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**A NATIONAL
PRISON SURVEY WITH
PARTICULAR REFERENCE
TO BIRTHPLACE**

[Migrant and prison ...]

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**Report to the
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MIGRANTS IN PRISON IN AUSTRALIA

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SUMMARY

A national survey of prisoners was undertaken on the night of 30/6/74. A standard questionnaire was sent to prisons in all jurisdictions.

The data sought concerned age and birthplace, offence data, education, familial data and court processing information (such as plea, representation etc.). Basically the purpose of the study was to provide a comprehensive picture of prisoners with particular reference to birthplace.

Findings

- 1) The overall response rate was 66% and, in all 5,631 response sheets were gathered.
- 2) The data obtained in this survey was consistent with the findings from other migrant-crime studies.
- 3) Compared to the native, the overseas born are at much lower prison risk. The two notable exceptions to this are the New Zealand born and the Yugoslav born - both of which groups have higher-than-native rates.
- 4) Those born overseas have a lighter history of both juvenile convictions and juvenile institutional experience.
- 5) Compared to the general population of overseas born the prison population of the overseas born are recent arrivals. They are also of slightly higher average age.
- 6) Compared to the general population of overseas born the prison group of overseas born seem to have a lower naturalisation rate. The absence of definitive population data make this conclusion needful of confirmation.
- 7) A significantly greater proportion of the Australian born prison population were never married - when compared to the overseas born.

- 8) There is a tendency for the native to plead guilty more often than for the migrant to do so.
- 9) The overseas born in prison, do not appear to have been legally represented in court with differing frequency compared to the native.
- 10) Bail was fixed significantly less often for the overseas born than for the native - for our prison sample.
- 11) No differences were apparant between overseas born and native with respect to the seeking of legal aid.
- 12) The question on interpreter use was not asked in N.S.W. but was in all other jurisdictions. One hundred and eighty two respondents were of alien tongue. Fifteen used an interpreter (8%).
- 13) Without respect to birthplace those unrepresented plead guilty more often. This information is derived from those incarcerated and thus we have no means of knowing what the general court incidence might be.

PREFACE & INTRODUCTION

Australia runs the largest controlled migration scheme in the world even though declining in importance, yet few studies on migrant crime of commensurate importance, have been produced. For both historical reasons connected with the founding of Australia and for pressing contemporary reasons the subject is deserving of further study. This investigation is an attempt to remedy some of the past oversights in the problem of uniform crime statistics.

This study attempts several things: firstly it aims to present basic data on persons in prison with special reference to birthplace; secondly it aims to give the first comprehensive account of prisoners on a national basis, and that all on the same reference points on the same night of the year; thirdly it aims to offer suggestions and criticisms of questionnaire and coding procedures that may form a basis for future endeavours in this area; finally it aims to provide a comprehensive set of references and some comments on the topic of migrant crime so that future workers will be aided in their research. In addition, a copy of the computer cards containing the basic information is to be deposited in the Institute of Criminology Library, Canberra, together with the code, so that others may use them to construct tables of special interest if they are not to be found in this Report.

Crime statistics are complex and needing of care in both collection and use. Even if we leave out offences that are not officially remarked, data may be collected at various official levels - such as police, court or prison - or from various extra legal agencies such as The Australian Bureau of Statistics* and various research workers.

It is the purpose of this Report to deal specifically with prison statistics, collected on a national basis at the initiation of a funded research team.

Each jurisdiction, the six states and the Northern Territory, produce an annual report. These reports, however, are

* Abbreviated to A.B.S.

not produced all on the same basis. Some, for example, give "convicted prisoners" only and others "prisoners received during the year". For this reason the collation of national statistics is not possible.

Another source of possible national data is the quinquennial national census. In that account it is possible to take dwellings data - and prisons are treated as dwellings. Comprehensive information may be collected in this way but, unfortunately for criminological purposes, it does not seek information on criminal offences and so no basic offence data is available by that means.

Each jurisdiction has its own categorisation of criminal offences. As these may, and so sometimes, differ the collection of offence data should be as basic as possible, i.e. what exactly happened at the offence incident. In our survey there are obvious limitations and so we asked for the common wording charge e.g. murder, armed holdup etc..

Prisons statistics could cover many facets such as prisoners, staffing, buildings, costs and so forth. Our study is confined to prisoner information.

Information on prisoners may be broad or deep. If it is broad it will probably involve either a large sample of the prison population: if the information is deep it is likely to involve a smaller sample with, perhaps, the use of a greater number of skilled interviewers. Cutting across these methods is the decision to use a cross sectional or a longitudinal method. Both the broad and the deep approaches may be modified to take in the time variable. The investigations may extend over months or years or the cross-sectional studies may be repeated on the same basis annually, quinquennially or whatever one decides.

In our study we have taken the broad approach and attempted to reach every prisoner on the night of 30/6/74: however it is similar to a depth study in that it asks a comprehensive array of

questions. In addition, it may become the basis and point of departure for future studies of a similar nature.

Basic data may be concerned with either events or individuals. The events may be either offence events or decisions of authorised persons on offenders. Our basic data here is primarily concerned with offenders but is also cross-tabulated with events. The utility of these data is determined, of course, by the administrative decisions needing to be made. A current use of these data may not always be apparent. The writers, however, would like to make the point that future informational needs are not always currently predictable and therefore these data are an insurance against such future needs.

These remarks are simply to give the context and intention to this survey. Those interested in a more extended discussion are recommended to read Biles (1972).

Migrants and the law

With respect to processing before the law migrants might be considered equal but that proposition is more apparent than real. They may be disadvantaged in any one of several ways. Firstly they may be ignorant of the contents of statutes to a greater degree than is the case with the native. This is not to suggest that the latter are quite au fait with statutes but they are more likely to be familiar with them than are migrants.

