PROCEEDINGS

Australian Institute
of Criminology

COMMUNITY SERVICE ORDERS IN AUSTRALIA AND NEW ZEALAND

Edited by C.R. Bevan

Seminar
Proceedings No.7

ISSN 0813-7005

AIC Seminar. Proceedings; no.1
ISSN 0813-7005

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IN

AUSTRALIA AND NEW ZEALAND

21-24 November 1983

Edited by
C.R. Bevan

Australian Institute of Criminology
Canberra A.C.T.

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

Publications resulting from seminars held by the Australian Institute of Criminology are issued in two series AIC Seminar. Report and AIC Seminar. Proceedings. These replace the former series Report on Training Project and Proceedings - Training Project.

The National Library of Australia catalogues this work as follows:

Community Service Orders in Australia and New Zealand.

ISBN 0 642 87117 5.

1. Community-based corrections - Australia.
2. Community-based corrections - New Zealand.
I. Bevan, C.R. (Colin Russell). II. Australian Institute of Criminology (Series: AIC seminar. Proceedings; no.1).

364.6'8

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COMMUNITY SERVICE ORDERS IN AUSTRALIA AND NEW ZEALAND

C.R. Bevan

From 21-24 November 1983, a workshop on community service orders was conducted at the Australian Institute of Criminology attended by representatives from all States and Territories of Australia, one from New Zealand and one observer from Singapore. The measure has not yet been introduced to the ACT. After nine years, since the first ministerial approval for a community service order scheme in the ACT was granted in 1974, it has now been put forward as a new policy proposal for 1984-85. Legislation is virtually ready.

Inauguration dates for New Zealand and the rest of Australia range from 1972 for Tasmania to September 1982 for Victoria. Although New Zealand introduced a community service order scheme proper in February 1981, a similar concept, periodic detention, had been in operation in New Zealand for over 20 years.

All the States, except Tasmania, began in a relatively small way in pilot experiments. New South Wales began in 1980 with the scheme operating in four areas. A steady expansion followed until, at the time of writing, 52 of the 60 district offices of the State have the program in operation. Authorities there expect to completely cover the State in 1984. Victoria began with a pilot scheme in the southern suburbs of Melbourne involving some 74 offenders. A comprehensive evaluation of the scheme was published in September 1983.

LEGISLATION AND ADMINISTRATION

The community service order schemesin Australia and New Zealand are administered by the probation and parole services, with the exception of the A.C.T. and Victoria. In the A.C.T. the scheme when inaugurated will be administered by the Welfare Branch of the Department of Territories and Local Government. In Victoria the scheme is now administered by the newly created Department of Corrections. Most States (with the exception of N.S.W. and the A.C.T.) have been able to accommodate the new measure legislatively by amendments to their existing probation and parole acts. New South Wales proceeds under their Community Services Act 1979 and the A.C.T. will operate under two proposed new ordinances, a Supervision of Offenders (Community

Service Orders) Ordinance and the Crimes (Amendment) Ordinance.

In four States it is found that community service orders are combined with probation orders, good behaviour bonds, restitution orders, disqualification of driving licences, and, in Western Australia, good behaviour bonds for Commonwealth offenders. The Northern Territory, Victoria and New South Wales are exceptions. The N.S.W. Act specifically excludes the making of a community service order at the same time as a probation order on the same offence.

All schemes naturally contain provision for dealing with offenders who fail to comply with the conditions of the order but the penalties are seen to vary. In South Australia, for instance, the department may extend service by 24 hours for breach of directions and those guilty of a fresh offence are returned to court. All schemes report favourable breach rates in the order of 10-11 per cent. Breach procedures vary from relying on crown law officers to conduct breach proceedings to the situation (as in N.S.W. and Tasmania) where probation officers conduct breach actions themselves. This the latter strongly prefer. Their reason is the promptness with which they are able to despatch breach actions. Other States and Territories reported that, through negotiations and discussions with chief magistrates, they have been able to streamline their breach arrangements. Penalties range from imprisonment to fines up to $250 (in one instance) without prejudice to the continuation of the order. It is not uncommon for further community service orders to be granted as a breach penalty.

COSTS

Several jurisdictions were able to provide estimates of the costs of conducting their community service order schemes. Queensland fixed costs at $1.52 per worker per day, Western Australia at $1.00 per person per day, Victoria $20.00 per order per week, New Zealand at $81 per order for the year 1982-83, and the A.C.T. has estimated that they will spend $66,000 in their first year on an expected case-load of 20-60 offenders at any one time.

RANGE OF HOURS

Excepting that for N.S.W., legislation throughout the Commonwealth provides for the minimum and maximum number of hours of community service available to sentencing courts. Most States and Territories provide for a minimum of 40 hours and a maximum of 240. New South Wales has no minimum and a maximum of 300 hours. Victoria has provision for the largest maximum of 360 hours. All jurisdictions reported a mean length of service of 100-140 hours.

NUMBER OF OFFENDERS INVOLVED AND THEIR OFFENCES

All jurisdictions report a gradually increasing number of people being placed on community service by courts after an initial caution and demonstrated reluctance to use the measure. Some jurisdictions are supervising quite large numbers of current orders, for example, 1,120 in N.S.W. and 1,700 in New Zealand. Queensland, N.S.W. and Western Australia have all had over 2,000 inductions to their schemes since inception. South Australia averages 15 orders a month, Western Australia 90, and Tasmania reports 180 offenders on site on any working day. As could be expected, by far the largest number of people under supervision are under 25 years of age. The large number of females on community service orders in New Zealand (almost 50 per cent of the total) is an interesting feature. It is so different from States and Territories in Australia where that figure is closer to 5 per cent.

The types of offences resulting in sentences to community service orders vary widely but follow a fairly stereotyped pattern over the whole country and in New Zealand. The largest group may be classified under the general category of driving offences followed closely by stealing and fraud. These three categories are by far the most numerous. They are followed in smaller numbers by assaults and robberies and drug and miscellaneous offences.

REQUESTED AGENDA ITEMS

After each State and Territory and New Zealand had presented position papers relating to their own jurisdictions, a number of items of mutual concern were discussed.

Portability

The possibility of an offender serving out his community service order in another State or Territory was canvassed at length. It was ultimately decided by the majority that the legal difficulties involved were too massive to make the effort worthwhile. In South Australia, for instance, it was mandatory that an offender serve two hours per week on some educational activity in addition to the one day's work per week inherent in the order. A person transferring from South Australia would, therefore, not be adequately fulfilling his obligations to his South Australian court should he transfer to a State that had no educational activity in its programs. Other administrators argued that the general incapacity to extradite a transferred offender should he fail to fulfil the conditions of his order would devalue community service orders as a penalty. New South Wales maintained a preference for interstate portability, but all other States and Territories and New Zealand considered formal portability a non-issue.

Compensation and Accident Insurance

It is a general provision under all the schemes that offenders are regarded as employees of the Crown for the purposes of Worker's Compensation and accident insurance while they were engaged in community work. The same provisions extend to part-time and voluntary supervisors. Mention was made of the necessity to provide protective clothing where necessary, but it was generally reported that very few accidents had occurred during the operation of the scheme so far, and none of these was especially serious. New South Wales, Western Australia and South Australia insure offenders against injury, N.S.W. at a cost of some $15.00 per offender, an amount which was regarded as prohibitive. W.A. insurance costs are geared to numbers of hours to be worked by each offender. Other jurisdictions follow the departmental policy of not insuring offenders against injury and any costs are met from annual budgets. Queensland reported that 10 offenders had made claims against the Service for compensation to date. In one case it appeared that the system may have been abused, and on other occasions attempts had been made by offenders to take advantage of the provision. In that State the rate of compensation paid to offenders is equal to the estimate published by the Commonwealth Statistician of the average male weekly earnings of the most recent June quarter. This is currently around $340.00 per week. As this is the only payment made irrespective of whether the person is earning more or less, or even, for that matter, receiving Social Security benefits, it is proposed to look closely at this section of the Act when amendments are being considered. Consideration will be given to closing loop-holes which invite abuse or seriously disadvantage offenders.

Pre-Sentence Reports and General Court Assessment

It is generally felt that pre-sentence assessment is most important to ensure some informed selection criteria are adopted which will serve to protect the penal measure from devaluation. In most States and Territories in the Commonwealth and in New Zealand a pre-sentence report is mandatory. This is not now the case in Queensland since their most recent amendments to their Act in March 1983. The latter State is of the opinion that it will be impossible to adhere to a pre-sentence report-type selection process when their fine option scheme is introduced early in 1984 under an expected further amendment Act. The other participants spoke vehemently about the necessity for assessment before sentence, pointing to the ritual aspect of the process as contributing to the ultimate value of the penal measure to the offenders. They considered also that a thorough post-sentence induction process was most important.

Range of Participating Organisations

The lists of organisations commonly involved in providing work for the offenders are strikingly similar. They all bear witness to the energy

and resourcefulness of the organisers of the various schemes. The anecdotal evidence of benefits derived by the participating agencies, needy individuals and the offenders caused no surprise. All were agreed that one of the greatest advantages of the scheme was the opportunity it offered for the community to become directly involved with the criminal justice system and the offenders. Most, therefore, welcome all legislative requirements for the appointment of state advisory committees to advise ministers on the working of the schemes and the suitability of projects. Smaller local committees are also required to advise the State committees on the workings of the schemes in their immediate areas. It is almost universally mandatory that a representative of local trades and labour councils occupy an ex-officio seat on these committees. New South Wales is the only State which operates without committees as such, but the organisers keep in constant touch with trade union authorities. The New Zealand representative expressed the need felt in his country to widen the range of organisations to cover ethnic groups and groups from lower socio-economic levels (for example, rugby league clubs in New Zealand). He considered it a disadvantage that in most instances organisations offering placements for community service workers enjoyed middle and upper socio-economic status.

A number of speakers doubted the value of publicly advertising the community service order schemes. Most thought that liaison with organisations was best accomplished by competent community service organisers, especially those thoroughly dedicated to the task and whose own life-style included participation in community affairs.

Staff Training

Although the administration of most schemes rests ultimately in the hands of those departments responsible for the administration of probation and parole, the day-to-day conduct of community service order supervision is entrusted to clerical officers, paid sessional supervisors, volunteer supervisors of group projects, part-time casual on-site supervisors and the like. The question arose as to what training is necessary for this personnel. The answer in brief was 'as little as possible'. It was felt that probation officers where required to conduct breach proceedings could profit from training in legal aspects of their function in amassing and delivering evidence of breach.

In general it was felt that supervisors should be encouraged not to assume the role of probation officer, especially as counsellors and interventionists. It was strongly felt, however, that there was a place for the publication of simple manuals of information for offenders, supervisors and sponsoring agencies, examples of which were distributed at the workshop. There was a general consensus, though it was not unanimous, that the office of community service order organiser should be filled by probation officers.

Community Service Orders for Adolescents

New South Wales has four pilot programs in operation as conditions of suspended committal to an institution. So far there have been no large numbers involved and they are not expected. The A.C.T. legislation will provide for community service as part of attendance centre orders for juveniles.

Western Australia has organised a scheme for 12-17 year olds under an amendment to the Child Welfare Act. This was formalised in July 1983 but has been operating in fact since 1978. It provides for community service work for periods of up to 70 hours over a period of three months.

Community Service Orders as Genuine Alternatives to Imprisonment

This item attracted a great deal of discussion. The workshop reaffirmed that community service was developed as a genuine alternative to imprisonment and this continues to be one of the major objectives stated by every jurisdiction. The extent to which it is being used as an alternative to imprisonment is largely undetermined at present and it is important that research staff develop appropriate methods to examine this aspect. In the meantime, the workshop asserted that in a significant proportion of cases it was considered the sentence was imposed as an alternative to a sentence of imprisonment, and the fact that it is used often as an alternative to other non-custodial measures does not detract from its value. It was noted that a community service order evaluation conducted by Maureen Miner and Nancy Seth, Project Research Officers, Research and Statistics Division, Department of Corrective Services, N.S.W. in October 1983, based on a record study of 270 offenders sentenced to community service orders in N.S.W. between July 1980 and July 1982, offered some but not strong evidence to argue that the scheme, at least in N.S.W., is being used as an alternative to imprisonment in about half the cases sentenced to a C.S.O. The same researchers found, incidentally, the success rate of the scheme to be in the vicinity of 88 per cent. Similarly, the review of the first twelve months of the pilot scheme in Victoria reports estimates by program staff suggesting that approximately half of offenders placed on community service orders would otherwise have been imprisoned. This estimate was based on comments made by the magistrates in courts, comparisons of offenders' prior convictions and on perceptions of offenders placed on community service orders. These reviewers were cautious however, and interpreted their total figures as suggesting that the community service order may gradually be tending to become used as a sentencing option in its own right, taking offenders from a range of other dispositions. No-one was particularly disturbed about this question, feeling that community service, even as a sentence in its own right or as an additional option available to courts, has an intrinsic value of its own.

Fine Options and Fine Defaulters

A discussion paper on this subject was submitted by South Australia. Victoria's community service order scheme is already used for fine defaulters, Queensland is on the way by virtue of an Amendment Act expected to be proclaimed by early 1984, and the A.C.T. Crimes (Amendment) Ordinance will include a like provision, but the other states are further away from incorporating provision for fine defaulters in their operations. In the Northern Territory, in fact, such a scheme has already been excluded by their legislation.

Some of the delegates to the workshop considered that fine option schemes should not be lumped with community service orders because they operate from different rationales. New Zealand was inclined not to agree, and could see no inconsistency. A community service order is, after all, supposed to be an alternative to imprisonment. The South Australian delegate saw real dangers which he listed as:

1. Fine option people are not assessed before sentence to a community service order;

2. The average length of involvement is shorter for fine defaulters than for people under community service orders, thus causing difficulty in finding suitable community work;

3. Under a fine option scheme the community service order organisation was likely to become lumbered with 'revolving door' offenders;

4. The non-voluntary nature of fine defaulter's involvement could well provide extra difficulties for supervisors to contend with.

The West Australian delegate argued that fine option schemes are almost purely financially motivated, whereas the philosophical aims of community service are reparation to the community as well as economic expediency, and, more importantly, positive attitudinal change on the part of the offenders. The New South Wales delegate was not averse to the introduction of a fine-defaulter element to the N.S.W. Community Service Order Scheme.

Aborigines

Queensland already has community service order schemes operating satisfactorily in Aboriginal communities in their state, due in no small measure to the co-operation of the Department of Aboriginal and Islanders' Advancement. Western Australia has done some preliminary work in involving Aboriginal communities but more needs to be done in their opinion. The delegates from Northern Territory, who have had considerable experience in adapting the community service order scheme to Aborigines in their territory made the following points:

- organisers need a flexible approach towards the type of work provided and timing and puntuality on the part of the offenders;

- the organisers have to find some suitable ultimate sanction, as imprisonment does not always rate with Aborigines as a deterrent;

- the supervisors of the work provided should be Aboriginal, preferably responsible tribal persons;

- there needs to be very careful choice of supervisors in individual cases, and it is wise to request the Aboriginal community itself to choose the supervisor in each case.

The distinction was made between operating C.S.O. programs for tribal Aborigines and a program for urban Aborigines. It was felt that the former is probably an easier exercise and that the latter contains many of the difficulties generally experienced in operating in an urban area.

Urban Aborigines also provide some special difficulties relating to provision of suitable projects as, despite anti-discrimination legislation, some whites are reluctant to provide community service work for Aborigines. Correlatively, some Aborigines are reluctant to perform community service work that they perceive as primarily or exclusively for the benefit of whites.

The Northern Territory has experienced successes with community service orders in Aboriginal communities on the mainland. They anticipate an interesting experience but similar success when first they attempt to establish the scheme on Groote Eylandt.

Workloads

Little profit ensued from the discussion on this subject. As is the experience when attempting to arrive at optimum case-loads for probation and parole officers, the peculiar nature of operational circumstances in each State makes comparisons meaningless, and it is generally ultimately agreed that the matter of case-loads is best left to each individual State or Territory to determine for itself. In New Zealand there is a fixed agreement that 80 active cases comprise a full case-load for probation officers responsible for community service orders. In that country it is considered that the difficulty of management of a community service case compared to a probation case is in the order of 80 per cent, that is, in their opinion 100 community service order cases are equivalent to 80 probation. New South Wales, after a conference of organisers and supervisors, came to the conclusion that community service order case-loads should be the same as probation, namely, around 46. In Tasmania the case-load of community service orders is 60 per officer.

Western Australia considered 30 cases the optimum for any one part-time officer, but in reality their case-loads reach 80-90 at times. Queensland on the other hand considers a community service order case only half as onerous to supervise as a probation case. While opinions vary, none thought community service orders more onerous than probation orders, and some thought them far less.

The point was made that the recommended size of a case-load depends upon the cases contained in it, for example, a case-load of easy, middle class shoplifters could be as high as 300, but a case-load of really difficult clients would have to be much smaller.

A further difficulty is that the attempt to encourage sentencers to give orders as alternatives to imprisonment will tend to maximise the number of difficult clients. The need, therefore, is for considerable flexibility in ideas as to what constitutes a workable case-load.

Final Reports

There was a general consensus that the compilation of completion reports of community service order cases was eminently desirable for the following reasons:

1. Completion reports force the probation officer to assess the total process as a casework tool;

2. They can accumulate experience, helpful to the handling of future cases;

3. Most such reports are positive and encouraging to the wider use of the scheme; and

4. Sentencers profit from feed-back on the results of their sentencing.

COMMUNITY SERVICE ORDERS IN NEW ZEALAND

G. Armstrong

Anyone who is involved for any length of time in the determination and implementation of penal policy becomes obsessed with the problem of public attitudes. There always seems to be a large section of the public who demand pure punishment and who are indifferent to the consequences of that course and even actively oppose reform. The desire for punishment appears to be very deep-seated and almost instinctual. Any attempt to change our traditional ways of dealing with criminal offenders must include an assault on habitual public attitudes. Society has a perfect right to punish those who offend its rules for survival or attack its institutions but what has to be questioned all the time is how the punishment is to be exacted and what is the purpose of punishment. It is usually conceded that punishment is intended to draw attention to the offending act and to introduce an element of education which will ensure there is no repetition of it.

COMMUNITY WORK CONDITION

This approach which appeals to the enlightened among our society still leaves unresolved questions of the restoration of property, reparation to the victim and some form of compensation to the community generally. Across the Tasman during the 1950s there was considerable debate about the need to develop programs that would demonstrate to the public that compensation and reparation were possible in the hope that this would have an effect of softening public attitudes towards offenders. We developed the practice of associating with a sentence of probation a condition which required completion of a specified number of hours of community work. However, this practice though it continued for over 20 years was suspect on two counts.

1. That in order to impose the condition relating to community work the court was imposing greater restraints on the freedom of the offender than was really justified in many cases; and

2. That the use of such a special condition of a release on probation was not permitted by the Law.

There was a third objection which related to New Zealand being a signatory to a League of Nations Forced Labour Convention.

PERIODIC DETENTION

Arising from our experience of what was called 'Probation with Community Work' a sentence of Periodic Detention was devised which deprived an offender of his leisure time and compelled him to become engaged in some form of work that demonstrably was of benefit to the whole community. The element of compulsion loomed large and was integral to the wide public acceptance of the sentence which was, and was perceived to be, a truly punitive measure.

COMPULSION OR CONSENT

As time passed and the numbers sentenced to periodic detention steadily increased not only was it apparent that the sentence had public approval but also that those sentenced to it perceived it as a just and constructive sentence. It was accepted as a legitimate alternative to imprisonment and caused a pause in the expected build-up of prison musters. It was demonstrably cheaper than imprisonment in terms of capital investment, resource commitment and operating costs. It also was productive in that the community benefitted from many thousands of hours of labour put into projects which improved and enhanced public amenities.

By and large those sentenced to periodic detention were reasonably contented to be engaged in some useful and productive activity and many experienced a sense of pride in their achievements. This positive aspect of the sentence then led us to consider whether convicted offenders might be prepared to engage in this reparative endeavour without compulsion but by consent.

