OF DRUG RELATED OFFENCES. AN AUSTRALIAN PERSPECTIVE

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LECTURE 1. OVERCROWDING

I. INTRODUCTION

The rising number of people in prison around the world has been the subject of international interest particularly over the past two decades.

The number of people in custody *per capita* varies enormously over time and between jurisdictions and interpretation of these differences particularly between countries is difficult. What is clear however, is that the use of imprisonment as a form of punishment and incapacitation is increasing in most countries and that overcrowding (which I would define as a shortage of space and resources relative to the size of the population) in many places is becoming a significant problem.

It is also apparent that there is no one single factor that can be identified as being primarily responsible. There has been a lot of conjecture about the impact of the international drug problem and about rising crime rates, but researchers have consistently failed to show that this is the root cause.

Overcrowding itself is more than just a shortage of bed space, it has implications for the levels of programmes activity, hygiene, violence etc. It can be an obstacle

to the realisation of many of the objectives of a modern correctional system.

The dilemma of prison overcrowding encourages a number of logical solutions. The approach that is taken in each country will be the outcome of a number of factors including the philosophy of punishment, the viability of alternatives to imprisonment, economics, political and populist ideology and the flexibility of the legislative framework. There are essentially three ways to solve the problem:

1. Reduce the number of prisoners
2. Increase the scale of available facilities and resources (build more gaols)
3. Rationalise the available resources and facilities e.g. to double up in accommodation areas and to reallocate funds for rehabilitation programmes to meet more basic needs like food and clothing.

Unfortunately for prison administrators it is usually only the third of these options over which they have any direct influence.

In some countries the option of reducing prisoner numbers will not be considered because the number of people in custody may be regarded as a positive outcome of good law and order policies. In other countries the option of building more gaols may not be possible because of economic constraints. In many jurisdictions a combination of each of these approaches

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will prevail. This is certainly the case in Australia.

Whatever the approach, rigorous research is required to understand the causes of overcrowding and to ensure that whatever strategies are adopted do produce the desired outcome. A solid research base is also required to make accurate predictions about the prison population which can then be used to inform the planning process and decisions about the impact of new policies and legislation. In most jurisdictions including Australia, there are large gaps between theory, empirical research and practice.

In this paper I will explore some of the theories about prison population growth. I will then use the situation in New South Wales as a case study to identify factors contributing to the recent inmate population increase. I will then outline some of the strategies we have used and provide an overview of why these may not have been as effective as hoped. I am not proposing that the NSW experience is representative, but that the approach to analysing the problem has broad applicability in all jurisdictions.

A note about comparing rates of imprisonment between countries

The main indicator used for measuring the use of imprisonment is the number of persons in custody per 100,000 total population. The number of people imprisoned is either taken on a particular date (usually 30 June) or from the average daily population over a given year. While this definition may be standardised, the first problem that comes when making comparisons between countries is exactly who is included in the total population. Some countries for example Australia and Canada do not include offenders under the age of 18 in their counts. Other countries maintain separate statistics for sentenced

and unsentenced components of the population or are only able to account for numbers imprisoned in federal or state facilities and not on local lock-ups. Forensic patients in secure psychiatric facilities may not always be included. Some countries include people detained for immigration violations who are awaiting deportation, others don't. The problem then with making comparisons is that differences in rate may simply be attributable to differences in the Counting method.

A second problem is that the number of prisoners per 100,000 population is static and obscures the relative impacts of the following dynamic determinants:

- The relative number of inmates on remand, the rate of admissions and the numbers bailed, the length of stay pre-trial
- the relative number of sentenced prisoners, the rate of sentenced admissions, the average length of detention
- the effect of parole and/or remissions

Some theories on the rate of imprisonment

It is useful to examine some of the theories put forward in the international literature to account for the recent increase in numbers in prisoners. My own experience indicates that those in government who make decisions about strategies for managing overcrowding seldom have a good understanding of this body of work and this had led to ill conceived policies.

Most of the international literature on prison numbers has come from the United States and United Kingdom that have both experienced unprecedented increases in the numbers of people in custody. In particular I would recommend as a classic

text on the subject a book called *The Scale of Imprisonment* by Franklin E Zimring and Gordon Hawkins which although published in 1991 is still provides a most compelling analysis of the American situation. For an international comparison of imprisonment rates read Young and Brown's *Cross-national Comparisons of Imprisonment*¹ I would also recommend a paper by Caplow and Simon published in 1999 and entitled "*Understanding Prison Policy and Population Trends*".

Theories about the determinants of the prison population have historically failed to give planners the capacity to accurately predict changes to the population. This may be because they have tended towards over-simplification. A well known flawed theory was put forward by Blumstein and Cohen in 1973 who after analysing the relatively stable American prison population prior to 1973 proposed that punishment was a self regulating system. They argued that:

if prison populations get too large. Police can choose not to arrest, prosecutors can choose not to press charges, judges can choose not to imprison... Similarly if the populations drop too far below the stable rate then pressure would develop to sanction certain kinds of behaviour that had previously been tolerated.

Unfortunately for Blumstein and Cohen the population of prisoners started to climb exponentially the following year and this increase has not abated.

The rate of crime and the rate of imprisonment

There is a body of contradictory and confusing evidence that attempts to establish a causal relationship between the rate of crime and the rate of imprisonment. Contrary to popular and political opinion there is no clear relationship between the imprisonment rate and the crime rate, though it has been argued that such a relationship does exist for specific categories of crime e.g. serious violent crime and this category of offender. Zimring and Hawkins compared imprisonment rates in the USA with reported crime rates including the FBI index crime rates. They found:

the lack of a direct and simple relationship that would enable us to successfully explain most fluctuations in the rate of imprisonment by reference to changes in crime rates.

Young and Brown (1993) carried out a comprehensive cross national comparison of imprisonment and concluded similarly that:

our conclusion would be that only a small measure of the differences in prison populations between one jurisdiction and another or the changes in prison populations within particular jurisdictions seem to be related to crime rates. Moreover to the extent that there is a relationship, we can not be certain that it is a causal one.

If the rate of incarceration is not directly related to the rate of crime then what explains it?

The literature can be conveniently divided into two approaches. The first of these has been called 'the deterministic approach' which points to the importance

¹ Young, Warren and Mark Brown. 1993. *Cross National Comparisons of Imprisonment*. In Crime and Justice: A review of Research, Vol 17. University of Chicago Press

of factors outside the criminal justice system. The second approach emphasises the impact of policy choices and attitudes within the criminal justice system.

Deterministic Approaches

Unemployment. Possibly the earliest attempt to unravel the determinants of the prison population were Rusche and Kirchheimer who in 1939 published a book called *Punishment and Social Structure*. They argued that labour market forces shaped the penal system and determined the number of individuals in custody independent of the policies and theories of punishment. This notion is still currently pursued by some who have demonstrated a correlation between the levels of unemployment and the number incarcerated. Despite some consistent findings, high unemployment is not universally associated with increasing use of imprisonment. It has been argued that economic factors that influence employment also have an impact on societal attitudes that may influence imprisonment.

Decline in the use of Psychiatric Hospitals. There are a number of studies that have reported an inverse relationship between the sentenced prisoner population size and the psychiatric hospitalisation rate. In some countries including Australia there has been a marked tendency towards deinstitutionalisation of the mentally ill who it has been argued are better off in community care. Unfortunately when this has failed the patients end up in prison custody.

Influence of capacity. Advocates of prison reform have often argued that incremental increase of prison capacity results in a corresponding increase in the prison population. This has formed the basis of arguments against building new prisons when overcrowding occurs. An

American National Institute of Justice study in 1980 claimed to show this and has been much cited in literature as evidence of such an effect. However in 1982 the data was re-analysed by Blumstein et al who found the conclusions to be incorrect. They also point out that in the USA:

there was considerable spare capacity in the 1960's, when crime was increasing but prison populations declined. We also believe that prison congestion or projected growth in prison population can stimulate increase in prison capacity to meet future needs.

Policy Choices and attitudes in the Criminal Justice System

'Law and Order' Policy Platforms

Many politicians respond to what they think the public want and advocate 'let's get tough on crime' policies. Influenced by the media, particularly popular television dramas, the public could be forgiven for thinking they were taking their lives in their hands as every time they walk down the street. The news is regularly filled with speculation about organized child sexual abuse and high level corruption in the government. Politicians, whether they are in government or waiting to be elected are more likely to introduce harsher penalties, increase the levels of policing and remove discretion from the judicial focus than the reverse. During election campaigns politicians seek to gain public confidence and mount campaigns where they effectively outbid their opponents in the law and order stakes. Once elected, governments then have a mandate to introduce new legislation that may result in increased sentences or even new offence categories.

Levels and effectiveness of Policing.

The level of Policing has been shown to have an impact on arrest rates and rate of

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

convictions. This can be independent of the levels of criminal activity. A good example is the area of illicit drug use, which in countries like Australia, USA and UK is almost endemic in certain parts of the population. If the Police were to target certain locations then the arrest and conviction rate could be doubled. Outstanding warrants may not be pursued if they are a low priority, but if the number of Police is increased this could create more opportunity for arrests.

Activity of courts. The level of court activity can influence the number of people in custody in a number of ways. The number of unsentenced people in custody is largely an outcome of the time it takes to bring matters to trial and sentencing. Lengthy court backlogs will result in larger numbers of people in custody on remand. Increasing the activity of courts results in shorter remand periods, but may also increase the number of sentenced receptions, particularly those on Bail.

Loss of faith in Rehabilitation. There are few correctional issues that have attracted as much debate in the correctional literature as the possibility of rehabilitation. Although the 'nothing works' slogan attributed to Robert Martinson in the 1970's has been disregarded in favour of the view that some things work, the impact of this loss of faith in the rehabilitative process continues to have some impact in some jurisdictions particularly where it can be used to rationalise spending. Faith and lack of faith in rehabilitation can both result in increases in the prison population depending on policy implications. The use of remissions and flexible parole opportunities has been eroded in many countries in favour of 'truth in sentencing' legislation that ensures that those incarcerated serve a designated minimum term or even a mandatory term.

Alternatively e.g. the belief that drug rehabilitation programmes in custody are effective will ensure that a person is incarcerated in favour of community based programmes. There are numerous examples of policies which directly emphasise or de-emphasise the role of imprisonment having a corresponding impact on the size of the inmate population. There are also examples in the literature of policies that have failed to have the desired impact. E.g. there are numerous examples of alternatives to custodial sanctions that have failed in that they have resulted in an increase rather than a decrease in the numbers in custody through the process of net widening.

Moral Panic. High profile crimes, particularly unusually violent offences involving women and children have been shown to have significant impacts on the prison population. The sense of moral outrage that follows these events coupled with the view that the very fabric of society is being threatened can have both direct and indirect consequences for the criminal justice system as a whole. In the United Kingdom following the murder of a young boy (Jamie Bulger) by other children, there was evidence of a shift away from leniency in sentencing. In Australia the murder of two young girls in a remote coastal area by two men one who was on Bail the other periodic Detention, resulted in the removal of the presumption in favour of Bail for certain offences and in the changes to the revocation processes for periodic detainees. Both of which I will demonstrate later contributed to the rise in the inmate population.

