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WOMEN IN THE PRISON
SYSTEM

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Please let me know...if there is a possibility of women in prisons being made an important issue. I know very well we are listed somewhere at the bottom of a long and boring list, if not in the bin already...

...it is about due time for women to obtain the same standard of equal rights.

Letter from female prisoner
in an Australian institution.



INTRODUCTION

Suzanne E. Hatty

The Incarcerated Female: Patrolling the Boundaries

Physical imprisonment undoubtedly exists as an evocative metaphor of women's normative social experience, which is characterised by multidimensional constraint. The architecture of female psychic and physical containment is remarkably similar: mechanisms invoked to buttress these structures are derived from a foundation in mutuality.

The complementarity of these systems of determination and control is addressed in this introductory section; an examination of physical incarceration divorced from its theoretical and societal context will, ultimately, distort the understanding of the issues at hand.¹ This section will attempt to weave several of the conceptual and applied elements receiving attention at the seminar into a coherent configuration which will perhaps unite some of the apparently disconnected and disparate themes of the discussion.²

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Repression, Denial and Fear: Woman is Re-Invented

An acknowledgement of the relationship between the maintenance of the structural hegemony by those vested with social authority and the imposition of systems of restraint upon those devoid of power is central to the comprehension of the significance of deviance, and indirectly, criminality. The development of modes of regulatory control by the ascendant group is derived, initially, from the apprehended fragments of psychological discourse which are transformed, through the processes of individual and collective elaboration, into a composite and yet conventional cultural fantasy. Thus, it is possible to ascertain the twin images of woman, constructions of a patriarchal consciousness founded upon the premise of mastery and dominion, an attitudinal response born of dread and denial. There exists, within this hierarchy, an image contrived for

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1. Professor Rosemary Sarri, Dr Susan Kippax, Ms Wendy Bacon commented upon the necessity of recognizing the contribution of feminist theory to the debate upon female imprisonment. Dr. Clarice Feinman remarked upon the importance of an appreciation of women's social position.
 2. The polarisation of academic and applied approaches at the seminar was noted by Dr Susan Kippax.

the satisfaction of social and economic needs, an artificial and highly embellished interpretation. This image relates to the privatised, ascetic, idealised, maternal wife-figure. This artifact, in her abstraction, inhabits the domestic sphere and manifests behaviour deemed appropriate to her sex.³ This first image is essentially a defence against the other, primeval, chimeric vision. The second, competing image refers, then, to the spectre of the lascivious and recalcitrant figure whose insurgency results in a failure to observe the strictures of accepted behavioural codes.⁴ This alternate image is based upon a potent fiction: that woman is possessed of a voracious sexual appetite, which, if not successfully managed through prescribed mechanisms, can lead to social anarchy and interpersonal chaos. Indeed, this image of the female as sexual devourer is fundamental to the belief systems of many patriarchal societies (for example, Moslem Morocco; see Hibe Dwyer, 1978; the San Blas culture of South-East Spain; see Brandes, 1981).⁵

This schizoid splitting of percepts allows for the creation of the asexual, socially acquiescent mother-wife - which carries the secondary advantage of the dissipation of incestuous anxiety - and the creation of the sexualised, non-maternal female deviant. Indeed, Hahn Rafter and Natalizia (1981, p.85) state:

The main effect of these stereotypes has been to enforce conformity to class-based stereotypes of the good woman, one who (in contrast to the witch, temptress or prostitute) does not challenge patriarchy.

Recognising the veracity of the notion that women, regardless of their status, contain the capacity for the release of their rampant sexuality, Klein (1973a, p.5) claims: 'Sexuality is seen as the root of female behaviour and the problem of crime'. As all women receive inducement to bargain with their physical attributes, which may be conceptualised as a commodity to be negotiated for the accrual, in exchange, of benefits such as security⁶ 'This sexuality becomes the key to understanding the deviance of women, since this is

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3. Women, of course, merely approximate this stereotype.
 4. The implication is not that the acts are intended to convey a political message, but that they are often interpreted in that way by those who are socially dominant.
 5. It is also reflected in the Australian male repertoire. A barrister in a recent court case attempted to portray a woman alleged to have taken part in a robbery with several men as a 'femme fatale' (West Australian, 7 August 1984).
 6. This concept is based upon a structuralist approach: the female sexual function is analogous to the economic function which, although it bears no direct relation to capital, nevertheless possesses a 'use' value.

supposedly her primary social function' (Klein and Kress, 1976, p.35). And yet these lines of demarcation defining the female role may enclose the site of protest: 'Thus when women step out of traditional gender roles, they create havoc' (Hahn Rafter and Stanko, 1982, p.4).

Other qualities, a direct legacy of reproductive processes, are attributed to women: irrationality, unpredictability, erraticism and caprice. This assignment of characteristics also encompasses the threat of unleashed anger, of disinhibition, of loss of faculties, and, of course, of the perpetration of violence. The tyranny of female reproductive physiology, and its concentration at particular peaks of female creativity or the alteration to patterns of reproductive life, is experienced as a form of biological terrorism. Such conceptions are rendered valid and legitimate through their integration into theoretical social science and legal statute. It is nevertheless true that, through the processes of denial and overcompensation, it is possible to negate the significance of female reproductive potential whilst also asserting, amongst other things, its value for the material base of society. This attitude towards women's biology is symptomatic of the rhetoric of fear and envy (Hatty, 1981). It is important to comprehend the substantive thematic coherence unifying the synthetic images of women: there is a thread inextricably binding sexuality and reproduction. Nevertheless, the manufactured images of patriarchy attempt to sever this, most daunting, of connections. Conceptions of femininity thus revolve around sexual compliance and probity, in addition to a corruption of the nature of maternity. Alternatively, female criminality is in direct behavioural opposition to this construction. Theories which fail, firstly, to recognise and, secondly, to interpret the meaning of the confluence between sexuality and reproduction in the genesis of crime are, indeed, bankrupt.

Sexual Anaesthesia* and Morbid Phenomena#

Such interpretations of womanhood find their origin in archaic images inherited from a prior consciousness, an ancient tale of conflict still finding currency today. However, the nineteenth-century response to woman revised the duality, confounding the power balance.

Emergent images were dichotomous; woman was conceptualised either as a repository of untrammelled and malevolent sexuality, which was largely exercised within the public domain and resulted in gynaecological disturbance. Alternatively, she was conceptualised as a repository of reproductive instability, manifested in psychological disequilibrium, which was largely confined within the private domain, and resulted in disorders of sexual appetite.

* Ellis (1930, Vol.3 p.194) remarked: 'women are...peculiarly liable to sexual anaesthesia'.

Durkheim (1964, p.51) considered menstruation to be 'morbid phenomena'.

This polarity has been noted by Edwards (1981, pp.49-50) in her investigation of the way in which constructs of sexuality are reproduced within the law:

The model of female sexuality that informs procedural rules and judicial precedent stands in sharp contrast to the model of female sexual passivity that has consistently informed legislation. In the development of case law is enshrined a belief in female precipitation...In law as it relates to sexual offences, and as it relates to rape more especially, the passive/precipitating distinction is particularly appropriate. In a rape trial, it is invariably the case that a model of female sexuality as agent provocateur, temptress or seductress is set in motion.

The development of differential discursive practices reinforced the radical asymmetry between middle and working class women. 'The image of female sexual passivity was largely confined to bourgeois idealist views of women' (ibid, p.35). Edwards notes that working-class women were regarded as 'immoral, promiscuous and precipitating', and cites a newspaper article of 1896 (ibid, p.55):

...it was impossible for a respectable person to go about in the day or night without being insulted and probably assaulted by gangs of lecherous and disorderly women who infect the neighbourhood (emphasis mine).

In an attempt to dissipate the threat experienced in connection with this latter image, the 'sexualised' woman, that is, the woman who existed beyond the limits of the patriarchal family unit, for example, the prostitute, working-class female sexuality was perceived to be analogous to active male sexuality. The challenge of women's sexual behaviour was comprehended within the physiological framework; the impetus for sexual activity apparently derived from a gross chromosomal or hormonal imbalance. With the medicalisation of female sexual reproductive functioning (Foucault, 1978), the diagnosis was simply located within the realm of physical pathology. This ideological system was directly reflected in theories of female criminality; indeed, Klein (1973a) comments that 'women are neatly categorised no matter which kind of crime they commit: if they are violent, they are "masculine" and suffering from chromosomal deficiencies...If they conform, they are manipulative, sexually maladjusted and promiscuous'. [However, Klein, 1973a, like Weis, 1976, confuses the social construct 'masculinity' with aspects of physiological maleness. It is, then, incorrect to portray female criminal behaviour, within this perspective, as a 'concomitant of role reversal', Weis, 1976, pp.17,19].⁷

7. See my paper, Maternal-Infant Incarceration: Sociological and Psychological Perspectives.

Accompanying the diversity of experience characterising the lives of middle and working class women was the bifurcation of modalities of behavioural control. Edwards (1981, p.55) claims:

Throughout the nineteenth and twentieth centuries, the sexual behaviour of all women was the object of control, both direct and indirect, and not of protection. Male control extended throughout all patriarchal institutions, though the degree and form of control varied according to the social class of the women concerned. Ladies of the middle classes were as a general rule considered passive and therefore were to be protected. So the myth of 'male protectiveness' provided the primary excuse for the passage of certain laws and policies. It was control under another guise nevertheless. The social and sexual behaviour of middle and upper-class wives and daughters was also controlled via the father's and husband's right to consortium, which was determined in part by the 'value' of the wife or daughter with regard to her chastity. The behaviour of working-class women was regulated and vigorously controlled via the laws relating to vagrancy and prostitution. Unchaste victims of sexual assault were controlled through legal procedures that permitted cross-examination as to moral character. Moreover, unchaste women were further controlled and punished in their effort to gain access to employment.

Indeed, the parameters of the legislation relating to vagrancy and prostitution were so broadly defined that they provided for the victimisation of working-class women, and particularly of 'unchaste' women. These women were subject to sporadic, and often forcible, medical examination on the premise that they transmitted sexually contagious diseases to the male clientele, that is, that they were sources of pollution. Working-class women, particularly those incarcerated in asylums, were also subject to surgical intervention, which often took the form of clitoridectomy or ovariectomy.

Also, informal modes of control operated within custodial institutions; whilst some female criminals who had committed offences consistent with their gender stereotype were deemed candidates for rehabilitation, others who had committed violent crimes or who behaved in an inappropriate manner were considered to be intransigent. Thus Hahn Rafter (1982, p.248) in discussing the American situation, reports that 'Reformatory programs were designed to induce conformity to middle-class standards of female propriety'; in contrast, women held within State Prison in New York 'probably seemed incapable of resocialisation to neat middle-class standards of womanliness'.⁸

8. These issues are amplified in Dr. Feinman's second paper in this volume.

Of Historical Diffusion

Indeed, there is a demonstrable continuity between the coercive systems of behavioural prescription governing women's lives in the nineteenth century and their contemporary descendants. Women's oppression remains privatised, sequestered within a domestic vacuum; Procek (1981, p.19) defines this landscape as the 'personal', this 'being both the shared realms of so-called private life and the intra-personal space of subjectivity'.

Beyond the reclusive domain of the home, women's employment experience remains constrained by notions of gender specificity. In seeking to account for the dynamic relationship between labour, gender and technology, Game and Pringle (1983) have examined aspects of the labour process considered integral to several occupations. Whilst asserting that the construction of gender relations in the workplace is based upon an ideology of biological difference which is subject to transformation, they acknowledge (ibid, p.16) that 'if anything remains fixed, it is the distinction between men's work and women's work'. So whilst 'gender is not just about difference but about power...this power relation is maintained by the creation of distinctions between male and female spheres' (op.cit.). As men's work must be an assertion of a superior status, conceptions of masculinity and technology are interdependent. Game and Pringle (1983, p.19) conclude that 'the sexual division of labour is not some remnant from the past that is gradually being eliminated; it is a structural feature of modern capitalism'.

Moreover, other surviving systems of informal surveillance encompass the sphere of psychology: women continue to be perceived as vulnerable during stages of reproductive mutability (see Dalton, 1961; Pazak, 1963; Austin and Ellis, 1971; West, 1973).

Many offences committed by women, although devoid of primary sexual content, are sexualised; for example, shoplifting has been viewed as a manifestation of repressed sexual gratification (Vedder and Sommerville, 1970).⁹ Those offences which occur within the sexual arena, for example, prostitution, have often been defined as sexually-motivated (see Davis, 1961). This response may be justified from a male perspective, prostitution being at once 'a challenge and an adjunct to the nuclear family'. Thus, the client may perceive this activity as distinctly sexual, whilst the prostitute may be motivated by the exigencies of economic survival.

Despite the heralding of the proposed arrival of the new female criminal capable of perpetrating violent 'male' crime (Adler, 1975; see also Simon, 1975; Klein and Kress, 1976; Weis, 1976; Smart, 1979;

9. The objection here rests with the application of this dimension to women's criminality; rarely are men's criminal acts interpreted within this framework. In contradistinction, male criminality is often perceived as possessing a developmental character.

Morris and Gebthorpe, 1981), this issue remains largely an artifact determined by the application of particular methodologies.¹⁰ Reliance upon official statistics, and neglect of alternative sources of data such as self-report studies often produces a contradictory outcome. Nevertheless, the fact that the archetypal conceit of the violent female criminal has been reflected and, indeed, enlarged upon, so enthusiastically by the media (Morris and Gelsthorpe, 1981) may attest to the appeal of this symbolic image. Given the role of the media in filtering the components of witnessed and reported events in the course of the shaping of the public consciousness with regard to the extent and nature of crime (Wynne and Vinson, 1982; Ditton and Duffy, 1983), such a response is not surprising.

A further illusory and co-existent element which transcends criminological theory is the notion of chivalry, which carries the implication that all women are extended privileged treatment by the various agencies of the criminal justice system under the guise of 'protectiveness'. Klein and Kress (1976, p.38) claim that the price extracted for the partial application of discretionary authority has been 'curtailment of ... rights and restrictions on... activities'.

Chesney-Lind (1980) maintains that preferential servicing may be offered to a select group of women: those who exhibit behaviour consistent with their gender stereotype. She states (ibid, p.28):

The behaviour of women who come to the attention of official agencies is scrutinized not so much for evidence of guilt or innocence but rather for evidence of sexual misconduct.

And (1978, p.207):

Police, then, harass women who violate the norms which require them to remain sexually monogamous and indoors at night...Women apprehended for criminal offences are not released if they refuse to play the traditional female role. In this fashion, police are not so much responding chivalrously to women as they are patrolling the boundaries of the female sex role.

These findings have been confirmed by Vishner (1983).

Indeed, Chesney-Lind (1973), Kress (1979), Hahn Rafter and Natalizia (1981), and Drohn, Curry and Nelson-Kilger (1983) have found evidence of discriminatory processing of female juvenile offenders before the law. Hahn Rafter and Natalizia (1981, p.84) note that such legal responses 'uphold bourgeois standards of femininity - standards glorifying submissiveness, docility and sexual purity'. Moreover,

10. See the papers in this volume by Professor Harding, Mr Biles and Professor Sarri.

these authors (op.cit.) assert that the criminal justice system has failed to address issues which are central to women's social existence: 'wife abuse, sexual harassment, incest, rape, production of unsafe methods of birth control, forced sterilization for eugenic purposes.'

Prisoners of their Gender

It is arguable that the experiential nature of female imprisonment still conforms to the objectives and expectations of preceding practitioners. Hahn Rafter and Natalizia (1981, p.94) comment:

For well over a century, the goal of rehabilitation has been the basis for the correctional system's work with female offenders. This goal means, in effect, that offenders are afflicted with the 'sickness' of criminality; their cure inevitably takes the form of their being trained to conform to middle-class standards of behaviour. In both theory and practice, this is class-biased, sexist and paternalistic.

Hahn Rafter and Natalizia (1981) claim that gaols oppress women in two distinct ways : firstly, they encourage physical acquiescence through the vehicles of inadequate diet, lack of exercise and the use of psychotropic drugs. (Indeed, with respect to the latter, Shaw, Brown and Meyer (1981) found that in a typical month at one particular institution, fifteen per cent of the female population were administered psychotropic drugs compared with two per cent of the male population. Similarly, Resnik and Shaw (1980) found that, depending upon the institution surveyed, the rate of the administration of psychiatric medication was from two to ten times higher for female than male inmates.)

Secondly, Hahn Rafter and Natalizia (1981) maintain that gaols oppress women by rewarding behaviour consistent with sex-role stereotypes in an attempt to resocialise women into appropriate gender roles. The status of the female inmate is often trivialised by the encouragement to work in industries which fail to challenge the material structure of patriarchal society. Female inmates are further marginalised by their representation as errant children requiring vigilant supervision. Thirdly, gaols oppress women, according to the authors, through the imposition of social isolation and restricted access to innovative programs.¹¹

11. See Dr Feinman's opening address.

Hahn Rafter and Natalizia (op. cit.) recommend that women's experience of incarceration should affirm the goal of empowerment.¹² Initiatives should include transfer to community-based correctional facilities; increased opportunities in the areas of employment, skill-acquisition, recreation, work-release and external programs; special consideration of a forum for family interaction, for example, contact visits; availability of feminist therapists independent of the institutional structure; and the implementation of channels of communication for the investigation of inmate grievances.

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This seminar, occurring in contemporaneity with the establishment of the Women in Prison Task Force in New South Wales, provided a valuable opportunity for the flow of information and expert knowledge between the two groups represented - the academics and the practitioners - both of whom undoubtedly benefited from such an exchange despite considerable differences in theoretical orientation and practical approach to the topic at hand. The quality of the seminar, itself, was greatly enhanced by the contributions offered by the two visiting American academics, Dr Clarice Feinman and Professor Rosemary Sarri whose presence lent an international perspective. Although the structure of the seminar did not permit the formulation of resolutions, the occasion served to promote a serious examination of the issues involved.

Finally, the commendable organisational efforts of the staff of the Training Division of the Institute should be acknowledged. Their efficient and detailed preparations and supplementary assistance ensured the success of this important venture.

12. Of relevance here are the findings of Aylward and Thomas (1984, p.253) who claim that 'there has been a remarkable quiescence among women prisoners in civil rights litigation. Despite such factors as poor living conditions, overcrowding, internal disciplinary problems, lack of job training programmes, and unbalanced racial composition (all positively associated with high civil rights litigation rates), it would seem that women are filing proportionally fewer suits than their male counterparts'. This is attributed to 'gender and organisational constraints'.

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I: ADDRESSES

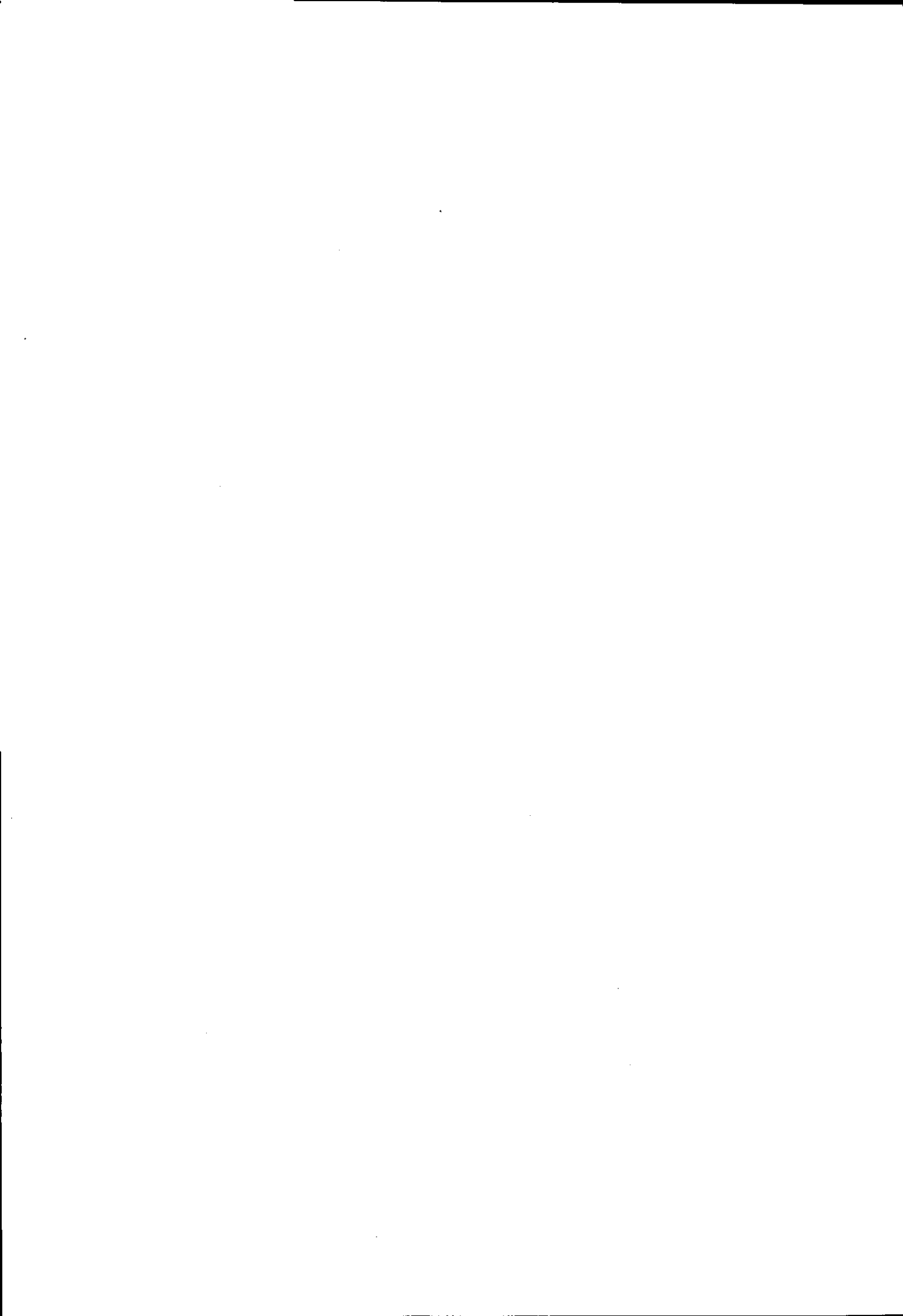


WOMEN IN THE PRISON SYSTEM

A.I.C. SEMINAR

Opening Remarks of the Director of the Australian Institute of Criminology

Professor Richard Harding



Distinguished Participants, Ladies and Gentlemen:

It is my privilege and pleasure to welcome you to the Institute's three day seminar on the subject Women in the Prison System. The issue is an important one; for once, I believe we may be starting to address an issue at a time when it is merely a problem, not already a crisis. If I am right in that perception, this is indeed an unaccustomed luxury for those of us who work in the area of social policy. Perhaps it serves to make our responsibility to try to profit from our participation in this Seminar an even greater one.

Certainly, the Seminar has received a tremendous response from senior administrators and professionals working directly or peripherally in the field. If I may say so, the list of participants is a veritable galaxy of talent and influence. This doubtless partly reflects the fact that, two weeks ago, meetings of the Administrators and Ministers responsible for Corrections had before them the first paper which our keynote speaker, Dr Clarice Feinman, will be presenting to us this morning. Evidently, the issues she traversed struck a chord which in turn provided the stimulus for wide participation in this Seminar. Indeed, we will be joined tomorrow by the senior Corrections Minister, the Honourable Pauline Toner, the Victorian Minister for Community Welfare Services, who will be presenting a paper to us. So you can see that my own perception of the importance of the issues to be raised at this Seminar is a shared one. Let me briefly refer to some of the factors that make it so.

First, there is the question of the number of female adult prisoners in Australia. On 30 June 1982 it was 335; a year later it had risen to 399; on

30 April 1984 it was 359. Conventional wisdom it that the underlying trend is slowly upwards. I think this is probably correct. I am not sure if female patterns of crime are going to change drastically in response to the Women's Movement, as is often suggested. But I do believe that sentencers (male and female), seeing women participate as equals in so many aspects of social and economic life, will increasingly tend to treat women more as they treat men. Estimates of female crime rates are shadowy and uncertain; however, a figure of 10% of the male rate is not infrequently suggested. Yet the female imprisonment rate is only 4% as high; i.e. the male rate is 25 times higher. That will change. Early signs of this are found in the imprisonment rate for drug-related offences where the male to female imprisonment ratio is already down to 9 to 1.

Regardless of this prognostication, female imprisonment is already an issue of practical importance. Three weeks ago the Institute held a Seminar on problems relating to imprisonment or institutionalisation of persons convicted or committed in the A.C.T. - a total of less than 100 persons. (The problem, for those of you who have come from elsewhere, is that the ACT has almost no institutions of its own, so that its citizens must be transported to New South Wales to be imprisoned). This problem was regarded by everyone present as being an important one. A fortiori, the question of women in the Australian prison system is an important socio-political problem, even if the numbers were to remain constant or even decrease.

The second issue I wish to raise relates to the type of institution. At present in Australia two States - New South Wales and South Australia - have separate female institutions; three - Queensland, Tasmania and the Northern Territory - have only institutions which cater for both sexes albeit in a segregated manner; and the other two - Victoria and Western Australia - have some which cater to both sexes and some which are quite separate. How shall we go in future? This is an important question and one which would hardly have been considered worthy of more than cursory discussion a decade ago. Yet now it is a matter central to our values and policies in corrections matters. Let me illustrate this in two ways.

Last month I attended a seminar at the University of Sydney Institute of Criminology on the general topic of Offender Management in the Eighties. The point was forcibly put from the floor- and I must say not convincingly refuted from the platform - that the Mulawa Training and Detention Centre for Women was inadequately serviced in terms of basic welfare and programs. The 1982 Report, Children of Imprisoned Parents, supports this characterisation of Mulawa. If it is a fair characterisation - and we shall have the benefit of hearing directly from the Superintendent, Mrs Storrier, about this - it would seem probable that this is a manifestation of a point raised by Dr Feinman when she says that 'because there are so few women in prison compared to men, the cost of providing equal or comparable services and programs can be prohibitively high.' The point, incidentally, was also stressed by the Sixth UN Congress on the Prevention of Crime and the Treatment of Offenders in Caracas in 1980.

This brings me to my second illustration of the point about the importance of discussing what kinds of institution women prisoners should be kept in. The

Neilson Report in Victoria has just considered the question, and has recommended unequivocally that in the future women prisoners should not be housed in single sex institutions. The authors of the Report were mindful of the resources problem. They were also mindful of what may turn out to be the vital issue, namely whether the appropriate non-separate model is co-correctional or co-ordinate institutions. But they were not able at this stage to come down absolutely firmly on one side rather than the other.

These, then, are two of the many difficult issues that will be addressed in the next three days. They are issues of great importance. It is for that reason that I wish now to make a plea to participants as they prepare to embark upon their deliberations. It is this: that we should, first and foremost, be discussing penal policy and correctional administration as they bear upon women, and not aspects of feminism as they bear upon penal policy and correctional administration. I appreciate, of course, that it is a two-way interaction; indeed, Dr Feinman's first paper will abundantly demonstrate this. The point I am making is one of emphasis and perspective only. But I believe it is an important point, and one which may be misunderstood unless I explain it carefully. So I would like to develop it a little. To do so, I must anticipate to some extent what Dr Feinman has said in her first paper.

As we shall see, what she has done is to present an overview of the issues as they have emerged - through activism, policy discussions and research - in North America. In doing so, she has, as I understand it, set out faithfully to reflect what is actually happening rather than to put forward at this stage her own views. That process will come later, presumably - in her second paper and her summation. I make this point somewhat laboriously because what will

emerge is that, in North America, the most prominent single issue - has been that of equality of employment opportunity for women on the custodial side of corrections. Always it is staff issues first, prisoners second, and general penal policy as an afterthought; that is the structure of the North American debate as faithfully reflected in the structure of Dr Feinman's paper.

This worries me somewhat; such an approach could distort the broader issues of penal and public policy. Equality of employment opportunity is an issue which should follow, not precede, discussion of whether the particular employment activity should be pursued at all and, if so, in what way.

Last year, for example, there half-surfaced in Australia a debate about employment opportunities for women in the Defence Forces. Evidently under present arrangements women employees do not have equal opportunity to be trained to kill people in the way that men do. For a while it seemed that the Women's Movement would fail for that one, and argue for equality to do that which should not be done at all. Providentially, the trap was seen just in time; they backed off. In much the same way women generally - and feminists - have had the good sense to take the lead in the anti-nuclear movement rather than seeing the nuclear industry as an area where they should seek to equalise their presently unequal employment opportunities to contribute to the extinction of humankind.

Now I am not an abolitionist in the prison debate, I am not seriously suggesting that women should stay outside the system because there should not be

a system at all. But I am saying: be careful, in this whole debate, that rational penal policy and the welfare of female and male prisoners come first, and equality of employment opportunity second - as a by-product of the first. In this wish, I divine that I am not in fact too far away from Dr Feinman's position inasmuch as she clearly envisages that the entry of women into custodial roles in relation to men and women can act as a catalyst for improved and more humane correctional administration practices. It is all, as I said, a matter of emphasis.

Let me finish with one more point, which both stands on its own and also demonstrates the need for great care in classifying penal policy matters when they are also feminist matters. It concerns Aboriginal women. Currently, their imprisonment rate in Australia is 16 times greater than that of non-Aboriginal women; 83 as opposed to 5 per 100,000. That fact sounds like, and indeed is, a feminist issue. But it is far, far more than that - an issue of profound concern in public and penal policy. For Aboriginal men likewise suffer the tyranny of an imprisonment rate that is 16 times greater than that of non-Aboriginal men: 1861:114. Moreover, as can be seen, Aboriginal men are imprisoned some 24 times more than Aboriginal women. To see the female Aboriginal imprisonment rate as simply a feminist issue, therefore, let alone as one primarily relating to equality of employment opportunity for women (Aboriginal women?) would be to distort the penal policy debate horrendously.

I am confident the tone of the debate will not be distorted at this Seminar. Dr Feinman's first paper - comprehensive in scope and careful in

its exposition of the issues - will ensure that.

This brings me, at last, to Dr Feinman herself. She occupies, as you know, a foremost place in this particular policy debate. Her 1980 book, Women in the Criminal Justice System, placed her there firmly, and her next book, Criminal Justice Politics and Women: the Impact of Legally Mandated Change, seems likely to consolidate her leadership in this field. We are most privileged to have her with us as Seminar leader. I am sure, Dr Feinman, that the high-level turnout I have already referred to reflects your own very high standing.

We are also most fortunate to have Professor Rosemary Sarri from Ann Arbor with us. She is working in South Australia for a few months, and it is a lucky coincidence that this period overlaps with Dr Feinman's visit. This afternoon Professor Sarri will be speaking on the topic, the Changing Character of Women Prisoners, a paper based I believe on extensive work in Michigan.

If I may pick out just one more person, she is Dr Suzanne Hatty, the Institute's Senior Research Officer. She has the onerous responsibility of acting as rapporteur for the Proceedings as they will be published, and she will also be presenting a paper.

I extend the Institute's welcome also to the other principal speakers and to all participants. So wide is the cross-section of professional interests and human experience represented here that we are all certain to gain new perspectives in the course of what I am sure will be a successful seminar.



A STATEMENT ON THE ISSUES - UNITED STATES VIEW

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After visiting Mulawa, talking to people, and reading the relevant literature and the newspapers, it is apparent that the basic issues and problems concerning women in prison are similar in Australia and the United States. I will discuss some of the most serious problems we face and the attempts made to deal with them. Then we can talk about specific issues or interests we may have in an informal manner.

Efforts to improve the conditions of incarcerated women have increased dramatically since the 1960s. Federal civil rights and equal rights legislation for prison reformers and prisoners have evolved as the legal tools with which to sue departments of corrections in order to improve conditions in women's prisons. Women usually win their cases but we recognise that there is a vast gap between legislated or court order changes and their implementation and enforcement. In addition, we have a complex prison system that includes one federal, 50 state and thousands of county correctional systems. It is often necessary for women in several jurisdictions to sue for the same rights or prison reforms state by state, county by county and on the federal level.

Several other impediments to penal reform affect women. The first involves money. The cost of keeping a women in prison is often twice as much as it is for men. This is due to the small number of women compared to men. As of 30 June 1983, there were 18,853 women in federal and state prisons, or 4.4 per cent of the total prison population of 431,829. They constituted approximately six per cent of all federal prisoners and four per cent of all state prisoners. (These numbers do not include the tens of thousands of women who are incarcerated in county gaols each year.) It costs a mean average of \$44.00 per day per woman, from \$9.80 per day in Texas to \$97.87 a day in Alaska.

Second, we have not been realistic about the type of women in prison - their background, needs and communities from which they come and to which they return. Therefore, programming for women in prison is often inappropriate and unrealistic. Incarcerated women are poor, functionally illiterate at best, have few, if any, job skills and an erratic work history. While less than half are married, approximately 80 per cent are mothers. Perhaps over 50 per cent of them experienced physical and/or sexual abuse as children and as adults. About the same percentage are drug addicts. Thirty-nine per cent have been sentenced for crimes against property (mostly shoplifting), 36 per cent for

crimes against persons (usually husbands, lovers or children), and the rest for victimless crimes (usually drug-related).

Half the women in prison are black and the other half are Chicanos, whites and 'others'. By race, ethnicity and background, these women are far from liberated; most are weak, dependent women who are not even capable of being successful criminals.

These are the women. However, we continue to concentrate on rehabilitation programs such as food services, cosmetology and typing. They are the easiest and cheapest to supply but are not realistic in terms of the population they are intended to serve. Cosmetology licences are denied convicted felons and most women are not educated enough to type a letter or even file a letter correctly.

We also fail to be realistic about:

1. the cultural differences between black, Chicano and white women; and
2. between white middle class women in society and predominantly non-white, lower class women in prison.

A recent study of black and white prisoners in California noted that black women had closer, more caring ties to their families than did the white women. Moreover, black women received more visits, more mail and more contacts with immediate and extended family than did the white women. Especially important, black women maintained more contact with their children who remained with family than did white women. These cultural differences, if substantiated by further research, need to be considered when services and programs are planned for women, such as family counselling and pre-release services.

Finally, we need to be realistic about racial prejudice and discrimination that over half the women face. Most of these women have three strikes against them - being female, black and a criminal.

A third impediment to reform is the present 'get tough' policy. Criminal codes have been revised making punishment surer and longer and the death penalty has been reintroduced. Women prisoners are getting longer sentences, must serve longer before being eligible for parole and are being sentenced to life or to death. One result is overcrowding in women's prisons, another is that women will grow old in prison, spending 40, 50, 60 years behind bars. And, finally, there are 14 women on death row in nine states. (There are 1298 men on death row.) The women, sentenced since 1975, range in age from 19 to 54 years old. They are in the process of appealing their sentences. The last execution of a woman took place in California in 1962.

Death row prisoners must be separated from each other and from other prisoners. In most cases, therefore, women on death row are completely isolated and usually locked in a cell all day and night without activities or work.

The get-tough policy has had other effects. Many women's prisons now have fences or are in the process of having them built, razor ribbon has been introduced on the tops of the fences. As there is usually only one women's prison in a state, these maximum security measures affect all women including those with minimum and medium security classifications. In New Jersey, the decision was made to build two maximum security fenced-in buildings, leaving the rest of the prison fence-free as an open campus with cottages for the other women. But in Muncy, Pennsylvania, community complaints about women escaping and fear of crime resulted in a fence being built.

