REMAND IN VICTORIA: A Review of the Nature and Size of Facilities Needed

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Australian Institute of Criminology

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(aic) AUSTRALIAN INSTITUTE OF CRIMINOLOGY – Canberra – October 1982

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Published and printed by the Australian Institute of Criminology, 10-18 Colbee Court, Phillip, A.C.T., Australia. 2606

Biles, David, 1932-.
Remand in Victoria

ISBN 0 642 88612 1.

1. Prisons - Victoria. I. Australian Institute of Criminology. II. Title

365'.5

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Chapter 1

INTRODUCTION

This report has been prepared at the request of the Victorian Minister for Community Welfare Services, The Honourable Pauline Toner, MLA. The proposal for this work to be done was originally conveyed to the writer by the Director-General of Community Welfare Services, Mr Ben Bodna, on 26 May 1982. Discussions with Mrs Toner and Mr Bodna in early June clarified the requirements of the project. A submission was subsequently prepared for the Board of Management of the Australian Institute of Criminology and the Board gave its approval for the project to proceed at its meeting of 8 June 1982. The Board requested, however, that the report include data relevant to jurisdictions other than Victoria, and as far as possible this has been done.

The methods used in this investigation have included: discussions with interested persons, including members of the Victorian Association for the Care and Re-settlement of Offenders (VACRO) and numerous prison officials; inspection of the remand facilities in Pentridge and elsewhere; informal discussions with samples of remand prisoners; a detailed survey of all Victorian remand prisoners as at 30 June 1982 in conjunction with the national prison census, a questionnaire survey of all Victorian stipendiary magistrates; inspection of the plans and model of the proposed remand centre for Spencer Street, Melbourne; examination of all relevant statistical information; perusal of relevant legislation and criminological literature; and inspection of a number of alternative sites for a remand centre.

The urgency of this report has been impressed on the writer by both the Minister and the Director-General, and hence not every aspect of the project has been explored as thoroughly as might have been desired. In particular, it is regretted that there has been insufficient time for direct observation of bail applications being considered in higher and lower courts. The writer's normal duties at the Australian Institute of Criminology have also prevented him from working full-time on this project. Nevertheless, with the generous assistance of many people, it is considered that a potentially valuable body of information and opinion has been collected.

An interim report, which provided basic data needed in the planning process, was presented to the Minister on 27 August 1982. As this interim report canvasses some options that are considered in less detail than in the main report, it has been reproduced as Appendix C. Copies of field notes dictated on significant points during the inquiry are reproduced as Appendix A. Data collection instruments that were used are reproduced as Appendix B.

Persons whose assistance with this project is acknowledged include the staff of Pentridge who facilitated many visits and collected much of the survey data, Mr Kevin Burgess, SM, who coordinated the questionnaire survey of magistrates, Mr Dan Quirk of the Research and Social Policy Section of the Department of Community Welfare Services who coordinated and checked the national prison census and supplementary data collection forms for remandees, Mr John Walker of the Australian Institute of Criminology who coded and undertook the computer analysis of these data, Mrs Diana Watts, a temporary research assistant at the Australian Institute of Criminology who prepared a legal analysis of bail legislation, and the writer's secretary, Mrs Marjorie Johnson, who typed the whole of this report, prepared a number of the statistical tables and assisted with the analysis of the magistrates' survey. Without the assistance and support of these and other people the preparation of this report within the time limit specified by the Minister would not have been possible.

Chapter 2

SOCIAL AND LEGAL BACKGROUND

It is assumed that the Government does not need to be persuaded that the conditions in Pentridge for remand prisoners are totally inadequate and are widely seen as a disgrace to a modern and relatively affluent society. Over 30 years ago, in 1951, the then Inspector-General of Penal Establishments, Mr A.R. Whatmore, wrote that the trial and remand section of Pentridge 'does not conform to modern standards' and he observed that 'prisoners sometimes spend months in this division idling aimlessly under wretched conditions'.[1] Notwithstanding minor improvements being made, in more recent years Melbourne newspapers have consistently criticised the Pentridge remand facilities. In 1979 the Herald editorialised 'the remand centre at Pentridge remains a blot on Victoria's conscience', and the Age in 1980 described these conditions as 'barbaric and inhumane', and as 'a nightmare for unconvicted prisoners'. The media campaign has continued until the present time with the Age as recently as 20 July 1982 observing that 'the remand centre at Pentridge is a disgrace'.

This long-running and consistent barrage of critical publicity about the Pentridge remand facilities has probably created a climate of public opinion such that a decision to establish a modern remand facility is unlikely to be greeted with cynical references to mollycoddling criminals and the like. On the contrary, such a decision is likely to be widely and warmly applauded, provided there is not undue delay in the construction of the new facility. As public announcements about building a new remand centre have been made from time to time since 1963, it is to be expected that some degree of cynicism will be expressed until the project is actually completed.

Perhaps understandably, much of the public debate on the remand issue has been couched in simplistic and emotional terms, but concurrently with the public discussion there has developed a significant body of scholarly and research literature on the subject which has attempted to provide hard facts and carefully considered opinions. Most significant in Australia are the proceedings of two seminars conducted in 1969 and 1974

by the Sydney University Institute of Criminology,[2] and the proceedings of a seminar conducted in 1979 by the Victorian Branch of the Australian Crime Prevention Council.[3] The report of the latter seminar is of particular relevance because of its focus on the Victorian situation. The seminar heard the views of a wide range of experts including correctional administrators, police, magistrates, psychiatrists and ex-prisoners. In summing up the seminar the rapporteur, Ms Cheryl McKinna, made a number of pertinent observations. She opened her remarks by saying:

> There are two dilemmas facing the criminal justice system with respect to unconvicted prisoners. First the accused is innocent until proven guilty. Fifteen to seventeen per cent of remand prisoners do not return to prison after their court appearance. On the other hand accused persons on bail sometimes present a security risk such that nine of Victoria's current 'Ten Most Wanted Criminals' are bail absconders. Secondly, should there be any differentiation between the treatment of unconvicted and convicted prisoners?

She further observed:

> One suggestion for making optimum use of remand facilities is to minimise the number of prisoners remanded in custody. To this end it has been suggested that a facility which provided two levels of security could be provided: one section to meet maximum security requirements and a second section akin to a bail hostel for those persons presenting less of a security risk. Such a bail hostel could also provide the therapeutic milieu required for psychiatric treatment.

On behalf of the seminar participants she also expressed concern about the possible construction of a 'high-rise remand facility on the city watch-house site', which was under consideration at that time. Regardless of the actual site or type of facility she proceeded to make the vitally important observation that:

> The initial period in custody is probably the stage at which prisoners are the most depressed and is the time of greatest emotional need. Unfortunately, the system of dealing with prisoners is such that prisoners are dehumanized and belittled.

Finally, she reported the conclusions of the seminar in the following terms:

> There is a strong feeling of dissatisfaction with present conditions and apparent lack of progress on the new remand facility. A bail hostel is seen as a necessary addition to current facilities for remandees, although there is conflict over just whose responsibility, government or voluntary agencies, this should be. Further difficulties arise when the area of Watchhouse prisoners is raised as these prisoners are currently the responsibility of the Victoria Police. The delay in bringing accused persons to trial continues to cause concern.

Also of relevance are data presented to the seminar by Inspector D. Scott of the Victoria Police, which analysed the non-appearance rate of bailed persons before the higher courts over the period 1972 to 1978. These data show that the rate of non-appearance had declined after the passing of the Bail Act in 1977. He also reported that the non-appearance rate for Magistrates Court cases in the year 1978 was 1.81 per cent.

Earlier research in Victoria is also relevant to contemporary problems of bail and remand. In 1968, for example, Milte[4] published the results of a study which showed a tendency for accused persons appearing before magistrates and higher courts to be more likely to be sentenced to prison if coming from remand in custody as opposed to bail. He also showed that persons coming from custody were more likely to be sentenced to longer prison terms. However, Milte recognised the difficulties of this type of research when he wrote, 'the major obstacle to interpreting the data set out is that it is impossible to discover from prison records whether custody cases do not generally involve qualitatively more serious cases than non-custody dispositions, even though their overt legal labels may be the same'. Milte's study also showed that 30 per cent of the accused persons who had been remanded in custody were eventually either acquitted or sentenced to non-custodial penalties by the courts.

A later Victorian study by Martin[5] published in 1972 found that only 67 per cent of the Pentridge remandees held in October 1970 who were not subsequently bailed were sentenced to prison or youth training centre terms. This means that 33 per cent were either subsequently acquitted or sentenced to non-custodial penalties. This is a disturbingly high proportion when the conditions of the remand yards are considered and when one also takes into account the finding by Martin that 7.6 per cent of his sample were held on remand for over six months. Notwithstanding these

findings, Martin concluded his study with the words 'little has emerged which would show that the system, unless abused, is basically wrong or unsatisfactory'!

A much more recent international review of the research evidence of the effects of remand in custody on the outcome of trials by Wheeler and Wheeler[6] has provided support for the earlier findings of Milte. These writers reviewed the results of a large number of studies dealing with the effects of pre-trial custody on conviction, sentencing and pre-trial misconduct and concluded that 'the results of this survey indicate that pre-trial custody has no significant effect on conviction outcome but is an important factor at the sentencing stage'. A similar conclusion was reached by Landes[7] in 1974, and a possible explanation for this may be found in an insightful comment made in a 1972 report of the Vera Institute of Justice.[8] Referring too to the subtle psychological effects of remand or bail this report commented:

> Judges consistently behave as though someone who comes to court from a jail cell is more apt to be guilty, and to deserve harsher treatment than is a comparable defendant who walks into court off the street because he has been free on bail.

An interesting and valuable book which reviews overseas developments in bail reform, and from which the above quotation was taken, was published by the Law Foundation of New South Wales in 1976.[9]

There is of course an inextricable link between the law relating to bail and its interpretation and the needs of a remand system. Changes in the operation of bail laws may have profound consequences on the numbers of persons held in custody while awaiting trial, but ultimately it is the efficiency of the court system which will probably be found to be most influential as far as numbers are concerned. In this project the question of whether or not remand cases could be reduced by the appointment of more judges has not been pursued, but a recent study in South Australia is highly relevant to this question. South Australia has consistently had a rate of remand in custody three or four times the equivalent rate for Victoria, and this study by Cole,[10] a legal researcher, found the average time taken by the Supreme Court to dispose of cases where the defendants pleaded guilty was 233 days, compared with 115 days for defendants who

pleaded not guilty. The equivalent figures for the South Australian District Criminal Court were 197 days for not guilty pleas and 109 days for guilty pleas. While similar data are not available for Victoria, and the comparative remand rates suggest that the delay problem may be less serious in Victoria, Cole's recommendations for reducing delays may nevertheless be of interest. In his report Cole recommended:

- Detailed reasons for remands be recorded on court files;
- Research be conducted to identify reasons for remands at the various stages of the criminal court process;
- A first remand in the Magistrates Court be no longer than three weeks and subsequent remands be no longer than two weeks unless in the opinion of the court special reasons justify an extended remand;
- Special reasons for extended remands be recorded on the court file;
- At each remand defendants or counsel be required to explain delays and to indicate to the court the state of their preparation for the proceedings;
- Defendants committed for trial or sentence in a particular month be dealt with by the higher courts in the following month;
- Procedures be revised to accommodate the recommendation immediately above;
- Extended resources be provided to the courts so that trials are not unreasonably delayed because courts or judges are unavailable;
- All defendants who are remanded for sentence should be remanded on bail unless a term of immediate imprisonment is likely to be imposed.

A detailed and valuable analysis of Victorian bail law has been prepared by Stipendiary Magistrate, Mr John Wallace,[11] which compares the Victorian Bail Act 1977 with comparable legislative provisions in a number of other Commonwealth countries. This chapter concludes with a much less ambitious review of the law relating to bail in Victoria and other Australian jurisdictions. This review was prepared by a temporary research assistant at the Australian Institute of Criminology, Mrs Diana Watts:

The Law Relating to Bail in Victoria and other Australian Jurisdictions

Two basic tenets of faith in the Australian justice system are that every man is presumed innocent until found guilty and that punishment should not be meted out until after a proper trial and sentencing. Against these is the interest of society in ensuring that the law can be enforced. This is not possible if people cannot be brought to trial or, having been apprehended and charged abscond before trial. The common law answer to this was Bail - a sum of money paid to obtain freedom whilst awaiting trial and which would be forfeit if the accused failed to appear to trial. This system discriminates against those in society who, whilst unable to meet bail, would still not attempt to avoid justice and would attend for trial when required.

Persons who are released are better able to prepare their defence, interview witnesses and lawyers than those in custody. They are able to receive family and community support during the waiting period (which can be up to a year) and also maintain their position in the workforce.

Bail has been the subject of both Government and Law Reform Commission reports during the past decade. As a result of reports in their own State the decision to codify the criminal law in relation to bail and at the same time to overhaul and strengthen the bail system was taken in three of the six States; namely Victoria (Bail Act 1977), New South Wales (Bail Act 1978) and Queensland (Bail Act 1980). The provisions of the Victorian legislation are discussed in some detail and then attention is drawn to any differences of approach in that of the other two States. Major provisions in the remaining States and the Territories are then referred to briefly.

Victoria: The Bail Act 1977-81

The Act states that following arrest there is a general presumption s.4(1) of a right to bail, followed by specified exceptions when bail should not be granted or criteria to be considered before the court grants bail. Bail may be granted by either a police officer or by the courts.

Police Officers

By s.10(1)(b) a police officer may discharge the person on bail or if it is not practicable to bring him before a court within 24 hours per s.4(1)(a) has a duty to discharge him unless specific exceptions in the Bail Act apply. If the offence charged is one against s.13, 14, 16, 17 of the Summary Offences Act 1966 (relating to drunkenness in a public place) in addition to his powers under s.10 the police officer shall also have power to release the accused on payment of such deposit (not exceeding $50) as the officer considers reasonable as security for payment of any penalty imposed.

Upon release under s.11(1) the police officer is required to notify the accused that he is required to attend court at a certain time and place and that on failure to do so, the charge may be heard in his absence and the deposit appropriated towards paying the fine. Any surplus being paid into Consolidated Fund. However if he appears the surplus will be refunded to him.

Courts

The kinds of offences can be broken down into five categories.

Category 1. The court shall grant bail whilst the accused is awaiting trial or during a postponement of the hearing of a charge s.12;s.4(1)(b) or when the case is adjourned for inquiries or a report. s.4(1)(c). In s.4(1)(c) there is a discretion in the court where the court feels it is undesirable and not in public interest to release the accused.

Category 2. The court has power to grant bail where the accused has shown cause why his detention is not justified. Where bail is granted the court must endorse or attach to the undertaking a statement of reasons for making the order. s.4(4).

Accused who fall into this category are:

(a) those charged with an indictable offence alleged to have been committed whilst at large awaiting trial on another indictable offence;

(b) where the accused commits an indictable offence in Victoria and is not usually resident in the State;

(c) offences with weapons within s.77 Crimes Act 1958, e.g. armed robbery;

(d) an offence against the Bail Act 1977.

(e) drug dealing or trafficking.

Category 3. Bail will be refused in the case of a person

(a) charged with murder or treason; unless by order of a Supreme Court judge. (s.13);

(b) who is already in custody pursuant to a sentence for another cause;

(c) who has already failed to answer bail unless he can satisfy the court his failure was due to circumstances beyond his control;

(d) or where it is considered the accused should remain in custody for his own protection or, if a child, welfare;

(e) there is insufficient information due to lack of time since the institution of proceedings.

Category 4. Again bail shall be refused if the court is satisfied that there is an unacceptable risk that if released on bail the accused person would

(a) fail to answer his bail;

(b) commit an offence whilst on bail;

(c) endanger the safety or welfare of members of the public or

(d) interfere with witnesses or otherwise obstruct the course of justice whether in relation to himself or any other person.

In assessing whether there is an unacceptable risk the court shall have regard to

(a) all relevant matters, and without limiting the breadth of this;

(b) the nature and seriousness of the offence;

(c) the character and community ties of the accused;

(d) previous responses to bail, if any;

(e) the strength of the case against the accused.

Without case law to back up the hypothesis, on the basis of common sense it would appear that if there are to be occasions where a discretion to grant bail could be refused it would be in relation to this category.

Where bail has been refused and the person is detained in custody or bail has been granted and he objects to the amount fixed or conditions imposed there is provision for appeal (s.18) to either a stipendiary magistrate or to the court where he must answer bail. In addition if within 24 hours of a grant of bail he cannot meet it he may apply for variation of the amount or conditions. This section does not in any way limit or derogate from any other right of appeal to the Supreme Court or to a County Court.

Category 5. Persons sentenced and wishing to appeal against their sentence who apply for bail are, by s.4(2)(b), excepted from being granted bail although they may still make application under s.582 of the Crimes Act.