COMMUNITY SERVICE

The response to public pressure for more effective forms of punishment had led New Zealand to develop the sentence of periodic detention but in other countries of the western world responses had been directed more to ideas of community service. In the early 1970s the United Kingdom had introduced the sentence on an experimental basis and various schemes had been developed in isolation in some American states and cities and in Canada. In 1977 I was able to undertake a study tour of Europe and North America and one of my tasks was to look at Community Service and report back to my political masters. It soon became apparent that a very wide range of programs was offered under the umbrella of this sentence. Some schemes looked very like our periodic detention sentence and some were highly individualised, and very dependent on community participation but most had considerable emphasis on supervision by an officer of the Probation Service.

In reporting back to the Minister of Justice it was possible to show that it would be possible to devise a similar sentence for New Zealand that would fit reasonably well alongside periodic detention but where

the elements of compulsion and supervision need not be so overt or stringent. The Minister was enthusiastic to pursue this line, and in due course the policy was accepted by the Government and eventually emerged in legislation. However, when it was first introduced into Parliament in 1979 it became obvious that the Government planned to introduce the new sentence without allocating to the new function any resources of manpower, money or materials. The department resisted this approach and the passage of the Bill was deferred. A year later it was passed along with approval for modest additional resources. The sentence has been available since February 1981 and there are 1700 persons currently subject to the sentence.

PUBLIC EXPECTATIONS

It appears that the idea of community service is attractive to the legislators, the judiciary and the general public because it wraps up in one parcel three elements relating to theories of punishment. Barbara Wootton refers to these elements in her widely-publicised report when she describes how the sentence could be seen in different terms by different people. It catches up the elements of punishment, reparation and rehabilitation, ignoring to a large extent their conflicting natures. It is punishment by deprivation of liberty in the use of leisure time, or as Ken Pease describes it, 'a fine on time'. The service to the community is seen as reparation in a symbolic sense rather than direct compensation to the victim though this is not ruled out. The third component is that of rehabilitation which might follow the offender's association with community organisations as a dispenser of service and thus gain recognition and respect.

The pursuit of these conflicting aims has given rise to a great deal of confusion not only in New Zealand but also is being widely referred to in the literature about U.K. schemes.

Fortunately, however, there are other statements that can be made about this method and approach to sentencing:

(a) It emphasises the humanity of the offender in his social setting regardless of the seriousness of his crime.

(b) It is useful where the gravity of the offence or the demands of the public interest do not require a custodial sentence.

(c) It is apt where there is no need for continuing supervision.

(d) It is a new way of looking at offenders stressing their positive contribution and not dwelling on negative and damaging behaviour.

OBJECTIVES

In view of the conflicting aims and the confusion which was demonstrated in debate about the new sentence it was hoped to have included in the legislation a statement of intention. However, this was not forthcoming and the following objectives were then approved by the Minister.

1. Policy

   (a) To provide a method of dealing with offenders who would otherwise be sentenced to imprisonment.

   (b) To provide offenders with the opportunity to make general reparation for their offending.

   (c) To further the notion of community responsibility for offending and the involvement of the community with offenders.

2. Operational

   (a) To achieve a measureable reduction in the number of offenders sentenced to imprisonment.

   (b) To recruit sufficient community groups willing to provide suitable reparative service for offenders sentenced to community service so as to ensure the average time taken to find suitable work for an offender does not exceed two weeks from receipt of request.

   (c) To effectively oversee the completion of the service assigned to offenders to the satisfaction of the supervisor.

   (d) To assist offenders to complete their service with no more than 45 per cent reoffending rate during the period of service.

   (e) To administer the scheme at a cost of no more than 50 cents per offender/day.

   (f) To achieve a recidivism rate not exceeding 30 per cent within one year of completion of community service sentence.

EVALUATION

There is a strong commitment in my department to attempt to evaluate all our programs and sub-programs. I have recently completed an exercise in the Probation Division which identifies 57 sub-programs and analyses them in terms of goals, objectives, the raison d'etre for the activity, the resources employed, the unit cost, the proportion of total resources used, the performance indicators, alternative means of achieving the stated goal and measurement criteria as well as suggested areas for research. For the last 7 or 8 years we have not introduced new programs without first having in place a means for continuous evaluation. Once policy and operational objectives are determined, and these ideally should be set by the operational manager, then these must be measured by current performance reports and by periodical formal evaluation and re-assessment. Community Service is the first major new policy where is has been possible to include these procedures right from the outset. However, as you are no doubt aware from your experience and from the literature the conflicting aims of the sentence make it extremely difficult to evaluate.

RESEARCH

The first objective which needs to be examined is the thorny question

> 'What proportion of people receiving Community Service would have been sentenced to a custodial sentence if community service had not been an available sanction?'

Two types of analysis were considered to test this matter. The first was a trend analysis which would show whether there has been a tendency towards the reduction in use of shorter prison sentences since community service was introduced. This type of analysis I am told has severe limitations and in any event the numbers which could be drawn into our samples would have been too small for significance. One needs large numbers and a fairly long time span to demonstrate the effect.

The other method considered was a pre- and post-matching study. This involves matching a person receiving the sentence with someone in an earlier period on the basis of certain characteristics such as offence, age, sex, etc. This time lapse method gives an idea of the relative frequency of the imposition of imprisonment before and after the introduction of community service. In the case of this methodology our computer was not able to produce the information in time. It was, therefore, not possible in our present study to examine this factor. However, the majority of the literature available shows that community service has not noticeably reduced prison sentences. John Harding in the U.K. and Varne in Tasmania have addressed this question fairly thoroughly.

Another test that could be applied is cost effectiveness and this question has not been addressed in our recent study. What we do know, however, is that each order cost $81.00 to administer in the 1982/83 financial year and that sponsors report the value of work contributed by each offender to be about $150.00 per month.

The measurement of reconviction rates is proceeding but unfortunately I have no data available to report on that measure.

What we were able to do was to question the people who are operating the scheme. Sponsors, offenders, probation officers and the judiciary were asked to respond to carefully prepared questionnaires administered by three research staff in a highly standardised procedure. I will just report the results in a fairly haphazard way.

On the question of reparation all the groups questioned responded positively and definitely. Some offenders, however, thought the reparative activity did not relate specifically enough to the crime committed and a significant number were concerned that the victim did not benefit directly from the community service undertaken. Most sponsoring organisations were satisfied that they were getting jobs done and that there were benefits to the personnel involved and to the organisation.

When looking at the response from the community and the degree to which it accepts responsibility for offenders most sponsors said they would take more placements. About one quarter said that offenders had continued to serve the organisation after termination of the order and two offenders were given jobs by the agency either during or after completion of the sentence. Another question asked was how sponsors got involved. Very few stepped forward in response to our publicity campaign. Most agreed after being approached by the probation officer or the offender who agreed to find his or her own placement. Most sponsors were aware of the scheme, however, before they became involved. Over half the offenders during their sentence had contact with members of the general public outside the particular community group to whom they were contracted.

In terms of the range of organisations the probation officers and the offenders thought this too narrow. Under represented were ethnic groups and organisations representative of lower socio-economic groups which in New Zealand includes Rugby League clubs!

There are real problems over attendance and completion. About one quarter of all orders surveyed ended early with hours uncompleted. There are things to be said about this facet of the sentence but I will not go into them.

Our survey spoke to people directly concerned with community service asking what went on and what they thought about what went on. It involved 68 offenders selected on a disciplined sampling process, 65 sponsors, 42 probation officers and 11 judges of District Courts.

Some other responses which we found interesting were that about half the sponsors and offenders thought community service replaced imprisonment. Not so the probation officers and judges. When asked what they would do with the sentence each group, that is offenders, sponsors and probation officers, would take to itself more responsibility than other groups would allow in terms of the number of hours and determining administrative procedures.

Sponsors want more back-up from probation officers whom they feel have an inordinately high threshold of problem description. They find themselves dealing with immediate problems of offenders in terms of personal relationships or of having to find a new flat or some other practical issue.

What was quite heartening news to me was that most offenders thought the sentence was right for them and the sentence in their case was fair.

The results of our survey, while not yet answering some major questions, did address the following aims:

Benefitting the offender;
Benefitting the community;
Fostering integration of offender;
Punishing;
Providing an option.

CONCLUSION

In conclusion I might add that I have become quite unpopular with research staff. I take the view that those sentenced to community service should become enmeshed in the criminal justice system as lightly as possible - minimum interference. Therefore I will not allow comprehensive profiles of personal data to be loaded on to our records - if we do not need to know for any other purpose then I am not going to enquire merely for the purposes of research. This makes the task of a researcher much more difficult but it does drive them out among the populace and forces them to begin devising test measures of the important questions of attitude change and social adjustment.

I suspect, and even expect, that the results of our study regarding reconviction rates will leave us in the same position as other major penal sanctions. It should be much less costly, have fewer deleterious effects and should reinforce responsibility and community benefits. Ken Pease, who is singularly optimistic, is prepared to accept it as a holding action while maturation occurs in many cases. John Harding completes his paper with this sober expression

> 'If we are to maximise the true potential of community service we need to exercise clarity of thought, clarity of expectations and firm measurable guidelines so that we do not fall into the abyss of fuzzy confusion that characterised so much of what has gone before.'

COMMUNITY SERVICE ORDERS IN NEW SOUTH WALES

J. Griffin

COMMUNITY SERVICE ORDERS

Since the commencement of the Community Service Orders Act 1979 in July 1980, courts have been sentencing offenders to perform a set number of hours of community service as an alternative to imprisonment. The main requirements of the Act are:

(a) The offender should have been considered a suitable person for the scheme following an investigation and report to the court by a probation and parole officer;

(b) Suitable work can be found for him or her to perform;

(c) The offender consents;

(d) He or she lives in an area where arrangements are made for the work to be performed, supervised, etc;

(e) Failure to comply with the order leads to a return to court for further action.

The Probation and Parole Service is the agency responsible for the administration of the scheme, which is now available to courts for offenders living in the areas covered by 47 of the district offices of the Service as shown in Table A.

THE AIMS OF THE PROGRAM

The aims of the program in order of priority are:

(a) The scheme is to provide a genuine alternative to imprisonment.

(b) The scheme should also offer tangible benefits to the community:

  (i) the value of the work performed by the offender

is the most obvious of these;

(ii) less obvious is the greater knowledge and understanding of the offender gained by community's contact with him during the order, and increased public knowledge of the workings of the criminal justice process.

(c) Also seen as a valid aim by all concerned is the achievement of some positive effect on the life of the offender. This can be seen in a number of ways.

(i) as rehabilitation;

(ii) as character building;

(iii) as teaching constructive use of leisure time;

(iv) as providing opportunities to help others less fortunate than oneself;

(v) as providing an opportunity to meet and work with ordinary people who are volunteers.

The aim of the legislation and the main thrust of the recommendation for a Community Service Order in the pre-sentence reports prepared by the Probation and Parole Service is that it should be made on the basis of its applicability as an alternative to prison; not merely because it would be good for the offender.

A summary of the law relating to Community Service Orders contained in Community Service Order Act 1979, can be found in Appendix 1.

NUMBERS

Table B shows by area, the number of offenders given orders since the scheme began, the numbers completed satisfactorily or by court action, and the number now engaged in community service work each week.

Table C compares the orders made in magistrates courts with those made in higher courts.

EXPANSION

The program has been extended, whenever possible, using available resources and it is now operating in 47 centres (listed in Table A). By December 1983, this will have increased to 51 centres and it is hoped that it will be available State-wide by the 30 April 1984.

The areas specified in Tables A, B and D, correspond to the district offices of the Probation and Parole Service, which cover a larger area than indicated merely by the named suburb or town. In some cases, however, the program is only available in the named town. Details of

the availability of this sentencing option can be obtained from the relevant Officer-in-Charge, Probation and Parole Service (Telephone numbers - State Government Departments - Department of Corrective Services - Probation and Parole Offices - located in the front pages of the telephone directory).

At the present time large areas of the Sydney metropolitan area that are supervised by the Probation and Parole Service District Offices at Bankstown, Hurstville, Sutherland and Penrith, are not serviced by this program and the Department is making every effort to remedy this situation.

STAFFING

A Director, 18 full-time and 38 part-time officers of the Probation and Parole Service are now engaged in organising the scheme throughout the State. Amongst their duties are obtaining suitable work in the community, assessing offenders for suitability for the scheme, assigning offenders to tasks and initiating court proceedings if they do not comply. Apart from assisting offenders who have difficulties in working as instructed, direct counselling of offenders is avoided in most instances.

In addition to the involvement of Probation and Parole staff, some 92 Sessional Supervisors have to date been involved in face to face contact with offenders or volunteers on the worksites, ensuring compliance with the order and reporting on progress to the Service. Often, in smaller towns where there are only a few offenders on the scheme, the Sessional Supervisors will work only a short while, but it is clear that even this short contact is essential to the maintenance and the safe operation of the program. The employment of Sessional Supervisors has brought a variety of people in contact with the Department who would not normally be in touch with offenders:

eg. medical students
a retired hospital administrator
a retired occupational therapist from a mental hospital
a retired deputy headmaster
a retired army captain
housewives
retired policemen
retired businessmen

as well as a number of people qualified in the social sciences.

However, the bulk of the actual supervision of the work is done by volunteer supervisors in the community, persons working in the organisations providing the tasks who are able to ensure that the offender works as instructed and that the standard is satisfactory. In a relatively short while, an estimated 1,200 members of the community from all walks of life have been assisting the Department

in the execution of the brief given to it by society, ie, to ensure that offenders complete the sentence of the court. That other benefits to the offender follow from contact with non criminal members of society seems, even at this stage, to be beyond questions.

WORK ASSIGNED TO OFFENDERS

Examples of the tasks which have been or are being performed are contained in Appendix 2.

It is a primary aim of the program to procure successful completion of the required number of hours of community service work in the majority of cases. Given that many offenders are limited in the skills they have to offer, much of the work is of an unskilled, simple nature. Even so, it is often possible to increase the motivation of offenders by choosing tasks which are offering a service to particular needy sections of the community, or aims with which offenders are likely to identify. In many cases it is possible to make the work itself interesting and satisfying while at the same time ensuring that it is demanding in the terms of effort and deprivation of leisure time.

Important factors in the choice of work performed are:

(a) The job would not otherwise have been done by paid labour;

(b) It is now being done by volunteers with whom the offender can join, or is the sort of work done by volunteers in that locality.

CHARACTERISTICS OF OFFENDERS

Research suggests that offenders who are sentenced to community service orders ages range from 18 to 62 years with a median age of 23 years and 10 months. Over half of the offenders had never married (52 per cent); others were married (22 per cent); had a defacto relationship (13 per cent); were divorced (7 per cent); separated (6 per cent) or widowed (0.4 per cent).

Over half were employed either full-time (48 per cent) or part-time (10 per cent): others were either unemployed seeking work (33 per cent), unemployed not seeking work (7 per cent), or occupied with home duties (2 per cent).

Offenders sentenced to community service orders had been convicted of a wide variety of offences, the most common of which were 'driving under the influence' (20 per cent)' 'driving whilst disqualified' (19 per cent); and 'stealing' (13 per cent). The breakdown of major current offence (grouped) were driving offences (46 per cent); stealing and fraud offences (42 per cent); assaults and robberies (6 per cent); drug and miscellaneous offences (6 per cent).

BENEFIT TO OFFENDERS

As can be seen from Table B, most offenders are completing the hours of work ordered - an essential element in the program as an alternative to imprisonment. Where this is not happening and after it becomes evident that efforts to obtain compliance are not likely to be productive. the offender is charged with breach of the order and it is returned to court. In the majority of such cases so far, courts have imposed imprisonment as an alternative sentence.

Most offenders, are satisfied simply to 'do their time' and perform the work as instructed to a satisfactory standard. Even so, it is common for extra hours to be performed voluntarily so that a piece of work can be completed.

At times, the offender develops an attachment to the organisation or individual for whom he is working, and is willing to devote himself to the task in hand well beyond the degree expected of him. Thus an official of a Service Club which regularly accepts help from offenders on its current work project claims that he can rely on the offenders and receives a greater degree of commitment from them than from any of the non-criminal club members. It is not uncommon for offenders to continue to work in a voluntary capacity in an organisation well after the order has expired; for example with Bushfire Brigades and a Steam Museum, but also at times, Service Clubs have offered membership to offenders who have worked particularly well.

FACTORS TAKEN INTO CONSIDERATION IN THE ALLOCATION OF WORK TO OFFENDERS

(a) The aims of the program are kept in mind in choosing work so that primarily, while bearing in mind other factors, the program should be able to satisfy sentencers that the work is suitable as an alternative to imprisonment.

(b) The program administrators do not lose sight of the fact that the main purpose is the completion of the order, and work is chosen which will make this possible.

(c) Times of work. It should be the expectation of every offender that at least eight hours per week should be completed. In certain circumstances (eg., when the offender is unemployed) longer hours are possible, but even so, should not exceed three days per week. There is a presumption in favour of the C.S.O. work never equalling what might have been a full weeks paid work.

(d) Obtaining the co-operation of the offender. The C.S.O. Organiser cannot proceed without the consent and co-operation of the offender.

(e) Building up the motivation of the offenders. With skillful choice and allocation of work, it is possible that, even with a reluctant start, the offender will eventually work willingly and with enthusiasm. Positive factors involved in this area:

(i) providing work which is interesting in itself;

(ii) providing work which has a purpose likely to appeal to the offender;

(iii) providing work which uses the offenders skills and interests.

(f) The punitive element should be the hard work involved and the deprivation of leisure, not the degrading or boring nature of the work.

(g) Work is chosen which can be performed safely and satisfactorily by the offenders. The C.S.O. Organisers clearly have a responsibility to the community and to the offender to ensure that this is so.

(h) Work can be chosen with a view to the continued involvement of the offender as a volunteer once the order has expired. This is, of course not always possible; neither should it be a main objective.

(i) Counselling offenders is not a key element in the C.S.O. scheme, but it may be possible to choose an agency which could provide some support for the offender, if such was necessary.

(j) Learning work skills. It may be possible to choose work which will provide the offender with the opportunity to learn work skills, or simply good work habits.

(k) The placement of Aborigines and other people with a non anglo-saxon background is made sensitively, bearing in mind the relevant background factors.

(l) Offenders will usually be assigned to work singly or in pairs, rarely in a large group unless the group be comprised of non-offenders. However, with approval, each large office may create one work group in certain circumstances.

VALUE OF THE WORK

Over 271,000 hours of work have so far been completed. Applying the National Average wage rate (now approximately $9.50 per hour) this produces a notional monetary value of over $2,574,5000.00 worth of work.

Organisations have continued to report their satisfaction in relation

to their involvement with the community service order scheme. Many having been impressed with the performance of the offenders have offered them paid employment in another capacity, have provided references in relation to their work, have helped the offender in seeking paid employment or have provided support in the areas of accommodation and counselling.

COMMUNITY SERVICE ORDERS AND COMMONWEALTH OFFENDERS

Section 4 (2) of the New South Wales Community Service Orders Act, 1979, states:

> '4 (2) The power of a court under subsection (1) may be exercised'

and Section 5 (b):

> 'Where a court, in respect of a person convicted of an offence:
>
> (a) ...
>
> (b) gives or makes a direction or an order under Section 554 (2), 556 (1) or 558 (1) of the Crimes Act, 1900, in respect of the offence the court shall not in addition, make a Community Service Order in respect of the offence.'

The effect of these sections together is to prohibit the making of a community service order as a condition of a bond within the New South Wales jurisdiction.

There is no specific provision in Commonwealth Law as yet for the making of community service orders. However, it is accepted that it is possible for community service to be ordered as a condition of a bond under the Commonwealth Crimes Act. Courts have, in fact been making such orders, and the Service has been administering them on the understanding that they are made and administered as if they were subject to the terms of the New South Wales Community Service Orders Act, 1979.

Thus at the time of release on recognizance further conditioned in this way, the sentencer is usually asked to bear in mind the conditions under which orders are made under the New South Wales Act, and it is pointed out that the order, if made, would be administered as if it had been made under the Act.

Indications are that the Commonwealth Attorney-General is presently investigating whether to enact legislation that would provide community service orders as a sentencing option for Commonwealth offenders.

