



No. 172

Imprisonment in Australia: The Remand Population

Carlos Carcach and Anna Grant

The use of imprisonment as a punishment continues to be a serious issue for governments and the community. The use of custody on a person who has not yet been given a sentence should be of even greater concern. Official statistics indicate that about 15 per cent of prisoners in Australia are currently on remand and have not been sentenced.

The decision to remand an accused in custody entails an assessment of whether the person could be considered a threat either to themselves or to the safety of others, usually the victims of the crime, or whether the accused person is likely to appear for trial. In addition, the wider protection of the community in general is also a legitimate reason for the detention of a person in custody. The possibility of the accused not appearing in trial and the seriousness of the charge are other factors affecting remand decisions.

Remand practices may have an impact on the size of prison populations. This impact depends on the size of remand arrivals, the rate at which they flow into the correctional system, and the time they spend as remand prisoners. This study uses data from the National Prison Census to examine major trends in remand populations in Australia.

The results from this study suggest that remand practices have gone through little change in Australia over the past 16 years. Remand times have generally remained stable, though there are jurisdictional differences in the time distribution of remand prisoners. Remand prisoners have increased by 75 per cent during the period from 1982 to 1998. This represents 37 per cent of the increase experienced by the total prison population over the same period, which leads to the conclusion that use of remand has had a relatively minor impact on the size of Australian prison populations.

Adam Graycar
Director

There has been a body of law built up over a significant period of time in Australia stipulating the reasons for which someone can be lawfully detained in custody, although not yet sentenced or found guilty. There is legitimate interest in a society to ensure that the laws are enforced. This is not possible if people cannot be brought to trial or, having been apprehended and charged, abscond before trial. It has also been recognised that if the offender is likely to continue breaking the law, this is also against the interests of a society and provides lawful reason for detention.

Remand practices have an impact on the size of prison populations. This impact depends upon the number of remand arrivals and the rate of remand receptions. Irregular flows of remand prisoners, with large variations in their arrival rates, may have a noticeable impact on the size of the total prison population or imprisonment rate at a given point in time.

The average length that remand prisoners spend in prison is another factor that affects imprisonment rates. It also affects prisoner census counts through what is known as length-bias sampling. Those remandees in custody for minor offences will arguably be in for presumably a very short time, and will only have a very small chance of being in prison on census day. On the other hand, those with relatively long custody spells will have a far greater chance of being part of the census count (Collins, Walker and Coppas 1995).

AUSTRALIAN INSTITUTE
OF CRIMINOLOGY

trends

&

issues

in crime and criminal justice

October 2000

ISSN 0817-8542

ISBN 0 642 24192 9



Australian Institute
of Criminology
GPO Box 2944
Canberra ACT 2601
Australia

Tel: 02 6260 9221

Fax: 02 6260 9201

For a complete list and the full text of the papers in the Trends and Issues in Crime and Criminal Justice series, visit the AIC web site at:

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

This paper uses 17 years of data from the National Prison Census (Australian Institute of Criminology (AIC) 1982–93, Australian Bureau of Statistics (ABS) 1994–98) to examine trends and characteristics associated with the remand phenomenon. The proportion of remand prisoners to the total prison population and its evolution over time are the main issues of interest. The paper discusses the main characteristics of Australian remand prison populations in order to identify major changes over the period from 1982 to 1998.

According to the counting rules used in conducting the prison census, the legal status of prisoners is determined from the warrant(s) or court order(s) providing the legal basis for the detention in custody of the offender (ABS 1998). At census date—30 June each year—offenders, according to legal status, are classified into one of the following categories.

Under Sentence: no appeal current; awaiting appeal; or unfit to plead, not guilty on grounds of insanity, or preventive detention.

Unsentenced: unconvicted—awaiting court hearing/trial; awaiting sentence; or awaiting deportation.

Offenders may have dual or even multiple legal status, as more than one type of warrant may have been issued against them. An inmate can be under sentence for some offences and awaiting results for others.

During the period from 1982 to 1998, there have not been significant changes to the rules used to establish the legal status of prisoners at census date. The following counting rules are applied for determining an offender's status (ABS 1998).

- If a prisoner has been sentenced for any offence, then this takes precedence over any other offence for which they are not sentenced, awaiting deportation or unfit to plead. This is the case regardless of the seriousness of the offence for which they are sentenced.