Conditions the court should consider when releasing a person on bail

(a) own undertaking, without sureties, deposit of money or securities to appear;

(b) release + deposit of money in other security;

(c) release on own undertaking and surety or sureties of given value;

(d) release + deposit + a surety.

The conditions for bail are not to be more onerous than the nature of the offence and the circumstances of the accused person appear to the court to be required in the public interest. Where a Category 4 application is being considered then the court is empowered to impose special conditions (s.5(2)).

Bail Applications

The court has a wide discretion to make such inquiries as it considers desirable (s.8) subject to the proviso that the accused shall not be examined or cross-examined as to his offence. s.8(b).

The Crown may in addition submit evidence re the accused's previous criminal record or failure to answer bail on an earlier occurrence, the strength of evidence against the accused and the circumstances of the alleged offence.

A person accused of a capital offence shall only be granted bail on application to a Supreme Court judge (s.13) and by s.14 bail may be refused where the victim is injured and it is uncertain whether he will live or die.

Where the accused is released on his own undertaking with or without conditions attached a court is by s.17(1) under a duty to ensure that the accused is aware of his obligations and the consequences of failure to comply with the bail order. To this end written notice is given to the accused. This written notice is an important safeguard for the accused because s.30(1) makes it an offence punishable by 12 months imprisonment not to answer to bail.

By s.18A (added by s.4 of the Bail (Amendment) Act, 1981) the Attorney-General may appeal in the Supreme Court if he considers that the conditions of bail are inadequate, fail to comply with the provisions of the Act, or public interest would best be served by the appeal.

Case law

There are only three reported cases from the Victorian Supreme Court since the Bail Act, 1977 came into force on 1.9.77.

Re Anderson [1978] V. R. 322. A decision of O'Bryan J - bail was refused and it was held that where the charge was murder the common law rules

relating to bail were unchanged and that bail should only be granted where the accused could show special or unusual circumstances.

R. v. Blackler [1981] V. R. 672 Starke A.C.J. Here the accused appealed against his conviction by a Magistrates Court. The magistrate fixed a recognizance to prosecute his appeal. The question arose whether in these circumstances s.4(2)(b) of the Bail Act acted to prevent bail being granted as the accused is in custody pending his sentence for some other cause. Held that upon entering upon the recognizance the accused would be released from custody under s.75(1)(b) of the Magistrates Court Act, 1971 and would not be in custody, therefore there is no power to refuse bail under s.4(2)(b) of the Bail Act, 1977.

A third case, Re Kulair [1978] V. R. 276 was an application for leave to appeal against sentence for attempted carnal knowledge of a girl over 10 and under 16 and one count of committing an act of gross indecency on a girl under the age of 16. After referring to R. v. Hopkins [1924] VLR 329, R. v. Manning [1936] VLR 84 which was approved by the full court in R. v. Salon [1952] ALR 1053, Young C.J. held that bail would only be granted in very exceptional circumstances after conviction. He declined to define what could be regarded as 'exceptional' in these circumstances.

From appearances the Bail Act, 1977 is well drafted and has built in safeguards for both the accused (e.g. s.17(1); s.18) and society (s.18A; s.8(c),(d),(e); s.24). However, we must ask whether in practice bail is being refused to the young, the poor, the under-educated, the unrepresented because they do not have the resources to take advantage of, or are unaware of, the provisions of the Act.

The New South Wales and Queensland Statutes are enacted along broadly similar lines to the Victorian legislation. There are, however, some differences between the three Acts and these will now be discussed.

New South Wales: The Bail Act, 1978

Unlike the Victorian Act, the New South Wales Act requires that bail be granted where the offences are minor (i.e. not punishable by imprisonment except on default) or punishable summarily (s.8) (s.9).

The considerations both police and courts will take into account are specifically enumerated but whereas in Victoria (s.4(4)) the onus rests on the accused to show why he should not be remanded in custody, in New South Wales the provisions direct the courts to consider the probability of the accused answering bail and there is a presumption in favour of bail being granted.

Even where the right to bail (s.8) and the presumption in favour of bail (s.9) have not been exercised the court is empowered by s.13 to grant bail or by s.10 may make a specific order in respect of bail or dispense with bail.

A further difference is the requirement in s.18 that police officers shall give written information to the accused in respect of his entitlement or eligibility for bail and once a determination is made shall inform the accused of his right to communicate with a lawyer unless the officer has reasonable grounds for believing the accused will warn an accomplice or that evidence may be lost, destroyed or fabricated.

The final major difference, enacted in s.30, is the power of the Court of Criminal Appeal to grant bail whilst an appeal is pending to that court or to the High Court.

Queensland: The Bail Act, 1980.

The provisions in s.9 of the Bail Act, 1980 are quite explicit. s.9 states

> 'Where a person held in custody on a charge of an offence of which he has not been convicted appears or is brought before a court ... the court shall, subject to this Act grant bail to that person ...'

The occasions when bail may be granted are set out in s.8 and include the situations where

(a) a person is awaiting trial in that court;

(b) a criminal trial has been adjourned;

(c) the accused has been committed or remanded during trial for that offence.

If not granted bail then the accused shall unless sentenced be remanded in custody but by s.8(4) bail may be allowed.

By s.13(1) persons charged with treason, murder, piracy with assault or offences relating to selling, supplying or procuring dangerous drugs may only receive bail by order of the Supreme Court but notwithstanding this, if the person appearing on behalf of the Crown indicates to the court that in his opinion a drug offence can be dealt with by summary proceedings and the court is satisfied that this is so, then any court empowered by s.8 to grant bail may do so.

The penalty for offences against the Act is imprisonment for two years. Bail may be refused (s.16) where the court considers there is an unacceptable risk that the accused would not surrender himself or would commit a further crime. Criteria in s.16(2) are similar to those set out in s.4(3) of the Victorian Act and s.16(3) shows the same reversal of onus of proof onto the accused as s.4(4) of the Victorian Act.

South Australia, Tasmania and Western Australia

These States do not have separate bail legislation at the present time.

The South Australian Criminal Law and Penal Methods Reform Committee prepared reports in 1974 and 1975 in which they recommended that there be a presumption in favour of granting bail which, at the court's discretion, could be conditional. However the granting of bail is purely discretionary under the provisions of s.143 Justices Act, 1921-76 and by s.146 recognizance is obligatory. Police may grant bail on recognizance. (Police Offences Act, 1953-1974.)

In Western Australia the Law Reform Commission of Western Australia presented a report on bail in 1979. This has not been acted upon. Under the Justices Act, 1902-77 a court has a discretion to admit an accused person to bail upon his entering into a recognizance (s.116). Only the Supreme Court may grant bail where the offence is a capital one (s.115). Police may release on recognizance only.

Tasmania - again has a requirement for recognizance in its Justices Act, 1959-74 and under the criminal code the Supreme Court has power to admit any person committed for trial to bail (s.304).

The Territories

Northern Territory and A.C.T. In neither of the Territories is there a right to bail, nor is there a presumption that bail should be granted. Relevant legislation is to be found in the Court of Petty Sessions Ordinance, 1930 in the A.C.T. In the Northern Territory the relevant sections are s.143-50 of the Justices Ordinance, 1928-80. It appears that bail may be granted on recognizance only in both Territories.

Bail legislation, where enacted is remarkably uniform. That enacted in New South Wales embraces more fully the idea that in the majority of cases bail is a right of the accused until found guilty. However, in all these 'code' States there now exists provision for bail to be granted without monetary recognizance although it remains to be seen whether the practice in the courts reflects the legislature's acceptance that the inability to pay a cash recognizance should not automatically doom the accused to remand in custody.

One would hope that in the remaining States and the Territories moves will soon be made to enact legislation that will remove the need for cash recognizance and recognise the right of an unconvicted accused person to remain within the community.

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Chapter 3

STATISTICS AND TRENDS

A major difficulty facing this investigation has been the problem of obtaining accurate statistics indicating the numbers of persons held on remand in Victoria at any time. Discussions with senior correctional administrators and with prison officers working in the records section of the Pentridge remand centre have revealed an extraordinarily wide range of estimates. These estimates have varied from 50 to 60 'pure remandees' to over 150. These differences are seen as a reflection of the complexity of defining who is a remandee and not as an adverse comment on the officials concerned. There are numerous cases where prisoners under sentence are remanded for trial on other charges, or where ex-prisoners on parole are remanded in custody to face other charges and may have their parole breached and thus be technically held for the earlier offence. Similarly, some persons remanded in custody may revert to the status of sentenced prisoners if they use their time to 'cut out' fines imposed for other offences. Dual status prisoners such as these are not regarded as remandees for the purpose of this exercise. The focus of this study is on remand prisoners who are defined as persons in custody in gazetted prisons (not in police cells) who are awaiting or undergoing trial in a superior court, or awaiting hearing in a lower court, or convicted but not sentenced by a higher or lower court, or awaiting extradition or deportation. This definition excludes prisoners under sentence who are awaiting the outcome of appeals against conviction or sentence, even though in cases where an appeal against conviction is upheld by the courts the status of the prisoner in the intervening period must be regarded as borderline. This definition of remand prisoners was used in the national prison census and yielded a total figure of 176 for Victoria as at 30 June 1982. This sub population is described in detail in the next chapter.

There are at least two other sources of data on the numbers of remand prisoners in Victoria, however, which suggest substantial different numbers. In the first place the monthly publication of the Australian Institute of Criminology, Australian Prison Trends, has since November 1977 included the numbers of remand prisoners in each jurisdiction. These and other data are supplied to the Institute each month by the correctional

authorities in each jurisdiction using a form designed for this purpose. As far as remandees are concerned this form asks for the number of 'unconvicted persons on remand' on the first day of each month, and therefore, if accurate, the figures supplied should exclude the comparatively small numbers of prisoners convicted but not sentenced and those awaiting extradition or deportation and not otherwise under sentence. For this reason the figures published in Australian Prison Trends should be slightly lower than the figures obtained using the more comprehensive definition that was given above and which was used in the national prison census.

The Australian Prison Trends data nearest to the census date are those applying to 1 July 1982 and the relevant extract is summaried in Table 1.

Table 1: Total Prisoners and Remand Prisoners Australia, at 1 July 1982

	Total Prisoners	Prisoners on Remand	Percentage of Remandees	Remandees per 100,000 of General Population
N.S.W.	3434	609	17.7	11.5
VIC.	1809	172	9.5	4.3
QLD	1665	112	6.7	4.6
S.A.	810	127	15.7	9.5
W.A.	1358	95	7.0	7.1
TAS.	238	11	4.6	2.6
N.T.	274	21	7.7	16.2
A.C.T.	41	6	14.6	2.6
AUST.	9629	1153	12.0	7.6

This table shows the total number of prisoners in each jurisdiction at that date (a statistic which may be accepted as highly reliable), the numbers of remand prisoners (perhaps less reliable for the reasons given above and later), the percentage of prisoners in each jurisdiction who are remandees, and the number of remandees in each jurisdiction per 100,000 of the relevant population (which may be referred to as the remand rate). The percentage of any total prison population who are remandees is not as useful a statistic as is the remand rate as this percentage is considerably influenced by the overall imprisonment rate which varies widely between jurisdictions. For example, Table 1 shows similar percentages of remandees for Victoria, Queensland and Western Australia, but the remand rate is considerably lower for Victoria due to Victoria's overall low imprisonment rate, particularly when compared with Western Australia. Thus the remand rate may be seen as the crucial variable ... provided the basic figures are accurate. The basic figures as supplied to the Australian Institute of Criminology and published in Australian Prison Trends showing the numbers of remandees in each jurisdiction over the period 1977 to 1982 are shown in Table 2.

Table 2: Number of Remandees, Australia, November 1977 to July 1982

	N.S.W.	VIC.	QLD	S.A.	W.A.	TAS.	N.T.	A.C.T.	AUST.
1977									
Nov.	415	107	84	135	77	20	17	12	867
Dec.	420	144	88	90	86	27	19	8	882
1978									
Jan.	302	149	81	103	85	23	30	11	784
Feb.	505	126	100	114	97	24	30	8	1004
Mar.	544	154	116	131	87	25	18	14	1089
Apr.	543	140	106	138	125	22	21	13	1108
May	436	110	105	138	129	16	38	14	986
June	547	136	93	137	96	20	39	7	1075
July	513	136	109	153	101	24	39	10	1085
Aug.	562	160	91	136	87	42	26	11	1115
Sept.	531	170	93	135	97	25	18	9	1078
Oct.	479	178	95	140	95	27	15	7	1036
Nov.	564	136	88	156	95	32	16	10	1097
Dec.	503	136	85	141	67	37	13	18	1000
1979									
Jan.	520	140	88	112	61	16	14	6	957
Feb.	607	148	106	158	95	12	22	14	1162
Mar.	587	127	116	127	139	31	23	8	1158
Apr.	561	166	116	140	162	22	20	9	1196

	N.S.W.	VIC.	QLD	S.A.	W.A.	TAS.	N.T.	A.C.T.	AUST.
1979 (cont'd)									
May	546	145	101	142	133	28	22	18	1135
June	462	131	101	144	127	26	35	12	1038
July	517	125	110	136	122	17	34	11	1072
Aug.	542	124	94	126	144	23	28	12	1093
Sept.	525	126	98	140	119	23	49	11	1091
Oct.	532	100	101	145	123	20	37	7	1065
Nov.	504	91	93	129	105	25	43	7	997
Dec.	441	62	90	132	79	19	46	6	875
1980									
Jan.	510	156	95	119	67	23	33	5	1008
Feb.	533	168	110	111	68	21	28	6	1045
Mar.	564	149	131	108	93	22	26	7	1100
Apr.	503	115	109	135	75	20	42	7	1006
May	518	133	122	149	111	20	45	10	1108
June	468	95	119	144	70	24	43	14	977
July	497	86	98	144	82	19	41	12	979
Aug.	467	70	108	146	89	12	38	6	936
Sept.	477	66	101	155	104	16	32	5	956
Oct.	519	48	80	142	106	17	32	9	953
Nov.	408	51	81	148	100	15	24	3	830
Dec.	456	112	79	132	109	18	29	5	940
1981									
Jan.	441	111	89	106	90	7	28	7	879
Feb.	507	117	112	123	94	15	27	5	1000
Mar.	529	148	99	123	123	15	27	4	1068
Apr.	521	144	108	128	125	8	31	9	1074
May	518	153	118	125	122	12	32	10	1090
June	548	127	129	126	132	21	37	9	1129
July	545	110	116	109	122	22	42	7	1073
Aug.	528	129	109	122	95	20	39	8	1050
Sept.	529	120	118	120	95	17	32	6	1037
Oct.	546	108	118	129	100	17	44	6	1068
Nov.	505	117	136	143	112	12	47	6	1078
Dec.	540	132	139	146	91	14	41	10	1113
1982									
Jan.	545	121	110	131	95	8	40	5	1055
Feb.	649	151	119	142	114	15	56	6	1252
Mar.	601	154	118	112	136	15	48	7	1191
Apr.	619	150	120	164	116	20	50	10	1249
May	604	153	136	164	105	20	47	5	1234
June	635	138	131	139	102	17	32	7	1201
July	609	172	112	127	95	11	21	6	1153

From these figures it can be seen that there was a remarkable drop in the number of Victorian remand prisoners during 1980, which raises suspicions about the accuracy of the figures. The table also shows that over the past 18 months the Victorian remand figure has peaked at a little over 170. It is not possible to make meaningful comparisons between jurisdictions

from the data in Table 2, but this can be done from Table 3 which shows the remand rates over the same period.