CHILDREN'S COMMUNITY SERVICE ORDERS

The Community Service Orders Act 1979 applies only to offenders aged 18 and over.

Provision has been made in the new community welfare legislation at present awaiting implementation, for community service orders to be made on persons aged under 18.

The implementation of a children's community service order program will be the responsibility of the Department of Youth and Community Service.

As any such scheme will be operating side by side with the adult program, and using the same community resources, close liaison and co-operation will be maintained at a local level between officers of the two departments operating the programs.

THE FUTURE

An information booklet has been produced in response to many inquiries and requests from interested parties, particularly professional people having some direct or incidental involvement in the criminal justice process in New South Wales.

Attention is drawn to two pieces of research that are to be published by the Research Division of the Department of Corrective Services in the near future. They are entitled *'Community Service Orders in New South Wales: How participants evaluate the Scheme, 1983'* and *'Community Service Order Evaluation: A profile of Community Service Order Offenders, 1983'*. Both pieces of research are recommended to you as essential readings if you are interested in the administration of the community service order program in New South Wales.

The necessity for careful control of the operation has continued and has resulted in the strict application of Section 6 of the Community Service Order Act, 1979, which requires that orders can only be made on offenders living in an area where arrangements can be made (staff appointed, etc.) for the work to be made. As mentioned earlier in this report, it is anticipated that the scheme can be operational State-wide by 30 April 1984. There could, however, be some practical problems in implementing the full operation in some of the more remote areas of the State.

All those who are involved with the scheme are looking to the future with confidence. This confidence has been strengthened by the results of the research conducted and the success that can be seen from the data in Table B.

TABLE A

COMMUNITY SERVICE ORDERS

The community service order program commenced in district offices on the following dates:

Metropolitan North Region

Burwood	20. 6.1983
City	14. 7.1980
Crows Nest	11. 7.1983
Hornsby	18. 4.1983
Newtown	14. 7.1980
Parramatta	1.11.1982
Ryde	16. 2.1981
W.S.P.U.	Not applicable: Institutional office
Warringah	11. 1.1982

Metropolitan South Region

Bankstown	Not commenced - Tentative date: 30. 4.1984
Bondi	2. 2.1981
Campbelltown	3.10.1983
Fairfield	Not commenced - Tentative date: 30.11.1983
Hurstville	Not commenced - Tentative date: 30. 4.1984
Liverpool	3. 8.1981
L.B.P.U.	Not applicable: Institutional office
Maroubra	2. 3.1981
Sutherland	Not commenced - Tentative date: 30. 4.1984
Wollongong	3. 8.1981

Northern Region

Casino	6.11.1981
Cessnock	Not applicable: Institutional office
Coffs Harbour	11. 5.1981
Glen Innes	1.12.1982
Gosford	14. 7.1980
Grafton	15. 3.1982
Inverell	1.12.1982
Kempsey	4. 7.1983
Lake Macquarie	1.12.1982
Lismore	11. 5.1981
Maitland	1.12.1982
Murwillumbah	27. 6.1983
Muswellbrook	4. 5.1983
Newcastle	1.12.1982
Port Macquarie	4. 7.1983
Taree	24. 8.1981
Tuggerah Lakes	1.12.1981

Southern Region

Albury	3.10.1983
Bowral	2. 2.1981
Cooma	18. 7.1983
Goulburn	14. 7.1980
Griffith	6. 6.1983
Leeton	4. 7.1983
Nowra	15. 6.1981
Queanbeyan	13. 2.1981
Tumbarumba	11. 7.1983
Tumut	11. 7.1983
Wagga Wagga	26. 4.1982
Young	Not commenced - Tentative date: 28.2.1984

Western Region

Armidale	13. 4.1981
Bathurst	26. 9.1983
Blacktown	3. 8.1981
Broken Hill	13. 4.1981
Coonamble	1. 8.1983
Dubbo	Not commenced - Tentative date: 30.4.1984
Katoomba	Not commenced - Tentative date: 30.4.1984
Lithgow	15. 3.1982
Moree	3.10.1983
Mt Druitt	3. 8.1981 (presently operating from Blacktown)
Narrabri	10. 5.1982
Penrith	Not commenced - Tentative date: 30.4.1984
Tamworth	8. 3.1982
Windsor	1.11.1982

N.S.W. Community Service Order Monthly Return - September 1983

Region	Current-Cases	Completed	Breached	Total
Met. North	234	229	45	508
Met. South	245	377	40	662
Country North	296	403	29	728
Country South	106	334	15	455
West	239	251	18	508
TOTALS	1120	1594	147	2561

TABLE C

COURT MAKING ORDERS

High courts	586
Courts of Petty Sessions	2,275
Total	2,861

TABLE D

AREAS COMMENCED IN 1982

Probation and Parole District Office	Starting date
Warringah	11 January 1982
Tamworth	8 March 1982
Grafton	15 March 1982
Lithgow	15 March 1982
Wagga Wagga	26 April 1982
Narrabri	10 May 1982
Parramatta	1 November 1982
Glen Innes	1 December 1982
Inverell	1 December 1982
Maitland	1 December 1982
Newcastle	1 December 1982

TABLE E

AREAS COMMENCED DURING 1983

Probation and Parole District Office	Starting date
Hornsby	18 April 1983
Muswellbrook	4 May 1983
Griffith	6 June 1983
Burwood	20 June 1983
Murwillumbah	27 June 1983
Kempsey	4 July 1983
Leeton	4 July 1983
Port Macquarie	4 July 1983
Cooma	18 July 1983
Coonamble	1 August 1983
Bathurst	28 September 1983
Campbelltown	3 October 1983
Albury	3 October 1983
Moree	3 October 1983
Fairfield	30 November 1983

APPENDIX 1

THE LAW RELATING TO COMMUNITY SERVICE ORDERS CONTAINED IN THE COMMUNITY SERVICE ORDERS ACT 1979

SUMMARY

1. A court may make a community service order on a person:

   (a) Convicted of an offence punishable with imprisonment;

   (b) Aged 18 or over;

   requiring him to perform unpaid work, service or activity (S.4 (1)) for an overall maximum of 300 hours (S.7).

2. More than one order may be made on the same person to run concurrently or accumulatively (S.4 (4)) provided that the number of hours outstanding never exceeds 300 hours. Where the law provides, for an offence, a maximum term of imprisonment of six months or less, the maximum hours should not exceed 100 hours; where the maximum term of imprisonment provided is over 6 months but under one year, the maximum is 200 hours; where over the year, 300 hours (Regulation 14).

3. At the same time for the same offence the court can order compensation, disqualification or forfeiture (S.4 (3)) but never sentence to imprisonment or release on a recognizance (S.5). A fine can be imposed in addition in certain circumstances (S.4) and conditions can be added to be in force during the duration of the order (S.10).

4. The court cannot make an order unless:

   (a) the offender consents;

   (b) it is informed by a probation and parole officer that arrangements exist in the area in which the offender lives for him to perform community service;

   (c) having received a report from a probation and parole officer, it is satisfied:

      (i) that the offender is suitable;
      (ii) that work can be provided for him (S.6).

5. The magistrates court closest to or most convenient to where the offender lives is named in the order as the supervising court to be responsible for most matters relating to the order (S.8). This can be changed when the offender moves his address, provided that the court is informed by a probation officer that

arrangements exist in the new area and that work can be provided (S.22).

6. Before making an order the court has to explain it fully to the offender (S.11).

7. The offender is required by the order to:

   (a) report to the organiser and inform him of any change of address;

   (b) work satisfactorily as instructed (S.14).

8. Any work given must not:

   (a) be work normally undertaken by a paid employee;

   (b) conflict with the offender's religious beliefs, or with the times of his work and education (S.15).

9. The order must be completed within one year (S.16 (b)), although this period can be extended (S.17). The order lasts until the hours are completed, or until the year (or extended period) is up, or it is revoked (S.16).

10. On application by the offender or the organiser, the order can:

   (a) be revoked, and

   (b) revoked and another sentence substituted on the original offence, provided that the court revoking is of a similar jurisdiction (S.18).

11. If an offender appears before a court for sentence, that court can:

   (a) revoke the order, or

   (b) substitute another sentence if it is a court of the same or higher jurisdiction than the court which made the order (S.19).

12. On conviction for a breach of the order, the court may:

   (a) fine up to $250.00 in which case the order continues;

   (b) revoke the order and substitute another sentence provided the court is of a similar or higher jurisdiction, and either the supervising court or the court which made the order (S.25).

13. If the order is revoked, the court, in imposing another sentence, must take into account the fact that the order was made, and anything done under it (S.26 (1)).

14. An order can be appealed against, as can any sentence imposed instead of the order (S.26 (2)).

15. A regulation has been made prescribing:

(a) forms to be used by courts;

(b) detailed requirements to the offender;

(c) rules for computing hours, and so on.

SOME EXAMPLES OF WORK PERFORMED

General labouring, gardening etc., at hostels, homes for aged and handicapped.

Assisting physiotherapist in hydrotherapy units.

Meals on wheels; general assistance.

Visiting quadraplegics at home (relieving parents etc.).

General care duties in day care centre for mentally retarded adults.

Repair work etc. in individual aged persons' homes.

Making learning equipment for brain injured children and the disabled.

Working with bushfire brigades.

Helping Mission-beat night patrol.

Cooking in welfare restraunts, staffed by volunteers.

Coaching soccer, hockey, swimming, etc.

Joining in with service club projects.

Clerical work in the Neighbourhood Centres, Council on the Ageing, Council for Civil Liberties, etc.

General assistance to small community organisations.

Assisting Sydney City Mission (at Opportunity Shop, Swanton Lodge, etc.).

General assistance, Police and Citizens Boys Club.

General work at Steam Museums and Fire Service Museum.

Assisting artist making community murals.

Assisting at Drop-in-Centre, Wayside Chapel.

General assistance at community radio stations.

Hospital visiting (screened by hospital authorities).

Breaking in a draught horse (to pull cart for psychiatric patients).

COMMUNITY SERVICE ORDERS IN VICTORIA

B.D. Bodna

The introduction of the Community Service Order (CSO) Scheme in September 1982 on a pilot basis in one region was a significant event in the field of adult sentencing and corrections in Victoria. For the courts, it has meant a new sentencing alternative thereby affording sentencers the opportunity to deal with certain offenders whose sentence would ordinarily be one of imprisonment, in a more appropriate way.

Key aspects of the scheme were outlined in the booklet *'Community Service Order Scheme for Adult Offenders : An Alternative to Imprisonment'* which was distributed in November 1982, to persons involved in the development and operation of the scheme. A progress report on the first six months operation of the pilot scheme was distributed in May 1983.

This report provides details of the first 12 months of the scheme, highlighting key issues in the development and operation of the community service order scheme. The report provides a favourable review of the pilot scheme.

Since the pilot scheme was introduced the Government has established an Office of Corrections to be responsible for the planning and operation of all adult correctional programs in Victoria. An integrated master plan is being prepared for the Office of Corrections, to provide a framework for the development of correctional programs in Victoria. This report is a useful basis for consideration of the future of the CSO scheme in Victoria in relation to the master plan, and the development of a range of community corrections sentencing options.

In addition it is hoped that information provided in the report is of interest and value to sentencers, organisations and groups offering to provide work for the scheme and interested community members.

INTRODUCTION

The Community Service Order (CSO) Scheme commenced in September 1982, on a pilot basis, in the Southern Region of the Department of Community Welfare Services. This region encompasses the municipal areas of Brighton, Caulfield, Malvern, Moorabbin, Mordialloc, Oakleigh and Sandringham. The official launching by the Honourable Pauline Toner,

Minister for Community Welfare Services took place at the premises of the Southern Regional Association for the Disabled (SRAD), the first organisation in Victoria to provide work for an offender under a community service order. Under the scheme, offenders are required to perform unpaid work for a fixed number of hours as punishment for an offence. The introduction of community service orders in Victoria was recommended in the First Report of the Sentencing Alternatives Committee (SAC) in 1979.

The objectives of the scheme are:

- to provide courts in Victoria with a sentencing alternative to imprisonment whereby offenders are required to perform unpaid work of a community service nature for a fixed number of hours, between 20 and 360 hours;

- to provide tangible benefits for the community in terms of work completed by persons on a CSO;

- to provide, where possible, work which offers a worthwhile experience for the offender, on projects where offenders can work alongside volunteers.

This report describes some aspects of the first 12 months operation of the scheme. In addition, it provides a focused review of the pilot scheme in relation to the objectives of the scheme and highlights key issues involved in the introduction of the scheme in Victoria.

The report is based on material selected from interviews with magistrates, offenders, voluntary agencies involved in the scheme, program staff and data collected throughout the 12 month period.

The report is in three parts. Section 1 gives details of the rationale for the introduction of community service orders and the chosen method of operating the scheme. Section 2 contains descriptive information on the first 12 months of the scheme's operation, including details of the offenders placed on the scheme, work undertaken by offenders, etc. The third section is a review of the operation of the pilot scheme indicating important issues in the scheme as it is currently operated.

SECTION 1

PROGRAM PLANNING - THE PRINCIPLES OF THE PILOT SCHEME

A significant amount of planning and preparatory work had been undertaken prior to the commencement of the CSO scheme in Southern Region in September 1982. At a central level, consultation had been undertaken with senior magistrates and police in relation to drafting of regulations and the operation of the scheme, and an interim program manual and publicity material had been prepared. At regional level, further consultations took place with local magistrates, police and appropriate community groups. Observation visits were made to the

CSO Scheme in New South Wales and information exchanged with States already operating the scheme. Program planning emphasised the following requirements as being essential to the optimum operation of the pilot scheme:

- The scheme was to be administered with a clear correctional focus

  This was in accord with the SAC Report recommendations. Specialist staff were appointed to operate the scheme. The main purpose of the scheme was recognised as being to ensure that community service work could be arranged and performed as required by courts. The operation of the scheme was to be tailored to the main purpose. Thus

  - assessments of offenders' suitability for the scheme was to be in terms of capacity to carry out community service work, rather than a psychosocial assessment;

  - counselling and interpersonal assistance were to be limited and related only to the carrying out of the work. Other issues were to be dealt with by referral to other agencies or linkage of the offender to an appropriate community support group;

  - clear program standards were defined in relation to dealing with non-compliance with the CSO or undesirable behaviour whilst on a work site.

- A Community Corrections Committee was to be established

  The SAC Report recommended the establishment of community committees in each region where the CSO scheme was operating. These committees were to assist in achieving community involvement in the scheme and advise on appropriate work projects. In Southern Region a Community Corrections Committee was established as a Standing Committee of the Regional Consultative Council of the FACS (Family and Community Services) Program. In addition to its specific responsibilities in regard to the CSO Scheme, the committee was to have a broader role in advising the Minister on correctional matters in the region.

  The terms of reference of the Community Corrections Committee and its current membership are contained in Appendix 1. The establishment of the Office of Corrections will clearly impact upon the role of the committee, and further consideration is being given to this issue.

- Work undertaken was to be of a community service nature

  As noted above the main purpose of the scheme was to ensure that work could be undertaken as required by a court order. A second purpose identified was to provide benefit to the community by the opportunity of a beneficial experience to the offender. To

assist the scheme in attaining these additional purposes it was determined to whenever possible, place individual offenders on projects where they would work alongside volunteers. Legislation required that work undertaken should not replace a paid employee or prevent an employment opportunity. Thus:

- work was to be arranged through voluntary organisations and local government offices rather than directly with a beneficiary;

- the work experience was, if possible, to be a constructive one for the offender. The offender should see the work as valuable and his or her abilities appropriately utilised;

- the punitive element in the scheme was to be the imposition of work and the deprivation of leisure time, not that the work be degrading or boring;

- careful matching of offender to work project was to be undertaken;

- the agency providing the work opportunity was to be responsible for providing equipment (a small reserve of equipment was to be retained by the Scheme);

- offenders were to be consulted as to the type of work they would like to perform and encouraged to make suggestions as to placement.

Supervision of offenders

The degree of supervision required would vary depending upon the offender and the nature of the work and the circumstances in which it was performed. Sessional supervisors were to be available as required. In most cases the agency where the offender was placed would provide oversight of the offender, with advice and support from the sessional supervisors who provide direct authoritative supervision. Program staff are to be available at all times when CSO work is being undertaken.

The offender's initial and continuing response to the work project was to be closely monitored to ensure the placement was appropriate. If required, offenders could be moved to more appropriate placements.

Preparation and planning were aimed at ensuring that the scheme would be an effective correctional program which had credibility with courts. At the same time, as a consequence of the extensive use of work projects where offenders work alongside volunteers, and careful matching of offenders to work projects, the scheme would maximise the opportunity to be of benefit to offenders.

SECTION 2

OPERATION OF THE PILOT SCHEME TO SEPTEMBER 1983

In considering the operation of the pilot scheme a similar framework to that in the progress report on the first six months of the scheme will be used. Details are given below of the use made by courts of the CSO Scheme, the activities of the Community Corrections Committee and information on the work undertaken and progress of offenders on the scheme.

(i) Use of the Scheme by Courts

During the first 12 months 94 offenders were assessed by program staff for the scheme. Approximately another 100 enquiries were made in relation to offenders who lived outside the region and consequently no assessments were undertaken of those 100. Of the 94 offenders, 74 were placed on CSOs by courts. At the end of September 1983, 40 persons were currently undertaking a CSO.

As indicated in the report of progress on the first six months of the scheme's operation, the principal reasons for unsuitability related to a lack of capacity to perform community service work, ie, offenders were either unmotivated or unable to undertake the requirements of a CSO. In a smaller number of cases the offender was either in need of intensive supervision due to psychiatric problems, intellectually incapable of carrying out work, or had unstable accommodation, ie, was unlikely to move out of Southern Region in the near future.

Data collected on offenders placed on CSOs provide the following profile of the use of the scheme by courts.

- Courts have continued to use CSOs for offenders from a broad range of ages

  Forty nine of the offenders (66 per cent) have been 21 years of age or older. Eighteen offenders (24 per cent) have been 31 years of age or older. These proportions have remained the same since the first report on the scheme considered the age distribution of offenders placed on CSOs in March 1983.

- More than one-third of offenders were in full time employment

  Twenty six offenders (35 per cent) were in full time employment, 44 (59 per cent) were unemployed and the remainder students, pensioners or undertaking home duties. The proportion of unemployed offenders on the scheme has risen since March 1983. This may in part be

due to the increased use of the scheme for fine defaulters who have tended to be unemployed.

- Thirty one offenders (42 per cent) provided the sole source of income in their family unit

  These 31 offenders had a total of 55 dependants. Imprisonment would have resulted in substantial disruption to those families.

- Eight orders (12 per cent) have been made as a result of inability to pay fines

  Recently an informational leaflet has been distributed to Clerks of Courts to make available to persons having difficulty paying fines. The number of orders made in this category is expected to increase as a result of this.

- Twenty nine offenders (39 per cent) had three or more prior convictions. Fifty five offenders or 74 per cent of all persons placed on CSOs had more than one prior conviction

  This is similar to the March 1983 figures. Ten offenders (14 per cent) have previously been imprisoned and a further five per cent have been in YTC.

- Courts have continued to make use of the wide range of lengths of orders possible

  Orders have been made from 25 hours (fine default) to the maximum of 360 hours. (For serious driving offences; the court commented that six months imprisonment would otherwise have been imposed.) The mean length of order made was 140 hours. Sixty eight per cent of orders fall within the range of 56 hours to 224 hours.

- CSOs continue to be used for a wide range of offences

  Appendix 3 contains a list of the main offences for which CSOs have been imposed. The most common is Theft (ten orders) followed by Assault, Exceed .05, Drive whilst disqualified (seven orders each).

- The Prahran Court complex and Magistrates Courts in Southern Region were responsible for 66 orders, 89 per cent of the total

  The remaining orders were made by magistrates' courts outside the region other than Prahran (6) and by Melbourne County Court (2).

. The breach rate has been extremely low: Five offenders (7 per cent) have failed to comply with the conditions of the order

Three of these offenders moved address without notification and their whereabouts are not known. Warrants have been issued by the supervising court for their apprehension. One offender was fined for the breach and in the remaining case the order was extended.