- If a prisoner has appealed against all their sentences, then the legal status is recorded as under sentence awaiting determination of appeal.
- If any sentence is uncontested, then this takes precedence over any offence for which appeals are in progress.
- If the prisoner is convicted but not sentenced for any offence, then this takes precedence over any other offence(s) for which the prisoner may be on remand.
- A prisoner is classified as awaiting deportation if this is the only reason for him/her to be held in custody.
- If a prisoner is awaiting deportation but he/she is also sentenced or held on remand for any other offences, then the legal status for these offences takes precedence over the deportation warrant (ABS 1998).

Given the above counting rules, it becomes evident that caution must be exercised when analysing the legal status of prisoners using census data. Unless the person is under detention for a single offence, it is practically impossible to determine his/her true legal situation. Moreover, for prisoners with dual status, it is not possible to uniquely associate the current legal status with offences, as the

census records the most serious offence only. The recorded legal status may correspond to an offence other than the most serious offence. As an example, a person may be on remand for an offence of assault, but he/she may be sentenced for another less serious offence such as theft.

The definition of remand inmates used in this study includes all the unconvicted prisoners on the census date. Note that this definition is more restrictive than the one used previously by the Australian Institute of Criminology and, more recently, by the Australian Bureau of Statistics in the National Prison(er) Census, which also includes convicted prisoners awaiting sentencing and persons awaiting deportation.

Remand Populations

Table 1 and Figure 1 show remand prisoners as a percentage of the total prison population for Australia, the states and territories, on 30 June, for the 1982–98 period. The use of percentage of total prisoners who are remandees is not the best measure of remand, but it has some advantages over the use of rates per 100,000 population.

Table 1: AUSTRALIA, STATES AND TERRITORIES, 1982–1998
Prisoners on Remand⁽¹⁾ as a Percentage of Total Prisoners at Census Date

	NSW ⁽¹⁾	VIC	QLD	WA	SA	TAS	NT	ACT ⁽²⁾	AUST
1982	--	9.0	6.6	5.6	8.6	6.3	6.1	--	8.1
1983	--	8.1	8.8	6.0	11.0	11.0	14.6	--	10.2
1984	13.9	9.3	7.3	6.4	17.0	12.4	16.5	25.0	10.8
1985	11.3	12.0	8.0	8.4	20.1	9.2	18.0	13.5	11.2
1986	14.5	10.3	8.2	8.4	19.9	11.2	16.3	18.3	12.1
1987	14.6	12.4	6.4	10.0	20.7	15.0	10.5	12.9	12.3
1988	15.7	12.3	7.5	8.6	21.6	10.8	13.1	20.3	12.8
1989	13.8	13.0	7.4	9.8	17.3	10.6	11.7	23.8	12.2
1990	12.6	15.0	8.2	9.2	18.8	13.9	15.7	19.3	12.5
1991	11.5	16.0	6.8	8.0	21.8	12.5	10.5	15.2	11.9
1992	9.7	15.7	8.3	9.0	21.7	12.3	7.6	19.6	11.3
1993	9.9	12.8	12.4	10.1	21.3	13.6	7.8	14.3	11.6
1994	9.5	13.2	12.8	9.5	16.2	14.0	13.0	21.8	11.3
1995	9.3	14.1	11.4	11.3	16.0	17.6	11.7	19.6	11.4
1996	10.5	15.7	12.3	10.9	18.4	16.1	15.6	27.9	12.6
1997	12.4	15.8	11.7	12.7	18.1	12.2	11.9	25.2	13.3
1998	13.5	15.2	12.4	12.6	18.1	18.0	14.0	21.6	14.0

(1) Unconvicted persons on census date.

(2) The 1982 and 1983 censuses did not collect data regarding the state/territory of most recent period of remand in custody, which made impossible to determine how many persons held at NSW prisons were under the jurisdiction of the Australian Capital Territory, Western Australia courts.

Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

Using remand rates per 100,000 total population has the obvious disadvantage of assuming that the whole population is at risk of being charged with an offence and of being trailed in court. Remand rates defined on the basis of the number of people charged with an offence, or of those recording court appearances, would be a more accurate indicator of the intensity of remand in a jurisdiction, but data is not readily available to compute such type of measure.

The percentage of remandees in the total prison population is no less informative than the general population-based rates, but it provides users with a good indicator of the burden on the prison system represented by remand prisoners (Morgan 1995).