Table 3: Remand Rates,* Australia, November 1977 to July 1982

	N.S.W.	VIC.	QLD	S.A.	W.A.	TAS.	N.T.	A.C.T.	AUST.
1977									
Nov.	8.4	2.8	3.9	10.6	6.4	4.9	15.9	5.6	6.2
Dec.	8.4	3.8	4.1	7.0	7.1	6.6	17.6	3.8	6.2
1978									
Jan.	6.1	3.9	3.8	8.0	7.0	5.6	27.8	5.2	5.5
Feb.	10.1	3.3	4.7	8.9	8.0	5.8	27.8	3.8	7.1
Mar.	10.9	4.0	5.4	10.2	7.1	6.1	16.2	6.5	7.7
Apr.	10.9	3.7	4.9	10.7	10.3	5.3	18.9	6.1	7.8
May	8.7	2.9	4.9	10.7	10.6	3.9	34.2	6.5	6.9
June	10.9	3.6	4.3	10.6	7.8	4.8	34.8	3.3	7.5
July	10.3	3.6	5.0	11.8	8.2	5.8	34.8	4.7	7.6
Aug.	11.2	4.2	4.2	10.5	7.1	10.1	23.2	5.1	7.8
Sept.	10.6	4.4	4.3	10.4	7.9	6.0	15.9	4.1	7.5
Oct.	9.5	4.6	4.4	10.8	7.7	6.5	13.3	3.2	7.2
Nov.	11.2	3.5	4.0	12.1	7.7	7.7	14.2	4.6	7.7
Dec.	10.0	3.5	3.9	10.9	5.4	8.9	11.4	8.2	7.0
1979									
Jan.	10.3	3.6	4.0	8.6	4.9	3.8	12.3	2.7	6.7
Feb.	12.1	3.8	4.9	12.2	7.7	2.9	19.3	6.4	8.1
Mar.	11.6	3.3	5.3	9.8	11.2	7.5	20.0	3.6	8.1
Apr.	11.1	4.3	5.3	10.8	13.1	5.3	17.4	4.1	8.3
May	10.8	3.8	4.6	11.0	10.7	6.7	19.1	8.1	7.9
June	9.1	3.4	4.6	11.1	10.2	6.2	29.9	5.4	7.2
July	10.2	3.2	5.0	10.5	9.8	4.1	29.1	4.9	7.4
Aug.	10.7	3.2	4.3	9.7	11.6	5.5	23.9	5.4	7.6
Sept.	10.3	3.3	4.5	10.8	9.5	5.5	41.9	4.9	7.5
Oct.	10.4	2.6	4.6	11.2	9.9	4.8	31.6	3.1	7.4
Nov.	9.9	2.4	4.2	10.0	8.4	6.0	36.8	3.1	6.9
Dec.	8.6	1.6	4.1	10.2	6.3	4.5	39.0	2.7	6.0
1980									
Jan.	10.0	4.0	4.3	9.2	5.3	5.5	28.0	2.2	6.9
Feb.	10.4	4.3	5.0	8.6	5.4	5.0	23.7	2.7	7.2
Mar.	11.0	3.8	5.9	8.3	7.4	5.3	22.0	3.1	7.6
Apr.	9.8	3.0	4.9	10.4	5.9	4.8	35.0	3.1	6.9
May	10.1	3.4	5.5	11.5	8.8	4.8	37.5	4.4	7.6
June	9.1	2.4	5.4	11.1	5.5	5.7	35.5	6.1	6.7
July	9.7	2.2	4.4	11.1	6.5	4.5	33.9	5.2	6.7
Aug.	9.1	1.8	4.9	11.2	7.0	2.9	31.4	2.6	6.4
Sept.	9.2	1.7	4.5	11.9	8.2	3.8	26.4	2.1	6.5
Oct.	10.1	1.2	3.6	10.9	8.3	4.0	26.4	3.9	6.5
Nov.	7.9	1.3	3.6	11.3	7.8	3.5	19.8	1.3	5.7
Dec.	8.8	2.9	3.5	10.1	8.5	4.2	23.4	2.2	6.4

	N.S.W.	VIC.	QLD	S.A.	W.A.	TAS.	N.T.	A.C.T.	AUST.
1981									
Jan.	8.5	2.8	3.9	8.1	7.0	1.6	22.6	3.1	6.0
Feb.	9.8	3.0	4.9	9.4	7.4	3.5	21.8	2.2	6.8
Mar.	10.2	3.8	4.3	9.4	9.6	3.5	21.6	1.7	7.2
Apr.	10.0	3.7	4.7	9.8	9.7	1.9	24.8	3.9	7.3
May	10.0	3.9	5.2	9.6	9.5	2.8	25.6	4.3	7.4
June	10.5	3.2	5.6	9.7	10.2	4.9	28.9	3.9	7.6
July	10.4	2.8	5.0	8.4	9.5	5.1	32.8	3.0	7.2
Aug.	10.1	3.3	4.7	9.3	7.4	4.7	30.5	3.5	7.1
Sept.	10.1	3.0	5.1	9.2	7.3	4.0	24.6	2.6	7.0
Oct.	10.4	2.7	5.1	9.9	7.7	4.0	33.8	2.6	7.2
Nov.	9.6	3.0	5.9	10.9	8.7	2.8	36.2	2.6	7.2
Dec.	10.3	3.3	6.0	11.1	7.0	3.3	30.8	4.2	7.4
1982									
Jan.	10.4	3.1	4.7	10.0	7.3	1.9	30.1	2.1	7.1
Feb.	12.3	3.8	5.1	10.8	8.8	3.5	42.1	2.5	8.4
Mar.	11.4	3.9	5.0	8.5	10.4	3.5	35.6	2.9	7.9
Apr.	11.7	3.8	5.1	12.5	8.9	4.7	37.0	4.2	8.3
May	11.4	3.9	5.8	12.5	8.0	4.7	34.8	2.1	8.2
June	12.0	3.5	5.4	10.5	7.7	4.0	24.6	3.0	7.9
July	11.5	4.3	4.6	9.5	7.1	2.6	16.2	2.6	7.6

* Remandees per 100,000 of the general population

From this table it can be seen that the Victorian remand rate has consistently been lower than the national average and has nearly always been lower than every other jurisdiction apart from the Australian Capital Territory. It is particularly worthy of note that the Victorian rate has consistently been at about one-third of the rates of New South Wales and South Australia. The question of whether or not this low rate is a consequence of the poor conditions for remandees in Pentridge is considered later in this report.

Another source of data on Victorian remandees comes from the Law Department's monthly statistics of male prisoners on remand as at 11 a.m. on the last working day of each month over the period January 1980 to June 1982.[1] These statistics indicate the numbers of prisoners refused bail for each level of the courts and the numbers who have had bail fixed but have not been bailed out. The monthly statistics also show the numbers on remand in the Geelong and Sale prisons.

Table 4 shows the numbers of remand prisoners over this period derived from these monthly statistics.

Table 4: Male Prisoners on Remand, Victoria, January 1980 to June 1982
(as at 11.00 a.m. on the last working day of month)

	Magistrates Court	County Court	Supreme Court	Total	% for whom bail fixed
1980					
Jan.	87	37	22	146	20.5
Feb.	89	43	23	155	19.4
Mar.	74	28	15	117	14.5
Apr.	72	26	16	114	18.4
May	53	29	19	101	10.9
June	67	31	17	115	21.7
July	89	30	14	133	17.3
Aug.	54	39	11	104	21.2
Sept.	57	32	13	102	11.8
Oct.	80	27	8	115	13.0
Nov.	40	19	9	68	20.6
Dec.	54	23	14	91	23.1
1981					
Jan.	70	25	10	105	11.4
Feb.	77	61	17	155	7.7
Mar.	55	26	12	93	12.9
Apr.	51	36	12	99	10.1
May	61	21	18	100	14.0
June	42	34	12	88	9.1
July	46	21	12	79	20.3
Aug.	44	14	9	67	17.9
Sept.	64	10	11	85	24.7
Oct.	85	14	4	103	19.4
Nov.	62	26	9	97	14.4
Dec.	95	19	10	124	16.1
1982					
Jan.	81	15	10	106	10.4
Feb.	79	20	21	120	8.3
Mar.	-	-	-	-	-
Apr.	84	28	11	123	11.4
May	-	-	-	-	-
June	101	26	16	143	7.7

From this table it can be seen that the majority of remandees are awaiting hearing at Magistrates Courts. It also can be seen that the proportion of remandees who have had bail fixed has always been relatively small and at the most recent date was as low as 7.7 per cent.

It is somewhat disturbing to find that when one compares the data contained in Tables 2 and 4 obvious inconsistencies can be seen. It is logically impossible for the numbers of male prisoners on remand to be

greater than the data shown in Table 2 which includes both male and female remandees, and yet this was apparently the case for most of the latter half of 1980 and early 1981. This serious discrepancy suggests that at least one of the sources of data is, or has been, grossly inaccurate for at least some of the period under review and it is suggested that considerably greater care needs to be taken with the compilation of these figures.

It is also worthy of note that neither of these two other data sources produced a figure comparable to that found in the 30 June 1982 national prison census, but it is possible that this discrepancy is due to the broader definition applied in the latter case. At all events, even if no allowance were made for significant change in the use of remand in custody in Victoria the census figure of 176 suggests that any new remand facility would have to have a capacity of at least 200 beds, and a slightly higher figure may be thought to provide an appropriate safety margin. This tentative conclusion, however, has not taken into account the possibility of the numbers being reduced, for example by the provision of bail hostels, or increased, for example by a change of attitude on behalf of magistrates and judges. These matters will be considered later in this report.

The difficulties experienced in obtaining accurate statistics outlined in this chapter clearly indicate that improved record-keeping procedures are urgently required. The staff of the 'D' Division records office work in extremely cramped and trying conditions and all operations are handled manually. It is recommended that planning commence on the installation of a comprehensive computer-based data system for all prisoner records, including remand prisoners, as a matter of urgency. If required, staff of the Australian Institute of Criminology would be available to assist with this task.

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1. Law Department Monthly Statistics: Male Prisoners on Remand, supplied by Mr W. Johnston, Senior Research Officer

Chapter 4

PROFILE OF 1982 REMAND PRISONERS

This chapter aims to present a detailed description of the Victorian remand prisoners who were in custody on 30 June 1982 using the results of the relevent portion of the national prison census conducted on that date together with the results of an additional questionnaire that was completed for remand prisoners on that date. The data collection forms that were used are reproduced in Appendices B.1 and B.2. The actual data collection was undertaken by prison officers and the coordination was arranged by Mr D. Quirk of the Research and Social Policy Section of the Department of Community Welfare Services.

The population under scrutiny comprised 176 prisoners, including 12 females. All were held in Pentridge except for two male remandees in Geelong and one male remandee in Sale.

It should be noted that 11 of the 12 female remand prisoners were held in the 'B' Division annex (a section set aside for women prisoners after the Fairlea fire) and the other was in Jika Jika. Of the male remandees in Pentridge, four were in Jika Jika, three were in the Pentridge hospital and five were in 'H' Division and two in 'G' Division. The vast majority, 150, were housed in 'D' or 'F' Divisions but it is notable that the total remand population in Pentridge was held in five other locations as well. It is clear that the group under study is considerably more complex than those who are actually seen in the remand yards.

Ten of the remandees, including one female, were classified as Aboriginal. The age range of the total group was from 17 to 59 years, with 20 years being the most common age. The age distribution of the group is shown in Table 4.1.

It is clear from this table that the remand population is relatively young with over 63 per cent being under 30 years of age. This is not much different from the overall Victorian prison population where 59.1 per cent is under 30 years of age, however the most common age in the total prison population is 25 years.

Table 4.1: Age Distribution of Remand Prisoners

Age in Years	Male	Female	Total	Per cent
Under 20	21	2	23	13.1
20-24	45	3	48	27.3
25-29	37	3	40	22.7
30-34	20	1	21	11.9
35-39	22	1	23	13.1
40-44	12	2	14	8.0
45-49	4	0	4	2.3
50-54	2	0	2	1.1
55-59	1	0	1	0.6
Total	164	12	176	100.1

The period that these prisoners had been held on remand at the date of the census is shown in Table 4.2.

Table 4.2: Time Served on Remand at 30 June 1982

Completed months	Male	Female	Total	Per cent
0	59	5	64	36.6
1	19	3	22	12.6
2	21	3	24	13.7
3	16	0	16	9.1
4	11	0	11	6.3
5	4	0	4	2.3
6	14	0	14	8.0
7	6	0	6	3.4
8	5	0	5	2.9
9	3	0	3	1.7
10	1	0	1	0.6
11	3	0	3	1.7
13	1	0	1	0.6
18	1	0	1	0.6
Total	164	11	175*	100.1

* The date of receival was not recorded for one female remandee

From this table it can be seen that over one-third had been on remand for less than one month, while the longest had been on remand for 18 months and 34, or nearly 20 per cent, had been in custody for more than six months. The average time in custody for the total group was just under 2.5 months. The average time was considerably shorter for the small number of female remandees with none of them having been in custody for more than two months.

It must be pointed out that these statistics do not represent the actual time that prisoners are held on remand, as census data can only reveal the situation of a particular day and cannot show how much longer any or all of these prisoners will be held before their cases are resolved. The figures shown in Table 4.2 are therefore an under-estimate of the actual times people spend on remand.

Details of the most serious offence charged against each of the remandees are shown in Table 4.3. In this table more particulars of the offences are given than in later analyses which use a reduced number of offence categories.

Table 4.3: Most Serious Offence Charged, Remand Prisoners

Offence	Male	Female	Total	Per cent
Murder	25	2	27	15.3
Attempted murder	8	0	8	4.5
Manslaughter by driving	1	0	1	0.6
Assault	3	0	3	1.7
Assault GBH	5	0	5	2.8
Assault ABH	5	0	5	2.8
Rape	16	0	16	9.1
Indecent assault	1	0	1	0.6
Kidnapping	2	0	2	1.1
Robbery	1	0	1	0.6
Armed robbery	13	1	14	8.0
Break & Enter	25	4	29	16.5
Fraud etc.	8	0	8	4.5
Receiving	1	0	1	0.6
Motor vehicle theft	4	0	4	2.3
Other theft	13	0	13	7.4
Property damage	3	0	3	1.7
Arson	1	0	1	0.6
Court order	4	0	4	2.3
Prostitution	1	0	1	0.6
Other good order	1	0	1	0.6
Possession cannabis	1	0	1	0.6
Drug dealing	18	4	22	12.5
Driving under influence	1	0	1	0.6
Licence offences	1	0	1	0.6
Other offences	2	1	3	1.7
Total	164	12	176	100.2

The marital status of the remand prisoners is shown in Table 4.4 and from this it can be seen that only approximately one-third were married with just over one half being classified as never married. It should be noted that the marital status was not known for 22 of the group.

Table 4.4: Marital Status, Remand Prisoners

	Male	Female	Total	Per cent
Never married	72	7	79	51.3
Married	51	1	52	33.8
Separated	10	0	10	6.5
Divorced	9	3	12	7.8
Widowed	0	1	1	0.6
Total	142	12	154*	100.0

* Data not available for 22 remandees

Similarly, the employment status of remandees at the time of arrest is shown in Table 4.5. This information was not available for 28 of the group but the table suggests that nearly half were employed and over 46 per cent were out of work at the time of arrest.

Table 4.5: Employment Status, Remand Prisoners

	Male	Female	Total	Per cent
Employed	72	1	73	49.3
Unemployed	64	5	69	46.6
Home duties	0	1	1	0.7
Student	1	0	1	0.7
Other	2	2	4	2.7
Total	139	9	148*	100.0

* Data not available for 28 remandees

The level of education achieved by the group is shown in Table 4.6.

Table 4.6: Education Level, Remand Prisoners

	Male	Female	Total	Per cent
Tertiary, technical or trade	10	0	10	6.8
Completed secondary school	21	1	22	15.0
Part secondary school	95	7	102	69.4
Primary school only	10	1	11	7.4
No education	2	0	2	1.4
Total	138	9	147*	100.0

* Data not available for 29 remandees

From this table it can be seen that over two-thirds of the remandees had undertaken, but not completed, secondary education. Very small numbers can be seen to have either progressed beyond secondary schooling or not progressed beyond the primary school level. This distribution shows no major differences from that of the total prison population.

A further background feature of interest is the fact that over half, 59.8 per cent, of the remandees had experienced at least one episode in prison earlier in their lives. This compares with 64.5 per cent of the total prison population. These data are shown in Table 4.7.

Table 4.7: Prior Imprisonment, Remand Prisoners

	Male	Female	Total	Per cent
Prior imprisonment	97	7	104	59.8
No prior imprisonment	65	5	70	40.2
Total	162	12	174*	100.0

* Data not available for 2 remandees

An analysis of the place of birth of the remand population, shown in Table 4.8, reveals that nearly 60 per cent were born in Victoria and that fewer than 30 per cent were born overseas. The figures for the total prison population were 68.4 per cent and 21.1 per cent respectively, possibly reflecting the increasing diversity of the Victorian population over the last few years with a concomitant increase in the likely number of non-Australian born offenders. Longer-serving prisoners are therefore

more likely to be Australian-born than recent arrivals in the prison system. The most significant difference is in the figures for Asian-born prisoners, where 4.1 per cent of remandees are Asian-born compared with only 1.4 per cent of the total prison population, however the absolute numbers are small (7 remandees out of 24 prisoners) and could easily be coincidence.

Table 4.8: Place of Birth, Remand Prisoners

	Male	Female	Total	Per cent
N.S.W.	8	2	10	5.9
Vic.	89	5	94	55.6
Qld	2	0	2	1.2
S.A.	1	0	1	0.6
W.A.	4	0	4	2.4
Tas.	3	1	4	2.4
Other Australia	7	0	7	4.1
New Zealand	5	0	5	3.0
Oceania	0	1	1	0.6
Asia	7	0	7	4.1
U.K., Eire	9	2	11	6.5
Continental Europe	15	0	15	8.9
North America	1	1	2	1.2
Africa	2	0	2	1.2
Middle East	4	0	4	2.4
Total	157	12	169*	100.1

* Data not available for 7 remandees

The actual legal status of the remand population on the date of the sentence is shown in Table 4.9.