Secondly the function of the Australian system of justice may be unfamiliar to some migrants. Two examples are the Australian use of jurors. Those from alien jurisdictions using the inquisitorial system might find the former difficult to understand (as might be the case with migrants from France): those from jurisdictions using only the judicial bench might find the use of jurors puzzling (as might be the case with migrants from Holland).

Thirdly, migrants from many places might be ignorant of aids for legal problems: Legal Aid, Chamber Magistrates, small debt courts etc.

Fourthly it should be pointed out that migrants, as a whole, come from slightly lower socio-economic status groups than the native average. Since crime indices tend to be higher in lower socio-economic groups one would expect migrant groups to be a higher risk, though that does not stem from features of their alienness.

Fifthly, some migrant groups are of visibly alien appearance. Their apparent physical distinctiveness may bring them to the attention of the police. In the case of former offenders this ready recognisability may bring an increased prospect of detection in the commission of an offence.

Lastly, since migrant groups come from countries which have been traditionally rivals there is an added risk. Imported rivalries and frictions generated in their respective countries of origin may dispose them to subsequent criminal encounters.

These mentioned disadvantages may be offset, partly or completely, by other factors which advantage them. Many migrant groups, particularly those of alien tongue, live in cultural enclaves. Such enclave dwelling may lead to a containment of offending behaviour within the enclave and lead to diminished contact with the legal system. Additionally, migrants moving here from jurisdictions with a lesser concern for justice enjoy greater social advantages than would be the case had they not migrated.

It is extremely difficult to estimate the relative importance of these advantages and drawbacks. The focus of our concern is with officially remarked cases that proceed to a prison term. While recognising the importance of hidden delinquency and victimology studies it must be emphasised that detailed consideration of such matters lies beyond the scope of this study.

Migration studies

Much work has been done on migration in Australia. The variety of work approaches is impressive, as is the variety of groups investigated. It would be redundant to comment on that work here.

The field has been excellently surveyed and documented by Price in two volumes: one in 1966 and a second in 1970 (a further edition is to appear in late 1975). Those interested are recommended to consult Price's works.

Migrant crime studies elsewhere.

There are four main sources of information on migrant crime in other countries: one is that of internal European migration, a second is that of European migration to the U.S.A., a third is the migration of Jews to Israel and a fourth is the British Commonwealth migration to Britain.

The first of these, internal European migration, is well documented in an extensive article by Ferracuti (1968). That area of research is an unusual one in that it deals with many instances of studies of temporary migrants, guest workers, and makes it distinctive. As Ferracuti so aptly puts it: - the migrations across the Atlantic are characterised by a

"...finality, brutality, unplannedness and unselectively (which) makes it a much more damaging phenomenon. Much of the literature on refugees has no relevance for the problems of migrants. Also, modern workers' migration in Europe has distinctive characteristics which nullify the validity of older studies. The present migrant worker in Europe is often a temporary resident or, at least, leaves with the definite goal of returning to his country of origin. In many cases, the immigration is planned and assisted. The occupational placement is in general consistent with his abilities and often his family accompanies him or joins him quickly. The final and tragic cut of ties with the country of origin, which was a feature of previous migrations across the Atlantic is largely absent."

The second area of study, European migration to the U.S.A. was admirably summarised by Sellin in 1938. That evaluation was given a "culture-conflict" interpretation.

Sellin (1938) showed that migrants as a whole are not disproportionately responsible for crime in the U.S.A. A more recent discussion of that is to be found in Van Vechten (1964). It is one of the singular merits of American criminologists to have

dispelled the criminal-immigrant myth even though this was done after massive migration from Europe to the U.S.A. had ceased. (Perhaps a belief in that myth had part of its origin in xenophobia),

Some recent studies have taken the culture conflict theory as a point of departure and used it in specific studies. In one case Italians in Montreal, Canada were the subject of investigation (see Ribordy, 1971 for example).

The inclination of studies in the U.S.A. now is toward race and crime rather than immigrant crime. That is not to say, however, that concern over immigrant crime has disappeared. Drug trafficking across the Mexican border is of continued interest, as is the Mafia and its Sicilian connections.

Immigration to Israel is the third geographical locus of interest. The unique features of that instance are the common Jewishness, pride and heritage Jewish immigrants to Israel may go as of right rather than on sufferance. It is a new nation and an ancient people. The small physical size, the relative poverty of natural resources and the husbanding and exploitation of them, the Sephardic - Ashkenazim distinction, the interplay of radical and traditional viewpoints all contribute to cultural diversity. It is also the only country which surpasses Australia's record in the field of immigration where, according to Sachar (1958, p. 545) an "unrestricted indiscriminatory welcome was extended in defiance of every known law of economic absorptive capacity".

Shoham (1966) has written on the problem of migrant crime in Israel and, inter alia has spoken of the way in which Kibbutzim solve their problems internally. Shoham has indicated that the socio-economic status of offenders affects both denouncing and treatment. The Western European ethic pervades social treatment and this is believed to hamper deep and direct access to other ethnic groups. Drapkin (1969) writing on the problem, regards the problem of migrants to Israel as unique. The prior committment of Jews to Israel should lessen conflict that might be apparent in other cases.

The fourth area of interest is British Commonwealth migration to Britain. There are really two groups involved here: British Commonwealth incomers to Britain; entries to Britain from Eire. The Irish entrants are not British but enter with virtually no immigration control. This latter group is predominantly male and unmarried. Further, the move by this group is to a more urbanised society. All of these factors dispose the group to a higher crime rate. Such a case has been documented by McClintock & Gibson (1961) and McClintock & Avison (1968).

For the British Commonwealth immigrants to Britain the identification problem is acute. Because of the race relations problem, birthplace of offenders is not given in British statistics and so an appropriate analysis is not possible. Those interested in this area are recommended to read Bottoms (1967) article for a concise overview.

Migrant crime in Australia

The earliest, and perhaps most extensive study of migrant crime in Australia is that conducted by a special committee under the Chairmanship of Mr. Justice Dovey. These findings are given in Reports handed down in 1952, 1955 and 1957.