Despite these impediments to reforming conditions in women's prisons, several problems have been recognised and efforts have been made to solve them. These improvements have been made, largely because of legal action taken by women prisoners and womens' prison reform organisations.

For example, health care for women has improved. In 1977 in Todaro v Ward, women at the Bedford Hills prison in New York succeeded in forcing the state correctional department to provide full time medical and nursery staff and part-time specialists to meet specific needs, such as gynaecologists. Fearful of similar legal action, other states have started to provide adequate health care.

Women in prison have specific health problems that stem from drug and/or alcohol addiction as well as the unique needs of all women.

In addition, some women are pregnant when they arrive in the prison and require pre-natal and post-natal care. In many states, they may choose to have an abortion, but forced abortions have been declared unconstitutional - Moroles v Turman in 1974, a Texas case. Children are born in local hospitals and birth certificates no longer mention prison or prisoners.

Health problems that still need to be considered include sickle cell anaemia, an illness most prevalent among black women, and geriatric care for the increasing number of women who will grow old and probably die in prison.

In order to provide improved health care for all prisoners, many departments of corrections have either made a contractual arrangement with medical centres or with private health care companies. There is great concern among prison reformers that these private companies will be more concerned with profits than complete health care for inmates and therefore, cut corners especially in laboratory tests, x-rays or other diagnostic procedures.

A health problem that has proven to be the most difficult to remedy is drug addiction. This illness also involves emotional problems and requires mental health care as well. However, inmates have taken legal action against departments of corrections claiming forced behaviour modification treatment and psychotropic or personality-changing drugs are a violation of their 8th Amendment rights protecting them from cruel and unusual punishment. The courts decided in favor of prisoners

in the McCray v Maryland and therefore, at least in Maryland, prisoners can refuse treatment.

New Jersey is one of several states that complied with the court decision and the term 'behaviour modification' is no longer used, but I can not say the programs have been abandoned and that tranquilisers and other drugs are no longer dispensed.

There are reports that the number of mentally-ill women in prison is increasing. This may be due to the increase in the prison population and to the fact that civil rights reformers have been instrumental in closing mental institutions and bringing about the release of thousands of persons who had been institutionalised.

A recent study by a prison psychologist in Maryland reported that 13 per cent or 900 of 7,000 women in state and federal prisons had a history of commitments to mental institutions and that approximately one-third of these women had to be temporarily transferred to institutions while incarcerated. The report concluded that adequate mental health care was virtually impossible because of so few hours and staff devoted to this care and because many mental care institutions refused to take prisoners. Some states have their own prison mental ward, but often they are for men only. Women in Maryland are suing so that women could have equal treatment with men in one such facility - Paturlent.

Whether more women in prison are mentally ill than in previous years is yet to be proven. However, studies indicate that proportionally more women receive psychotropic drugs - tranquilisers and medication in general, than do men. Perhaps there is a relationship between the large number of women on medication and the small number of suicides. Few women commit suicide, whereas it happens more frequently with men. Prison administrations are concerned about drugs and violence connected with the sale of drugs and with suicide.

Some measure of success can be found in mother-child and inmate family programs. It is estimated that about 80 per cent of the women have children. Separation from children and from family presents a serious problem for most of the women. Maintaining family contacts is difficult as most women's prisons are in rural areas, far from the urban centres where most of them come from and where their families continue to live. Visits and phone calls from family are expensive. However, visits are scheduled weekly and include contact visits for most prisoners. Outdoor playgrounds and indoor play areas are provided. Holidays are often celebrated and children are invited.

Most of the programs include family counselling and parenting instruction. In addition, special counselling programs are provided for women convicted of abusing their children, for example, Parents Anonymous. This last program has one difficulty: the attempts made to protect the women who abuse or killed their children.

Another area of success for inmate mothers (and fathers) involves changes in state law. Many states have laws declaring incarcerated felons unfit parents and, therefore, children can be taken from the

parents and placed in homes or for adoption. In 1983, New York state passed other legislation declaring that incarcerated parents do not automatically lose control or custody over their children, that parents are to be consulted and may decide what to do with their children and that departments of corrections in the state should commit themselves to maintaining family ties through visits and special programs.

The mother-child program that is being resisted is that which allows the child - usually up to one year old - to live with the mother in prison. The programs vary. In California and Pennsylvania, the mother of a new born baby may keep her child in the prison infirmary nursery for up to two weeks while she makes plans for the child. In Florida, the child may stay with the mother until its first birthday - Florida was obliged to permit this after losing a court case.

There are strong arguments for and against this type of program and, therefore, parenting - family and mother-child programs will probably be limited to daily or short term visits and not include many live-in programs.

Almost all the women need educational programs and vocational training, work/study release experience and jobs when they are released from prison. These opportunities have been and continue to be limited for women due to the cost of providing them for so small a number of prisoners. However, court decisions, such as in Glover v Johnson in 1979, are forcing correctional departments to seek ways to provide these services and programs for women. In Glover v Johnson, the Michigan state correctional system was declared to be in violation of women's 14th Amendment rights by not providing women with equal protection under the law with men.

Several states have proposed co-correctional policy in order to provide equal services and programs to men and women in a cost-effective manner. However, many studies indicate that women do not really benefit. For example, the 1982 experiment in Hawaii failed because women prisoners were harassed by male officers and the fear of sexual contact between male and female prisoners led to tighter restrictions and controls for the women.

Ester Heffernan who did a study of the federal Fort Worth Texas program told me that women do not benefit. Rather they revert to dependent sex objects rather than take advantage of the educational and vocational programs. In addition, women staff also lose out as men usually become the superintendents and other administrators of a co-correctional prison. Heffernan proposed a co-ordinate prison system - a separate male and female prison - but close enough so that services and programs could be shared.

Other problems faced by prison administrators are relatively new in the United States Women's prisons.

- How are the transsexuals to be treated?
- How are the self-identified political prisoners to be treated?

The problems faced by administrators and women prisoners are many. Commitment and long term planning based on a realistic appraisal of the women, their needs and their lives in the community are vital to any real reform in the system. It is also important to recognise the connection between drug addiction and criminal behaviour. It is also important to recognise that of most of the women in prison, near 50 per cent are black and single heads of households. They are part of the fastest growing poverty group in the United States. And, finally, we have to be honest with ourselves regarding what we really expect from these women and what we really want to do for them.

WOMEN PRISONERS IN VICTORIA

*The Honourable Pauline Toner
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Victoria*

The Cain Government came to power with a commitment to prison reform. I am not claiming that this policy had any effect on the results of the election, except as part of the general commitment of a reform government dedicated to reviving Victoria after 27 years of Liberal rule.

We assumed office in April 1982. This was soon after a tragic fire at Fairlea Women's Prison - a fire in which three women lost their lives. The fire destroyed the ancient wooden dormitories which provided the nucleus of women's prison accommodation. Those wooden buildings which were left standing were deemed unsuitable for habitation. Indeed they had been defined as a grave fire risk for many years. These buildings have since been demolished as have the dark, cold century-old security cells which were used for both isolation and punishment. Further, they were the only option for those women who needed protection. The upshot was that "B" Division annexe at Pentridge was converted to provide accommodation for women prisoners.

The shift to Pentridge of remandees and women who need a more secure placement has had some advantages. Previously the Classification Committee had only one option for any woman prisoner. This meant that Fairlea had to be run as a high-security gaol. With a different clientele, Fairlea is now low to medium security prison and the regime is more flexible in respect of programs, visits and week-end leaves.

As in all other Australian States, the number of women prisoners in Victoria is small. In April, the daily average of women prisoners was 70, compared with a daily average of 1913 men. This meant women, on average, comprised 3.5 per cent of the total prison population for that month. Whilst this is lower than the national figure of 3.67 per cent, some other States have lower percentages of women, but because Victoria has a lower use of imprisonment overall, we still have fewer women in prison per 100,000 of the general population than most other jurisdictions.

Of the women prisoners in Victoria at the end of April 1984, 30 were held in medium security accommodation at Fairlea Women's Prison. Twenty-seven were accommodated in "B" Division Annexe, which is part of Pentridge, Victoria's major prison which has places for 1033 prisoners.

The women in "B" Division Annexe included six persons on remand. Six women were held in Jika Jika High Security Unit which is part of the Pentridge complex.

We are conscious that accommodation for women in Victorian prisons is grossly inadequate. Indeed, most of our prisons were built at the time of the gold rush and are quite unsuitable for programs deemed appropriate for today's correctional institutions.

Although committed to prison reform, as a Government we had to inform ourselves about what our needs are. We have established these needs through three significant reviews.

1. Remand in Victoria. A review of the Nature and Size of Facilities Needed. David Biles. Australian Institute of Criminology.
2. Women Prisoners in Victoria. A Review of the Nature and Size of Facilities Needed. David Biles. Australian Institute of Criminology.
3. Corrections Master Plan, Victoria. Neilson Associates.

Mr Biles must take some joy in the fact that he is one of those rare criminologists to actually see his recommendations take tangible form - design is completed and site works have commenced for a 240 person Remand facility. It will be completed by the end of 1986. It will set aside units to provide 15 places for women remandees.

In his second report, Women Prisoners in Victoria Mr Biles recommended provision of 80 places for women overall. This figure he believed allowed for 'flexibility of management' in that this figure of 80 was marginally higher than the projected population for the foreseeable future. In discussing statistical trends relating to women prisoners, David Biles states, on page 12:

It is contended, then, that the major determinant of the number of female prisoners in Victoria has over the past 60 years, been the number of vacant cells in female prisons, and that the cyclic tendency is largely due to variations in judges' and magistrates' perceptions of conditions within those prisons, leading them to prefer other forms of punishment when prisons are relatively crowded and returning to the prison option when they are less crowded. One cannot imagine that this pragmatic approach will not continue.

This is a disturbing comment in respect of the carriage of justice; but it does indicate that significant use has been made of the non-custodial dispositions for women in Victoria. As the Cain Government is committed to imprisonment as a punishment of last resort, we are in the process of developing an extensive range of community corrections programs. We trust that the good management of these programs will give the courts confidence in alternative dispositions.

It is interesting to note that in 1975-76 the daily average of women in Fairlea was 24. At the time Mr Biles completed his report, September 1982, the daily average imprisonment for Victorian women was 52,

compared with 1797 men. Yet in the space of 20 months we have climbed to a daily average for women of 70.

I do not believe that this significant increase has any connection with the projections of Freda Adler, who in 1975 - International Women's Year, published Sisters in Crime. Adler proposed the view that the rising tide of female assertiveness was leading women to break out of the traditional limits of prostitution and shop-lifting to grand larceny, embezzlement, bank robbery and violent crimes, increasing at rates six or seven times as great as those of men.

Mukherjee and Fitzgerald, in their important work In Search of Female Criminality (Australian Institute of Criminology 1978) have thrown doubt on Adler's findings and indeed on many of the theories relating to female criminality and a supposed substantial increase in the volume and relative participation of women in crime. Mukherjee and Fitzgerald have provided an account of total crime in Australia since 1900, which demonstrates that proof of a substantial increase in women's crime in recent years is somewhat tenuous - particularly with reference to crime against the person and good order. The figures also demonstrate that for both males and females the volume of property offences in all States is at an all time high.

The feminist writers of the 70s may have hoped for a brave new world where, as women took their rightful place in politics and business, the natural corollary was that they entered the big league in crime. Adler describes the new women as 'organising demonstrations, walking picket lines and influencing decisions at all levels of their community'. Adler proposes the view that the new women have concluded 'that prostitution and shop-lifting are not their style; embezzlement, robbery and assault are more congenial to their self image'. In Australia, women may be involved in demonstrations, as was shown at the Franklin River and Roxby Downs. In the Victorian Parliament we climbed from one woman in 1977 to 12 in 1982. Fortunately, there has not been a parallel increase of women's involvement in crime.

In 1984, nine years after the release of Sisters in Crime, there is little evidence to substantiate Adler's projection that 'if present social trends continue women will be sharing with men not only ulcers, coronaries, hypertension and lung cancer (until recently considered almost exclusively masculine diseases) but will also compete increasingly in such traditionally male criminal activities as crimes against the person, more aggressive property offences, and especially white collar crime'. Freda Adler, Women in Crime, McGraw Hill Book Co., 1975.

In Victoria, the profile of women prisoners belies this prediction. The Ms Bigs of organised crime are a myth rather than a reality. Our women prisoners are generally young and most of them are not married. Their most common offences are theft, drug dealing and homicide (usually domestic). The National Prison Census 1983 shows that, at the time of arrest only 13.7 per cent were employed and only 11.9 per cent had completed secondary or post-secondary education. Now as in the past, women are not usually imprisoned for offences against the person. The majority do not need high security accommodation.

Where in 1970 more than a quarter of offenders were imprisoned for being drunk and disorderly and for vagrancy, current laws mean that there are now no women imprisoned for these offences. The shift is to prisoners convicted of drug-related offences, estimated at 70 per cent or above. Most women are serving short sentences - more than 50 per cent less than 12 months and 70 per cent less than three years.

Although women prisoners are for the most part short-termers, they show a great interest in the excellent educational programs which are offered at Fairlea and Pentridge.

Most of Fairlea's prisoners are involved in some form of educational program. Courses conducted are: English language at all levels especially for early school-leavers and migrants; numeracy skills; word processing; computer studies; crafts including leatherwork, jewellery, woodwork and general craft; typing and shorthand; music. Correspondence courses currently conducted are: Higher School Certificate (one full-time student); Bachelor of Business (one full-time student); Bachelor of Arts (one full-time student).

Whilst work is available for women at Fairlea, it is mostly in the line of laundering, cooking, sewing and gardening. We recognise that unskilled women should be involved in vocational training programs, but there are limitations on the numbers of qualified instructors which can be provided for the small numbers of women.

We have recently introduced Horticulture involving six to eight women who are learning horticultural skills including the propagation of plants. Further there are eight to ten women involved in a tailoring program.

At other prisons the inmates have less access to real work, but they do have access to a far greater range of vocational opportunities. With the establishment of the Prison Industries Commission in July, we hope to extend the range of vocational opportunities for all prisoners.

In Victoria, we are on the verge of the total redevelopment of our corrections system. The Cain Government has accepted the proposals of a Master Plan prepared by Neilson Associates. The Plan provides for our institutional and community corrections needs for the next 20 years. We are faced with the questions of the integration or separation of male and female prisoners.

We certainly do not want to see women swamped in the atmosphere of male dominated mega-prisons, but nor are we happy about the boarding school atmosphere of all-female prisons, particularly for those prisoners serving long sentences.

We have decided in favour of prisons to accommodate no more than 250 people, and we believe with sensitive unit management, we can provide for women both training and educational opportunities whilst maintaining an appropriate level of privacy and protection.

With the development of community corrections programs, pre-release,

attendance centres and community service orders, we believe that more women can be diverted from custodial options.

At Fairlea, we provide excellent facilities for mothers with babies, where 19 mothers in all have had their children with them in prison. We recently had occasion to review our policy of children in prison when a male prisoner went to the Equal Opportunity Board claiming discrimination because he was refused permission to care for his child in prison. The Board upheld his claim that discrimination did occur in the consideration of his application.

Our policy regarding children in prison is that, within the established guidelines, a male or female prisoner may have his/her child in custody during part, or all of the period of imprisonment.

The primary focus of the decision is what is assessed as being 'in the best interests of the child', and each case is determined on its merits. In reaching a decision, the Office of Corrections must also be certain that appropriate accommodation and facilities for the care of the child are available within the prison.

The Government of Victoria has legislated to prevent discrimination on the grounds of sex, marital status, race and impairment, and this policy of Children in Prison has been prepared in accordance with the Equal Opportunity Act.

The policy is based on the following philosophies:

Declaration on the Rights of the Child adopted by the United Nations General Assembly on 29 November 1959. Relevant sections of this declaration include:

- (a) 'The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.'
- (b) 'The child shall be brought up in the spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood and in full consciousness that his energy and talents should be devoted to the service of his fellow man.'
- (c) 'The child ... shall, wherever possible, grow up in the care and under the responsibility of his parents ... a child of tender years shall not, save in exceptional circumstances, be separated from his mother.'

The Office of Corrections philosophy on imprisonment encompasses the notion of humane containment. This recognises that imprisonment is the punishment awarded by the Courts, and that a prisoner should not be further punished while in prison.

The Office of Corrections recognises its responsibility to maintain the dignity of prisoners and their family relationships. However, imprisonment necessarily involves certain losses of liberty. It is believed that the only liberties that should be denied prisoners, are those which threaten security, and the separation of parent and child cannot be justified on this ground. Imprisonment of a parent is not considered an 'exceptional circumstance' required to separate a child from its parent.

As a Government we are concerned, nevertheless, at the possible damage to children placed in an institutional setting during their developmental years. We are concerned also at the separation of children from their imprisoned parents.

David Biles in his recommendations on Women Prisoners in Victoria proposed 'That judges and magistrates continue to be encouraged to consider the appropriateness of an attendance centre order before imposing sentence of imprisonment of females convicted of offences that do not involve violence or drugs'.

I endorse this recommendation. Indeed I believe that all suitable forms of non-custodial punishments should be considered, for example, probation, attendance centres, community service orders, bonds and fines, before a woman is sentenced to imprisonment. In addition, we are committed to the development of Court Advisory Services. With the development of well-resourced Community Corrections Programs in Victoria, I hope the courts will have confidence in alternative sentencing options. To support my comments regarding the dangers to children of prisoners, I quote from two reports:

- (a) Children of Imprisoned Parents. A report by a joint working party of the Australian College of Paediatrics and the Royal Australian and New Zealand College of Psychiatrists. Section 1.2 'Children as Unintended Victims of the Criminal Justice System'. The criminal justice system is based on the notion of individual punishment for individual lawbreaking. When the law breaker is a parent and is sentenced to gaol, the punishment, however, is shared by all the prisoner's intimates, in particular the children ...'

Section 2.2 'The Size of the Problem'. This data is largely drawn from the report "Children of Imprisoned Parents" (Hounslow et al, 1982) prepared by the Family and Childrens Service Agency for the Department of Youth and Community Services, New South Wales. At the end of 1981, there were 3,564 prisoners in full-time accommodation in New South Wales ... Approximately one-third of these prisoners are parents. Seventy-five per cent of their children are under the age of 10 years. Two-thirds of these imprisoned parents had been living with their children prior to imprisonment. The children of female prisoners are particularly at risk because 50 per cent of these women are parents and because the female parent is much more likely to have been the child's primary care giver. Furthermore, in the case of men, 90 per cent of their children continue to live with

the mother outside prison, whereas 60 per cent of the children of female prisoners do not live with their father' [outside prison].

- (b) 'N.A.C.R.O. Briefing' reports Robert Kilroy-Silk, M.P., as saying - 'Before imprisoning a pregnant woman or a mother of young children, a court should have to show that there is no alternative to doing so because the woman's imprisonment is essential to protect the public'.

Imprisoning the bonding parent, usually the mother, is quite contrary to the rights and needs of the child as stated in the Declaration of the Rights of the Child, adopted by the United Nations General Assembly on 29 November 1959. Children's rights and needs must be considered in the decisions of all relevant authorities involved in the criminal justice system.

David Biles, in his Report Women Prisoners in Victoria proposed the purchase of a large house or hostel as a pre-release centre for women. With the introduction of our pre-release program this year which provides for the last three to 12 months of a sentence to be served by 15 hours weekly at an Attendance Centre whilst living in the community, such a proposal is no longer necessary. However, for women with children or low risk prisoners, such a centre would seem an appropriate option and one which the Cain Government will explore.

I should say that our pre-release program is controlled at a judicial level. All prisoners are eligible for consideration in accordance with prescribed time lines, but the Parole Board makes the decisions about the suitability of the applicants.

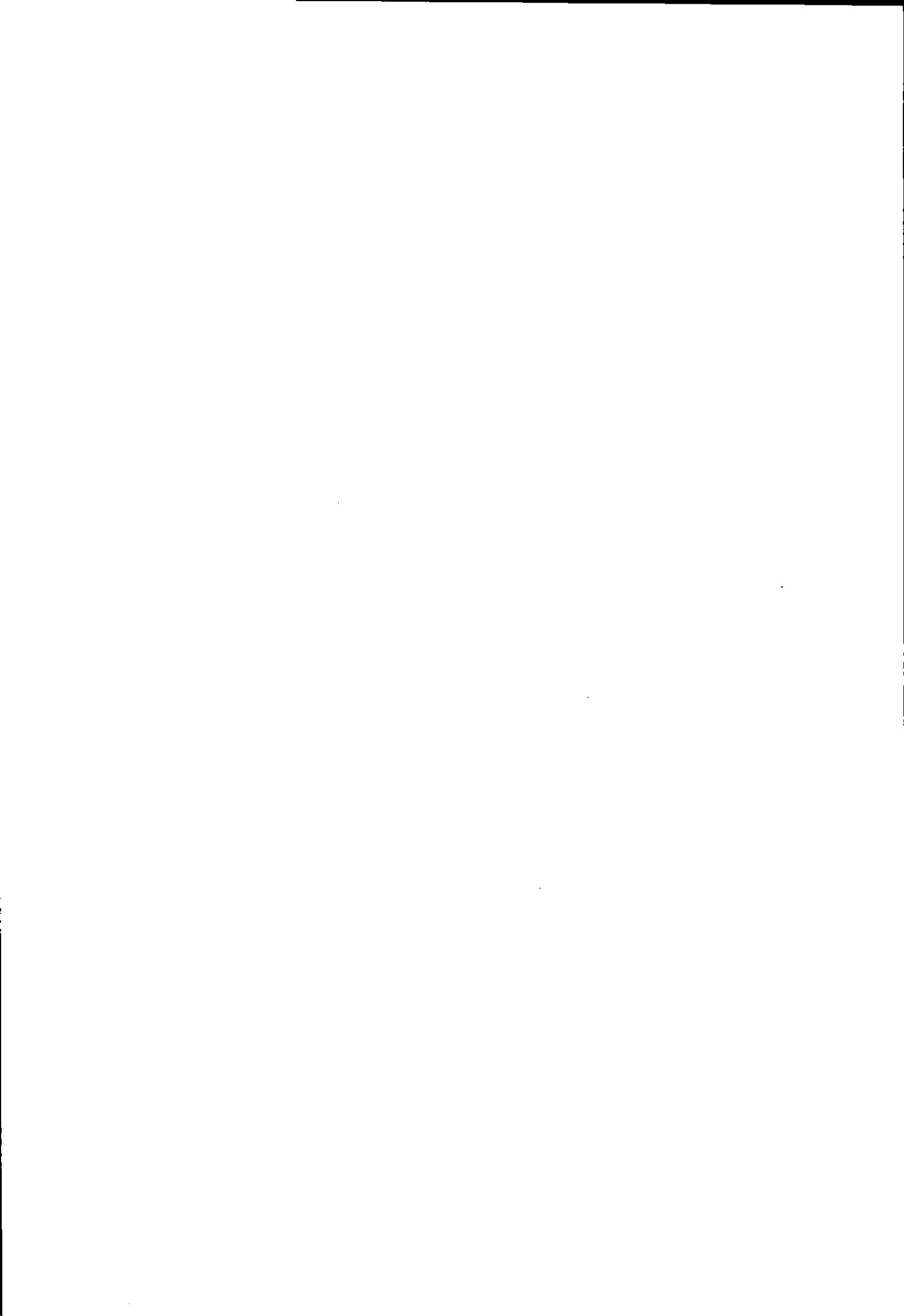
In Victoria, we are fortunate that, as we begin the implementation of our Master Plan, we have no significant investment in existing women's prison facilities. We are starting with a clean slate. Further, we have integrated successfully men and women prison officers for almost a decade without the drama which has surrounded integration in some jurisdictions.

We believe that we can provide humane conditions for women prisoners with the development of our new prisons. We are beginning to put scores on the board with the building of our new Remand facilities, and yesterday's announcement of a new prison facility in the Shire of Corio which will include a unit for women.

Our prime concern, however, will be keeping women's numbers in the prison system to an absolute minimum. If we achieve that goal for women, we may have set a standard whereby we can re-examine the methods of social control which apply to male offenders.



II: STATISTICAL ACCOUNTS



Paper to Women in the Prison System Seminar, Australian Institute of Criminology, 12-14 June 1984

AN AUSTRALIAN PERSPECTIVE - WOMEN IN CORRECTIONS

David Biles*

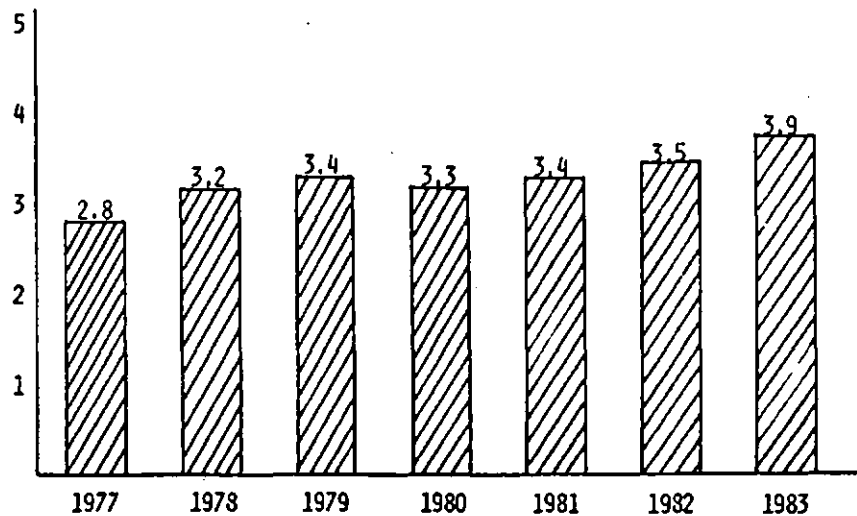
In this brief paper I would like to present some of the basic facts about women prisoners in Australia and discuss some of the issues currently being debated in this country in relation to the place of both female staff and prisoners in our correctional systems. The basic and most obvious fact that must be faced is that in both absolute and relative terms the number of women in prison in Australia is very small. The very smallness of the actual numbers is often cited as a reason for women prisoners receiving less attention than their male counterparts.

The most recently available figures, those for April of this year, indicate that of the 9773 persons in all of our prison systems only 359, or 3.7 per cent, were female. That in itself is an extremely interesting statistic as some of the evidence about the sex of persons responsible for major crime suggests that from 10 to 12 per cent of persons arrested are female. On the face of it, this might be seen to indicate some differential prosecutorial or sentencing policy which favours women, but quite frankly the data available to us are simply not good enough to sustain or reject such an hypothesis. At all events, in the context of this seminar we are concerned solely with the issue of women in the prison system and not with the broader issues relating to the treatment of female offenders in other parts of the criminal justice system.

Notwithstanding the very small numbers of women prisoners in this country there is some evidence to suggest that in recent years their significance in the system has slowly increased.

* Deputy Director, Australian Institute of Criminology, Canberra

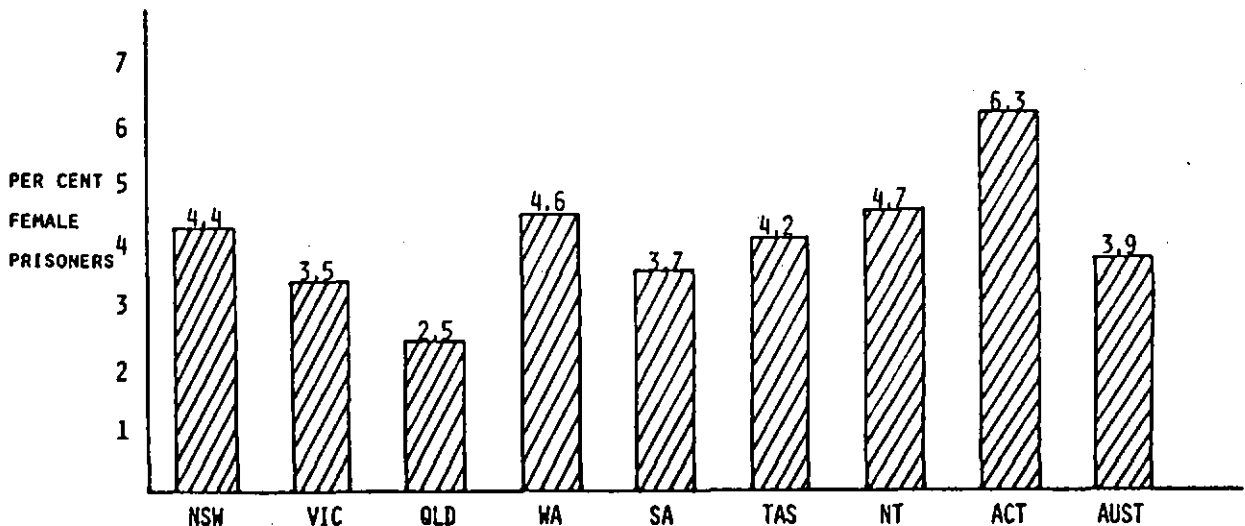
PERCENTAGE FEMALE PRISONERS, AUSTRALIA, 1977-1983



As can be seen from this graph over the last seven years the percentage of prisoners in Australia who are female has steadily increased from 2.8 per cent to 3.9 per cent. This is a dramatic change in such a short period. (I should explain that this graph is based on the average numbers for each calendar year for all Australian jurisdictions combined.) A little later in this seminar my colleague, Dr Satyanshu Mukherjee, will present more comprehensive data over a much longer period of time and I suspect that his information will present a different picture, but in comparatively recent years the trend is undoubtedly towards increasing numbers of female prisoners.

If we focus on the most recent figure in the graph, that applying to the year 1983, it is interesting to note that that 3.9 per cent of female prisoners are not uniformly distributed between all Australian jurisdictions.

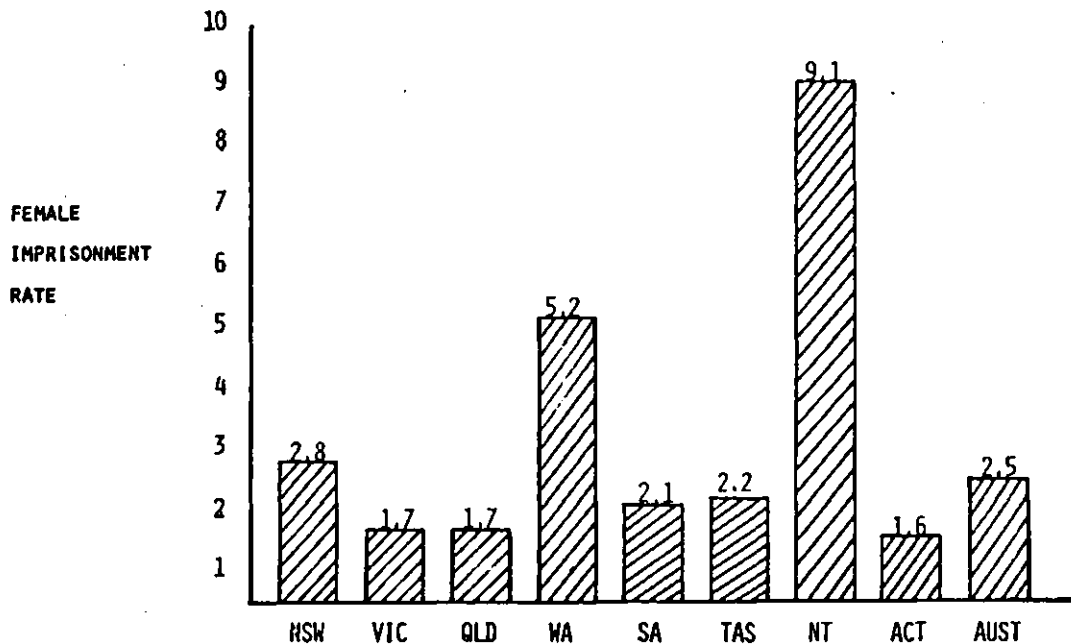
PERCENTAGE FEMALE PRISONERS, AUSTRALIAN STATES
AND TERRITORIES, ANNUAL AVERAGES FOR 1983



As can be seen from this graph the percentage of prisoners who are female varied from a low of 2.5 per cent in Queensland in 1983 to a high of 6.3 per cent in the Australian Capital Territory. Perhaps the A.C.T. figure should not be taken too seriously as the overall numbers of A.C.T. prisoners are so extremely small that the comparison may be misleading. One or two extra women in the Belconnen Remand Centre in the A.C.T. or under sentence from A.C.T. courts in New South Wales prisons will seriously distort the picture as far as the A.C.T. is concerned. Nevertheless, it is interesting to note that Western Australia and the Northern Territory, as well as New South Wales, appear to have higher proportions of female prisoners than do the other jurisdictions.

Presenting the basic data about the use of female imprisonment in terms of percentages is probably not altogether wise, however, as the very significant differences in the overall imprisonment rate between Australian jurisdictions is likely to distort the relative significance of female imprisonment. A better approach is to calculate the number of women prisoners in each jurisdiction against the overall population base, that is against the total population or the total population of adult females. The former option has been followed in the next graph which shows the female prisoners per 100,000 population for all States and Territories for 1983.

FEMALE PRISONERS PER 100,000 POPULATION, AUSTRALIAN STATES AND TERRITORIES, ANNUAL AVERAGE 1983



From this we can see that the differences in the use of female imprisonment are very marked indeed with the Northern Territory and Western Australia being the two jurisdictions which stand out as being quite different from the rest. The most obvious explanation for these two jurisdictions looking so different lies in the phenomenon of the imprisonment of Aboriginal women. Just over 60 per cent of all Northern Territory prisoners are Aborigines and this applies to females as well as males. In Western Australia, however, for the total prison population the 1983 prison census showed that 34.8 per cent of all prisoners were Aboriginal, but the proportion of Aboriginal female prisoners was even higher. They comprised 43.9 per cent of female prisoners at the time of the census. Again, it can't be definitively proved but these data may lead one to suggest that the courts feel less inhibited about imposing prison sentences on female offenders if those females also happen to be Aboriginal. It must be said, however, that in all other Australian jurisdictions where the basic facts are known, even though Aborigines are grossly over-represented in all prison systems, the proportion of female prisoners who are Aboriginal is lower than the proportion of male prisoners who are Aboriginal. Western Australia is the only State with data pointing clearly in the opposite direction.

Again using the results of the 1983 prison census it's interesting to note just where within each system the female prisoners are held. In New South Wales the bulk of female prisoners, 135 out of 182, were serving their sentences at Mulawa and a further 36 were in the Norma Parker Centre, while a further 11 prisoners were serving their sentences in two periodic detention centre programs at Silverwater. Thus, New South Wales in effect provides two facilities only for the full-time detention of females. In Victoria at the same time just over half of the women prisoners, 42 out of 73, were in the B Division annexe of Pentridge and 31 were in the Fairlea Women's Prison. Again, two options for women. In Queensland at that time all 42 women prisoners were serving their sentences in the women's prison attached to the Brisbane Prison.