Court Sentencing Practices. While each of the factors that have been described above may influence the number of people in custody, it has been shown that it is not the number of admissions, but changes to the length of sentence that has the greatest

impact on the number of people in custody. More specifically it is an increase in the number of people serving longer sentences that will have the greatest effect. Increased Sentence lengths have become a reality in some countries through the introduction of mandatory sentencing, truth in sentencing, "Three strikes and you are in", sentencing guidelines etc. These remove judicial discretion. Prescriptive sentencing rarely works to reduce sentence lengths.

It usually left to the courts to determine who will participate in alternatives to full time prison sentences. There has been mixed success with these strategies but a lot of criticism for net widening despite carefully constructed legislation

II. NEW SOUTH WALES - A CASE STUDY

The New South Wales Department of Corrective Services is responsible for the management of approximately 7400 offenders in full-time custody, 1300 offenders on periodic detention and 17600 offenders subject to community supervision. New South Wales is one of six states and two territories, who manage their own criminal populations. There is no federal system and New South Wales, the state with the highest population accounts for close to one third of people imprisoned in Australia.

The operations and management of the Department have changed dramatically in the past 25 years. The introduction of specialised programmes for inmates, intensive training for staff, specific management plans for women and aboriginal inmates, and case management, combined with increased levels of inmate participation in education and work programmes, among other things, have altered the practice of corrections in this state.

The fundamental tenet that "A person is sent to prison *as* punishment and not *for* punishment"² is reflected in the Department's mission to provide safe and humane conditions for those incarcerated.

This Department plays a crucial role in the justice system but it does not determine the number of people sent to prison. Sentencing trends and the level of judicial use of alternatives to full-time imprisonment are issues best addressed by the judiciary.

III. RECENT TRENDS IN THE NSW PRISON POPULATION

The graph on the following page shows the daily average number of inmates in NSW correctional centres (excluding periodic detainees) in the period from January 1988 to November 1999. Detailed data including the breakdown into males and females is given in Appendix 3. The graph and associated data show that:

- in the four years from January 1988 to January 1992, the prison population grew rapidly. The male inmate population rose from 3750 to 5679, a rise of 1929 (51.4%), and the female inmate population rose from 204 to 331, a rise of 127, (62,3%). These increases occurred mainly in the three years following the commencement of the *Sentencing Act 1989* in September 1989. The *Sentencing Act 1989* introduced the principle of 'truth in sentencing' which removed the capacity for remissions and increased the length of time served. It should also be noted that the strength of the NSW Police Service increased from 11,236 in 1987

² *Report of the Royal Commission into New South Wales Prisons*, NSW Government Printer, 1978, pages 49-51. See also recommendations 6 and 7 of the Nagle Report, on page 463.

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

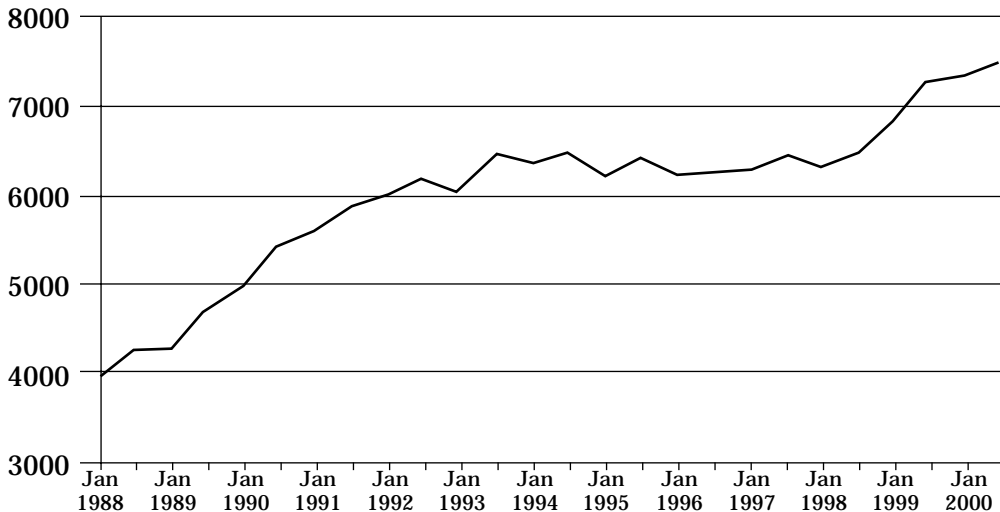
to 12,857 in 1992, an increase of 1621 (14.4%)

- in the five years and six months from January 1992 to June 1997, the prison population continued to rise slowly, bearing in mind the time-span. During this period the male inmate population rose from 5679 to 6039, a rise of 360 (6.3%), while the female inmate population rose from 331 to 365, a rise of 34 (10.3%)
- in the next nine months, from June 1997 to March 1998, the male inmate population changed little, while the female inmate population fell substantially. In these nine months, the male inmate population fell from

6039 to 5959, a fall of 80 (1.3%), but the female inmate population fell from 365 to 294, a fall of 71 (19.5%). The reasons for this substantial fall in the female inmate population are not known

- in the two years from, from March 1998 to March 2000, the prison population grew rapidly. The male inmate population rose from 5959 to 7,000, a rise of 1,041 (17.5%), and the female inmate population rose from 294 to 452, a rise of 148 (50%). This high figure is partially explained, because the starting point, March 1998, recorded such a low female inmate population.

Populatoin of inmates in full time custody



Comparisons with other Australian Jurisdictions

The recent growth in the New South Wales prison population can be compared to trends in prison populations throughout Australia and the rest of the world subject to the qualifications I have already mentioned.

The rate of imprisonment in New South Wales increased from 133.1 to 152 per

100,000 adults, a rise of 14.2%, between the beginning of 1995 and the third quarter of 1999 (Australian Bureau of Statistics figures published in December 1999). The increase in the rate of imprisonment in New South Wales was exceeded by rises in other Australian jurisdictions during this period. The imprisonment rate in Queensland increased from 109.6 to 191.3 per 100,000 adults, a rise of 75%. The imprisonment rate in Western Australia

increased from 158.9 to 216.2 per 100,000 adults, a rise of 36%. The imprisonment rate in Victoria, which traditionally has had a comparatively low imprisonment rate, increased from 69.8 to 83.5 per 100,000 adults, a rise of 19.6%. South Australia reported the lowest increase in the rate of imprisonment of any Australian jurisdiction. In South Australia the rate rose from 118.6 to 120.6 per 100,000 adults, a rise of 1.7%.

The ratio of women inmates per 100,000 population in New South Wales was 13.5 in 1998, the rate had been 17.4 in 1992. In 1998 women were imprisoned in this State at a lower rate than in Queensland (20.5), Western Australia (23.4), Northern Territory (45.9), and South Australia (14). The Australian Capital Territory reported a female imprisonment rate of 5.1 per 100,000 population which was the lowest rate of any Australian jurisdiction. The national average in 1998 was 14.4.

The United Kingdom (UK) reported an increase in its rate of imprisonment from 96 to 125 per 100,000 adults, a rise of 30%, between 1994 and 1998. During the period 1987 to 1997, the average female prison population in the UK rose by 51%. This rise was substantially higher than the 24% rise in the male population during the same period. The UK recorded an 18% rise in its average female prison population from 1996 to 1997 compared with a 10% rise in its male population.

The United States of America (US) reported an increase in its rate of imprisonment from 403 to 645 per 100,000 adults, a rise of 60%, between 1995 and 1998. The number of men and women in US state and federal prisons rose by 4.7% and 6.5% respectively in 1998. This was the third consecutive year in which the increase in the female prison population exceeded the increase in the male

population. In the US, during the period 1990 to 1998, the number of female prisoners grew by 92% compared with a growth of 62% in the number of male prisoners.

The Netherlands, which in the past has had a relatively low imprisonment rate, has not been immune to the worldwide trend of increasing imprisonment rates. The Netherlands recorded an imprisonment rate of 51 per 100,000 population in 1993. The imprisonment rate rose to 75 per 100,000 in 1997 and to 85 per 100,000 in 1998.

IV. DYNAMIC PROCESSES UNDERLYING THE RECENT RISE IN THE NSW PRISON POPULATION

As reported above, the dramatic increase of over 50% in the NSW inmate population between 1988 and 1992, can be attributed to the introduction of the *Sentencing Act 1989*. This legislation introduced the principle of 'truth in sentencing' which removed the capacity for remissions and increased the length of time served. The population stabilised in 1992 by which time it has been argued Judges compensated for the impact of the legislation in some cases imposing shorter sentences. Truth in sentencing legislation was adopted following a scandalous episode in the criminal justice history of NSW where a Government Minister, in collusion with others was found to be taking bribes to ensure the early release of criminals. The Minister himself ended up in custody.

The next period of rapid expansion which occurred in the period from 1997 to the present is not so easy to explain. In the next section of this paper I will work through the component changes in the inmate population with a view to determining what may have brought about this increase.

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Immediate causes of a rise in a prison population

The actual number of people imprisoned at any point time depends on four factors:

1. The number of persons received on remand
2. The length of time they stay on remand
3. The number of persons starting a sentence of imprisonment
4. The length of time they serve.

Data from NSW for the period from 1997 to 1999 corresponding to each of these factors is presented below.

Factor 1. The number received on remand

Table 1 (below) shows *unsentenced receptions* for the past three financial years

Table 1
Unsentenced Receptions

	1996-97	1997-98	1998-99
Male receptions	7083	7252	8571
Female receptions	714	788	1080

This table shows that the number of unsentenced receptions grew somewhat between 1996-97 and 1997-98, but that the number jumped substantially between 1997-98 and 1998-99, especially the number of female receptions,

A high number of inmates on remand places intense demand on Departmental resources and staff. A high number of remandees means a high number of inmate movements³, both to and from court and between correctional centres. It also means that there are more inmates on protection

³ In 1996-97 the Department made 100,462 inmates movements; in 1997-98 the figure was 111,636; and in 1998-99 the figure was 127,318 inmate movements. Source: NSW Department of Corrective Services, *1998/99 Annual Report*, page 12

and more inmates who are unable to associate with other nominated inmates in the correctional systems. The higher the number of these inmates, the greater the challenges in terms of placing inmates in suitable accommodation.

Remandees are, generally speaking, much more unsettled than convicted inmates who largely accept their situation and try to adapt to prison life.

Factor 2. Length of time spent on remand

Tables 2 and 3 (below) show unsentenced male and female receptions over the past three financial years, divided into those who spent 30 days or fewer on remand and those who spent more than 30 days on remand⁴:

Table 2
Unsentenced male receptions shown by time spent on remand

Time on remand	1996-97	1997-98	1998-99
30 days or fewer	4970	5066	5810
More than 30 days	2113	2186	2761
Total	7083	7252	8571

Table 3
Unsentenced female receptions shown by time spent on remand

Time on remand	1996-97	1997-98	1998-99
30 days or fewer	553	618	829
More than 30 days	161	170	251
Total	714	788	1080

It can be seen from Table 2 that the number of unsentenced male receptions grew somewhat between 1996-97 and 1997-98, but that the number jumped substantially between 1997-98 and 1998-99, both for short-term and long-term

⁴ NSW Department of Corrective Services, Research & Statistics Unit

remandees. Table 3 shows that the number of unsentenced female receptions grew somewhat between 1996-97 and 1997-98, but that the number jumped substantially between 1997-98 and 1998-99, especially the number of female inmates spending fewer than 30 days on remand. One conclusion which can be reached from Tables 1, 2 and 3 is that the length of time spent by inmates on remand has been a significant driving force behind the rise in

the prison population.