Table 4.9: Legal Status, Remand Prisoners

	Male	Female	Total	Per cent
Unconvicted	157	11	168	95.5
Awaiting sentence	5	0	5	2.8
Awaiting deportation	2	1	3	1.7
Total	164	12	176	100.0

From this table it can be seen that the vast majority, 95.5 per cent, were unconvicted while relatively small numbers were convicted but awaiting sentence or awaiting deportation.

Table 4.10 shows the level of court which ordered the remand in custody for each of the cases under review.

Table 4.10: Level of Court, Remand Prisoners

	Male	Female	Total	Per cent
Supreme Court	23	0	23	13.1
District/County Court	47	0	47	26.7
Magistrates Court	93	12	105	59.7
Other	1	0	1	0.6
Total	164	12	176	100.1

From this it can be seen that all of the females and over half of the males were remanded by Magistrates Courts. This proportion would include, however, cases undergoing the preliminary hearing, or committal proceeding, which may be remanded by the higher courts at a later date.

An analysis of the most serious offences for which the remand prisoners were charged shows that 36, or 20.6 per cent, fell within the broad category of homicide. In fact, in almost one-half of all cases the offences charged involved some degree of violence. Further significant groups were charged with breaking and entering, theft of various types and dealing in drugs. Table 4.11 shows the relationship between the offence charged and the time served on remand.

Table 4.11: Most Serious Offence Charged by Remand Period Served

	Time on Remand in Completed Months							
Offence	Less than one month	1 to 2 months	3 to 5 months	6 to 8 months	9 to 11 months	Over 12 months	Total	Per cent
Homicide	5	9	4	12	5	1	36	20.6
Assault	4	2	4	2	1	0	13	7.4
Rape etc.	5	4	2	6	0	0	17	9.7
Kidnap	2	0	0	0	0	0	2	1.1
Robbery	2	3	6	3	0	1	15	8.6
Brk & Ent	16	7	3	2	1	0	29	16.6
Fraud etc.	4	4	0	0	0	0	8	4.6
Theft	12	4	1	0	0	0	17	9.7
Drugs	7	8	7	0	0	0	22	12.6
Other	7	5	4	0	0	0	16	9.1
Total	64	46	31	25	7	2	175*	
Per cent	36.6	26.3	17.7	14.3	4.0	1.1		100.0

* Data not available for 1 remandee

From this table it can be clearly seen that the most serious offences tend to be associated with longer periods of remand.

Furthermore, an analysis of the reasons indicated on the gaol warrants for denial of bail reveals that the 'nature of the charge' is the most common reason for homicide cases. The relationship between reasons for bail denial and most serious offence charged is shown in Table 4.12.

Table 4.12: Reason for Bail Denial by Most Serious Offence

	Homicide	Assault	Rape etc	Robbery	B & E	Fraud	Theft	Drugs	Other	Total
Nature of charge	25	2	3	0	1	0	0	1	1	33
Not applied	1	0	1	0	2	0	2	1	0	7
Risk	5	4	6	4	4	3	3	8	2	39
Under sentence YTC	0	0	0	0	1	0	0	0	2	3
Evidence part-heard	0	1	1	0	1	0	1	0	0	4
May abscond	0	0	0	0	2	0	0	0	1	3
Escapee	0	0	0	0	1	0	0	0	0	1
Previous refusal	0	0	0	2	1	1	0	2	0	6
Broke bail	0	0	0	2	2	0	0	0	1	5
Wait ADDP report	0	1	0	0	4	0	0	1	0	6
Wait Psych. report	0	1	0	0	1	0	3	0	0	5
Bail granted	1	2	1	3	1	0	3	0	2	13
Other reasons	0	0	2	1	1	0	0	1	1	6
Total	32	11	14	12	22	4	12	14	10	131*

* Incomplete data available for 35 cases

This table also shows that in 13 cases bail was granted by the courts but the accused persons had not been bailed out. The amount of bail ranged from $5,000 in the case of a charge of kidnapping down to one case of $200 bail in a case of theft. The most common bail amounts were $500 and $1,000.

Other data collected and not reproduced here in tabular form, indicate that 47.6 per cent of the remandees had an annual income of less than $6,000 in the previous year, while only 13.5 per cent had an annual income of over $15,000. This suggests that perhaps some of the remandees may have had difficulty in meeting the bail that was set, but this possibility cannot be established from the information available.

A matter of considerable relevance to the planning of a new remand centre is precise information on where the remandees and their families live. This information is most readily obtained by analysing the location of the addresses of remandees at the time of their arrest. This is done in detail in Table 4.13, the same data being presented in summary form in

Table 4.14. From these tables it can be seen that the clear majority, 73.9 per cent, of remandees live in the Melbourne metropolitan area, while only 13.6 per cent reside in Victorian country areas.

Table 4.13: Location of Last Address, Remand Prisoners

	Number	Per cent
Ararat	1	0.6
Ballarat	1	0.6
Brighton	3	1.7
Broadmeadows	8	4.6
Brunswick	1	0.6
Buln Buln	1	0.6
Camberwell	1	0.6
Caulfield	5	2.9
Chelsea	2	1.1
Coburg	2	1.1
Collingwood	3	1.7
Cranbourne	1	0.6
Dandenong	7	4.0
Doncaster & Templestowe	1	0.6
Essendon	6	3.4
Fitzroy	6	3.4
Flinders	2	1.1
Footscray	3	1.7
Frankston	2	1.1
Geelong	3	1.7
Hawthorn	1	0.6
Heidelberg	6	3.4
Keilor	2	1.1
Kew	1	0.6
Knox	4	2.3
Korumburra	1	0.6
Kyneton	1	0.6
Lilydale	1	0.6
Melbourne	10	5.7
Moorabbin	1	0.6
Mordiallic	1	0.6
Mornington	1	0.6
Morwell	2	1.1
Northcote	2	1.1
Nunawading	1	0.6
Oakleigh	1	0.6
Orbost	1	0.6
Port Melbourne	1	0.6
Prahran	6	3.4
Preston	10	5.7
Richmond	7	4.0
Ripon	1	0.6
St. Kilda	16	9.1
Shepparton	1	0.6
South Melbourne	2	1.1
Springvale	1	0.6
Sunshine	4	2.3
Tallangatta	1	0.6
Traralgon	1	0.6
Wangaratta	2	1.1
Waverley	2	1.1
Wodonga	1	0.6
Whittlesea	1	0.6
Williamstown	1	0.6
Victoria (unspecified)	1	0.6
New South Wales	6	3.4
Queensland	2	1.1
South Australia	3	1.7
Western Australia	1	0.6
Northern Territory	1	0.6
Overseas	1	0.6
No fixed abode	6	3.4
Unknown (not stated)	1	0.6
Total	176	100.8

Table 4.14: Region of Last Address, Remand Prisoners

	Number	Per cent
Melbourne City	10	5.7
Suburbs	120	68.2
Country	24	13.6
Victoria (unspecified)	1	0.6
Interstate	13	7.4
Overseas	1	0.6
Unknown	7	4.0
Total	176	100.1

The dominance of the Melbourne area is even more strikingly shown in Table 4.15 which shows the location and level of the courts that had ordered the remand in custody.

Table 4.15: Location and Level of Court Ordering Remand

Location	Supreme	County	Magistrates	Total	Per cent
Melbourne	18	43	44	105	59.6
Suburbs					
Brighton	-	-	1	1	0.6
Broadmeadows	-	-	1	1	0.6
Brunswick	-	-	1	1	0.6
Camberwell	-	-	1	1	0.6
Dandenong	-	-	1	1	0.6
Dromana	-	-	1	1	0.6
Footscray	-	-	3	3	1.7
Frankston	-	-	4	4	2.3
Moonee Ponds	-	-	1	1	0.6
Mordialloc	-	-	1	1	0.6
Northcote	-	-	1	1	0.6
Oakleigh	-	-	1	1	0.6
Prahran	-	-	23	23	13.1
Preston	-	-	6	6	3.4
South Melbourne	-	-	1	1	0.6
Country					
Ballarat	1	1	2	4	2.3
Geelong	-	1	2	3	1.7
Lilydale	-	-	1	1	0.6
Morwell	-	2	-	2	1.1
Sale	-	-	1	1	0.6
Shepparton	-	1	1	2	1.1
Wangaratta	-	1	1	2	1.1
Warrnambool	-	-	1	1	0.6
Immigration Department	(2)	-	-	2	1.1
Unknown	-	-	(6)	6	3.4
Total	21	49	106	176	100.3

From this table it can be seen that only 9.1 per cent of the group were remanded to appear in country courts. It would seem from these data that there is little or no justification for considering establishment of regional remand centres, but this should not preclude the relatively inexpensive upgrading of the remand sections in the prisons at Geelong, Sale and Beechworth. Within the metropolitan area it is noticeable that a relatively large number of persons are remanded to appear at the Prahran Magistrates Court. As this is obviously a very busy court complex it may be worth considering an intermediate size remand centre close to that complex if a suitable site can be obtained.

The collection of information in addition to that required for the national prison census included details of physical and mental health and alcohol and drug problems. In a relatively large proportion of the cases no information was forthcoming on these questions and in all cases where information was supplied it was the remandee's own assessment of his or her problems rather than that of medical staff that was recorded. Table 4.16 summarises the incidence of personal problems and from this it can be seen that fairly large proportions, up to approximately 30 per cent of those who provided information, suffered from problems of one type or another.

Table 4.16: Incidence of Personal Problems, Remand Prisoners

	Physical Health		Mental Health		Alcohol		Drugs	
	N	%	N	%	N	%	N	%
No problems	95	54.0	95	54.0	82	46.6	86	48.9
Minor problems	14	8.0	10	5.7	17	9.7	19	10.8
Severe problems	8	4.6	5	2.8	31	17.6	25	14.2
No information	59	33.5	66	37.5	46	26.1	46	26.1
Totals	176	100.1	176	100.0	176	100.0	176	100.0

The relationship between the type of offence charged and the incidence or otherwise of alcohol problems is shown in Table 4.17 and from this it seems that problems with alcohol are more closely associated with violent offences than with others.

Table 4.17: Alcohol Problems by Most Serious Offence

Offence	Alcohol Problems			Total
	Severe	Minor	None	
Homicide	10	1	17	28
Assault	5	1	3	9
Rape etc.	2	2	8	12
Robbery	1	3	6	10
Break & Enter	2	6	11	19
Fraud	2	1	5	8
Theft	4	2	10	16
Drugs	0	1	17	18
Other	5	0	5	10
Total	31	17	82	130*

* Incomplete data available for 46 cases

By contrast, Table 4.18 showing the relationship between drug problems and the type of offence charged indicates a relatively higher incidence of drug problems in those accused persons charged with drug offences and also charged with breaking and entering and robbery.

Table 4.18: Drug Problems by Most Serious Offence

Offence	Drug Problems			Total
	Severe	Minor	None	
Homicide	1	2	25	28
Assault	3	0	6	9
Rape etc.	1	3	8	12
Robbery	3	2	5	10
Break & Enter	4	5	10	19
Fraud	2	1	5	8
Theft	2	4	10	16
Drugs	8	2	8	18
Other	1	0	9	10
Total	25	19	86	130*

* Incomplete data available for 46 cases

The overall picture that emerges from the foregoing analysis of the background of persons remanded in custody on 30 June 1982 is of relatively young people, mostly charged with very serious criminal offences, who have significant personal, social and economic problems in addition to the problem of being in custody. Approximately 74 per cent

of the group live in the Melbourne metropolitan area and over 90 per cent were remanded to appear in courts in that area. There is no basis therefore for the establishment of significant regional remand centres, although this need not preclude the relatively inexpensive upgrading of the remand sections in the prisons at Beechworth, Geelong and Sale.

The data presented in this chapter provide little hope of reducing the numbers of remandees, as in nearly all cases where the charges laid are not in the very serious category there appears to have been very cogent reasons why bail was denied. There may be some possibility of reducing, or at least controlling, the numbers, however, by reducing the actual time spent awaiting court appearance. It is disturbing to note that approxiately 20 per cent of the group studied had been on remand for over six months, and this as indicated earlier is an underestimate of the actual time that remandees are held. The duration of the remand period is related to the efficiency of the court system, however, and is outside the terms of this inquiry. Nevertheless, this is a matter which needs to be kept under constant scrutiny and may well become urgent if there is an increase in the numbers of persons remanded in custody in the future for the reasons outlined in the next chapter. In addition, it hardly needs to be stated that common humanity demands that accused persons must have their cases settled in the shortest possible time, especially if the waiting period is spent in custody. It is suggested that a delay of over six months should be exceptional, and not apply to over one in five remandees. For these reasons it is recommended that an inquiry be undertaken into ways and means of reducing the time spent awaiting court appearance for persons remanded in custody.

Chapter 5

THE VIEWS OF MAGISTRATES

As the attitudes and practices of stipendiary magistrates in the handling of bail applications are of central concern to any consideration of remand in custody, it was decided to seek their views by means of a postal questionnaire survey. A short questionnaire form was designed, a copy of which is included in Appendix B.3 of this report. This questionnaire was posted to all stipendiary magistrates by Mr Kevin Burgess, SM, with a covering letter and a prepaid envelope for the return of the completed questionnaires to the writer in Canberra. Strict confidentiality and anonymity were assured. Approximately three weeks after the questionnaires were circulated the writer addressed the Annual Conference of Victorian Stipendiary Magistrates and took the opportunity to thank those magistrates who had responded and to encourage the others to do so. In a further effort to obtain the maximum possible response rate a further letter was subsequently sent by Mr Burgess to all magistrates.

These efforts resulted in 44 completed questionnaires being received. Out of a total of 74 magistrates this represents a response rate of 59.5 per cent. While this is not as high as might be thought desirable, it is much higher than the rate obtained for most postal questionnaires and yielded an array of extremely useful information. A small part of these results were presented in the interim report, but the full results will be presented here by considering each of the questions and the responses in turn.

Q1. In the past year approximately how many times per month have you been required to consider bail applications?

Responses to this introductory question ranged from two per month to 200 per month. Six of the magistrates were unable to answer this question and the three following questions as they had no records of actual numbers and they decided not to use guesswork. Of those who provided answers however, the average number of bail applications considered was nearly 27 per month. Thus, these 38 magistrates dealt with approximately 1025 applications each month. As this number comes from just over half of the

magistracy, the total number dealt with by all magistrates in a full year would seem to be in the order of 23,000. If this extrapolation is anywhere near correct it is clear that the role of the magistracy is crucial to the success or failure of the bail/remand system.

Q2. In approximately what proportion of these applications has bail been opposed by the police or prosecution?

Responses to this question ranged all the way from 1 per cent to 100 per cent with the average being just under 25 per cent.

Q3. In approximately what proportion of these applications before you has bail been granted?

With the wisdom of hindsight it is acknowledged that the wording of this question may have been seen to be ambiguous as 'these applications' could have been interpreted as all of those dealt with in a month, as intended, or it could have been interpreted as applying to only those applications which had been opposed by the police or prosecution. Nevertheless, responses ranged from 20 per cent to 100 per cent with the average being 78 per cent.

Q4. In approximately what proportion of cases where you have granted bail have you imposed a condition requiring the accused person to report daily to the police?

Again, the wording of this question was a little unfortunate as it did not expressly allow for reporting to the police other than on a daily basis. Six magistrates inserted a note to the effect that they more frequently required accused persons to report to the police weekly or bi-weekly. Of those required to report daily, the proportions suggested varied from 1 per cent to 90 per cent with the average being just over 24 per cent.

Q5. In considering bail applications the following are some of the factors that might be taken into account. Please indicate the relative importance you attach to each of these factors by giving a number to each according to this scale:

very important	... 1
quite important	... 2
relatively unimportant	... 3
not important at all	... 4

The responses to this more elaborate and demanding question are presented in the table below.

Table 5.1: Importance of Factors Taken into Account by Magistrates in Considering Bail Applications*

Factor	Importance 1	2	3	4
(a) whether the accused will appear for trial	43	-	-	-
(b) whether the accused will commit offences on bail	35	7	1	-
(c) the seriousness of the offence	15	27	1	-
(d) whether the accused is likely to interfere with witnesses	30	9	4	-
(e) whether the accused is employed	2	16	18	7
(f) the accused's prior criminal record	5	30	8	-
(g) whether the accused has family commitments	2	20	19	2
(h) whether the accused has criminal associates	1	14	22	6
(i) the financial means of the accused	-	5	21	16
(j) the health of the accused	-	15	22	6
(k) the demeanour of the accused	-	8	14	21

* One of the magistrates apparently misunderstood the instructions for this question and therefore for most of the items in the table the total is 43 rather than 44.

It can be seen from the pattern of responses shown in the table that the factors which are seen as most important by magistrates in considering bail applications are whether the accused will appear for trial, whether he or she will commit offences on bail, and whether he or she is likely to interfere with witnesses. This is in accord with the provisions of the Bail Act. On the other hand, the factors that are seen by magistrates to be relatively unimportant are the demeanour of the accused, family commitments, and his or her financial means. This again is as it should be as the Bail Act does not provide for these considerations to determine the issue.