Appendix 2 contains histograms showing further detail of the age distribution of offenders on the scheme, their employment status, number of prior convictions, length of orders and the courts making the orders.

(ii) The Community Corrections Committee

The committee met at six weekly intervals since its formation. The committee, with the particular involvement of the Trades Hall Council representative, approved work projects and assisted in publicising the scheme. The committee was consulted in the development of a proposal for a bail hostel and had discussions in regard to probation with a member of the Probation Review Sub-Committee of the Correctional Services Council.

(iii) Work undertaken and the progress of offenders

Currently with 40 offenders on the scheme more than 210 hours of community service work is being performed each week within Southern Region. A total of 6,589 hours of work have been undertaken since the commencement of the scheme.

The 25+ local agencies willing to take CSO workers offer a variety of work experience. In the main they are self-help groups organised and run by volunteers, eg. Bayside Lifesaving Clubs, Scout Groups, organisations working with the aged and handicapped. Some 50 per cent of projects fall in that category. The second category, comprising some 30 per cent of projects, involve larger, more formal organisations such as local councils, hospitals, etc. Typical projects here involve painting, gardening, handyman tasks, arts and craft instruction, assistance with swimming groups for elderly people, etc. The final group of work opportunities involve the offender in direct contact with the individual recipients, eg. individual workers gardening or painting at the houses of elderly people.

Many studies of CSO schemes overseas attach a monetary value to work undertaken to attempt to identify the worth of the work to the community. Although this is not strictly justifiable, in that the work would probably not have been done if it had had to be paid for, it is interesting to note that assigning a modest $5 per hour gives a figure of $32,945 as being the notional value of the work undertaken to date for the community.

As indicated above, five offenders have not complied with the conditions of the order and breach action has been instigated. In addition, a number of offenders have been warned by program staff, but no legal action taken. Poor punctuality is a continuing problem with some offenders and program staff closely monitor these offenders.

Importantly, the scheme continues to produce instances where offenders have undertaken work for an agency or individual in excess of the legal requirement. The number of occasions when this occurs - ie., when offenders undertake additional responsibilities of their own volition - is currently running at around the 10 per cent level. This is an impressive figure, and a significant feature of the Southern Region scheme. Examples of where this has occurred include the following. A male in his thirties placed on a CSO for Exceed .05 and driving while disqualified was assigned to help clean up a pensioner's bungalow. The bungalow was in a poor general state, the furnishings dirty and the bedding in a soiled state. The offender diligently assisted to clean the bungalow and returned at the weekend of his own volition with new curtains made by his wife for the pensioner. He did not tell the program staff of this and it only came to light some weeks later. Another offender had been imprisoned on two previous occasions and had just completed a parole period when placed on the CSO. Initially his performance was not promising and he was warned that his behaviour was such that he may have to be returned to court. He was moved to a different project, involving building work restoring an old building for community use. His progress improved considerably, he began doing additional work for the project and subsequently joined the organisation renovating the building as an instructor.

SECTION 3

REVIEW OF THE FIRST TWELVE MONTHS OF THE SCHEME

The interim CSO program manual identified three key areas in which it would be important to review the performance of the pilot scheme. These areas are:

- the impact of the scheme on courts and the correctional system in the region.

  This area includes the relationship of the scheme to courts and departmental programs such as probation and attendance centres, and the progress of offenders on the scheme.

- the impact of the scheme on the community.

  This includes details about the amount of work performed for the community and the general response of the community to the scheme.

. the operation of the scheme.

This final area involves information about the cost and method of operating the scheme, considering in particular whether changes are required in the way the scheme is operating based on experience gained in the first 12 months.

An assessment is provided in this section of the pilot scheme in relation to these three areas. The basis of the assessment includes discussions with program staff, analysis of background data collected on offenders on the scheme and interviews with magistrates, offenders and beneficiary agencies. In addition some comparative data was obtained from interstate departments which had been operating CSO schemes for some years.

(i) The CSO Scheme, Courts and the Correctional System in the Region

Courts and the CSO scheme

The response by courts to the scheme has been enthusiastic - CSOs have been welcomed as an additional sentencing alternative to imprisonment with the additional characteristic of providing an alternative to imprisonment for fine defaulters. Further it was seen as valuable in providing a means of punishment without the undesirable side-effects involved, for example, in imprisonment.

The correctional focus of the scheme, and the availability and expertise of the specialist program staff was recognised by all magistrates interviewed. The pilot scheme has been appropriately resourced since its inception and consequently has been able to provide an effective service to courts. The mandatory provision of advice to courts in relation to the availability of resources to enable the offenders to undertake CSO work has facilitated confidence in the scheme and productive communication between program staff and courts. This reflects the experience of the Attendance Centre programs, and clearly contrasts with the current situation regarding probation. Information given to courts in relation to the suitability of offenders for the scheme was regarded as valuable, and appropriate.

At this stage approximately ten new orders are being made each month. The progress report on the first six months of the scheme commented upon the relatively low early use of the scheme and indicated a number of factors responsible for the early utilisation rate, that is the limited geographical base of the pilot scheme and an initial cautious approach by courts to the scheme. Similar low initial use has been experienced in other states which have implemented the scheme in limited areas, for example, Western Australia and South Australia. The pilot scheme has now passed through the initial low use stage and numbers continue to increase. It is estimated that within existing staffing levels up to 50 offenders could be catered for on the scheme at any one time.

This figure has been arrived at on the basis of the present manner of operation of the scheme which allows offenders to work off their order in as short a time as possible. At the present time, with 40 offenders on the scheme there is still some unused sessional capacity.

The CSO scheme as an alternative to a custodial sentence

Most studies of CSO schemes note the difficulty of accurately determining the extent to which CSOs are used as a direct alternative to imprisonment. Assessment of the schemes in the United Kingdom and New South Wales indicates that in those schemes which are promoted as alternatives to a custodial sentence some 45-55 per cent of offenders on CSOs would otherwise have been imprisoned. In other CSO schemes promoted as sentencing options in their own right, ie., not necessarily as an alternative to imprisonment, the percentage is apparently lower, approximately 20-25 per cent.

Estimates by program staff suggest that approximately half of offenders placed on CSOs would otherwise have been imprisoned. This estimate is based on: comments made by the magistrates in court, comparison of offenders' prior convictions and the perceptions of offenders placed on CSOs. Of the 20 offenders not suitable for CSO complete records of the disposition imposed is available in 16 cases. Of these 16, 6 received sentences of imprisonment (3 custodial, 3 Attendance Centre Orders), 5 probation and the remaining 5 were fined (ranging from $200 to $700 for each offence). These figures could be interpreted as suggesting that the CSO scheme may be tending to become used as a sentencing option in its own right, taking offenders from a range of other dispositions. It is difficult to interpret these figures however - three of the offenders placed on probation were as a result of the assessment of program staff that the offender's requirements for supervision and assistance were such that probation was more appropriate. This included one case from Melbourne Supreme Court. Similarly, two offenders were fined, partly as a result of advice from program staff that a CSO was not appropriate if the court was not considering imprisonment. The offenders not given CSOs are ones who, in general, were screened out because of unsuitability, and cannot be said to be representative of those offenders placed on CSOs.

It has not been possible over a 12 month period to directly assess any impact the scheme may have had on the numbers of offenders from Southern Region imprisoned or placed on probation. This has been the result of both the shortness of the time period, problems in matching data across departmental programs and the relatively low numbers involved to date.

Comment was made by one magistrate that there may have been an element of 'testing out' of the scheme by courts, by initially using it for 'lighter offenders'. The initial successful

operation of the scheme will, on this argument, result in increased use of the scheme as an alternative to imprisonment.

A further factor of importance is that the scheme may be an attractive disposition for courts for offenders who would have received substantial fines and are either unemployed or on low incomes. Over time this may tend to reduce the extent to which it is directly used as an alternative to a custodial sentence. There is evidence that CSOs are being used in this way in a small number of cases: as an alternative to a fine rather than as an alternative to imprisonment in default of payment of the fine. This can occur when the magistrate considers that the offender would not be able to pay the appropriate level of fine for the offence. The recent raising of many minimum fine levels may encourage further use of the scheme in this way. The original SAC Report stressed that the CSO should be an alternative to the inprisonment in default of payment of the fine, not as an alternative to the fine itself. The current high unemployment levels, particularly among young people, clearly can restrict the ability of many people to pay fines and result in a dilemma for sentencers. Further consideration needs to be given to this issue. Although relevant to the CSO scheme, the potentially vast number of offenders who could default on fine payments has broad implications across the criminal justice area.

At this time, therefore, it is difficult to be definitive in relation to the use of the CSO scheme as an alternative to imprisonment. Difficulties have been found in many studies of CSO schemes, and other dispositions, with this issue. In accord with experience interstate and overseas it appears that somewhere between 55 per cent and 20 per cent of offenders placed on CSOs would otherwise have been imprisoned. It is considered that in the Victorian scheme the percentage has been at the higher rather than the lower level. As with other CSO schemes, however, it is extending beyond being an alternative to imprisonment.

As indicated above, the scheme may be becoming used by courts in two ways. At the higher level of hours it is a direct alternative to imprisonment. At the lower range, ie., less than 100 hours in a small number of cases it is used as an alternative to a substantial fine for offenders who appear to the courts to be unable to pay appropriate fines.

It is clear from the pilot scheme that the imposition of a CSO is a substantial penalty for an offender, requiring the offender to devote substantial periods of his leisure time to work of a community service nature. A CSO of 100 hours is normally taking offenders some 3 months to 'work off'. Siminarly a 200 hour order takes 6 months of an offender's leisure time to complete.

(ii) The CSO scheme and the community

The scheme has had consistently favourable media coverage from Southern Region and State newspapers and been welcomed by interested agencies.

As indicated previously 6,589 hours of community service work has been undertaken to the end of September 1983. The monetary value of this work can be assessed in different ways but it is clear that the scheme has provided tangible benefits to the community. 6,589 hours is equivalent to 3 years and 2 months of full-time work.

A sample of agencies where offenders were working indicated that they considered they had substantially benefited from the work undertaken, primarily in terms of the work undertaken but also in other ways. Other benefits identified included - obtaining a better understanding and awareness of the judicial system and offenders, an appreciation that some positive programs were being operated, not just prison. The scheme therefore can result in positive changes in the perceptions of agency staff, as well as the media and the community in general.

Many offenders benefited in practical ways, eg., in learning new skills, and personally by involvement in activities previously foreign to them and by the trust and responsibility in the relationship with the agencies and other volunteers. This form of response is typical of that found in many CSO schemes; the offender benefits from his contact with the agency. By making a contribution to the agency (his work) the offender is given the opportunity to succeed at a task, and experience a favourable response from the beneficiaries of the work. Some offenders have obtained jobs after being placed on CSO and their experience of the discipline of working may have assisted them in finding employment.

The scheme has the capacity to generate considerable positive community interest and attention. Effectively operated, it therefore provides a low cost sentencing alternative which can in addition:

- serve a community development function by expanding awareness in the community of the criminal justice area;
- provide tangible benefit to the community by the amount of work undertaken.

An indication of the success of the scheme is the increasing number of agencies in Southern Region willing to take offenders for work projects. Currently there are 28 such agencies. Details of the participating agencies were given in Section 2 of this Report.

The Victorian Trades Hall Council representatives, who are members of the Community Corrections Committee, have checked work sites to ensure that no paid employment opportunities are adversely affected.

(iii) The method of operating the pilot scheme

The substantive issue arising from the first year of operation was the critical importance of the principles of careful matching of offenders and placement wherever possible with projects involving volunteers. The positive environment of volunteer activity and the volunteers' positive expectations of the offenders combine to produce work situations to which the offender can respond. In all but exceptional cases this form of placement also minimises management problems as offenders are not placed in groups where they may interact negatively with each other.

Operating the scheme in this manner involves a considerable amount of contact with community groups and organisations and an appreciation of the importance of community networks. It has been essential that program staff maintain a good relationship and ready communication with the agencies providing work opportunities. The importance of this characteristic of the scheme cannot be overestimated. The pilot scheme has been run in this manner to enable the maximum opportunity for benefit to the offenders whilst the main purpose of the scheme - the undertaking of work as directed by a court order - is attained. The very low number of offenders who have had to be returned to court (7 per cent) is considered to be a result of the mode of operating the scheme. Any infringements of the conditions are dealt with immediately and there are defined procedures for warning offenders and returning them to court if necessary.

Several minor changes have been necessary in operating details as a result of experience gained. Consideration is being given to the necessity of minor legislative amendment to simplify some parts of the scheme, but in general the operation of the scheme has been shown to be sound.

Detailed consideration at the request of magistrates is currently being given to the establishment of a closely supervised group project. This would not necessarily be in conjunction with volunteers, and would be initiated with the aim of broadening the range of offenders appropriate for the scheme. Although in contrast to the present mode of operation of the scheme, there is value in pursuing this notion to explore the extent to which the range of appropriate offenders can be extended.

Cost of the Scheme

Costs for the year were calculated on the basis of the Community Work Organisers' salary, half of the Administrative Officer's salary, Sessional Supervisor time and all operational costs (phones, photo-copying, etc.)

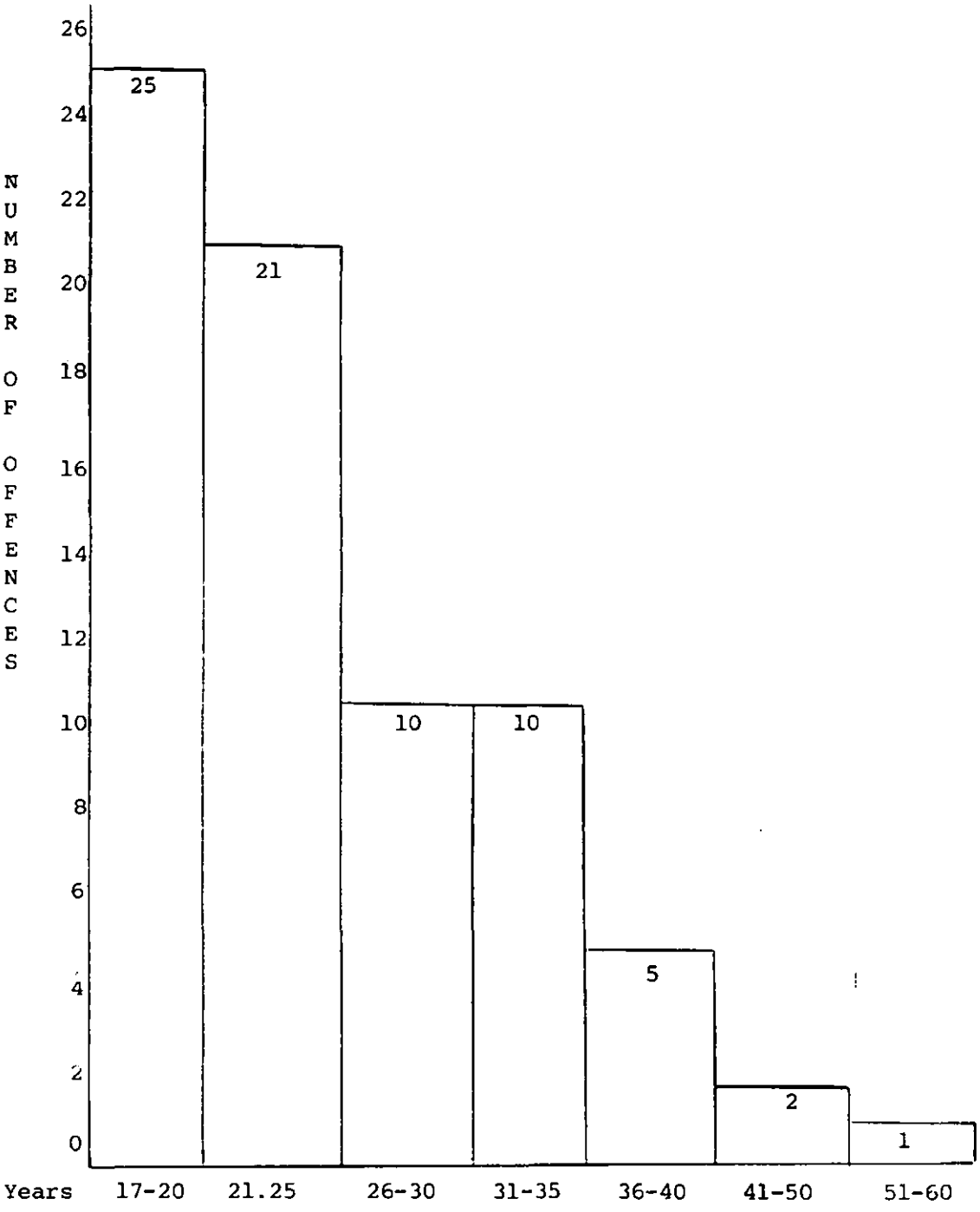
The cost of operating the scheme for the year on this basis was approximately $51,000. The projected cost of operating the scheme at maximum capacity is thus $20 per week, per offender. Current cost, with 40 offenders on the scheme is approximately $25 per week, per offender. This highlights the low cost of the scheme. As a comparison, the current weekly cost of an Attendance Centre Order is approximately $67. Estimated currently weekly cost of imprisonment is approximately $460, and of probation supervision is $12.

Role of Community Corrections Committees

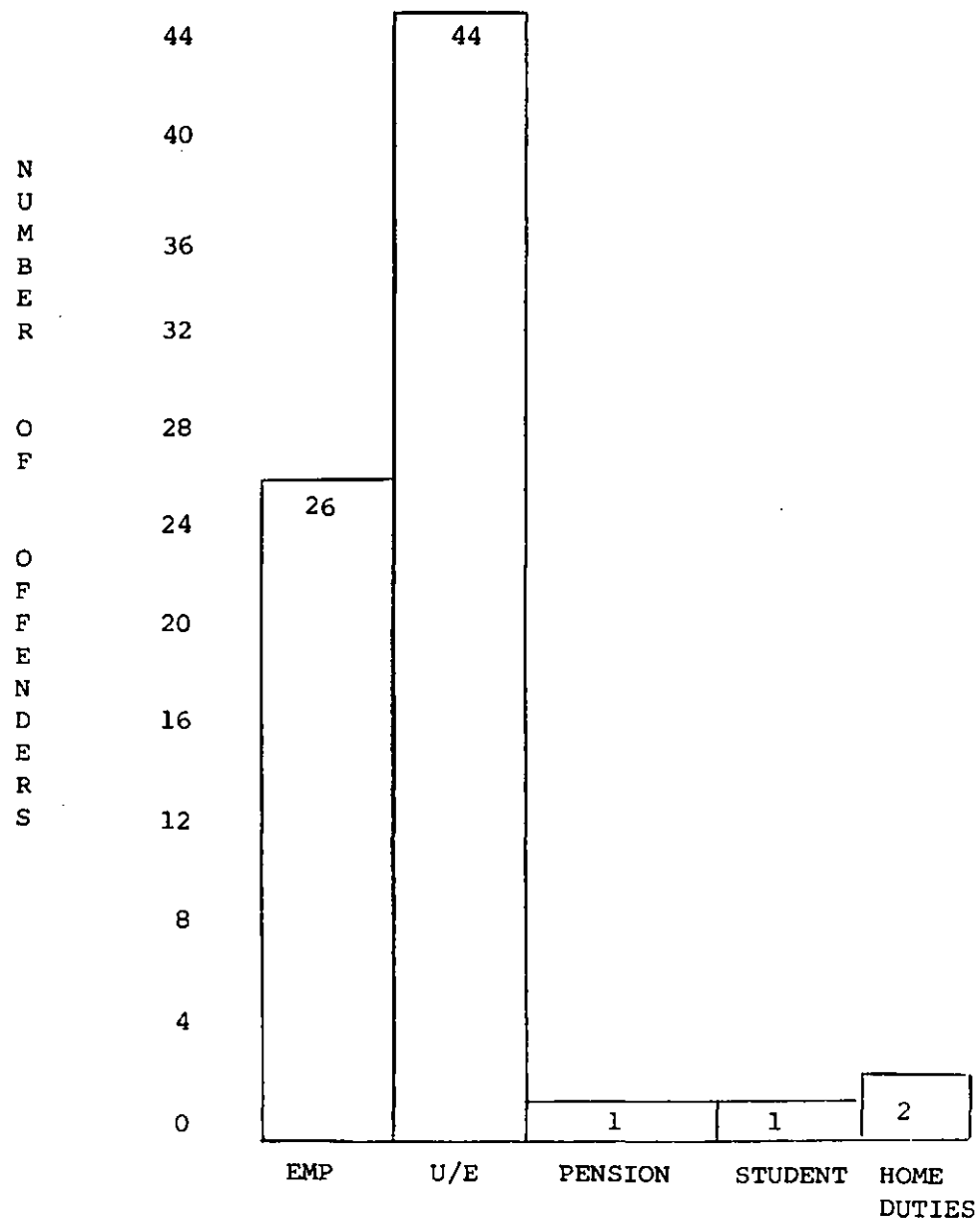
- To advise the Minister for Community Welfare Services concerning the implementation of policies and programs undertaken in the Region in relation to community correctional programs specifically, in the first instance
    - To advise on the establishment and development of the CSO scheme with particular reference to
        - providing advice on the suitability of proposed work projects to be undertaken by offenders in relation to DCWS programs;
        - to assist DCWS to achieve community involvement in the implementation of the CSO scheme.
- To consult with government and non-government organisations and community groups on correctional services in the Region.
- To seek and acquire information from government and non-government organisations and community groups on correctional services in the Region, and on sentencing options, goals and trends in relation to community correctional programs.
- To foster and promote the appropriate development of community corrections programs in the Region.
- To promote community understanding of community corrections issues and appropriate involvement in community corrections programs.
- As appropriate, to initiate meetings, seminars and discussion documents for this purpose.