The situation in relation to Western Australia is quite different from the rest of Australia. Of the 66 women prisoners at 30 June 1983, 44 were being detained at Bandyup but the remainder were being held in the institutions at Broome, Eastern Goldfields, Geraldton, Roebourne, West Perth and Wyndham, a total of seven institutions in all. Here we can see obviously a quite different policy applying. Perhaps influenced by geographic considerations, women prisoners in Western Australia to a large extent seem to be integrated into the normal prison system rather than being held in a separate institution.

In South Australia all 20 women prisoners at that date were serving their sentences in the Women's Rehabilitation Centre and in Tasmania the six prisoners were held in the women's section of the Risdon Prison. Finally in the Northern Territory, of the 10 women prisoners in custody on that date seven were in the Darwin Prison at Berrimah and three in the Alice Springs prison. Thus, overall we can see that the general policy around Australia seems to be one of concentrating women prisoners in special institutions designed solely for them but this seems not to apply to Western Australia, even though there is in that State the Bandyup Women's Prison where the bulk of women prisoners are held.

The issue of concentration or dispersal of women prisoners throughout the system is one that I would like to see discussed at this seminar. The arguments in favour and against each of these policies are so obvious they hardly need repeating. Concentration of women in each jurisdiction in one institution is highly likely, apart from New South Wales, to lead to that

institution being a backwater in the correctional system, again because of small numbers, and therefore not claiming priority in terms of special programs and staff. There is also the very serious problem with that policy of requiring some of the women prisoners to serve their sentences at considerable distances away from home as there would be no regional prisons for women. Finally, a significant objection to the policy of concentration can be found in the fact that there is no possibility of movement for those women who are put inside for long periods of time.

On the other hand, a commitment to a policy of dispersal is likely to mean that all prisons will have a small section designated for women and again, because of small numbers, this may amount to solitary confinement in many cases unless there is full integration of males and females in custody. The staffing considerations of a policy of total dispersal also need to be borne in mind. As I have said, I think there is no easy solution to this question, but it is one that needs to be conscientiously and thoroughly addressed.

If one considers the even more demanding question of the extent to which male and female prison staff should be integrated together with the question of the extent to which male and female prisoners should or could be integrated, it seems that Australia has reached an extraordinarily interesting situation. Recent discussions with prison administrators have revealed that in a number of jurisdictions there is complete support for the integration of male and female staff but generally there is a cautious approach to the integration of male and female prisoners. In summary, it seems that in New South Wales, Victoria, Western Australia and South Australia there is the support for the notion of some degree of integration of male and female staff. In other words, having female prison officers in male institutions and vice versa, but this concept is strongly resisted in Queensland, Tasmania and the Northern Territory.

As far as integration of male and female prisoners is concerned, with all of the qualifications that concept will necessarily invoke, it would seem that at the present time in Australia the only State which is seriously moving in that direction is Western Australia. We will hear later in the seminar however how the South Australian administrators are rapidly moving towards the opening of a co-correctional facility or co-ordinate prison which will involve considerable integration and contact

between male and female prisoners. None of the other States have gone this far. In the Belconnen Remand Centre in the Australian Capital Territory there is a considerable degree of integration of both staff and prisoners, but here again the numbers are so small that this institution can hardly be used as a model of radical policy in action.

It is interesting to note that the recent Corrections Master Plan for Victoria proposed that in the future there should be no separate women's prison in that State but that all new prisons should have a section for women on the basis that this would allow them to receive the benefits of all of the programs that would otherwise be only available to men. I have no doubt that the Victorian Minister, Mrs Toner, will elaborate on this subject later but my personal view would be that there is still a place for a women's prison as a refuge from the influence of men. I am totally in favour of experimentation with integration and would like to see this tried in one or two situations, but it would seem to me to be altogether going too far to consign for all time women prisoners to the back corners of institutions which will be at least 96 per cent dominated by men. There are obviously many aspects of this question that deserve very close and concentrated attention.

A couple of years ago I was asked by the Victorian Minister to prepare a report on the size and type of facilities needed for women prisoners in that State. In my report I analysed all of the known data about women prisoners in Victoria and made a series of recommendations. The critical issue to be addressed was the number of women prisoners to be expected in the immediate future in that State and let me be the first to admit that my estimate was very quickly shown to be inadequate. I suggested that Victoria would not in the immediate future have more than 70 prisoners but that they should plan for 80 to allow some operational flexibility. Within six months of my report being presented to the Minister, to my embarrassment, the numbers reached nearly 80. Nevertheless, I proposed that what was required in terms of numbers was a redeveloped Fairlea Women's Prison catering for up to 50 women and a separate suburban pre-release centre for up to 10 women nearing the end of their sentences. I also proposed that provision should be made for up to 15 women in the new remand centre and that for extreme cases of disruptive behaviour a small section of Jika Jika, the ultra maximum security unit in Pentridge, should be left for females only.

As it happens no action has been taken in relation to these recommendations and the Victorian Master Plan has clearly taken an opposite view. Even though it is late in the day I would still argue for the relatively inexpensive re-development of Fairlea in order to remove women from the totally unsatisfactory conditions in the Pentridge B Division annexe. As I have said previously I would also strongly support experimental attempts at integrating male and female prisoners in new institutions which are currently on the drawing board in Victoria.

Leaving aside the question of numbers perhaps one of the most interesting aspects of my report to the Victorian Government was the analysis of the characteristics of the women prisoners themselves. This analysis showed that the women in prison in Victoria, as for the rest of Australia, were generally young and most of them had not been married. Their most common offences were drug trafficking, homicide, breaking and entering, theft and fraud. The interesting fact to emerge was the demise of the numbers of women in prison in recent years for the offences against good order which include prostitution, drunk and disorderly and vagrancy. In previous years that latter group predominated. They have been more than replaced by a new group of women prisoners who are currently serving long sentences for drug trafficking. It is probable that this new group of prisoners account for the increasing numbers of women prisoners that are shown on the graph earlier. It is also possible that this new group of women prisoners may be more intelligent and better educated than the general run of women prisoners.

One other aspect of my report on women prisoners in Victoria may be of interest. I was able to compare the prisoners with the 13 female offenders who were at that time serving attendance centre orders. The two groups were remarkably similar with regard to education and unemployment status as well as their prior criminal histories, but the attenders were on average older than the prisoners and very few of the attenders had previously been sentenced to prison. Also, none of the attenders had been sentenced for homicide, assault, robbery or drug dealing. Nevertheless, I argued in the report that there was clear evidence of further scope for expanding the attendance centre program for female offenders.

My personal view about women prisoners is that for numerous reasons they need to be considered as a special group. To suggest, as some people

have to me recently, that to give special consideration to women prisoners is to be discriminatory is I believe misconceived. The numbers argument is relevant, but also of more profound relevance is the special place of women in our society as mothers and primary care-givers. It is undoubtedly true that in the vast majority of cases where an offender is part of a family it is the non-offending family members who suffer more than the offender who is sentenced to prison, but in the case of female offenders the suffering of other family members may in many cases be very much greater than would be the case if the offender were a male.

The example which exemplifies this basic point more than any other is to be found with mothers of very young children. Whether or not mothers should be allowed to retain their babies and young children with them in prison is a matter that has been extensively debated throughout Australia in recent years. The predominance of opinion seems to be now that special provision should be made for babies and young children if this is seen to be in the best interests of the child, but the debate is by no means concluded and reviews are currently being conducted in at least two jurisdiction on this subject. Later in this seminar my colleague, Dr Suzanne Hatty, will be exploring some of these issues in considerable detail.

As a footnote to the debate about babies in prison the Victorian case where the Equal Opportunities Board ruled that it would be discriminatory to disallow a male prisoner having with him in prison his child raises further fundamental issues. As far as I am aware no male prisoner has yet successfully applied to have a child with him in prison but we have certainly not heard the end of that argument.

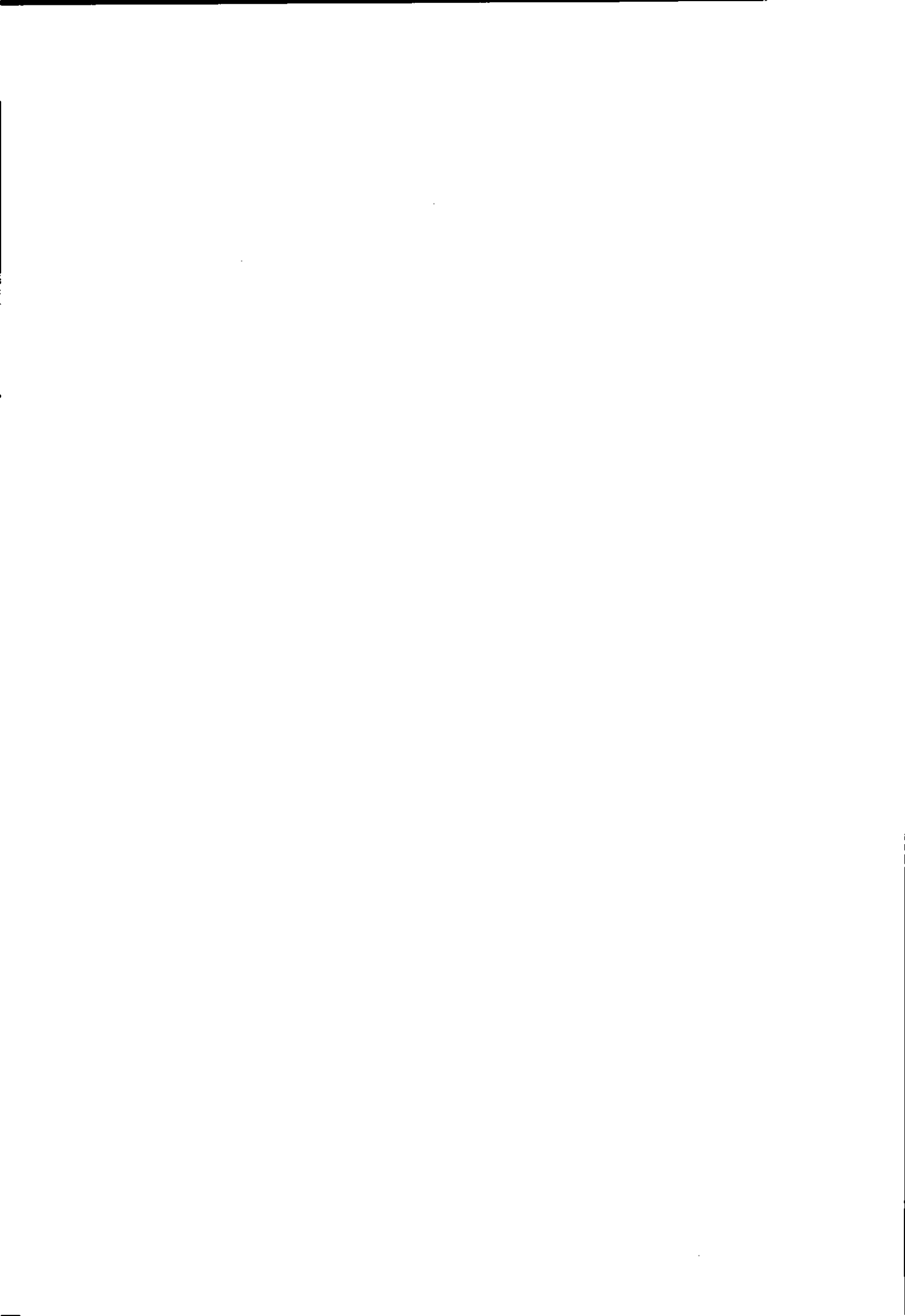
I would like to at this point make a few comments on the extremely interesting and valuable paper presented to us this morning by Dr Clarice Feinman. With the utmost respect to her I feel that it must be said that Australian criminologists when looking at the United States or listening to American experts must learn from the mistakes made by the Americans rather than learn from what has actually been done in that country. For example, the 'get tough' policy with regard to sentencing in the United States is something that we definitely do not want to see put into practice in this country.

With regard to the conservative and cautious pre-release and visiting programs that Dr Feinman described to us, I have no doubt that we in Australia can do much better and in fact are doing much better. Furthermore, we in Australia tend to be more liberated and progressive in our policy and practice in relation to babies in prison.

Dr Feinman in her paper mentioned several times the significance of court intervention on prison management in the United States. This is not yet a significant development in this country but I think there are moves in that direction. Mr Dawes may well give us the details of a South Australian Supreme Court case which had the effect of making his life very difficult in that jurisdiction. In my judgment, external intervention on prison management in this country is less likely to come directly from the courts but is more likely to come from bodies such as the Human Rights Commission and various administrative tribunals such as Equal Opportunity Boards.

The details that Dr Feinman gave us about the costs of education and training programs for women prisoners could be repeated exactly in the Australian experience. It is obvious that with small numbers of women the costs of these programs per prisoner will be more expensive for women than they are for men. However, in Australia this has not always led to women being denied access to these programs and in some cases in this country one could find examples where the programs and facilities provided for women prisoners are considerably better than their male counterparts. One could obviously find the opposite situation where women are worse off than men in prison, but this is certainly not a simple one-way argument.

I have not in this introductory paper endeavoured to provide answers to the numerous profound and perhaps insoluble problems that surround this topic. Perhaps in the long run we will reach a stage when we find it not necessary to have women in prison at all, and perhaps that might show the way for the ultimate abolition of imprisonment for all offenders, but until that day is reached the fundamental problems of what we should do with women prisoners will remain with us. Perhaps this seminar and the advice of international experts like Dr Clarice Feinman will assist us in finding at least partial solutions to these problems.





TRENDS OF WOMEN'S IMPRISONMENT

by

Satyanshu K. Mukherjee

The organising committee of this seminar asked me to make a presentation on Trends of Women's Imprisonment and the future issues that I can see in my crystal ball. At the outset I must state that whereas it is possible for me to present at least a semblance of trend, I could see only dark clouds in my crystal ball. The reasons for this cloudiness are not my invention, in fact these reasons were spelled out very elegantly on the first day of the seminar by the two distinguished overseas visitors. The main purposes of my presentation are three: (1) to take you away from the reality to the most enchanting and deceptive world of numbers. It is enchanting because of the type of games that we can play with the same set of numbers. One skilled in the art of juggling numbers can tell you that there is nothing alarming about our current imprisonment rate, and a moment later he/she can show how depressive our imprisonment rate is. It is deceptive because more often than not the numbers do not tell us anything and if you pursue the matter you will find that the numbers were not right, often not by accident but by design. (2) my second purpose is to confuse you, and (3) my third purpose is to plead to you that if you are keen on identifying issues and dealing with them then it is time to begin a decent accounting system.

During the last 10-15 years a considerable amount has been written on women's involvement in the criminal justice system, but a substantial amount of work lacks empirical evidence. Even now, it is difficult to obtain adequate data to answer most questions on criminality of women, sentencing of women and imprisonment of women. If it is any consolation,

we do not know much about men's involvement with the criminal justice system. Some improvements have been made in recent years but not enough. Dr. Feinman and Professor Sarri informed us at the beginning of this seminar about their own research and experiences. Undoubtedly we need more such work in other parts of the world.

Let me now get back to the issue of trends of imprisonment. One very significant piece of information that is now available is the daily average number of prisoners. Simply stated, this is calculated by adding the number of bodies in prisons for each day of the year and dividing it by the number of days in that year. Before I comment on the limitations of general data on imprisonment, I wish to present data for the last few years for Australia, England and Wales, and the United States. Looking at the data for Australia (see Table 1) for the last two decades the only comment I can make is that whereas for men there has been a slightly declining trend, for women the trend in daily average prison population has been a marginally increasing one. As you can see, women as a proportion of all prisoners in the six states of Australia have fluctuated between a minimum of 2.1 per cent in 1975 to a maximum of 3.3 per cent in 1981. In relation to population as well one can hardly find a more stable trend than the trend in the number of women in prison per 100,000 female population.

Figures from England and Wales present a very similar trend to that obtained for Australia (see Table 2). The table is illustrative and I need not spend much time on it. But we see the difference when we consider data from the United States (see Table 3). Although as a proportion to total population in State and Federal institutions the imprisonment trend for women has remained fairly contained, when we examine the absolute numbers

and the rate per 100,000 relevant population it soon becomes clear that during the last 10 years there has been an increase of 125 per cent. Clearly, the situation in the United States demands careful scrutiny and drawing policy implications for Australia and the United Kingdom seems hazardous.

Dr. Feinman, in her keynote speech, mentioned that women in the United States are receiving longer terms in prison. I was not sure whether longer terms than males or longer terms currently than previously.* I do not have comparable data for Australia, such information, however, could be obtained at least for the last two years from the unpublished prison census data. Data for England and Wales present a different picture (see Table 4). I can write pages on this table but I shall refrain from doing so.

The purpose of presenting data in Table 4 was to see if the trend observed by Dr. Feinman in New Jersey holds true in the United Kingdom. Clearly the pattern is different. There are several important elements in this table. Firstly, approximately three-quarters to four-fifths of the receptions under sentence are for Violence Against the Person (excluding rape), Burglary and a less serious offence group of Theft, Handling, Fraud and Forgery. Currently three-fifths of all women sentenced to terms of imprisonment are for the last offence group. Second, there appears a systematic trend toward an increase in short term imprisonment. For both males and females, the proportion of those sentenced to terms of imprisonment of six months or less have increased. Third, the proportion of those receiving sentences of six to 18 months and 18 months to four

* Dr. Feinman indicated in discussion that she meant the latter: women are receiving longer sentences than previously.

years (for males) show a gradual but systematic decline.

This is a good time for me to turn to limitations of data. The imprisonment trends for the three countries are based on three different sets of statistics. For Australia it was trend of daily average prison population for each year; for England and Wales it was of average population for each year; and for the United States it was of prison population on 31 December of each year. The daily average prison population has some value but prison population as at a particular day does not tell us much. Besides seasonal variations such a method will certainly exclude a large number of short term prisoners. In this respect even one of the most significant works carried out by John Walker and David Biles of the Australian Institute of Criminology becomes subject to such criticism.

None of these methods of enumeration of prison populations provides any indications as to how many individuals pass through the prison system every year. We generally believe that prisons are for adults. According to a report by the Bureau of Justice Statistics, LEAA, approximately 3-400,000 children under the age of 18 years pass through the United States prison system each year. As a result of this research several states have initiated investigations into this matter.

The imprisonment trend for the United States includes only populations in State and Federal institutions; it excludes a large number of prisoners in county prisons. Similarly, the Australian data, at least from one state, exclude a number of young adults between the ages of 18 and 21 years who are detained in institutions not labelled as prisons. One wonders why such practices are perpetuated. It would appear that a proper

count would be of "individuals deprived of liberty".

I have presented data on receptions under sentence by offence group and length of sentence. Actually, as we are all aware, rarely does a prisoner complete the total period of sentence inside a prison. This situation often reaches a ridiculous level. Some of you probably have had a chance to read the newspapers of last Tuesday - a man sentenced to 18 months gaol for breaking, entering and stealing was released recently after serving only 13 days. It would seem, therefore, that instead of length of sentence the information that would be more valuable is "length of stay in prison".

I can go on in this manner for quite a while, many of you know much more. I shall therefore move to a few other issues. Originally, my intention was to present a forecast of prison population. It did not take much convincing, however, to give up that intention. The main reasons for this decision are several. Firstly, it has not been possible to establish a relationship between crimes known to the police and the level of imprisonment. Secondly, we cannot use the number of arrests to predict the level of imprisonment. Often we are led to believe that we come to know about perpetrators of crime after a crime is cleared by arrest or similar process. This is far from true. The figures on crimes cleared by arrest, whether from the FBI's Crime in the United States series or from the annual reports of the Police Departments of various jurisdictions in Australia, tell us the number of arrests by age, sex and other attributes. They do not tell us about individuals arrested. For example, in my study of break, enter and steal offences in the Sydney metropolitan area in 1981 I found that for the 2794 such offences the police made 4266 arrests. Further

examination revealed that only 2171 individuals were arrested. Several individuals were arrested a number of times during the same period.

Thirdly, and perhaps more importantly, type of offence very often does not play a dominant role in a decision to imprison someone. As Professor Sarri informed us last Tuesday, according to her study of women's imprisonment in Michigan for the ten year period 1968-1978, the most important fact in a decision to send a woman to prison was the judge; offence figured as the fourth important variable. Literature also reveals that among other variables, the defence attorney and the public prosecutor are often very important.

Where does all this lead us? We do not know much about our prison population and we certainly do not know what our prison population will be like next year and the year following. How then can we discuss issues and propose solutions? I do not know whether it is moral panic, or hypocrisy, or political manipulation, or judicial insensitivity, that is responsible for the current malaise. But one thing is sure that there is some serious flaw in the system.

In conclusion, I submit that our present problems have become volatile because of our failure to come to grips with the inhuman prison system that we have inherited. We failed to realise that it was not possible to humanise that system. And secondly, although the modern societies continue to use the prison system, no society has ever made clear three seemingly simple issues: Who should go to prison, for how long and under what conditions? Some of the recent judgments of the courts around Australia illustrate amply the uncertainties of the system. The sooner we

clarify these issues the better it is for our future.

My plea to this gathering therefore is that if you think that the number of women in prison in Australia is going to increase and this increase will give rise to additional problems, as we have heard over the last three days, then it is time to organise a proper information system. Because the number of women currently in prisons is small we can probably make a sound beginning. It is no use to operate on the basis of "I know" factors because it is hard to substantiate such observations. The police know all about crime and criminals, the courts know all about what to do with convicted offenders, and the corrections departments know what their problems are. During the last three days we have been told that 'drugs' is one of the major problems in our institutions. Indeed the honourable Minister from Victoria told us yesterday that approximately 70 per cent of the women sent to prisons are on drug related charges. Yet, two consecutive prison censuses, by Messrs Walker and Biles, some of the most thorough work ever carried out in this area, failed to show this phenomenon. I do not mean to criticise the statements made in this seminar and at the same time I have no reason to believe that the prison censuses carried out by Walker and Biles lack credibility. If we are receiving more and more people into prison on drug related charges and if drug use is an important problem in prisons I think we should count and document these. For that seems to be an appropriate way to deal with this 'major societal problem'.

Table 1

PRISON DAILY AVERAGE
AUSTRALIA,* 1961 TO 1981

Year	Women			Men	
	No.	%	Rate	No.	Rate
1961	209	2.7	4.0	7497	142.4
1962	190	2.4	3.6	7701	144.0
1963	193	2.4	3.6	7821	143.8
1964	208	2.5	3.8	8027	144.8
1965	212	2.6	3.8	7784	137.8
1966	225	2.6	4.0	8341	144.8
1967	256	2.8	4.4	8934	152.7
1968	265	2.7	4.5	9543	160.4
1969	267	2.7	4.4	9628	158.7
1970	281	2.8	4.6	9863	159.6
1971	274	2.6	4.3	10251	160.7
1972	265	2.6	4.1	10054	154.9
1973	239	2.5	3.7	9475	143.9
1974	199	2.3	3.0	8340	124.8
1975	174	2.1	2.6	8257	122.1
1976	224	2.6	3.4	8490	124.5
1979	216	2.4	3.1	8684	126.0
1978	289	3.1	4.2	8997	129.0
1979	322	3.3	4.6	9419	133.6
1980	316	3.2	4.4	9582	134.2
1981†	304	3.3	4.3	8959	126.3

* Six States

† Census year

Source: Satyanshu K. Mukherjee, Evelyn N. Jacobsen and John R. Walker, Source Book of Australian Criminal & Social Statistics, 1900-1980, Australian Institute of Criminology, Canberra, 1981.

Table 2

AVERAGE POPULATION IN CUSTODY
ENGLAND & WALES, 1972 TO 1982

Year	Women			Men	
	No.	%	Rate	No.	Rate
1972	980	2.6	3.9	37348	156.7
1973	1027	2.8	4.1	35747	149.6
1974	1044	2.8	4.1	35823	149.8
1975	1219	3.1	4.8	38601	161.3
1976	1282	3.1	5.1	40161	167.8
1979	1358	3.3	5.4	40212	168.1
1978	1387	3.3	5.5	40409	169.0
1979	1458	3.4	5.8	40762	170.2
1980	1516	3.6	6.0	40748	170.0
1981	1407	3.2	5.5	41904	173.7
1982	1326	3.0	5.2	42381	174.4

Source: Home Office, Prison Statistics, England and Wales, 1982.

Table 3

PERSONS IN STATE AND FEDERAL INSTITUTIONS
UNITED STATES, 1974 TO 1983

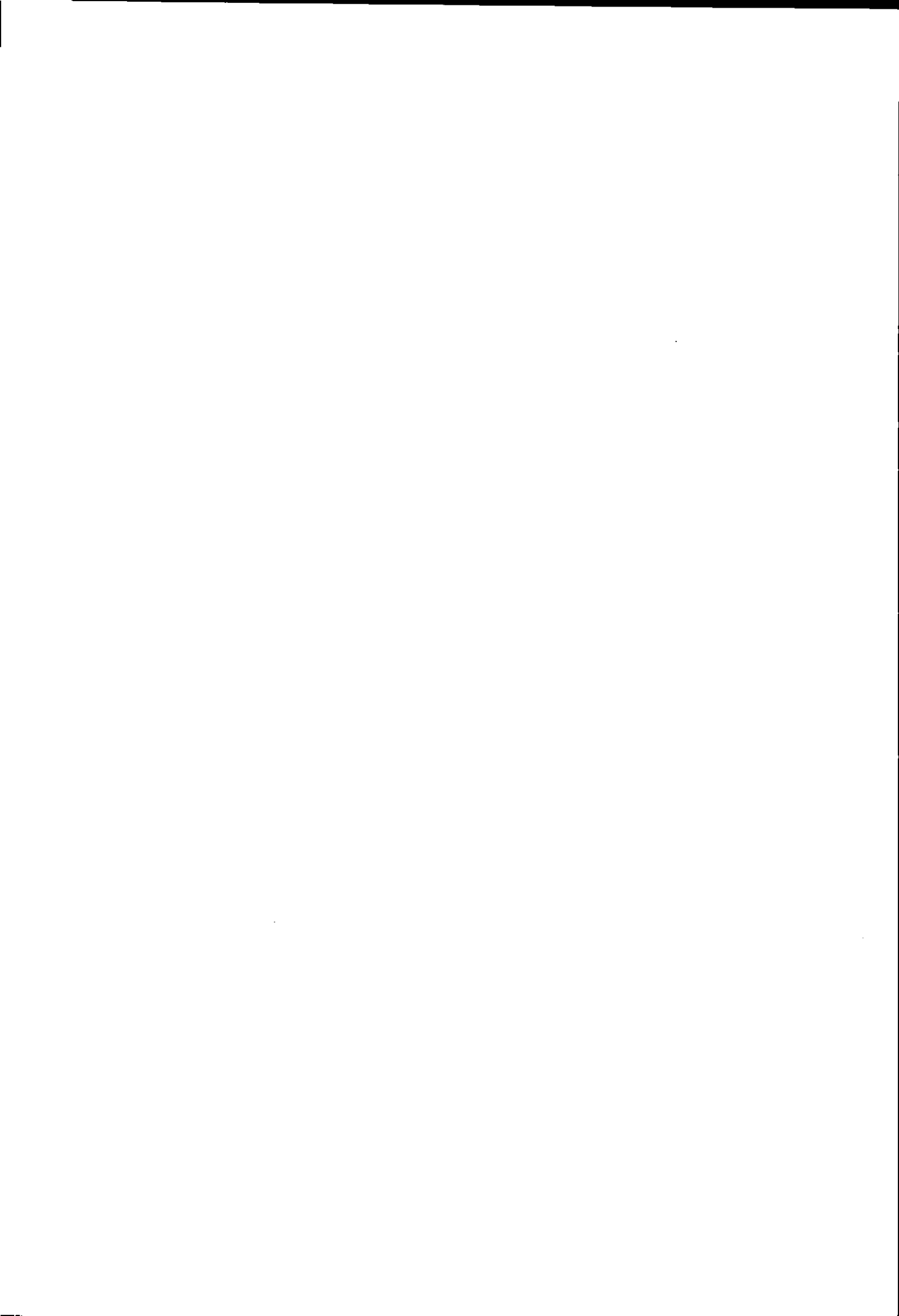
Year	Women			Men	
	No.	%	Rate	No.	Rate
1974	8091	3.5	7.5	221630	214.2
1975	9667	3.8	8.8	244149	234.3
1976	11170	4.0	10.1	266830	254.3
1979	12279	4.1	11.0	287745	272.2
1978	12746	4.2	11.4	294530	276.3
1979	12995	4.3	11.5	301462	280.5
1980	13420	4.1	11.5	316401	286.3
1981	15537	4.2	13.2	354393	316.8
1982	17923	4.3	15.0	396439	336.0
1983	19019	4.3	16.8	419811	352.0

Source: Bureau of Justice Statistics, Bulletin Prisoners in 1983, U.S. Department of Justice, April 1984.

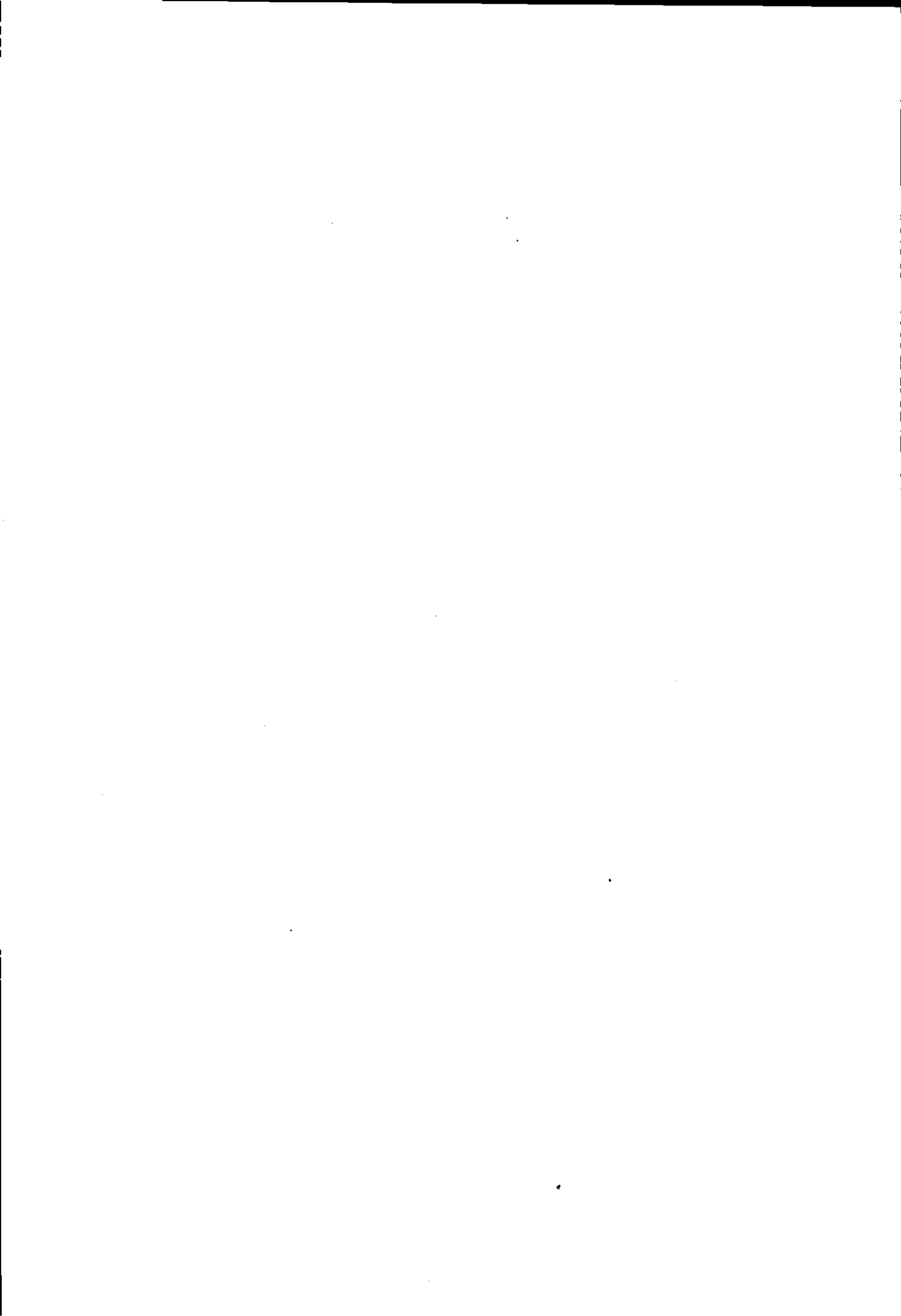
Table 4

RECEPTION UNDER SENTENCE (EXCLUDING IN DEFAULT OF FINE) ON 30 JUNE,
1977, 1980 & 1982 BY OFFENCE GROUP, LENGTH
OF SENTENCE AND SEX (PERCENTAGE)

Offence Group	Year	Total		< 6 mths	6-18 mths	18 mths - 4 yrs	4 yrs - < life	Life & HMP
		No.	%					
<u>Males</u>								
Total	1977	29564		39.7	37.0	19.3	3.5	0.4
	1980	32130		44.4	34.4	17.5	3.2	0.5
	1982	39191		52.8	29.5	14.2	3.2	0.4
Violence ag. the Person	1977	4192	14.2	38.6	33.7	19.4	5.5	2.8
	1980	4937	15.4	43.1	31.9	17.2	4.9	3.0
	1982	5614	14.3	51.8	25.5	15.1	5.1	2.5
Burglary	1977	6771	22.9	23.2	46.3	27.5	2.9	0.0
	1980	7415	23.1	30.2	42.7	24.4	2.6	0.0
	1982	9973	25.4	40.0	38.8	19.2	2.0	0.0
Theft, Handling, Fraud & Forgery	1977	12672	42.9	46.3	39.2	13.3	1.2	0.0
	1980	12745	39.7	51.8	36.2	11.1	0.9	0.0
	1982	14714	37.5	62.5	28.5	8.2	0.8	0.0
<u>Females</u>								
Total	1977	1607		56.6	32.4	9.4	0.9	0.8
	1980	1872		62.4	28.9	7.7	0.9	0.1
	1982	2185		68.8	22.9	7.2	0.7	0.4
Violence ag. the Person	1977	176	11.0	49.4	27.3	15.9	1.7	5.7
	1980	171	9.1	54.4	33.9	7.6	2.9	1.2
	1982	196	9.0	55.6	27.0	10.7	2.6	4.1
Burglary	1977	109	6.8	34.9	53.2	11.9	0.0	0.0
	1980	95	5.1	47.4	40.0	11.6	1.0	0.0
	1982	129	5.9	60.5	30.2	9.3	0.0	0.0
Theft, Handling, Fraud & Forgery	1977	919	57.2	57.9	36.0	5.8	0.3	0.0
	1980	1172	62.6	64.6	30.3	4.9	0.3	0.0
	1982	1326	60.7	74.3	21.4	4.2	0.2	0.0



III: RESEARCH PAPERS



MODESTY OR MUSCLE:
CONFLICTING VIEWS OF THE ROLE OF WOMEN
WORKING IN THE PENAL SYSTEM

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Despite recent court decisions and legislation intended to eliminate discrimination in employment based on sex, the penal system remains a sex-segregated, male-dominated field. According to the most recent study on women in the system, only one per cent or 56,108 of all employed women in the United States worked in the penal system in 1979. Ninety-two per cent worked in facilities for women or juveniles and eight per cent in adult male facilities. The majority filled positions as clericals and professionals with only a small number serving as correction officers and administrators. Women accounted for 12.7 per cent or 9,592 of the total security force of 75,360 and 14.9 per cent or 1,028 of the total supervisory and administrative staff of 6,878. (Chapman et al, 1983; xiii, 1, 26-32). Many women in the system are attempting to replace the sex-segregated structure with one that offers equal employment opportunity for women. These women, the integrationists, seek careers as officers and administrators on an equal basis with men in all areas of the penal system, including the male facilities.