The other factors which were written in to the comment on this question by magistrates were:

- whether accused has failed to appear on bail previously (rated 1 in importance);
- in drug cases, some assurance of drug-free status while on bail (no rating of importance given);
- self-injury or need for psychiatric examination (2);
- available sureties (2);
- position after hearing committal proceedings (3);
- attitude to police (3);
- stable place of residence (2);
- length of residence and address before apprehension (2);
- whether accused should remain in custody for his own protection (importance will vary with circumstances);
- drugs and serious crime (1);
- whether accused usually resides with his family (2);
- attitude of relatives who may go surety (2);
- resident in another State (1);
- history of escaping (1);
- any prior failure to answer bail (1);
- previous failure to appear on bail for trial (1); and
- resident of Victoria (2).

It is clear from this list of additional factors that were written on the questionnaire that magistrates took the survey seriously and answered the questions conscientiously. It is also clear that most of these additional factors relate to likelihood of appearance and stability of family background.

Q.6. What is your understanding of the present conditions in the remand facilities in your State?

This is the first of a series of questions bearing directly upon the current operation of the remand system in Victoria. As the responses to these questions are relevant to the planning of a new remand system a summary of this section of the findings was included in the interim report.

Responses to this question were almost uniformly negative, with 96 per cent of the magistrates using expressions such as: draconian, shocking, very or extremely poor, deplorable, archaic, appalling, barbaric, inhuman, dreadful, in need of drastic attention, sub-standard, highly or totally unsatisfactory,

primitive, antiquated, and disgraceful. It is suggested that this is very strong language indeed coming from professional persons who are customarily very careful in their choice of words. Only one magistrate had no opinion, and one other (a relatively recently appointed magistrate) described the conditions as good.

Q7. Have there ever been cases before you in which your understanding of the conditions in the remand yards has tipped the balance in favour of granting bail?

A clear majority of magistrates, 66 per cent, acknowledged that their understanding of the conditions in the remand yards had tipped the balance in favour of granting bail in some cases. 32 per cent of the magistrates denied that this had occurred in their experience.

Q8. If more modern remand facilities were available do you think that a higher proportion of accused persons would be remanded in custody?

This is obviously a very sensitive question and five of the magistrates did not offer an opinion or said that it was debatable. Of those who did answer, however, 64 per cent expressed the view that numbers would increase, even though some qualified their answers by suggesting that it would be others, not themselves, who would be responsible. A minority, 36 per cent, indicated that they believed the numbers in custody would not increase or that it was unlikely.

Q9. Do you think an accused person coming to trial from remand in custody is disadvantaged compared with someone on bail? Please explain.

The overwhelming majority, 84 per cent, agreed that remandees were disadvantaged, while 11 per cent disagreed and 5 per cent offered no opinion.

Q10. Do you think there are many cases where the availability of a 'bail hostel' (an institution in which accused persons would be required to live but which they could leave for work or other legitimate purposes in the day) would be helpful?
If 'yes', in what proportion of cases?

Responses to this question were almost exactly two to one (66 per cent to 32 per cent) in the affirmative. Of the majority who favoured the establishment of bail hostels the estimates of the proportion of cases to which they would apply varied from 10-20 per cent to 70-80 per cent, with

the average estimate being from 20 to 30 per cent. A number of magistrates indicated their belief that bail hostels would be most appropriate for accused persons who had no fixed address or who came from interstate.

Q11. What changes, if any, do you think are needed to the Victorian Bail Act, 1977-79?

A clear majority of over 70 per cent of the magistrates indicated that in their view either no changes or no drastic changes were necessary to the Bail Act. Of those who did make specific suggestions for change the following proposals were made:

- make Section 5(2) applicable to appeal bail under Section 75 of Magistrates (Summary Prodeedings) Act then the court either releases on bail (recognizance) without conditions or makes no order for the release of appellant;
- the burden and standard of proof ought to be reappraised, and where a person is held in custody pending trial, a fresh application permitted after a stipulated period;
- a court of justice should not be required to fix or refuse bail when a custody person [has] indicated he is not seeking bail;
- failure to comply with special conditions should be made a punishable offence, instead of just giving grounds for re-arrest;
- current information from Supreme and County Courts covering all particulars of those persons who fail to answer bail would be most helpful;
- extension of bail in absence of accused;
- remand to a non-specified date, i.e. further hearing adjourned to a date to be fixed where circumstances exist where appearance for adjournment only causes inconvenience;
- young offenders should not necessarily be remanded in custody to Pentridge. Why not a bail hostel or YTC?;
- Section 23. When a surety applies for discharge, another surety must be found if application successful. In most such cases, person on bail should be in custody;
- needs attention as to persons apprehended on matters that are not offences - also Family Law Act Reg. 133 re oral examination, arrests etc.; and

. the word bail is used to refer to (i) the bail sum, (ii) the grant of bail, (iii) the opposite of in custody, whereas it in fact has different meanings when used in different sections of the Act. An overview of the Act is now required.

In addition to these specific suggestions one magistrate, Mr John Wallace, attached to his questionnaire a long letter, together with a published article, in which a number of specific proposals were made.

Without comment on the desirability or otherwise of the specific proposals for change of the bail legislation, it is suggested that this list of proposals should be considered by officers of the Victorian Law Department.

Q12. How many years have you been a magistrate?

This and the final question were included largely to determine whether or not a representative sample of responses from magistrates had been received. It is clear that this was the case as 24 per cent had served as magistrates for less than five years, 49 per cent had served from between five and nine years, 17 per cent served from 10 to 14 years and 10 per cent had served for over 15 years.

Q13. Do you sit mainly in the city, the suburbs or the country?

Again a wide range of locations were identified with 39 per cent mainly sitting in the suburbs, 32 per cent mainly sitting in the country and 27 per cent mainly sitting in the city. There was also one magistrate whose jurisdiction was restricted to the Children's Court.

In summary this survey of the views of stipendiary magistrates has shown that there is general satisfaction with the provisions of the Bail Act, although a number of specific suggestions for change have been made. It has been proposed that these suggestions be considered by Law Department officials. It has also been shown that magistrates generally closely adhere to the provisions of the Bail Act in their ratings of the relative importance of the factors that are taken into account in considering bail applications. Of a more immediate relevance to the issue of a new remand centre is the finding that magistrates are overwhelmingly dissatisfied with

current facilities for remand prisoners, and the majority acknowledge that this dissatisfaction has led to lower numbers of persons being remanded in custody than would otherwise have been the case. The majority also believe that the numbers would increase if more modern remand facilities were available, and they also believe that bail hostels would be useful in a significant number of cases.

Chapter 6

OPTIONS, REACTIONS AND CONCLUSIONS

There can be no doubt that a new remand centre for Victoria is urgently needed. The issue to be addressed in this chapter is the location and the design of the new centre. The definition of remandees and the question of the appropriate size of the new facility have been canvassed in the interim report and it is assumed that the figure of 240 'pure remandees' has been accepted. (It should be noted that while this figure includes female remandees, it does not include prisoners awaiting classification, transit prisoners, or others awaiting the outcome of appeals.)

As indicated in the interim report, the recommended capacity of the new centre of 240 male and female remandees is seen as the minimum reasonable figure bearing in mind the inevitable increase in numbers that will occur. It is conditional upon the establishment of one or more metropolitan bail hostels as proposed in the interim report, which are seen as providing a 'safety valve' against any dramatic increase in numbers apart from being of value in their own right. Even if the new remand centre reached its capacity of 240 (and hopefully it would never exceed the optimum working level of 85 per cent, or just over 200) it should be noted that Victoria would still have a remand rate which was considerably lower than the national average. The new remand centre will probably not be suitable for extension beyond its proposed capacity, but unless dramatic changes occur it should meet the needs of the State until the end of the century. At or about that time it is predicted that further remand facilities will be needed and it may be appropriate then to consider a centre associated with a suburban court complex such as Prahran.

A fairly detailed architectural brief and schematic design was completed in 1982 by the Public Works Department for a new remand centre on a site bounded by Spencer Street, Jeffcott Street and Adderly Street. This brief, which has become known as the Jeffcott Street proposal, was influenced by inspections made by officials of the multi-storey facilities in San Diego, Edmonton, Chicago and New York. The Jeffcott Street proposal is one viable option, and the other is to locate the new facility

in an unused part of the Pentridge complex. Numerous inquiries have been made to determine whether any other locations for a new remand centre are available, but, at the time of writing, no other suitable locations have been identified.

Ideally, a new remand centre would be located on a site close to the city, for ease of access to courts and lawyers, close to public transport, and providing sufficient space to allow for a reasonably normal environment to be established for persons awaiting or undergoing court hearing. A remand centre should not be seen as an adjunct to an existing prison and its separation from existing prisons is essential if the special status of remandees is to be recognised. The ideal site for a new remand centre has not been located and may well be an impossible dream. The realistic alternatives at this time therefore are Pentridge or Jeffcott Street and these will be considered in turn.

The Pentridge proposal

Preliminary consideration has been given to the development of unused land in Pentridge, bounding the Murray Road northern wall between the oval, the quarry and the 'A' Division/'H' Division complex. This proposal, on the surface, has the possible advantages of being marginally less expensive than the Jeffcott Street proposal and also allowing for the use of food and health services already available within Pentridge. However, the preliminary plans sketched by Public Works Department architects indicate that it would still be necessary for the residential sections to be at least four storeys high and therefore it could not be seen as a low-rise proposal. Furthermore, the difficulties of building on a sloping, and perhaps unstable, site, and the additional costs involved in roofing may well mean that the capital expenditure would be equivalent to that needed for Jeffcott Street. If the Pentridge option were developed on a totally low-rise basis it would involve absorbing the whole of the oval and would take up nearly all of the ground between Murray Street and Jika Jika and this could be seen as creating potential security problems.

The major disadvantage with the Pentridge proposal is that it would be wrong in principle in that it would inevitably be seen as part of

Pentridge even if it were administered as a self-contained unit. The contradiction of unconvicted and unsentenced persons remanded in custody being held in a prison would still be apparent to the public, the remandees and their relatives. It would also be difficult to establish and maintain a totally separate staff with a philosophy and practices which are different from those applied in the management of sentenced offenders. This option would also continue the difficulties of access to the courts and to lawyers that are currently experienced and public transport is not conveniently located for the use of personal visitors. Furthermore, the site is decidedly unattractive, especially as the nearby quarry is used to some extent as a tip. For these reasons the Pentridge proposal is rejected.

The Jeffcott Street proposal

The Jeffcott Street proposal as outlined in the architect's brief is not without its problems. It may be seen as providing an unnatural environment in that there is no provision for recreation or visits on ground level and there may be some problems of moving detainees up and down by lift to and from the exercise areas on the roof. There is also no provision for private car parking for personal and professional visitors.

On the other hand, this proposal does provide appropriate recognition to the status of unconvicted or unsentenced persons and would allow for the development and application of a philosophy of management which reflects that status. The site is obviously close to the city courts, at all levels, and also close to the offices of most lawyers. There is ample access to public transport and, in an emergency situation, police could be called in from Police Headquarters which is only two blocks away.

Within the proposed design there is no argument that the living units provided for detainees would more than satisfy the requirements of the United Nations minimum standards for the treatment of prisoners and, in this regard, could be seen as erring on the side of generosity. All detainees would have individual rooms with shower, toilet and hand basin, with extensive views either over the city or the Yarra river. All would also have access to fresh air in outdoor areas which are linked to all of the general purpose rooms provided for detainees in groups of 15 or 30.

Compared with the likely environment and views in the Pentridge complex the Jeffcott Street proposal is considerably more humane and attractive.

If these are the only two options available then Jeffcott Street is to be preferred over the Pentridge option, but it would be highly desirable if the Jeffcott Street proposal could be modified to allow for occasional recreation periods and personal visits in a more naturalistic setting. What is needed is a modification to the current proposal which would allow detainees and their visitors to make use of a garden-like setting with trees, lawns and outdoor furniture in order to provide additional opportunity to reduce the time spent in an airconditioned and artificial environment. Without giving detailed consideration to the architectural aspects of such a modfication it is suggested that this could possibly be achieved by making better use of the site. The existing plan has the building located at the western end of the site and allows for an entrance forecourt from Spencer Street of approximately 70 metres in depth. It is suggested that if the two residential towers were separated such that the forecourt was reduced to approximately 30 metres in depth and the administration and internal security lifts were located on either the northern or southern sides of the building an internal court with trees and grass could be provided. This would be approximately 40 metres by 25 metres and could be developed as an attractive yet secure space for recreation and visiting. It would also allow more light into living and working areas.

The existing plan could be further modified by eliminating at least half of one of the floors as space for classification staff and records would be no longer required. A further option would be for the modified plan to incorporate a Magistrates' Court at ground level with internal and external access for the specific purpose of dealing with bail applications. This additional option is not essential to the concept, but, if it were adopted, the court could be seen as an extension of the existing City Court complex.

This proposed modification of the Jeffcott Street proposal would undoubtedly incur additional capital costs, but it is suggested that these would be more than compensated by the humanising effect of the provision of a ground-level option within the centre. If the ideal location

described above does not become available in the immediate future the modification of the Jeffcott Street proposal is recommended for Victoria.

In this report it has not been possible to give detailed consideration to the very important question of selection and training of the staff for the new remand centre. It is suggested, however, that staffing, and also the details of the final plans, be discussed with the Superintendent of the Belconnen Remand Centre in the Australian Capital Territory as this person has valuable and unique experience with the day-to-day administration of a remand centre.

Chapter 7

SUMMARY AND RECOMMENDATIONS

This study has shown that there is an urgent need for upgrading of the prisoner records and statistical systems that are currently being used in the Correctional Services Division of the Department of Community Welfare Services. Notwithstanding the deficiencies in the available statistics it is clear that Victoria has a rate of use of remand in custody which is very significantly lower than the national average.

Using data obtained from the national prison census and supplementary questionnaire this study has also provided a detailed profile of all persons remanded in custody in Victoria as at 30 June 1982. The analysis of these data indicates very little possibility of reducing the numbers of remandees by varying intake procedures, but it leaves open for further inquiry the possibility of reducing or controlling numbers by reducing the average period spent on remand.

The study also incorporates the results of a survey of magistrates' views of the bail/remand system which suggest that the numbers will increase when a new and more humane remand centre becomes available. The magistrates were, however, forthright in their condemnation of the existing remand facilities, and a clear majority supported the proposal to establish bail hostels. The magistrates made a number of specific proposals for changes to the Bail Act which need to be considered in detail.

On the basis of the totality of the information collected and analysed the appropriate capacity of a new Melbourne remand centre is seen to be 240 male and female remandees. This figure is for persons not under sentence and therefore excludes appeal cases, prisoners undergoing classification and transit prisoners. The figure includes persons convicted but not sentenced and those awaiting extradition or deportation who are not otherwise under sentence.

It is understood that the only realistic options for the site of a new remand centre are within the Pentridge complex or the Jeffcott Street proposal for which some preliminary planning has been done. Recognising that neither of these options is ideal, the advantages and disadvantages of each have been considered and a modification of the Jeffcott Street proposal seems to be by far the more suitable. The proposed modification would considerably humanise the building by providing an internal garden courtyard for relaxation and private visiting.

The specific recommendations included in this study are:

1. that planning commence on the installation of a comprehensive computer-based data system for all prisoner records, including remand prisoners, as a matter of urgency;

2. that an inquiry be undertaken on the ways and means of reducing the time spent awaiting court appearance for persons remanded in custody;

3. that the proposals made by magistrates for reform of the Bail Act be considered by Law Department officials;

4. that planning commence immediately for the establishment of a bail hostel in the Melbourne metropolitan area with a capacity for 25 to 30 persons, and, as required in the future, the establishment of further bail hostels be considered.

5. that the new remand centre be constructed in the Melbourne metropolitan area and that it provide for a total capacity of 240 male and female remandees;

6. that, of the two options available, a modification of the Jeffcott Street proposal be accepted as much more suitable than the development of an area within the Pentridge complex;

7. that subject to the views of the Law Department the modified Jeffcott Street proposal may incorporate a Magistrates Court, specifically for the hearing of bail applications; and

8. that details of staffing and final plans for the new remand centre be discussed with the Superintendent of the Belconnen Remand Centre in the Australian Capital Territory before the commencement of construction.

APPENDICES

Field Notes No. 1

On Wednesday, 23 June 1982, I spent an extremely interesting and informative morning in the Pentridge remand section. The initial one to two hours were spent with senior staff discussing details and procedures to be followed with the supplementary items for the national prison census. Even though Dan Quirk is responsible for the coordination of the Victorian element of this project it was useful to clarify any potential problems with the people who are to undertake the work as the opportunity arose. It is clear that the preparation of normal end of the year statistical returns together with the national prison census and the supplementary questions for remand and female prisoners is creating a great deal of additional work for the staff and it is to be hoped that in future years normal statistical collections will be coordinated with the prison census. The supplementary questions will hopefully not be required on future occasions.