APPENDIX 2 - CHARACTERISTICS OF OFFENDERS

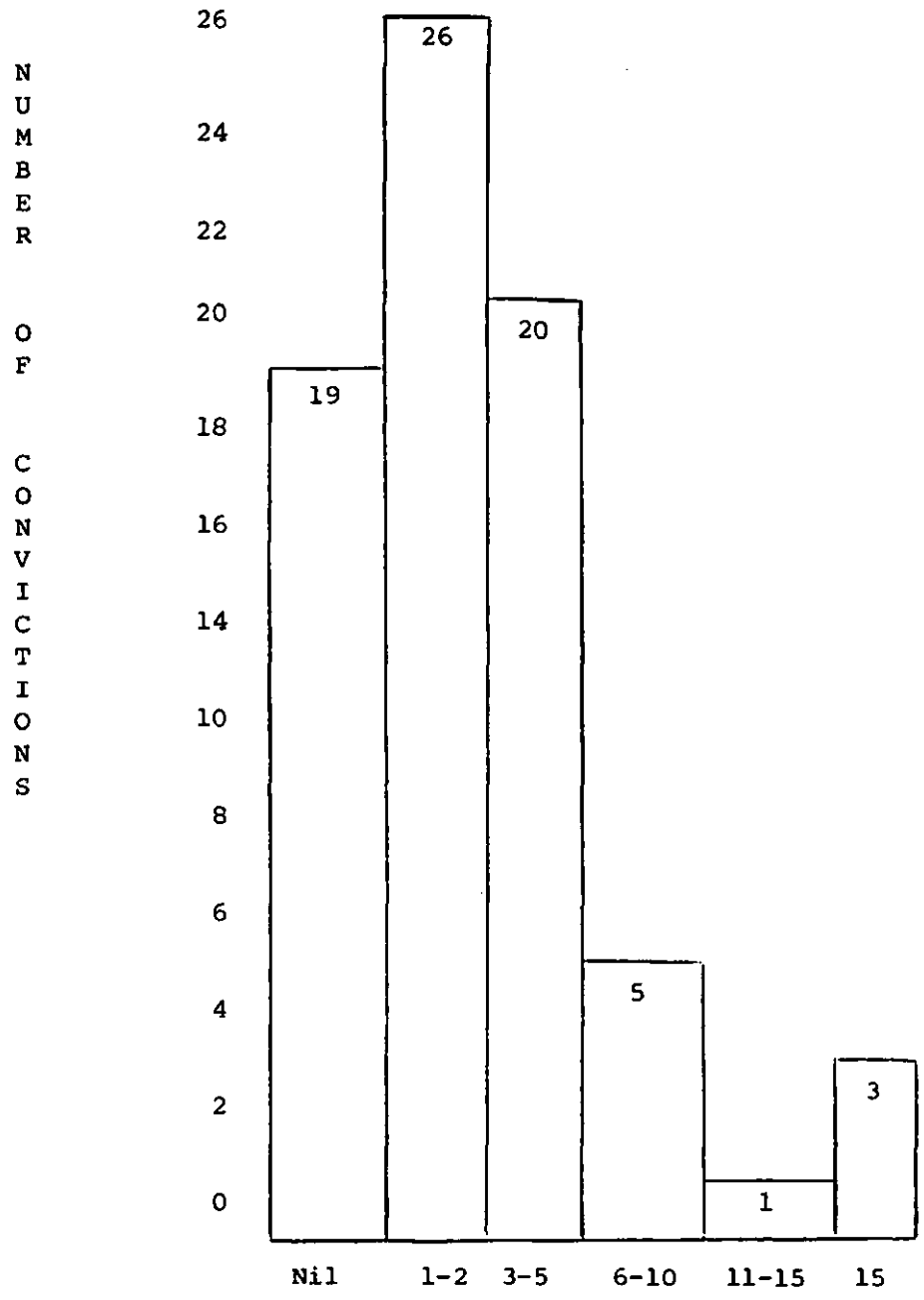
1. Age Distribution



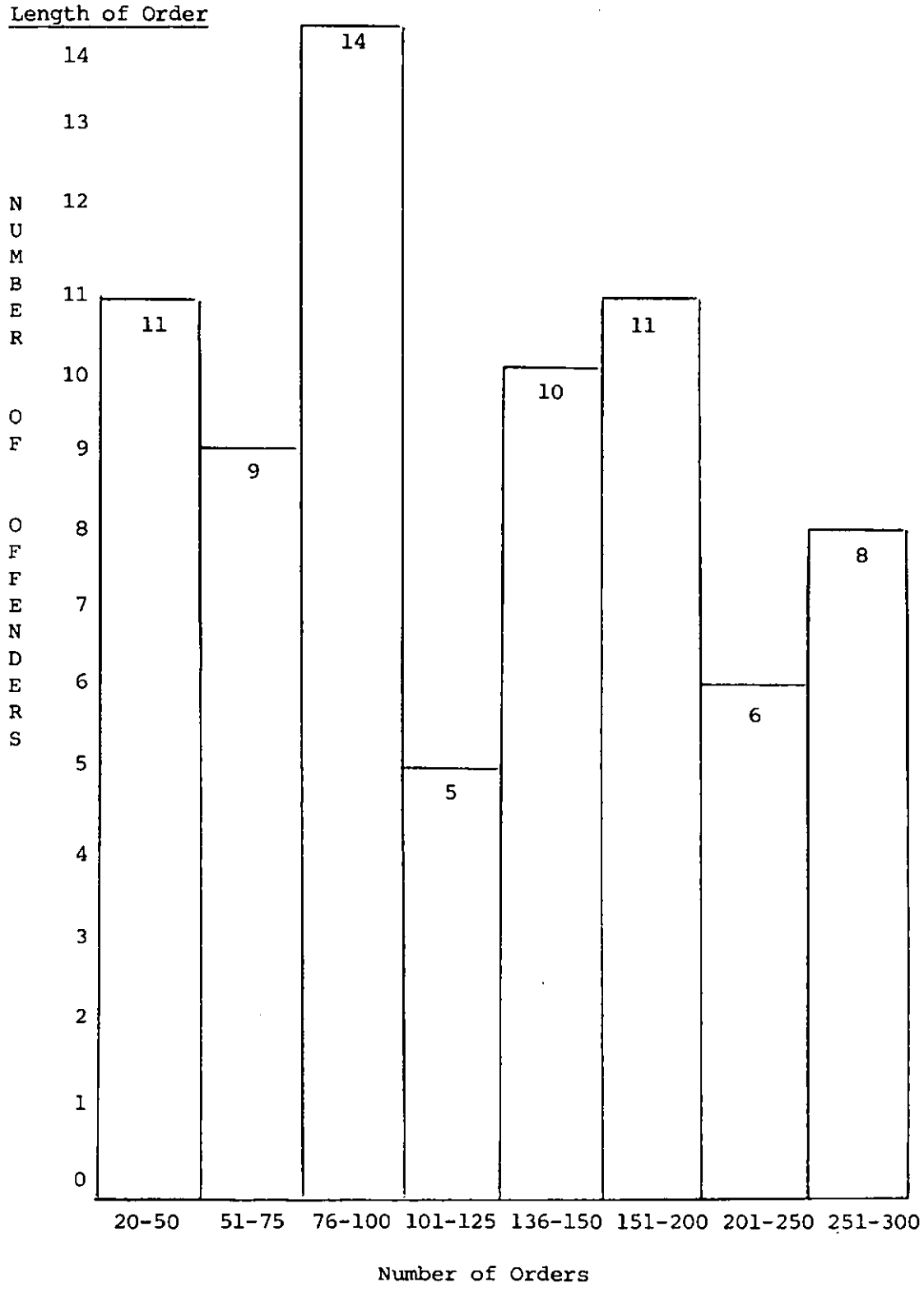
2. Employment status



3. Number of Prior Convictions



CHARACTERISTICS OF ORDERS MADE



APPENDIX 3

OFFENCES FOR WHICH CSOs MADE

OFFENCES	NUMBER OF ORDERS
Burglary	6
Theft	10
Theft (motor vehicle)	4
Attempted Theft	1
Assault	7
Offensive Behaviour	1
Possess Heroin	1
Possess Stolen Drugs	1
Possess Indian Hemp	1
Preparation of Cannabis	1
Possess Stolen Goods	4
Criminal Damage	3
Wilful Damage	2
Fraud	1
Obtain Property by Deception	1
Exceed .05	7
Unlicensed Driving	3
Drive whilst Disqualified	7
Minor Traffic	2
Breach of Bond	1
Cause Damage by Fire	1
Permit Dog to Attack	1
Fine Default	8
	74

NB: In cases where more than one offence was involved, the main offence only, based on the ABS classification of offences has been used.

COMMUNITY SERVICE ORDERS

IN SOUTH AUSTRALIA

P. Visser

The South Australian Community Service Order Scheme is managed by the Probation and Parole Branch of the Department of Correctional Services.

It commenced on 1 July 1982 from two metropolitan district offices and is due to be expanded to one further metropolitan and three country offices as from February 1984. By 1985, the scheme should be operating from all of the department's seven metropolitan and five country offices.

As at 30 October 1983, some 197 offenders have been given a community service order. An average of 15 offenders commence serving their order a month, giving a combined caseload of 87 offenders. During this period, 132 community service assessment reports were provided. A total of 10,629 hours of service has been given by offenders.

Resources currently allocated to the scheme are a community service co-ordinator, two community service officers, one full time and two part-time clerical officers and five part-time supervisors. Approval has been given for the appointment of additional staff to effect the planned expansion.

FEATURES OF THE LEGISLATION

The Community Service Bond

Prior to making a community service order, the court must request a report from a probation and parole officer to indicate whether the offender is suitable and whether a place is available on the scheme.

Community service is given as a condition of a good behaviour bond. The maximum length of such a bond is 12 months and the number of hours given cannot be less than 40, nor more than 240. Such a bond cannot include a condition of supervision by a probation officer as well, but does require the offender to report to the place stated on the bond within two working days.

. Community Service Order Requirements

The offender must perform community service work for eight hours each Saturday or on such other day and the work must be performed without remuneration. In addition, he must attend two hours of educational activities per week. Community service must not interfere with employment, vocational education or religious beliefs.

. Action in Cases of Misconduct or Breach of the Bond

Where the offender has failed to obey the reasonable directions of the community service officer in relation to his conduct or behaviour, the department has the power to award up to 24 hours of community service as penalty.

Where the breach involves a fresh offence, it must be reported to the court. An offender can be suspended from the scheme, if he fails to undertake his community service obligation, until such time as the court has determined the breach.

. Insurance

The Act requires the Crown to provide death and accident insurance for offenders and volunteer supervisors. Currently, this is effected through insurance policies taken out with the State Government Insurance Commission.

. Community Service Committees

The Act provides for the establishment of a Community Service Advisory Committee to operate at State level and for a Community Service Committee to be established for each community service centre.

The Community Service Advisory Committee has five members. Of these, one is nominated by the United Trades and Labor Council, one by the Department of Correctional Services and three are sought from community organisations. Currently, they represent the South Australian Chamber of Commerce, the South Australian Council of Social Services and the Offender Aid and Rehabilitation Service of South Australia Inc. The role of the committee is to formulate guidelines for the approval of community service projects and to promote independent advice to the Minister on the operations of the scheme.

Each community service committee has a membership of five which includes a magistrate, a person nominated by the United Trades and Labor Council, a representative from the Department of Correctional Services and two community representatives. The functions of such a committee are to approve community service projects, to keep those projects under regular review and to monitor the performance of offenders preferring community service work.

. Community Service Project Criteria

A project must be:

. for the benefit of a non-profit-making organisation

. for the aid of a person disadvantaged by age, illness, incapacity, poverty or other adversity

. a project for a government department or instrumentality or local government authority.

No project may be approved if it replaces a paid workman or if it includes work for which funds are available.

. Directions to the Offender

The Act sets out a list of directions which the community service officer may give to an offender to enable the administration of the community service order to be properly effected.

FINE DEFAULT OPTION SCHEME

Introduction

The fine is considered to be the most cost effective and appropriate penalty for the majority of offenders being sentenced in South Australian courts. It can, in most cases, be tailored to the seriousness of the offence and to the means of the offender. A drawback of its extensive use in South Australia is that a number of offenders are unable or unwilling to pay such fines and are then jailed for default of payment.

Although the incidence of defaulters subsequently jailed comprises only 2 to 3 per cent of all persons fined in South Australian courts, this figure translates into some 3000 admissions to police prisons or correctional facilities annually.

Dealing with such defaulters by offering them the option of performing community service in lieu of imprisonment for default is a positive and cost-effective way of reducing prison numbers and enabling satisfaction of the court order in a pragmatic and beneficial way.

Objectives of a Fine Default Option Scheme

1. To provide a reasonable alternative to imprisonment by providing an option whereby defaulters can discharge their responsibility to the court in a non-monetary way through community service.

2. To reduce the cost of the administration of justice by reducing the cost to the police, the courts and, ultimately, to the department.

3. To promote community participation in the scheme.

4. To compensate the community for fines not paid and thereby ensure that the intentions of the court are carried out.

Size of the Problem

Of the approximate 80,000 fines imposed in South Australian courts annually, 14,000 warrants are issued for default. Some 11,000 of these are paid up when the warrant is served. The remainder (3000) are satisfied by imprisonment. Of these, 2,500 or 85 per cent are likely to be for 4 days imprisonment or less.*

PHILOSOPHICAL FRAMEWORK

1. The fine default option scheme should be restricted only to those offenders unable or unwilling to pay their fines and applied whether or not the court has allowed time to pay.

2. The option should come into operation only after sentencing and after default. It should not be given instead of a fine.

3. The means whereby the offender should be enabled to pay his fine is Community Service. For corrections purposes this is defined as work or services performed by an offender for the benefit of the community and given in lieu of imprisonment. Such work or service is usually performed in the offender's free time over a fixed period of hours. The offender who participates voluntarily (albeit under court order) receives no payment for services rendered. Charitable organisations, public agencies and needy individuals are the usual beneficiaries of the work or service performed. Community service as a criminal justice tool has a number of worthwhile features:

   - It is a socially productive sanction in that it maintains the offender in his home community while requiring him to perform some useful service to the community.

   - It is reparative in nature in that the offender is brought into closer contact with the community and responsibility is placed on him to make amends for wrong doing by completing an assignment of compensatory activity.

* These are estimates only. More accurate figures should be available in December 1983, when the South Australian Bureau of Crime Statistics has completed its survey on remand and default prisoners.

- It facilitates the participation of the community in the criminal justice system. The public will see that action is taken against offenders and that it will receive some benefit from the services of offenders. This will have the effect of increasing public knowledge of and support for the criminal justice system.

- It provides a less expensive alternative to imprisonment with a more productive return to the individual and the community.

4. Participation in the scheme should be voluntary with the onus of responsibility for complying with the terms of the order resting with the offender.

5. The defaulter is to work off any default at a fixed amount for every imprisonment day in default. An upper limit of hours required to be served should also be set.

6. The scheme should pay particular attention to the problems of Aboriginal defaulters, who are over represented in the prisons for non payment of fines, particularly in country prisons and in police lockups.

7. No assessment of offender suitability or availability for appropriate placement in the scheme should be required prior to placement as the scheme should be designed to have the capacity for absorbing all those exercising the option.

8. Wherever possible, service placements should be credible, not degrading to the defaulter and useful to the community. It is accepted that large numbers of short term attendances (ie. 4 days or less) are likely to significantly limit the application of this principle.

9. Projects should avoid a chain gang image.

10. Defaulters should be covered for sickness or accident insurance.

11. The scheme should not interfere with the competitive labour market.

Models of Defaulter Referral

Four models can currently be identified relevant to the South Australian situation as points of entry into the scheme for persons who are given the opportunity to exercise the option.

1. By the fine default option being given by the court to the offender at the time of sentencing with the proviso that the option can be exercised by the offender only after default.

2. By the fine default option being offered to the offender after default has occurred and after the offender has been returned to the court for assessment of his capacity or willingness to pay.

3. By remission of the outstanding balance of the fine through application to the Attorney-General after default has occurred.

4. By the option being offered to the offender after having been imprisoned for default.

Any combination of these options is possible. For a listing of their implications see Appendix 1.

Impact of a Fine Default Option Scheme

Prior to introducing a fine default option scheme, its impact on the departments concerned with the administration of fine defaulters will need to be considered in terms of the additional resources required to effect the scheme, savings made and procedures to be implemented. Depending on the model of referral adopted, three or four departments can be identified as being significantly affected:

1. The Courts Department which currently identifies the defaulting offender and which initiates action to recover the outstanding money or to ensure that the debt is satisfied in some other way (that is by issuing a warrant for arrest on default).

2. The police who serve the warrant and who recover the money or arrest the offender to serve out the time in lieu in a police prison or a correctional service institution.

3. The Attorney-General's Department who would receive and process applications for remission of fines on default.

4. The Department of Correctional Services, which is responsible for carrying out the directions of the court.

Legislative Framework

Legislation covering orders for the payment of fines and other moneys from the offender are covered by sections 79 (a) and 83 of the Justices Act 1921-1972.

This legislation authorises the imposition of fines for offences committed against all State or Commonwealth Acts and outlines action to be taken on default in payment.

The Act will need amending to enable a fine default option scheme to be implemented for defaults against Commonwealth offences (social security, customs), State offences (street offences) and local government offences (parking fines) and to address issues such as the maximum amount of fines which can be worked off under this option; and whether multiple fines can be served concurrently or must be served cumulatively.

Amendments will also need to be made to the Offenders Probation Act to cover areas such as the minimum and maximum period over which a default can be worked off; and powers of the court and of the department in relation to absenteeism or lack of performance by defaulters.

Proposed Service Delivery

There are a number of differences between a community service order scheme and a fine default option scheme.

Community Service Order Scheme	Fine Default Option Scheme
1. Referral is by presentation of probation order, which includes a community service condition, to a community service centre.	1. Referral is by presentation or notice of fine default to a community service centre.
2. Available only to suitable offenders and on appropriate placement being available.	2. Available to all defaulters who wish to exercise this option.
3. Average length of involvement in the scheme is 120 hours per offender, therefore slower turnover.	3. Average length of involvement likely to be 40 hours per offender, thereby faster turnover.
4. Type of offender likely to be more self motivated and skilled and more readily placed in small group projects or individual placements.	4. Type of offender likely to be less motivated and skilled and less readily placed in small group projects or individual placements.
5. Scheme is most suitable for small groups and individual placement of offenders with high level of placement with small voluntary agencies and needy individuals.	5. Scheme is more suitable for large-scale on-going projects with defaulters supervised by departmental staff direct and with less opportunity for outside agency involvement.
6. Expectation of offender to engage in some kind of educational activity as part of his community service.	6. Scheme is not suitable as vehicle to impose treatment or education (such as for alcohol problems) on a defaulter.
7. Breach of the order to be dealt with either administratively (by imposition of additional penalty hours) or by the courts.	7. Breach to be dealt with by issue of warrant for imprisonment to serve out remainder of default.