Factor 3. The number of Sentenced receptions

Table 4 (below) shows the most serious offence category for male and female sentenced receptions for the past two financial years⁵:

It can be seen from Table 4 that the increase in the number of male receptions between 1997-98 and 1998-99 occurred

**Table 4
Male and female sentenced receptions during 1997-98 and 1998-99**

Most serious offence category	Male Receptions		Female Receptions	
	1997-98	1998-99	1997-98	1998-99
Homicide	46	55	5	10
Assaults	1052	1166	77	73
Sexual offences	268	241	1	1
Robbery	386	473	27	45
Fraud	214	231	44	60
Property	1728	2059	217	229
Dangerous driving	78	98	6	10
Driving under the influence	212	231	9	5
Driving without a license	176	270	1	14
Breach of parole	388	542	39	47
Cancelled periodic detention order	354	466	29	35
Breach of home detention order	21	48	3	10
Breach of Drug Court order	0	13	0	4
Breach of recognizance (bond)	88	85	10	11
Breach of community service order	114	86	10	11
Breach of apprehended violence order	120	118	4	3
Other offences against order	126	122	11	17
Use/possession of illegal drugs	41	64	6	9
Selling illegal drugs	269	281	34	35
Importing illegal drugs	57	52	11	11
Making/cultivating illegal drugs	28	23	2	1
Other offences	90	77	8	5
Total	5856	6801	554	646

⁵ NSW Department of Corrective Services, Research & Statistics Unit

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

mainly in the following categories: property offences (331); breach of parole (154); assaults (114); cancellation of periodic detention orders (112); driving without a licence (94); and robbery (87).

The increase in the number of female receptions between 1997-98 and 1998-99 occurred mainly in the following categories: robbery (18); fraud (16); driving without a licence (13); and property (12).

It should be emphasised that Table 4 shows the *flow* of male sentenced *receptions*. It is not a “snapshot” at a particular date. “Snapshots” of the number of male and female sentenced inmates in custody, as at 30 June 1998 and 30 June 1999 sorted on the basis of their most serious offence category, are shown in Table 5.

Table 5
Male and female sentenced inmates as at 30 June 1998 and 30 June 1999

Most serious offence category	Male Receptions		Female Receptions	
	30 June 1998	30 June 1999	30 June 1998	30 June 1999
Homicide	440	460	26	29
Assaults	633	641	30	37
Sexual offences	640	619	3	3
Robbery	791	876	32	37
Fraud	165	174	34	37
Property	1087	1155	68	76
Dangerous driving	68	95	5	9
Driving under the influence	93	100	-	1
Driving without a licence	50	101	-	3
Breach of parole	259	352	23	29
Cancelled periodic detention order	136	228	10	15
Breach of home detention order	9	16	1	4
Breach of Drug Court order	N/A	1	N/A	1
Breach of recognizance (bond)	28	34	3	3
Breach of community service order	28	29	4	4
Breach of apprehended violence order	21	21	-	2
Other offences against order	59	59	7	7
Use/possession of illegal drugs	27	26	5	2
Selling illegal drugs	316	324	20	25
Importing illegal drugs	186	208	11	14
Making/cultivating illegal drugs	38	35	2	-
Other offences	61	56	1	2
Total	5135	5608	285	340

Factor 4 Length of time served

Table 6 (below) shows the length of time served/to be served by male sentenced inmate receptions for the past three financial years⁶:

Table 7 (below) shows the length of time served/to be served by female sentenced receptions for the past three financial years⁷:

Table 6
Time served/to be served* by male sentenced receptions

Time served	1996-97	1997-98	1998-99	Increase between 96-97 and 98-99
0-3 months	1962	2094	2565	603
3-6 months	1317	1428	1708	391
6-12 months	1224	1232	1317	93
1-2 years	606	601	635	29
2+ years	454	501	576	122
Total	5563	5856	6801	1238

* time served/to be served = sentenced reception date to end of fixed or minimum term

Table 7
Time served/to be served* by female sentenced receptions

Time served	1996-97	1997-98	1998-99	Increase between 96-97 and 98-99
0-3 months	236	293	333	97
3-6 months	134	122	158	24
6-12 months	71	79	87	16
1-2 years	33	35	33	0
2+ years	25	25	35	10
Total	499	554	646	147

* time served/to be served = sentenced reception date to end of fixed or minimum term

Many inmates are in prison for long periods of time, indicative of the seriousness of their crimes. As at 30 June 1999 there were 5594 male sentenced inmates. Of this number, 3208 (57.3%) were serving sentences of two years or more. As at June 1999 there were 340 female sentenced inmates. Of this number,

140 (41.2%) were serving sentences of two years or more⁸.

What is influencing these factors?

Increases and decreases in the above factors may be the direct and indirect result of changes in:

5. Crime rate
6. Police activity
7. Court activity/outcomes

⁶ NSW Department of Corrective Services, Research & Statistics Unit

⁷ NSW Department of Corrective Services, Research & Statistics Unit

⁸ NSW Department of Corrective Services, Research & Statistics Unit

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VISITING EXPERTS' PAPERS

8. Breach of orders.

Crime Rate

Overall the crime rate in NSW during the period from 1997 to 1999 did not increase. The NSW Bureau of Crime Statistics and Research in 1999 issued a media release stating:

For the first time in more than a decade NSW has no rising crime problem.

...Between July 1997 and June 1999 there were falls in sexual assault (down 17per cent), indecent assault and related offences (down 20per cent), robbery with a firearm (down 29per cent), and motor vehicle theft (down 14per cent).

Perhaps not surprisingly, measures of law enforcement activity are significantly higher now than they were two years ago.⁹

During the same period however, the number of Murders increased by 7% (from 112 to 121), common assault increased by 6%, fraud increased by 8%.

Police activity

On 24 September 1999 the NSW Bureau of Crime Statistics and Research published the *New South Wales Criminal Courts Statistics 1998*. When doing so, the Bureau issued a media release stating:

There have been significant increases in the number of people brought before the Local Court on criminal charges, according to the annual court statistics report of the NSW Bureau of Crime Statistics and Research.

⁹ NSW Bureau of Crime Statistics and Research, *NSW Recorded Crime Statistics: Quarterly Update June 1999 Media Release*, 6 August 1999

The Local Court in New South Wales deals with the vast majority of criminal charges laid by police.

According to the report there have been increases in appearances for offences in the categories of: good order (+12.3%), environmental (+11.0%), against justice procedures (+9.8%), drug (+8.6%), driving (+5.7%), and theft (+4.7%).

There was a particularly large increase (+32.6%) in the number of appearances for "other offences against good order". This was mainly due to new provisions in the Summary Offences Act which prohibit the carrying of knives¹⁰.

The Police Service has reported that arrest figures increased in 1998-99 by the following percentages, compared with the previous year:

Breaching bail conditions	+33%
Goods in custody	+15%
Drink driving offences	+22%
Driving while disqualified	+48%
Possession/use of cocaine	+48%
Possession/use of narcotics	+32%
Possession/use of cannabis	+ 8% ¹¹ .

The Police Service also reported that the proportion of police in the front line had increased as follows since 1996:

1996	74% of police "in front line"
1997	83%
1998	85% ¹² .

¹⁰ NSW Bureau of Crime Statistics and Research, *Media Release: NSW Criminal Courts Statistics 1998*, 24 September 1999

¹¹ NSW Police Service, 1998-99 *Annual Report*, page 13

¹² NSW Police Service, 1998-99 *Annual Report*, page 4

Court activity/outcomes

Variations in the level of resources allocated to criminal matters by the courts, in any given year, are likely to have a direct impact on the inmate population. The Report *Key Trends in crime and Justice 1999*¹³ shows that between 1995 and 1999 there was an increase in the number of cases brought before the Local Court and an increase of 24.3 % in the percentage of individuals refused bail by the local courts. In the District Court Bail refusals were up 10.6 % in the period from 1997-1999 but the number of new cases registered went down by 11.4%. On 12 December 1998 the Bail Amendment Act 1998 commenced. This Act increased the number of offences for which there is no presumption of bail.

In its media release of 24 September 1999, referred to previously, the Bureau of Crime Statistics and Research also commented:

The use of imprisonment ... appears to have increased in the Local Court.

In 1997, 5,881 people (6.4 per cent of those found guilty) were sentenced to a term of imprisonment by a Local Court. In 1998, the number of people given a sentence of imprisonment by a Local Court rose by 12.4 per cent, to 6,612 people (or 7.0 per cent of those found guilty).

The number of persons brought before the NSW Higher Criminal Courts did not increase between 1997 and 1998. However, the use of imprisonment did increase.

In 1997, 1,588 people (61.9 per cent of those convicted) had a sentence of imprisonment imposed on them by the

District or Supreme Court. In 1998, this figure rose by about 9 per cent, to 1,736 people (or 63.1 per cent of convicted offenders).¹⁴

The Report *Key Trends in crime and Justice 1999*¹⁵ shows that between 1997 and 1999 the number of persons sentenced to imprisonment for cases finalised in the Local Courts had increased by 19.8% (5,841-6,995), and that the average length of sentence imposed by the Local Court on women had increased by 13.9% during the same period. (There was no significant change in sentence length for men in the local court during this period.). In the District Court the number of new cases decreased by 11.4% from 1997-1999, but the number of women found guilty who received a prison sentence was up by 36.2%.

A recent publication by the Bureau of Crime Statistics and Research, which analysed the recent rapid rise in the female prison population in NSW, concluded:

In the Local Court:

- *There has been a substantial increase in the overall number of women convicted in the NSW Local Court.*
- *In addition to the increased number of women found guilty, the proportion receiving prison terms has also increased. This is probably due to convictions for offences against the person and against justice procedures accounting for a greater proportion of offenders, as well as the increased popularity of prison as*

¹³ NSW Bureau of Crime Statistics and Research, *Key Trends in Crime and Justice 1999*, June 1999

¹⁴ NSW Bureau of Crime Statistics and Research, *Media Release: NSW Criminal Courts Statistics 1998*, 24 September 1999

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

a penalty for some offences dealt with in Local Courts.