Following this initial discussion I was given more precise information than I had previously on the actual numbers of remandees in Pentridge. Two weeks earlier in discussion with the superintendent, Mr Gerry Myers, I was led to believe that the actual number of 'pure remandees' might be considerably smaller than the 150 + which is indicated in the monthly returns published in Australian Prison Trends. Mr Myers had suggested that a considerable number of remandees were in fact parole violators or serving sentences for other matters, such as cutting out fines. Contrary to this view I was informed by the officer responsible for the preparation of statistics in the remand section, Mick O'Brien, that the number of pure remandees on that day was 172. This included 11 prisoners who were convicted but remanded for sentence. If this figure, or something like it, is confirmed by the detailed data emanating from the national prison census it is clear that the possibility of recommending a relatively small remand centre is rapidly evaporating.

Even without considering the 'time bomb' effect, the current numbers are apparently much larger than the plans for Jeffcott Street have envisaged. On the basis of these figures if a two-week classification process were incorporated in Jeffcott Street together with prisoners in

transit, currently over 90 in the remand section, the new facility would be totally inadequate with regard to size. Back to the drawing board.

During the latter part of the morning I spent some considerable time in the actual remand yards talking with prisoners. The weather was very bad, with drizzly rain being driven by an icy wind and it was therefore a very real experience for me to share (albeit briefly) the actual conditions experienced by remand prisoners. In all cases I found the prisoners themselves very easy to talk to, in fact eager to talk, and in many cases they were surprisingly articulate. Many of them were understandably unhappy with their situation (several that I spoke to had been there over six months and one over 12 months) but most of their serious grievances were directed at the courts and the Bail Act rather than the prison authorities themselves. There were, however, a number of specific grievances relating to the remand section that were mentioned and I list them here purely for the record. I do not, of course, have any means of judging their validity or seriousness. The specific complaints mentioned to me by remand prisoners were :

- the unavailability of contact visits,
- the fact that telephone calls were difficult to arrange,
- from time to time there is no hot water available for showers,
- it was alleged that correspondence with solicitors and other authorities was censored,
- the laundry facilities (particularly arrangements for drying clothes) were inadequate,
- something should be done to lessen the impact of the wind by perhaps erecting a windbreak,
- the gas heaters under the shelters in the yards were described as inadequate,
- there are complaints about the open toilets, and
- it was claimed that some people did not use the activities centre as they felt that they may not receive their canteen items if they were not actually in the yards.

One particularly articulate prisoner expressed the view that the discretionary authority available to the senior staff was much greater than

was desirable and cited his own experience of not being allowed to have his prescription glasses made available to him when they were required.

Having listed these tales of woe the point must be made that the interpersonal atmosphere in all of the situations that I encountered was relatively relaxed and there was no feeling of potential violence or serious disturbances. In my view, that reflects considerable credit on the skills of the staff.

In earlier discussion the Governor of the Southern Prison, Mr Alec Greer, mentioned that some years earlier he had seen a professionally prepared plan for a re-design of the remand yard area which essentially demolished most of the internal walls and created larger space which would need to be supervised by officers on the ground rather than in towers. This plan was apparently prepared by an earlier senior staff member, Hector Deer, and had Mr Greer's full support. Later in the day I endeavoured in the head office to locate a copy of this plan but was unable to do so. Mr Mark Filan is following up this matter on my behalf.

Also later in the day a detailed discussion was held with Dan Quirk about the supplementary forms for the national prison census and these arrangements seem to be well in hand.

Before leaving Pentridge I paid a brief visit to the activities centre and spoke to some of the prisoners (mainly billets on their lunch break) and I also spoke with one of the activities officers. I was informed that the average number of prisoners using the activities centre over recent weeks has been fairly close to the maximum capacity allowed, i.e. 60 per session. I apparently previously misunderstood the arrangements for this centre to be available to remandees as it seems to be the case that prisoners from different yards are offered the opportunity to use the centre on a roster basis. Only when the maximum number has not been achieved on that basis is it made available to others. The roster allows for each prisoner to spend from three to four sessions per week in the activities centre. The availability of television in the yards but not in the activities centre is clearly a disincentive to the use of the latter.

Accompanied by Mr Greer I subsequently had a quick walk through F Division (which I had not visited for more than a decade) and was distressed with the very crowded dormitories, two of which take up to 60 prisoners each. Mr Greer suggested that if a new remand centre was to be built it might be useful to tear down F Division and erect a new building on the site which has a reasonable amount of space around it. This certainly has the attraction of getting rid of F Division.

P.S. Mark Filan has just telephoned me to say that he has located the plans for the re-design of the old remand yards and will pass them to me.

24 June 1982

Field Notes No. 2

On Tuesday, 6 July 1982, accompanied by the Minister, Director-General, Acting Director of Correctional Services and an architect from the Public Works Department, I visited the Sunshine hospital to make an informal and preliminary assessment as to whether or not this building might be suitable for adaptation as a new remand centre. The building is extremely attractive but only used in a few minor areas for dental care, etc. The large portion of the building is in an unfinished state and therefore it would not be necessary to pull down internal fittings if any adaptation were agreed to. The biggest problem is the political one of the Government deciding not to proceed with the completion and servicing of a hospital in a much needed area, but the total building is considerably smaller than the Jeffcott Street proposal. The Sunshine Hospital has a total floor space of 13,500 square metres compared with 18,885 square metres incorporated in the Jeffcott Street plan. Apart from that it would be extremely difficult to provide cells with direct access to daylight in the Sunshine hospital complex.

On our return to the city the group of us had a meeting in the Minister's office and it was virtually decided that for both political and technical reasons it was improbable that Sunshine would be acceptable as an alternative. At this meeting some discussion followed on the options that might be available within the Pentridge complex and the Public Works Department architect was asked to give some preliminary thought to the development of a possible site on the south-east corner of Pentridge. It would seem that, as this area is fairly small, it would still be necessary for this to be a multi-storey building with there consequently being very little cost saving compared with Jeffcott Street. The architect was also asked to do a quick technical assesment of the Sunshine hospital.

In the afternoon of that day I spent some considerable time with Mr Kevin Burgess, S.M., at the Melbourne Magistrates Court. Mr Burgess made a number of suggestions for minor alteration to my questionnaire survey of magistrates and he also provided me with a number of pre-paid envelopes which will be enclosed with the survey when it is forwarded to all magistrates under a covering letter by him. The survey forms will be

returned directly to me, but it will be necessary for us to self-address these envelopes. Even though this arrangement will probably result in something less than a 100 percent return, in my view it is more acceptable than the previous proposal that the forms are returned with some form of identification to Mr Burgess. It will be necessary for me to forward 80 copies of the revised survey form to Mr Burgess as soon as possible. This must be given priority.

Mr Burgess and I then discussed the arrangements for the Annual Magistrates' Conference to be held at the end of this month and by way of background material I have agreed to send to Mr Burgess 80 copies of each of the most recent AIC and CRC Annual Reports to be distribted to participants prior to the conference. The survey forms and self-addressed envelopes will be sent in the same parcel within the next few days.

I spent the whole of the morning of Wednesday, 7 July, in the Head Office of the Department of Community Welfare Services. For the first 45 minutes I assisted Ms Rhonda Galbally, Personal Assistant to the Minister, with the preparation for a speech on prisons to be delivered by the Minister as an introduction to the Whatmore Oration in Melbourne next week. I then spent some time with Mr Mark Filan, Inspector of Prisons, and examined in detail the plans drawn up in 1969 for a re-organisation of the remand yards in Pentridge. I discovered that these plans were in effect for an extension to the existing D Division building which provided for 156 high quality cells. As a corollary to that extension considerable improvements to the yards (in fact a total reconstruction) was planned which would involve landscaping and vastly improved shower and toilet facilities. It is interesting to speculate about why this plan was not proceeded with, but it occurs to me that shortly after 1969 the Victorian prison population started to decline rapidly and it may well have been thought unnecessary to proceed with extensions for that reason. There may also have been problems with costs. At all events, it is not worth giving further consideration to this plan as the development of the remand recreation centre, and probably the southern prison kitchen, has pre-empted the extension as envisaged in 1969. Furthermore, one would not wish at this stage to simply create a bigger and better D Division within the Pentridge complex.

In further discussion with Mr Filan the comparative costs of security accommodation in a new remand centre and in bail hostels was discussed. We agreed that new cellular accommodation could not be much less than $100,000 per detainee whereas bail hostel accommodation could probably be provided for something in the region of $10,000 per detainee. Furthermore, recurrent expenditure in terms of staffing would be considerably less in a bail hostel. By way of example we envisaged the purchase of an old hotel for perhaps $.25 million to accommodate 25 or 30 detainees.

The problem about bail hostels seems to me to lie in determining whether they would be preferable in the eyes of magistrates to imposing a condition of bail requiring that the accused person reports to the police each day. A bail hostel would allow accused persons to continue employment in the community and report into the hostel and reside there each evening and this in reality does not provide much additional protection over and above a requirement to report to police. There is also the danger that a bail hostel might be used by persons who would otherwise be bailed and not therefore make any significant impact on the size of the population of persons who are remanded in custody. I will add a question to the magistrates' survey endeavouring to determine the extent to which a reqirement to report to police daily has been used as a condition of bail. This question together with their views on the usefulness of bail hostels should give me some better understanding as to which way to go on this question. Hopefully it may be possible in the future to see the relatively cheap provision of one or more bail hostels as a means of coping with the possible massive increase in the remand in custody population that may occur following the availability of a new remand facility.

Mr Filan then gave me a detailed verbal report on the preparation with which he has been actively involved for the reconstructon of the Fairlea Womens Prison. I am most impressed with the quality of the work that has been done to date, even though no actual sketch plans have yet been produced. His basic premise has been that the institution will not cater for more than 60 women prisoners and that these will not include remandees. As 60 is only a fraction larger than the current female prisoner population in Victoria it will obviously be necessary almost

immediately to provide alternative accommodation for the overflow. The survey of women prisoners may show that some could be housed in semi-custodial facilities such as work release centres. This remains to be seen.

A preliminary estimate of the costs of the reconstructed Fairlea Womens Prison would be in the region of $8 million and I am a little concerned that the Victorian Government would be simultaneously faced with the problem of providing this amount of money for the new Fairlea together with something around $20 or $25 million for a new remand centre. It would clearly be disastrous if a new remand centre were further delayed because of the consequences of the Fairlea fire. As Mr Filan points out however, male remandees do at least have some accommodation whereas there is little or nothing currently available for women prisoners and therefore their needs must be given some degree of priority.

Later in the morning I spent some time with Mr Charlie Rook and Mr Dan Quirk in the Research and Social Policy section and we discussed the progress being made with the national prison census. I was particularly interested to hear about the remand and female sub populations. These will be available for me to collect when I am in Melbourne next week. Mr Rook and I then discussed the proposed plans for funding truancy research by the CRC. He informed me that a further meeting was being held on the following day and he expressed the hope that the matter could be finalised as far as his Department was concerned in the meeting to be chaired by the Director-General on Thursday, 15 July.

Mr Rook also reported to me on the discussions he has been recently having with the Victorian section of the Australian Bureau of Statistics in relation to their computerisation of prison and other departmental records. This is a matter that will be of considerable interest to John Walker.

Altogether a busy and useful visit.

8 July 1982

Field notes No. 3

Visit to Belconnen Remand Centre, A.C.T.

On the morning of 1 September 1982, accompanied by Professor Shlomo Shoham of the University of Tel Aviv, I visited the Belconnen Remand Centre and discussed with the Superintendent, Mr Frank Boardman, a number of issues relating to the administration of remand centres. Mr Boardman's views on this subject are very well developed and therefore it is perhaps worth taking a note of some of them.

Mr Boardman suggests that one should develop a philosophy for a remand centre and from this sketch out the program details before consideration is given to the actual physical structure. He says that in most situations architects design a building, it is erected, and then later the staff have to work out how they are going to use it rather than the more logical approach being taken.

Mr Boardman is very clear in his view that staff selection and training is of the utmost importance in the running of a remand centre. He argues that staff should be selected and trained as a group during the construction period of the new facility. This was done with Belconnen. He sees the main purpose of intensive staff training as the development of human relations skills and an acceptance of, and commitment to, the basic philosophy of the institution which must be one of humane custody with the utmost respect for the individual dignity of unsentenced detainees. Mr Boardman argues that the training and experience of prison officers is generally not suitable for work in a remand centre. In other words, prison officers have to unlearn many of their past experiences and learn new skills if they are to become part of a remand centre team.

The male and female staff at the Belconnen Remand Centre do not wear normal prison-type uniforms. Their uniforms, which have no badges of rank, consist of dark green blazers with yellow shirts and green ties. There are no insignia, but each staff member wears a small badge indicating his or her name. Neither individual staff nor the institution have any weapons, not even truncheons. In the institution there are a small number of handcuffs. These have only been used on one occasion.

The inspection that Professor Shoham and I completed of the institution exemplified the policy of individual respect for the detainees and a high level of interpersonal skill by the staff. Staff members address detainees as Mr or Miss and endeavour to engage themselves in recreational activities with the detainees rather than simply adopt a supervisory role. They are trained and cautioned against becoming involved in the personal problems of the detainees. The institution is very expensive to run however and therefore cannot be seen as a realistic model for a large jurisdiction such as Victoria. The Belconnon Remand Centre has a total capacity of 18 detainees, but the daily average has been approximately nine. The total staff of 30 provides two full shifts from 7 in the morning until 11 at night plus a lower level of staffing at night. Visits are available until 9 o'clock on each evening. The detainees may use the telephone at any time. All calls are placed by the staff and if the person receiving a call does not wish to accept it this matter is noted and the detainee is not permitted to call that person again. Detainees pay for their own telephone calls, and postage stamps, but if they have no money these costs are met by the Government.

The institution has a garden area which is used for barbecues and contact visits for visitors and staff. This area is also used for staff-detainee barbecues at weekends. There is also ample provision for professional visits and contact visits in reasonably attractive rooms. Where necessary a non-contact visiting area is also used.

Mr Boardman believes that more needs to be done in relation to providing useful activities for the Canberra detainees and he argues for the appointment of an activities officer. Hobby rooms are available but these are not used to a very large extent. All detainees have keys to their own rooms, and staff have keys which over-ride the keys held by the detainees.

As Mr Boardman is very experienced and very articulate about the necessary conditions for running an effective remand centre it may be appropriate for him to be invited to inspect the plans of the new Victorian remand centre before final decisions are made. For example, with regard to Belconnen he was able to point out that the location of the control room is unsatisfactory in that it absorbs more staff than would otherwise be

necessary. He also believes that more could have been done to provide a congenial environment in the recreation areas by the installation of more windows. In many ways the philosophy of the Belconnen Remand Centre represents a glimpse into the future that may be achieved for remanded persons throughout the rest of Australia. Mr Boardman gave me a detailed brochure on the establishment and operation of the Belconnen Remand Centre together with a booklet of information which is made available to all detainees on arrival.

Discussions with VACRO, Melbourne

On Thursday, 2 September 1982, I spent three hours in discussion with the VACRO Remand Sub-Committee in Melbourne. Persons present were George Maddern, Judy Arndt, Mick O'Brien, Dennis Challinger, Jim Beggs and Matt Derham. Prior to this meeting the sub-committee had asked me to supply detailed answers to a large number of questions about remand prisoners in Victoria. I had declined to supply this information as it would have in effect amounted to reporting to VACRO rather than reporting to the Minister. However, in correspondence I had indicated that I would provide an informal outline of the work that I had completed to date and at the beginning of the meeting I did this by reviewing the issues relating to statistics and trends, the broad outline of the profile of remand prisoners that had been derived from the national prison census and some of the results of the magistrates' survey. I concluded this review by reference to my visit to the Belconnen Remand Centre on the previous day.

The main purpose of my discussion was to establish from the sub-committee their views on the proposed new remand centre for Jeffcott Street. I emphasised to the group that I had no concluded view on the relative merits of Jeffcott Street or any of the other options that might become available.

The following are some of the observations on the Jeffcott Street proposal that were made during the meeting:

. The model accommodation unit inspected in Brunswick was seen as quite satisfactory, and there was general agreement that a new remand centre

should be allocated away from Pentridge, but the multi-storey aspects of the Jeffcott Street proposal were thought to be not suitable. It was argued that the strain and stress of high-rise living added to the strain and stress of being in custody amounted to an undesirable situation. It was also argued that the standard of security was too high and that the same standard of security was provided for all of the detainees.

. Other members of the group argued that multi-storey maximum security was an anathema. They had opposed the earlier Russell Street proposal on the same grounds that were now being used in relation to Jeffcott Street.

. There was general and strong support for the concept of bail hostels, even though one member of the group recognised, as some of the magistrates have, that bail hostels may not have very wide application.