Community Service Order Scheme	Fine Default Option Scheme
8. Staffing to consist of community service officers and sessional and voluntary supervisors.	8. Staffing more likely to consist of community service officers, correctional officers (on secondment as full time supervisors) and sessional supervisors.
Minimum standards relating to attendance, industry and performance laid down and enforced.	Standards to be as for the community service order scheme.
All community service projects to be approved by the relevant community service committee.	All fine default option scheme projects to be approved by the relevant community service committee.
No set relationship or tariff between the severity of the offence and the number of hours imposed.	Set tariff to equal one day's imprisonment for default. This can either be the current rate of $25 per day or an amount based on the national average wage (currently $7 per hour).

In spite of the above differences between the two programs, the community service order scheme, as managed in South Australia by the Department of Correctional Services, is the most suitable agent to implement a fine default option because it has, or is currently developing:

- A highly decentralised operation through its network of district offices statewide, each of which includes, or will include, a community service centre.
- Suitable facilities, policies and procedures to ensure efficient service delivery.
- Experienced staff to effect rapid placement and the required supervision and discipline.
- The necessary links with community organisations which can provide tasks for defaulters to perform.
- Monitoring and accountability mechanisms regarding the suitability of projects and the performance of defaulters on such a scheme.

Bringing the two schemes under the one administration would allow for a unified delivery system for all correctional community service activities, regardless of the particular program area from which they originate. This would ensure consistent administrative policies and the most economical use of staff and community resources.

A disadvantage is that the department is already carrying a heavy work load in terms of traditional community correctional programs such as pre-sentence and parole reports and supervision of offenders on probation and parole. With the implementation of the community service order scheme, administrative responsibility for a fine default option program would place additional demands on already stretched staff and financial resources. Some additional resources will therefore be required to ensure that all offenders exercising the option can be placed and that a high level of supervision and accountability is maintained.

The community service order scheme utilises a bureaucratic model of service delivery with strong emphasis on service placements being provided by community agencies, but without those agencies being burdened by the administration of the scheme. This model ensures a high level of control in the selection of work projects, in matching and supervising offenders and in taking breach action for non-compliance with the order. It also allows for maximum utilisation of the resources offered by community agencies.

It is proposed that the fine default option scheme be run on similar lines by being closely associated with, but separated from, the community service order scheme. (See Appendix 2 for diagram of proposed structure.)

Regardless of the referral and service delivery model ultimately adopted, some interdepartmental co-ordination between the affected departments will be necessary. This is important, particularly in the planning and development stage of the scheme, and is based on the assumption that the courts would be responsible for making this option known to the offender at the sentencing stage while the Department of Correctional Services would be responsible for ensuring that defaulters are placed on suitable tasks. Some mechanism will therefore be required to establish joint guidelines and resolve administrative problems as they arise during or after implementation.

Operational Framework

The program should be structured to reflect the principles of decentralisation and of community participation.

A full time fine default option supervisor should be appointed to each community service centre to assist the community service officer with:

- Developing suitable community service projects for defaulters to perform.

- Receiving and registering defaulters into the program.
- Placing defaulters in a suitable work placement.
- Ensuring adequate supervision of the defaulter.
- Completing and submitting the required documentation to the court on each defaulter.

This supervisor could either be a suitable correctional officer on a fixed term posting or a suitable person recruited from the community.

On-site supervision is to be provided by:

- Agency supervisors wherever possible.
- Sessional departmental supervisors where appropriate.

Mechanisms will have to be developed to notify the court when defaulters report for community service work and when they have completed their obligations.

CONCLUSIONS

A fine default option scheme has real potential for reducing the prison population and the work loads of the police and of the courts. Careful consideration should be given to which model of referral is ultimately adopted. The option is likely to result in more people being brought into the correctional net, but will prevent the damaging consequences of short term imprisonment. The Saskatchewan model, as outlined in Appendix 1, appears a useful starting point for consideration as it offers substantial savings to the criminal justice system, even after allowing for the additional resources required to implement this scheme.

Caution is needed with its introduction and it would be wise not to implement it in a community service centre until the community service order scheme has been working there for at least 6 months. A pilot program covering the first two community service centres where the scheme is now operating would enable the department to determine, over a period of time, the extent of the demand for the scheme and the impact on institutional numbers and to gain administrative experience in handling large numbers of defaulters.

Resources required to set up and maintain the scheme will depend on the model of referral chosen. Some of these may be obtained by a reallocation of manpower within the department (for example, from institutional to field services), but additional resources (for example staff and vehicles), may need to be obtained by submission to the Government. The savings made by the courts and the police should, in the long run, be more than adequate to offset such additional expenditure.

RECOMMENDATIONS

1. Community service and fine default option should be viewed as separate and distinct, through related correctional concepts. Although they have a common purpose (that is reparation) and a major structural similarity, program development in the two areas should, at least in the initial stages, proceed independently.

2. The Department of Correctional Services, as manager of the community service order scheme, should also be required to implement the fine default option scheme.

3. The method of referral to the scheme should be along the lines of the Saskatchewan model. (See Appendix 1)

4. The option should be made available to a wide range of offences and offenders.

5. The fine default option scheme should be closely integrated with the community service order scheme and utilise, as far as possible, the same resources and administrative structure. Appropriate provisions for monitoring and evaluation should be made.

6. An effective mechanism for consultation should be created with the Courts Department and the police in the planning stages and with the community organisations through the community service advisory committees.

REFERENCES

1. Corrections Branch, Department of Social Services Saskatchewan. Report of the Task Committee on Community Service Alternatives. Regina, Canada 1977.

2. Margarey Heath. The Fine Option Program: An Alternative to Prison for Fine Defaulters. Federal Probation, September 1979.

3. Department of Correctional Services, South Australia. Community Service Order Scheme, Policy and Practices Manual Adelaide 1982.

APPENDIX 1

MODELS OF DEFAULTER REFERRAL

Model 1: Saskatchewan Model

1. At the time of being sentenced to a fine, the offender is given a written NOTICE OF FINE by the Court which states in simple language:

   - Details of the charge
   - The amount fined
   - Instructions for payment (eg. time allowed to pay)
   - The default date
   - Days in lieu of default
   - Brief description of the Fine Default Option Scheme.

2. On failing to pay the fine by the due date, the offender can prevent further court action (that is, the issue of a warrant for imprisonment) by exercising the default option within a week of the default date. This is done by presenting the NOTICE OF FINE to the community service centre nearest to his home. The offender is registered for service at the centre and the court is notified accordingly. On completing the required hours, the court is notified that the judgement is satisfied.

3. Failing to report to a community service centre within the required date results in the issue of a warrant for the person's arrest and subsequent imprisonment.

Effects

(a) On the court

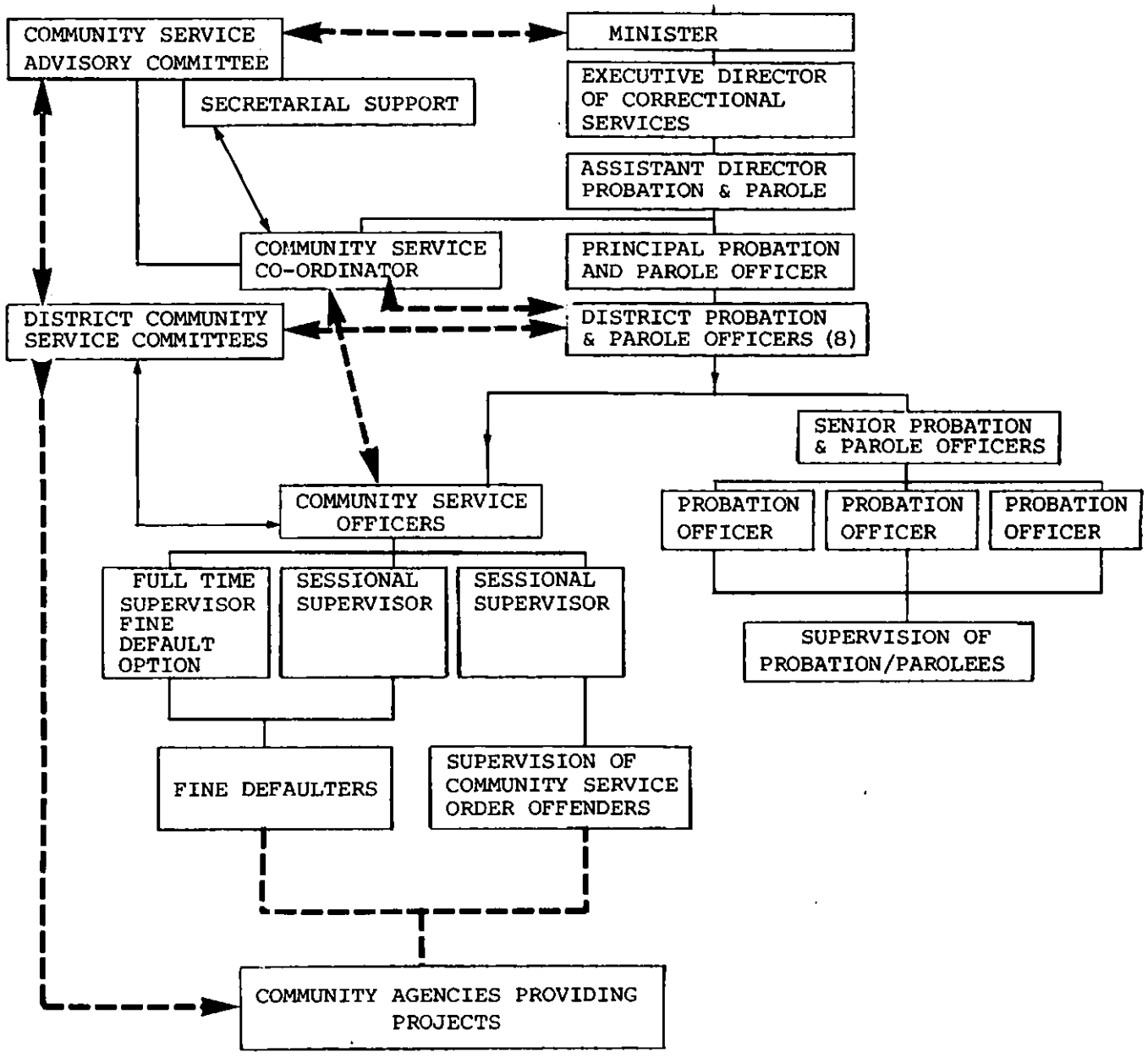
   - Significant decrease in number of warrants which need to be issued.

   - Some loss in revenue as some offenders may choose the fine default option who normally would have paid the fine when served with the warrant.*

* Experience with the Fine Default Option Scheme for juveniles operated by the Department for Community Welfare has shown, however, that the option resulted in a dramatic increase in mandates (warrants) being satisfied by payment rather than by community service - an unexpected effect.

APPENDIX 2

DIAGRAM OF THE FINE DEFAULT OPTION SCHEME



(b) On the police

- Significant decrease in the number of warrants to be served.
- Significantly fewer money collection transactions on behalf of the court.
- Likely to yield the lowest number of offenders held in prison cells.

(c) On correctional services

- Some additional resources required to implement the scheme.
- Is likely to yield the largest number of fine defaulters.
- Is likely to yield the lowest number of offenders imprisoned for fine default.

Model 2:

1. On default, a warrant is issued by the court and served by the police.
2. If the offender is unable to satisfy the warrant by payment in full, the offender is arrested and brought before the court.
3. The offender is assessed by the court regarding his capacity or willingness to pay. The court can then exercise the option of requiring the offender to be jailed or to be referred to the fine default option scheme.
4. This procedure may result in the offender being held in custody overnight prior to appearing in court.

Effects

(a) On the courts

- Number of warrants issued likely to remain at current level. (Approximately 14,000 per year.)
- Significant increase in court resources required to assess all offenders brought before it for default.
- No change likely in the amount of default monies recovered.

(b) On the police

- Number of warrants served by the police likely to remain at current level.
- Number of financial transactions between the police and the courts for fines collected on serving of warrant likely to remain at current level.
- Number of defaulters admitted to police prisons likely to remain at current level.

(c) On correctional services

- Some additional resources required to implement the scheme.
- Number of defaulters admitted to prison likely to remain significant due to overnight remands prior to court appearances or subsequent imprisonment by the court for default.

Model 3: New South Wales Model

1. On default a warrant is issued by the court and served by the police.

2. If the offender is unable to satisfy the warrant by payment in full, he is given the opportunity to apply for remission of fine on the ground of inability to pay. Such an application is investigated by the police and a report sent to the Attorney-General's Department.

3. A recommendation is then sent to the Attorney-General to either

- Remit the fine.
- Convert the outstanding balance into the fine default option.
- Have the offender imprisoned for default.

Effects

(a) On the courts

- Number of warrants issued likely to remain at the current level.
- No change likely in the amount of default monies recovered.

(b) On the police

- Number of warrants served likely to remain at current level.
- Additional resources required to investigate inability to pay and prepare reports.

(c) On Attorney-General's Department

- Additional resources required to assess reports, prepare recommendations for the Attorney-General and notify offenders of outcome.

(d) On correctional services

- Some additional resources required to implement the scheme.
- Effects on imprisonment rate for default difficult to estimate.

Model 4: The Miroma (NSW) Model

1. On default, a warrant is issued by the court and served by the police.

2. If the offender failts to satisfy the warrant, he is admitted to prison to serve out his time. After being admitted and on having a minimum of four days to serve and having no other outstanding warrants he can apply to be transferred to a community service project to serve out the balance.

Effects

(a) On the courts

- Number of warrants issued likely to remain at current level.
- No change likely in the amount of default monies received.

(b) On the police

- Number of warrants served likely to remain at current level.
- Number of offenders admitted to and held in police lockups likely to remain at current level.

(c) On Department of Correctional Services

- Some additional resources required to implement the scheme.
- Number of offenders admitted to DCS facilities likely to remain at current level.
- Least number of offenders likely to be eligible for or referred to fine default option scheme.

APPENDIX 3

RESOURCES REQUIRED FOR EACH COMMUNITY SERVICE CENTRE

1. Full-time supervisor:

   The position can be filled either by transferring a Correctional Officer for a fixed period (2-3 years) or by outside recruitment.

2. Additional sessional supervisors depending on:

   - The number of large scale projects developed requiring Departmental supervision.
   - The number of projects where responsibility for supervision can be left to agency supervisors.

3. Clerical/Administrative support.

4. Additional vehicles for each community service centre to transport offender to the project site. These can either be purchased by the Department or hired as required.

APPENDIX 4

MAGISTRATE'S COURT FINE RECOVERY PROCESS

1. When a fine becomes default, a warrant is issued by the court and the client on whose behalf the fine is collected (eg. Local Council, Taxation Department, Department of Social Security, State Treasury), is notified.

2. Warrant not released by the court until the client has given clearance to recover fine.

3. On release, warrant sent to Police Warrant Bureau to be processed.

4. A photocopy of the warrant sent out to the relevant police station and served on the offender.

5. If warrant satisfied by payment on service, money remitted by the police to the court.

6. If warrant not paid, offender arrested and taken to jail.

7. Body receipt sent by the jail to the court as proof that offender admitted and attached to offender's account, together with debt note.

8. On the defaulter serving the required time or on payment of the outstanding balance being received, his account is cancelled.

COMMUNITY SERVICE ORDERS IN WESTERN AUSTRALIA

V.J. Jones

LEGISLATION AND PHILOSOPHY

The community service order scheme is administered by the Probation and Parole Service, a sub-department of the Crown Law Department. The legislation in Western Australia (Offenders Probation and Parole Act, 1963-1977, as amended) was closely modelled on the British law : Powers of Criminal Courts Act 1973. In common with the British Act, the Offenders Probation and Parole Act specifies a minimum of 40 hours and a maximum of 240 hours of approved unpaid community work to be performed within 12 months. Several requirements have to be satisfied before the court can impose a community service order:

1. the offender is aged 17 years or above;

2. he or she is convicted of an offence for which a sentence of imprisonment could be given;

3. the offender consents;

4. the offender's home is in an area where arrangements exist for offenders to work under community service orders;

5. the court has considered a report by a probation officer.

In the context of traditional sentences, community service orders have been sent as one type of restitution. Community service is commonly received as an alternative to imprisonment either directly or indirectly (in lieu of fine default). In practice it would seem that courts have also used community service orders as an additional penalty in conjunction with probation, financial restitution and good behaviour bonds.

In Western Australia a community service order can be imposed in its own right, or in addition to a probation order and/or a disqualification (for example, of a motor driver's licence). The community service order can be financial restitution which can also be a special condition of a community service order.

Good behaviour bonds for Commonwealth offences may also have a community service order as a special condition.

Community service orders enable offenders to live with their families in the community whilst depriving them of some of their leisure time for a constructive purpose. The philosophical aims of community service are reparation to the community, economic expediency, and positive attitudinal change on the part of the offenders.

CURRENT SITUATION

Since the community service order scheme became operational in Western Australia in February 1977, some 2200 adult community service orders have been made. For the first few years of the scheme the growth rate of new orders was in the order of 10 per cent per annum. In the 1982/83 year the increase of new orders was a massive 96 per cent. During 1981/82 a total of 323 community service orders were made in Western Australia. The total for 1982/83 was 632. So far this financial year, 1983/84, the average monthly figure of new orders has been about 90. Thus it can be anticipated that around 1,000 community service orders will be made during the whole year.

Two main factors can be isolated as contributing to this recent dramatic growth. First, the natural consolidation of the scheme after an initial acceptance period. There is now a widespread confidence in the scheme amongst probation officers and the judiciary, and this has resulted in a greater use of community service orders for a wide range of offences. Second, the Road Traffic Act was amended in February 1983, and it is now possible for persons convicted of certain drink-driving offences to be placed on community service orders. Since this amendment approximately 37 per cent of all new community service orders have emanated from drink-driving convictions.

Some interesting facts are revealed in an analysis of the community service orders made in the 1982/83 financial year.

Several of them are as follows:

(a) the average number of hours per order was 109;

(b) metropolitan courts granted 65 per cent of orders (country courts 35 per cent);

(c) males accounted for 90 per cent of orders;

(d) ten per cent of orders were made in respect of Aboriginal offenders;

(e) fifty per cent of orders were made in conjunction with probation orders.

BENEFITS

With a breach rate in the vicinity of 11 per cent the results of the community service order scheme in Western Australia have been encouraging to date. The scheme could probably be justified in terms of cost-effectiveness alone because it costs considerably under one dollar per person per day to administer (this does not include the value of work done for the community which in 1982/83 totalled 43,911 hours). This compares favourably with imprisonment costs which are somewhere in the region of $70 per person per day. However, it is in the field of more general human benefits that many advantages are seen. The Probation and Parole Service has deliberately pursued a policy of individual rather than group placements to allow for maximum attitudinal change. Quite marked changes in attitude have been reported in a number of cases as offenders do work for others perhaps less fortunate than themselves.

A couple of examples may help to illustrate some of the advances that have been made by offenders participating in the community service order scheme.

(a) One offender completed his hours doing painting and gardening work for a quadraplegic person. He worked enthusiastically at all times, and although he completed the stipulated hours over a year ago he often returns to do odd jobs for the man and his wife. At Christmas time he organised and financed a party for the couple and their friends. Not only has the offender's outlook on life shown great improvement, but the experience has been of great benefit in assisting the quadraplegic come out of a serious depression.