There can be little doubt that women's opportunities for employment in the prison system are limited. In the United States there is usually only one women's prison in each state and a few states have none at all. Therefore, a sex-segregated prison system limits women's employment opportunities in three ways: only a small number of women officers can work in the prison system at a given time, promotions to supervisory and administrative positions are very limited and seldom available, and women are restricted to one prison in a single geographic area with no opportunity to transfer to institutions in other areas of the state. In jurisdictions where integration has been implemented, women have certainly gained both employment and promotional opportunities.

Women's right to equal employment opportunity should no longer be a debatable legal or constitutional issue since the courts and legislatures have already determined that right. However, the experience of the integrationists reveal that impediments exist that prevent them from reaching their goal. They are confronted with objections raised

by the traditionalists, those women who oppose female officers and administrators in male prisons and jails. The traditionalists, supported by many men, argue that the maintenance of a sex-segregated system is in the best interest of women. They insist that, in order to protect women from harm, women should be prohibited from working in environments considered too dangerous for them. This argument has its roots in the stereotypical woman described by the historian Barbara Welter in her phrase, the 'Cult of True Womanhood.' (Welter, 1973: 96-125) According to this perspective, a woman inherently possesses piety, purity, submissiveness and a capacity for nurturing others, characteristics that qualify her to be a wife, mother and homemaker. The safety of a woman and the strength and security of the family and community require that a woman not stray from her proper role and place. Because of the importance of woman's role, men must assume the responsibility of protecting her and, therefore, a woman who attempts to perform tasks or work in jobs that appear to endanger 'womanhood' must be stopped.

This paper will discuss the obstacles women correction officers and administrators face in their struggle for equal career opportunities with men in the penal system and the methods they use to attain their goal. The discussion will explore the ramifications of the legal reinforcement of the stereotypical woman, the rationale used by women involved in penology in the nineteenth century to establish a sex-segregated penal system, and the staying power of the Cult of True Womanhood. I make the point that both the integrationists and traditionalists involved in the debate on the proper role and place for women in the penal system resort to assumptions, not facts, to justify their opinions, whereas it is clear that only well-planned empirical studies can hope to provide the data necessary to come to definitive conclusions as to whether or not differences do exist between the performances of men and women in the penal system.

LEGAL REINFORCEMENT OF THE CULT OF TRUE WOMANHOOD

Sex-segregation in employment stems from a society's perception of womanhood and manhood. This perception is so pervasive that it is reinforced by court decisions and legislation, a fact that becomes obvious when one investigates how sex-segregation in work affected women in the nineteenth and twentieth centuries. For example, in Bradwell v. The State in 1872, the United States Supreme Court denied Myra Bradwell the right to become a lawyer in Illinois. Speaking for the court, Justice Bradley wrote, 'The paramount mission of women is to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.' (Kanowitz, 1973: 43-44) The need to protect womanhood by restricting women's choices of employment received further support from the United States Supreme Court in 1908 in Muller v. Oregon when it upheld the right of states to establish the principle of job classification by sex. According to Justice Brewer, 'That woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence is obvious.' (Kanowitz, 1973: 47)

Legal reinforcement of sex-segregated employment also stems from the perceived need to protect women's purity. As late as 1966 the Mississippi State Supreme Court declared in State v. Hall that women should not serve on juries and that, 'The legislature has the right to exclude women so they may continue as mothers, wives, and homemakers, and also to protect them (in some areas they are still upon a pedestal) from the filth, obscenity and noxious atmosphere that so often pervades a courtroom during a jury trial'. (Kanowitz, 1973: 59)

The widespread acceptance of the rationale for establishing and maintaining sex-segregated employment confined most women to jobs associated with women's traditional work; they became elementary school teachers, nurses, secretaries and domestic workers. Equally important, the belief that women only worked to supplement the family income and not for careers led employers to feel justified in denying women training promotions or wages comparable to those given to men for similar work. Furthermore, stereotypes describing the submissive nature of women led to the assumption that women should be passive and follow orders, should not act as supervisors, and should certainly not be in positions of authority over men. (Oppenheimer, 1970: 102-111; Caplow, 1954: 230-247)

Despite society's beliefs about women and their work roles certain significant events, such as wars, have altered sex-segregation in some areas of employment. For example, the impact of the working experiences of millions of women during World War II eventually transformed the role and place of women in the workforce. During the war it became patriotic and therefore proper for over six million women to work outside the home; a large number took jobs that had traditionally been taken by men and many became supervisors, demonstrating that women could perform on an equal basis with men. Although most of the women returned to their homes or to their traditional work roles after the war, precedents had been set based on the reality of their wartime experiences.

Gradually, starting in the 1950s, women, both married and single, with and without children, began to seek full time careers and opportunities in the work world. Faced with barriers to employment based on sexual discrimination, many became the core of the emerging civil rights and women's rights movements that questioned inequalities in all areas of life. As the movements grew, affecting ever larger numbers of men and women, the perceived threat to traditional values and institutions increased. Debates over the proper role and place of women surfaced and became increasingly emotional as both men and women resorted to assumptions and stereotypes to justify their conflicting points of view.

THE RATIONALE USED TO ESTABLISH A SEX-SEGREGATED PENAL SYSTEM

The staying power of the Cult of True Womanhood can best be illustrated by a brief look at the history of women working in the penal system. Women first became matrons and superintendents in the system in the mid-

nineteenth and early twentieth centuries. They were, for the most part, middle-class, white women who were active in moral and penal reform activities of the period. They focused their attention on restoring delinquent women to true womanhood. One such woman, Eliza Farnham, became head matron of the women's section of Sing Sing Penitentiary in New York from 1844 to 1848. She introduced a program that attempted to simulate a homelike atmosphere and establish a mother-child relationship between staff and inmates. (Kirby, 1971: 225-226 ; Feinman, 1980: 44-45)

The experiences of Farnham and other matrons/reformers helped them develop the rationale required to convince the men in the legislatures that by their very example, these pious and pure women could reform those who had fallen from grace. By establishing a domestic atmosphere in which the virtues of motherhood and homemaking were stressed, feminine qualities would be elicited from the female inmates. The reformers succeeded in convincing the legislators to enact laws to establish reformatories for women staffed only by women. (Freedman, 1974: 79-88 ; Feinman, 1980: 42-46) Male guards and administrators admitted women into the system because men believed that women knew and accepted their proper and chosen place and would not seek to compete with their male colleagues. Informally at first, and then more formally by policy, men and women divided the penal system into areas considered best suited for men's and women's natural ability and capacity. Women fought for and won a sex-segregated workplace.

THE STAYING POWER OF THE CULT OF TRUE WOMANHOOD

Segregation by sex in the penal system continued until the 1970s when women began to challenge the existing work format. Primarily as a result of the civil rights and women's rights movements, the federal government enacted legislation intended to end racial and sexual discrimination in all areas of employment. Title VII of the 1964 Civil Rights Act forbade discrimination in employment based on sex, giving women legal grounds on which to seek to redress unfair employment practices. However, the act did little to assist women in the penal system as it did not cover government employees. Not until 1972, when the law was amended to include employment on all levels of government, did women in the penal system have legal protection against discriminatory employment practices. Their position was further strengthened by the 1973 and 1976 amendments to the 1968 Crime Control Act. These amendments restricted the allocation of federal funds to governmental and private agencies and organizations that complied with federal equal employment opportunity mandates. Since departments of correction at all levels of government relied heavily on federal funds, they found it necessary to alter their employment policies starting in 1972. (Feinman, 1980: 53-55)

By 1984, most state and city departments of correction as well as the federal prison system began to implement policy in compliance with federal legislative mandates; they integrated their staffs into single forces in which male and female officers had identical titles,

employment requirements and salaries. For the first time in the penal history of the United States, women could be assigned to work in male facilities as correction officers and wardens on local, state and federal levels. (Conversely, men could be assigned to work as officers and wardens in women's facilities.)

However, only a few departments of correction fully integrated male and female officers and administrators into a single staff and assigned them on an equal basis. Efforts to achieve full integration in the federal prison system and the departments of correction in California and New York City have been particularly noteworthy. Prior to 1972, no women worked in male institutions in these departments. In California, from 1972 to 1974, women officers were assigned to men's institutions only to search and supervise women visitors to prevent the smuggling of contraband. As the result of pressure exerted on the director of correction by the only woman executive in the department, by women's rights groups and by the chief of personnel, a policy for full integration of staff went into effect in mid-1974. Thereafter, women who applied for positions in male institutions received the training and supervision necessary for the job. As Arlene Becker, Deputy Director of the Department, wrote, 'The department cannot supervise the feelings and opinions of the managers, but it can supervise their behavior.' (Becker, 1975: 19-21)

New York City attempted to end discrimination, based on sex, in employment in 1978 when the commissioner of correction, aided by a female assistant and female deputy commissioners changed policies to achieve a fully integrated correctional staff. The next year, the personnel director made an important symbolic change by deleting the title of superintendent, which had previously applied only to women in charge of the women's jail, and designating the title warden for both sexes. Hiring, appointments, assignments and promotions were thereafter to be based on need and the results of civil service examinations. These changes came about primarily because of the pressures exerted by many women in the department and by women's rights groups. (Feinman, 1980: 55; Lee, 1982; Cohn, 1982; McMickens, 1982)

The federal prison system also attempted to end discriminatory practices. Sylvia G. McCollum of the Federal Bureau of Prisons wrote 'The federal government is the largest single employer in the United States. What it does--and equally important, what it fails to do--in employment practices is critical.' (McCollum, 1975: 11) The Federal Bureau of Prisons began implementing an affirmative action program in 1975. It acted to promote women to supervisory positions and to integrate men and women into a single correctional staff in all but the maximum security penitentiaries for men. The maximum security penitentiaries were considered too dangerous for women to work in because the most violent and dangerous inmates were housed in them. As of August 1982, there were two female wardens in the federal penal system, one at a male and one at the female institution. According to Patricia Sledge of the Federal Bureau of Prisons' Equal Employment Opportunity

Section, women were slowly gaining acceptance in male institutions since the bureau started the new policy of integrating the correctional staff. She attributed these improvements to the commitment to equal employment opportunity made by the Director of the Bureau and to efforts of some women in the bureau as well as women's rights groups.

Black women in particular benefited from equal employment opportunities in the penal system. As a result of the 1954 United States Supreme Court decision, Brown v. Board of Education, racial segregation became unconstitutional. In keeping with the court's mandates, federal, state and local correctional departments ended the policy of racial segregation that restricted black officers to guarding black inmates. Since New York City's Department of Correction employs a large number of female correction officers, it offers an excellent illustration of the gains made by black women in the system. After the Brown decision, many black women, several of whom had graduated from college, applied for positions as officers in the House of Detention for Women. By the end of the 1950s, they constituted approximately 50 per cent of the female staff and by the end of the 1970s they numbered approximately 80 per cent of the staff. According to Carolyn Berry, the Equal Employment Officer for the Department, of the 572 women officers and administrators employed as of June 1982, 444 were black, 85 were white, 42 were Hispanic and one was Asian. Equally important, black women were promoted to administrative positions in the women's jail and in the department's administrative offices. The first black woman superintendent in the women's jail was appointed in 1969, the second in 1971. In 1980, Jacqueline McMickens became the first female Chief of Operations of the Department of Correction, the highest uniformed position in the department. She has been responsible for the implementation of policies and practices that concern security personnel and inmates in all the male, female and juvenile facilities in the city. And in 1982, Gloria Lee was appointed to be the warden of one of the largest and most dangerous jails for men in New York City.

Interviews with McMickens, Lee and other black women in the system indicated that as employment opportunities opened for women in other areas, many white women left the penal system creating a vacuum for black women to fill. As the system became identified with black women, both as staff and inmates, fewer and fewer white women applied for jobs. The experiences of black women in other large urban penal systems are similar to those of black women in New York City's Department of Correction. However, in rural and suburban areas, white women still account for the majority of female officers and administrators. This pattern is in keeping with the demographic distribution of black and white people in the country. (Lee, 1982; McMickens, 1982; Cohn, 1982; Berry, 1982)

However, despite expanding opportunities for black and white women, both continue to encounter hostility and resistance from male officers and administrators. Samuel Samples, a warden in the Federal Bureau

of Prisons commented that women who "stick it out" in the penal system are the 'most persevering people in the world' because they have to overcome enormous, though often subtle, obstacles placed in their way by men in the system. (Samples, 1979).

Opposition to equal employment opportunities for women, especially those seeking to work in male facilities, has come from women as well as men. They have repeatedly heretofore held assumptions about womanhood, not facts to prove their points of view. The integrationists have developed their own argument to justify their goal. Ironically, an examination of the debates between the two groups reveals that both have based their arguments on traditional perceptions about the stereotypical woman.

In support of an integrated workforce in penal institutions, integrationists, feminists and several social scientists have stated that women would sensitise male workers and humanise the work environment creating a more conducive atmosphere in which to rehabilitate inmates. In addition, they have included the theory that because women may have experienced discrimination based on sex or race, they would be more aware of the interests and needs of other oppressed people, the inmates. Norval Morris, of the University of Chicago Law School, claimed that women 'will tend to reduce violence' and therefore aid in the rehabilitation of inmates. (Morris, 1974: 109) After interviewing inmates in male institutions, Joan Potter wrote, 'Women tend to be less abusive and more willing to talk, these prisoners say; moreover, their presence makes the artificial world of the prison seem more like the outside world.' (Potter, 1980: 30)

Although Morris, Potter and others have expected that women who entered a male dominated field would deviate from existing role expectations and introduce a feminine, a more humane, role model, there are no empirical data to substantiate these assumptions. In fact, Erikson writes that people who do deviate from the norm are considered 'so dangerous or embarrassing or irritating' that the community reacts by imposing 'special sanctions' against them. (Erikson, 1966: 6) In doing this the community defines the boundaries of expected behavior and announces the consequences of moving beyond those boundaries. (Erikson, 1966: 6,11) Cynthia Epstein agrees and writes that sex-labelling an occupation has consequences for persons entering and performing within the job if the person is the 'wrong' sex. Women who enter an occupation identified with men are viewed as deviants and subjected to social sanctions; men place obstacles in their way to prevent them from advancement and participation in the 'opportunity structure'. (Epstein, 1970: 966-967)

Support for these conclusions can be found in studies of women entering and working in male dominated occupations. The results of the studies indicate that once men find they can not prevent women from entering, the men create sex linked specialities within the occupational field in order to control the rewards of status, power and income. (Oppenheimer, 1970; Epstein, 1970; Patterson and

Engelberg, 1978) For example, women lawyers are most frequently found practising criminal, estate and domestic relations law whereas men predominate in the fields of corporate and tax law, and women doctors practise family and pediatric medicine whereas men predominate in all of the surgical fields. These studies have provided no evidence that women create a more humane work environment or have any influence on the work habits of men.

There are some obvious differences between the experiences of women working in the penal system and those who enter other male dominated work spheres. Until the 1970s women in the penal system worked in a sex-segregated environment that was originally created, by choice, by women in the nineteenth century. Unlike male doctors and lawyers, men in the penal system did not have to create female specialities to maintain their power and control over the system. In addition, unlike the medical and legal professions, status and wealth are not rewards earned by correction officers. Therefore, men in the penal system may have other definitions of rewards; men's sense of importance may stem from the belief that the job is very dangerous and therefore, requires manly skill and strength. To preserve their self-esteem and masculine identity, men may believe they can not permit women to succeed. They may be responding from a 'concern about the challenge to traditional "masculine" and "feminine" roles that are deeply entrenched in our culture, and that generates a sense of security and stability for many men and women.' (Chafe, 1977: 134) Many men and women in the penal system hold traditional beliefs about the role and place of men and women in society. Any challenge to these beliefs elicits strong and emotional reactions.

Given the strong feelings of male officers and administrators it is not surprising that a reason for the opposition to the integration of women into the staff in male prisons and jails concerns security. Those opposed to a fully integrated staff argue that the presence of women increases security risks in three ways. First, women are not physically strong enough to control dangerous or violent male inmates either on a one to one basis or in a riot situation. Second, women are objects and potential victims of rape, and this makes them vulnerable to sexual assault from inmates. Third, male officers feel compelled to protect female officers from rape and from a violent situation, thereby increasing danger to themselves.

These arguments persist despite the fact that male officers and administrators are unable to provide documentation to prove that female officers and administrators increase security risks in male institutions. There are no empirical studies to evaluate the ability of women to handle dangerous or violent situations in a male prison or jail. Therefore, there are no data to verify or refute arguments opposing women's right to work in male facilities based on security concerns. Equally important, in the decade since the implementation of equal employment practices in the penal system, there have been no reports of actual incidents of violent confrontation or dangerous

situations brought about because of the presence of female officers and administrators or their inability to handle their jobs. Both male and female security staffs work unarmed, aware that other officers, fully armed, are prepared to come to the aid of anyone in trouble. Furthermore, although departments of correction are loathe to report incidents of rape, of either officers or inmates, it is known that a number of male officers have been raped by inmates.

Despite the lack of data to support their argument, men in departments of correction have taken the security issue to court and have been successful in limiting the employment opportunities of women. The 1977 landmark case, Dothard v. Rawlinson, continues to be used as an impediment to equal employment opportunity for women. The United States Supreme Court upheld the state of Alabama's Board of Corrections' rule that women should be excluded from male maximum security prisons because the prisons are very dangerous and women officers are vulnerable to rape. The likelihood that women would be assaulted is considered to pose a security risk for the prison. The court based its decision on the bona fide occupational qualification exception to Title VII's ban on sexual discrimination in employment practices. (Bona fide occupational qualification in Title VII of the 1964 Civil Rights Act recognises that certain occupations may only be performed by a male or female respectively and that consideration of sex when hiring an applicant is not discriminatory.) (Reisner, 1979: 243)

The issue in this case was security and the need to protect women from danger. Precedent and rationale for this court decision stem from previous court cases; both Muller v. Oregon and State v. Hall refer to the need to protect women from a hazardous work environment and from the sordid facts and experiences of life. Accordingly, personnel in the penal system, unlike those in the medical and legal systems, have come to rely on the courts to maintain sex-segregation in certain work assignments.

The integrationists have expressed concern that the Dothard decision will prevent them from reaching their goal. The decision can be used by their opponents to justify the security arguments concerning the need to secure the male institutions and to protect women, and by departments of correction to slow their personnel integration process. In addition, because broad experience throughout the system is a requisite for promotion, opportunity for advancement to administrative and supervisory positions in men's prisons will be severely limited if women are unable to work in men's institutions.

Male inmates have also succeeded in limiting the employment opportunity of women officers through the use of litigation. Arguing that their right to privacy is violated if women officers are assigned to their housing areas or if women conduct body searches, male inmates have taken their case to court and have, more often than not, won. However, in these cases the courts did not ignore the equal employment issue involved. In Reynolds v. Wise in 1974, in Meith v Dothard in 1976, and in other cases, the courts have stated that men and women officers

should be given selective work assignments in institutions where the inmates are of opposite sex so as not to interfere with the right of privacy of inmates. (Reisner, 1979: 243-250)

The resulting problems are similar to those raised by the Dothard v. Rawlinson decision. Women can be denied assignments that are required or are advantageous for promotion. Furthermore, in order not to abrogate the privacy rights of inmates, departments of correction have assigned women officers to the limited number of posts in a male facility that do not necessitate direct contact with male inmates. This latter policy serves to exacerbate the hostility of male officers who claim that women receive the same salary but do not do the same work--the tough job of working directly with the male inmates.

These court decisions on security and privacy have led to the further isolation of women who work in male prisons and jails. The result has been that women, in small numbers and in posts that prevent their contact with inmates have had little discernible impact on humanising the work place, changing the behaviour of male officers, or facilitating the rehabilitation of male inmates; thus, none of the positive effects of integrating women into an all male workforce, predicted by theorists, have in fact been realised.

The potential for romantic alliances between staff and prisoners has been raised. There is no evidence that women officers do create problems of this sort. However, there is a long history of female prisoners being raped and becoming pregnant while being supervised by male officers.

Perhaps the strongest deterrent to equal employment opportunity for women in the penal system comes from the traditionalists; women who prefer to work in a women's prison or jail and do not want equality if it means working in a male facility. An example of action taken by women wishing to restore sex-segregation in the penal system is a law suit by women officers in the jail in Buffalo, New York. Currently, they are suing the jail administration to end the policy of staff integration; they do not want to be assigned to the men's section of the jail but prefer to work only in the women's section.

Needless to say, the views of these women are welcomed by the men who are opposed to working with women in a male facility and are, at the same time, anathema to women seeking an equal position as professionals with men in all institutions. The latter women, the integrationists, do not seek preferential treatment but want to be fully trained and prepared to accept any assignment in any institution.

The burden on the integrationists is thus very great. Not only must they deal with the contrary views of both men and women, but they must also work harder to prove themselves to the male officers and administrators. Furthermore, they must get the job done without the help and advice of most male colleagues, support that men usually can count on. The task is made more difficult by the low esteem in

which the women feel they are held by most men in the system and by open hostility and opposition from many female as well as male officers and administrators. The integrationists also face sexual innuendo and harassment and are made aware that they are not trusted because they can not do the job that men can do. (Feinman, 1980: 59-61; Becker, 1979; Wolfe, 1979; Lee, 1982; McMickens, 1982)

The integrationists must also struggle against the traditional stereotypical view of women held by those who founded the women's prison system. In order to create a place for women in the male-dominated field, the founders argued for the establishment of women's prisons staffed only by women, emphasising traditional views of the role and place of women in society. These arguments have proved to be the most difficult to overcome because they are so pervasive in society and so readily accepted by men and women alike.

Ironically, to counteract the arguments of the traditionalists and of male officers, administrators and inmates, the integrationists are promulgating a view based on their own version of the stereotypical woman that is barely discernible from that of the traditionalists-- that women are more humane and sensitive and, therefore, more able to humanise male penal institutions thereby contributing to the rehabilitation of male inmates.

Those who believe that the full integration of male and female prison staff is a desirable goal also believe that there are ways in which the potential disadvantages listed above can be mitigated or eliminated. Security issues may be resolved if safe and humane prison conditions are established for staff and prisoners. An effective staff training program needs to be developed that includes courses in self defence, crisis intervention and riot control. Simulations of dangerous situations, such as fights among prisoners, attacks on officers, and prisoners taking officers hostage, would train both male and female officers to handle these emergencies alone or as a team. And, as men as well as women are subject to rape in a male prison, a strong training program should benefit both male and female staff. If all positions are opened to qualified men and women and a staff grievance process is implemented to deal with problems that may develop as men and women learn to work together in an integrated staff, then all will learn through experience, that women can perform on an equal basis with men in all positions and at all levels of authority.

The issue of prisoners' rights to privacy may be resolved if new institutions are designed and structural changes made in existing prisons that provide for the privacy of male and female prisoners regardless of the sex of the staff; these might include shoulder-height partitions in front of toilets and showers. In addition, codes of behaviour for staff and prisoners dealing with situations such as pat and body searches and dressing may prove to be a benefit for staff as well as prisoners. A statement of expected behaviour will protect the privacy rights for prisoners and reduce the possibility of legal action against staff for violation of these rights.

Romantic entanglement between male and female staff or staff and prisoners may not be a problem if staff is properly trained to act professionally and if codes of ethical behaviour are established and enforced. The divisiveness among women staff will probably dissipate if the above three suggestions are implemented, and the fears and distrust of male and female staff are allayed.

CONCLUSIONS

The debate on the role and place of women officers and administrators in the penal system reveals that both the supporters and the opponents of equal employment opportunity have been using arguments that rely on beliefs about the innate qualities of women, beliefs incorporated in the Cult of True Womanhood. Both groups use arguments based on assumptions, not on objective data. Both groups seek to justify their arguments with emotional rhetoric when it is clear that only well-planned studies can possibly provide the data necessary to come to definitive conclusions about the ability and effectiveness of women working as officers and administrators in all areas of the penal system including male institutions.

Women seek employment in the penal system, by and large, for the same reasons that men do; the system offers individuals without highly developed skills the chance to gain employment security, a reasonable income and opportunities for advancement. The currently depressed economy and its concomitant high rate of unemployment, may possibly have a number of effects on employment practices and policies concerning women in the penal system. There will be a larger number of skilled and unskilled men and women competing for employment in the system; this will, in turn, accentuate controversy surrounding the role and place of women in the system and make resolution of those controversies even more difficult than before.

It is necessary for social scientists to conduct empirical studies that will provide the data to evaluate the role of women in the system in general and, more specifically, the role, behaviour and impact of women working with men in male facilities. Only with facts can we hope to erase traditional attitudes and stereotypes concerning women's proper role and place in the penal system. Although the debate on women's place in the system continues, it is still primarily a topic of concern and discussion within the system itself, receiving little attention from social scientists. What little we know of female correctional staff comes mainly from autobiographies of matrons and superintendents and from former inmates, literature which is tainted with bias and subjectivity. Only a few studies have been conducted and they have dealt primarily with attitudes about women working in male facilities. For example, the National Institute of Corrections Jail Center Study conducted in the men's jail in Boulder, Colorado in 1976-1977, reported that male officers and inmates as well as female officers believed that the presence of the women 'reduces tension and decreases the likelihood of physical confrontation'. (Katsampes and Kissel, 1979: 31) In the most recent and extensive

study, the one conducted by the Center for Women Policy Studies, the researchers concluded that women are not welcomed by men in the system and remain concentrated in female and juvenile facilities. Furthermore they observed that, "Occupational segregation subsumes a multitude of factors that work to the disadvantage of women employed in corrections. Women not only experience differential recruitment and placement, once in the field, their mobility and attainment also differ from men."* (Chapman, et al, 1983: 119)

The conclusions of these studies as well as court decisions on security and privacy attest to the tenacity of the values inherent in the Cult of True Womanhood, the ramifications of which are obvious in that both integrationists and traditionalists continue to incorporate these values in their arguments. In addition, these stereotypes continue to prevent women from equal employment opportunity in the penal system.

The absurdity of arguments invoking different stereotypical images should be apparent to all. Not until such arguments have been laid to rest can there be establishment of a rational policy dedicated to the development of well trained and effective staffs of men and women in the penal system.

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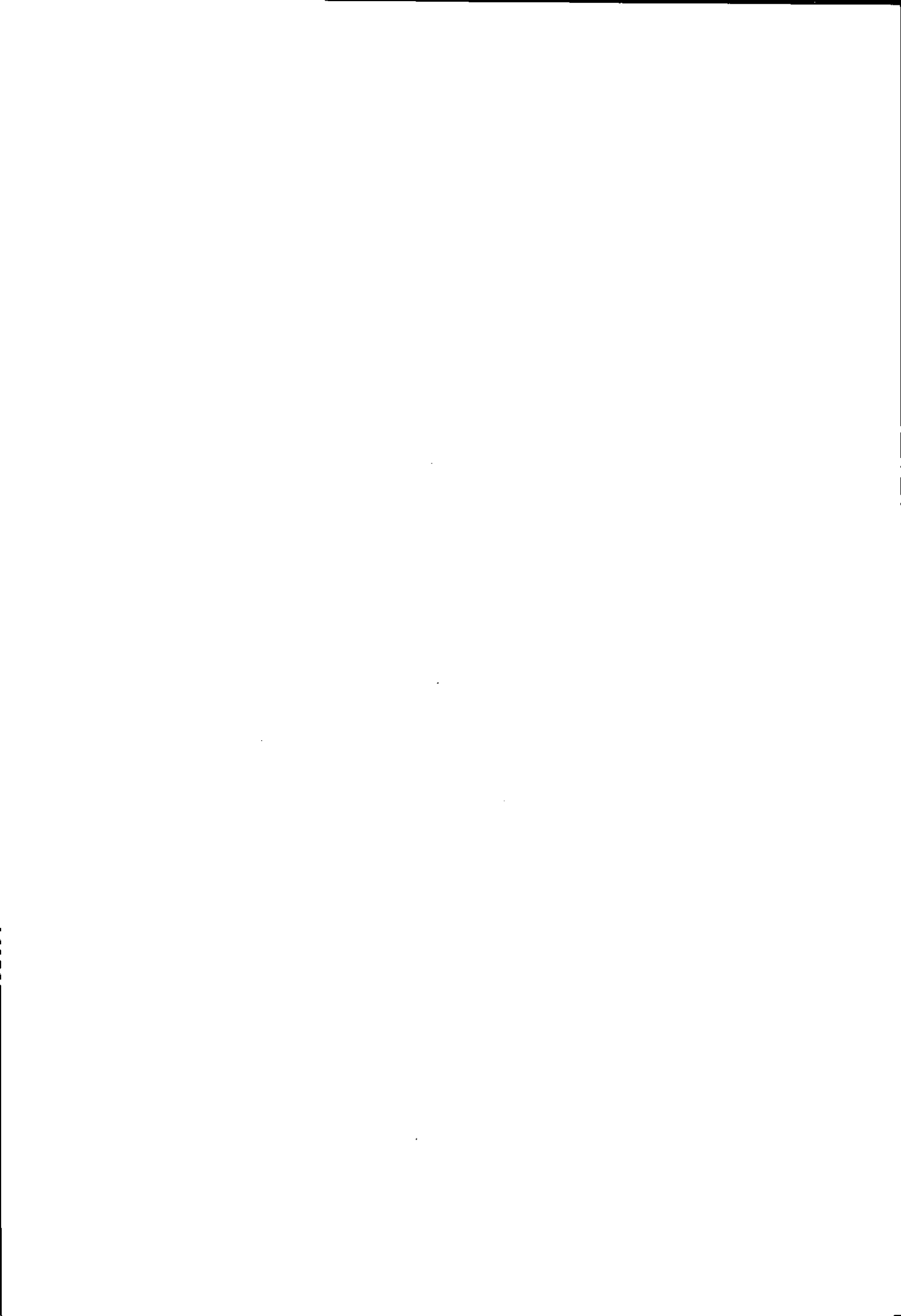
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THE CHANGING CHARACTER OF FEMALE OFFENDERS
IN THE UNITED STATES

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PREFACE

Issues pertaining to race and gender are of increasing importance in the United States. My observations of criminal justice programs in Australia - both for juveniles and adults - suggest that they are also of importance here. The paper which follows refers only to the United States, but it is hoped that this examination of the problems and issues facing that country will inform researchers, policy analysts, administrators and other practitioners in criminal justice in Australia about the changes underway in the United States. With such understanding it may be possible to intervene here in ways which will prevent or control some of the negative outcomes that have occurred in the U.S.

INTRODUCTION

Female offenders and criminality were ignored by most policy makers, correctional administrators, and even criminologists until the 1970's, largely it seems, because female crime was viewed as a minor matter when compared with male crime. In 1980 8,170,247 males were arrested in the United States and 1,532,934 females, ratio of over five to one. (U.S. Dept. of Justice, 1980). A similar pattern was observed among juveniles, although the ratio of 3.5 was lower. During the 1970's, coinciding with the spread of the feminist movement, judges, policy makers, and criminologists suddenly became interested in female crime and appear to have discovered a "social problem in the making" (Weiss, 1976). Prior to that as Rache (1974) and Smart (1977) have noted that research concerning women primarily addressed biological and psychological characteristics of female offenders; causal theories of crime were tested only against male populations; and classificatory systems were developed only for males and then applied to females despite the fact the behavior of female offenders, both adult and juvenile, differed markedly from that of male offenders. Female criminal behavior was viewed as more problematic when there was a violation of traditional sex roles assigned to women in the society (Datesman, et. al, 1975).

Because of past neglect, insufficient attention has been given to basic issues related to causation, frequency of participation, offense patterns, and the manner of processing of females into and through the criminal justice system. Recently, there has been a plethora of theoretical and descriptive statements attempting to explain similarities and differences in male-female criminal behavior, but most of these are not based on systematic research.

HISTORICAL PERSPECTIVE

In the midst of current interest in the female offender, it is easy to forget that this offender is really not a new phenomenon. While she has existed (albeit in smaller numbers) historically, she was generally regarded as incidental to the study of real (male) criminality. Rising incarceration rates, however, reflected changes in the nature and incidence of crime among women and/or changes in the criminal justice system's response to her. The "new" female offender has posed a challenge to these long and widely held assumptions: (a) the criminal justice system protected most women from the harshness of incarceration and (b) female criminality was really black female criminality.

These assumptions were firmly entrenched as early as 1901 when Kellor wrote:

There is no problem of criminality among white women of the the South. In the cities there are but small numbers of workhouses [where female offenders served time], and the average is less than three each in the eight state institutions . . . Laws are not enforced against women, even to the degree in the North. They are often pardoned when convicted, because of the harshness of the penal system . . . But the facts for negro women are very different and conditions are such that they cannot well avoid immortality and criminality.

Analyses of official statistics, arrest data, and prison populations often mirrored support for these assumptions.

Explanations offered for the relatively few non-minority women who encountered the criminal justice system were usually couched in intrapsychic terms. An example of this position is mirrored by Bryant as early as 1918 in her study of women at a house of correction. She wrote that women were committed because of internal factors making for personal maladjustment. Explanations offered for black female criminality, however, deal with cultural and other environmental conditions. In 1904, Dubois pointed to lax social norms in the black community as contributing to the high arrest rate among black women. Arrest figures for Atlanta, for example, showed that, in 1900, 2,086 black women were arrested as compared to 474 white women (Dubois, 1904).

Historically, black women have been overrepresented among prison populations. In 1890, when black women comprised only 14 percent of the female population in the United States, they made up almost half (1,989) of the total female prisoner population (4,304). In addition, it was not unusual for black female commitments to surpass those of white females. For example, in 1923, 6,399 black women were committed to prison from January 1 to June 30 as compared with 5,030 white women.

Several researchers pointed to differential processing as accounting for the seemingly high crime rate among black women. In a study of women offenders at a New York State Workhouse, Fernald, Hayes, and Dawley (1920) observed that the larger proportion of black women in the Workhouse was probably due to the practice of giving Workhouse terms to first or second

offenders who might, if they had been white, have been given a chance on probation. More recently, numerous scholars acknowledge that black women have never been afforded "protection" from the criminal justice system as had the non-minority women. Indeed, Klein (1973) asserts that chivalry has never been extended to women of color.

In addition to being overrepresented in the criminal justice system, black women have been viewed as more criminal than the non-minority female. "More criminal" refers to the tendency for black women to engage in more serious offenses. Again, historical data support this difference. Census data on prison populations from 1890 to 1936 show that a higher percentage of black women committed crimes against property and person than did white women. A larger percentage of white women were involved in sex offenses, disorderly conduct, and drunkenness.