As shown by Figure 1, there are differences in trends of remand imprisonment among the jurisdictions. The percentage of remand prisoners in Western Australia has always been under the national average, while South Australia and the Australian Capital Territory have consistently been above the national average.

The general trend is towards an increase in the proportion of remanded prisoners in the total correctional population. New South Wales appears to be the exception. The percentage of remand prisoners in New South Wales increased until 1990 and it was also above the national average during this period. During 1991–95, it declined but began to increase again in 1996. Since 1991, the number of remand prisoners as a percentage of the total prison population in New South Wales has been below the national average.

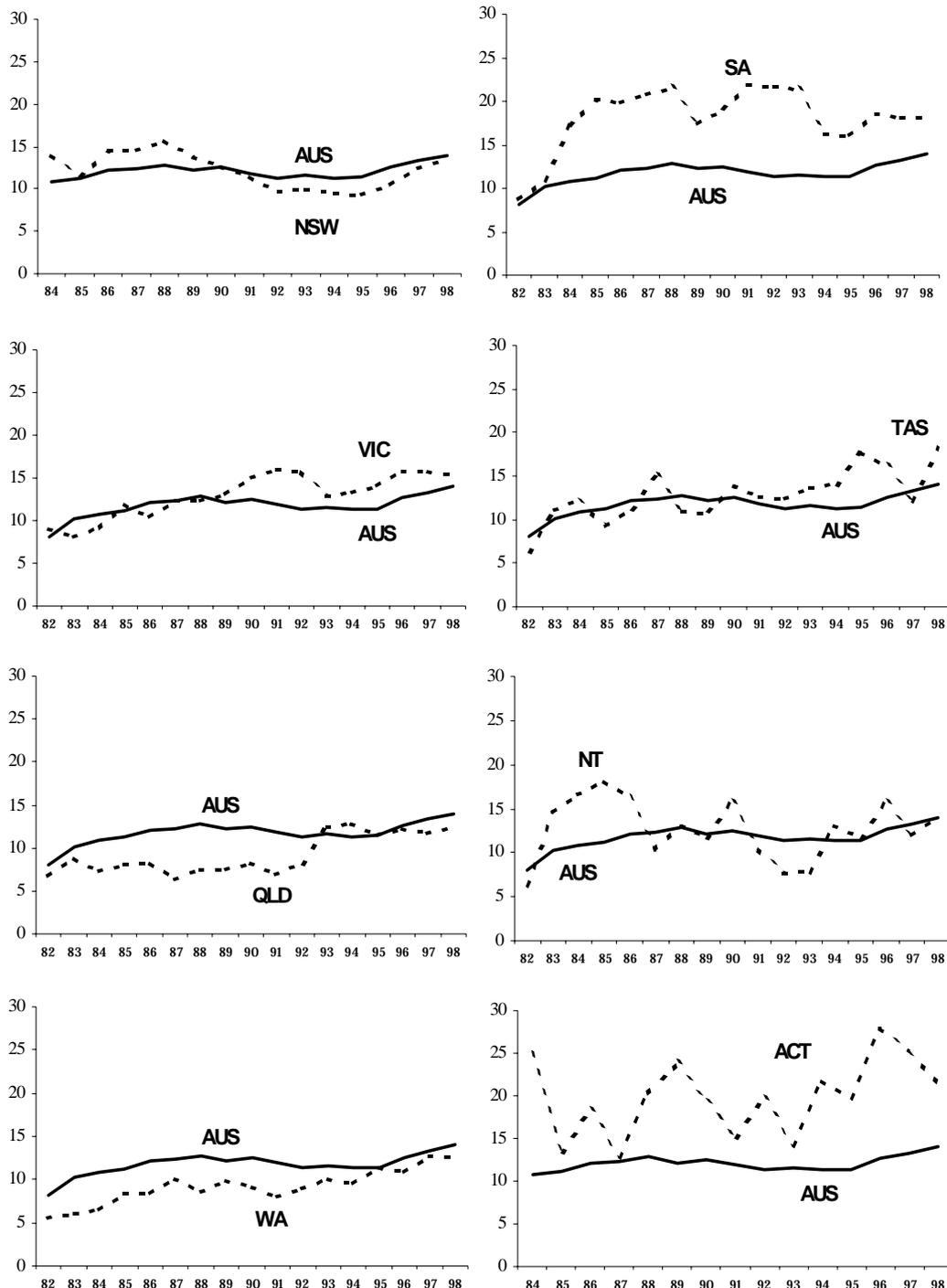
In Queensland, the percentage of remand prisoners follows a similar trend to Western Australia, with exception of the 1993–94 period when Queensland recorded values above the national average. Note that Queensland recorded a decline in the total imprisonment rate over the same period (Carcach and Grant 1999).