(b) An English migrant was unemployed for the six months he had been in this country. He was a family man and had become depressed with his situation and committed a minor crime. He was placed on a community service order and allocated to an elderly persons' support scheme. After a slow start (doing work for age pensioners), he completed his hours in a very diligent manner. The social worker in charge of the support scheme relayed views of his performance back to the local council who offered him a full-time paid position as a gardener. Not only did his financial position improve but his depression lifted and there was a substantial improvement in his marital situation.

Along with the success stories there are, of course, many frustrations in motivating some offenders to complete their hours in a satisfactory manner. In this regard the scheme relies heavily on the goodwill of the project volunteers.

Apart from the individual positive benefits that are seen, it is probable that some less subtle wider community benefits are emerging. Community involvement with offenders has meant that some organisations have been able to keep functioning with the added labour involved. Also, the community service order scheme is playing a vital part in

assisting to break down some of the myths that abound about offenders, for example, 'they are all bad and will never be any good'. As offenders work alongside community-minded volunteers a realisation grows that the offender is a human being with something to offer and not just a "no-hoper".

ROAD TRAFFIC ACT

As mentioned previously the Road Traffic Act was amended earlier this year, and as a result persons convicted of a range of drink-driving offences can now be made subject to a community service order. This has resulted in a change of direction for the Probation and Parole Service because many of these offenders do not have criminal backgrounds and have middle-class attitudes and values. It has meant that projects have had to be sought in areas where there was previously no demand. In many cases the nature of the projects have also been different to cater for different categories of professional people. Other types of offenders placed on community service orders for drink-driving offences include elderly people (oldest 79 years), migrants, and the first paraplegic placed on a community service order in the State.

Under the legislation it is possible for up to one quarter of the hours to be accredited for attendance at an approved education program. One such program is the Probation and Parole Service's Alcohol Education Program. The program consists of five two-hourly sessions and participants on community service orders are given 10 hours credit for successful completion of the course. Many offenders placed on community service orders for drink-driving offences have a special condition that they attend the alcohol education program. So far 55 offenders have had hours accredited for attendance at the program.

ADMINISTRATION

Recent administrative changes have meant that community service order cases are now allocated to individual probation officers. The Supervisor - Support Services (formerly C.S.O. Co-ordinator) has overall responsibility for the functioning of the scheme on a Statewide basis.

Part-time area liaison officers are attached to each team of probation officers. Currently there are 21 area liaison officers who are employed on a part-time basis usually up to 15 hours per week. It is their role to be the link person between the projects and the Probation Service. Their duties include placing offenders at projects, maintaining accurate records of attendance, introducing offenders to volunteers at the projects, identifying new projects, and consulting with probation officers on individual cases. No particular qualifications are necessary and care is taken to ensure they avoid the counselling role.

Offenders are assigned to a volunteer at each project. The volunteer allocates tasks and ensures that work done by offenders is of a satisfactory standard.

PROJECTS

At the time of writing some 333 projects (125 metropolitan, 208 country) had been approved by the Advisory Committee as suitable for use in the community service order scheme. The Advisory Committee consists of five persons, one of whom is nominated by the Trades and Labour Council. The criteria used in approving projects include:

(i) The work should be done for worthy individuals or non-profit and charitable organisations.

(ii) The work should usually not be performed by an employee or impinge on work covered by a union or industrial award.

(iii) Adequate supervision of an offender should be available.

(iv) The work to be done by the offender should be of value to:

  (a) the general community;

  (b) the offender;

  (c) the person or organisation for whom the work is done;

(v) The availability of alternative work projects will also be considered.

The committee takes particular care when assessing projects linked with local government authorities, hospitals and schools.

Examples of organisations regularly participating in the scheme are:

Community Youth Support Schemes

Surf Lifesaving Clubs

Police and Citizens Youth Clubs

Senior Citizens Centres

Meals on Wheels

Salvation Army

Voluntary Fire Brigades

Apex, Lions, Rotary Service Clubs

Spastic Welfare Associations

Slow Learning Children's Group

Volunteer Task Force

Recreation Centres

Alcohol Rehabilitation Centres

Cyrenian House.

Offenders working on approved projects are covered by workers compensation. To date only a handful of claims for minor injuries have been processed.

THE COUNTRY EXPERIENCE

Western Australia is a very large State and geographical considerations play an important role in the administration of any scheme on a State-wide basis. Since 1979 there have been probation officers stationed in each region of the State and the community service order scheme is now operating in all major areas of population.

The level of activity in each of the six regions - Kimberly, Pilbara, Goldfields, Geraldton, Albany, Bunbury - has tended to reflect the degree of enthusiasm of the local magistrate. Consequently the operations of the scheme have varied from region to region quite markedly.

Vast distances and remoteness from stipendiary staff have created problems, especially in the north of the State. This has been overcome to some extent by the use of temporary, paid area-liaison officers for individual cases in some remote areas.

Aboriginal persons on community service orders have created a challenge for staff in some areas. In Perth and the southern regions many Aboriginals have been catered for by existing projects. In the northern areas, however, the Aboriginals are more tribally oriented and a more flexible approach has been required. In some communities it has been arranged for Aboriginals to complete their normal tasks without pay for the stipulated period of the community service order. More work obviously needs to be done in the northern areas before the scheme can be more fully embraced by Aboriginals. Part of the problem has been some of the attitudes towards Aboriginals in isolated towns, usually calling for extreme punitive measures which fall outside the philosophy of the scheme.

FUTURE DEVELOPMENTS

After nearly seven years of operation the community service order scheme is now well established in Western Australia. As with any new penal measure it has taken time to overcome resistance from probation and parole staff, judges, magistrates and the legal profession alike. Public relations about the scheme is an ongoing task and will need to continue in the future if the scheme is to reach its full potential in the sentencing repertoire of the courts.

If the current upward trend of new community service orders continues, probation officers are going to be under increased pressure (in times of stringent government financial control) to maintain the community service experience as a meaningful one for the offender and community alike.

The State Government is currently considering a community work option scheme for fine defaulters. This proposal differs from the current community service order scheme and it would be preferable for it to remain a separate entity if it comes into effect at some stage in the future. It would appear that such a scheme is aimed at reparation only and that work would be done in groups.

In conclusion it can be said that the further consolidation and expansion of the community service order scheme in Western Australia appears inevitable. Also, given the diverse nature of the State, is it important that a fair degree of flexibility be retained and developed if the scheme is to be embraced to its fullest extent by all groups in this vast State.

COMMUNITY SERVICE ORDERS IN TASMANIA

B. Barnes

Legislation to introduce work orders was presented to the Tasmanian Parliament in October 1971 following the completion of a feasibility study which sought the views of a wide range of individuals and organisations within Tasmania. Municipal authorities, various community, church and school groups, service clubs, as well as representatives of labour organisations, the legal profession, the judiciary and magistracy, and the police were canvassed to gauge their response to the possible introduction of a work order scheme.

The scheme proposed that offenders who would normally be facing a short period of imprisonment could be retained in the community and ordered to perform unpaid manual work with simple hand tools. They would be supervised while doing that work by volunteer citizens and/or stipendiary probation and parole officers. The response to this study was such that although there was some hesitancy in some quarters, it was felt that ready co-operation would be forthcoming from the greater part of the Tasmanian community.

The Bill of October 1971 made amendments to the Probation of Offenders Act 1934 and introduced a completely new section to deal with work orders.

The Act was proclaimed in 1972 and the work order scheme was introduced for a trial period of two years. Originally the Act specified Saturdays as the day on which work orders would be applied. This was repealed in 1972 (Amendment No.66 of 1973) and the work 'days' was substituted. Saturday still remains, however, the predominant day for work orders.

The Act provides for the establishment of a work order committee which decides upon the form of work or activity to be undertaken. One member of the committee must be a nominee of the Tasmanian Trades and Labour Council, and the committee cannot function without that nominee being present. The co-operation of the Council has been evident since the inception of the scheme and has contributed in no small measure to its success. Strong support has also been forthcoming from individual trade unions.

The basis of the scheme is punitive in as much as the discipline to which an offender is required to submit involves restriction of his

leisure time, regulates his activities during the days worked, and involves an element of punishment by requiring offenders to carry out useful community-orientated tasks without pay.

As the scheme is designed to work within a community setting, the State Probation and Parole Service, being the main government agency engaged in the non-custodial treatment of offenders, is entrusted with the administration of it.

Offenders against whom a work order has been made are insured for injury by the Tasmanian Government Insurance Office, and for this purpose they are deemed to be employees of the Crown while subject to such an order. Hence, those persons are referred to as 'employees' within the meaning of the Act.

A work order may be given to anyone who has attained the age of 16 years, including females, and is usually given following either a written or oral report from the Probation and Parole Service as to the availability of project sites and sometimes the suitability of the offender to such a penalty.

Following the imposition of a work order offenders are interviewed and a decision is made as to what type of project would be suitable for that person, taking into consideration his past history, type of offence, physical and mental characteristics, and his potentiality for disruptive behaviour or utilisation of any skills he may have.

In the early days of the scheme most projects arranged were group projects, whereby several employees were required to work at private charitable institutions, including homes for the aged, children's homes, and work of a more general civic nature such as clearing of walking tracks, improvements to picnic areas, construction of adventure playgrounds, removal of fire hazards, etc. Later, more emphasis was placed on employees being assigned to individual pensioners and other needy persons in the community. At present, roughly equal assistance is given to both group projects and individual assistance projects.

Broadly speaking, projects as outlined are self-generating. Publicity and media interest coupled with a public relations program brought the work order scheme to the notice of citizens, enquiries followed, and further work evolved. Interest in the scheme developed and the process was repeated. The scheme is now firmly entrenched and a continual flow of requests for employees is received.

Gradually the administration of the scheme necessitated the employment of clerical staff, whose function was to manage the scheme within certain regional areas. Currently four such persons are employed on a permanent basis. They are supported by paid sessional supervisors who mainly operate on Saturdays, when most employees are active. These supervisors maintain a running check on work order employees and equipment. In addition to paid supervisors there exist in most areas volunteer citizens who supervise group projects.

In October 1981 an amendment to the legislation dealing with work orders was proclaimed, whereby it ceased to be the case that such orders could be imposed solely as an alternative to imprisonment. As such the potential was realised for work orders to be imposed as a sentencing option in their own right. It is the opinion of the writer that the magistracy and judiciary were gradually moving closer to this use of such orders in their sentencing of offenders, and that the above-mentioned change in legislation proved to be a fulfilment of that developing tendency.

Unfortunately it proved impracticable for statistical purposes to accurately identify between those offenders sentenced to a work order as an alternative to a term of imprisonment and those sentenced pursuant to the amended legislation. However as the table below illustrates, there was a significant and persistent increase in the number of offenders sentenced since October 1981.

New intake of work order employees assigned for the quarter ended:

	1980	1981	1982	1983
March	30	21	50	52
June	36	40	74	56
September	23	23	51	51
December	19	39	43	
	108	123	218	

The work order legislation provides for penalties to be imposed if an employee fails to exhibit acceptable attendance and behaviour standards while he is subject to a work order. In Tasmania it is a generally accepted principle that an employee should reasonably be expected to complete his order at the minimum rate of one day per week, except where he has a reasonable excuse for being absent from any of his days.

If an employee is deemed to be absent without permission the matter may be brought to the attention of a Senior Probation and Parole Officer, who may direct that the employee be returned to court for prosecution, for the hearing of a breach or review of that order. Where an employee is convicted of a breach of work order regulations the court before which he appears has the jurisdiction to penalise him by either imposing a further work order of not more than 25 days, imposing a fine of up to $100, or to impose a term of imprisonment not exceeding 3 months.

Warrants of apprehension may be issued by the courts if it is apparent that any employee has absconded but more generally the matter of a complaint is adjourned sine die. At the end of September 1983, 127 persons had been listed as current absconders, representing 2.3 per cent of the total number of persons who have had the penalty of a

work order imposed. Most of these employees are thought to have left the State.

The introduction of the work order scheme in Tasmania was to a large extent prompted by economic considerations. During 1971 it became apparent that with the State's main prison at Risdon Vale reaching capacity a new prison was required. Plans were made to erect a second prison near Launceston. The estimated cost of constructing the new prison complex at the time was 2.5 million dollars. It became obvious that, if a non-custodial alternative could be introduced such as the work order scheme, substantial economic savings could be achieved. Following the introduction of the work order scheme the government of the day decided not to proceed with the construction of the second prison.

Since that time some debate has ensued as to whether the introduction of the work order scheme actually had the result of producing an observable change in the prison population. Varne (1976), in an article published in the Australian and New Zealand Journal of Criminology, argues that no noticeable change in the number of persons entering prison could be observed following the implementation of the work order scheme, and that the scheme had just become another new form of sentence in the range of customary penalties available for minor offenders. Rook (1978) replied to Varne in an article published in the same Journal and held that, contrary to her findings, the facts indicate that the introduction of the work order scheme did have a considerable impact in decreasing the number of prisoners received in Tasmania and that the majority of those sentenced to work orders would have otherwise gone to prison. It is interesting to note that Rook also believed that work orders were at that time not used exclusively as an alternative to prison.

Whether or not this has been the case it is plain that in many instances the imposition of a work order has had a beneficial result for both the community and some offenders. Apart from the huge increase in constructive activities performed in the community many offenders have benefited from the retention of the family unit, the maintenance of employment, the lessened dependence of some families on the social security system, the minimal damage to self-esteem that can be caused by imprisonment, and the reduced chance of exposure to undesirable criminal elements. In some cases employees have managed to increase their self-esteem through recognising their worth and contribution to those persons they have aided.

Where it is considered that a rehabilitation program is needed for the employee which will extend beyond the period of the work order the sentencing authority may impose a term of supervised probation, not exceeding 3 years, in addition to that order. Currently 77 per cent of work orders imposed in Tasmania are coupled with probation.

In the past several people, including lawyers, have suggested that some form of remission system should be incorporated into the legislation dealing with work orders. At present there is no provision for discharge on the grounds of good conduct. There have been several

cases over the years where offenders have been sentenced to multiple work orders. Although no more than 25 days can be ordered for any one offence an offender who faces the courts on a number of offences can find himself with a large number of work orders to perform.

An employee can become demoralised with his situation if he can see no end in sight for his order, thereby potentially affecting the quality of his work input and often his attendance motivation. For those employees who are subject to long orders the introduction of a remission system based on good behaviour may produce an incentive to work more steadily towards the completion of a lengthy order in the hope that some form of remission may be granted. It must be emphasised that such a system of remissions would probably only apply to a minority of employees, and in exceptional circumstances. The average length of orders given in Tasmania is 12.7 days, with the vast majority of these being completed in a satisfactory manner as the present system stands.

Another issue that has arisen over the past few years concerns the possible substitution of hours for days in the sentencing and administration of work orders within Tasmania. Already most jurisdictions have such a system, and it is not improbable that such a change could be implemented in Tasmania as there are potential problems evident with the use of days as a measure as distinct from hours. The use of hours instead of days when calculating the time worked on an order would allow some flexibility to be incorporated into the scheme and create a greater equality of time worked by employees by being able to gauge more accurately the actual time worked by all employees.

Perhaps one other change that could be made to bring the scheme in line with other jurisdictions in the Commonwealth could be to change the name from that of work orders to perhaps the more appropriate community service orders.

One of the major benefits of the work order scheme over the years has been derived from the fact that it is an inexpensive program to operate compared with the costs of custodial treatment of offenders. Although the present financial climate restricts the extent to which innovative changes can be developed in this field efforts are constantly being made to develop sheltered wet weather work sites.

In summary the Tasmanian work order program has been operating successfully for some 11 years. During this period it has proved to be an extremely viable sentencing option for the courts and has had the dual benefit of keeping many offenders from being imprisoned and providing a means of achieving substantial aid to various groups and individuals who are in need of help within the community.

Sentencing authorities in Tasmania highly rate the scheme and, with 92.8 persons per 100,000 of population receiving work orders as at the 1 July 1983, this is by far the highest rate in all the Australian States. To the end of September 1983, 5442 persons have been sentenced to a work order and 595,737 hours of work have been completed within the community. At that date 383 persons were subject to work

orders of whom 256 were available for work, 127 were classified as absconders (this figure having accrued over a period of 11 years) and a weekly average of 180 employees on site.

The work order program has to be looked at in an evolutionary light, and it follows that, although many useful changes have occurred over the past 11 years, new and innovative changes should always be sought to achieve further improvements to this very important and successful scheme.

COMMUNITY SERVICE ORDERS IN QUEENSLAND

K.R. Turnbull

The Offenders Probation and Parole Act 1980 provides for the making of community service orders in Queensland. It was proclaimed on 1 November 1980. After several months of frantic preparation, courts were advised that appropriate arrangements had been made in six centres for the scheme's implementation.

It had a humble beginning with the making of a forty-hour order in the Toowoomba Magistrates Court on 27 February 1981. During the first year, 584 offenders were ordered to perform community service and the second year saw a further 1123 persons dealt with in this manner. This represents an annual increase of slightly less than 100 per cent.

Approximately 2700 offenders have been placed on community service since its commencement. When all have completed their orders, some 300,000 man hours of community service will have been performed.

The rapid growth of the scheme has resulted from its increasing acceptance by sentencers, enthusiastic community support and wider availability. Approximately 80 part-time supervisors are employed to oversee the work of offenders in 53 centres. In addition, informal arrangements have been made in several small centres where this sentencing option is used sporadically.

Special attention has been paid to Aboriginal offenders who are proportionally over-represented in Queensland's prison population. With the co-operation of the Department of Aboriginal and Islanders' Advancement, provision has been made for community service in remote communities such as Palm Island, Yarrabah, Mornington Island, Kowanyama, Weipa, Lockhart River, Bamaga and Thursday Island.

When the community service scheme was introduced, it was stressed to sentencers that one of its main objectives was to provide a further sentencing option which was especially appropriate for dealing with offenders who might otherwise have been imprisoned for a short period.

Quite clearly, however, courts have been generally inclined to use the community service order as a sentencing option in its own right. Often it has been used instead of a fine or to add further dimension to the making of a probation order.

Despite this, there are encouraging signs that community service is playing a role in at least stablising the prison population. The upward trend in both average daily holdings and prison admissions showed a small reversal in 1981-82 and 1982-83.

The majority of offenders ordered to perform community service have been convicted of property or driving offences. Property offences account for approximately 45 per cent of all orders and driving offences 32 per cent.

The most common offences include stealing (19 per cent), driving under the influence (19 per cent), break, enter and steal (12 per cent), drugs (12 per cent), wilful and unlawful destruction (6 per cent), disqualified driving (6 per cent), unlawful use of a motor vehicle (15 per cent), unlicensed driving (5 per cent), and assault (5 per cent).

The vast majority of community service orders are made by the lower courts - approximately 92 per cent by the Magistrate's Court, 7 per cent by the District and one per cent by the Supreme Court.

Community service is performed for a range of charitable, non-profitable, church, youth or service organisations and individuals in need. Projects are reviewed by a Community Service Advisory Committee before approval. These committees consist of three members - an officer of the Probation and Parole Service, a trade union representative and a community representative.

Organisations involved in the scheme include aged persons' homes, historical societies, service clubs, the Endeavour Foundation, scouts, girl guides, police citizen youth clubs, animal refuges, kindergartens, schools, the Salvation Army, Multiple Sclerosis Society, sporting associations, aged, invalid and widowed persons. Most individuals benefitting under the scheme are referred by agencies such as Meals on Wheels and the Community Health Organisation.

The impending introduction of a fine option program is causing concern that some communities may not be able to absorb the anticipated growth in the scheme. With this in mind, the Probation and Parole Service has established its own projects in some centres. These projects will provide placements for a number of offenders, under the direction of an official supervisor. One such project in Toowoomba involves the development of some 150 hectares of Crown land into a recreational area providing picnic facilities and bush walks.

Offenders have generally responded in a positive manner to orders made against them. Of the completed orders, about 90 per cent have been successfully terminated. There have been numerous heartwarming stories indicating that offenders benefit from their experience on the scheme. Reports have been received of those who have continued to work when the order is completed, maintained social contacts with the project or even found employment due to their efforts. In the present economic climate, officers find community service a useful tool in dealing with offenders who have experienced long-term unemployment. These offenders are often assigned to mid-week projects. As a result the work habit has been re-established in many cases.