Institutional commitment patterns from 1900 to 1923 also show different patterns for white and black women. White women were more likely to be found in county jails and workhouses while black women were more likely to serve time in state prisons and penitentiaries. Because large percentages of the commitments for serious offenses were to state facilities (U.S. Census Bureau, 1926:32), it was said that black women were, no doubt, sentenced in accordance with the type of crimes they committed.

As early as 1904, sentencing was observed for these two groups of women. Of the black women sentenced, almost half received a year or more of confinement. For white women, however, a little over half served less than one year. Of course, length of time served should be reflective of the degree of seriousness of the crime committed, but as we shall note later, that is often not the case.

Regardless of the theories of causation, black females are more likely than their white counterparts to be arrested, charged, convicted, and sentenced to prison. These trends have existed since the first years official statistics were recorded. Tables 1 and 2 are illustrative of the gap between black and white women in arrest rates and incarceration rates. In 1940, for the State of New York, 181 black women were arrested per 100,000 in New York. The rate for white women was 12. Black women were also more likely to be processed through the criminal justice system from arrest to imprisonment than were white women. The incarceration rate for black women was 21 as compared to 4 for white women. Rates from 1932-1936 for the United States support these gaps. For this period, white women had an incarceration rate of 6 per 100,000 while black women had a rate of 21 (von Hentig, 1942:236). By 1980 these ratios had changed substantially, producing even greater racial differences.

Pollak (1950:115) summarized three major opinions on the race factor in female criminality: (1) black women are thought to be more criminal than white women; (2) they are believed to surpass the criminality of white women to a greater degree than black men seem to surpass the criminality of white men; and (3) their criminality appears to come closer to the criminality of black men than the criminality of white women does with regard to that of white men.

More recent attention on female criminality has acknowledged the special case of the black female offender while moving on to explain the causes of the recent rise in crime rate among non-minority women. Theories of changing opportunity structures and women's liberation ignore the fact that the woman

most likely to be processed through the criminal justice system are the least likely to respond to ideologies of sex-role equality. In 1934, Sheldon and Eleanor Glueck studied five hundred delinquent women and wrote, "The women are themselves on the whole a sorry lot" (299). Today, the lot of female offenders seems to have worsened. While black women are still overrepresented, it is apparent that factors that give rise to female offenders are stronger than ever before.

TABLE 1
ARREST RATIOS PER 100,000 PERSONS IN THE GENERAL POPULATION,
ACCORDING TO SEX AND RACE, NEW YORK STATE, 1940

Sex and Race	Ratio
White female	117
Black female	181.1
White male	263.5
Black male	1,890.3

(from Pollak, 1950:116)

TABLE 2
RATIOS OF PRISONERS RECEIVED FROM COURTS BY STATE AND FEDERAL PRISONS,
PER 100,000 PERSONS IN THE GENERAL POPULATIONS,
1940 and 1980

Sex and Race	1940 and 1980	
	1940 Ratios ^a	1980 Ratios ^b
White female	3.6	6
Black female	20.9	47
White male	95.3	178
Black male	384.7	1148

^a from Pollak, 1950:117

^b U.S. Dept. of Justice Bureau of Justice Statistics, Prisoners in State and Federal Institution on 12/31/80, p. 21.

WHO ARE THE FEMALE OFFENDERS?

Self-report surveys of offenders (Short, 1970), indicate that the vast majority of adults have committed one or more misdemeanors or felonies, but the prevalence and frequency of crime is far less for females than males. Only in the case of larceny, drug use and abuse, forgery, fraud, and sex crimes do females commit with equal frequency. Only 10% of those arrested for all types of person crimes in 1980 were female, but in the case of larceny, 29% were female. The findings in Table 3 reveal an overall male/female sex ratio of 5.3 in 1980, but the ratio for person crime is far higher (9.2) than for property crime (3.7).

In a longitudinal study of female criminal behavior Steffensmaier et. al. (1979) concluded that for violent crime the female profile was essentially similar to that in 1960. However, they observed that there had been increases in larceny, fraud, and forgery, and in vagrancy and disorderly conduct. Females made few gains in traditional "male" crimes. They also indicated that reporting patterns need careful examination because they vary over time, by geographical area, and by organizational attributes of processing agencies. For example, women are viewed less paternalistically today and, therefore, may not be dismissed or "filtered out" of official processing as they may have been in the past.

Prostitution and promiscuity are behaviors for which women are almost exclusively prosecuted today. But, this has not always been the case as Hewitt and Mickish recently noted (1983). They examined the official handling of prostitution in Muncie, Indiana, between 1900 and 1920 and observed that there were nearly equal numbers of males and females arrested, tried, and

convicted for prostitution. Then, in the 1920's laws and practices began to change, illustrating the fact that deviance occurs in the context of social institutions that have the power to label some persons as deviants and others not so. The sexual status attributed to female deviance is also evident in the assumptions made by official agents that all female deviants are sexually deviant (Chesney-Lind, 1977).

Those who have argued that, with increased opportunity for women in the labor force, there would be increase in occupationally related crime have found few data to support their assumptions. Most women remain in low-paid, sex-segregated occupations. Female crime continues to be attributed to female sex roles, whereas male crime is usually attributed to social structural features. Feminist perspectives on crime and gender assume a broader perspective than do traditional social science perspectives. The latter generally are interested only in who committed the crime, whereas feminists view the crime within a wholistic conception of social power, gender relations, and economic stratification. They are as interested in the crimes committed against women as in those by women.

Table 3

Index Crimes (Arrests) by Sex, 1980

<u>Sex</u>	<u>Criminal Arrests</u>		
	Person ^a	Property ^b	Total
Male	401,589	1,383,350	1,784,939
Female	44,784	368,354	413,138
Sex Ratio ^c	9.2	3.7	5.3

a. Person crimes include murder, manslaughter, robbery, aggravated assault.

b. Property crimes include larceny, burglary, auto theft.

c. Sex ratio = male arrests/female arrests.

Source: FBI Uniform Crime Reports, 1981.

Court processing

Examination of gender patterns in court processing is particularly important, and many research findings have pointed to substantial differences. In a study of processing in Washington, D.C., Figueira-McDonough (1982) observed marked male/female differences in the processing of larceny, drug, and sex crimes. There were few differences in the treatment of person and serious property crime. She noted that those who argue that men and women are treated similarly are accurate when discussing crimes in which males predominated. But, if one examines crimes where females predominate, there are large differences in treatment in plea bargaining, in rates of guilty pleas and in sentence bargaining. Women were less able to bargain effectively and were more often willing to plead guilty to the original charge. They were less likely to have their charges reduced during the pleas process and they fared less well in sentence bargaining.

Figueira-McDonough also found that seriousness of offense and prior record were weaker predictors of sentences for females. Although males overall received stiffer sentences, the reverse was true for larceny where females predominated. In fact, the probability of severe sentences for larceny and sex crimes was nearly the same as for violent offenses. Family and friendship ties predicted to incarceration of females, but the opposite was true for males.

In a similar study in two midwestern cities Butler and Lambert (1983) observed that the treatment of males and females varied markedly between the two courts. Seriousness of the offense, past record, race and type of pleas were better predictors of male outcomes than for females. They concluded that incapacitation models were better predictors for males, whereas,

treatment-rehabilitation models appeared to influence judicial decision making for females.

Krutschmitt (1981) observed gender differences in sentencing in that more white males and older females received the longest and most severe sanctions.

Processing patterns for juvenile offenders manifest similar gender differences. Despite the passage of the Federal Juvenile Justice and Delinquency Prevention Act, female delinquents continue to be processed more often for noncriminal offenses than are males. Sexual and moral misbehaviors are judged as more serious offenses for females. For criminal offenses, there are fewer differences, but males may be dealt with more punitively - especially with respect to incarceration.

GENDER AND SENTENCING REFORM

Before examining the impact of sentencing reform through the use of sentencing guidelines, it is essential to emphasize our particular concern with gender as an important variable when considering sentencing reform, including the application of sentencing guidelines. Most of the writers wholly ignore gender as a variable worthy of consideration. Only Kay Knapp in her reports on evaluation of the implementation of the Minnesota Guidelines even mentions findings about gender similarities or differences. Others proceed to develop guidelines on the characteristics of the majority male offender, failing to note that criminal behavior patterns of women differ significantly.

It is also important to consider gender because research findings about discrimination and disparity in the sentencing of females, as compared with males, remain contradictory and do not permit firm generalizations. Some findings indicate that courts are more lenient in the processing, conviction, and sentencing of females. Others state just the opposite while a third group

argues that one must control for type of offense, prior offense record, presence of dependent children, and adequacy of defense counsel.

Daly (1981) argues that both class and gender must be carefully examined if one is to understand differences in criminal court processing and outcomes. She notes that women more often appear to receive less harsh criminal justice sanctions than do men, but such findings can be misleading if comparisons are only made between males and females and not within groups of each. She also suggests that feminist theory of "patriarchy" can be used to specify how defendants' form and degree of "family connectedness" become critical dimensions in court adjudication. Court agents expect women to perform family labor, to be responsible for children, and they recognize that labor is important to the maintenance of family life. As a corollary, court agents expect that men will be the primary breadwinners. They also assume that the heterosexual marital state is a stable group so long as men and women have mutual responsibilities therein. Bernstein's findings confirm the importance of this perspective on male-female roles (Bernstein, et. al, 1980).

Given this perspective, controls must be applied for family responsibility and dependence, prior criminal record, seriousness of the crime committed, and adequacy of the counsel provided to or for females as well as males, despite the fact that the former commit far less serious crime. Too often it is assumed that defense counsel is unnecessary for minor crimes.

SENTENCING GUIDELINES

As of 1983 only three states have established statewide sentencing guidelines with specific recommendations on in/out decisions and on the length of a prison term for a given offender and offense. These are: Utah (1979); Minnesota, (1980); and Pennsylvania (1982). In Minnesota and Pennsylvania, guidelines have been enacted into law by the state legislature, and in Utah

they have been formulated as administrative policy by the state court. These guidelines have as their purpose the establishment of rational and consistent sentencing standards which reduce sentence disparity and ensure that sanctions are proportional to the severity of the offense of conviction and the extent of the offender's criminal history.

Sentencing guidelines are being developed and implemented in an additional six states: Maryland, Massachusetts, Rhode Island, Vermont, Washington and Wisconsin. Numerous local jurisdictions also utilize sentencing guidelines: Denver, Chicago, Newark, and Phoenix (Kress, 1980).

This paper examines the Guidelines that have been implemented in Minnesota. Because there has been ongoing monitoring and evaluation by the state Sentencing Guidelines Commission, it is possible to ascertain some of the impact that occurred during the first two years of operation on a state wide basis. The Minnesota Guidelines explicitly state that the following principles are to be adhered to in sentencing:

- 1) Sentencing should be neutral with respect to the race, gender, social or economic status of convicted felons.

- 2) Commitment to the Commissioner of Corrections is the most severe sanction, but the policy must provide for increasing severity of sanctions proportional to the severity of offenses and criminal history.

- 3) Because the capacities of correctional facilities are finite, use of incarceration there should be limited to the more serious felonies and for those with long criminal histories. Sanctions should be the least restrictive type necessary to achieve the purposes of the sentence.

- 4) Guidelines are advisory to the sentencing judge, but there should be departures from the presumptive sentences only when substantial and compelling circumstances exist.

The range and form of the sentence can vary widely between states. In the case of Minnesota, a non-imprisonment alternative is recommended for most property crimes in which the offender does not have an extensive criminal history. In contrast, in Pennsylvania non-confinement is specified only for misdemeanors with mitigating circumstances. Judges in Pennsylvania have far broader discretion, but in both instances judges who depart from the guidelines must provide written explanations as to why they did so.

Minnesota has had a longstanding interest in controlling prison populations; therefore, the sentencing guidelines were viewed as an important mechanism in aiding this control. Minnesota had passed the Community Corrections Act in 1974 to foster community corrections by providing state subsidies to participating counties for the development of alternatives to state imprisonment.

Prior to the implementation of the guidelines, data on female/male sentencing in Minnesota indicated clearly that women were convicted of far less serious crime than were men (Table 4)

Table 4

Convictions, by Offense in Minn. - 1979

Offense	Male	Female
Person crimes	19%	7%
Serious property	19%	3%
Nonserious property	41%	70%
Victimless	17%	15%
Other	4%	5%
N=	(1774)	(491)

Examination of sentences indicated that 20% of the females and 29% of the males were sentenced to prison - clearly disparate sentences for females,

given their conviction offense. In addition, examination of criminal history revealed even more discrepant results for 65% of the females had no prior offense record, whereas only 46% of the males had no prior record. Further disparity is evident in the length of sentences that were handed down, as Table 5 indicates.

Table 5

Sentence Midpoints, in years, in Minnesota, 1979

Midpoint	Males	Females
Less than 1 year	18%	10%
1-2 years	53%	56%
3-4 years	1%	1%
5 years	18%	30%
More than 5 years	10%	3%
N=	(1775)	(513)

Women were more likely to receive probation sentences than were men, but the length of that sanction was far longer on the seriousness. Not surprisingly, 65% of the women had minor dependents as contrasted with 33% of the men. Women with minor children were more likely to receive a sentence to probation (albeit longer) than were other female and male offenders. No significant male/female differences were observed in residence, education, occupation, but females were more likely to have had a shorter and more disrupted employment history and were less likely to be employed at the time of commitment of the offense or at sentencing.

In 1982 the first 5,500 cases sentenced under the Minnesota guidelines were evaluated compared to a baseline group of 4,369 cases sentenced in 1978.

The findings revealed the following:

1) Sentencing practices substantially conformed to the policy articulated in the guidelines. There was a 73% increase in the imprisonment of offenders convicted of high severity crimes with low criminal histories and a 72% reduction in the imprisonment of offenders convicted of low severity crimes with moderate to high criminal histories.

2) Disparity in sentencing decreased with greater uniformity and proportionality. However minority offenders received somewhat more severe sanctions than did whites, even when controlling for severity level and criminal history.

3) Prison populations remained stable in contrast to the sharp increases in other states at this time. Commitments were close to the projected level.

4) The commitment rate for females declined to 5.5%, considerably below the expected level of 9.2%, but the rate for males also fell 1% below the predicted level to 20%. The female prison population declined from 80 to 56 - again in sharp contrast to practices in surrounding states.

5) Overall, the rate of trials did not increase and processing time remained nearly identical. Fewer than 1% of the presumptive sentences were appealed.

Thus, the above information suggests that the sentencing guidelines were relatively effective in achieving the stated goals for which they were enacted, at least in the first two years. However, the Commission just released its 1983 findings and some reversals and disturbing patterns have emerged. Prison sentences are once again on the increase for both males and females. Several actions by the legislature and by law enforcement personnel

have produced a dramatic increase:

1. The legislature in 1981 increased mandatory minimum sentences for felonies committed with a handgun to three years for the first offense and five years for the second offense. Populations increase because of longer sentences. Moreover, a state Supreme Court decision voiding the necessity of a conviction prior to the commission of a subsequent offense for second or subsequent provisions exacerbate this factor.

2. Prosecutors are dismissing fewer felon cases in an apparent and successful effort to build criminal history scores. The percentage of offenders with criminal history scores of four or more has increased greatly. This leads to more commitments and to longer prison sentences, as the Commission has noted.

3. Increasing numbers of property offenders, particularly females, are being sent to prison in violation of the basic policy of the Guidelines that person offenders should be committed to prison, but not property offenders.

Information is not as yet available which will permit careful examination of the factors which have reversed the patterns established by the implementation of the Sentencing Guidelines in Minnesota, but initially the propositions posed by Daly (1981), regarding the impact of gender, race and class appear to be highly appropriate for further study.

At present Minnesota has also formulated a complete set of sentencing guidelines for juvenile offenders, but they have not been enacted into law. They are being piloted in a few counties to ascertain their impact, before their adoption. Because status offenders are incorporated into these guidelines, it will be important to learn whether or not their implementation contributes to the expansion of social control over more and more youth in the justice system.

Women in Custody

Despite the discrimination and inequities that exist among police, judges and prosecutors, the most serious problems exist in residential facilities: jails, prison, reformatories, lockups and other facilities. As of mid-1983, the United States prison population totalled 431,829 adults, and it was increasing annually at a rate of 8.4%. If we include with this number the population of those in jails, juvenile detention and training school facilities, the total census of incarcerated persons in criminal justice facilities in the United States would easily exceed 700,000 persons - and we have not even considered those in various types of lockups or those in mental health facilities for offenders. Given the likelihood that those presently in jail or juvenile facilities have a high probability of subsequent incarceration in an adult prison, there does not appear to be any likelihood of significantly reduced populations during the 1980's, at least. Moreover, prison construction in excess of two billion dollars is underway in 39 states. Declines in the available young adult population and in the crime rate appear not to have had any real effect, because the vast majority of states report higher rates of incarceration with little or no relation to the crime rate in the respective jurisdictions.

America's prisons and jails had increasing and disproportionate numbers of nonwhites during the 1970's and 1980's. Approximately 50% of all inmates in prisons and jails are nonwhite, but when rates per 100,000 are examined, great discrepancies are revealed. Table 2 indicates that there is an overall prison incarceration rate of 145, but the rates for Whites is 178 and for Blacks, 567; for Hispanics, 164; and for Native Americans, 212. Because ten states do not code Hispanics as a separate group, their rate represents a large undercount. When one examines the rates for females, greater racial

discrepancies are noted. Overall, the female rate is 22 per 100,000 - far below that for males, but for white women it is 6 and for black women, 47.

Although the United States has a long history of high rates of incarceration, the period from 1930 to 1970 was relatively stable. However, since the mid-1970's there has been a steady and substantial increase in prison populations - peaking at annual growth rates of 12% in 1981 and 1982. Increases for females exceeded those for males because the female population increased by 133% to 18,853 since 1974 and the male population increased by 86%. Nonetheless, the female/male ratio did not change; females continue to occupy approximately 4% of the prison beds in the United States.

What are the factors that will help us understand how and why these changes have occurred in the numbers of persons incarcerated?

1. Socio-demographic factors have been identified as key variables because of the tremendous boom in the young adult population between the ages of 15 and 25 in the mid-70's.
2. Increasing numbers of immigrant and minority populations were eligible for prisonization - particularly because they have experienced severe economic and social discrimination.
3. Persistent economic recessions since the 1973-74 have permanently dislocated thousands of blue collar workers and young adults attempting to enter the labor force. These population are particularly at risk for increased crime, and especially for increased incarceration given their lack of employment, as findings from the Vera Institute Manhattan Study indicated.
4. Penal code reform took place in many states and in most instances involved increasing the type, length, and severity of the sanctions imposed on convicted offenders.

5. Income inequality increased particularly for women and most of all for minority women who were single heads of households. The increasing feminization of poverty paralleled the rapid increase in the incarceration of women who were also disproportionately non-white, poor, unemployed, and head of households. It should also be noted that in this period of time there were persistent efforts to reduce and control the amount of income allocation through the AFDC program.

Recently, we had an opportunity to examine changes in the incarceration of women in Michigan over a ten year interval. Between 1968 and 1978 that state experienced a 500% increase in female offender commitments and an overall increase of 260% in its female offender population in prison. In that same time interval, crime rate by women increased by less than 15%. However, in 1977 Michigan opened a new prison for women and the increasing availability of bed space appears to have been a major factor in judicial decision making. We would like to highlight some of our findings because they permit us to understand more fully the dramatic changes that have occurred in many states.

1. There was a 368% increase in the nonwhite population as compared with a 120% increase in white female offenders in prison. The sharpest increase in nonwhites occurred after 1974, a time of serious economic recession in Michigan. That recession had a very negative impact on nonwhite females employed in blue collar occupations.
2. Although nearly 90% of women had borne children, only 15% were married. Most encountered serious problems as single parent heads of households and moved to crime as one survival technique.
3. Offenders were seriously educationally disadvantaged and that disadvantage increased during the 1970's as measured by standard test scores.

4. Increases in alcohol and drug abuse or addiction were substantial as were increases in the percentage of offenders who had a history of mental illness and psychiatric placement.
5. Women in prison overwhelmingly represent the working poor, but only about 30% had received welfare support. The major changes which occurred during the period of this study were the declines in the occupational level and amount of labor force participation. By 1978, 53% of those entering prison had no full-time occupation; 19% were in unskilled occupations and 11% were in service occupations. Fewer than 10% were in professional or skilled occupations - a far cry from statements of some who assert that increased crime by females is associated with increased participation in the labor force (Adler, 1975; Simon, 1976).
6. It is often asserted that the offense behavior of females has changed, but our research found it not to be so. In 1967, five offenses accounted for three-fourths of all commitments: larceny, forgery, homicide, burglary, and assault, in order of their relative importance. Ten years later, larceny still was first at 31%, followed by drug-related crimes (15%); forgery and fraud (14); robbery (12); and homicide (7). There was no support for the argument that females have increased in violent behavior.
7. In contrast to adult male offenders, less than one-third of the women had a history of juvenile offending. More than half had never served time prior to the present commitment.
8. Two-thirds of all commitments received minimum sentences of two years or less, but during the decade the average sentence increased from 44 to 54 months. There was a tendency for the average sentence to

gravitate toward one to two years, regardless of the offense. The average length of stay also increased; 54% spent one year or longer in 1968, and that increased to 74% in 1978. When race was examined, it was observed that there were few differences, if one considered long sentences, but in the case of short sentences, nonwhites had the advantage. It appeared, however, that nonwhites charged with larceny (especially shoplifting) were sent to prison for short sentences, but their parallel white sisters remained in the community on probation.

Gender and the Liability of Being Black and Young

Throughout the United States correctional populations are disproportionately nonwhite and under the age of thirty. This pattern was also observed in Michigan, but this study revealed substantial differences for male and female offenders. Throughout the decade the percentage of nonwhite offenders grew throughout the prison population, but it grew faster for females. In 1972 the male prison population was 58% nonwhite while the female population was 69% nonwhite. In 1976 the male nonwhite population had declined to 54% while the female nonwhite population grew to 74%.

With the accumulated evidence in this study that women committed to prison in this state were predominately losers, it would appear that being black and female represents some form of double jeopardy reinforcing their loser status. Unemployment statistics for the state of Michigan (Michigan Employment Security Commission, 1978, 1979) reinforce this assumption. Between 1960 and 1975 the female labor force participation increased from 40% to 45%. However, while nonwhite women had a higher participation rate than white women in both 1960 and 1970, the reverse was true in 1975. That is, nonwhite women decreased their participation in the labor force during the

severe recession of 1974-75. More recent unemployment data lend further support to this interpretation. In 1976 women had much higher unemployment rates than men, and nonwhite women had the highest unemployment of all groups. Even later in 1978 when employment rates increased substantially in Michigan, major gains were made by white males and the least by nonwhite females.

Female offenders were older on the average than were male offenders in Michigan's prisons (27 vs. 22 years), but only 25% of all female offenders in prison in Michigan were older than thirty. Thus, clearly they are a relatively young population. And, again unemployment data indicates clearly that this age group is disproportionately at risk as far as unemployment is concerned. Thus, gender, age, and race interact to increase the probability of serious disadvantage in our complex and competitive society.

The findings from this research about the changes in the commitment of women to prison in Michigan between 1968 and 1978 presents a bleak picture, but they do challenge many of the popular assertions that are frequently made about female offenders. They indicate quite conclusively that criminal behavior patterns of incarcerated females have changed very little in this decade.

Females committed in Michigan were largely nonwhite, under-educated, poor or from poor families, and unemployed or employed in low skill occupations. Given their dependents and other family responsibilities, many of them may have drifted to property crime to solve immediate problems, or to more serious person crime when stress became such that they were unable to respond appropriately. Institutionalized racism and sexism once again appeared to be a fundamental problem in the criminal justice system.

The other pattern that stood out in this study of the commitment of female offenders to prison was the minimal use of community correctional intervention. As was noted earlier, two-thirds of these women had no record of contact with the juvenile justice system and more than half had never served time prior to the present commitment. Nearly three-fourths (71 percent) were committed for a property or victimless rather than a person crime. Thus, one inevitably must ask the question why they were sent to prison in the first place. The vast majority certainly were no threat to the public's safety. Moreover, being in prison inevitably compounded their problems with respect to their children and families, to employment, and to their own personal well-being. The increased evidence of mental illness and serious substance abuse in this population cannot go unnoticed. But, prison programs in Michigan, as in other states, provided no effective treatment for these problems.

Conclusions

By examining some research findings on court processing, sentencing, and incarceration from a gender perspective, we have demonstrated the utility of such an approach in increasing our understanding of the operation of the criminal justice system. Clearly there are numerous implications for law, policy, and programs for females as well as males, but this paper demonstrates that changes specific to women must be addressed. Feminist perspectives argue that crime occurs in the context of class, race, and gender relations. An adequate understanding of crime and deviance requires analysis of the ways in which institutionalized patterns of gender and race influence the behaviour of both women and men.

This paper does not address the broader issues confronting this society with respect to poverty, unemployment and insecurity. In the past few years we have experienced serious structural crises brought on by economic recession and federal changes in social welfare policies and programs. The feminization of poverty is a reality to millions of women and children and it will undoubtedly influence the criminal justice system, if past history provides any guidelines. Whether recognition of the problems will produce ad hoc responses or a sound reassessment and the establishment of more comprehensive social policies is highly uncertain today.

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MATERNAL-INFANT INCARCERATION:
SOCIOLOGICAL AND PSYCHOLOGICAL PERSPECTIVES

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1. The Construction of Female Deviance
2. The Function of a Gender Role Hierarchy
3. The Practical Implementation of Social Policy in Women's Prisons
4. Motherhood within the Prison Context
5. The Nexus Between Reproduction and Criminality:
The New South Wales Experience
6. Attachment: Theoretical Perspectives
7. Maternal-Infant Incarceration: Recommendations

The Construction of Female Deviance

The concept of female deviance is predicated on the existence of a socially-constructed female role composed of a behavioural repertoire deemed appropriate to the particular societal context, accompanied by a hierarchy of sanctions which serve to promote conformity. Theories of female criminality have often been derived from a positivist stance, reflecting a belief in biological or psychological determinism, a position integral to the female sex role as defined in Western society. There is, thus, an ideological consistency between theories seeking to account for the origins and nature of female criminality and the psychological and environmental influences which effectively socialize women. Smart (1977) provides a germane commentary upon this issue; she states (*ibid*, p.182): "Femininity is the antithesis of criminality".

A system of legal proscription which both defines and confirms societal expectation regarding the personal and commercial interaction between its members is interposed between conceptions relating to the psychology of particular groups and the behavioural interpretation of such conceptions. As such, the law represents one manifestation in an array of formal and informal sanctions which regulate the activities of the society. The law constitutes a structural, ritualistic codification of theoretical notions concerning female deviance. Other forms of social control ensuring the implementation of the dominant political ideology might, for women, embrace exclusion from the public sector or reliance upon social welfare support (Ehrenreich and Piven, 1984).

The commission of acts of criminality by the female appears, according to documented evidence, to be directed by sex role socialization (Smart, 1977; Hartz-Karp, 1981). Women tend to act in a supportive or ancillary capacity in male criminal activity; otherwise, they enact dramas reminiscent of their involvement in the domestic sphere. The activity of shoplifting, for example, is gender-appropriate as it is an extension of the task of providing household goods or obtaining desirable clothing; that is, shoplifting is "role-expressive". It has been stated: "Consequently the differential socialization of girls is reflected not only in the types of offences committed by women but also in the nature of their participation" (Smart, 1977, p.67). It can be demonstrated, therefore, that women's opportunity to participate in criminal acts is "structurally restricted" (ibid, p.68).

In an extension of the above argument, it is possible to claim that female behaviour, whether deviant or non-deviant, is sexualised, that is, is perceived to occur within a sexual framework. Rosenblum (1980, p.122) acknowledges the "paramount importance of sexuality in the non-deviant female sex role". Davis, in discussing the character of the female gender role, states that "sexual desirability is thus an asset that can be traded for economic or social advantage" (1971, p.317). The utilization of sexuality in an unacceptable, that is, non-prescribed fashion constitutes female deviance.¹ One such instance of inappropriate utilization might be prostitution, which is conceptualized as a sex-specific (female) offence. Smart (1977, p.13) maintains:

If it is argued that deviancy or criminality are reflections of the major concerns of a life-world, then male criminality, which is largely concerned with the acquisition of goods or wealth either by theft, fraud or violent means, reflects both the major concerns of the breadwinner who must support a family and the desires of younger men to have prestige in

1. This represents one component of female defiance; other aspects are discussed in my introductory paper.

their peer groups. But because the life-world of women is said to revolve around securing a mate or living vicariously through their men, the argument follows that the only field of deviance 'appropriate' to a woman's role, besides shoplifting, is sexual deviance.²

Nevertheless, other forms of female deviance may contravene the traditional assumptions concerning the stereotypical nature of the female sex role, for example, the offences of murder, and break, enter and steal, which may be viewed as the analogue to male sexual aggression. Such criminal activities are taboo on two levels: firstly, they violate the very conceptions of female deviance, which is understood to be an extension of non-deviant sex-typed behaviour, and, secondly, they invade forbidden male territory and usurp the male role of aggressor. The system of legal sanction is thus invoked, as is the case of sex-appropriate deviant activity, but, in addition, the system of cultural sanction may be mobilized. Such gender-inappropriate criminal activity may then be attributed to psychological pathology. The cost of such transgression may, indeed, be high.

Theoretical pronouncements on the nature of female criminality have often conceived of the infraction of cultural rules regarding sex-stereotyped behaviour in biological-determinist terms. Thus, female criminals have often been variously perceived as de facto males or as devoid of maternal emotions. Lombroso and Ferrero issued the following statement in 1895, which has since acquired the status of a classic (p.153):

In the case of the female criminal "this want of maternal feeling becomes comprehensible when we reflect on the one hand upon the union of masculine qualities which prevent the female criminal from being more than half a woman, and

2. Such conceptions are an artifact of the acceptance of the social/political status quo and, as such, are reflected in official statistics relating to criminal activity.

on the other, upon that love of dissipation in her which is necessarily antagonistic to the constant sacrifices demanded of a mother. Her maternal sense is weak because psychologically and anthropologically she belongs more to the male than the female sex.

Cowie, Cowie and Slater echo such sentiments; they state (1968, pp.171-2):

Markedly masculine traits in girl delinquents have been commented on by psychoanalytical observers ... we can be sure that they have some physical basis.

Female offenders may thus be sanctioned on two levels: the legal and the cultural. (It is, of course, quite possible that such conceptions inform current prison policy and practice. This issue will be investigated shortly.)

The Function of a Gender Role Hierarchy

Given that one central function of the evolution and maintenance of gender roles is to order the world of sexual transaction, to render it predictable and consolatory, and that the principal component of the female gender role, whether deviant or non-deviant, is organized around the concept of sexuality, then the explicit purpose of the female gender role concerns the control of female sexual functioning.³

This desire for control finds its origin in male attitudes; an identifiable pattern of emotional reactions to women's physiological processes has been extensively documented in a cross-cultural context. Many studies attest to the fear, and often terror, experienced by males in connection with menstruation and other reproductive processes (Roheim, 1945; Stephens, 1962; Douglas, 1966; Hays, 1966; Sillitoe, 1970; Strathern,

3. It fulfils another allied purpose; this is discussed in my introductory paper.

1972; and Hiatt 1978).⁴ As males in Western society exhibit a belief in this ideology (Hatty, 1981; Lee, 1984), which is composed of myth and misinformation derived from perceived sexual intimidation and menace, there is every reason to believe that males in this society experience a similar emotional response (op. cit.). Coping strategies developed to mitigate the effects of this fear include the relegation of women to the status of out-group (Lee, 1984) and the perpetuation of the whore/madonna dichotomy. This particular polarity of extremes encompasses the non-deviant, "madonna" concept (the "good" and therefore de-sexualized woman, for example, the mother or mother-archetype) and the deviant, "whore" concept (the "bad" or sexualized woman, for example, those who exist outside the system of marriage and motherhood) (Feinman, 1980). An ideological chasm separates these two opposite ends of the spectrum, such that the categories are mutually exclusive. They are, however, behaviourally defined, that is, a "good" woman may be such by default. All women thus carry the potential, awaiting expression, of deviance (whorishness). The writings of Lombroso and Ferrero (1895), Dalton (1961), Pollak (1961), and Gibbens and Prince (1962) in the field of criminology convincingly demonstrate the existence of this sexual dread.

In addition, there is a considerable body of evidence which suggests that another potent motive directing the constraint of women's sexuality is envy of the female reproductive potential (Groddeck, 1923; Horney, 1926; Zillboorg, 1944; Suttie, 1945; Glover, 1946; Fromm, 1951). An attempt to negate women's fertility is evident in Pollak's (1961, p.157) statement that:

4. Sillitoe (1970, p.77) states that men in the New Guinea Highlands believe that women "have a power associated with their reproductive capabilities which enables them to pollute and kill men by eating away at their vital organs". Such ideas were also contained within Kramer and Sprenger's *Malleus Malificarum*.

The student of female criminality cannot afford to overlook the generally known and recognized fact that these generative phases (menstruation, pregnancy, menopause) are frequently accompanied by psychological disturbances which may upset the need and satisfaction balance of the individual or weaken her internal inhibitions, and thus become causative factors in female crime.

Such a view is, of course, congruent with the negative evaluation of female reproductive processes in certain Western societies. It is entirely likely that such an ideation has profoundly influenced the genesis of Australian prison policy and practice.

The Practical Implementation of Social Policy in Women's Prisons

Consideration of the dialectic relationship between prison policy and practice should include an analysis of the influence of abstract conceptions concerning female non-deviance, which traditionally focuses upon motherhood and family life, and female deviance, which supposedly excludes the above arenas. The paradigm of female criminality outlined in the previous section is directly reflected in prison policy and practice.

The cult of domesticity and femininity is, thus, the conceptual axis upon which prison life revolves. Carlen recognizes that this social ethos is a powerful force organizing life within a women's prison; she states (1983, p.18):

In general, the motto of those charged with the penal regulation of deviant women has been discipline, medicalize and feminize! Women's imprisonment both in Great Britain and in the United States has traditionally been characterized by its invisibility, its domesticity and its infantilisation.

The rationale underlying such regimes is transparent: deviance is a transitional state which exists beyond the boundaries of expected and accepted behaviour. It contains the potential for transformation of the existing status quo; it is therefore threatening to the class with an investment in the maintenance of the existing power structure. As such, the prison system serves to re-educate and, indeed, re-orient women into modes of interaction defined as non-deviant.

Within the fractured and discontinuous elements of these discoveries and institutional practices imprisoned women are again and again deconstructed and reconstructed to the point of debilitation. The features of the disciplinary regime which are specific to women's imprisonment elevate, fracture and realign opposed ideological elements of the prisoners' subjective experience until they have been constructed as women both irrevocally within and irretrievably without adult female subjectivity. Women prisoners are contradictorily defined as being: both within and without sociability; both within and without femininity;⁵ and, concomitantly with the two previous conditions, both within and without adulthood. (Carlen, 1983, p.90)

The efficacy of such programs of social coercion is problematic. That they exist to serve political means is demonstrated by the fact that training in the domestic arts occurs in an institutional setting which so effectively undermines familial relationships. In addition, female deviance, a condition in which sexuality is not harnessed to a patriarchal system, is diametrically opposed to the ethos of wifhood and maternity. Focus upon the private domain thus appears inconsistent with the professed lifestyle of the female deviant.