. It was argued by one member that there should be exercise areas at ground level as people would be held for long periods of time and it was unnatural for them to be in a multi-storey situation. It was argued in this connection that the environmental conditions in a remand centre should be as close as possible to those found in normal living.

. There was considerable discussion about whether or not it was feasible for some degree of classification to be used in a remand centre so that those not requiring high security were treated differently from those who were overtly dangerous. It was agreed by some members of the sub-committee that classification within remand was extremely difficult as it could not be based on detailed interrogations and interviewing, nor was the actual offence charge a necessary indication of the emotional state of the detainee.

. It was suggested that the provision of lifts in the new building would be found to be inadequate and that there would be difficulties in getting people up and down to the roof for recreational purposes. Because of this it was thought that detainees would spend a great deal of their time in the multi-purpose areas of each group living unit.

Doubts were also expressed about whether or not people would have sunlight available to them on the deck areas of the multi-purpose living areas.

- It was suggested that because the Jeffcott Street proposal was multi-storey it would be undesirably expensive to construct and maintain. This point was made in particular relation to the costs of lifts and air conditioning.

- One member of the group argued that a new remand centre should be provided for a fixed number of detainees, say 150, and that it should be made clear to magistrates that if they wanted to remand a person in custody when the facility was fully occupied then they would have to at the same time release someone on bail to provide enough space. This proposal did not seem to have the full support of the group.

- It was suggested that further consideration and investigation be given to alternative sites and suggestions were made specifically with regard to the railway land in Spencer Street (apparently south of the current Jeffcott Street proposal) and also to the land becoming vacant in Dawson Street, Brunswick.

- Notwithstanding the general support for the proposition that a new remand centre should be constructed away from Pentridge, one member of the group proposed that the area within the Pentridge complex currently occupied by the staff mess be considered for redevelopment as a remand centre.

- There was general agreement for the proposition that a building of up to two storeys high was acceptable, and it was suggested that something like the Ararat prison with living units looking into a grassed area would be more appropriate than a high-rise facility. It was accepted, however, that such a style development would require considerably more land than was available on the Jeffcott Street site.

Predictably, this discussion was inconclusive, but it did provide an opportunity for the VACRO sub-committee to spell out in some detail the anxieties that its members feel about the Jeffcott Street proposal. It

also became clear from the discussion that the sub-committee is keen to encourage the Government to take this opportunity to develop a creative and imaginative concept of a remand centre which is humane and recognises the unusual status of persons remanded in custody. The group is very conscious of the fact that the decisions taken in the next few months on this question will determine Victorian policy with regard to remanded persons for the next hundred or more years. It is reluctant to support a proposition about which it has serious doubts.

Tentative conclusions

My personal reactions to these two days of discussions has led me to the tentative view that perhaps more thought should be given to exploring sites other than Jeffcott Street. Following my discussions at Belconnen I am even more strongly opposed to the development of a remand centre in Pentridge and I believe that it may be necessary for a quite radical departure to be made from the concept of having a remand centre as an addendum to a normal prison system. It may even be necessary to think of establishing a new and separate classification of custodial staff who are primarily responsible to the courts rather than the prison system per se. Whether this is possible or not remains to be seen, but it is an approach that must be given every consideration.

8 September 1982

NATIONAL PRISON CENSUS - JUNE 1982

DATA COLLECTION FORM

Sequence Number

PART 1 - GENERAL INFORMATION.

Please answer every question.

A State/Territory

The state in which the prison establishment is located

Code: 1 = NSW 2 = VIC 3 = QLD 4 = SA 5 = WA 6 = TAS 7 = NT 8 = ACT

1

B Institution

See Part 1 of Coding Manual for code list.

2 3

C Unique Prisoner Identifier

A number (up to 7 digits), unique to each prisoner within the state, as employed for normal administration purposes.

4 5 6 7 8 9 10

D Sex of prisoner

Code: 1 - Male 2 - Female

11

E Date of Birth

The day, month and year of prisoner's birth
Notes: If the day or month of birth is unknown, code 99.
If the exact year is unknown use best estimate.

12 13 14 15 16 17
d d m m y y

F Aboriginality

The racial origin group to which the person considers him/herself to belong

Code: 1 - Aboriginal and Torres Strait Islander
2 - Non Aboriginal or Torres Strait Islander
9 - Unknown/Not Stated

18

G State/Country of Birth

The prisoner's state or country of birth

Code:

01 - NSW	11 - New Zealand	31 - Timor	51 - USA		
02 - VIC	12 - Papua New Guinea	32 - Other Asia	52 - Canada		
03 - QLD	13 - Other Oceania		53 - Other Americas		
04 - SA		41 - UK and Ireland			
05 - WA	21 - Kampuchea	42 - Greece	61 - Africa (incl.		
06 - TAS	22 - Vietnam	43 - Italy	Libya, Egypt)		
07 - NT	23 - Other Indo China	44 - Yugoslavia	62 - Middle East		
08 - ACT		45 - Other Europe			
09 - Australia unspecified		(incl. USSR)	99 - Unknown/Not Stated		

19 20

See Part 2 of Coding Manual for full list of countries and their codes

H Location of Last Known Address

If last known address was within the reporting state then the LGA code should be used.
See Part 3 of Coding Manual for LGA code list. Otherwise code to state level only as follows:

901 - NSW	904 - SA	907 - NT	910 - No Fixed Abode				
902 - VIC	905 - WA	908 - ACT	999 - Unknown/Not stated				
903 - QLD	906 - TAS	909 - Overseas					

21 22 23

I Marital Status at Receival

The actual (not necessarily legal) marital status of prisoners

Code:

1 - Never Married	3 - Separated (not divorced)	5 - Widowed
2 - Married (including defacto)	4 - Divorced	9 - Unknown/Not stated

24

J Prior Employment Status at Time of Arrest/Charge for Current Episode

Code:

1 - Employed (wage and salary earner or self-employed)	3 - Home duties	9 - Unknown/Not stated
2 - Unemployed - seeking work	4 - Student	
	5 - Other, e.g. pensioner	

25

K Highest Level of Education

Code:

1 - Tertiary (degree, diploma)	4 - Completed secondary (certificate level)	7 - Part primary
2 - Technical & Trade (e.g. apprenticeship)	5 - Part secondary	8 - No formal schooling
3 - Post secondary undefined	6 - Completed primary only	9 - Unknown/Not stated

26

L Known Prior Adult Imprisonment

Is the prisoner known to have previously been imprisoned under sentence in a gazetted prison?
Prior sentence of periodic/weekend detention to be regarded as prior imprisonment.

Code: 1 - Yes 2 - No 9 - Unknown/Not stated

27

Questions M to W are overleaf:-

PART II - RECEPTION INFORMATION.
Please answer every question.

M Date of Receival

To be recorded for all prisoners, as day, month and year of first receival into a gazetted prison within that state, in respect of the current episode, whether or not the person was originally on remand or whether the remand period counted towards this sentence. Dates of receival into particular establishments on transfer from other prisons within that state are to be ignored.
Note: If breach of parole, code date of receival for original offence.

28 29 30 31 32 33
d d m m y y

N Legal Status of Prisoner

The legal status of the prisoner at census date

Code:
1 - Unconvicted: awaiting court hearing/trial, extradition
2 - Convicted but awaiting sentence
3 - Under sentence: awaiting determination of appeal (verdict or sentence)
4 - Under sentence: no appeal current
5 - Awaiting deportation
6 - Detained as unfit to plead, not guilty on grounds of insanity, etc.
9 - Unknown/Not stated

34

O Level of Court of Sentence or of Most Recent Remand in Custody

Note:
1. Where an episode comprises orders/sentences of various levels of court, select the level of court appropriate to the Most Serious Offence/Charge.
11. Appeal courts should be recorded only where such courts have altered the length of sentence appropriate to the Most Serious Offence/Charge.
111. For prisoners not under sentence record the level at which most recently remanded in custody.

Code:
1 - Supreme Court
2 - District/County Court
3 - Magistrates Court
4 - Children's Court
5 - Federal Court of Australia
6 - Other (e.g. administrative decision)
9 - Unknown/Not stated

35

P Most Serious Offence/Charge

See Part 4 of Coding Manual for codes and coding rules

36 37 38

PART III - SENTENCE INFORMATION.
To be completed for all prisoners with 'Legal Status' coded 3,4 or 6 ONLY.

Q Type of Sentence

Code:
Indeterminate
1 - Life
2 - Governor's/H.M. Pleasure
3 - Subject to ministerial/ administrative decision
Indefinite
4 - Maximum term specified and minimum term or non-parole period set
Definite
5 - Fixed term, no minimum term or non-parole period set
6 - Fine default only
7 - Periodic/Weekend detention
9 - Unknown/ Not stated

39

R Sentence Relating to Most Serious Offence

The total length of sentence imposed in respect of the most serious offence (any non-parole period specified, probable remissions etc. are to be ignored for this item). Periodic/weekend detainees should be counted as number of weekends.
Note: This relates to the most serious single count against the prisoner - not the total sentence for that type of offence.
Code 888888 88 for indeterminate sentences;
Code 999999 99 if the actual sentence is not known.

40 41 42 43 44 45 46 47
Years Months Days Weekends

S Total Number of Offences for which Currently Sentenced

The total number of offences (counts, not offence types) for which sentenced in current episode.

Code the actual number of offences, if known and less than 90.
Code 90 if actual number is 90 or more.
Code 99 if actual number is unknown.

48 49

T Aggregate Sentence

The longest period that the person may be detained under sentence in the current episode. Charges pending which are likely to extend the current episode should be ignored.
Code 888888 88 for indeterminate sentences;
Code 999999 99 if the actual sentence is not known.

50 51 52 53 54 55 56 57
Years Months Days Weekends

U Date Aggregate Sentence Commenced

Note: If breach of parole, code date of receival for original sentence.

58 59 60 61 62 63
d d m m y y

V Earliest Date of Release

To be calculated in respect of the aggregate sentence, allowing for parole period or minimum term, and maximum expected remission. See Part 5 of Coding Manual for detailed method of calculation.
Code 888888 for indeterminate sentences.

64 65 66 67 68 69
d d m m y y

W Breach of Parole

Relates to whether or not the person is in prison at census time for a breach of parole conditions, or conditions attached to other forms of conditional release. Breaches of probation are not to be counted.

Code: 1 - Yes 2 - No 9 - Unknown/Not stated

70

National Prison Census

SUPPLEMENTARY DATA COLLECTION FORM FOR REMAND PRISONERS
(i.e. codes 1, 2 and 5 for item N)

To be completed from records

R1. Court, name and location for this episode

R2. Full list of current charges

R3. Precise description of current legal status (e.g. awaiting or undergoing trial or hearing, awaiting appeal against conviction and/or sentence, etc.)

R4A. If bail denied, reasons for denial as shown on warrant

or

B. If bail granted, value of surety required and other conditions imposed

R5. Number of bail applications made

R6. Prior prison experience
(If more than four episodes, attach separate sheet If more convenient attach photocopy of record with name obliterated. Use code list for MSO)

	Most serious offence	Length of detention	Date of commencement
Episode 1		d d m m y y	d d m m y y
Episode 2			
Episode 3			
Episode 4			

R7. Currently on parole from earlier sentence

Code 1 - Yes 2 - No

.../over

To be completed from interview

R8. Family Structure - Number of other persons in individual's normal household

Age	Male	Female
Under 5 years		
5-14 years		
15-19 years		
20-59 years		
60 years & over		

R9. Physical/Mental Health ☐☐

Code 1 - No problems 2 - Minor Physical Disabilities
3 - Severe Physical Disabilities 4 - Minor psychological/mental problems 5 - Severe psychological/mental problems
6 - Both physical and mental problems

R10. Alcohol-related problems ☐☐

Code 1 - Severe alcohol-related problems
2 - Minor alcohol-related problems
3 - No alcohol-related problems

R11. Drug-related problems ☐☐

Code 1 - Severe drug-related problems
2 - Minor drug-related problems
3 - No drug-related problems

R12. Occupation(s) prior to imprisonment

Occupation _____ Length of experience _____
Occupation _____ Length of experience _____
Occupation _____ Length of experience _____
Occupation _____ Length of experience _____

R13. Income range during previous year ☐☐

Code 0 - No income 1 - Less than $3000
2 - $3000-$5999 3 - $6000-$8999
4 - $9000-$11999 5 - $12000-$14999
6 - $15000-$17999 7 - $18000 and over

R14. Duration of residence at last known address ☐☐☐ ☐☐ ☐☐
y m d

R15. Number of places of residence in past 5 years ☐☐

Survey of Magistrates' Views on Bail and Remand

This survey is a part of a research project being undertaken by the Australian Institute of Criminology, Canberra.

Your responses to the following questions will be treated in strict confidence. Your name is not required.

1. In the past year approximately how many times per month have you been required to consider bail applications? ☐ per month

2. In approximately what proportion of these applications has bail been opposed by the police or prosecution? ☐ per cent

3. In approximately what proportion of these applications before you has bail been granted? ☐ per cent

4. In approximately what proportion of cases where you have granted bail have you imposed a condition requiring the accused person to report daily to the police? ☐ per cent

5. In considering bail applications the following are some of the factors that might be taken into account. Please indicate the relative importance you attach to each of these factors by giving a number to each according to this scale:

   very important ... 1
   quite important ... 2
   relatively unimportant ... 3
   not important at all ... 4

   a) whether the accused will appear for trial ☐

   b) whether the accused will commit offences on bail ☐

   c) the seriousness of the offence ☐

   d) whether the accused is likely to interfere with witnesses ☐

   e) whether the accused is employed ☐

   f) the accused's prior criminal record ☐

   g) whether the accused has family commitments ☐

   h) whether the accused has criminal associates ☐

   i) the financial means of the accused ☐

   j) the health of the accused ☐

(over)

k) the demeanour of the accused ☐

l) other (please specify).....

..... ☐

.....

6. What is your understanding of the present conditions in the remand facilities in your State?
Please describe.....

.....

.....

7. Have there ever been cases before you in which your understanding of the conditions in the remand yards has tipped the balance in favour of granting bail?.....

.....

8. If more modern remand facilities were available do you think that a higher proportion of accused persons would be remanded in custody?
.....

.....

.....

9. Do you think an accused person coming to trial from remand in custody is disadvantaged compared with someone on bail? Please explain.
.....

.....

.....

10. Do you think there are many cases where the availability of a "bail hostel" (an institution in which accused persons would be required to live but which they could leave for work or other legitimate purposes in the day) would be helpful?.....
If "yes", in what proportion of cases?.....

.....

11. What changes, if any, do you think are needed to the Victorian Bail Act, 1977-79? (attach an extra page if necessary).....

.....

.....

12. How many years have you been a magistrate? ☐ years

13. Do you sit mainly in the city, the suburbs or the country?.....

Thank you for your co-operation in completing this survey.

David Biles

REMAND IN VICTORIA: A REVIEW OF THE NATURE AND SIZE OF FACILITIES NEEDED

INTERIM REPORT

by
David Biles
Assistant Director (Research)
Australian Institute of Criminology

27 August 1982

This interim report presents in summary form some of the findings of a research project which aims to assist the Minister for Community Welfare Services in deciding the size and nature of remand facilities needed in Victoria. No detailed consideration has been given at this stage to various options for a new remand centre to replace the totally inadequate facilities now in use. This interim report is in fact intended to provide information that will assist in the planning of those options.

Considerable thought has been given to the problem of defining what persons are to be included in the category of remand prisoners or remandees. This is a complex issue, but it is suggested that the key concept is not under sentence. Remand prisoners are therefore defined as persons in custody in gazetted prisons (not in police cells) who are awaiting or undergoing trial in a superior court, or awaiting hearing in a lower court, or convicted but not sentenced by a higher or lower court, or awaiting extradition or deportation. This definition excludes prisoners under sentence who are awaiting the outcome of appeals against conviction or sentence, even though in cases where an appeal against conviction is upheld by the courts the status of the prisoner in the intervening period must be regarded as borderline. This definition of remand prisoners was used in the national prison census and yielded a total figure for Victoria of 176 as at 30 June 1982.

Statistics and trends

Apart from the national prison census there are at least two other sources of data on the numbers of remand prisoners in Victoria. In the first place the monthly publication of the Australian Institute of Criminology, Australian Prison Trends, has since November 1977 included the numbers of remand prisoners in each jurisdiction. These and other data are supplied to the Institute each month by the correctional authorities in each jurisdiction using a form especially designed for this purpose. With regard to remandees this form asks for the number of 'unconvicted persons on remand' on the first day of each month, and

therefore, if accurate, the figures supplied exclude the comparatively small numbers of prisoners convicted but not sentenced and those awaiting extradition or deportation and not otherwise under sentence. For this reason the figures published in Australian Prison Trends should be slightly lower than the figures obtained using the more comprehensive definition that was given above and was used in the national prison census.

The Australian Prison Trends data most recently available are those applying to 1 June 1982 and the relevant extract is summarised in Table 1.