The apparent success of the scheme in Queensland can be largely attributed to the efforts of part-time supervisors employed by the Probation and Parole Service. Some 80 supervisors are employed throughout the State. Due to heavy workload demands experienced by statutory officers in the Service, greater responsibility for the program has been thrust on to the supervisors. Many are retired or semi-retired, coming from a wide range of work backgrounds. Their experience in the work place, coupled with enthusiasm and dedication, has been a tremendous asset to the scheme.

It is recognised that the community too must accept some responsibility for the scheme's operation. Wherever possible, the host agency is required to provide a responsible person to nominate tasks and monitor progress during the period of the work appointed.

Probation Officers, of course, also have an involvement in the scheme's operation. Their many responsibilities have tended to be at the intake and breakdown points. High caseload pressures have often prevented any closer involvement with the scheme on their part.

Part-time supervisors are remunerated at the rate of $8.69 per hour, varied from time to time in accordance with increases in public service salaries. A minimum payment of two hours per day is made. Additionally, supervisors are paid an allowance for the use of private motor vehicles at normal public service rates. These vary according to the size of the vehicle and locality, but are around 23¢ per kilometre for a four cylinder vehicle and 29¢ per kilometre for six and eight cylinder vehicles.

The success of supervisors in handling the program has prompted our Service to employ a number of full-time non-professional staff, who should commence duty in early 1984. These staff will specialise in administering the community service program, which, it is considered, demands a different range of skills from probation and parole.

While offenders are performing or travelling in order to perform community service, they are deemed to be employees of the Crown. In the event of injury they are entitled to claim compensation under the Workers Compensation Act.

This provision has been a matter of some concern in Queensland. Ten offenders have made claims against the Service for compensation. In at least one case, it appears that the system may have been abused and on other occasions attempts have been made by offenders to take advantage of this provision.

Claims for compensation are administered on our behalf by the Workers Compensation Board. It is departmental policy not to insure offenders against injury and as a result, costs are met from our annual budget.

The rate of compensation paid to offenders is equal to the estimate published by the Commonwealth Statistician of the average male weekly earnings of the most recent June quarter. I understand that this is around $340 per week.

It is recognised that this provision contains certain anomalies. This is the only payment made irrespective of whether the person is earning more or less or even for that matter receiving social security benefits. It is proposed to look closely at this section of the Act when amendments are being considered. In particular, consideration will be given to closing loopholes which invite abuse or seriously disadvantage offenders.

Provisions of the Offenders Probation and Parole Act 1980 are similar to those of most other States. However, amended legislation was passed by the Parliament in March of this year. The Amendment Act contains a number of provisions which may be of interest to other States.

With regard to the making of community service orders, two significant changes have been made. First, courts will no longer be required to consider a report from a probation officer before placing an offender on a community service order. This provision met with some resistance by sentencers who often ignored the requirement completely or made orders contrary to advice given by a probation officer. It also created problems in outlying centres visited periodically by a probation officer and where the magistrate, as a member of the local community, was often in a better position to assess the offender's suitability for community service.

A second significant change is that a community service order will no longer be considered a conviction except in relation to:

(a) the making of the order;

(b) the taking of subsequent proceedings in accordance with the Act; and

(c) any proceeding against the offender for a subsequent offence.

The amended legislation contains a new part providing for the making of fine option orders. Essentially, this is designed for offenders who are fined and subsequently imprisoned through default of payment. This is considered an unduly severe penalty, imposed at high cost to the community.

The Annual Report of the Comptroller-General of Prisons 1982/83 indicates that of the 3,989 admissions to prison during that period, 1,369 or 34 per cent were admissions of offenders who had failed to pay a fine. At any particular time, fine defaulters comprised 8 per cent of the total prison population.

Fine option orders will be available to persons who are fined and ordered that, in default of payment of the fine, a period of imprisonment must be served. The defendant must apply to the court during their court appearance for a fine option order. Before making an order, the court must be satisfied that:

(a) the defendant cannot afford to pay the fine or his/her family would suffer economic hardship by so doing;

(b) the defendant is a suitable person to perform community service; and

(c) a suitable project is available in the area where the defendant resides.

Under regulations to the Act, currently being drafted, a schedule will be established providing for the conversion of the fine to a period of community service. The proposed schedule is as follows:

Amount of Fine	Maximum Hours	Amount of Fine	Maximum Hours
$		$	
to 50	12	550	132
100	24	600	144
150	36	650	156
200	48	700	168
250	60	750	180
300	72	800	192
350	84	850	204
400	96	900	216
450	108	950	228
500	120	1000+	240

If his/her financial circumstances change, the defendant may choose to pay any outstanding amount of the fine during the course of the fine option order. The hours of community service completed will be taken into consideration. For example, if one-half of the hours are completed, the original fine will be reduced by one-half.

The amended legislation is yet to be proclaimed. It is expected that this will occur by early 1984. Courts will then be able to make fine option orders in all centres where appropriate arrangements for community service have been made. Our Service is making a determined effort to have this option available to offenders throughout the State. However, the vastness of the State coupled with heavy workloads of staff, are making this a difficult objective to achieve.

A three month study was undertaken, commencing in January 1983, into the impact of the community service order scheme in Queensland. This was undertaken by Dr Sally Leivesley, an independent research worker, under a grant provided by the Australian Institute of Criminology. The key indicators which formed the basis of her evaluation included the cost effectiveness of the program, growth of the scheme and

responses from community organisations, offenders, the judiciary and officers of the Probation and Parole Service.

Community response clearly indicated that the scheme has been successful and has contributed significantly to the work undertaken by a wide range of charitable or non-profitable organisations. Host agencies expressed a keen enthusiasm for the scheme and a commitment to assisting offenders to successfully complete their orders.

Dr Leivesley's report compared costs of the community service order scheme and the Prisons' Department in the financial year 1981-82. It was found that the daily cost of supervising a community service worker was $1.52 while the daily cost of maintaining a prisoner was $49.13.

Views sought from judges and magistrates on the development of community service in Queensland indicated that community service had made a significant contribution to the range of sentencing options. It was perceived as a method of reparation to the community, rehabilitation for the offender and economic expediency.

The community service order scheme has brought the Probation and Parole Service into closer contact with the community. This has provided added pressure of direct accountability for service delivery. The scheme also provides an opportunity for community organisations to move into the field of community corrections. As a result, the community is now taking a greater responsibility for services which were previously the sole responsibility of the Government.

Whichever yardstick one cares to use, the scheme has enjoyed outstanding success in Queensland. The large number of orders made, the relatively low failure rate, tens of thousands of hours of work for the community, personal benefit to offenders and enthusiastic community support for the scheme are evidence of this success. The scheme has shown that a wide range of offenders can be assimilated into the community without damage or danger to it.

COMMUNITY SERVICE ORDERS

IN NORTHERN TERRITORY

The community service order program was launched in the Northern Territory, in November 1979. Although regarded as a successful program it has not been without its share of teething problems. While diverse statistics can be submitted reflecting age groups, ethnic origin, sex of offenders and similar information, in this paper statistics will be kept to a minimum with emphasis on an overview of the scheme in relation to the Norther Territory situation.

Statistically the following figures will serve to indicate the measure of usage of the community service order sentencing option in the Northern Territory during the past four years of operation:

Period	1/11/79 30/6/80	1/7/80 30/3/81	1/7/81 30/6/82	1/7/82 30/6/83	1/7/83 30/10/83	Totals
Orders made	18	33	37	112	51	251
Hours completed	1471	2607	3164	8563	4560	20365
Failed Orders	3	7	13	10	5	38

Additionally these figures will serve to highlight earlier problems and reflect the results of changes to policy in the administration of the program. As can be seen there has been a significant increase in the number of orders made and hours completed, and a substantial drop in the percentage of failed orders when the 1981/82 results are compared with the 1982/83 results. A number of factors influenced this. It was found that some magistrates were not completely confident that community service orders were a realistic alternative to imprisonment. A community service order, at that time was somewhat rigidly regarded only as an alternative to imprisonment.

The number of failed orders did little to inspire confidence in the

scheme, and the available means of dealing with an offender who defaulted on an order were cumbersome and resulted in lengthy delays between the initiation of breach action and the offender being dealt with by the courts.

In early 1982 the Chief Magistrate of the Northern Territory was consulted and new guidelines were developed for the administration of the scheme. A more flexible approach was devised.

Nothing in the Northern Territory legislation prevents a court from imposing a community service order in circumstances other than as an alternative to imprisonment, therefore permitting community service orders to become a sentencing option in their own right. Community service orders have been used in a broad range of circumstances, including more seriour driving offences such as 'Exceed .08' and 'Drive Disqualified'. Although either of these offences might attract a term of imprisonment, not all cases where a community service order has been imposed would have resulted in imprisonment as an alternative.

Furthermore some magistrates began to assess, in court, the offender's capacity to pay a substantial fine. Under Northern Territory legislation a community service order cannot be imposed in default of payment of a fine, however nothing in the Act prevents the court from the approach of assessing the offenders ability to cope with a heavy pecuniary penalty and then using a community service order as an alternative to the imposition of such a penalty. For example the maximum penalty a motorist might face for driving a vehicle without having compulsory (third party) insurance contribution in force is $10,000. While this is a non-criminal offence, a court may decide to impose a community service order instead of a high monetary penalty.

In the day to day operation of the scheme new guidelines were set. An information sheet was prepared for all offenders, setting out the general conditions or 'rules' in simplified terms. All offenders are advised that any absence on other than medical grounds is considered an unauthorised absence, and that it the reason given for failure to attend is illness or injury then a medical certificate supporting the claim must be produced. The only exception to this is if an offender obtains prior approval, on reasonable grounds, to be absent. Such approval, as a general rule is limited to no more than two days during the currency of an order. Should an offender require 'leave' extending over a lengthy period he is required to make application to the court for a 'Review of the Order'.

All offenders are advised that in circumstances of unauthorised absences, they will receive a verbal warning on the first occasion, a written warning on the second occasion and any subsequent unauthorised absence will result in Correctional Services Division making application to the court to have the order revoked and an alternative penalty imposed.

This was initially viewed by some as giving the offender 'licence' to take two days off from the program before court action would commence. However apart from introducing some degree of flexibility in the operation of the scheme, it served to establish to the courts, that the Correctional Services Division endeavours to have the offender complete the order, rather than seeking immediate redress for failure to comply on the first (and often subsequent) occasion of failure to attend. Furthermore a consistent policy was established in dealing with offenders on an equal basis.

Most offenders, being aware of this policy, ensure that their 'licence' to have a day off is reserved for a Grand Final day or that special barramundi fishing trip. Most importantly offenders are aware of the consistent approach, understand the consequences, and attendance rates improved appreciably while the rate of failed orders dropped off.

Mention was made earlier of the cumbersome procedures and inordinate delays in dealing with breaches. With the co-operation of the Chief Magistrate new procedures were developed, within the framework of the legislation, to provide for a chamber summons to be issued to deal with breaches, or a chamber warrant to deal with absconding offenders. These procedures enable the procurement of a summons or warrant within a day of any relevant breach and therefore result in quick court action against an offender. This in turn often serves as an early warning system to others on the program and helps prevent the possibility of any tardy attender causing a corrosive effect on others. It should be remembered that because of the small population of most Territory centres almost all of the CSO subjects are known to each other.

It is not always easy to assess the actual impact of the community service order program. Courts generally do not specify what alternative sentence would have been imposed had a community service order not been made and it is therefore impracticable to relate, in a statistical manner, the increase in usage of this scheme to a decrease in prison population over a corresponding period. It is significant however that the Minister responsible for Correction Services in the Northern Territory recently commented favourably on the scheme.

An item which appeared in the N.T. News on 4 October 1983 stated in part:

> The (N.T.) Government has deferred plans for a new prison farm in Central Australia because of a marked decrease in the average number of prisoners held in the Territory.
> Authorities say a major contributor to the easing of pressure on Territory prison accommodation has been the Community Service Order program ...
>
> The Government had planned to establish a medium-security prison farm in Central Australia to initially accommodate 40 prisoners.
> The Government expected to pay out a minimum of $1.5 million to set up the new prison farm.

The program now appears to have the confidence of the courts and is being expanded throughout the Territory.

Already in operation in all major centres and some remote localities including several Aboriginal communities, it is anticipated that community service orders will be operational in the remaining outlying regions and Aboriginal communities in the near future.

Some problems became apparent in introducing the scheme in Aboriginal communities and these reflect the difficulty in attempting to rapidly expand its operation to encompass all areas of the Territory. One major problem originally encountered was in providing adequate supervision of offenders on orders in Aboriginal communities. An Aboriginal, by tradition, cannot give directions to certain members of his tribe where specific kinship exists. For example, an Aboriginal supervisor in areas where tradition remains strong would be unable to direct an offender who is his Uncle to perform tasks. (In the small community situation it is not unusual to find such a relationship exists between offender and supervisor.) It therefore becomes necessary to enlist tribal elders, often as a body, to ensure that a member of their community completes his obligations under an order in a satisfactory manner.

Introduction of the scheme to Groote Eylandt has been delayed because of unique circumstances which exist there. The point has often been argued (and never really resolved) as to whether young Aboriginals on the island actually commit offences for the express purpose of going to prison. While some believe this is the case, even suggesting imprisonment is replacing traditional initiation, others argue the high incidence of offences in this region are the result of other influences such as mining operations, the introduction of liquor and other factors.

The fact remains however that a Groote Eylandt youth, who is sentenced to a term of imprisonment, is flown to Darwin to serve that term. All too frequently his fellow inmates are his brothers or close relatives or friends. He is, generally, entitled to special benefits payable by the Department of Social Security upon release and is entitled to a repatriation air-fare to his island home.

Experience shows that while no conclusive evidence exists that offences are committed with the sole intention of obtaining a (return) air trip to Darwin, as an opportunity to spend time with relatives and friends, and to obtain some payment upon release and get to see the city, even less evidence exists to suggest any of the foregoing (incarceration included) can be deemed to be a deterrent.

The problem foreseen in effectively establishing community service orders in such a situation was that it is conceivable an offender under an order might well simply refuse to carry out the terms of that order if he believed such a refusal could result in imprisonment.

The only answer to this situation seems to be to gain the co-operation of the courts in dealing with breaches of an order in this setting. While it cannot be looked upon as a suitable long term arrangement,

it is anticipated that if magistrates were to deal with breaches of a community service order by imposing a relatively short term of imprisonment, to be served in the police lock-up on Groote Eylandt, this could have the desired effect of inducing an offender to complete the order. This in turn may result in a downturn in the number of offences which presently attract a term of imprisonment. It is generally considered that an Aboriginal offender would prefer an extended sojourn in the Darwin prison to a short stay in the police lock-up.

A much broader outline of the complexities of the situation on Groote Eylandt is to be found in the recent report - *Groote Eylandt Prisoners - A Research Report* by David Biles of the Australian Institute of Criminology, October 1983.

Although there will be obvious problems in introducing community service orders in the Groote Eylandt setting, planning is well in hand and it can be anticipated this option will soon be available to magistrates presiding at the circuit courts on the island.

Im summary, the community service order scheme is seen as a successful cost-effective program, which has been beneficial to community groups, and in some cases, to the offender, and will continue to be promoted and expanded by the Northern Territory Correctional Services Division.

COMMUNITY SERVICE ORDERS

IN THE AUSTRALIAN CAPITAL TERRITORY

N. Hillman

BACKGROUND

The history of the ACT Community Service Order may be considered either as long and complex as ten years of planning and revision could possibly make it, or short in that we have yet to place anyone on an order.

Briefly, the proposal was given ministerial approval in 1974. Since then, several legislative drafts have been prepared and revised. However, the scheme has yet to get underway having always been caught between the legislation undergoing further revision and the department being unable to administer the scheme due to staffing restrictions and government cut-backs. This in turn seems to have had the effect of keeping the revision of drafts low on the Attorney-General's list of priorities.

THE PROPOSAL

The ACT proposes to give the courts the option of sentencing an offender to up to a maximum of 208 hours community work to be worked normally at the rate of one day per week.

The scheme was originally aimed at being an alternative to imprisonment although the ACT in fact has so few offenders in NSW prisons that it has been claimed that only a few would be suitable for the scheme. However, this does not mean that the scheme is not seen as a viable alternative for the ACT courts, increasing the range of options and providing a more appropriate penalty in many cases. Although it may not have an immediate radical effect on the ACT prison population it would be expected to present some long term gains in this area.

LEGISLATION

The scheme is to be put into effect by two Ordinances. The Supervision of Offenders (Community Service Orders) Ordinance deals with such matters as the Relevant Officers and Supervisors under the Ordinance, the work to be performed, time in which the work is to be performed, termination, compensation, and certificates of compliance. The Crimes (Amendment) Ordinance provides for the scheme as a sentencing

alternative dealing with such things as the circumstances in which it may be made, the fine option, obligations and consequences of failure, variation etc.

STAFFING

It is proposed that the scheme should be administered by a Clerk Class 7 as the co-ordinator, (whose duties are to be incorporated into my position as Projects Officer at the present time); two Clerk Class 5s as area supervisors whose duties would include the supervision of offenders; and provision has also been made for up to 16 part-time casual on site supervisors.

The co-ordinating role for the scheme is envisaged as incorporating such duties as:

- liaison with the Trades and Labour Council
- liaison with community groups (to establish the scheme and seek out and maintain a pool of available work)
- supervise the preparation of reports
- matching offenders to available tasks
- report on breaches or matters requiring variations
- supervision of the work of the Section including the maintenance of relevant statistics
- internal administration including public relations, legislative responsibilities and future development.

It is proposed that two teams will operate with one on the north side of the city and one on the south. These will be headed up by the Class 5 area supervisors. The duties of these two clerks would involve:

- the oversight of service orders including appropriate initial supervision of those involved
- 'trouble shooting' in more difficult cases
- familiarity with work projects, skills and materials required
- maintenance of records as required
- relieve the Class 7 and fill in for each other where necessary.

The north/south split between the positions would be an advantage in developing a good working knowledge of the work sites, the community groups involved and the casual supervisors. It should also minimise the travel on weekends when work is to be supervised. The Class 5 position is roughly equivalent to existing Welfare Officer positions and is seen as having some parity through liaison with clients in a 'probation' role.

It is hoped that casual supervisors can be drawn from such ranks as retired people who have had relevant experience in supervising staff. Their duties would be to:

- attend the work site to ensure that the offender was in attendance, the task was being done in a satisfactory manner and others involved were at ease in the situation;
- report routine information to the area supervisor;
- alert the area supervisor to problems requiring attention.

A supervisor, other than those who may benefit from the work performed, is seen as necessary to conform with the I.L.O. convention No.29 on forced labour.

Casual Supervisors' duties would normally be performed on a Saturday and could involve up to 8 hours work including some reporting and consultation responsibilities during normal working hours. An hourly rate plus a mileage allowance would be paid under an appropriate determination.

CURRENT PROBLEMS

At present it would seem (as it no doubt has in the past) that it may all be coming together.

- The proposal has been put forward as a new Departmental initiative for 1984/85.
- Positions have been requested in the forward staff estimates for its administration.
- Costs have been estimated at $66,000 for the first year with an estimated 20-60 offenders working under the scheme at any one time.
- Legislation-wise, the C.S.O. Ordinance is finalised and we are awaiting final revision of the amendment to the Crimes Ordinance. This legislation is considered to be complementary and will be put before the House of Assembly at the same time.

In the main, our current problems are in the realm of dealing with the unknown. During the time to date recurring theoretical problems have been associated with:

- the types of work that might be undertaken;
- the form of compensation that should apply;
- medical examination to ensure fitness;

- penalties for non-compliance;
- problems associated with combined orders;
- client selection, etc.

More immediately competition with the Community Employment Program for work (perhaps even the Queanbeyan CSO) and high unemployment could pose problems. Conflict or co-operation with the established probation service may require adjustments. Finally indications of staff required above those directly involved in the scheme remains unknown. Many of these things will not be resolved until the scheme is finally in operation. However, in this respect I am sure that through participation in this group we should be able to benefit from your experiences, and when the ACT scheme eventually comes about it might be a scheme of a quality to justify the time in the making.