Until 1988, Victoria recorded percentages of remanded prisoners that oscillated around the national average. However since 1989, this percentage has increased and has always remained above the national average. In Tasmania and the Northern Territory, the percentage of prisoners on remand has oscillated about the national average (see Figure 1).

The exact number of remand prisoners that go through a

correctional system during a given period cannot be assessed easily from prison census data. The count of prisoners on census date records only a minor proportion of all the persons who have been remanded in custody during a year. Collins, Walker and Copas (1995) estimated that, nationally, on average, 9927 remandees per year arrived at prison during the period 1982 to 1990. The same study shows that these arrivals spent an average

Figure 1: AUSTRALIA, STATES AND TERRITORIES, 1982–1998. Prisoners on Remand as a Percentage of Total Prisoners



Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

remand time of 6.5 weeks and that half of them spent a maximum of 2 weeks in prison on remand. Similar estimates are not available for the period 1991 to 1998, but these results are enough to confirm that counts of remandees from prison census data mask the movements of what it is arguably a very unstable population.

Given the problems with remand measures derived from prison census data, it might be believed that a different picture may emerge when using remand data from an alternative source such as monthly corrective service statistics (AIC 1982–93, ABS 1994–98). Figure 2 shows that this is not the case and that the trend observed from annual census data is the same as the one that emerges from monthly data.

Time on Remand

Table 2 shows the distribution of remand prisoners on census date, for the years 1988 and 1998, by time already served for Australia, the states and territories.

Firstly, we may like to ask whether the distribution of times served by remand prisoners within a jurisdiction has changed over the 10-year period between 1988 and 1998. This can be assessed from the structural change index (SCI) (Productivity Commission 1998). In our case, the SCI is defined as the half sum of the absolute value of the differences in the percentages of remand prisoners classified in specific time categories over the

two periods. The SCI can take on values between 0 and 100, with zero representing no change and 100 indicating a complete reversal of structure¹.

The SCIs, shown on the last row of Table 2, suggest the absence of dramatic changes in the distribution of remand times in the jurisdictions between 1988 and 1998. New South Wales, Queensland and South Australia have remand time distributions more stable than Victoria and Western Australia. Tasmania and the territories tend to have higher indexes than the states, which is due to their relatively small number of remand prisoners.

A second question may refer to whether the distribution of remand times differs across jurisdictions. Taking the distribution of remand times of New South Wales as the reference, we can define an index, based on the chi-square test, to determine whether the distributions for the other states and territories are significantly different from that for New South Wales². Taking New South Wales as the reference is justified by the fact that it has the largest number of remand prisoners, therefore the distribution of remand prisoners according to time already served in this state dominates that at the national level.

Figure 3 shows the values of the index of jurisdictional variation, calculated from the data in Table 2, relative to New South Wales, for 1988 and 1998.

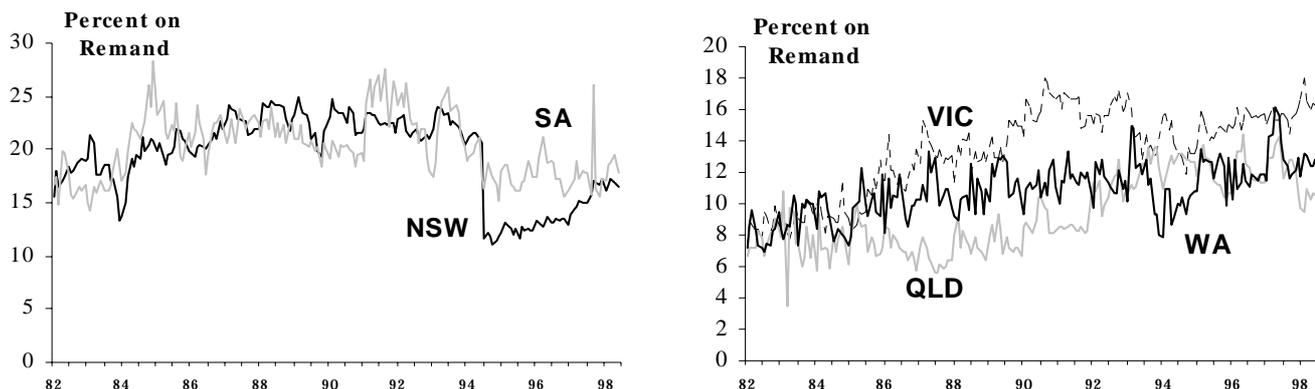
Note that the index for New South Wales is zero.