- *Sentence length has also risen slightly.*

In the Higher Courts:

- *The overall number of women sent to prison from the Higher Courts has increased over the past five years, despite the number of convictions dropping by 31.5 per cent,*
- *The increase in women sent to prison may be due to the number of convictions for robbery (for which prison is a common penalty) nearly doubling over the past five years.*
- *In addition, the proportion of female offenders receiving prison terms for robbery property crimes, and drug offences has increased over the past five years.*

Therefore, the increase in female imprisonment [from "early 1998"] is likely to be due to both harsher penalties handed down by the courts, and a shift in the types of offences being committed by women towards those more likely to receive prison penalties. The growth in the number of women appearing in court for offences such as robbery may be related to the general growth in heroin use among women.¹⁶

¹⁵ NSW Bureau of Crime Statistics and Research, *Key Trends in Crime and Justice 1999*, June 1999

¹⁶ Fitzgerald, Jacqueline: *Women in Prison: the Criminal Court Perspective*, Crime and Justice Statistics Bureau Brief, Issue Paper No.4, NSW Bureau of Crime and Statistics Research, December 1999

A factor which may start to affect the rise in the inmate population is the handing down by the Court of Criminal Appeal of Guideline Judgments.

In 1999 the Court of Criminal Appeal handed down four Guideline Judgments.

In *R v Jurisic*, Spigelman CJ said:

As in England, it appears that trial judges in New South Wales have not reflected in their sentences the seriousness with which society regards the offence of occasioning death or serious injury by dangerous driving.¹⁷

In *R v Henry Barber Tran Silver Tsoukatos Kyroglou Jenkins*, Spigelman CJ said, after reviewing sentencing statistics relating to armed robbery:

These statistics strongly suggest both inconsistency in sentencing practice and systematic excessive leniency in the level of sentences. They justify the promulgation of a guideline judgment.¹⁸

On the other hand in *R v Wong & Leung* Spigelman CJ said, after reviewing sentencing patterns relating to heroin and cocaine offences:

In such circumstances the considerations relating to inconsistency arid to systematic inadequacy of sentences to which reference is made in *Jurisic* and *Henry...do not arise*.¹⁹

¹⁷ *R v Jurisic* (1999) 101 A Crim R 259 at 269

¹⁸ *R v Henry Barber Tran Silver Shoukatos Kyroglou Jenkins* (currently unreported) [1999] NSWCCA 111, at paragraph 110

¹⁹ *R v Wong & Leung* (currently unreported) [1999] NSWCCA 420 at paragraph 113

Similarly in *In the matter of the Attorney-General's Application (No. 1)* Grove J said, after reviewing sentencing patterns relating to break, enter and steal:

I am unpersuaded that the material to which the Court has been referred leads to a conclusion that there has been shown to be a general pattern of leniency...²⁰.

Breach of orders

If a periodic detainee, home detainee, or parolee breaches his/her order, the court or Parole Board (as the case may be) is likely to revoke the order and issue a warrant for the apprehension of the offender and his/her return to prison. If a person serving a community service order or a person under a bond breaches the conditions of the order or bond, the court may sentence the offender to imprisonment.

On 1 February 1999 amendments to the *Periodic Detention of Prisoners Act 1981* commenced. These amendments shifted from the courts to the Parole Board the function of cancelling periodic detention orders (if a periodic detainee fails to comply with the requirements of periodic detention, the detainee is liable to have his/her periodic detention order cancelled). Under the previous system, cancellation procedures were taking many months for listing and determination.

There was an increase in the number of cancellations of periodic detention orders in 1999. The Parole Board made initial determinations to cancel 1126 orders in the 12 months from 1 February 1999. The courts cancelled 424 orders in 1997-98. The Board later reviewed its decisions to cancel

588 of these orders, as required by law. Of the cases reviewed, the decision to cancel the order was rescinded on 125 occasions and cancellation was confirmed in the other 463 cases. Of the cases in which cancellation was confirmed, on 25 occasions the remainder of an offender's sentence was converted to an order for home detention.

In 1999, the Parole Board revoked the home detention orders of 86 offenders which was 17 more than in the previous year.

In 1999, the Parole Board revoked the parole of 1159 offenders which was 223 more than in the previous year.

What does the NSW Case Study Show us?

- The number of persons received on remand has increased significantly between 1997 and 1999. This may be due to the combined impact of the increase in the number being refused Bail and the increase in Police activity, but it is not linked to an increase in criminal activity.
- the length of time spent on Remand has increased significantly
- the number of sentenced inmates received in custody increased during the same period. Major increases were seen in the numbers serving sentences for property offences, breach of Parole, assaults and cancellation of periodic detention orders. These categories of offences are unlikely to have attracted lengthy sentences.
- the number of people serving sentences greater than two years increased by 26% in the period from 1997-1999 and 30% for those sentenced to less than 3 months.
- the number of people who had their parole order, home detention order or periodic detention order revoked increased.

²⁰ *In the matter of the Attorney-General's Application (No. 1)* (currently unreported) [1999] NSWCCA 435 at paragraph 28

Each of the above factors has contributed to the increased inmate population. Given that there has been no demonstrated equivalent increase in criminal activity, the issues that are most likely to have influenced this include:

- increased levels of Policing
- removal of the presumption in favour of Bail
- reduced tolerance of Parole violations
- reduced tolerance of periodic detention order violations (net widening)
- increase in the length of additional term served by inmates

In a recent article on Australia's Rising prison Population²¹, Arie Frieberg points to a more subtle force at work.

There is no one single factor... responsible for the steady but significant increase in Australian prison numbers. Although the level of crime differs between states as does the mix of offenses, there is no evidence of increases concomitant to the increases in the prison populations. ... rather the explanation is to be found in the courts' reaction to legislative signals and calls for "tougher" penalties and sentences.

Frieberg includes among these signals

increased statutory maximum penalties; statutory changes in the aims of sentencing to favour incapacitative sentences; introducing indefinite sentences, mandatory and minimum sentences; requiring cumulative rather than concurrent sentences; and emphasising the rights and interests of victims of crime in the sentencing process.

²¹ Frieberg, Arie Understanding Rising Prison Populations In Australia, Overcrowded Times, October 1999.

V. DEALING WITH OVERCROWDING

As I indicated at the outset, developing an understanding of the causes of the increasing prison population is a necessary precursor to developing strategies to deal with it. This includes developing models to predict future trends.

It is not required however for Capital Works solutions that include the construction of new facilities, the adaptive reuse of old building stock and the expansion of existing facilities are a logical solution, but may be beyond the means of the government or correctional authority. In NSW currently, construction and or planning is underway for three new correctional centres catering for men and women. This has become controversial and subject to a review by Parliament spurred on by groups who believe that building more gaols is an unacceptable solution.

I do not intend to explore the capital works solutions in this paper (as they are obvious) other than to mention that there is a body of literature about correctional centre design that promotes innovative building technologies. Among the more curious solutions to the shortage of accommodation is a Western Australia example where steel shipping containers have been converted to temporary inmate accommodation. In western NSW a remote rural town that had been abandoned by the railways has been purchased as a correctional centre and base for mobile prison camps that operate in national parks in the region.

Reducing The Number of People in Full Time Custody

Reducing the number of people in custody is I believe is a better objective, though often harder to achieve. There are three groups of options for achieving this.

1. Reversing those processes that have been found to have a causal impact (from the NSW case study for example this could include for example reducing Police activity, restoring the presumption in favour of Bail and reducing court delays. Only the last of these would be an acceptable option.)
2. Developing alternatives to full time custody eg Home Detention
3. Adopting decarceration policies eg decriminalization

Alternatives to imprisonment

In NSW imprisonment is intended to be a last resort. The imposition of Section 80AB of the *Justices Act 1902* states that “a Justice or Justices shall not sentence a person to full-time imprisonment unless satisfied, having considered all possible alternatives, that no other course is appropriate”. This was reinforced under Section 5 of *Crimes (Sentencing Procedure) Act 1999* which states that “a court must not sentence an offender to imprisonment unless it is satisfied, having considered all possible alternatives, that no penalty other than imprisonment is appropriate”.

In New South Wales, the following are regarded alternatives to full-time imprisonment²².

- fines
- probation in its various forms (order under section 556A of the *Crimes Act 1900*; order under section 558 of the *Crimes Act 1900*; order under section 432 of the *Crimes Act 1900*; order under section 554 of the *Crimes Act 1900*; common law bonds, including the “Griffiths bond”)
- community service orders
- periodic detention orders
- home detention orders
- Drug Court orders
- Suspended Sentences

The Probation and Parole Service, which is part of the Department of Corrective Services, is responsible for managing offenders in the community. The caseload of the Probation and Parole Service has increased in recent times, in particular, there was a 14% increase in the number of supervised probation orders made by the courts in the period December 1997 to December 1998. The number of these orders increased by a further 5% between December 1998 and December 1999. The Probation and Parole Service also assists judges and magistrates to make sentencing decisions by providing them with pre-sentence reports.

Pre-sentence reports

Pre-sentence reports are not alternatives to imprisonment. It is appropriate, however, to mention them here as pre-sentence reports play an important role in assisting a court to decide whether to impose a custodial sentence or a non-custodial sentence.

Judges and magistrates frequently require information about an offender to assist them in determining an appropriate sentence. Offenders are remanded, either in custody or on bail while a probation and parole officer prepares a report. The report provides verified information regarding the offender’s circumstances, an assessment of the offending behaviour, and any additional

²² Except for Drug Court orders, the alternatives listed have been taken from the report of the New South Wales Law Reform Commission on sentencing (Report No. 79, December 1996). The Drug Court commenced in February 1999. The Drug Court is able to make an initial sentence to the effect that an offender go to a correctional centre for detoxification and then attend a community-based program. If the offender fails to comply with the terms of the initial sentence, the court may set aside its initial sentence and make a final sentence which may mean imprisonment.

information relevant to sentencing. The report also includes an assessment of an offender's suitability for periodic detention and a range of community-based sentencing options such as community service work, an attendance centre order, supervised probation, ability to comply with a monetary penalty, and any other specified programmes considered appropriate. A proportion of the offenders on whom a pre-sentence report is prepared inevitably will receive a full-time custodial sentence due to factors such as the seriousness of their crime and their criminal antecedents.

The Probation and Parole Service provided 17,931 pre-sentence reports to the courts in 1995-96. In 1996-97, 18,624 reports were provided and 20,167 were provided in 1997-98. In 1998-99, 22,832 pre-sentence reports were prepared which was 4,901 more than four years previously. An example of a pre-sentence report is provided in Appendix 16.

Fines

Courts have imposed fines as an alternative to imprisonment for hundreds of years. The *Fines Act 1996*, which commenced on 27 January 1998, introduced a fine enforcement system which is based on a hierarchy of civil and non-custodial sanctions for the non-payment of fines with imprisonment being a sanction of last resort. Under the system, a court will only issue a warrant of commitment if a fine defaulter fails to comply with the conditions of a community service order. The *Fines Act 1996* does not apply to fines/warrants issued by the Commonwealth or other States or Territories.

The *Fines Act 1996* has diverted all NSW fine defaulters from prison (there are usually about three interstate fine defaulters in the NSW correctional system

at any one time). Prior to the commencement of this Act, a significant number of fine defaulters entered the correctional system. In 1995-96 and 1996-97, for example, 3,936 and 4,474 fine defaulters respectively entered the correctional system. It should be noted that eventually some persons will enter the correctional system because they have not completed community service orders made under the *Fines Act 1996*.