5. Carlen (1983, p.108) states that "femininity [is] engaged, played upon and then denied". Similarly, Smart (1977) maintains that whilst feminine behaviour is encouraged, the manifestation of sexuality is prohibited.

Motherhood within the Prison Context

The ideology of female criminality dictates that deviant women, as a result of their flaunting of the codes of acceptable feminine behaviour, constitute a risk to the effective socialization of their children. Having already been defined as a sexual rather than a maternal being, the female criminal is then viewed as a possible vehicle for the transmission of criminality (Stanton, 1980). Such a conclusion is, of course, based upon the unsubstantiated premise that the capacity for deviant behaviour is learned; account is thus not taken of other, relevant sociological factors such as class, or psychological factors such as the contribution of secondary socializing agents, for example, peers.⁶

Nevertheless, incarcerated women experience motherhood as an integral and essential component of their identity. The apprehended female criminal does not relinquish her considerable psychological investment in maternity as a consequence of the commission of a deviant act (Sametz, 1980). Women's identity resides within the private sphere of the family; the role of primary care-giver is thus central to many women's functioning (Eyman, 1971). Women convicted of a criminal offence often report that separation from children is often experienced as the most traumatic element of imprisonment, often eclipsing the effects of the loss of liberty (Sykes, 1958; Ward and Kassenbaun, 1965; Giallombardo, 1966). Such a consequence is often exacerbated for the female parent as she is often without a network of social supports, unlike the male parent who often has a wife to continue care of the children (Zalba, 1964; Bonfanti, Feider, Loesch and Vincent, 1974).

6. Such a rationale also fails to take account for the circumstances under which women will commit violent crimes against the person. Egger (1982) has shown that such acts occur often within the domestic framework and are the result of a history of prolonged and violent abuse.

Indeed, in some American jurisdictions, incarceration of a mother has been a sufficient condition upon which to terminate parental rights, as it has been perceived as a form of abandonment (Palmer, 1972; Stanton, 1980). Nevertheless, female inmates continue to express concern for their children's welfare, partly as a means of securing social approval from other inmates and custodial staff; they also tend to idealize their maternal involvement (Zalba, 1964; Bonfanti et al, 1974; Daehlin and Hynes, 1974).

* * *

The societal structure of a women's prison often causes the inmates to feel alienated from significant social mores; the behavioural expectations of the larger society are displaced by a fresh set of norms, a distorted interpretation of existing values. Men's imprisonment is not characterized by such a dislocation; there is no substitution of values. Instead, there is a distinct and pronounced continuity with the dominant external cultural mores, including an overestimation of the worth of masculinity (Hounslow, Stephenson, Stewart and Crancher, 1982).

Within the confines of the female prison, women, removed from the self-defining validation of males, exist beyond the boundaries of a female role which typically focusses heavily upon motherhood (Rich, 1976). The prestige of motherhood, a status which carries a negative valence but nevertheless constitutes women's primary legitimate role, is denied within the prison environment (Hounslow, Stephenson, Stewart and Crancher, 1982; Hounslow, 1984a). In the place of the sanctioned power of motherhood, women are relegated to labour in utterly trivial industries which are characterized by their domestic nature. Women, therefore, still fulfill the service aspect of their homemaking role, but forfeit the aspect

which bears any semblance of prestige: motherhood. Training within the prison system usually carries, as has already been noted, little or no vocational content (op. cit.). Indeed, Hounslow et al (1982) report that in New South Wales, lack of recreational activities has led to a heavy reliance on drugs which are liberally prescribed by the medical staff. Such a recourse to medication constitutes a further erosion to the fragile self-esteem of the female inmates (op. cit.).

Moreover, it is ironic that parole success, defined as completion of parole without re-arrest, has been found to be facilitated by the maintenance of family ties in the case of male inmates (Zemans and Cavan, 1958; Glaser, 1964; Holt and Miller, 1972). There has been no comparable study of the correlation of parole success or recidivism rates, as a function of the existence of familial support, in the case of female offenders.

The issue of the effect of a parent's incarceration upon the psychological adjustment of their offspring has received limited research attention. The literature on the consequences of parent-child separation has, until recently, traditionally concentrated upon institutionalized children, the admission of either party to a hospital or mental illness facility, separation in the course of war, divorce or death of a parent. Indeed, most previous research has been executed upon male subjects in the prison environment, mostly seeking to document the effect of separation upon the male prisoner, his marital relationship, and to a lesser extent, upon his offspring (Morris, 1965; Friedman and Esselstyn, 1965; Sack, Seidler and Thomas, 1976; and Sack, 1977).

McGowan and Blumenthal (1976; 1978) claim that there are three

reasons for the neglect of children of prisoners. Firstly, they are a relatively powerless group of indeterminate magnitude; secondly, the philosophy of individualism is inconsistent with the concern for the family; and, thirdly, the criminal justice system is oriented towards offenders as isolated units to be punished and/or rehabilitated. The fact that the ethos of incarceration for criminal activity is antithetical to the rights of the prisoner's dependents is reflected in McGowan and Blumenthal's (1976, p.121) comment that:

The idea that the criminal justice system should take any responsibility for what happens to children of offenders is totally alien to the traditional concept of police, the judiciary, or corrections.

The failure of the criminal justice system to acknowledge the existence of the children of female offenders has been substantiated in several countries (McGowan and Blumenthal, 1976, 1978; Stanton, 1980; Hounslow, Stephenson, Stewart and Crancher, 1982; Carlen, 1983). Such a system of denial and neglect is derived from a male model which dictates that the offender be removed from the context of the nuclear family for the duration of his sentence, and returned upon release. The reality, of course, for the male offender contradicts this scenario: incarceration exacerbates marital disintegration (Kemp and Cheron, 1982).

The consequences for the female offender are, potentially, far more severe and protracted. One study found maternal incarceration often results in psychological damage to both mother and child and the delicate mechanisms which unite them. The researchers commented (1976, p.127):

... the children are often removed abruptly from their homes, schools and communities. They may be shuttled from one caretaker to another, teased or shunned by their peers. Often they have no knowledge of what is happening when their mothers are first arrested; they are simply

left alone in terror and confusion. Later, they may be deprived of any opportunity to talk with their mothers. If they are permitted to visit, this is likely to involve long trips to the prison and brief, stilted, closely guarded visits behind a glass screen or across a large table. If they are placed with relatives and friends, they may hear barbed comments about their mother and feel they are a burden; or they may even be told that if their mother really loved them, she would not have gone to prison. Often there is no one with legal authority to enrol them in school, sign their report cards, or secure the medical care they need. If they are placed in foster care, they may never be permitted to return home. There is always the uncertainty about the future. When their mothers are released, they face the difficult problem of trying to re-establish a relationship, always wondering if their mother is really bad, if she is likely to leave them again.

These findings have been confirmed by Zalba (1964), Daehlin and Hynes (1974), Haley (1977), and Hounslow, Stephenson, Stewart and Crancher (1982).

Maternal incarceration thus involves multitude disruption of children's lives, the effects of which persist for a considerable period of time.

It is within this context that the experience of motherhood is interpreted in the criminal justice system in Australia.⁷ The nexus between reproduction and criminality will be reviewed, for the purposes of economy, with respect to New South Wales.

7. A continuity between the theoretical constructions apparent in the U.S., U.K. and Australia is assumed. This is based on the premise that much social policy in this area is derivative.

The Nexus Between Reproduction and Criminality:
The New South Wales Experience

Prior to 1979, babies born to women imprisoned in Mulawa, New South Wales, remained with their mothers for a period of twelve months and were accommodated in a ward of the prison hospital. At the termination of this time period, infants were removed and placed in formal care (adoption or committal to wardship) or in informal care (substitute custody with family or friends) (Hounslow et al, 1982; Women Behind Bars, 1983; Beverly, 1984).⁸

Following the recommendation of the Nagle Royal Commission Report (1978; Chapter 27) which stated:

193. The present practice that mothers must surrender their infant children when children reach their first birthday should be relaxed,

the Mothers' and Babies' Committee (Mulawa) was established by the Corrective Services Commission at the request of the Minister. The Committee, at that stage, consisted of the Superintendent, the Officer-in-Charge of the prison annexe containing mothers and babies, the matron of the Prison Hospital, the Psychologist at Mulawa, a child psychiatrist nominated by the Health Commission, and a Probation and Parole Officer (Churven, 1980 in Report of Working Party of Psychiatrists, 1981). This committee was convened on a trial basis of 12 months' duration, to be reviewed in May 1980.

The terms of reference of the Mothers' and Babies' Committee encompassed a broader area than that originally envisaged by the Nagle

8. Dislocation of the mother-child relationship at this juncture carries the potential for the development of serious pathology in the child. This point will be expanded upon in the section on attachment theory.

Royal Commission (Hounslow et al, 1982). The formal goals, as developed during the Committee's initial meeting on the 18th April 1979, consisted of the following intentions (Churven, 1980 in Report of Working Party of Psychiatrists, 1981; Beverly, 1981):

1. To examine the current situation of infants residing with their mothers at Mulawa;
2. To assess the circumstances of infants admitted to Mulawa during the tenure of the Committee;
3. To evaluate applications from inmates to have infants reside with them;
4. To make recommendations to the Commissioner for Corrective Services (Dr Tony Vinson) on the above matters.

Consideration of cases was explicitly directed by the philosophy of the child's best interests (op. cit.). (The theoretical underpinnings of the Committee will be discussed in the next section).

The Mothers' and Babies' Unit was first located in a wing of the prison hospital, labelled the Annexe. This mainly consisted of dormitory accommodation, and approximately four to nine women and their children resided there at any one time (Hounslow et al, 1982). This was perceived to be a successful arrangement, largely due to the fact that the Annexe was not isolated from the prison community (Hounslow, 1984b). Women Behind Bars (1983, p.35) maintain that "Mothers were able to share their children and some older women became 'granny' figures to them".

A review of the role and function of the Mothers' and Babies' Committee in May 1980, at the close of its twelve month trial period, indicated that the majority of applications considered were, in fact,

accepted.⁹ It was noted that none of the mothers living in the Unit were considered to be drug-dependent or behaviourally disturbed. In all, of the fifteen mothers who lodged applications, eleven took up the option of residing with their children in the Annexe.¹⁰ The average age of these mothers was 25.6 years (range 19-39 years); the average age of the babies was 9.5 months (range 0-32 months). The average age of the babies at mothers' expected release was 17.65 months; the oldest age of babies at mothers' expected release was 36 months. Nine of the eleven mothers had other children residing outside Mulawa. The offences committed by the women consisted largely of drug offences (6 out of 15; 40%) or property offences (8 out of 15; 53.33%) (See Appendix 1; possibilities for alternative care are also outlined therein).

Selection for inclusion in the program was, firstly, on the basis of maintenance of consistent and reliable care by one adult (the mother), particularly for the first three and a half years of the infant's life. Other important criteria included: the length of the mother's sentence; the available accommodation; the provision for alternative care beyond Mulawa; the projected behaviour of mother and child; the sharing of facilities with other infants; the awareness of the possibility of custody disputes; and the utilization of incarceration for the improvement of mothering skills when deemed inadequate.¹¹

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9. Judith Perram and Betty Hounslow believe that such a high success rate was due to the pre-selection of cases expected to meet with the criteria of the Corrective Services Commission by the members of the Mothers' and Babies' Committee. Personal communication, 1984.
 10. Of the remaining four mothers, one application was rejected, one permission lapsed, two mothers had already sent infants out of the prison.
 11. This latter criteria was to have significant implications for the future of the program.

In addition, the Committee extended its original auspices to aid in the resolution of difficulties arising from the circumstances of custody, and improvements to the quality of maternal and infant life within the Annexe. (A catalogue of these issues is contained in Appendix 2). The Committee also applied to expand and formalise its various formal and informal functions.

In August 1980, there occurred a disturbance which has been variously perceived as a "riot" (Beverly, 1981; Page, 1984) or as a "peaceful sit-in" (Women Behind Bars, 1983). Controversy surrounds the degree of involvement of the prisoners' children (see Hounslow et al, 1982; Women Behind Bars, 1983; Beverly, 1984; Page, 1984). The Unit was subsequently transferred to Wentworth Cottage; as this house was located on the perimeter of the grounds of the Silverwater Complex, only mothers defined as minimum security were eligible to reside there with their infants. The Cottage could only accommodate four women and children with any degree of comfort, and, occasionally, sharing of room space was necessary. Pregnant women were relegated to the prison hospital. It has been said: "Pregnancy was the excuse for isolating them, but they were in fact being punished for being pregnant" (Women Behind Bars, 1983).

Removal of the Mothers' and Babies' Unit was effected several months later to Blaxland House, a residence located close to the Parramatta River. The vicissitudes of this situation, involving unsuitable physical constraints, including high fences featuring razor wire and tumble tubing, were an explicit contradiction of the accommodation requirements recommended by the Mothers' and Babies' Committee (December, 1980; see Appendix 3).

The operations of the Mothers' and Babies' Unit were suspended on Christmas Eve, 1981, by the Minister for Corrective Services, Rex Jackson. The rationale for the closure, according to Jackson, was that infants should not live 'behind barbed wire'. The Minister issued a directive that the residents of the Unit be transferred to the Norma Parker Centre; he was apparently unaware that children were forbidden to live within the Centre. This decision was taken without the knowledge of the Mothers' and Babies' Committee (Hounslow et al, 1982; Hounslow, 1984b).

Certain of the personnel involved with the machinations of the Mothers' and Babies' Committee have claimed that a report issued by the prison psychologist (October 1981), with the apparent approval of the Committee members, served to radically undermine the continued existence of the Unit (Hounslow et al, 1982; Hounslow, 1984b; certain members of the Mothers' and Babies' Committee, as evidenced in Minutes of 27.11.81, courtesy Hounslow and Perram, Children of Prisoners Support Group). This report, entitled An Evaluation of the Mothers and Babies Programme, clearly stated that the program, as it existed toward the close of 1981, had no future unless there ensued an increased commitment from the Corrective Services Commission. The ideology of the Unit, as envisaged by the psychologist, derived its impetus from the notion of a 'therapeutic community'. Moreover, it was claimed that the mothers frequently lacked parenting skills, were self-directed and emotionally disturbed, and conceived of their children as possessions. The psychologist considered it imperative that these women be required to commit themselves to an intensive program of treatment as a condition of entry into the Unit.

After acknowledging the problems inherent in the program, for example, shortages of custodial and professional staff, a deficit in

adequate accommodation, a failure to provide a suitable therapeutic environment and a lack of stimulating opportunities for older children, the psychologist suggested a dual solution. She recommended that the Corrective Services Commission could either opt for a full commitment to the ethic of a Mothers' and Babies' Unit with increased investment in resources and authority,¹² or, alternatively, they could opt for a partial commitment to the Unit by reducing the maximum age of the infants to 18 months, an age designated by Beverly to preclude trauma resulting from mother-infant separation.¹³

Now, two distinct elements appear to be implicated in the debate generated by this document: on an ideological level, the report appears to contain a confirmation of the conception of the incarcerated mother as devoid of maternal emotions or skills, and, consequently, in need of therapeutic re-orientation;¹⁴ and, secondly, on a prosaic level, the report appears to contain a distortion of the original goals and criteria of the Mothers' and Babies' Committee as specified in the review document

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12. The full commitment involved the establishment of an independent institution catering to two classes of inmate: maximum and minimum security women.
 13. Controversy ensued over a) ideology of Unit as 'therapeutic community', b) viability of solutions offered (it was felt, by some, that the options were too extreme), c) the critical age for separation specified in the partial commitment (the literature suggests, according to one member, that 18 months to 3-1/2 years is the critical peak for separation anxiety).
 14. Witness the concluding words of Page's (1984) paper: "So obviously the matter has not been shelved but I think it is generally accepted that if a residential programme is to be set up for mothers and their babies it needs to be staffed, not only by custodial officers for security, but with trained child care workers who will set up a programme to assist the mothers to look after their children adequately, teach them the necessary skills and promote programmes to ensure proper development of "the children".

issued in May 1980, in which only one criteria pertained to the possible necessity for the improvement of mothering skills.

Indeed, difficulties with the functioning of the Unit established at Blaxland House appear to have been severe, involving both structural and psychological problems. Firstly, the environment was characterized by extreme stress: the women were with their children throughout the day and night. Accommodation shortages meant that women and children of differing ethnic backgrounds cohabited, causing interpersonal conflicts as a result of the varying models of child-rearing employed. Frequently, age and developmental disparities between children living in confined quarters resulted in friction. There was no access to the general prison activities: no classes, no work release, no substitute child care. Custodial officers were frequently ambivalent about the concept of the Unit, adopting the attitude that incarcerated mothers were not being punished because they were accompanied by their children. The officers were expected to be both responsible for the inmates' security whilst also being supportive house-parents, an impossible conflict of roles. They were often critical of the mothers' child-rearing practices; the mothers felt vulnerable to exploitation by the custodial officers, the threat of the removal of a child being experienced as a powerful, coercive force¹⁵ (Hounslow et al, 1982; Women Behind Bars, 1983; Beverly, 1984; Hounslow, 1984b; Page, 1984).

15. Hounslow et al (1982) claim that at the time of the suspension of the Unit (Christmas, 1981), the custodial staff placed a ban on entry to the program. They state (ibid, p.102): "...The suspension was ... merely the culmination of a deeply-rooted hostility towards the programme which had been sustained by sections of custodial staff since its inception".

Other problems which are perceived to have contributed significantly to the disintegration of the Unit include the conflict in authority between the psychologist's role and that of the custodial officers (Beverly, 1984), the neglect experienced by other children outside the system, the continual rotation in shift for the custodial officers, and the poor childhoods of the women themselves which supposedly left them bereft of knowledge concerning child development (op. cit.)¹⁶

* * *

Having provided an historical account of the Mothers' and Babies' Unit at Mulawa, it is now intended to analyze the theoretical foundations of the Unit, focussing specifically upon the relevant psychological literature. The Report of the Working Part of Psychiatrists Established to Consider the Question of Mothers and Infants in Gaol at the Request of the Health Commission of New South Wales (23.4.81) explicitly stated that the conceptual basis informing the decision-making machinery of the Mothers' and Babies' Committee was the attachment theory espoused by John Bowlby. That the notion of maternal-infant bonding was integral to the development of the criteria for the operation of the Unit has been reiterated by both Beverly (1984) and Page (1984). Accordingly, theoretical perspectives related to research on attachment will now be reviewed.

Attachment: Theoretical Perspectives

The phenomena of attachment refers to the tendency of individuals, particularly infants, to seek affiliation and psychic proximity to

16. Such a contention is, of course, controversial and represents but one opinion.

significant others. The process by which such an objective is achieved is often labelled 'bonding', a term which embraces certain popular notions in addition to its original, specific psychological designation. The object of this quest is traditionally assumed to be the mother; this stance is principally derived from ethological investigations.

Bonding has been described by Kaplan, a psychoanalyst of the object-relations school, as 'the first partnership' (1978, p.59). She expands upon this idea as follows (op cit):

Birth is the rupture of the state of biological oneness of mother and foetus. Mending the rupture is the major task of the mother-newborn couple.

The bonding process may involve a considerable proportion of an infant's life; the particular time sequence specified is dependent upon the theoretical orientation of the author. The maximum limit as indicated by certain psychoanalytic writers is approximately three years of age. Nevertheless, there is a general consensus on the import of this process for the eventual psychological adjustment of the individual. Freud (1895)¹⁷, Simmel (1908), Balint (1965) and Spitz (1965), to name a few, considered the relationship (bonding) between the maternal-infant dyad to be prototypical; all subsequent relationships were assumed to be but a re-interpretation of this archaic union. Indeed, Kaplan (1978, p.79) has stated:

Interest in the earliest mother-infant dialogue are the potentials for all later erotic, verbal and cultural dialogue between one human adult and another.

17. Alice Balint (1965, p.91) states: "The mother-child relationship has been at the centre of psycho-analytic interest right from the beginning".

As a consequence, disruption or dislocation of the bonding process leads, according to these researchers, to various manifestations of pathology in the mother and/or infant. (These sequelae are enumerated below.)

Several theoretical perspectives relating to the genesis and development of mother-infant attachment are evident in the literature. The work of Bowlby, directly descended from the work of Freud, probably enjoys the greatest acquaintance with the lay public. Bowlby (1958, 1969, 1973) maintained, in an allegiance to evolutionary doctrine, that attachment behaviour is directed by a species-specific behavioural repertoire elicited in both the mother and infant. This series of complex, interactive responses consists, according to Bowlby, of instinctive reactions which possess an executive function, necessitating a minimal response from the mother and other reactions, which act as signals, eliciting nurturance in the mother.¹⁸ The work of Ainsworth (1969, 1979) is in a similar vein.

Klaus and Kennell (1976) locate the significance of the bonding process in the act of birth itself. These authors claim, like Bowlby, that there exists a sensitive period, akin to the critical period in mammals, in which maternal-infant bonding occurs. The mutuality of this relationship is indicated by the involvement of particular biological and physical mechanisms of interchange which serve to promote a profound commitment between mother and infant. Intrusion upon this process, as in the case of Western, technological and interventionist childbirth, could

18. Critics of Bowlby's work point to the fact that much of his research was executed upon populations of children in institutions. A study of such a population involves the confounding of the effects of separation, deprivation of maternal care, and lack or loss of the latter.

potentially result in psychological rejection and non-accidental injury to infants. Klaus and Kennell, in collaboration with other researchers, have achieved a considerable measure of success in demonstrating the validity of their claims in an empirical setting (Klaus, Kennell, Plumb, Zuehlke, 1970; Klaus, Jerauld, Kreger, McAlpine, Steffa, Kennell, 1972; Ringler, Kennell, Jarvella, Navojosky, Klaus, 1975; Ringler, Traus, Klaus, 1976).¹⁹

A further school of thought, which imbues the relationship extant within the mother-child dyad with great profundity, is represented by the object-relations theorists (for example, Winnicott, 1957, 1958, 1965; Balint, 1965; Spitz, 1965; Mahler, 1968; Kaplan, 1978). Such theoretical accounts find their genesis in the revision of aspects of orthodox Freudian theory. Balint (1965) has thus asserted that primary, primitive love for the mother is directed toward the comprehension of the object, and not narcissism allied to erotogenic zones, although the primeval object-relation is derived from biology.

Mahler, developing an aetiology from the framework of pathology (see Mahler, 1968), offered the following explication of the separation-individuation process (Mahler, Pine and Bergman, 1967). The infant begins life in the phase defined as the "normal autistic", and progresses through the phase defined as "normal symbiotic". The subphases of this process of differentiation from the omnipotent object, from fusion to individuation (Kaplan's "second birth"), are characterized by "hatching", "early practicing" and "practicing proper", "rapprochement", and "object

19. One study which fails to support Klaus and Kennell's (1976) proposition that extended contact at birth leads to an increase in affectionate behaviour was conducted by Campbell and Taylor (1979).

constancy".²⁰.. Mahler and her colleagues delineated the significance of such transitions in the development of identity and the provision of boundaries between the self and others. The failure to develop a sense of self, that is, to differentiate from the maternal object, culminates in the dynamics manifested as symbiotic child psychosis and autism (Mahler, Ross and De Fries, 1949; Mahler, 1952; Mahler and Gosliner, 1955; Mahler, 1958; Mahler and Furer, 1960), or various behavioural disturbances such as the tic syndrome (Mahler, 1949).

Spitz, an influential writer on the topic of maternal-infant attachment, specified three stages of individuation (1965, p.16):

1. The preobjectal or objectless stage.
2. The stage of the precursor of the object.
3. The stage of the libidinal object proper.

Deprivation of sufficient mother-child contact and consequent disturbance of object relations in the latter leads to the development of the psychogenic diseases of infancy including coma in the neonate, infantile eczema, hypermotility, anaclitic depression and marasmus. The syndrome of anaclitic depression, involving withdrawal, crying, weight loss, sleep disturbance, and developmental retardation, is manifested upon the abandonment of the child in the second half of the first year (Spitz, 1946). Spitz (1965, p.285) stated:

Anaclitic depression ... demonstrate(s) that a gross deficiency in object relations leads to an arrest in the development of all sectors of the personality.

Nevertheless, Spitz (1945) did note that the prognosis for recovery was considerable should the original relationship be restituted. Such a contention has been confirmed by Harmon, Wagonfeld and Ernde (1982).

20. It is important to distinguish between Mahler's concept of object constancy and Piaget's concept of object permanence.

Kaplan (1978), in an attempt to balance the somewhat clinical examination of attachment by some earlier analysts, has developed an esoteric interpretation of the quintessential mother-infant relationship. In referring to the "mother-infant orbit of oneness" (ibid, p.120), she asserts in a quixotic elaboration upon Mahler's work (ibid, pp.27,31):

In his first partnership outside the womb, the infant is filled up with the bliss of unconditional love - the bliss of oneness with the mother. This is the basic dialogue of human love. The next series of mother-infant dialogues concern the way the infant separates from the state of oneness with the mother. As he separates he will learn the conditions of actual love and acquire the sense that he is himself and nobody else. All later human love and dialogue is a striving to reconcile our longings to restore the lost bliss of oneness with our equally intense need for separateness and individual selfhood. These reconciliations are called constancy ...

This basic human longing to refind our core wholeness is the essence of religion and poetry and the essence of the ecstasies of perfect love.²¹

Indeed, Harrison (1975) claims that maternal awe may have its origins in the exigencies of the relationship pervading the original mother-child dyad.²²

Research on the emotional and behavioural consequences of maternal-infant separation has indicated that several variables play a significant role in the orchestration of the child's deprivation experience. Within the category of short-term effects, these variables include the age of the child at separation (Illingworth and Holt, 1955; Schaffer and Callender,

21. Erlich (1978) proposed that the re-activation of symbiosis and the vicissitudes of individuation-separation are implicated in adolescent suicide.

22. The oceanic feelings experienced by Freud whilst on the Acropolis can be attributed to this source according to this author (Harrison, 1979).

1959), the sex of the child (males are more vulnerable; Spencer-Booth and Hinde, 1971a; Rutter, 1970), the temperament of the child (particularly as children exhibit indications of different temperaments from birth; Thoman, 1975), the quality of the previous mother-child relationship (Vernon, Foley, Sipowicz and Schulman, 1965), the duration of the separation experience (Hinde and Spencer-Booth, 1971b), and the circumstances of the separation experience (Burlington and Freud, 1942; 1944).

Rutter (1975) distinguishes between two distinct psychological manifestations of separation from the mother, both involving disparate processes and mechanisms. The first, described as developmental retardation, occurs in response to privation, that is, a radical absence of stimulation. The second, the syndrome of distress, described as the sequence of protest, despair and denial, occurs in response to deprivation of attachment. The consequences of long-term repudiation of maternal-infant emotional contact may vary in a continuum from pathological distortions of personal adjustment and functioning to minimal disruption of maturational growth (op. cit.).

* * *

Maternal-Infant Incarceration: Recommendations

Like their American counterparts, the female inmate in Australia is usually in her twenties to early thirties (70.1% of female prisoners: National Prison Census, Walker and Biles, June 1983) and is just as likely to be unmarried/never married as to have been in a formalized heterosexual relationship (48.6% never married; 49.7% married, separated, divorced or widowed). She is most likely to be incarcerated for offences against property (39.1%). She is often unemployed (23.6%) or executing 'home

duties' (13.1%) prior to imprisonment, and is likely to be educated to a level defined as 'part secondary' school (27.3%). It is also quite likely that she has been imprisoned previously (41.6%). The percentage of female inmates in Australian gaols with dependent children is, at present, unknown. Nevertheless, if this follows the American pattern, it will be a significant proportion.

In accordance with the dearth of information regarding the number of mothers enmeshed within the criminal justice system in Australia, the recommendations included in this section will focus upon the situation of pregnant women or women with young infants (see, for example, Hartz-Karp, 1983).

Although policy initiatives were developed at a Conference of Ministers in Charge of Probation and Parole in 1978 (relevant recommendations are contained in Appendix 4), the fate of the maternal-infant pair within the N.S.W. prison system remains in a state of flux.

The Mothers' and Babies' Committee has continued to negotiate the resumption of the Mothers' and Babies' program in an improved and extended form (for example, Recommendations submitted to the Corrective Services Commission, 1982), and has been supported in these endeavours by the deliberations of other Government Departments, for example, Youth and Community Services (Report to the Corrective Services Commission, 1982). Indeed, at a meeting with senior staff from the Department of Corrective Services at the close of 1983, the Committee forwarded the following resolutions:

1. The Mothers' and Babies' Unit be re-opened in suitable premises, with increased staffing (four child care workers, Children's Services Co-ordinator, four custodial staff and one relief).
2. Release under Section 29 of the Prisons Act be continued, with the provision of home-release or release to Government accommodation other than half-way houses. [The latter usually refuse to admit older children, with the result that families are fragmented; Hounslow, 1984a, 1984b].²³
3. Women on remand [who are classified as maximum security, and effectively deprived of their children; op. cit.] constitute a special case which requires urgent attention.
4. Policy guidelines determined dictate that a child could remain with its mother, if initially approved, till the age of 3-1/2 years.

The children of Prisoners Support Group indicate that significant suffering has ensued as a consequence of the current vacuum in both policy and practice concerning incarcerated women and their infants (Hounslow, 1974a; 1974b). This hiatus has led, according to this source, to the generation of ad-hoc procedures which represent a denial of the rights of the mother and infant, in addition to a violation of the original goals relating to infant welfare (op. cit.). The Children of Prisoners Support Group thus proffer the following recommendations (1983, 1984): that a mother and infant be released wherever possible; that bail be granted to women on remand if they are the primary care-giver; that licences be issued in extraordinary circumstances; that home detention be an option; that Section 29 orders be applied in a flexible manner with accommodation involving residences other than half-way houses. (Problems encountered in the implementation of Section 29 orders have included financial difficulties, as women are not eligible for Social Security benefits due to their classification as prisoners, difficulties in the authority imposed

23. The Release on Licence Scheme has been discontinued since being brought into disrepute by Rex Jackson.

within the half-way house, particularly as the latter fulfil a custodial role, medical difficulties relating to the necessity of treatment by prison medical staff, and conceptual difficulties relating to the inherent contradiction between a woman's implied liberty and imposed constraint.)

Nevertheless, with the possibility of the resolution of this ideological dilemma, focussing upon the cultural opposition of female criminality and maternity, and encompassing the adoption of practical recommendations developed by the relevant correctional and welfare professionals, there is the genuine potential for the dissolution of the compound oppression experienced by the female inmates of the Mothers' and Babies' Unit at Mulawa - "as mothers and as prisoners" (Women Behind Bars, 1983, p.36).

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APPENDIX 1: DATA ON MOTHERS IN MOTHERS' AND BABIES' UNIT, MULAWA,
FROM INCEPTION IN APRIL, 1979 TO MAY, 1980

OFFENCES COMMITTED

No. of Mothers

2	Possessing Prohibited Drug
2	Supplying Prohibited Drug
2	Importing Prohibited Drug
3	False Pretences
2	Embezzlement
1	Armed Robbery
1	Stealing, forgery
1	Stealing
1	Assault and Rob
Total	15*

* No. of mothers considered for program in its first year.

POSSIBILITIES FOR ALTERNATE CARE PRECLUSIONS

No. of Mothers

3	Infants' Grandparents	- distance too great
2		- already caring for other children
2		- health problems
2	Infants' father	- unable to execute caring role
1		- already caring for 2 other children
1		- willing but considered unsuitable
Total	11*	

* No. of mothers whose applications to enter the program were successful in its first year.

APPENDIX 2: ISSUES COMING TO THE ATTENTION OF THE MOTHERS' AND BABIES' COMMITTEE IN ITS FIRST YEAR OF OPERATION

1. Difficulties Arising From Circumstances of Custody (Selection)
 - a) Fear of loss of infant carries potential of coercion by custodial staff (14.12.79)
 - b) Premature sending out of infant (29.6.79; 31.8.79)
 - c) Complaints about accommodation, interpersonal conflict in Annexe (14.12.79)

2. Improvements to Quality of Maternal and Infant Life in Annexe (Selection)
 - a) Provision of inmates to join classes (18.4.79)
 - Technical College classes (5.2.80)
 - Work Release (5.2.80)
 - Baby Sitters (5.2.80)
 - b) Need for prisoner participation in decision of Committee (14.12.79)
 - c) Parenting course (18.4.79; 31.8.79; 8.11.79; 14.12.79)
 - d) Weekend/other leave for infants (31.8.79)
 - e) Re-introduction of Family Planning Course (18.4.79)

APPENDIX 3: RECOMMENDATION ON ACCOMMODATION AND CRITERIA
FOR ADMISSION, MOTHERS' AND BABIES' COMMITTEE,
3RD DECEMBER 1980

1. Introduction

1.1. Continuity in the parent-child relationship during the first five years of life is considered to be of great importance to the child's overall social, intellectual, emotional and mental development.

1.2. In accordance with this, mothers who have been the main care taker of their children should continue the parenting role with their children in prison.

1.3. Mothers should be encouraged to take the full responsibility for the care of their children in the same way as they would have to do if they were living outside. This means caring for the child in combination with the performance of domestic duties and other activities, e.g. work release.

1.4. Contrary to the Royal Commission recommendations there has been necessity for some mothers to share rooms due to the lack of rooms available. The present accommodation cannot meet the demand of mothers wishing to bring their children into prison.

1.5. Blaxland House is in the process of being prepared for mothers with children and we understand it is for prisoners of all classification.

2. Criteria for admission of children with their mother to prison

2.1. The overall goal of admission of children to prison with their mothers is to maximise the mental health, in present and future, of the child and avoid unnecessary deprivation by virtue of mother's imprisonment. Allied to this is the facilitation of the rehabilitation of the prisoner who is a mother.

The welfare and mental health of the child is a major factor in each case.

2.2. In accordance with this general objective, certain specific factors are relevant:

a) The mother has been the main care taker of the child and has cared for it predominately in the period prior to imprisonment. Furthermore, the mother will continue to be an adequate caregiver to the child in the future.

b) The child will be of pre-school age at the time of admission to the prison.

c) The non-parole period of the mother's sentence is of sufficiently short duration to allow her to continue her maternal role in the foreseeable future.

d) The available accommodation is adequate for the child in the light of the circumstances raised in the preceding points.

e) Where doubt exists, options for alternative care are taken into account so that the best available choice can be arrived at.

3. Accommodation

3.1. Every mother should have a single room, big enough to give her the choice of her child sleeping with her.

3.2. A possibility for 2-3 older children to share a bedroom should be offered as an alternative to sleeping with the mother.

3.3. The system should be flexible enough to allow the mothers to decide whether her child should share a room with others or sleep with her at any time.

3.4. The surrounding and facilities available should be consistent with normal Australian home with modifications due to community living, e.g. extra baths and toilets, room for children to run around with good outdoors play equipment.

3.5. Accommodation should cater for prisoners with multiple security rating.

3.6. If mothers with children are housed in a part of another institution they should be housed together as a single unit with access to appropriate kitchen and toilet facilities all hours of day and night.

4. Location

4.1. Accommodation should be separate from other prisoners but accessible to various programmes, e.g. WR and educational programmes, outside day care, play groups.