As shown by Figure 3, except for Victoria, there are differences between times served by remand prisoners in New South Wales and the jurisdictions. Such differences have remained stable over the 10 years from 1988 to 1998. The graph also suggests that, with the exception of Victoria, the observed differences between median remand times in New South Wales and the other jurisdictions are significant.

Nationally, the median time spent on remand has remained stable. On a jurisdictional basis, median remand times have increased in the Australian Capital Territory, Western Australia, Queensland and Tasmania. For the Australian Capital Territory, Western Australia, the median remand time increased from 1.6 months in 1988 to 8.4 months in 1998. In Western Australia, Queensland and Tasmania, median remand times have increased by 3.2, 3.4 and 0.4 months respectively, over the same period.

The remaining jurisdictions have experienced reductions in median remand times. The Northern Territory recorded the largest decline over the period (3.8 months), followed by the South Australia (2.3 months) and New South Wales (1.5 months). In Victoria, the median remand time has decreased by only 0.5 months over the 10 years from 1988 to 1998.

Figure 2: AUSTRALIAN STATES, January 1982–June 1998. Corrective Service Statistics. Prisoners on Remand as a Percentage of Total Prisoners



Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

Median remand times together with data on numbers of remand prisoners can be used to produce a crude estimate of remand admissions during a specific year. The number of remand admissions during a given year can be calculated from the ratio of total number of remand prisoners to the median time to serve, multiplied by 12. Using the data in Table 2, the number of remand admissions was estimated to be 8,821 in 1988, and 14,788 in 1998. This is a 67.6 per cent increase in remand admissions over 10 years.

The data in Table 2 show that in the Northern Territory, prisoners serving remand times under one month represented 44.3 per cent of the total number of remand prisoners counted on 30 June 1998. This is 1.7 times the percentage recorded on 30 June 1988. The reasons for such a large increase are difficult to determine from the available data.

Main Characteristics of Remand Prisoners

Sex and Age

Female prisoners contributed 6.2 per cent and 6.8 per cent to the total number of remand prisoners counted on census date in 1988 and 1998 respectively. These percentages are slightly larger than for the general prison population where females represented 5 per cent and 5.3 per cent of the prisoners counted in 1988 and 1998 respectively.

Figure 4 shows the age distribution of remand prisoners in 1988 and 1998. The figure shows that no remand prisoners under the age of 20 were counted at the 1988 prison census. Note that while the age of remand prisoners peaked at some age between 25 and 29 in 1998, during 1998 the peak age group was 20–24.

Figure 5 shows the offence composition of remand prisoners in 1988 and 1998. Assault, other offences against the person, fraud/missappropriation, offences against justice

procedures and driving offences have increased in the proportion of remand prisoners between 1988 and 1998. The remaining types of offence have declined over the same period.

Apart from assault and

fraud/missappropriation, the offences recording increases in the proportion of the remand population are relatively minor offences. The increased use of remand for persons charged with such minor offences suggests that

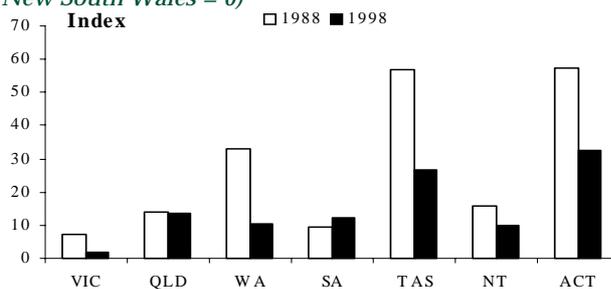
Table 2: AUSTRALIA, STATES AND TERRITORIES, 1988 and 1998. Percentage of Prisoners Remanded on Custody by Time Served on Remand⁽¹⁾