The general finding there was that migrants were responsible for proportionately less crime than the native Australian. This finding was, in the view of the Committee, particularly pleasing since the influx of migrants was predominantly young, male and unmarried - factors known to be related to a higher crime rate. This finding of a low migrant crime rate could be mediated by the desire of incomers for peace after their factional war experiences in Europe.

A general account of migrant crime in Australia is to be found in Francis (1972). Prison data for migrants in New South Wales for each census year was the subject of a paper by Francis in 1972. More recently a comparison of first and second generation migrants in prison on census night (30/6/71) in the State of New South Wales was reported by Francis & Cassel (1975). A trans-Tasman comparison of

crime rates for both courts and prisons is outlined in Francis & Taylor (1975). Most recently migrants and violent crime was the subject of a study by Francis (1975).

From these recent studies it is clear that some nativity groups are at consistently high risk no matter which level of collection one uses for criminological data; equally other nativity groups are at low risk.

The time - series data change their base line at various points over decades so that precise comparisons are not possible. It is clear, however, that where comparisons are possible the criminal risk of the groups changes over a period of decades. Those born overseas are at a lower prison risk (in N.S.W. in 1971) than the native born of native born parents, while second generation migrants are at intermediate risk.

The trans-Tasman study yielded a number of comparisons. One of the most interesting is that within New South Wales the New Zealand born are at high risk whereas in New Zealand the New South Wales born are at high risk. These high reciprocal rates are interpretable in more than one way and should form the basis of some future project. This study also indicated some positive relationship between the induction into prison and induction into psychiatric hospitals when viewed across an array of nativity groups. Consideration was also given to whether the positive relationship could be accounted for by the higher rates being caused by a minority who moved alternately through the psychiatric and prison systems. Such a partial explanation was found.

The present work, and attempt at uniform crime statistics, was, amongst other things, designed to make a more precise and concise attempt at removing some of the statistical ambiguities present in the preceding studies.

Future work has been initiated into processes preceding and following imprisonment. (See e.g. Coyle & Francis, 1975). The

former is concerned with migrants appearance in magistrates courts; the latter is concerned with job opportunities for migrant ex-prisoners. It is hoped that the results of these studies will appear some time in 1976.

PRISONERS BY BIRTHPLACE

30/6/71

Baseline Data

These tables were constructed from a computer printout especially commissioned through the Australian Bureau of Statistics. It provides a firm census base to evaluate this and other studies and affords a point of departure for further studies.

TABLE 1

Australia. Census data from 30/6/71. Males & females (A.B.S.)
Prison and population figures for age 17 years and over

Birthplace	Persons in prison	Population	Rate 100,000
Australia	8950	6,445,580	138.85
New Zealand	143	66,401	215.36
Gt. Britain	616)	901,924	68.30
All Ireland	72)		
Malta	40	47,612	84.01
Austria	31	-	-
Hungary	52	-	-
Czechoslovakia	35	-	-
Yugoslavia	179	107,599	166.36
Poland	40	58,386	68.51
Comm. Eur. N.E.C.	6	-	-
U.S.S.R.	37	-	-
France	13	-	-
Germany	174	100,858	172.52
Greece	67	142,963	46.88
Italy	120	261,176	45.95
Netherlands	67	90,250	74.24
Scandinavia	18	-	-
Iberia	7	-	-
Other Europe N.E.C.	19	-	-
Asia	78	-	-
Africa	29	-	-
Canada	17	-	-
U.S.A.	32	-	-
Other America	4	-	-
Other	6	-	-

Dashes indicate data not available from 1971 census

TABLE 2

Birthplace x prison rates. Summarised from Table 1.

Birthplace	Persons in prison	Population	Rate 100,000
Australia	8950	6,445,580	138.85
Overseas	1902	2,195,928	86.61
Total	10852	8,641,508	125.58

These two tables, derived from the National census on 30/6/71 are baseline data. They are used to afford a comparison for the present study and as a point of departure for future studies.

The tables were specially commissioned. Thanks are due to The Australian Bureau of Statistics and to Dr. Cushing of the A.N.U. for their help in presenting these data.

PRISONS

30/6/74

With the co-operation of the several Department Heads of Prisons the survey questionnaire was administered on the night of 30/6/74. It will be appreciated that the administration of the questionnaire was dependent upon the goodwill of both the Administration and the prisoners. Unlike the quinquennial censuses conducted by the Australian Bureau of Statistics there are no sanctions applicable for non-compliance.

A problem common to all questionnaires is the refusal of some individuals to co-operate in replying. The main problem is not so much that the group is reduced in size. Although this can be an important consideration a more cogent problem is that the refusal to answer on the part of some individuals may produce a sample of unknown bias.

In all 5631 prisoners (5483 males and 148 females) responded to the questionnaire. This represents a percentage of about 66% there being a muster of 8,501 on the night of 30/6/74. These data should be interpreted with extreme caution since the sample is not a complete one and may be biased.

The response rates appear below in table 3.

TABLE 3

Response rates in various jurisdictions

	<u>Actual Muster</u>	<u>No. respondents</u>	<u>% response</u>
NSW	3,118	3,089	99
VIC	1,771	545	31
QLD	1,401	410	29
WA	934	732	78
SA	765	416	54
TAS	346	286	83
NT	166	153	92
	<u>8,501</u>	<u>5,631</u>	<u>66%</u>

It is noted that N.S.W., the Northern Territory and Tasmania had high response rates while Victoria and Queensland had low response rates. Taking all circumstances into account the overall rate is adequate.

This questionnaire is of compromise length. The compromise is between comprehensiveness and the consideration of retaining the respondent's interest. In addition, the information asked is coded so that it fills one complete computer card (for statistical reasons).

Prison Census

Table 4 gives the birthplace by prison rates. The most notable point of the Table is the comparison of the Australian born (71.04 per 100,000) with the overseas born (47.91 per 100,000).