Table 1: Total Prisoners and Remand Prisoners, Australia, at 1 June 1982

	Total Prisoners	Imprisonment Rate*	Prisoners on Remand	Percentage of Remandees	Remand Rate*
N.S.W.	3460	65.3	635	18.4	12.0
VIC.	1794	45.0	138	7.7	3.5
QLD	1666	68.8	131	7.9	5.4
S.A.	779	58.6	139	17.8	10.5
W.A.	1420	106.7	102	7.2	7.7
TAS.	254	59.1	17	6.7	4.0
N.T.	306	235.4	32	10.5	24.6
A.C.T.	42	18.3	7	16.7	3.0
AUST.	9721	64.1	1201	12.4	7.9

* per 100,000 of the general population

This table shows the number of prisoners and the imprisonment rate in each jurisdiction at that date (a statistic which may be accepted as highly reliable), the numbers of remand prisoners, the percentage of prisoners in each jurisdiction who are remandees and the remand rate for each jurisdiction. The percentage of any total prison population who are remandees is not as useful a statistic as is the remand rate as this percentage is considerably influenced by the overall imprisonment rate which, as can be seen, varies widely between jurisdictions. Thus for the

purposes of making comparisons between jurisdictions the remand rate may be seen as the important variable, provided the figures are accurate.

The other source of data on Victorian remandees comes from the Law Department's monthly statistics of male prisoners on remand as at 11 a.m. on the last working day of each month over the period January 1980 to June 1982. These statistics indicate the number of male prisoners refused bail for each level of the courts and the numbers who have had bail fixed but have not been bailed out. The numbers on remand in Geelong and Sale prisons are also shown.

The most recent figures from this source suggest that on the last working day of June 1982 there were 143 male prisoners on remand in Victoria (comprising 101 Magistrates' Court cases, 26 County Court cases and 16 Supreme Court cases) of whom 7.7 per cent had had bail fixed but had not been bailed out.

Even though neither of these two data sources yield results which agree with the figures arrived at from the national prison census (probably due to differences of definition or counting rules) it is clear from a study of the trends over time that the mid year figures are generally lower than the figures applying to the beginning of each year, when the courts are in recess. It follows that any new remand centre must cater for at least 200 detainees, and a figure of 240 would probably be more appropriate in order to cater for fluctuations in demand and yet maintain an occupancy rate not higher than the desirable 85 per cent.

The difficulties experienced in obtaining accurate and comparable statistics experienced in this project clearly indicate that improved record-keeping procedures are urgently required. The staff of the 'D' Division records office work in extremely cramped and trying conditions and all operations are handled manually. It is recommended that planning commence on the installation of a comprehensive computer-based data system for all prisoner records, including the records of remand prisoners, as a matter of urgency. If required, staff of the Australian Institute of Criminology may be available to assist with this task.

Profile of remand prisoners

The 176 remand prisoners identified in the national prison census comprised 164 males and 12 females. All except three, two in Geelong and one in Sale, were located in Pentridge. Within the Pentridge complex, however, remand prisoners were found to be held in Jika Jika, 'H' Division, 'G' Division, 'B' Division annex, the Pentridge hospital as well as 'D' and 'F' Divisions, the traditional remand centre. The legal status of the total remand population is shown in Table 2.

Table 2: Legal Status, Remand Prisoners

	Male	Female	Total	Per cent
Unconvicted	157	11	168	95.5
Awaiting sentence	5	0	5	2.8
Awaiting deportation	2	1	3	1.7
Total	164	12	176	100.0

The age range of the total group was from 17 to 59 years, with 20 years being the most common age and over 63 per cent being under 30 years of age. The age distribution of the population is shown in Table 3.

Table 3: Age Distribution of Remand Prisoners

Age in Years	Male	Female	Total	Per cent
Under 20	21	2	23	13.1
20-24	45	3	48	27.3
25-29	37	3	40	22.7
30-34	20	1	21	11.9
35-39	22	1	23	13.1
40-44	12	2	14	8.0
45-49	4	0	4	2.3
50-54	2	0	2	1.1
55-59	1	0	1	0.6
Total	164	12	176	100.1

Other descriptive information shows that 10, or 5.7 per cent, were classified as Aboriginal; only 33.8 per cent of the total were classified as married; and 46.6 per cent were unemployed at the time of their arrest. Furthermore, a clear majority, 78.2 per cent, had not completed secondary schooling; and nearly 60 per cent had experienced at least one prior episode of imprisonment.

Other findings of interest indicate that 26.4 per cent of the remandees had either physical or mental health problems; 36.9 per cent had alcohol problems; and 33.8 per cent had drug problems. Nearly half of the group, 47.6 per cent, had an annual income of less than $6,000; and over half, 53.1 per cent, had resided at their last known address for less than 12 months.

The majority of the remandees, 72.2 per cent, were born in Australia; and an analysis of their location of residence at the time of arrest reveals that 73.9 per cent lived in the Melbourne metropolitan area while 13.6 per cent came from interstate. There would therefore seem to be little demand for the establishment of regional remand centres outside the metropolitan area, but this should not preclude relatively inexpensive upgrading of the small remand sections in the Geelong, Beechworth and Sale prisons. This tentative conclusion is confirmed by an analysis of the location and level of court to which the remandees were answerable. This analysis is shown in Table 4.

It is clear from this table that the vast majority of cases were to be dealt with in the Melbourne courts with a significant number being answerable to suburban courts, especially Prahran. Fewer than 10 per cent of the cases were to be dealt with by country courts.

(Table 4 over page)

Table 4: Location and Level of Court Ordering Remand

Location	Supreme	County	Magistrates	Total	Per cent
Melbourne	18	43	44	105	59.6
Suburbs					
Brighton	-	-	1	1	0.6
Broadmeadows	-	-	1	1	0.6
Brunswick	-	-	1	1	0.6
Camberwell	-	-	1	1	0.6
Dandenong	-	-	1	1	0.6
Dromana	-	-	1	1	0.6
Footscray	-	-	3	3	1.7
Frankston	-	-	4	4	2.3
Moonee Ponds	-	-	1	1	0.6
Mordialloc	-	-	1	1	0.6
Northcote	-	-	1	1	0.6
Oakleigh	-	-	1	1	0.6
Prahran	-	-	23	23	13.1
Preston	-	-	6	6	3.4
South Melbourne	-	-	1	1	0.6
Country					
Ballarat	1	1	2	4	2.3
Geelong	-	1	2	3	1.7
Lilydale	-	-	1	1	0.6
Morwell	-	2	-	2	1.1
Sale	-	-	1	1	0.6
Shepparton	-	1	1	2	1.1
Wangaratta	-	1	1	2	1.1
Warrnambool	-	-	1	1	0.6
Immigration Department	(2)	-	-	2	1.1
Unknown	-	-	(6)	6	3.4
Total	21	49	106	176	100.3

Of more particular relevance to the operation of the current remand system in Victoria is an analysis of the principal charges laid against the remandees together with the period of time they had served in custody as at 30 June 1982. Both of these sets of information are shown in Table 5, about which several comments must be made.

Table 5: Cross Tabulation of Most Serious Offence Charged by Remand Period Served

Offence	Time on Remand in Completed Months: Less than one month	1 to 2 months	3 to 5 months	6 to 8 months	9 to 11 months	Over 12 months	Total	Per cent
Homicide	5	9	4	12	5	1	36	20.6
Assault	4	2	4	2	1	0	13	7.4
Rape etc.	5	4	2	6	0	0	17	9.7
Kidnap	2	0	0	0	0	0	2	1.1
Robbery	2	3	6	3	0	1	15	8.6
Brk & Ent	16	7	3	2	1	0	29	16.6
Fraud etc.	4	4	0	0	0	0	8	4.6
Theft	12	4	1	0	0	0	17	9.7
Drugs	7	8	7	0	0	0	22	12.6
Other	7	5	4	0	0	0	16	9.1
Total	64	46	31	25	7	2	175*	
Per cent	36.6	26.3	17.7	14.3	4.0	1.1		100.0

* Data not available for 1 remandee

Only the most serious offence charged for each remandee is shown in this table and the offence categories used are fairly broad. The 'Other' category includes offences against good order, damage to property, prostitution, driving under the influence, licence offences and offences against criminal justice procedures. The 'Drugs' category includes one case of possession, the remainder being for trafficking. It is clear from this fairly superficial review, however, that about half of the remandees were charged with offences involving violence. This is also confirmed by an analysis of the reasons shown on the warrants for denial of bail; the most common reasons being 'nature of charge' and 'undue risk'.

From Table 5 it can be seen that over one-third of the group had been on remand for less than one month, while the longest had been on remand for 18 months, and 34, or nearly 20 per cent, had been in custody for more than six months. The average time in custody for the total group was just under 2.5 months. The average time was considerably shorter for female remandees with none of them having been in custody for more than two months. It must be pointed out that these statistics do not represent the actual time that prisoners are held on remand, as census data can only reveal the situation on a particular day and cannot show how much longer

any or all of these prisoners will be held before their cases are resolved. The figures shown in Table 5 are therefore an under-estimate of the actual times people spend on remand.

What emerges from this brief overview is a picture of the typical remand prisoner as a young person who has significant personal, social or economic problems in addition to the problem of being in custody. This picture, it is suggested, is one which illustrates the need for more humane care, especially as none of these people are under sentence and therefore are not in any way liable for punishment. The final report of this project will contain a considerably more detailed profile of remand prisoners than has been presented here, and will also explore the extent to which some of these remandees could have been dealt with in conditions other than strict custody.

The views of magistrates

A questionnaire survey was posted to all Victorian stipendiary magistrates seeking their views on the bail and remand system. Efforts were made to maximise the response rate in an address given to their annual conference and a second letter encouraging responses. At the time of writing the response rate was 54 per cent (40 out of 74) which, while not as high as desired, is higher than the rate obtained for most postal questionnaires. Only a small part of the results are reported here.

After a number of questions concerning their experiences in dealing with bail applications and their assessment of the relative priority of factors taken into account in making bail or remand decisions, the magistrates were asked to describe their understanding of the present conditions experienced by persons remanded in custody in Victoria. These responses were almost uniformly negative, with 95 per cent using expressions such as: draconian, shocking, very or extremely poor, deplorable, archaic, appalling, barbaric, inhuman, dreadful, in need of drastic attention, sub-standard, highly unsatisfactory, primitive, antiquated, and disgraceful. It is suggested that this is very strong language indeed coming from professional persons who are customarily very careful in their choice of words. Only one magistrate had no opinion,

and one other (a relatively recently appointed magistrate) described the conditions as good.

In the next question they were asked whether or not in their experience their knowledge of the remand conditions had ever tipped the balance in favour of granting bail. A clear majority, 65 per cent, acknowledged that that had occurred, while 32.5 per cent denied that this had occurred.

The magistrates were then asked whether they believed that more people would be remanded in custody if more modern remand facilities were available. This is obviously a very sensitive question and four of the magistrates either did not offer an opinion or said that it was debatable. Of those who did answer, however, 61.1 per cent expressed the view that numbers would increase, even though some qualified their answers by suggesting that it would be others, not themselves, who would be responsible. A minority, 38.9 per cent, indicated that they believed the numbers would not increase or that it was unlikely.

The next question asked magistrates if they thought persons were disadvantaged coming to trial from remand in custody compared with bail, and the overwhelming majority, 85 per cent, agreed that remandees were disadvantaged. They were then asked if they thought availability of a bail hostel (described as 'an institution in which accused persons would be required to live but which they could leave for work and other legitimate purposes during the day') would be helpful. Responses to this question were almost exactly two to one (65 per cent to 32.5 per cent) in the affirmative. Of the majority who favoured the establishment of bail hostels the estimates of the proportion of cases to which they would apply varied from 10-20 per cent to 70-80 per cent, with the average estimate being from 20 to 30 per cent.

In summary, it can be seen that Victorian stipendiary magistrates are overwhelmingly dissatisfied with current facilities for remand prisoners, and the majority acknowledge that this dissatisfaction has led to lower numbers of persons being remanded in custody than would otherwise be the case. The majority also believe that numbers would increase if

more modern remand facilities were available, and they also believe that bail hostels would be useful in a significant number of cases.

Discussion

The information given above, although incomplete in detail, is sufficient to develop a number of tentative conclusions about the remand facilities needed in Victoria. The most difficult issue is the question of size. It is clear that there would be little or nothing to be gained from planning significant remand centres in the country, therefore the issue becomes one of establishing a metropolitan centre. As indicated earlier, the 30 June 1982 figure of 176 remandees suggests that a facility of from 200 to 240 beds would be appropriate, but this may be grossly inadequate if the majority of magistrates are correct in their prediction of greater use of remand if more modern facilities were available. If in fact the Victorian remand rate increased to the same level as is currently found in New South Wales the new facility would require from 450 to 500 beds.

On the other hand, magistrates can still be encouraged to use remand sparingly, and also, it is possible that some of the expected increase (as well as a small proportion of the current remand population) could be absorbed by the provision of one or more bail hostels. A clear majority of magistrates have indicated that bail hostels would be helpful and would be applicable to a significant proportion of cases.

The main difficulty with establishing bail hostels, as with any other alternatives to incarceration, is that they may be used for the wrong people. In other words, persons ordered to reside in bail hostels may otherwise have had bail granted (perhaps with conditions) rather than having been remanded in custody if the hostel option were not available. Some of the magistrates clearly foresaw this possibility in their responses to the questionnaire. Taking a pragmatic view, however, the relative capital and recurrent costs must be taken into account. A rough estimate of the relative costs of secure remand facilities and bail hostel accommodation would suggest a ratio of approximately 10:1 in favour of bail

hostels. (Remand centre beds would cost about $100,000 each compared with approximately $10,000 for bail hostel beds, and recurrent expenditure would probably reveal a similar ratio.) If these estimates are anywhere near correct a significant misuse of a bail hostel, up to 90 per cent, would still cost less than normal remand facilities. It is estimated that the misuse of bail hostels would be around 50 per cent (i.e. half would not otherwise have been remanded in custody) and if this happens the cost comparison is very much in favour of the establishment of bail hostels.

If it is decided to proceed with the proposal for bail hostels, a decision will also need to be made on the legal basis for their operation. There are three broad options:

1. Amend the Bail Act to make residence in a designated hostel equivalent to remand in custody for individuals who meet specified criteria, or

2. proclaim one or more bail hostels as gazetted prisons and allow transfers between the secure remand centre and the bail hostels as a matter of administrative discretion, or

3. without legislative amendment inform magistrates and judges that they may require persons who would otherwise be remanded in custody, and who meet specified criteria, to reside in specified hostels as a condition of bail.

Of these options, it is submitted that the first may involve considerable delay and the second involve administrators interfering with judicial decisions. The third option is therefore both expedient and desirable in principle. It would also allow for guidelines to be suggested to judges and magistrates. The third option is recommended.

The details of staffing location and operations of bail hostels are not considered in this interim report, but it is understood that the Correctional Services Council has been asked to consider these questions. That Council may therefore have some valuable opinions to offer. In particular, consideration needs to be given to criteria or guidelines for

the use of bail hostels, and it is suggested that these should include an interstate (or no fixed) address and charges not involving serious violence.

The establishment of one or more bail hostels need not wait until a new remand centre comes into operation, nor would bail hostels reduce in any significant way the need for planning of a new remand centre as a matter of priority. One or more bail hostels operating while the unsatisfactory remand facilities in Pentridge are still in use may be expected to reduce the numbers in custody to some extent, and the experience gained in that period would be an invaluable preparation for the expected increase in numbers that would follow the opening of a new remand centre. The establishment of bail hostels as a matter of principle should therefore be considered for immediate rather than delayed decision. If it is decided not to proceed with the planning of bail hostels, the suggested figure for the new remand centre of 200 to 240 needs to be considerably increased. It should be noted that this number is for remand prisoners only, both male and female, as defined earlier in this report. This number allows for seasonal variations, but makes little or no provision for growth.

It is submitted that constant scrutiny of judicial administration is necessary to ensure that optimal efficiency is maintained in keeping cases moving through the courts. No evidence has been found in this study suggesting that significant inefficiencies influence the current situation, but if the pressure of numbers on remand grows in the future it is suggested that efforts to keep the numbers down should be directed at the bail/remand decision-making process and the overall efficiency of the courts, especially the higher courts. These matters have not been pursued in this study, but it will obviously be necessary from time to time for consideration to be given to the appointment of additional judges to cope with the increasing workload that will inevitably follow an increasing population. No recommendations are made on these matters.

Recommendations

1. Planning to improve personal records, including records of remand prisoners, using a central computer system, be commenced as a matter of urgency.

2. Approval in principle be given for the planning of one or more bail hostels in the Melbourne metropolitan area.

3. If the bail hostel proposal is accepted, planning of the new remand centre proceed on the basis of a maximum capacity of 240 male and female remandees in the Melbourne metropolitan area.