Probation orders

The various probation orders under the *Crimes Act 1900* have been with us for many decades; the notes to the *Crimes Act 1900*, contained at the end of the Act, state, for example, that section 556A was inserted into the Act in 1924. The "Griffiths bond", under which an offender may be released "to allow the court to assess their behaviour and capacity for rehabilitation before imposing an appropriate sentence"²³, derives from the case of *Griffiths v The Queen* (1977) 137 CLR 293.

An offender may be placed on probation supervision as a condition of entering into a recognizance (bond) to be of good behaviour. Probation is a sentence which combines sanctions for re-offending, or failing to comply with the conditions of the recognizance, with case management. The probationer is given assistance to develop goals and skills which are directed toward a law-abiding lifestyle through attendance at programmes organized by the Probation and Parole Service. The programmes are listed at Appendix 15.

In 1998-99, 8,394 offenders were placed on probation supervision which was 1,090 more than in the previous year. Eighty-seven percent (12,067) of the probation and parole orders completed in 1998-99 were

²³ NSW Law Reform Commission, *Sentencing*, Report No. 79, December 1996, page 83

completed successfully. In December 1999, 1,889 women were subject to probation supervision which was 8% more than in December 1997.

Community service orders

Community service was introduced in 1979 as an alternative to imprisonment. When the then Minister for Corrective Services, Bill Haigh, introduced the *Community Services Bill*, he said on two occasions during the second reading speech that "this sentencing measure should operate as an alternative to imprisonment"²⁴.

The NSW Law Reform Commission, in its discussion paper on sentencing, noted research carried out by the Judicial Commission which showed that it was doubtful that community service orders have always been used solely as an alternative to imprisonment²⁵. The Department considers that the original purpose of community service - as an alternative to imprisonment - has, in many cases, disappeared. Nevertheless, community service orders are a valuable and often used sentencing option which enables offenders to develop work skills and make constructive use of their time.

A community service order can be imposed with an offender's consent. Judges and magistrates may sentence suitably assessed offenders to perform community work to a maximum of 500 hours. Under

the scheme, offenders perform unpaid work at non-profit agencies. Community service orders are available across the state. As at 30 June 1999 there were 5,345 offenders supervised under community service orders which was 373 more than at the same time in the previous year. Eighty-two percent (7,901) of the community service orders completed in 1998-99 were completed successfully. The increase in both probation orders and community service orders indicates that sentencing authorities have not forsaken these options in favour of custodial sentences.

Periodic detention orders

Periodic detention was introduced in 1971 as an alternative to full-time imprisonment. When the then Minister for Justice, John Maddison, introduced the *Periodic Detention of Prisoners Bill*, he said:

*Under the proposed legislation courts will...be able to sentence an offender to a term of imprisonment for not less than three months or more than twelve months in the ordinary way but may order that the sentence be served as a sentence of periodic detention*²⁶.

In 1998 the Judicial Commission of New South Wales published a monograph on periodic detention. The monograph discussed at some length whether the introduction of periodic detention had led to net-widening; that is, whether courts, had imposed periodic detention in cases where, but for the existence of periodic detention, the offender would have received a non-custodial sanction. The Commission concluded that net-widening had occurred, and stated:

²⁴ New South Wales, *Parliamentary Debates (Hansard)*, Legislative Assembly, 29 November 1979, page 4258

²⁵ NSW Law Reform Commission, *Sentencing*, Discussion Paper No. 33, April 1996, pages 337-338, referring to Bray R & Chan, J, *Community Service Orders and Periodic Detention as Sentencing Options: A Survey of Judicial Officers in New South Wales*. Judicial Commission of NSW, Monograph Series No.3, April 1991

²⁶ New South Wales, *Parliamentary Debates (Hansard)*, Legislative Assembly, 18 November 1970, page 8041

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

A root cause of net-widening appears to lie in the perception of the courts that periodic detention is a lenient disposition and not "equivalent" to full time imprisonment.... The legislature clearly envisages a link between full time custody and the imposition of a term of periodic detention.

The amendments to the periodic detention legislation that commenced operation on 1 February 1999 strengthened the criteria against which those facing sentence are assessed for suitability for periodic detention. The amendments removed any doubt as to the requirement that a court must sentence a person to imprisonment before considering whether to make an order for periodic detention.

Periodic detention is available for offenders who live within a reasonable distance of a periodic detention centre. Courts are provided with pre-sentence reports by the Probation and Parole Service which contain relevant information about offenders in relation to matters such as: alcohol and other drugs; psychiatric or psychological conditions; criminal record, employment and other personal circumstances. When making a decision about periodic detention, the courts also take into consideration an offender's accommodation arrangements and access to suitable transport. As mentioned earlier in this paper, amendments to the *Periodic Detention of Prisoners Act 1981* have resulted in an increase in the number of cancellations of periodic detention orders. There are currently 1,302 offenders with current periodic detention orders.

Home detention orders

Home detention was introduced in 1997 as an alternative to full-time imprisonment. The object of the *Home Detention Act 1996*, as stated at the

commencement of the Act, is:

An Act to provide for home detention as a means of serving a sentence of imprisonment in certain cases.

In order to preserve home detention as an alternative to imprisonment, and thus avoid net-widening, section 11 of the *Home Detention Act 1996* requires that a court must first sentence an offender to imprisonment before calling for an assessment report from the Probation and Parole Service as to the offender's suitability for home detention. A review of the *Home Detention Act 1996* concluded that:

The HD Act was successful in limiting the potential for systematic net-widening within the criminal justice system by allowing access to a home detention assessment only after an offender had been convicted of criminal charges and sentenced²⁷.

In 1998-99, 350 offenders were admitted to the home detention program. Of these, 83% were men and 17% were women. Seventy-eight percent (258) of home detention orders completed during 1998-99 were completed successfully. The *Weekly States* for 16 January 2000 shows that, as at that date, there were 141 offenders on home detention orders. As home detention is truly an alternative to imprisonment, on 16 January 2000 there were 141 offenders serving a sentence *outside* a correctional centre who, prior to the commencement of the home detention scheme in February 1997, would have been serving a sentence *inside* a correctional centre.

²⁷ Heggie, Kyleigh. Review of the NSW Home Detention Scheme, Research Publication No.41. NSW Department of Corrective Services, May 1999, pages vii-viii.

Drug Court

The Drug Court is a special court with the responsibility for handling offences committed by people who are dependent on prohibited drugs. The Drug Court helps a drug dependent offender to deal with his or her drug dependency by combining medical treatment services with comprehensive and intensive supervision by the Probation and Parole Service.

To be eligible to be referred to the Drug Court an offender must, among other things, be likely to be sentenced to imprisonment for the offence with which the offender has been charged. If the Drug Court decides that an offender is eligible for the program and the offender is willing to obey the conditions of the court, the court will ask the offender to enter a plea of guilty to the offence. The Drug Court will then convict the offender for the offence. The sentence will then be suspended while the offender satisfactorily participates in the program. The sentence is reviewed when the Drug Court program ends.

The Drug Court was opened in February 1999. As of 3 February 2000, the Drug Court had made 226 orders. Of these, 189 were in relation to men and 36 in relation to women. There were 121 active participants in the program as of this date. The Drug Court program is a trial program and is limited to 300 participants.

Suspended sentences

Suspended sentences have not been a sentencing option in NSW since 1974 when they were abolished. The *Crimes (Sentencing Procedure) Act 1999*, re-introduced suspended sentences. Under section 12 of the Act, a court that imposes a sentence of imprisonment on an offender for a term of not more than two years may make an order suspending execution of the sentence and directing that the offender be released from custody on condition that the

offender enters into a good behaviour bond for a term not exceeding the term of the sentence.

Under section 99 of the Act, if a court revokes the bond for breach of the conditions, the order under section 12 suspending the sentence ceases to have effect and the offender must serve the whole of the original sentence in prison. The court may, however, make an order directing that the sentence of imprisonment to which the bond related (disregarding any part that may have already been served) be served by way of periodic detention or home detention.

It remains to be seen whether suspended sentences will truly divert offenders from prison, as has been the case with other sentencing options, if offenders persistently breach the conditions imposed. If the breach rate is high, suspended sentences may deliver offenders to *prison* rather than divert offenders *from prison*.

NSW has implemented a range of alternative programmes some of which have clearly diverted people from prison. The major risk with all "alternative sentencing options" is that sentencing authorities may impose those penalties on offenders who would not otherwise have been given a custodial sentence. While the same, or similar, number of offenders may be sentenced to prison, a wider circle of lesser offenders are brought within the "net" of the alternative penalties. When a proportion of those offenders breach the terms of their orders, they run the risk of full-time imprisonment. Despite measures taken to stop this from happening there is evidence of a significant net widening effect particularly for Community Service Orders and Periodic Detention

The other cautionary note is that alternative sentencing options are usually

115TH INTERNATIONAL TRAINING COURSE VISITING EXPERTS' PAPERS

applied to those who would otherwise have received a relatively short sentence. Logically, then large numbers of people in this category will have to be diverted to have a sustained impact on the prison population. (E.g. If 24 people who would have been sentenced to 1 month in custody are diverted in a 12 month period this would result in a reduction in the prison population of only 2 people.)

Decarceration options

There are a variety of policies other than alternative sentencing options that seek to reduce the number of people in custody these include:

- Decriminalisation e.g. removal of criminal sanctions from Cannabis related drug offenses.
- Executive adjustments - pardoning and amnesties
- Sentencing Reform - e.g. Minnesota Sentencing Commission

Rationalising Resources

On a more pragmatic level overcrowding can be addressed through the rationalisation of resources. As I indicated in the introduction, overcrowding is usually more than just a problem of bed shortages. It is usually accompanied by a shortage of resources. The most costly resource in the provision of corrections is usually staffing. Rationalisation can not compromise the agreed standards of care or national correctional standards that are usually derived from international charters of prisoners rights and conditions.

In NSW some the strategies that have been adopted to some effect include

- reducing time out of cells (down to minimum of 8 hours in maximum security gaols)
- rolling lockdowns - which results in the scheduled and rotated lockdown of

sections of a correctional centre.

Correctional Programmes that are often staff intensive and expensive also need to be rationalised. In NSW we have adopted a case management model and embraced the risk, needs and responsivity framework, which, when fully implemented will ensure that those who pose the highest risk of reoffending are targeted for the provision of programmes and services.

VI. CONCLUSIONS

Overcrowding which is the outcome of the interaction between a number of dynamic factors can be managed with good research and commitment. The simplest way to do this, which is to create more accommodation and to secure additional resources may not be possible or desirable. Causal factors are difficult to identify and to influence however there are a number of remedial strategies that can be implemented to reduce numbers. To be effective, alternatives to imprisonment must be imposed on those who would otherwise be in full time custody. Legislation must be thoughtfully drafted to reduce the possibility of net-widening,

Strategies that result in shorter sentences will be more effective than reducing the number of short sentenced admissions.