TABLE 4

Birthplace by prison rates. (Prison data 30/6/74 Population data 30/6/71; in this and succeeding tables)

Birthplace	<u>30/6/74</u>	<u>1971 Census</u>	Rate 100,000
	No. in prison	No. in * population	
Australia	4,579	6,445,580	71.04
Overseas	1,052	2,195,928	47.91

* Age 17 and over. Figures derived by interpolating as (15-19 years) is closest given.

This finding shows the Australian born to be at substantially higher risk than the overseas born. Such a finding is of importance here because it is congruent with findings of Francis & Cassel (1975) wherein no sampling bias was possible since it involved a total prison population.

Further, when one looks at the groups at high risk (Table 5) (e.g. New Zealand and Yugoslavia) and the groups at low risk

TABLE 5

Birthplace and Prison Rates

Birthplace	Prison No.	Population	Rates
Australia	4579	6,445,580	71.04
Papua/N.G.	5		
New Zealand	92	66,401	138.55
Great Britain	292)	901,924	35.81
Ireland	31)		
Malta	14	47,612	29.40
Austria	19		
Cyprus	4		
Czechoslovakia	13		
France	2		
Germany	68	100,858	67.42
Greece	26	142,963	18.19
Hungary	20		
Italy	42	261,176	16.08
Netherlands	36	90,250	39.89
Poland	20	58,386	34.25
Scandinavia	11		
U.S.S.R.	19		
Yugoslavia	82	107,599	76.21
Other Europe	16		
U.S.A.	23		
Canada	6		
Other American	8		
Africa	15		
Asia	49		
Pacific Is.	9		
Unspecified	130		

(e.g. Greece and Italy) this is exactly the finding of other studies conducted by this writer(s) (see bibliography). Additionally the

This is summarised in Table 7 which gives a breakdown for two birthplace groups.

TABLE 7

Australian and overseas born by types of offence

Birthplace	Personal violence	Driving	Vs prop + viol.	Vs prop - viol.	Vs good order	Other	Totals
Australian	1419 81.9%	451 85.9%	616 78.8%	1162 82.1%	317 75.8%	614 80.9%	4579 81.3%
Overseas	313 18.1%	74 14.1%	166 21.2%	253 17.9%	101 24.2%	145 19.1%	1052 18.7%
Totals	1732	525	782	1415	418	759	5631

An inspection of Table 7 reveals two items worthy of comment. One is the high incidence of driving offences for the Australian born and the other is the tendency to a higher incidence of property offences without violence, also for the Australian born.

In the absence of critical information, such as degree of driving experience, it is not possible to pronounce on the matter. For property offences not involving violence the Australian born had a slightly higher rate than the overseas born. It seems likely that the imprisonable, but otherwise lesser, larcenies are likely to be committed by those less prone to travel and this could account for the raised incidence of this type of offence.

Current status in prison

The prisoners' current status in prison is summarized in Table 8. An inspection of that table shows two items of interest. The overseas born have a higher percentage awaiting trial or sentence. Five percent more Australian born are serving a sentence but there is only a 2% difference in incidence of those remanded to

a lower court when considered across birthplaces. Since "awaiting trial" is confounded with "awaiting sentence" it is difficult to know how to interpret these data - particularly as the numbers are small.

TABLE 8

Birthplace by Current Prison Status

Birthplace	Serving sentence	Awaiting trial or sentence	Appellant	Remanded to Lower Court	More than one preceding	Awaiting deportation	Prohibited Immigrant	Not stated	Total
					1.	2.	2.		
Australia									
No.	3915	192	68	182	67	1		154	4579
%	86	4	1	4	1	0		4	100%
Overseas									
No.	749	51	11	57	9	11	3	31	922
%	81	6	1	6	1	1	0	3	99%
Unspecified	78	6	4	29	1			12	130

1. Does not include N.S.W.
2. N.S.W. only

Juvenile delinquency

According to Sutherland & Cressy (1966) priority of conviction is a good indicator of subsequent criminal career. This finding was confirmed by the Gluecks (1950). Tables 9 and 10 summarize that priority of offending in terms of juvenile convictions.

From Table 9 we may see that the percentages of those with no juvenile convictions is lower for the Australian born, by 23%. For the "three offences or more" category the Australian born have a higher percentage; almost double the percentage of the overseas born.

TABLE 9

Birthplace by Juvenile Convictions

Birthplace		None	One	Two	Three or more	Not given	Total
Australia	No.	1779	634	414	1529	223	4579
	%	39	14	9	33	5	100%
Overseas	No.	572	82	64	161	43	922
	%	62	9	7	17	5	100%
Not given		4		1	5	120	130

It is interesting to note that the lower juvenile offending history of migrants is consistent with the general finding that migrants have a lower adult offending rate than the native. It will also be noted that the table on juvenile institutional experience is consistent with the foregoing (see Table 10). The same direction of differences is found, but to a lesser extent (Table 10).

TABLE 10

Birthplace by Juvenile Institutional Experience

Birthplace		None	One	Two	Three or more	Not given	Total
Australia	No.	1543	715	371	770	1180	4579
	%	34	16	8	17	26	101
Overseas	No.	474	72	54	89	233	922
	%	51	8	6	10	25	100
Not given		121	1	1	3	4	130

Age at arrival

The culture-contact theory of Sellin (1938) holds that the alienation of migrants is related to both the amount of time spent in the adoptive country and the age at arrival. Table 11 gives the number of years spent in Australia.

TABLE 11

Birthplace by Number of Years in Australia

PRISONS

Birthplace		0-4	5-9	10-19	20+	Not applic. or not stated	Total
Overseas	No.	142	177	306	243	54	922
	%	15.4	19.2	33.2	26.4	5.8	100%

GEN. POPULATION*

Birthplace		0-4	5-9	10-19	20+	Not stated	Total
Overseas	No.	648,455	399,382	678,885	632,753	163,397	2,522,872
	%	25.7	15.8	26.9	25.1	6.5	100

* Interpolated to make data consistent with prisons data. Total population - not 17 years and over-age breakdown not available.