4.2. Consideration should be given to the possibility of more than one site being available for mothers with children in view of the probable increase in numbers of mothers wishing to bring their children into prison.

Kamballa, next to the established institution of Norma Parker Centre, seems suitable for 'C' rated prisoners participating in educational and WR programmes.

a) It could be easily administered from Norma Parker Centre while remaining a separate unit with it's own entrance.

b) It is accessible to outside day care, play groups and work.

c) It would complement the usage of Norma Parker Centre but maintain the necessary conditions for mothers with children.

4.3. Ideally any site selected for mothers with children should be accessible to community facilities and prisoners' families but at the same time not to provide a potential risk to the community.

4.4. The facilities in prisons for mothers with children should be of comparable standard to those in other women's prisons with the added access to community facilities. However, this is of a lower priority than the need for accommodation to be provided to prisoners of multiple security ratings.

4.5. Blaxland House is an improvement on the present situation and seems ideal for 'A' and 'B' rated prisoners due to its close proximity to Mulawa within the Silverwater Complex of Prisons.

5. Administration

5.1. The mothers with children unit should have permanent staff.

5.2. The officers should be selected with consideration to their personality and possible extra qualifications in child care and/or nursing and should receive further training in the special needs of mothers with children.

5.3. Officers wearing civilian clothing would enhance the home atmosphere.

5.4. Blaxland House and Kamballa should be under the administration of the adjacent female prisons. However, consideration should be given to make them autonomous units if the number of prisoners rise from the present figures.

6. Programmes

6.1. Mothers should be allowed to attend educational and vocational programmes outside prison provided they meet the criteria for these programmes.

6.2. Caring programmes for each child are to be reviewed with the mothers routinely involving them in decision making and each proposal is to be discussed in the same forum.

6.3. Mothers should have access to classes and activities in the female prisons adjacent to their locations.

6.4. Child care arrangements should be available on the basis of outside care and internal sharing depending on the circumstances.

6.5. Outside day care programmes and babysitting arrangements are required for mothers participating in a programme that requires her presence outside the unit, e.g. technical college and work release.

6.6. Where the outside day care, pre-school and play group outside the prison are used, mothers, where possible, should be involved with the delivery and pick up of her own child.

6.7. Older infants should have access to play groups and pre-school outside the prison.

6.8. Programmes to facilitate parenting, e.g. play groups should be available.

6.9. Mothers should be encouraged to send their children out with close relatives and/or friends on outings in order to expose the children to a variety of people and to varying environments.

6.10. The services of various officers, that presently visit mothers with children, e.g. baby health sister, occupational therapist, welfare and parole officers, psychologist, should be co-ordinated to an effective programme.

7. Transfers

7.1. The continuity of relationships that children form especially with other children is extremely important for the child's sound development and should not be broken without serious consideration of the effects in each individual case.

7.2. Mothers and Babies Committee should always be consulted before a mother with her child is transferred from one prison to another.

8. Medical Services

8.1. Mothers with children in prison:

a) Access should be to medical services at Mulawa Hospital for mothers, e.g. GP, gynaecologist, obstetrician, psychiatrist, dentist and nursing services as required.

b) Baby Health Sister from Auburn Community Health Centre to visit mothers with children weekly.

c) Access to pediatric and child and family psychiatry services at Westmead Hospital for children and mothers requiring treatment.

d) Visits by GP as required for children with various ailments.

APPENDIX 4: GUIDELINES FOR INFANTS IN PRISON AS DEVELOPED AT
THE BROOME CONFERENCE OF MINISTERS IN CHARGE OF
PROBATION AND PAROLE (1978)

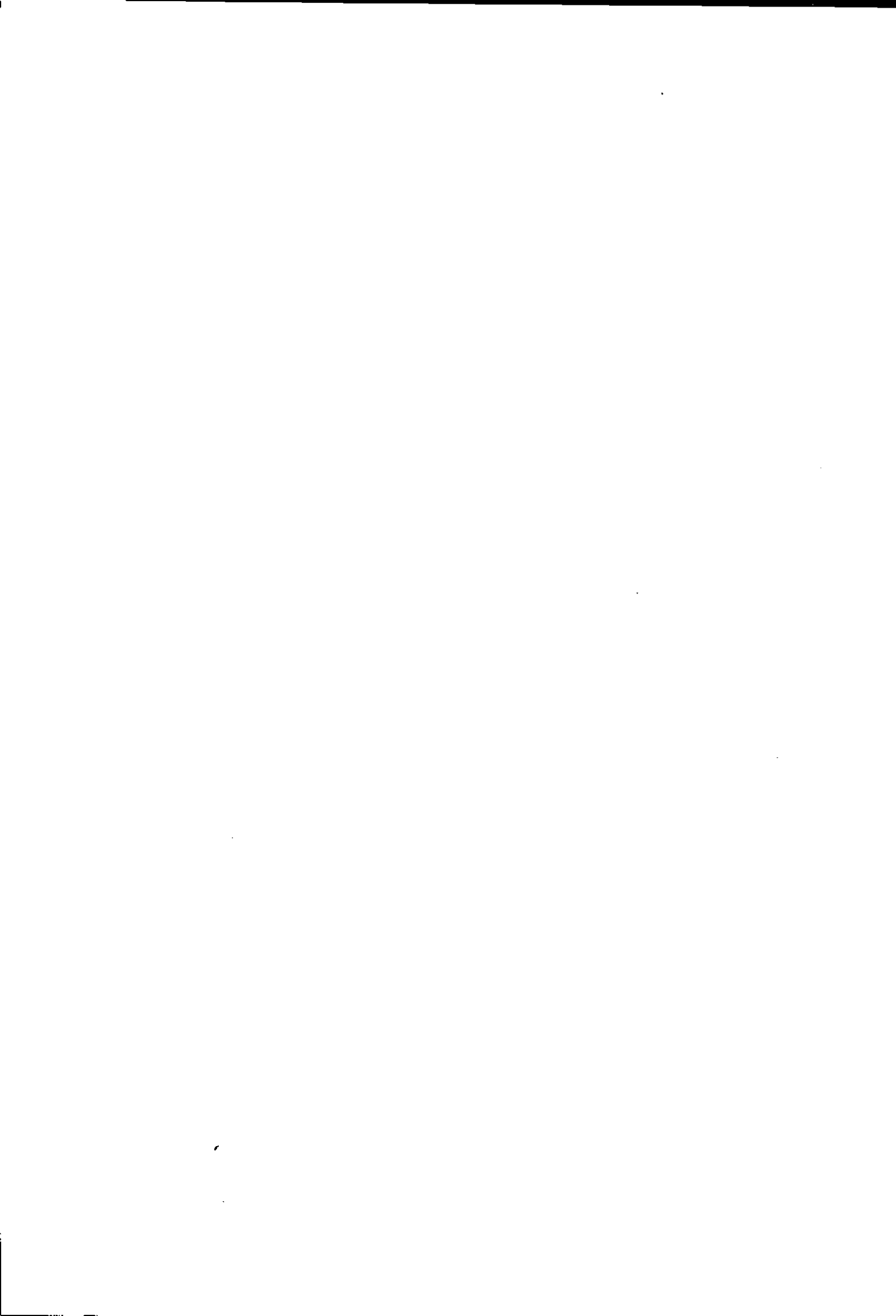
7. "Provided all advice indicates that the mother is providing satisfactory care and attention, she is permitted to retain her child with her if she so desires, while serving a term of imprisonment, subject to the environment in which the child is raised after its first birthday being suitable for normal naturational processes. The foregoing is subject at all times to consideration of particular circumstances which might require the child to be either retained by or removed from the care of its mother."

8. "The prison should provide adequate accommodation and facilities for the mother to care for the child while ensuring that the mother is not segregated from the remainder of the prison community in such a way as to prevent normal social contacts."





IV: POLICY AND MANAGEMENT STATEMENTS



INFANTS AND ABORIGINAL WOMEN IN PRISON

R. Donnelly
Director
Community Services Division
Darwin

The 1983 annual census of prisoners showed that at midnight on 30 June in that year, 399 women were imprisoned throughout Australia. Of these, 48 or 12 per cent were Aboriginal women.

In itself, this indicates an imprisonment rate that is slightly higher for women than it is for Aboriginal men. The same census demonstrated 9797 Aboriginal or Torres Strait Islander men were imprisoned throughout Australia, but this was only 10.9 per cent of all males in gaol at that time.

The 1981 national population census which provides the latest data available identified 79,722 male Aboriginals (0.54 per cent) and 80,175 female Aboriginals (0.55 per cent) totalling 1.09 per cent of the general Australian population.

I am not breaking any new ground when I point out this demonstrates a continued gross over-representation of Aboriginals in our prison systems.

These figures go a long way to support the views of Janette Hartz-Karp who presented a paper entitled 'Women in Constraints: Western Australia' to an Australian Institute of Criminology Conference at this venue in June 1979.

In that paper she concluded that the imprisonment of Aboriginal women appeared to be race rather than sex-related.

... race is a far more important variable than sex in determining sentencing outcomes. The clear line of division demarcating apparent preferential treatment is along non-aboriginal/aboriginal lines, not along female/male lines.

Janette Hartz-Karp also expressed the view that as with Aboriginal males, the offences for which Aboriginal females were imprisoned, appeared to be mainly alcohol related.

It is as true of Aboriginal women as it is non-Aboriginal women that they are less likely to be imprisoned than men. The 1983 census showed they comprised only 0.47 per cent of the total prison population. Their non-Aboriginal counterparts were 3.44 per cent, Aboriginal males 10.49 per cent, non-Aboriginal males 85.59 per cent.

The reasons for this are much the same as they are for non-Aboriginal females. Within their culture, the female has the child-bearing, nurturing, homemaking role. The carrying out of these functions means she has less opportunity to come in conflict with non-Aboriginal law. The functions of women have changed to a relatively small degree with the advent of the white man, whilst the hunting/gathering functions of the male have been much reduced. Traditionally, women have stayed close to the camp or home whilst the hunting men ranged far in search of game.

This behaviour pattern has tended to continue. It is the males who come into the outback towns seeking and finding liquor. It is they who are most observable to police. When the women drink, it is usually around the camp fire and their offences are mainly against customary law.

Northern Territory imprisonment statistics can be somewhat deceiving because of the smallness of the sample from which they are drawn. However, the 1983 National Prison Census revealed that a total of 257 prisoners were held in Northern Territory Prisons on 30 June 1983. One hundred and sixty two of these were male Aboriginal or Torres Strait Islanders, whilst six were Aboriginal or Torres Strait Island females. This variously demonstrated that 60.7 per cent of all prisoners were Aboriginal; similarly 60.7 per cent of all male prisoners were Aboriginal; and 60 per cent of all female prisoners were Aboriginal.

Despite the apparent large proportion of Aboriginals imprisoned in the Northern Territory (60 per cent), an analysis of the 1981 Australian Bureau of Statistics Census figures by David Biles (Table 1), shows that the Northern Territory imprisons Aboriginals at a lower rate, proportionate to their numbers in the general population, than any of the states except New South Wales and Tasmania (See Table 1).

Table 2, for which I express my gratitude to the Australian Institute of Criminology, contains the rates of imprisonment by Sex, Aboriginality and Jurisdiction.

The available figures show Western Australia to have by far the highest imprisonment rate for Aboriginals both male and female.

If we discount the A.C.T. which only has a remand centre, Tasmania demonstrates the lowest imprisonment rate for both male and female Aboriginals.

It gives me great pleasure to point out the Northern Territory rate for Aboriginals of both sexes is lower than the national average. To my knowledge, this is the first time this has occurred in criminological statistics.

Table 3 was calculated by dividing the Aboriginal imprisonment rates by the non-Aboriginal rates contained in Table 2, thus indicating the comparative likelihood of Aboriginal to non-Aboriginal imprisonment in the various jurisdictions.

Of course, care must be taken to acknowledge the ever present difficulty of generalising from census data which only takes a 'snapshot' of conditions existing at a particular point in time.

Because of the small numbers of women in prison, major problems exist in finding them meaningful occupations. These difficulties are compounded when one considers aboriginal women and multiplied still further in relation to tribalised Aboriginals.

Experience has shown in the Northern Territory that such prisoners are not self-starters; they need to be told what to do and then strictly supervised. As with other Aboriginals, such inmates tend to question the relevance of their imprisonment and often regard it as a 'time-out' period during which they are well fed, housed and have access to television.

I do not mean to imply by this that tribalised Aboriginal prisoners 'enjoy' prison. Indeed, separation from 'skin' and 'clan' groupings, together with absence from his/her particular 'country', causes most Aboriginals to find prison unpleasant. However, most also demonstrate an almost infinite capacity to wait. Hence my 'time-out' appellation.

To return to my argument. Unfortunately little success has been achieved in providing these women with skills that are retained and yet are relevant to their normal life-style.

Considering the high proportion of Aboriginal women in prison, it is obviously desirable to also have Aboriginal women as prison officers. Regrettably, cultural attitudes, life-style and remoteness have worked against this occurring in the Northern Territory.

We have been fortunate in being able to recruit one female officer of mixed race background, who has been extremely helpful in assisting us to deal with Aboriginal female prisoners, but we have never had an application from a tribalised woman.

One of the most controversial aspects of all women in prison relates to their children.

It is not commonly realised that it was not until 1978 that legislative provision was made in the Northern Territory to allow mothers to have their children accompany them when imprisoned. This action followed a meeting of Australian Ministers responsible for Prisons, Probation and Parole, in Broome, Western Australia.

Part 13 of the Prisons (Correctional Services) Act provides that the Director of Correctional Services 'may allow a female prisoner who gives birth to a child or who has children under the age of five years, to have that child or those children accommodated with her in prison'.

The same part of the Act ensures that a pregnant prisoner 'shall, wherever possible, be taken to a hospital outside a prison for the birth of her child'. If this is not possible, the birth registration of the child shall not refer to the fact that he or she was born in a prison.

Problems arise when the Director has to decide whether or not a mother should be allowed to keep her child with her. There is a strong body of scientific evidence that suggests children suckled at the breast show greater resistance to infection and disease and also thrive more than bottle fed infants.

Additionally, a strong bonding process takes place between mother and child during this period and this continues throughout infancy.

I acknowledge the validity of these theories, but suggest that before a decision can be made in any particular instance, that a number of other factors have to be considered.

1. Circumstances relating to relatives; age and health of the child and mother; conditions existing within the prison change from case to case and thus each request must be considered on its merits.
2. In all cases, the welfare of the child not the mother must take precedence. Thus, advice is sought from the Director of Child Welfare, a specialist paediatrician and a psychologist or psychiatrist, before a decision is made.
3. This point is related to the previous one. The safety of the child in the prison must be guaranteed. From time to time, other inmates might be disturbed and/or dangerous, putting the child at risk. Similarly, there is the ever present danger of a single prisoner or a group of prisoners taking the child hostage and using it as a bargaining counter for release, weapons, etc.
4. Finally, there is an as yet unresolved legal problem. It is the child's mother, not the child that has been sentenced to imprisonment. A parent has a legal relationship to her child that others do not have. The mother can give instructions to or physically discipline her child legally. It is not clear whether prison officers also have these powers in relation to the child of an imprisoned parent. If this is not so, it is possible officers could be guilty of assault when attempting to control a child who has misbehaved, either of its own volition or at the instigation of its mother.

TABLE 1

Numbers and Rates of Imprisonment by Age, Aboriginality and
Jurisdiction - 1976 and 1981 Censuses

	<u>1976</u>				<u>1981</u>			
	Number		Rate		Number		Rate	
	Ab.	Other	Ab.	Other	Ab.	Other	Ab.	Other
<u>N.S.W.</u>								
Under 20	23	112	493	29	27	171	588	41
20-24	108	707	2083	205	67	566	2004	137
25-34	90	769	1490	115	48	690	961	87
35 & over	45	523	623	29	23	448	324	22
<u>VICTORIA</u>								
Under 20	8	97	468	33	15	185	1918	57
20-24	25	313	1190	117	14	367	2053	116
25-34	23	287	881	57	12	464	1220	77
35 & over	8	271	435	21	8	282	692	19
<u>QUEENSLAND</u>								
Under 20	26	83	541	50	40	130	748	70
20-24	89	279	2350	187	97	351	2310	188
25-34	91	291	1764	106	110	455	1853	132
35 & over	51	229	553	31	58	313	584	35
<u>SOUTH AUSTRALIA</u>								
Under 20	14	24	1061	22	13	48	1000	44
20-24	45	203	3982	212	50	171	4762	160
25-34	31	145	2063	83	32	195	2151	97
35 & over	27	118	1221	23	25	128	1241	24
<u>WEST AUSTRALIA</u>								
Under 20	45	46	1497	47	70	75	1273	71
20-24	140	160	6092	142	163	221	3671	208
25-34	99	179	3110	95	155	329	2449	157
35 & over	67	110	1159	28	65	172	360	37
<u>TASMANIA</u>								
Under 20	1	36	280	101	3	49	926	134
20-24	3	98	847	332	6	64	2083	187
25-34	3	67	662	125	0	66	0	104
35 & over	4	57	1169	40	0	65	0	41
<u>NORTHERN TERRITORY*</u>								
Under 20	32	4	2475	180	34	14	1043	231
20-24	41	15	3814	392	60	20	2051	221
25-34	21	33	1419	376	43	47	1088	228
35 & over	12	19	432	186	10	29	150	112
<u>AUSTRALIA</u>								
Under 20	149	402	801	36	202	672	956	57
20-24	451	1775	2729	176	457	1763	2698	150
25-34	358	1771	1620	94	400	2248	1661	101
35 & over	214	1327	623	27	190	1439	418	26

* Males only in 1976 in Northern Territory.

TABLE 2

Rates of Imprisonment per 100,000 by Sex, Aboriginality
and Jurisdiction - 1983 National Prison Census
Courtesy of the Australian Institute of Criminology

	<u>MALES</u>		<u>FEMALES</u>	
	<u>Aboriginal</u>	<u>Non- Aboriginal</u>	<u>Aboriginal</u>	<u>Non- Aboriginal</u>
N.S.W.	1,290	127	56	7
Victoria	2,390	97	32	4
Queensland*	N.A.	N.A.	N.A.	N.A.
Western Australia	3,103	150	188	6
South Australia	2,338	98	41	2
Tasmania	648	93	0	3
Northern Territory	1,086	198	41	9
A.C.T.	0	2	0	0
<hr/>				
Australia	1,862	114	83	5
<hr/>				

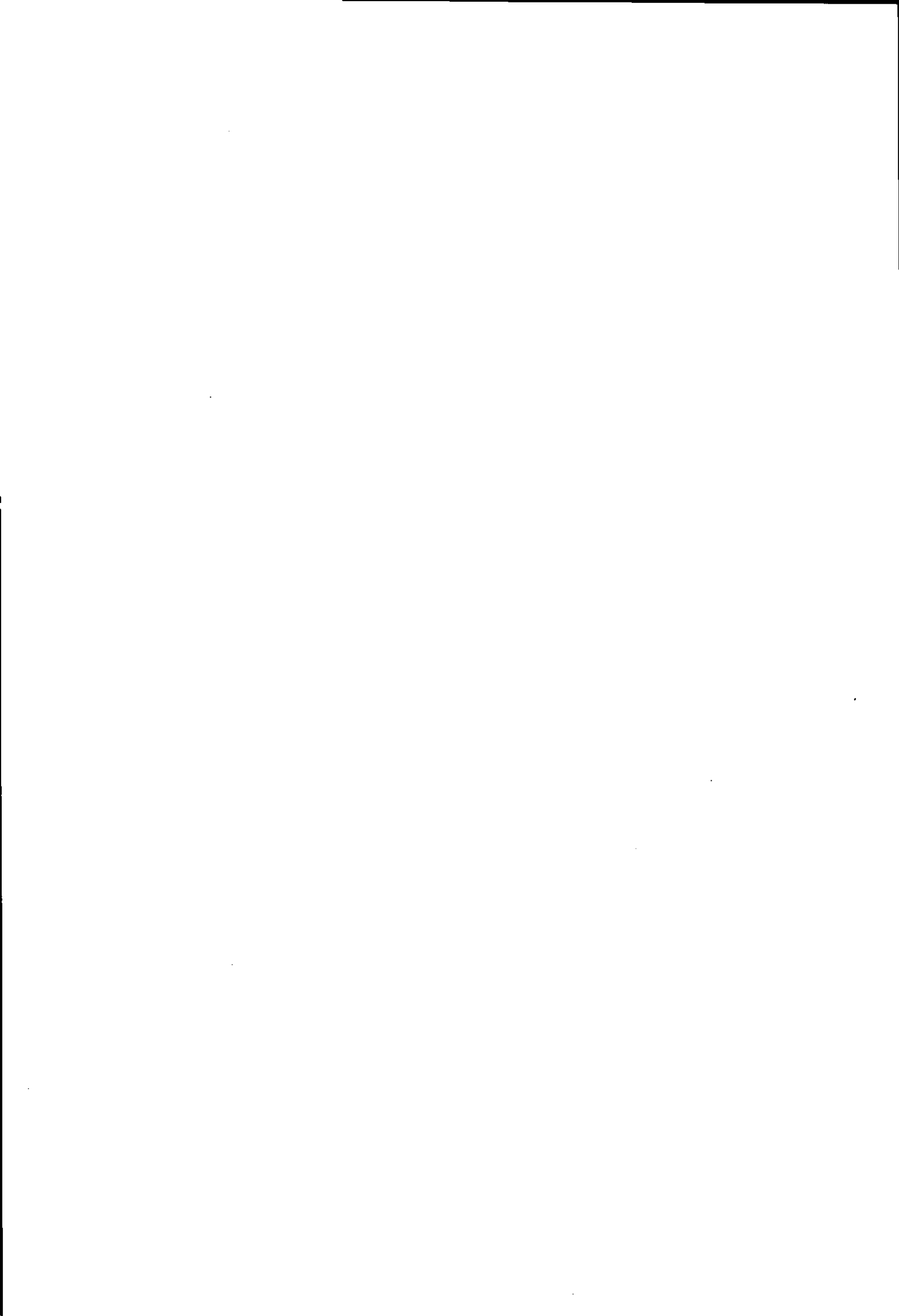
* Queensland figures do not identify Aboriginality and therefore are unavailable.

Calculated on the total population.

TABLE 3

Ratios Aboriginal/Non-Aboriginal Imprisonment
by Sex and Jurisdiction

	<u>MALES</u>	<u>FEMALES</u>
New South Wales	10.16	8.00
Victoria	24.64	8.00
Queensland	N.A.	N.A.
Western Australia	20.69	31.33
South Australia	23.85	20.50
Tasmania	6.96	0
Northern Territory	5.48	4.55
A.C.T.	0	0
<hr/>		
Australia	16.33	16.60
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WOMEN IN THE PRISON SYSTEM - SOUTH AUSTRALIA

M.J. Dawes,
South Australian Department of Correctional Services

INTRODUCTION

Recently on the 4th April, 1984, in South Australia, a new prison was opened by the Minister of Correctional Services, the Honourable Frank Blevins, M.L.C. The new prison, known as the Northfield Prison Complex was created by integrating the existing women's prison, known as the Women's Rehabilitation Centre, with the newly commissioned Cottages, an open prison for 40 low security male prisoners.

The new prison has a capacity of 79; 40 low security male beds, 4 per unit, in 10 villa units and 39 places for high, medium and low security women, in the Women's Centre. The two sets of buildings, the Cottages and the Women's Centre share a common site, management staff and professional and support staff, and provides opportunities for Correctional Officers (Prison Officers) to work with both male and female prisoners.

The Northfield Prison Complex in Adelaide could be described as a "co-ordinate prison".¹

The Department recommended the creation of a "co-ordinate prison" for two reasons:

1. Reduction of costs, and
2. To increase the range of programs and services.

In my paper I will also describe:

- . Trends and characteristics of female prisoners.
- . Recent history of the women's prison in South Australia .
 - Advisory Committee for Women in Prisons
 - (a) Background;
 - (b) Membership;
 - (c) Terms of Reference.

1 Clarice Feirman, Ph.D., Department of Criminal Justice, Trenton State College, Trenton, New Jersey, The Integration of Male and Female Prison Staff and Prisoners: a Discussion of Pertinent Issues, page 20, prepared for the Australian Institute of Criminology, 1984.

- . New departmental policy and program statements:
 - (1) Prisoner assessment and security ratings.
 - (2) Prisoner marriage.
 - (3) Infants in prison.
- . Equal Opportunity.
- 1. Reduction of Costs

The Department was concerned to take some steps, which, hopefully, would reduce the costs to the State of managing women prisoners.

"The daily average number of remand and sentenced prisoners held at the Women's Rehabilitation Centre has decreased for each of the past three years and was: 23 in 1979 - 80; 21 in 1980 - 81; and 16 in 1981 - 82. The average annual net cost per prisoner for 1979 - 80 was \$23,152, 1980 - 81 was \$28,012, 1981 - 82 was \$43,188. The net cost of Recurrent Operations for the same years was \$532,504, \$588,245 and \$691,004 respectively. The average annual net cost per prisoner in 1980 - 81 rose by 17% when the net cost of Recurrent Operations rose by only 10%. The average annual net cost per prisoner in 1981 - 82 rose by 54% when the net cost of Recurrent Operations rose by only 17%. These figures were shown in the 1982 Auditor-General's Report. The 1980 - 81 figures caused a question to be asked in the House of Assembly Estimates Committee B in October, 1981. The addition of approximately 40 low security males in the daily average of the proposed new prison complex should significantly reduce the future average annual net cost per prisoner even though the net cost of Recurrent Operations will be increased because of the salaries and some additional staff required and associated costs such as light, power, gas, goods and clothing. An operating cost for "The Cottages" of \$308,000 was indicated in the submission which was approved by Cabinet on the 15th August, 1983.

The estimated cost of operating the Women's Rehabilitation Centre in 1983/84 is \$922,000. Thus the order of cost of operating the Northfield Prison Complex is \$1,230,000.

The assumed occupancy of the complex on a daily average basis is: Women's Rehabilitation Centre - 22, The Cottages - 38, total 60. Thus the annual net cost per prisoner would be \$20,500.

Comparable costs for other institutions for 1982/83 are: Cadell Training Centre - \$20,154, Adelaide Gaol - \$20,972, Women's Rehabilitation Centre - \$41,915".

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- 2 The Public Works Standing Committee Submission by the Department of Correctional Services (South Australia) on Low Security Accommodation - "The Cottages" Northfield Prison Complex to replace "C" Division, Yatala Labour Prison, 24th August, 1983, excerpt from pages 16 and 17.

2. Increasing the Range of Available Programs and Services

In addition, there was a growing concern within the Department that women prisoners in South Australia did not have access to an equivalent range of programs and services, that are available to male prisoners. I wish to return to this issue further on in the paper. However, a co-ordinate prison solution was seen as a way that a full-time Education Officer could be provided from the Department of Technical and Further Education as well as a professional full-time Activities Officer, responsible for co-ordinating and developing a wide range of out-of-hours cultural, recreational and sporting programs for both men and women at the Northfield Prison Complex.

There have only been some minor attempts at integration and permitting male and female prisoners access to the same programs simultaneously. Northfield Prison Complex is only the second prison in South Australia (the other is Port Augusta Gaol) to have appointed, during 1984, a full-time Activities Officer.

The Northfield Prison Complex is only very new and is still in an early stage of development. The number of women prisoners is currently less than 10, although the low number is seen as a short term result of changes to the parole system.

The new prison provides for better opportunities for staff, a wider range of roles and certainly better opportunities for women prisoners through programs, and an open prison for males nearing the end of long sentences and for the first time real opportunities for preparation for re-integration into the community.³

TRENDS AND CHARACTERISTICS OF FEMALE PRISONERS IN SOUTH AUSTRALIA

The number of women imprisoned in the Women's Centre has fluctuated in the range of 15 to 30 for most of the period of its existence.

In 1970/71 the daily average number of women imprisoned was a high 42 - with a correspondingly high male prison population of almost 900. In recent months the number of women prisoners has dropped below 10 - along with the drop in the current number of men imprisoned to below 650.

Women are under-represented in the number of persons apprehended for various types of crime. This in turn is reflected in the number of women imprisoned.

The imprisonment rate is 4.1 women per 100,000 aged between 18 and 65 and 161.55 men per 100,000, i.e. the male imprisonment rate is approximately 40 times the female rate.

3 Women on the Inside, Article from the Advertiser Newspaper, Adelaide, 26th May, 1984.

Women are particularly under-represented in apprehensions for crimes which are most likely to produce prison sentences. These include crimes such as murder, assaults, sex offences, robbery and extortion, and breaking and entering.

Crimes such as shop theft, in which women are highly represented - over 50% of those apprehended - are far more likely to result in fines, probation or suspended sentences. Only 2% - 5% of shop theft convictions result in imprisonment.

Women are likely to be imprisoned, in small numbers, for almost any offence including robbery - an offence in which women have rarely been involved previously.

Fraud offenders are more highly represented in the female prison population (20% - 30%, although numbers are small) than in the male prison population (4%). This is another offence which can lead to imprisonment and in which women are more likely to be involved (20% - 30% of persons apprehended).

Aboriginal women have been over-represented in the female prison population in the past, constituting up to 35% of the population at times. Figures for the 1982 and 1983 censuses indicated proportions of 25% and 15% respectively.

THE RECENT HISTORY OF THE WOMEN'S PRISON IN SOUTH AUSTRALIA

Once upon a time there was an Egypt. The Egypt was the far country, Adelaide Gaol, and in that institution there was a small group of dedicated women staff who were responsible for caring for, on many occasions, an even smaller group of women prisoners. On the 18th December, 1969, that group of people were led to the promised land and the promised land was the Women's Rehabilitation Centre, now called the Women's Centre and integrated into the Northfield Prison Complex. The Women's Rehabilitation Centre was, when it was opened in 1969 and through the 1970's, but particularly the early 1970's, regarded as a very fine women's prison. It was regarded enviously by people from other States and South Australia had, for a while, the distinction of being one of those places where prison directors who were ambitious enough to think that they might be able to persuade their Government and tax payers to build a new institution, might come if they wanted to see a progressive facility.

But attitudes change and the views of imprisonment and its role in our community changed quite dramatically through the sixties and seventies, and I would like to make a couple of comments about the factors of work in the community which have led to quite dramatic changes within the prison system.

Women's prisons around the world are pretty much the same as the Women's Centre here in South Australia. They tend to be small, some of them are old buildings, some of them are new buildings. It doesn't matter where you go, New Zealand, Thailand, Japan, Hong Kong, Europe, Canada, the United States, the numbers of women in custody are far less than the numbers of men. The differences in those institutions centres around the types and varieties of programs that operate and in Thailand and Japan, Hong Kong and Singapore, clearly the emphasis is upon productive work and women in those countries work just as hard in prison as do the male prisoners. They are engaged in tasks related to caring for the community, the washing, the ironing - the domestic chores that inevitably have to be done in a small community, through to putting cameras together, making radios for National Panasonic and so on. They are highly productive work units and the prisoners work an 8 hour day.

In the sixties in this country and into the seventies, the first real challenges to the way in which prisoners were traditionally managed began to emerge and the prison system is probably on the tail end of challenges to the status-quo compared with other human organisations. We had access to television and late in the sixties and early seventies satellite television which brought into our lounge room prison disturbances as they happened the day before around the world, and what began to occur in our prison system I think had its roots in other human institutions, Universities, our institution of marriage, our churches, and so on. All through the sixties and seventies institutions were faced with the challenge of rethinking their role.

That happened to the prison system and telephone calls began to be made from one prison director to another - 'Look, I've got a problem, this has begun to happen to me. What do you do in your State? What advice can you give me?', and in the late sixties, for the first time that I am aware of, the prison directors arranged to meet nationally. It had been happening in other Departments with perhaps the exception of railways, almost since the inception of the country. But the prison system has a lot in common with the railway systems of Australia. We in South Australia had a narrow gauge system and some commitment to the Irish five feet three gauge. New South Wales was wedded to the standard gauge, the width between the wheels of the roman chariot and Victoria had got right behind the Irish gauge (I know ethnic jokes are really not very good). Our country has struggled I think since the fifties and sixties to come to terms with huge investments of capital in railway systems which are really quite different and the work going on in Adelaide at the moment on the western side of the parklands is evidence of that continuing struggle to rationalise the railway system.

The prison directors faced similar problems. They began to get together in the late sixties and through the seventies. There were some gaps. With the best will of the world they could plan to meet in Sydney on a certain date but something would happen in their own system and they would have to cancel the trip. Eventually they were able to persuade the Ministers that they ought to meet. The first meeting was held in Queensland in 1976. I believe that was a very significant move; it emphasised what was happening in the community, that people were becoming more mobile, that prisoners were comparing conditions and rights and obligations and responsibilities in one system with another.

Advisory Committee for Women in Prisons

(a) Background

The management, control and programming for women in South Australian prisons and particularly the Women's Centre has been the cause of concern to the Department for some time. This concern has escalated in recent times, and is particularly focused on the relative disadvantage the women in prisons have suffered in comparison to male prisoners. This has been as a result of many factors including very conservative and detrimental views about women, the small population of women in prisons and a tendency for little focus to be given to institutions which do not produce problems in their day-to-day operation.

With the building of the Northfield Prison Complex, and the appointment of a new Manager, a unique opportunity existed to carefully analyse the regime which was in operation at the Women's Centre and to introduce a regime which provides for a wider range of programs, particularly in the areas of education, recreation and employment, and the introduction of a regime which attempts to meet the United Nations Standard Minimum Rules and reflects more accurately the status of women in the community at large.

It was decided that a short term committee should be established for a period of 12 months commencing January, 1984, to assist the Director, Operations to address the major areas of concern, focusing on policies and programs that might be developed for the women.

(b) Membership

The expertise and resources needed were beyond the capacity of the Department and it was agreed that persons who could provide an invaluable network of contacts and resources and advice should be invited to become members of the short term committee.

The following people were invited to become members of the Committee:

- The Supervisor of Programs, Department of Correctional Services (as convenor)
- The Manager, Northfield Prison Complex, Department of Correctional Services
- The Women's Adviser to the Premier, Department of the Premier and Cabinet
- The Women's Adviser, Department of Technical and Further Education
- The Women's Adviser, South Australian Health Commission
- A staff representative from the Women's Centre, Department of Correctional Services.

(c) Terms of Reference

1. To examine procedures and programs within the prison to assess the extent of compliance with the United Nations Standard Minimum Rules.
2. Advise and make recommendations about procedures to increase the responsibilities and decision-making opportunities for prisoners.
3. Advise on programs for education, employment, welfare (including visiting programs), and health for women prisoners.
4. Advise on programs for staff development.

The terms of reference of the Committee are to operate for a period of 12 months commencing 31st December, 1984.

The Department holds high hopes that the Advisory Committee for Women in Prisons will succeed in developing ideas, initiatives and through the broadening of contacts within the wider South Australian community, succeed in creating a more responsive and responsible understanding of the impact of imprisonment upon women.

NEW DEPARTMENTAL POLICY AND PROGRAM STATEMENTS

The Department has during the last two years developed a number of new policy and program statements which impact directly upon women prisoners and their families.