LECTURE 2 MANAGING WOMEN, FOREIGNERS AND DRUG USERS

I. INTRODUCTION

In New South Wales, the Department of Corrective Services has common objectives for all inmates irrespective of their gender, race or offending profile. Two key result areas as expressed in the Corporate Plan are:

RESOURCE MATERIAL SERIES No. 57

1. Managing Offenders - Safely and effectively manage offenders while enforcing the orders of the court and discharging the 'duty of care';
2. Reducing Offending Behaviour-provide opportunities and encouragement for offenders to acquire insights and skills to positively address deficits or addictions associated with offending behaviour.

The Department has adopted Case Management as the primary strategy for managing all inmates.

Case Management is defined as:

...a collaborative, multi-disciplinary process which assesses, plans, implements, co-ordinates, monitors and evaluates options and services to meet an individual's needs (Inmate Case Management Policy 1999).

After initial information is collected about:

- the inmate's offence;
- needs in relation to AOD issues;
- mental health issues
- health, welfare and education needs
- work needs,

a case plan is developed by a multi disciplinary Case Management Team. This initial case plan will determine the inmate's security classification and placement and will make recommendations concerning the type of treatment, education and work interventions needed. When an inmate is transferred to a correctional centre of classification, the case plan is further developed by the Case Management Team and the inmate is assigned a case officer. It is the role of the case officer to monitor the inmate's progress on the case plan and to encourage the inmate to participate in programmes,

work and counselling if appropriate. The case plan is reviewed every 6 months by the Case Management Team.

Case Management is the most significant correctional activity implemented by the Department in the last 10 years and is the process driving major correctional reform. Through Case Management barriers between custodial and non-custodial staff are gradually breaking down as custodial staff take up a more significant role in the management of offenders rather than only the secure containment of offenders. The Department has recently commenced down a new pathway for assigning programmes and interventions in the inmates case plans.

The new approach has been very much influenced by the Canadian approach as highlighted in the work of Andrews, Bonta and others²⁸.

The profile of male and female offenders in custody in NSW is different. Current research shows that in the overall inmate population:

- over 15% of inmates are Aboriginal or Torres Strait Islander
- 26% are from a non English speaking background (NESB)
- 28% are aged between 18-24
- 13% have an intellectual disability
- 75 % have an alcohol and other drug (AOD) problem
- 16% of males have been sexually abused before the age of 16
- 21 % have, attempted suicide
- 40% meet the diagnosis of Personality Disorder
- 60% not functionally literate or

²⁸ See as an example Andrews, D.A., et al (1 990) *Does Correctional Treatment work? a clinically-relevant and psychologically informed meta-analysis.* Criminology, 28 369-404

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

numerate

- 44% were long term unemployed
- 60% did not complete year 10
- 64% have no stable family
- over 35% are Hepatitis B or C positive

In the female population:

- 25% are Aboriginal or Torres Strait Islander
- 39% previously attempted suicide
- 23% on psychiatric medication
- 73 % admitted to psychiatric or mental health units
- women have significantly higher levels of illicit drug use, Hepatitis C, depression and sexual abuse than men.

II. MANAGING WOMEN

It is clear from the above data that women in custody are confronting different issues. While these issues may not be universal, cross-national comparisons show considerable overlap. Women in custody are more likely to be victims of physical and sexual abuse, have issues arising from their responsibilities to children, be addicted to drugs and to have mental health problems. Tables 4 and 5 also confirm that the offense profile for women in Australia is different to men, with women less likely to be convicted of sexual assault and armed robbery, but more likely to have been convicted of fraud.

Where women have been convicted for violent offenses they are twice as likely as men to have committed these offenses against someone close to them, often their spouse or partner who may have physically abused them.

Historically, the management and programming for women in custody has tended to mimic what is done for men who are in the majority. There are few jurisdictions where the number of women

in custody exceeds 10% of the total population. However there are recent indications of a disproportionate increase in the number of women. This is certainly the case in Australia.

The research literature on 'what works' has tended to neglect the interventions provided for women, though it has been confirmed²⁹ that the principles of risk, need and responsivity are equally important for getting the best outcome for women.

Programmes that are devised specifically for women should take account of women's needs and responsivity. Their greatest needs are for treatment of substance abuse problems, trauma, basic education and vocational training and parenting skills.

Barbara Bloom³⁰ provides an excellent overview of guiding principles and practices for programming for women offenders. She suggests that program design must also provide an environment that supports recovery and is characterised by Safety ("free of physical, emotional and sexual harassment"), Connection ("exchanges among the treatment group facilitator and group members feels mutual rather than one way") and Empowerment. Programmes must also contain cognitive, affective and behavioural components.

A recent national survey in the USA³¹, confirmed the profile of female offenders outlined above and noted that:

²⁹ Andrews, D.A., and Craig Dowden, 1999. *A meta-analytic investigation into effective correctional intervention for female offenders. Interventions. Canada*

³⁰ Bloom, Barbara; 1999, *Gender-responsive programming for women offenders: guiding principles and practices*; Interventions, Canada, 1999

The most commonly mentioned management problem, noted in 11 states was in the area of classification and screening... (which) did not provide needed information, were not adapted to women, and were not useful in matching women's needs for programming.

New South Wales a roach to managing women.

In NSW the management of women offenders has been driven by a series of action plans. The *Women's Action Plan 2* will be the guiding force for the Department's *Women's Program* over the next three years. This plan exists within the broader context of the Department's *Corporate Plan*

The Department's *Strategic Plan* stipulates the priorities which must inform the further development of the *Women's Program* both in terms of capital works initiatives and service provision. In accordance with these overarching policies, the *Women's Action Plan 2* emphasises:

- the delivery of programmes and services reflecting a holistic approach to women's health and well-being;
- the provision of flexible programmes for women inmates in the areas of relationship and living skills, problem solving, alcohol and other drugs and health education, vocational training, offence-specific programmes and recreational activities;
- the planning and management of resources to ensure their equitable provision;

In June 1994, the Department of Corrective Services published its first

Women's Action Plan. It outlined a series of capital works strategies and made recommendations concerning the provision of programmes and services relevant to the needs of women in the NSW correctional system.

Since 1995, placement options, programmes and services for female inmates have improved significantly:

- in addition to the main women's facility, the *Mulawa Correctional Centre*, which currently accommodates approximately 285 sentenced and unsentenced female inmates, the *Emu Plains Correctional Centre* was established as a minimum security facility for 138 women. A small 19 bed facility for women (*June Baker Unit*) is operating at the *Grafton Correctional Centre*, and a separate unit for up to 8 women at the *Broken Hill Correctional Centre*. In 1996, the 21 bed *Parramatta Transitional Centre* for women and children was officially opened;
- a Women's Services Unit (WSU) was established with a mandate to provide policy advice and advocacy at senior management level of the Department concerning the needs of female inmates;
- a female-specific classification scheme was introduced which takes into account the circumstances of incarcerated women. The underlying principle of this is that women are low risk of violent offending but high need, they generally do not require confinement in a secure facility and the primary determinant of placement should be program provision.
- a *Mothers and Children's Program* was developed to ensure that young children of women serving a custodial sentence were able to maintain an ongoing relationship with their mother.
- The *Women's Action Plan 2* will build

³¹ National Institute of Justice, 1998, *Women Offenders: programming Needs and Promising Approaches*. U.S. Department of Justice

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

on the success of the Department's *Women's Program* by consolidating the earlier capital works, policy and program initiatives.

The new strategies concerning the *Women's Program* have been derived from several important sources including consultation with inmates, Departmental staff and community organisations and following a systematic review of programmes services and facilities:

The *Mothers and Children's Program*, the *Transitional Centre Program*, a *Gender Specific Classification* and the *Jacaranda Cottages* at the *Emu Plains Correctional Centre* were initiated by the first *Women's Action Plan*. These are major initiatives in the management of female inmates and a critical assessment of the impact and effectiveness of these programmes is the logical next step to ensure the consolidation of those strategies recommended in the first *Women's Action Plan*. In evaluating these innovative policy and program initiatives, the Department has not found a body of existing relevant research.. The following evaluation framework is proposed:

- short-term outcome measures, e.g., program participation, rule violation and/or incidents, arrest for new criminal offence;
- long-term outcome measurements, e.g., return to custody for violation of probation or parole, relapse from alcohol and other drug recovery, observed significant behaviour change, employment status, type of new offence, seriousness of new offence.

The evaluations will use recidivism as an outcome measure of the effectiveness of the programmes but will combine quantitative and qualitative research methods.

Mothers and Children's Program

The recommendations of the Women's Action Plan in regard to mothers and children provided the impetus for the development of the Mothers and Children's Policy.

In developing the Mothers and Children's Program, the Department has put the best interests of the children of mothers who are serving a full-time prison sentence at the highest priority. The Department recognised that the continuity in the relationship between the primary carer and child is of great importance to the child's emotional, intellectual and social development. The Department also recognises that imprisonment in itself is neither evidence of a mother's lack of desire nor of her ability to perform her parental duties.

The contradiction between providing such as program for women and the commitment to developing policies which do not reinforce stereotypes is acknowledged. However, women's statistical dominance in the correctional system as primary care givers and the best interests of the children whose primary care giver is imprisoned make this contradiction a necessary one. Secondary benefits of the program include a likely reduction in re-offending behaviour of participants and alleviation of the distress and anxiety associated with the forced separation from children.

The Department provides a range of options to female inmates who wish to assume an active parenting role. Primary carers, irrespective of whether they are the biological mother, are eligible to participate in the program. Non-primary carers are eligible to participate in the occasional residence program with the written consent of the primary carer of the child or children.

RESOURCE MATERIAL SERIES No. 57

The Mothers and Children's Program includes the following options:

- permitted absence pursuant to Section 29(2)(c) of the Correctional Centres Act.
- caring for child or children full time whilst in custody, up to school age. ie The Full Time Residence Program.
- occasional accommodation for children such as weekends and/or school holidays up to the age of 12 years. (The Occasional Care Program)

These options are administered with as much flexibility as possible in order to meet the needs of individual women and children. Decisions regarding Section 29(2)(c) absence and the Full Time Residence Program are made after a submission is placed before the Mothers and Children's Committee.

Once the applicant has satisfied the criteria for the program, the submissions are then placed before the Committee and discussed. The application is then recommended for approval or not recommended. The Co-ordinator then places the submission before the Assistant Commissioner Inmate Management and then to the Commissioner for final approval.

The guiding principles of the policy are:

- the best interests of the child is the paramount consideration;
- imprisonment in itself is neither evidence of a mother's lack of desire, nor of her ability to perform her parental duties;
- participation in the Full Time Residence Program is the option of last resort, to be utilised when there are no satisfactory alternatives for the placement of the child or children available;
- children residing in, or spending time at a correctional centre are the sole

- responsibility of their mother;
- participation in the Full Time Residence Program must never be used as a part of the hierarchy of privileges and sanctions;
- the Mothers and Children's Program is designed to meet the highest community standards of child protection.

Since December, 1996 until January, 2000 the Mothers and Children's Program has been responsible for assisting;

	Women	Number of children
Section 29(2)(c) absence	10	19
Full time Residence Program	21	23
Occasional Care Program	34	46

With the planned expansion of Emu Plains, it will be possible to also expand the Mothers and Children's program to provide more beds.