The trend of these data is that a larger percentage of the prisoners are recent arrivals (having spent fewer years in Australia). This is true of the 0-4 years category. After that the trend is reversed.

Age

This leads us to a consideration of the age of the offenders since we need to gauge age at arrival. Table 12 shows the age of offenders by birthplace. For each of the birthplaces mentioned

the bulk of cases are between 20-49 years of age. For the ages 19-24 the Australian born had higher percentages: for the ages 25 onward this was reversed. This is interpreted to mean that migrants in prisons tend to find their way there at a later age than does the native.

TABLE 12

Birthplace by Age

Birthplace	<18	18	19	20-21	22-24	25-29	30-39	40-49	50-59	60+	Not given	Total
Australia												
No.	68	212	330	644	847	898	807	461	206	60	46	4579
%	1	4	7	14	19	20	18	10	5	1	1	100
Overseas												
No.	5	27	52	94	137	217	199	101	62	26	2	922
%	1	3	6	10	15	24	22	11	7	3	0	102
Not stated	1	4	5	10	15	27	26	16	8	5	13	130

Citizenship

Information concerning change by prisoners to Australian citizenship is given in Table 13. For this analysis we have excluded the New Zealand, the U.K./Ireland born and the Canada born, because of the overwhelming numbers of persons already British in those categories. Confining our analyses to the predominantly alien group the proportions are divided roughly evenly.

TABLE 13

Birthplace by Naturalisation as Australian Citizens. (Prisons)
Overseas born excluding New Zealand, U.K./Ireland and Canada

	Naturalised	Not Naturalised	Not given	Total
No.	196	248	57	501
%	39.1	49.5	11.4	100%

The question arises about the percentages of aliens in the community who change to Australian citizenship. Table 14 gives an indication of that proportion. It is to be noted that the list-

TABLE 14

Overseas born, excluding New Zealand, U.K./Ireland & Canada (Gen.Popul.)
British & Non British Subjects

	British	Non-British	Total
No.	1,122,842	734,124	1,856,966
%	60.47	39.53	100

ing is British - Non British rather than Australian - Non Australian. This is the closest that we can get using the Census figures for the whole population. Unfortunately the data on naturalisation directly is not available from the Census. It seems reasonable to suppose that aliens converting to British status will do so predominantly by way of naturalisation in Australia and so these data may be taken as a guide. We realise that birthplace is a coarse guide to nationality and that persons may be born in alien countries and be registered as British by birth.

Clearly there is a disparity between Tables 13 and 14. In the prison sample 39% were naturalised: in the Census 60.5% of alien born were of British status - a disparity of 21.4%. Fewer of the prisoners are naturalised. It is concluded that naturalisation may be a discriminating feature of aliens in prison.

Marital status

The marital status of prisoners is summarized in Table 15. An inspection of that table shows that a higher proportion of the Australian born than migrant born, were never married; a smaller proportion of them are now married and a smaller proportion are

widowed. Or, conversely, of the overseas born a lower proportion were never married, a higher proportion are now married and higher proportion are widowed. This is consistent with the common finding that prisoners tend to the general "not now married" category. That finding goes with our finding that the native have a higher imprisonment rate. It is impossible to know whether the absence of a marriage partner is causally linked to the commission of an offence.

If one compares the Australian and overseas born groups for the ex-married state (columns 3-5), the percentages are almost equal. The differences, therefore, are in the decision-to-marry categories, (never married - married). A χ^2 for the figures on "never married" and "married" for the birthplaces listed has a value of 8.41, $P < .01$.

TABLE 15

Birthplace by Marital Status

	1	2	3	4	5	6	7	8	9
Birthplace	Never married	Married	Widowed	Separated	Divorced	de facto	Separated & de facto	Not stated	Total
Australia									
No.	2299	790	90	398	256	491	6	249	4579
%	50	17	2	9	6	11	0	5	100%
Overseas									
No.	425	192	36	78	56	89	4	42	922
%	46	21	4	8	6	10	0	5	100
Unspecified	2	4	1	-	2	1	-	120	130

On those grounds it seems reasonable to draw the conclusion that a significantly greater proportion of the Australian born (in prison) were "never married" as compared to those born overseas.

Social helping agencies

Some prisoners consult helping agencies such as Prisoners' Aid, The Salvation Army, A.A. etc. Table 16 shows this incidence. Of those who responded to the question only about one fifth sought help. When considered by birthplace it appears that migrants seek help about as often as natives.

TABLE 16

Birthplace by Social Helping Agency Consultation

(No data for N.S.W.)

Birthplace		Help sought	Help not sought	Not given	Total
Australia	No.	404	958	810	2172
	%	19	44	37	100%
Overseas	No.	76	165	122	363
	%	21	45	34	100%
Unspecified		3	2	2	7

Pleas

Pleas entered are the subject of Table 17 below.

TABLE 17

Birthplace by Plea

Birthplace		Guilty	Not Guilty	Both ²	Not Given ¹	Total
Australia	No.	3150	989	40	400	4579
	%	69	22	1	9	101%
Overseas	No.	576	235	8	103	922
	%	62	25	1	11	99%
Unspecified		9	3	-	118	130

1. N.S.W. only

2. Meaning most commonly that more than one plea is entered because there is more than one charge.

Guilty - Not guilty by Australian-overseas born χ^2 value = 9.15 d.f. = 1 $p < .01$

The "not given" percentages are low and roughly equally distributed across the two listed birthplaces. It is plain that there is a tendency for the native to plead guilty more often than is the case for the migrant. The percentage differences for the "guilty" plea for the two birthplace groups is 7%; for the "not guilty" plea it is 3% but for the "not given" it is 2%. Plainly of the clear respondents the effect is statistically significant but the percentage in the "not given" category make us interpret this result with caution.

This conclusion, derives from those in prison: the plea differences are unlikely to be related directly to court findings.