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST
1988									
Under 1 month	32.4	31.4	27.4	50.0	42.3	62.5	26.0	64.3	35.1
1 and under 3 months	22.6	21.2	33.0	22.5	26.4	18.8	34.0	21.4	24.2
3 and under 6 months	20.7	29.0	25.7	21.1	17.6	18.8	24.0	7.1	22.2
6 and under 12 months	15.4	13.7	11.7	6.3	10.4	0.0	14.0	7.1	12.9
One year and over	9.0	4.7	2.2	0.0	3.3	0.0	2.0	0.0	5.6
Number of Remand Prisoners	726	255	179	142	182	32	50	14	1580
Median Time (Weeks)	10.8	11.4	9.0	3.9	7.6	3.1	10.6	1.6	8.9
1998									
Under 1 month	34.4	28.2	22.2	35.9	40.2	53.4	44.3	39.5	32.6
1 and under 3 months	24.2	25.2	31.1	26.7	33.8	27.6	25.0	23.3	27.1
3 and under 6 months	17.0	17.9	25.8	23.5	13.9	10.3	18.2	32.6	19.3
6 and under 12 months	14.5	17.0	15.1	12.0	8.4	8.6	5.7	4.7	13.6
One year and over	10.5	11.7	5.8	2.0	3.7	0.0	6.8	0.0	7.8
Number of Remand Prisoners	1055	436	558	251	298	58	89	43	2788
Median Time (Weeks)	9.3	10.9	12.4	7.1	5.3	3.5	6.8	8.4	9.0
Structural Change Index	4.9	14.3	7.1	14.1	7.8	17.5	23.1	27.2	5.6

(1) Differences between the data in this Table and those in the publications for the 1988 and 1998 censuses of prisoners are due to the definition of remand adopted in this paper, which excludes convicted prisoners awaiting sentencing and persons awaiting deportation.

Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

Figure 3: AUSTRALIA, STATES and TERRITORIES, 1988 and 1998. Remand Prisoners. Index of Jurisdictional Variation Relative to New South Wales (Index for New South Wales = 0)

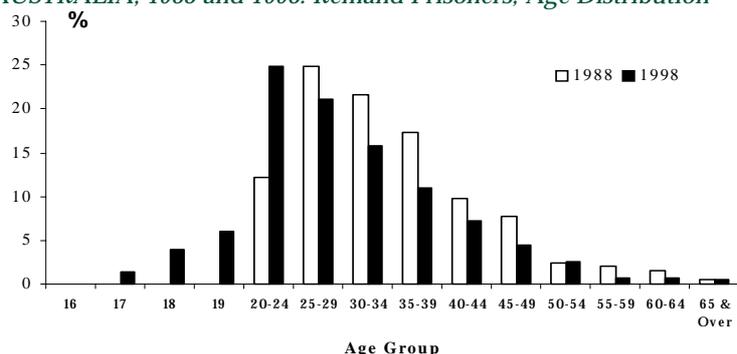


**Difference relative to NSW is significant at the 1 per cent level.

* Difference relative to NSW is significant at the 5 per cent level.

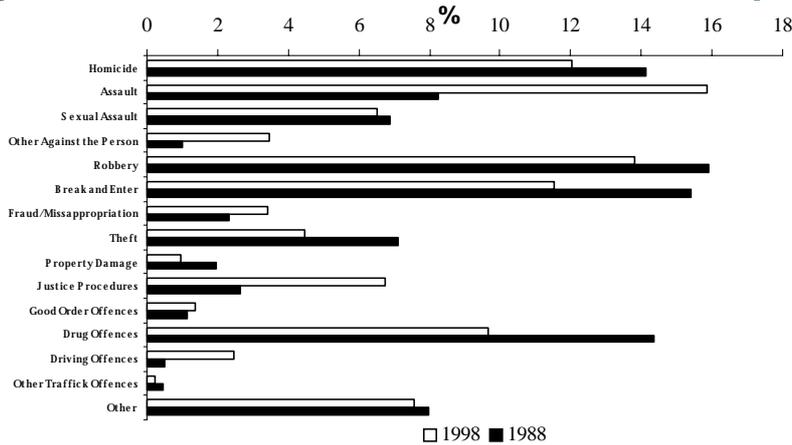
Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

Figure 4: AUSTRALIA, 1988 and 1998. Remand Prisoners, Age Distribution



Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

Figure 5: AUSTRALIA, 1988 and 1998. Remand Prisoners, Offence Composition



Source: AIC, National Prison Census 1998; ABS, Prisoners in Australia 1998.

remand practices tend to remain unchanged in Australia.