Employed at Emu Plains is a Family Support Worker who is involved daily in the operation of the Program. This person has developed and introduced to the Centre a network of community agencies that support the women and their children. The women are also assisted with a pre-release plan through Inmate Development staff who also run such groups as; Domestic Violence, Alternative to Violence Groups, Drug and Alcohol Counselling, Psychological Counselling, Welfare Assistance, Education.

III. MANAGING THOSE CONVICTED OF DRUG RELATED OFFENSES

One outcome of the increased pattern of drug use in the community has been a disproportionate increase in the number of drug users in custody. As previously mentioned over 75 % of people in custody in New South Wales admit to having alcohol or other drug problems. Drug abuse itself is criminogenic in that it can lead to criminal behaviours. This can be through the disinhibiting and other effects of drugs on behaviour and through the activities people engage in to get money to support habits. Illicit drug use, supply, manufacturing and importation may all result in criminal sanctions including imprisonment for lengthy periods.

Part of the response to drug use in prisons, must include action to eliminate drug trafficking into prisons. Increasingly the use of technology, including surveillance, urinalysis, ultrasound has been introduced to combat this problem in conjunction with more traditional techniques of searching, use of sniffer dogs and intelligence. However, the use of drugs in prisons will be difficult if not impossible to eliminate because of the requirement to allow prisoners reasonable contact with family and friends and because of the possibility of staff corruption. As well as attempting to eliminate drugs, correctional authorities have an obligation to minimise the harmful effects of drugs and to provide opportunities to treat addiction and help break the drug/crime cycle.

What works?

While many drug treatment programmes have been individually evaluated, there are few large scale reviews of effectiveness of treatment programmes. An excellent report that has recently been completed by Pearson and Lipton³² who

reported positive outcomes for, intensive 'therapeutic community' intervention, methadone maintenance and cognitive behavioural programmes. 'Boot Camps' and drug focussed group counselling programmes were not shown to be effective. This has been reported elsewhere.

Alcohol and Other Drug Services in NSW

The Alcohol and Other Drug Health Promotion Unit (AOD/HHPU) provides services to inmates within the 'harm minimisation' framework. Its core business is to assist inmates reduce the harm (both individual and social) associated with substance use, as well as facilitate health promotion workshops and courses that educate inmates on safer practices relating to substance use, universal infection control issues and healthy lifestyles. These courses are run in each centre.

The harm minimisation framework is contentious, and those who favour abstinence often express the view that it is an admission of failure. It has been adopted in NSW because drug use is regarded as complex social and medical phenomenon rather than a criminal one and because failure to adopt has undesirable public health consequences particularly in the transmission of HIV and Hepatitis C.

Programmes and services are provided to male and female inmates that address issues of relapse, substance related recidivism and health promotion projects. Within this brief there are specific programmes targeting women, indigenous inmates, inmates with intellectual disabilities, inmates from NESB and young

³² Pearson, F.S and Douglas Lipton, 1999; *A meta-Analytic Review of the Effectiveness of Corrections-based Treatments for Drug Abuse*; The Prison Journal, Vol 79 N04, December 1999

adult offenders. There are drug free wings in 3 centres, and a Therapeutic Unit will commence at Long Bay in July 2000. These programmes focus on pre release and transition and are part of the Department's commitment to through care and community involvement. A work in progress is the AOD Women's Transitional Centre for female offenders and their children. (See Appendix 1 for a comprehensive list of programmes)

AOD Workers provided services to inmates on 245,109 occasions and increase of 67,278 since 1997/98; attendance at AOD group sessions during 1998/99 increased to 22,008 from 18,240 in 1997/98.

Intensive Alcohol and Other Drug Programmes

The Alcohol and Other Drug Health Promotion Service has implemented various strategies to address the needs of those inmates who have identified as having a substance use problem. These strategies range from the Core AOD HHPU Programmes, Peer Support Programmes and the contributions of various community organisations to the more specialised and intense programmes that will address the issues of relapse and recidivism for inmates with high incidence of relapse.

A treatment pathway for these inmates has been developed, starting at entry to a "Drug Free Wing" and extending to a pre release/transition program for C2 and C3 category inmates. The Drug Free wings are in three Correctional Centres, Parramatta, Emu Plains and Cessnock. These wings operate within the normal gaol routine and the programmes and services attached to these areas have an extensive group work component and community involvement. Inmates who enter these wings are selected through an assessment criteria which includes

remaining time to service of not less than 3 months and no more than 6 months. They are required to sign a contract in relation to participation in the program and are subject to random urinalysis testing. The urinalysis procedure will work under the umbrella of harm minimisation, that is, there will be a hierarchy of punishments and the use of relapse prevention tools as an education strategy.

For women, this Drug Free Wing will run along the same gaol routine as the males, however, it will focus more on living skills, parenting issues, job skills and conflict resolution in terms of their substance use. All of the programmes attached to these projects will have a strong CBT theoretical approach, with the long term aim of reducing offending behaviours.

The AOD Therapeutic Unit located at Long Bay will house 40 men and is a pre release program, with inmates being in the last 12 - 14 weeks of their sentence. The program content will be strongly linked to the community, and will facilitate social supports, networks with housing, TAFE and Centre Link, as well as non government agencies involved in the rehabilitation of these inmates. There will be a family component to this program and involvement with Probation and Parole. These intensive programmes have been well researched and whilst it is acknowledged that addiction is a complex issue with many variables, this whole of community approach to service provision looks promising in terms of successful outcomes. All programmes in this unit will be educational, therapeutic and cognitively based. The same local policy in relation to urinalysis at Parramatta Drug Free will apply to this unit.

The Lifestyles Units, (one for men in the MSPC and a work in progress for women at Mulawa) will address the issue of

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

healthy living in relation to HIV/AIDS and Hepatitis. These units have programmes that are holistic and give the residents factual information based on research into the use of alternative medicines.

Following the NSW Drug Summit, which was held in May 1999, funds were provided to expand the Department's alcohol and other drug services. Key features of the expansion include: the establishment of three detoxification units; the establishment of a transitional centre for women with AOD problems; the establishment of three healthy lifestyle zones (drug free wings); a proposed review of AOD programmes and services. All of these projects are in the development and/or implementation stage.

Assessment, Detoxification and Pharamacotherapies

The provision of appropriate medical intervention is also a fundamental requirement. In NSW a Drug and Alcohol assessment is a routine component of the reception medical screening which is completed within hours of arriving in custody. Where an inmate self reports a history of recent drug use and displays clinical signs of withdrawl, a medical detoxificaiton regime commences. The protocol applied depends on the nature and intensity of drug use. It is most common however for prisoners to be poly-drug abusers, with the current drugs of choice including combinations of heroin, amphetamines, barbiturates, and alcohol. The protocol could require intensive supervision in a detoxification ward or under 24 hour camera surveillance. Medication is also provided to alleviate withdrawal symptoms that could include, nausea, vomiting cramping and convulsions.

NSW was one of the first jurisdictions to introduce methadone maintenance

programmes and recent research continues to confirm the success of this particularly in reducing transmission of Hepatitis C. HIV is not a major problem in NSW gaols.

Clinical trials are now set to commence in prisons on the effectiveness of a number of new drugs including Naltrexone and Long Acting Methadone (LAM).

IV. MANAGING FOREIGNERS

The issues surrounding the management of foreign born prisoners will be very different between countries.

New South Wales is one of the most culturally diverse societies in the world.

- 41 % of the NSW population was either born overseas or has at least one parent born overseas
- 25 % are from non-English speaking countries.

It is not surprising to find large numbers of people who come from non-English speaking backgrounds in prison as this is representative of the general population. There are a number of challenges however arising from this complex racial mix.

In 1996 the NSW parliament enshrined the principles of cultural diversity. These are

Principle 1: All individuals in NSW should have the greatest possible opportunity to contribute to all aspects of public life.

Principle2: All individuals and public institutions should respect and accommodate the culture, language and religion of others within an Australian legal and institutional framework where English is the primary language.

Principle 3: All individuals should have the greatest possible opportunity to make use of and participate in relative activities and programmes provided or administered by the New South Wales Government

Principle 4: All public institutions in NSW should recognise the linguistic and cultural assets in the population of NSW as a valuable resource and promote this resource to maximise the development of the State

As an instrument of government, the NSW department of Corrective Services under this charter has a number of obligations which focus on language, cultural and religious differences of the inmate population.

Inmates from non-English speaking backgrounds who are well represented in the inmate population include, Middle Eastern (mainly Lebanese), Polynesian and Pacific Islanders, and Vietnamese.

The Department's efforts are focussed in a number of areas.

1. Communication
which involves the mandatory use of interpreters in range of interactions. Multi-lingual translations of key information documents
2. Recruiting and training
actively recruiting staff from key language and cultural groups, provision of cultural awareness training
3. Programmes
development of targeted programmes eg English as a second Language, AOD programmes for Vietnamese inmates etc

4. Religion and culture

Facilitating religious and cultural activities for key groups

5. Diet

Accommodating specific dietary requirements including Halal, Kosher & Vegetarian

To foster the appropriate attitudes and skills among staff, my division has recently completed an interactive training program on CD ROM that is designed to inform staff about the special needs of prisoners from non-English speaking backgrounds. I will be demonstrating this CD-ROM during my talk and providing a copy for course participants.

A concerted effort is still required because despite the best efforts of the Department, prejudice and discrimination within the inmate population and between inmates and staff remains a problem.

Gangs

A further issue that has recently arisen has been the increasing influence of gang affiliations in the inmate population. Gangs are not entirely racially based, however there has been recently been a number of disturbances where inmates have been divided on racial lines. The major race based Gangs are Vietnamese, Lebanese, Aboriginal and Pacific Islanders. Associations between these groups appear to be fluid. One of the dilemmas that arises in managing these groups is whether they should be permitted to aggregate in a single location or whether they should be dispersed. Clustering of ethnic groups has some benefits for the concentration of services but acts to reinforce the gang mentality.