Representation

In relation to the above point we might consider the effects of legal representation. Information on that point is given in Table 18.

TABLE 18

Birthplace by Legal Representation

Birthplace		Represented	Not Represented	Not Given	Total
Australia	No.	2346	1840	393	4579
	%	51	40	9	100
Overseas	No.	487	341	94	922
	%	53	37	10	100
Unspecified		5	7	118	130

There is only a 2% difference between the percentage of representation for the Australian born and the overseas born. It is interesting to note that in both cases more than half the sample were represented. For the Australian born 51% were represented as compared to 53% of the overseas born. Since this difference of 2% is less than the "not given" percentage it seems unlikely that migrants are distinguished from natives by the proportion having legal representation in court.

Representation by plea

Without regard to birthplace the plea may be related to legal representation. Tables 19 and 20 attempt to answer that question.

TABLE 19

Legal Representation by Plea

		1	2	3	4	
		Guilty	Not guilty	Both ¹	Not given	Total
Represented	No.	1763	935	30	110	2838
	%	62	33	1	4	100%
Not Represented	No.	1843	266	16	62	2187
	%	84	12	1	3	100%
Not Given	No.	129	26	5	446	606
	%					

1 N.S.W. only

An inspection of the Table, ignoring columns 3 and 4, shows that of those represented a substantially increased number pleaded not guilty as compared to the non-represented. For each category - the represented and the non-represented - the majority pleaded guilty but for the non-represented category the majority was a substantially raised one. The basic figures were extracted from this table and analysed by a χ^2 test.

TABLE 20

	<u>Guilty</u>	<u>Not Guilty</u>	<u>Total</u>
Represented	1763	935	2698
Not Represented	1843	266	2109
Total	3606	1201	4807

$$\chi^2 = 307.05 \quad p < .001$$

This effect is a significant one. Even if we add in the "not given" data into the table in the way most disadvantageous to the finding that finding is still statistically significant. In this case the χ^2 value is 297.0 which is still significant at the .001 level but with d.f. = 2. Even if χ^2 is calculated taking the "not given" for both variables into the analysis the finding is unchanged.

Bail

The information given in Table 21 shows the position with respect to bail: of those who responded about 4 in 10 were given bail.

TABLE 21

Birthplace by whether bail fixed*

Birthplace	Bail fixed			Totals
	Yes	No	Not Stated	
Australia %	899 91.6	1163 84.3	104 83.9	2,166
Overseas %	82 8.4	216 15.7	20 16.1	318
Totals	981 39.5%	1379 55.5%	124 5%	2,484

* Does not include N.S.W.

χ^2 on Yes/No by Aust./Overseas
= 27.89 d.f. = 1 p < .001

The overseas born are slightly less likely to receive bail than the Australian born. This may be related to the lower crime rate for migrants. Since they appear in prison less frequently than natives the offences which get them there are probably more serious proportionately and therefore their cases proportionally less deserving.

Legal aid

The position on legal aid is given in Table 22. In that table it seems that there is no differential disposition to seek

legal aid between the two birthplace groups listed. The percentages of those seeking aid or not seeking aid are very similar. It is noted that, overall, just under one third seek aid.

TABLE 22

Birthplace by Legal Aid

Birthplace		Aid	No aid	Applied but not used	Not stated	Total
Australia	No.	672	1203	13	284	2172
	%	31	55	1	13	100%
Overseas	No	106	217	3	37	363
	%	29	60	1	10	100%
Unspecified		3	4	-	-	7

No data for N.S.W.

Interpreter use

Migrants may use an interpreter either at the police/bail stage or at the court stage. In fact only 28 persons in the sample used an interpreter. We exclude, of course, those whose mother tongue is English. Thirteen of the respondents used an interpreter at the trial stage and fifteen used an interpreter at more than one stage.

TABLE 23

Birthplace by Interpreter

At trial	Trial, committed for trial	Bail, police	Trial, committal, bail, police	Trial committal, bail	Total
13	5	1	8	1	28

No data for N.S.W.

A count of the number of migrants of alien tongue was done. The count excluded N.S.W. since that question was not on the questionnaire. The exclusions of Australia, New Zealand, G.B./Eire, Canada and U.S.A. were made.

One hundred and eighty two respondents were from countries of alien tongue and fifteen used an interpreter. It is improbable that all would have needed an interpreter but 15 out of 182 (i.e. 8.2%) does seem small usage and deserving of more detailed enquiry.

Discussion

The overseas born, compared to the native, are under-represented. They have a lighter history of juvenile offending and there is a tendency for the offending migrant to be slightly older and of more recent arrival than his counterpart at large. A smaller proportion of migrants were in the "never-married" group, compared to the native. No native/migrant differences were apparent with respect to the seeking of legal aid, nor obtaining representation in court. For overseas born, bail was fixed less often and they pleaded guilty less often.

The overseas born's under-representation may well be related to the less juvenile offending - once married condition. Of the migrants who do offend they tend to be slightly older and of more recent arrival and perhaps that indicates a difficulty-of-social adjustment problem.

Our finding re the court appearance of migrants is that 6% are remanded in prison (compared to 4% for the native, see Table 8). This is consistent with their being bailed less often. We infer from this that their offences are more serious and/or their community ties weaker and therefore they are regarded as liable to abscond or intimidate witnesses.

What is mildly astonishing is their pleading guilty less often. One would have thought that the alien would be liable to confuse moral and legal culpability and therefore plead guilty more

often. What we do not know is how this relates to the pleas in courts in general, only to those incarcerated. Perhaps natives plead guilty more often and therefore have a higher finding-the-case-proved rate thereby increasing their prospects of incarceration. The overseas born plead guilty less often and more cases might be found 'not guilty' more often, thereby lowering the rate.

The general problem which this project set out to solve was basically concerned with comprehensive and uniform national prison statistics. It is noted in the Institute Newsletter (V3, No. 1 Sept. 1975) that working parties have been formed to identify problems likely to be met in devising uniform statistics. The writers hope that this Report will be of some assistance.

