

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

**Doug Owston
Secretary
Department of Correctional Services
Northern Territory**

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

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

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

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

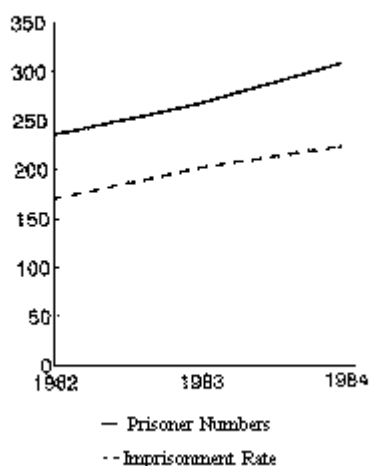
The second priority for the Department was to address the over representation of Aboriginals in the prison system. In 1984-85, Aboriginals represented 20 per cent of the

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

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

Figure 1

Northern Territory Imprisonment Rate/Prisoner Numbers



Source: Biles 1985

Remand Imprisonment and the Bail Assessment Supervision Program

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

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

Figure 2

**Northern Territory Prisoners by Reception
July 1984-June 1985**

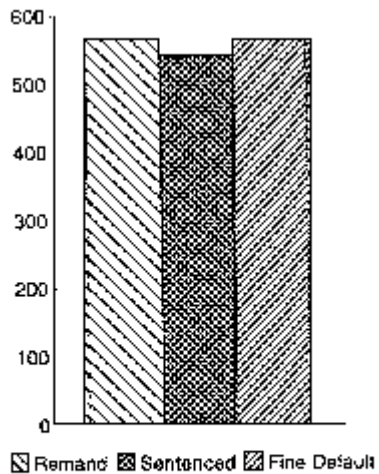
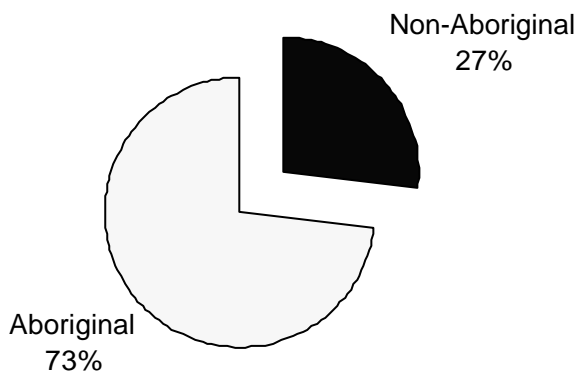


Figure 3

Northern Territory Prison Receptions 1984-85



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

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

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

Community Based Alternative Programs to Prison

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

Fine Default Diversionary Program

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

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

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

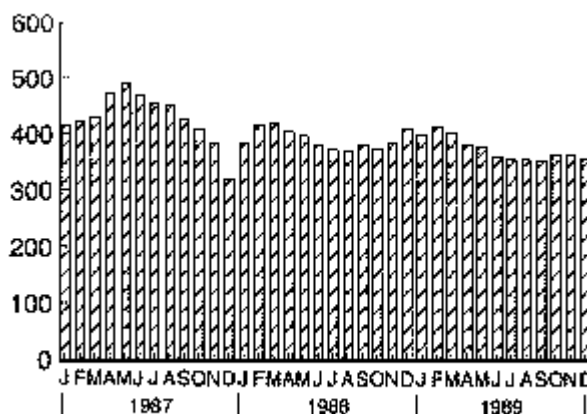
The community service order fine default diversionary program has been very effective in reducing fine default imprisonment and enjoys a consistent success rate of around 80 per cent. There have been substantial benefits to the Territory community, by way of the thousands of hours of unpaid community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

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

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

Figure 4

**Northern Territory Prisoners
Monthly Daily Averages
January 1987-December 1989**



Home Detention Program

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Probation

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

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

There were:

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

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

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

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

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

- Legislation is being formulated which will require a probation officers evaluation report being considered by a court, before placing an offender on probation.
- An early termination of supervision program, will be vigorously implemented, to remove from supervision, those offenders who no longer need, or are not benefiting from probation supervision.

Aboriginal Issues

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

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

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

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

- **Aboriginal Community Justice Project**

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

- **Aboriginal Community Corrections Officer Program**

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

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

Summary

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

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

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

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

References

Biles, D. 1985, *Australian Prison Trends*, Australian Institute of Criminology, Canberra.