Legislative provisions relating to the granting of bail, their interpretation by magistrates, and the extent to which offenders meet the criteria set by the legislation have an effect on remand rates (Bamford, King and Sarre 1999). Such effect cannot be assessed from prison census data.

Conclusion

This paper has examined trends in remand imprisonment using prison census data for 1988 and 1998. There are jurisdictional differences in the trend and relative size of remand populations, which may reflect the combined action of a number of factors such as:

- the likelihood of a plea of guilty;
- the likelihood of conviction;
- the likelihood of a sentence of imprisonment;
- legislative provisions relating to the granting of bail;
- the interpretation of these provisions by magistrates;
- the workload and efficiency of criminal justice processes; and
- whether the characteristics of an accused match those in the legislation.

The variables associated with these factors are not measurable from prison census data. Our analyses suggest the absence of major changes in remand practices in Australia over the past 16 years. Remand times have remained stable in the mainland states and there are differences

among the states regarding the structure of remand times. These differences may be due to any of the factors listed above and are a reflection of jurisdictional variation in remand practices.

The use of remand for relatively minor offences such as offences against justice procedures and good order offences has increased between 1988 and 1998. However, persons charged with these offences represent only a minority of all those remanded in custody. There has also been an increase in the use of remand for the offence of assault.

The use of remand is a complex issue. In Australia, the proportion of remand prisoners has increased by 75 per cent between 1982 and 1998. This is 37 per cent of the growth experienced by the total prison population over the same period (Carcach and Grant 1999), suggesting that the use of remand has had a relatively minor long-term impact on the size of Australian prison populations.

Notes

¹ The Structural Change Index is calculated from the following expression: $SCI = \frac{1}{2} \sum |p_{i,t} - p_{i,t-1}|$, where $p_{i,t}$ represents the percentage of remand prisoners that have served a time in category i during period t and $p_{i,t-1}$, $p_{i,t}$ represents the percentage of remand prisoners that have served a time in category i during period $t-1$.

² The index of jurisdictional variation is calculated according to the following expression: $IJV = \sum \frac{(p_{i,t} - p_{i,NSW})^2}{p_{i,NSW}}$, where i denotes a category for time served on remand and j represents a jurisdiction being compared to New South Wales.

P represents the percentage of remand prisoners.

References

Australian Bureau of Statistics (ABS) 1998, *Corrective Services March Quarter 1998*, cat no. 4512.0, Australian Bureau of Statistics, Canberra.

— 1994 to 1998 (several issues), *National Prisoner Census*, Australian Bureau of Statistics, Melbourne.

Australian Institute of Criminology (AIC) 1982 to 1993 (several issues), *National Prison Census*, Australian Institute of Criminology, Canberra.

Bamford, D., King, S. and Sarre, R. 1999, "Factors Affecting Remand in Custody: A Study of Bail Practices in Victoria, South Australia and Western Australia", *Research and Public Policy Series*, no. 23, Australian Institute of Criminology, Canberra.

Carcach, C. and Grant, A. 1999, "Imprisonment in Australia: Trends in Prison Populations and Imprisonment Rates 1982-98", *Trends and Issues in Crime and Criminal Justice*, no. 130, Australian Institute of Criminology, Canberra.

Collins, M., Walker, J. and Copas, J. 1995, "The Australian Prisons Census: Estimating Remand Times", *Journal of Quantitative Criminology*, vol. 11, no. 3, pp. 315-36.

Productivity Commission 1998, *Aspects of Structural Change in Australia*, Research Paper, <http://www.pc.gov.au/research/otherres/strctchg/index.html>

Morgan, R. 1995, "Prison", in M.A. Walker (ed.), *Interpreting Crime Statistics*, pp. 91-110, Oxford Science Publications, Oxford.

Carlos Carcach is Head of the Crime Analysis and Modelling Program, Australian Institute of Criminology. Anna Grant was a Research Analyst at the Australian Institute of Criminology until April 2000.



General Editor, Trends and Issues in Crime and Criminal Justice series:
 Dr Adam Graycar, Director
 Australian Institute of Criminology
 GPO Box 2944
 Canberra ACT 2601 Australia
Note: Trends and Issues in Crime and Criminal Justice are refereed papers.