The study reported here is concerned specifically with migrant crime at the prison stage: it is related to reasons for migration and the problem of adjustment after migration.

One prospective study that would be well worth conducting is an investigation of problem persons and problem families. Davies and Cunningham-Dax (1974) have noted that a nucleus of families, in Tasmania, with considerable social dependencies, were involved with a substantial use of social agencies of various kinds. One might also ask why such a small percentage of individuals become involved with social transgressions. Putting this idea into a migrant context, an examination of the personalities of migrants - with particular reference to criminal migrants - might produce some rewarding results. Ideally one could imagine testing all migrants in their parent country prior to departure. By following such a cohort through their migration and adjustment we would have a clearer answer to the relationship between personality and adjustment, transgressions and social successes.

Perhaps one of the most significant gaps in our knowledge about migrants is our lack of knowledge about their capacity and fluency in English. The frustration engendered by an inability to express oneself might dispose aliens to violent reactions.

Additionally those of marginal linguistic competence could easily misunderstand something said (or gestured) and that could give rise to personal altercations. It is improbable that a survey of the kind reported here could answer such a question but other techniques could. The writers strongly suggest that such a study would be invaluable.

Our study here was concerned with prison appearance. Some groups rarely appear in prison and, on reflection, their absence is a point of note. One of the writers has visited prisons in every Australasian jurisdiction and never seen a Chinese face. If those of Chinese extraction so rarely appear it may be worthwhile to examine, most closely, the reasons for that.

Our concern here has been with migrants as offenders. No consideration has been devoted to the matter of migrants as victims - nor to the involvement of migrants in victimless crimes. Further, the concern with migrants as offenders has been confined to summary and criminal matters. We have said nothing of civil matters - either as offenders or victims. After inquiries it seems that no central register of civil actions is kept, certainly none that reveals the birthplace of the litigants. There is no civil counterpart to criminal statistics.

Recommendations

It is apparent to the authors that there is considerable merit in having a bank of data such as this. Such a survey gives us the present analysis, an array of information for future questions which might arise and a point of departure for future studies. In addition to these points it might be noted that the writers have acquired some expertise in conducting surveys of this type.

1. The writers recommend that future surveys be conducted. Ideally the criminological information could be added to the national quinquennial census. Legislation for the A.B.S. provides sanctions for non-compliance. The use

of that medium ensures the completeness of future surveys.

2. If more frequent surveys are wanted it is recommended that the "clearing house" function of The Australian Institute of Criminology be used. The writers would be glad to provide advice and help.
3. That these findings be given to The Department of Labour and Immigration for their perusal and use. Further, that those bodies responsible for substantive and procedural changes in the law be informed of these findings.
4. That the C.R.C. encourage an interest in the use of interpreter services in court. The low use rate does suggest a need for further enquiry.

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Comments on the questionnaire

The questionnaire was constructed in the simplest and briefest manner consistent with coverage. It is reproduced here but its original form is slightly different. As it was sent out it consisted of one sheet folded in half and printed on both sides of each half thereby making it four pages. There were 44 questions. These were coded into numerical form in the boxes shown on the right under "office use only". As an example, the birthplace code was two digits. In the code 100 birthplaces were listed. Thus if a respondent gave birthplace as Bulgaria, 28 was entered in the coding space. All questions were numerically coded in this manner and then computer analysed.

An example of one of the computer programs is appended.

In the planning stage of this survey 30/6/74 was elected as the survey date. There was a slight delay in financing arrangements and the questionnaire was pre-tested only once instead of several times as is desirable. Because of the commitments entered no postponement was possible. Some format improvements might now be suggested. They are largely in the layout of the questions. In the question on court procedures which deals with "Did you have an interpreter....." the question should be close to the box in which the response is to be given. Further, all the questions could have been numbered so that instructions about them could be given. It is not infrequent to encounter literacy problems in prison. Our request to the prisons was to have a wing officer help those prisoners who might need it. For this reason the instructions need to be simple and the format unambiguous. The size, scope and coding of the questionnaire was found to be right in principle although some amendment of questions may be sought in future surveys.

There is an intractable problem in anonymous self response questionnaires and that is the one of obviously facetious responses, e.g. "What job do you have at present in prison?" Answer "brain surgeon" (sic). The writer and the coder made joint decisions on each doubtful case; there were about ten such. If it was thought to be facetious it was scored as not answered.

The writers would recommend the same general approach to researchers who wish to do future studies of this kind. One proviso is that every step should be taken to ensure prisoner's co-operation beforehand - by visiting each prison beforehand if necessary. These writers would be glad to advise anyone contemplating such an enterprise. The original data in the form of computer cards is to be deposited in the Library of The National Institute of Criminology in Canberra. Those wishing to do other analyses of these data may consult them there. Further, serious researchers and those administratively concerned, are welcome to approach the writers for any help that they may want and we will be glad to help.

Items deposited in the J. Barry Library at The Australian
Institute of Criminology, Canberra.

- 1 Computer printout for 30/6/71 census of people
in prison. (A.B.S.)
- 2 A code to interpret that printout
- 3 A copy of the N.S.W. questionnaire plus code
- 4 A copy of the main questionnaire
- 5 Codes for that questionnaire
- 6 A complete deck of computer cards carrying the
basic data from the survey
- 7 A caveat on the use of the cards
- 8 A copy of the Victorian Report
- 9 A copy of the National Report
- 10 A copy of one of the computer programs

SURVEY OF PRISONERS WITH SPECIAL REFERENCE TO BIRTHPLACE

This is the first national survey of prisoners, with special reference to their birthplace, that has been done in Australia.

It is being conducted by the School of Behavioural Sciences at La Trobe University in Melbourne and with the co-operation of prison authorities in each state. The Funds for the study are being provided by the National Institute of Criminology in Canberra.

A main reason for the study is to gain information from every state on the same night and on the same standard form. Additionally it will provide a pool of statistical information so that recurring smaller surveys will not be needed.