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

APPENDIX 1

INMATE PROGRAMMES

Program	What the program does
Relapse Prevention Program	Inmates learn techniques to assist them to maintain, during the remainder of their time in prison and after release, changes in relation to their drug and alcohol use
Harm Minimisation Drug Education Program	Inmates learn how to identify harms associated with their substance use and how to reduce those harms
Drink Driving Surviving Program	Inmates learn the risks associated with drink driving and how to put in place stop-behaviours upon return to the community
Quit Smoking Program	Inmates learn the health risks associated with smoking and receive a set of strategies to quit
Anger Management Program	Inmates learn more appropriate ways of handling their stress and their current responses to crisis
Alcohol and Violence Program	Inmates learn about violence in all its forms - in particular, the relationship between alcohol and violence - and learn techniques to stop or severely limit that violence
AOD [Alcohol and Other Drugs] Awareness for Remand Inmates Program	Inmates on remand or with low literacy make the connection between their crimes and prison, and put in place strategies to reduce recidivism
Staying Alive Program	Intellectually disabled inmates take part in a program which facilitates learning in relation to their drug use
Methadone Lifestyles Program	Inmates learn about the effects of methadone, health and hygiene associated with methadone, social implications of methadone and coping skills
AOD Peer Education Program	Inmates gain skills to enable them to be a mentor to other inmates with a drug problem by initiating health promotion activities
One-day Peer Support Program	Inmates learn how to mentor other inmates in relation to risk behaviours, how to promote healthier living and how to use infection control procedures
Three-day Peer Support Program	Same as one-day program but at greater depth
Sweepers Program	Inmates learn about infection control procedures and cross-infection and how to use chemicals safely
Barber Shop Program	Inmates learn the duties of a barber, including infection control procedures, and how to clean barber shop equipment

RESOURCE MATERIAL SERIES No. 57

Program	What the program does
Mens Health Program (joint program with	Inmates identify issues relating to testicular and prostate cancer, healthy heart and diet
Smoking Cessation Program (joint program with Corrections Health Service)	Inmates follow the Quit Smoking Program with continued awareness of emphasis on health risks to self and others
Mothers and Children Program	Inmates are granted leave of absence to care for their small children; children can live with their mothers or have all-day visits
Personal Ownership Identification and Self Esteem Program (POISE)	Female Inmates learn living skills and are linked with community agencies for follow-up upon release
Women's one-day health information package	Inmates identify the risks associated with drug use and put in place strategies to reduce the level of risk
Women's three-day health information package	Same as one-day package but at greater depth
Women's Health Program (joint program with Corrections Health Service)	Inmates identify health issues specific to women, such as breast cancer, diet and image
Stop-Doin'-Harm-to-Yourself Program	Indigenous inmates undertake a harm minimisation drug education program designed specifically for them
Say-No-to-Grog Program	Indigenous inmates learn that they are able to choose whether or not they will follow the example of peers who drink
Getting Respect Program	Indigenous inmates learn that violence is not the way to get true respect from their community
Alcohol and Violence Program	Indigenous inmates undertake an alcohol and violence program designed specifically for them, with an emphasis on family violence issues
Intro to Aboriginal AA [Alcoholics Anonymous] Program	Indigenous inmates obtain social support through a self-help network
Aboriginal one-day health information package	Indigenous inmates identify the risks associated with drug use and put in place strategies to reduce the level of risk
Aboriginal three-day health information package	Same as one-day package but at greater depth
Women's Cultural Drug Package Program	Female indigenous inmates identify the social implications of drug use and make choices rather than be influenced by peers and society
Pat gets a deadly new life	Indigenous inmates identify the risks associated with use of particular medication

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

<p>AOD Peer Education Program for Vietnamese Inmates</p>	<p>Vietnamese inmates undertake the AOD Peer Support Program designed specifically for them</p>
<p>Vietnamese health information package</p>	<p>Vietnamese inmates learn how to assess their risk behaviours and replace those behaviours with more appropriate behaviours</p>
<p>Certificate of General Education for Adults</p> <ul style="list-style-type: none"> • Reading and Writing • Numeracy • Oral Communication • Options <ul style="list-style-type: none"> - Library and Research Skills - Art - English as a Second Language - Horticulture - Information Technology - Workplace Communication - Graphic Design - Ceramics - Stained Glass - Screen Printing - Painting and Decorating - Sewing and Craft - Music - Health and Fitness - Backhoe/Loader/Forklift - Leather draft - Chain-saw Operation - Horsemanship - Woodwork - Textile Upholstery - Aboriginal Studies - Hospitality - Video Production - Calligraphy - First Aid - Legal Studies - Maori Studies - Drama - Cooking - Small Business Management 	<p>This Certificate may be undertaken at three levels. Level 1 is roughly equivalent to Year 10 secondary schooling. Level 3 may allow a person to gain university entry to particular subjects.</p> <p>Four subjects must be studied at level 1. Three subjects must be studied at level 2. Two subjects must be studied at level 3.</p>

RESOURCE MATERIAL SERIES No. 57

<p>External attendance courses</p> <p>TAFE courses</p> <ul style="list-style-type: none">- First Aid- Ceramics- Information Technology- Community Services Welfare- Engineering Production- Clothing Production- Carpentry- Rural Welding- Cleaning Operations- Computing Skills- Cooking/Hospitality- Commercial Cookery- Small Motor Service- Kitchen Practice- Horticulture Operations- Upholstery- Adult Foundation Education- Bricklaying- Painting/Decorating- Cabinet-making- Forest Products Operations- Welding- Farm Chemical User- Small Business Management- Forklift Operating- Fitness Instruction	<p>Selected inmates are granted leave of absence to attend courses held by educational institutions</p>
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115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

<p>Certificate of General Education for Adults</p> <ul style="list-style-type: none"> • Reading and Writing • Numeracy • Oral Communication • Options (Mulawa) <ul style="list-style-type: none"> - Pottery - Music - Legal Studies - Creative Writing - Paper-making - Aerobics - Food and Nutrition - English as a Second Language - Art - Landscaping • Options (Emu Plains) <ul style="list-style-type: none"> - Ceramics - Paper-making - Music - Art - Koori Art - Life Skills - Horticulture - Information Technology - Screen-printing <p>The range of options available at Grafton and Broken Hill Correctional Centres are necessarily more limited.</p>	<p>This Certificate may be undertaken at three levels. Level 1 is roughly equivalent to Year 10 secondary schooling. Level 3 may allow a person to gain university entry to particular subjects.</p> <p>Four subjects must be studied at level 1.</p> <p>Three subjects must be studied at level 2.</p> <p>Two subjects must be studied at level 3.</p>
<p>External attendance courses</p>	<p>Selected inmates are granted leave of absence to attend courses held by educational institutions</p>

RESOURCE MATERIAL SERIES No. 57

<p>TAFE courses (Mulawa)</p> <ul style="list-style-type: none">- Adult Foundation Education- Focus on Skills- Horticulture- Aboriginal Mentor Training- Forklift Operations- Information Technology- Occupational Health and Safety- Painting and Decorating- Building and Construction- Creative Activities for Children- Manufacturing Engineering <p>TAFE courses (Emu Plains)</p> <ul style="list-style-type: none">- Children and Play- Hospitality- Information Technology- First Aid- Forklift Operations- Tractor Operations- Small Motor Service- Painting and Decorating- Office Practice	
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Additional courses available for Aboriginal inmates

Aboriginal inmates may attend any mainstream course. Courses designed specifically for Aboriginal inmates are:

- Aboriginal Native Gardens
- Aboriginal Arts and Cultural Practice
- Aboriginal Mentor Training
- Aboriginal Dance
- Aboriginal Art
- Aboriginal Carpentry and Joinery
- Aboriginal Vocational Preparation
- Aboriginal Mural
- Aboriginal Dance
- Aboriginal Industry

Additional education courses available for ethnic inmates

The only educational course specifically designed for ethnic inmates is English as a Second Language.

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

APPENDIX 2

INTENSIVE RESIDENTIAL UNITS

Unit	Relevant inmates
Kevin Waller Unit Malabar Special Programmes Centre	Inmates chronically at risk of suicide, with histories of self harm because of longstanding poor coping skills and severe personality disorder.
Acute Crisis Management Units Bathurst Correctional Centre Cessnock Correctional Centre Malabar Special. Programmes Centre	Inmates in acute crisis and at risk of self harm or suicide.
Lifestyles Unit Malabar Special Programmes Centre	Inmates who are diagnosed with HIV or Hepatitis C who wish to undertake an intensive health education program to assist them to come to terms with their illnesses
Violence Prevention Programmes Alexander Maconochie Unit and Special Care Unit Malabar Special Programmes Centre	Inmates who are convicted of violent offences and or exhibit violent behaviour in prison.
Healthy Lifestyles Zone (Drug-Free Wing) Parramatta Correctional Centre Emu Plains Correctional Centre	Inmates who have been drug-affected and are prepared to participate in a special program to assist them to remain drug free and prepare them for release
Intensive Case Management Unit Goulburn Correctional Centre	Inmates who do not comply with normal prison discipline and are assessed as dangerous to others or as high risk of escape.
Long Bay Hospital	Inmates who are physically or psychiatrically ill
Mum Shirl Unit Mulawa Correctional Centre	Female Inmates with chronic psychiatric illnesses, personality disorders or intellectual disability.
Additional Support Units Special Purpose Centre, Long Bay Goulburn Correctional Centre	Inmates who have an intellectual disability and are unable to manage in the mainstream environment.
Detoxification Units Metropolitan Remand & Reception Centre Mulawa Correctional Centre	Inmates undergoing detoxification after reception into the correctional system
Jacaranda Cottages Emu Plains Correctional Centre	Female inmates and their children. The children live full time or at school holidays with the their mothers in the Units.
Transitional Centre, Parramatta	Female inmates approaching release
Sex Offenders Program 3 and 4 wing and CUBIT at the MSPC	Specialised sex offender management centres and an intensive residential unit.
Young Adult Offenders Program Gurnang Life Challenge Program Oberon	Selected young inmates participate in a highly structured adventure based physical challenge and education program at Oberon Correctional Centre.

APPENDIX 3

PROBATION AND PAROLE SERVICE PROGRAMMES AVAILABLE TO PAROLEES

Program	What the program does
Parole group	Offenders participate in specifically tailored programmes which address issues such as community re-integration, goal identification, personal and social development
Drug and Alcohol Program	Offenders are presented with the physiological and social implications of substance abuse within a legal framework
Relapse Prevention Program	Offenders are taught skills to prevent their return to a substance-dependent lifestyle
Dependency and Lifestyle Program	Offenders are educated in the benefits of a lifestyle free from substance dependence
Alcohol and Cannabis Program	Offenders are presented with the physiological and social implications of substance abuse within a legal framework
Living Without Violence Program	Offenders learn personal skills to assist them to resolve problems and relationship issues without recourse to violence
Minor Drug Offenders Program	Offenders who have developed a pattern of involvement in minor drug offending are taught the ramifications of continuing these practices
Personal Development Program	Offenders deal with a variety of personal, social and legal issues to assist their personal development
Anger and Aggression Management	Offenders learn how to deal with their anger without recourse to anti-social behaviour
Drink Driving Program	Offenders are presented with the legal issues and ramifications of drink driving in a framework which addresses behaviour and attitude

115TH INTERNATIONAL TRAINING COURSE
VISITING EXPERTS' PAPERS

Program	What the program does
Traffic Offenders Program	Offenders are presented with the legal issues of traffic offending in an environment which utilises the expertise of relevant community groups (eg Police, Vista [families of persons killed in vehicle accidents])
Driver Education Program	Offenders are presented with the legal issues and ramifications of offending by way of driving matters in a framework which addresses behaviour and attitude
Life Management Skills Program	Offenders deal with a variety of personal and social issues, with an emphasis on skills acquisition to obtain employment. The program operates in collaboration with TAFE, and emphasises education opportunities
Living Skills Program	Offenders deal with a variety of personal and social issues, with an emphasis on self development to improve prospects of gaining employment
Social and Legal Issues Program	Offenders learn the social and practical implications of offending behaviour by focussing on relevant legal issues
Women's Issues	Offenders (female) address issues relevant to women in the context of a personal development framework
Responsible Living Education Program	Offenders deal with a variety of personal, social and legal issues in a model which addresses responsible societal behaviour