These forms will go to La Trobe University for coding into computer form and the original forms will then be destroyed. The study is strictly confidential.

Even though many of the people answering this form are not born overseas the information is needed so that a comparison can be made. The answers are simply to tick a box or write in the words or numbers.

Thank you for your assistance.

		Office use only
1. Date of birth	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 1-6
Male <input type="checkbox"/>	Female <input type="checkbox"/>	<input type="checkbox"/> 7
2. Place of birth		
Which country were you born in:	<input type="checkbox"/> <input type="checkbox"/> 8-9
If you were born in Australia, which state:	<input type="checkbox"/> 10
If born overseas, are you naturalised: Yes <input type="checkbox"/> No <input type="checkbox"/>		<input type="checkbox"/> 11
Year of arrival in Australia	<input type="checkbox"/> <input type="checkbox"/> 12-13
Do you consider yourself to be an aboriginal:.....		<input type="checkbox"/> 14
Which country was your mother born in:.....		<input type="checkbox"/> <input type="checkbox"/> 15-16
Which country was your father born in:.....		<input type="checkbox"/> <input type="checkbox"/> 17-18
3. Occupation		
What is your usual occupation:.....		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 19-22

4 **Education:** Put a tick in the box next to the answer that applies to you.
 What is the highest grade you completed at primary school: (includes correspondence).

Office use only

Grade 1 2 3 4 5 6

23

No primary schooling

24

What is the highest form you completed at high school: (includes correspondence).

25-26

Form 1 2 3 4 5 6

No high school attendance

At what age did you leave school

27-28

Did you complete:

a university course Yes No

a technical college course Yes No

any other post secondary course Yes No

29

Specify course:

30

Did you complete a trade apprenticeship: Yes No

31

What qualifications did you obtain

Intermediate certificate Technical college certificate

School certificate Trade certificate

Leaving certificate University degree

Higher School certificate Other diploma

No qualification obtained Specify:

32

Are you enrolled in any educational course in prison: Yes No

33

Which course:

Are you studying:

in a class in prison by correspondence

34

at a Technical college any other way

Specify:

Have you obtained any qualification (e.g. certificate) in prison

35

Yes No

Name of qualification:

5. History	Office use only
Are you enrolled for any activities in prison: Yes <input type="checkbox"/> No <input type="checkbox"/> Which activities:.....	<input type="checkbox"/> <input type="checkbox"/> 36-37
What job do you have at present in prison:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> 38-40
Have you ever spoken with any of the following people since the beginning of your current imprisonment: (Tick more than one box if necessary) a psychologist <input type="checkbox"/> a parole officer <input type="checkbox"/> a psychiatrist <input type="checkbox"/> a community service officer <input type="checkbox"/> a doctor or nurse <input type="checkbox"/> a chaplain <input type="checkbox"/>	<input type="checkbox"/> 41
Have you ever been in a children's home: Yes <input type="checkbox"/> No <input type="checkbox"/> Which one	<input type="checkbox"/> 42
Have you had any convictions by a juvenile court: none <input type="checkbox"/> one <input type="checkbox"/> two <input type="checkbox"/> three or more <input type="checkbox"/>	<input type="checkbox"/> 43
As a juvenile were you ever given: (tick more than one box if necessary) bond <input type="checkbox"/> fine <input type="checkbox"/> probation <input type="checkbox"/> committal to institution <input type="checkbox"/>	<input type="checkbox"/> 44
How many times have you been committed to a juvenile institution: once <input type="checkbox"/> twice <input type="checkbox"/> three times <input type="checkbox"/> more than 3 times <input type="checkbox"/> How many:	<input type="checkbox"/> 45
Have you had any convictions in the past as an adult:..... none <input type="checkbox"/> one <input type="checkbox"/> two <input type="checkbox"/> three or more <input type="checkbox"/> (Do not count parking offences)	<input type="checkbox"/> 46
As an adult have you ever been given: (tick more than one box if necessary) bond <input type="checkbox"/> imprisonment followed by probation <input type="checkbox"/> fine <input type="checkbox"/> parole <input type="checkbox"/> probation <input type="checkbox"/> licence <input type="checkbox"/> imprisonment <input type="checkbox"/> discharge from court <input type="checkbox"/> periodic detention <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> 47-48 <input type="checkbox"/> <input type="checkbox"/> 49-50
How many times have you been in an adult prison: once (this is the first time) <input type="checkbox"/> twice <input type="checkbox"/> three times <input type="checkbox"/> More than three times <input type="checkbox"/> How many:.....	<input type="checkbox"/> 51
Have you ever been on a prison farm: Yes <input type="checkbox"/> No <input type="checkbox"/>	<input type="checkbox"/> 52



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Have you ever been awarded a suspended sentence with probation —

Yes No

53

Are you serving a revoked suspended sentence Yes No

54

Have you ever served a sentence or part of a sentence in the minimum security section of the prison (not the prison farm) Yes No

55

6. Court procedures

Was bail fixed for you. Yes No

56

Were you released on bail before trial Yes No

57

How long were you held in prison before the trial days

58-59

Did you have any legal representation in court: Yes No

60

How did you plead Guilty Not guilty

61

Did you have an interpreter —

At your trial

When committed for trial

When bail was fixed or refused

When you were questioned by the police

62

Did you use the Legal Aid Service: Yes No

63

Have you ever had help from the Prisoner's Aid Society, St. Vincent de Paul, Salvation Army, A.A., Marriage guidance, etc.

64

Please specify:

7. Present position

serving sentence awaiting trial or sentence at higher court

65

appellant remanded to lower court

Present offence/s: (if multiples, put down the major offence (the one with the longest sentence)).....

66-68

Total sentence: Days..... Months..... Years.....

69-72

Date sentence commenced:.....

Time spent in prison so far on this sentence Days..... Months.....

Years.....

73-76

Marital status:

never married widowed divorced

77

married separated de facto