I would like to focus on some of these issues briefly including infants in prison and equal opportunity for staff in South Australian prisons.

1. Prisoner Assessment and Security Ratings: Selection Procedures and Criteria

The Department first issued a Departmental Instruction on this topic on 9th September, 1982 which was essentially focused on defining access to low security institutions and programs. The Departmental Instruction was substantially rewritten and reissued on 19th October, 1983. The revised Departmental Instruction defines security ratings in three categories, high, medium and low, and develops a concept of notoriety rating factor. Whilst there is only one prison for women, Port Lincoln, Mount Gambier and Port Augusta Institutions all have facilities for holding unconvicted women and short sentenced women prisoners, but very little movement from one prison to another occurs for women prisoners. This raises a real issue for very long sentenced female prisoners and life sentenced female prisoners. Male prisoners have options and are indeed encouraged to move from prison to prison as part of a graded sentence plan.

The Department is yet to grapple with this issue, but the Departmental Instruction does provide a way of assessing security ratings within the Northfield Prison Complex and inevitably therefore access to programs such as temporary leave of absence.

2. Marriage

Prisoners in South Australian prisons have been able to marry for some years, although a formal written policy statement was not issued until 30th November, 1983.⁵

3. Infants in Prison

The question of whether or not women prisoners should be permitted to keep babies and infants with them while in prison is still being debated - see report of ANZAAS from Age Newspaper.⁶

The South Australian Department has for a number of years permitted babies and infants to remain with mothers in certain circumstances. The Department formally issued a policy statement on this topic on 5th December, 1983, which recognises the United Nations Standard Minimum Rules for the treatment of prisoners and the role of the State Department of Community Welfare, in those cases where the child cannot remain in prison and is not to be placed with a close relative or legal guardian.⁷

EQUAL OPPORTUNITY

Women officers were first recruited specifically for male prisons on 10th January, 1983, when ten officers commenced a training course. In October, 1982, three officers from the Women's Rehabilitation Centre were seconded to Adelaide Gaol on a trial basis for two to three months. All have now returned to the Women's Centre. In October, 1982, three male officers were seconded to the Women's Rehabilitation Centre to work for a period of two to three months. Only one officer still remains at the Women's Centre. On completion of the first course, which included women for male prisons the allocation was as follows:

Adelaide Gaol	5
Yatala Labour Prison	5

-
- 5 South Australian Department of Correctional Services Departmental Instruction No. 45, Applications to Marry from Prisoners.
- 6 Mothers in Jail Should Keep Their Babies, Article from Age Newspaper, Melbourne, 16th May, 1984.
- 7 South Australian Department of Correctional Services Departmental Instruction No. 46, Infants in Prison.

Current Correctional Staff Allocations - City Institutions

20 males at Northfield Prison Complex
 21 females at Northfield Prison Complex
 122 males at Adelaide Gaol
 8 females at Adelaide Gaol
 165 males at Yatala Labour Prison
 7 females at Yatala Labour Prison
 10 males at the Courts Complex
 3 females at the Courts Complex

There are currently two female Correctional Industry Officers employed in male or mixed institutions, and two female Activities Officers.

The composition by sex of the total correctional staff at the Women's Centre at 1st January, 1983 was 5 male and 21 female.

It is interesting to note that following the initial thrust in the media in late 1982 for equal opportunity in male prisons, applications were on a ratio of 3 female to 7 male, but the ratio over the last nine months has changed to 1 female to 9 males submitting applications.

CONCLUSION

In my paper I have described the present situation applying to the care and management of women prisoners in South Australia. Some tentative steps have been taken to modernise the system. The Department anticipates making considerable progress during the next twelve months in improving its programs for women prisoners.

As well, the Department believes that the Advisory Committee for Women in Prisons will not only assist the Department by challenging and forcing it to be precise in its thinking about women prisoners, but also serve to heighten awareness in the respective areas from which its membership is drawn.

The Department is investing considerable resources in improving its staff development programs. Improved staff training is seen as central in its strategy to improving services to women prisoners.

The South Australian Department of Correctional Services was pleased to receive an invitation to attend and participate in the Seminar, and I to be invited to deliver a paper.

M.J. Dawes,
 EXECUTIVE DIRECTOR,
SOUTH AUSTRALIAN DEPARTMENT OF CORRECTIONAL SERVICES.

June, 1984.

DEPARTMENT OF CORRECTIONAL SERVICES

DEPARTMENTAL INSTRUCTION NO. 8

Head Office Contact: Assistant Director,
Treatment Services.

First Issued 9.9.82
Re-issued 19/10/83

Telephone: 212 5852

PRISONER ASSESSMENT AND SECURITY RATINGS:-
SELECTION PROCEDURES AND CRITERIA1. OBJECTIVES

To describe the selection procedures and criteria used by the Prisoners' Assessment Committee and Security Ratings and Review Sub-Committees in assessing prisoners and establishing security ratings for placements in institutions and programmes. This is in accordance with the "Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations, (United Nations, New York, 1977). Sections 8, 56-78.

2. SCOPE

This Instruction applies to any officer involved in the assessment and security rating procedures of the Department. This Instruction applies to all prisoners. This Instruction will be displayed on all staff and prisoner Notice Boards in the Department.

3. DEFINITIONS OF SECURITY RATING3.1.1 High-Security

A prisoner whose escape would be dangerous to members of the public or to the security of the State should be rated as High Security.

3.1.2 Medium Security

A prisoner who cannot be trusted in conditions where there is no barrier to escape should be rated as Medium Security.

3.1.3 Low Security

A prisoner who can be trusted in conditions where there is no barrier to escape should be rated as Low Security.

- 3.1.4 A prisoner should be accommodated in an institution with the lowest appropriate security rating, and should be encouraged to move to Low and Medium security institutions.
- 3.1.5 Institutions which provide a reception function and a secure perimeter within which most of the prisoner's programme are offered are to be considered High Security.
- i.e. Yatala Labour Prison, Adelaide Gaol, Women's Rehabilitation Centre, Port Augusta Gaol, Port Lincoln Prison and Mt. Gambier Gaol.
- 3.1.6 Institutions and programmes which do not provide a secure perimeter but do provide a barrier to escape are to be considered as Medium Security.
- i.e. Mount Gambier Gaol, Port Lincoln Prison and specific programmes at Port Augusta Gaol, Yatala Labour Prison and Adelaide Gaol.
- 3.1.7 Institutions and programmes which do not provide a significant barrier to escape are to be considered Low Security.
- i.e. Cadell Training Centre, farm area at Port Lincoln Prison, and C.F.S. programme at Yatala Labour Prison.
- 3.2 Placement In High Security Institutions/Programmes Criteria for Assessment.
- 3.2.1 Prisoners with a Medium or High Notoriety Factor will be considered for placement in High Security institutions/programmes.
- 3.2.2 Prisoners may be considered as High Security at the time of their initial assessment and at subsequent reviews.
- 3.2.3 Prisoners who have escaped during the last 12 months from a High, Medium, or Low Security institution or programme, will be considered to be High Security.
- 3.2.4 Prisoners who have had serious breaches of regulations, e.g. violent assaultative behaviour on either other prisoners or staff during existing and previous periods of imprisonment within the preceding 12 months will be considered as High Security.
- 3.2.5 Prisoners who have committed acts of violence against persons, either as their original offences, or during the preceding 12 months, will be considered as High Security.

- 3.2.6 Prisoners who are subject to further court appearances, extradition, or deportation, may be considered as High Security.
- 3.2.7 Prisoners with a recent history of psychiatric or behavioural disturbance may be considered for High Security.
- 3.3 Placement in Medium Security Institutions/Programmes -
Criteria for Assessment.
- 3.3.1 Prisoners with any notoriety rating will be considered for placement in Medium Security institutions.
- 3.3.2 Prisoners may apply for transfer to Medium Security at the time of their initial assessment.
- 3.3.3 Prisoners may be placed in Medium Security following initial reception and assessment.
- 3.3.4 Prisoners who have escaped from a High, Medium or Low Security institution, are not automatically excluded from seeking a placement in a Medium Security institution. The Department will consider the circumstances of the escape and amount of time served since the escape during the present sentence. Escapes or attempted escapes during previous sentences may be considered if appropriate.
- 3.3.5 Prisoners who have had breaches of regulations before the Visiting Tribunal or the Superintendent, including written reports concerning poor behaviour to the Superintendent, must have shown consistent improvement and response to management requirements in order to qualify for a Lower Security rating.
- 3.3.6 The Department will take into account, when assessing the applications for prisoners to transfer from High to Medium Security, the prisoner's history of violence as demonstrated in his original offence and conviction, and any subsequent violence (if any) which has occurred in prison.
- 3.3.7 Prisoners applying for placement in Medium Security must be declared medically fit prior to transfer so that they can participate in the work and leisure programmes at the institution.
- 3.3.8 Prisoners with a known history of psychiatric disturbance or mental illness must be cleared by a Psychiatrist or Psychologist prior to transfer to Medium Security.
- 3.3.9 Prisoners may be transferred to Medium Security following an application by the prisoner for protection purposes providing the prisoner meets the other requirements.

- 3.3.10 Prisoners who are being considered for release by the Parole Board, or a Lower Security rating, may be eligible for selection following a request by the Parole Board to the Department of Correctional Services.
- 3.3.11 Prisoners who have breached Parole by committing further offences, may be eligible for Medium Security selection if considered appropriate.
- 3.4 Placement in Low Security Institutions-Programmes - Criteria for Assessment of Prisoners Serving in Excess of 12 Months.
- 3.4.1 Prisoners serving life or indeterminate sentences, where no non-parole period has been set, must have completed a period of five years.
- 3.4.2 Prisoners serving more than 12 months must have completed 50% of their set non-parole period. Where no non-parole has been set, then the prisoner must have completed one-third of the total sentence.
- 3.4.3 Persons convicted of offences involving persistent or violent sexual behaviour will be excluded from placement in Low Security. Definitions of sexual offences will be included in the Appendix to the Instruction, and those offences possessing a High Notoriety rating will be excluded from Low Security.
- 3.4.4 Persons with a High Notoriety rating excluding prisoners convicted of High Notoriety sexual offences, must have their cases referred to the Executive Director for decision.
- 3.4.5 Prisoners must have achieved satisfactory earnings in industry. They must have no serious breaches of Regulations before the Visiting Tribunal or the Superintendent (including written reports concerning poor behaviour to the Superintendent).
- 3.4.6 Where a prisoner is seeking placement in a Low Security rating, the Department will take into account his/her need to maintain family ties.
- 3.4.7 Prisoners who have escaped from a High, Medium, or Low Security institution, are not automatically excluded from seeking a placement in a Low Security institution. The Department would examine the time served since the escape and the nature of the escape. Prisoners in this category will have their cases referred to the Executive Director for decision.
- 3.4.8 Prisoners applying for placement in Low Security must be declared medically fit prior to transfer so that they can participate in the work and leisure programmes at the institution.

- 3.4.9 Prisoners with a known history of psychiatric disturbance or mental illness must be cleared by a Psychiatrist or Psychologist prior to transfer to Low Security.
- 3.4.10 Prisoners may be transferred to Low Security following an application by the prisoner for protection purposes providing the prisoner meets the other requirements.
- 3.4.11 Prisoners who are being considered for release by the Parole Board, may be eligible for selection following a request by the Parole Board to the Department of Correctional Services.
- 3.4.12 Prisoners who have been returned to prison having breached their Parole conditions, but who have not been convicted of a further offence, may be transferred to Low Security institution or programmes.
- 3.5 Placement in Low Security Institution/Programme - Criteria for Assessment of Prisoners Serving Less than 12 months .
- 3.5.1 Prisoners serving sentences up to 12 months qualify under this Section.
- 3.5.2 Section 3.4.2 regarding Low Security Criteria does not apply to the selection of these prisoners.
- 3.5.3 Prisoners who have committed an offence with a High Notoriety Factor may be excluded.
- 3.5.4 Prisoners who have committed a High Notoriety offence within the previous 12 months may be excluded.
- 3.5.5 Prisoners who have committed a High Notoriety sex offence within the previous 2 years may be excluded.
- 3.5.6 A list of prisoners, serving less than 9 months and selected for Low Security will be submitted to the Executive Director for approval each week.
- 3.6 Selection Procedures for Prisoners to Join the Country Fire Services Programme - Yatala Labour Prison.
- 3.6.1 Prisoners must have completed 50% of their set non-parole period. Where no non-parole period has been set, then the prisoner must have completed one-third of the total sentence.
- 3.6.2 Prisoners serving life or indeterminate sentences, where no non-parole period has been set, must have completed a period of five years.


- 3.6.3 Prisoners must have achieved satisfactory earnings at industry. They must have no serious breaches of Regulations before the Visiting Tribunal or the Superintendent (including written reports concerning poor behaviour to the Superintendent).
- 3.6.4 Prisoners who have committed offences with a High Notoriety Factor (the Notoriety Factor being established at the time of the conviction) will not automatically be excluded from the Country Fire Service activities, but their cases shall be referred to the Executive Director for decision.

How to Apply

- 3.6.5 Prisoners wishing to apply to join the Country Fire Services programme should make application to the Superintendent of the prison.
- 3.6.6 The application will be considered by the Security Ratings and Review Sub-Committee of the prison.
- 3.6.7 The Chairman of the Committee will have authority to grant or to refuse the application.
- 3.6.8 A prisoner, where application is refused, will be advised and will be told of the reasons.
- 3.6.9 A prisoner whose application is refused may appeal to the Prisoners' Assessment Committee.

4. CANCELLATION

The previous Departmental Instruction No. 8 titled "Selection Procedures for Prisoners to Join the Country Fire Services Programme - Yatala Labour Prison" is hereby cancelled.



EXECUTIVE DIRECTOR

DCS 724/82

APPENDIX 1.

NOTORIETY FACTOR

1. The Notoriety Factor is an indication of the perceived danger to the Community that could be caused by the escape of a prisoner committed for certain crimes. The degree of media coverage that a particular crime or prisoner has attracted may also be considered.
2. The Notoriety Factor will be determined at the time of conviction by the Assessment Committee by referring to tables which will be published from time to time in reference to the Director of Crime Statistics Report, "Crime and Justice in South Australia". The most serious offence committed by a prisoner will be considered where the prisoner has been sentenced for a number of offences.
3. The Notoriety Factor will be classified:-
 - High Notoriety
 - Medium Notoriety
 - Low Notoriety
4. A prisoner attracting a High Notoriety Factor must serve 60% of his non-parole period in High or Medium Security before being considered for a Low Security rating.
5. A prisoner serving an indeterminate or life sentence, where no non-parole period has been set, must serve 2 years in High Security before a Lower Security rating is awarded.
6. Selected Offences and Recommended Notoriety Factor

6.1 High Notoriety Factor Offences

Abduction
 Arson - Person in Building - Endangering Life
 Assault etc., to Commit a Crime
 Attempted Murder
 Escape from Prison/Custody (within last 12 months)
 Larceny from Person
 Murder
 Possess Heroin for Sale
 Possess Amphetamines, etc., for Sale
 Rape, Attempted Rape
 Robbery with Violence, Offensive Weapon etc
 Sell and Supply Heroin, Amphetamines etc
 Unlawful Detention
 Unlawful Sexual Intercourse Person under 12 years. (unless
 within existing DeFacto relationship -
 see Incest
 Use Explosives to Attempt or to Destroy Building
 Wound Causing Grievous Bodily Harm

6.2 Medium Notoriety Offences

Assault Occasioning Actual Bodily Harm
 Assault with Intent to Rob
 Break and Enter House or Dwelling or Surgery or Pharmacy
 Burglary
 Cause Death by Dangerous Driving
 Cultivate Marijuana
 Demand Money by Menaces
 Embezzlement as Servant
 Escape from Prison (within the last 2 years)
 False Pretences
 Falsification of Accounts
 Fraudulent Misappropriation
 Forge and Utter, Prescriptions etc
 Gross Indecency
 Incest
 Indecent Assault
 Malicious Damage
 Manslaughter
 Possess Marijuana for Sale
 Possession of Prohibited Import Hashish
 Threatening Behaviour
 Unlawful Sexual Intercourse with Person under 17 years

6.3 Low Notoriety Factor Offences

Aid and Abet
 Accessory
 Break and Enter Building or Premises
 Common Assault
 Conspiracy
 Drive Under the Influence (P.C.A.)
 Drive Without Due Care
 False Statement, Pretences
 Illegal Use
 Larceny
 Possess House Breaking Implements
 Possess or use Heroin, Amphetamines etc
 Possess or use Marijuana
 Receiving

DEPARTMENT OF CORRECTIONAL SERVICES

DEPARTMENTAL INSTRUCTION NO. 45

Head Office Contact: Assistant Director,
Programmes

Telephone: 212 5852

DCS 51/83
30th November 1983APPLICATIONS TO MARRY FROM PRISONERS1. OBJECTIVE

To describe the procedures to be followed for prisoners making an application to marry while in custody.

2. SCOPE

This instruction applies to all institutional and Probation and Parole staff and to the Departmental Chaplain.

3. INSTRUCTION

3.1 This instruction applies only to sentenced prisoners, unconvicted persons and persons held pending deportation are not eligible to apply under this Departmental Instruction.

3.2 Sentenced prisoners wishing to marry should make application in writing to the Head of the Institution in which they are detained.

This application should contain the name and address of their intended marriage partner in support of the application.

3.3 The application to marry should be forwarded to the Executive Director for the attention of the Assistant Director, Programmes. The Assistant Director, Programmes, will forward the application to the Departmental Chaplain for a report on the application.

3.4 The Departmental Chaplain will interview the couple and ensure their freedom to marry and will provide general and specific counselling on marriage while in custody. When this counselling is completed to the satisfaction of the couple and the Departmental Chaplain, a report will be provided to the Assistant Director, Programmes.

This report will contain details of the proposed date and venue of the marriage ceremony and any special security precautions

needed which have been agreed to by the Head of the Institution.

- 3.5 A recommendation concerning the application will be forwarded to the Executive Director for his decision. In the case of a prisoner with a High Notoriety Rating, the application and the Executive Director's decision may be forwarded to the Honourable The Chief Secretary for his information.
- 3.6 Where the prisoner intending to marry has a child/children and the Department of Community Welfare has an interest in the child/children then that department should be advised of the marriage.
- 3.7 Where an application to marry is approved by the Executive Director, a final brief report will be submitted by the Superintendent of the Institution concerning the marriage ceremony and any significant security features.

This Departmental Instruction should be displayed on all prisoner notice boards.

This Departmental Instruction replaces Administrative Instruction No. 107 of 25/3/80.


EXECUTIVE DIRECTOR.

DEPARTMENT OF CORRECTIONAL SERVICES

DEPARTMENTAL INSTRUCTION NO. 46

Issued Date: 5/12/83

Head Office Contact: Assistant Director,
Programmes

D.C.S. 1168/82

Telephone: 212 5852

INFANTS IN PRISON

1. OBJECTIVES

- 1.1 To outline Departmental policy on the accommodation of infants and children with their unconvicted or convicted mothers
- 1.2 To establish guidelines for decision-making for the accommodation of infant children with their mothers in prison.

2. SCOPE

This Instruction applies to all staff of the Women's Rehabilitation Centre and to other institutions housing women prisoners.


3. INSTRUCTION

- 3.1 The statement of the aims and objectives of this Department stresses the importance of the maintenance and fostering of offender's family associations. This includes the relationships between the prisoner-mother and her child. This Department recognises the critical nature of the relationship between a mother and her child.
- 3.2 In keeping with the "Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations", Section 23 (1 and 2), the Womens Rehabilitation Centre shall provide facilities necessary for pre-natal and post-natal care. These shall include, sleeping, bathing, toilet and feeding facilities which are separate from the remainder of the prison. The quality of these facilities will be reviewed by the prison Medical Officer as part of the Medical Officer's regular inspection. The facilities will provide for the care of the child by qualified personnel when the child is not in the care of the mother.

- 3.3 The Superintendent shall arrange for children to be born in a hospital outside the prison.
- 3.4 On admission of a prisoner who is a mother of an infant child, or who is likely to give birth to a child whilst in prison, the staff of the Women's Rehabilitation Centre shall notify the prisoner of her right to apply to have her child accommodated with her in prison.
- 3.5 The application shall be made in writing and must include answers to those questions raised in 3.6 below. The decision to accommodate a child with her prisoner-mother shall be made by the Permanent Head on the advice of the Prisoners' Assessment Committee. The Prisoners' Assessment Committee will take into account the views of the Department of Community Welfare. The P.A.C. may request reports from their Departmental staff and associated agencies.
- 3.6 Each application shall be decided on an individual basis and the welfare of the child will be placed above other considerations. The decision will take into account the following:-
- (a) The age of the child;
 - (b) The history of contact between mother and child and the quality of that contact;
 - (c) The disposition of the mother, father and other relatives and dependants;
 - (d) Alternate placements for the child;
 - (e) The mother's statements regarding her future contact with the child.
- 3.7 The accommodation of a child with his/her prisoner-mother shall be reviewed weekly by the Superintendent (or nominee), and a written report forwarded to the Assistant Director, Programmes.
- 3.8 No upper age limit for the infant-child to be accommodated with his/her mother in prison shall be fixed. However, the Department will place the wellbeing of the child first in consideration of each case. The removal of the child from the prison to alternative accommodation shall be decided by the mother or the Permanent Head on the advice of the Prisoners' Assessment

Committee. The P.A.C. will consider the advice of the Department of Community Welfare. Where the child is to be placed with a legal guardian the Executive Director should seek the advice of the Department of Community Welfare.

Where the child is not to be placed with a legal guardian or close relative the matter must be referred to the Department of Community Welfare.



EXECUTIVE DIRECTOR

WOMEN'S FUNCTION IN N.S.W. MALE PRISONS

*Rita Nicholson
Department of Corrective Services
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In N.S.W., female prison officers entered the all-male scenario of male institutions comparatively recently, are still in a miniscular minority, and the subject of close scrutiny by their male peers, the inmates, and the organization as a whole. This paper aims to give a brief overview of the historical events leading to the employment of female officers in maximum security male gaols, their function, integration, and trials and tribulations during this period of 'pioneering'.

EVENTS LEADING TO WOMEN OFFICERS' EMPLOYMENT IN MALE PRISONS IN N.S.W.

In 1980 a progressive scheme was conceived, researched abroad, and finally implemented under the leadership of Superintendent, John Horton and Psychologist, Dr. David Schwartz. It came to fruition in January, 1981. This was to be known as the Special Care Unit, to function as a therapeutic community, and accommodate 18 prisoners who were in some form of crisis, either of a personal nature, or as the result of inability to accept their crime, sentence, or institutional environment.

In order to 'normalize' the milieu, it was seen to be desirable to introduce female officers in this environment. A female component of 10% of the entire staff of 34 was aimed at, and since it was impossible to split bodies, 4 female officers were selected and employed. The ranks of these women ranged from Probationary Officer to Principal Prison Officer, and they could certainly not be seen as a homogenous group by virtue of age, disposition, experience or academic achievement.

These female officers were trained jointly with an equally heterogenous male group in various therapeutic and security procedures, and since emphasis was on group work and cohesion, a reasonable integration of the sexes was achieved in the training situation. This did not, however, readily transfer to the work environment, and many rough edges remained to be smoothed in the following period. Female officers, however, survived this testing ground, and after 3 years still remain an integral part of the Special Care Unit.

When Bathurst maximum security gaol re-opened in December, 1982, with Gerry Hay as Superintendent and Doug Sutton as Programmes Manager, it was to operate on principles of participatory management, decision making at all levels including inmates, and re-education according to reality theories. This again necessitated normalization of the environment, and the proposed staffing structure included up to 25% female officers. It was difficult to recruit women for a relatively isolated country town, as female officers from the metropolitan women's gaol were reluctant to leave their social groups. The highest number of uniformed female staff recruited was 6.4% (7).

In both the above institutions female officers are still alive and well and are carrying out the same tasks as male officers, e.g. administration and supervision of prisoner's accommodation, searches, tower security, supervision and training of staff, involvement in inmate's projects, and counselling. In addition, there is a thin scatter of women employed in specific tasks in various gaols such as stores, gate, control rooms, visits. These positions, however, do not require a great deal of involvement with inmates.

ORGANIZATIONAL AIMS FOR WOMEN OFFICERS.

The employment of females in male institutions can be seen as having a two-fold function:

Firstly, sociologically, by affording women equal status in a hitherto exclusively male operated job. This is in-line with the Public Service Board Policy of Equal Employment Opportunity (section 62, Public Service Act, 1979). In the space of just over 3 years female officers have aspired to the ranks of Assistant Superintendent in male gaols; have performed all the tasks their male counterparts do; have not occasioned hostage situations, escapes, violence, or any other breaches of security.

Secondly, normalization of the environment, with hopefully some therapeutic spin-off. It is generally assumed that the presence of females 'cleans-up' the gaol-jargon, that inmates care more about their appearances and hygiene, and that women have a calming influence on the dynamics. From this perspective one would have to support a higher ration of female employees, as their present numerical minority over-emphasizes the individual. Women, being an undeniable component of 'normal' society, should preferably be accepted as such in the gaol environment by both inmates and staff, rather than judged by their personal differences.

THE TRIBULATIONS OF INTEGRATION.

Integration with the male staff has not been easy for the small minority of women. Officers expressed fears that women could not handle physical confrontations, were easy and desirable targets as hostages, were not security minded, were naive and subjective in their judgements, and presented a disturbing sexual influence to both inmates and staff. Little was said on the credit side, despite the positive precedents elsewhere. In addition, this was a period of rapid organizational change which normally elicits resistance. Female officers were identified with this change, and as such were seen as threats to stability, job-security and ranking structures.

On the day of the opening of the Special Care Unit, industrial action was threatened should the four females enter the gaol. Fortuitously, a 12 day strike due to another issue had just concluded and few officers wished to be further financially inconvenienced. The gates opened for the first women to enter as co-workers in a maximum security male institution! Whilst there was no open confrontation, there was certainly perceivable antagonism, expressed as numerous slights, sarcasm, signs of mistrust, searching of female officers bags, and frequently quite libelous rumours by the general prison staff. Within the Unit, our male peers exhibited similar sentiments, but in a more disguised fashion, by being pointedly paternal, protective and patronising.

If the proof of the pudding is in the eating, then women have certainly earned their acceptance as a necessary and valuable component to that institution by their involvement, conduct and contribution.

In H.M. Gaol Bathurst, the acceptance of women by their male peers has been monitored more objectively by valid research methods. Research began concurrently with the commencement of the participatory management programme, and the opening of the first small Unit, housing 18 inmates. Women officers were instrumental in the implementation of the new programme, and were placed in key positions in accommodation in both the Units, and Wings, as well as in the programmes section, e.g. Library.

A female Assistant Superintendent was in charge of Staff Development and Training.

RESEARCH.

Male officers' attitudes were ascertained by interview methods in April 1983, about 3 months after the inclusion of female staff. Table 1., depicts the results from unpublished research at H.M. Gaol Bathurst.

TABLE 1.

prison officers' attitudes to women officers working in maximum security gaol for men, Bathurst, April, 1983.

Wholly positive	Positive reservations	Neutral	Negative qualifications	Wholly negative
34.9%	34.9%	2.3%	9.3%	18.6%
POSITIVE BIAS 69.8%		NEGATIVE BIAS 27.9%		

Such data must be interpreted with care, however, since some of the officers holding the most positive attitudes did so for the wrong reasons, e.g. 'Women will bring a soft-touch, they can calm prisoners'; 'Good to have a mother image'; 'They keep the language down'.

Others, however, accepted women in their midst without qualifications; 'No problems, they can and should do the same work'; 'Women are good, they add an air of normalcy, diffuse situations'.

The negativists had interesting things to say, not necessarily pertinent to the job: 'If you have ten good men together and you bring in one women - it's finished! They will all want to win her...'; 'Women tend to take over, they all want to hen-peck their husbands'; 'I don't know if it will work, should keep an eye on them'.

Most of the officers holding negative attitudes had security related concerns, e.g. 'Female staff give a perfect situation for a hostage set-up'; 'Women officers could be assaulted, or be open to accusations of sexual activities'.

About eight months later a follow-up study was undertaken, although the questions were phrased differently and a direct comparison was not possible. Although there is no documentation of security problems involving female staff, about half the officers felt there had been, but declined to specify them. They were also equally divided on the statement that more female officers were required at the gaol. Tables 2 and 3 depict these findings.

TABLES 2.

Prison officers' response to the statement: 'We need more female custodial officers', Bathurst, December, 1983.

Strongly agree	Agree	Neutral	Disagree	Strongly disagree
7.7%	30.8%	23.1%	13.5%	25%
TOTAL POSITIVE BIAS 38.5%		TOTAL NEGATIVE BIAS 38.5%		

TABLES 3.

Prison officers' responses to the statement: 'Female officers have caused security problems', Bathurst, December 1983.

Strongly agree	Disagree	Neutral	Agree	Strongly disagree
9.6%	38.5%	7.7%	34.6%	9.6%
TOTAL POSITIVE BIAS 48.1%		TOTAL NEGATIVE BIAS 44.2%		

The results in Tables 2 and 3 show polarization of results, which is difficult to interpret. On the surface it would appear that those officers originally holding positive expectations have remained faithful to that attitude, whilst those having reservations or been accepted for the wrong reasons have developed a negative bias. It is difficult to say at this stage, whether the responses denote actual attitudinal changes, personal bias, or are mirroring other variables in the system. It may also be a changed "mental set". Further research may provide the answer.

Informal interviews with a number of male officers point to differences of opinion depending on their age groups, maturity level, and length of service in the correctional system. The more mature staff members, with lengthy service, were more accepting of female officers and recognize their contribution as a normalizing agent in the environment, as well as their unique personal contribution. This is in keeping with other tentative research findings that prisons staff 'mellow' with length of service and become less punitive and more re-integration and rehabilitation orientated, as well as, tolerant of changes.

For practical purposes, male and female officers continue to work side by side without incidents. Although both sexes perform the same tasks, there can be no doubt that the manner in which they function are different.

FEMALE OFFICERS' FUNCTION WITH INMATES.

To date, the women who have requested transfers to male institutions have been self-initiating individuals, generally 'reform' or 're-integration' orientated. In keeping with the principles of Bathurst Unit Management, and Special Care Unit therapeutic practices, they have been able to relate to inmates on a good interpersonal basis, and are comfortable in bridging the traditional sub-culture gap. Generally, inmates perceive female officers as more approachable and feel free to discuss their problems and request advice or counselling.

Many inmates serving lengthy sentences feel they are losing the ability to relate to women, and in fact have trepidations about the reunion with their families post-release. Social interaction or counselling relationships with female officers allow them to work through many personal issues, and prevent such sex-based distancing.

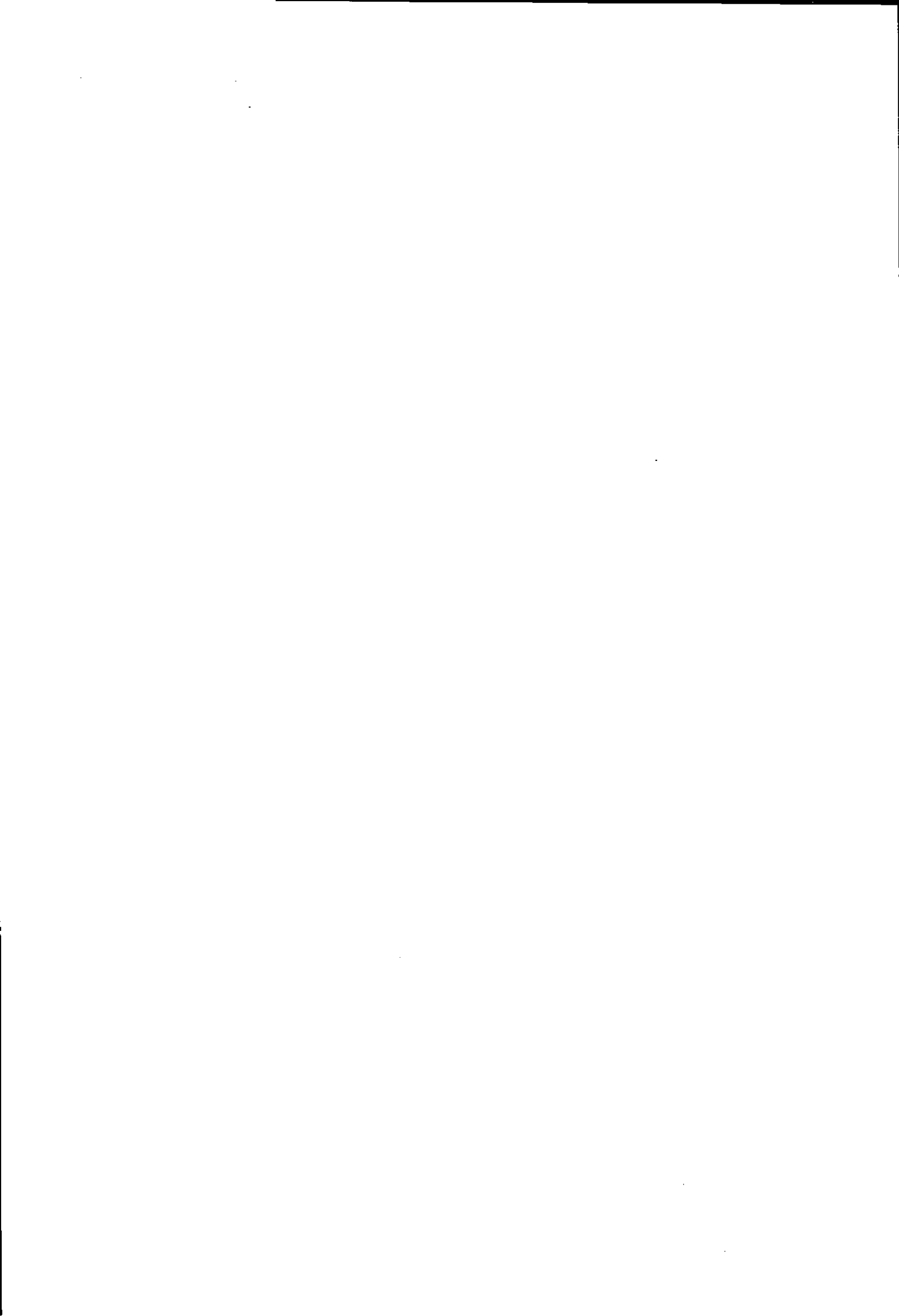
The women's touch is further evident in the interest female officers show in various arts, crafts, and cultural projects, in which they frequently participate. Women's presence in gaol is restoring some basic social 'niceties' in this relatively cold and barren world. Prisoners notice and comment on a change of hair-style or perfume. They likewise show concern when 'their' female officer looks tired or ill.

With such good interpersonal relationships, women find it easy to get inmates to perform tasks without having to resort to autocratic commands, which so often result in refusal, aggression, and subsequent charges to the inmate. During the past 18 months, only one prisoner has stated that he finds the presence of female officers disturbing. Generally inmates have accepted women without reservations.

HOW DO FEMALE OFFICERS FEEL ABOUT THEIR NEW TERRAIN?

Generally, they see their role as challenging and satisfying, and realize that full acceptance by their male counterparts will take time, much depending on individual differences. They feel comfortable with most inmates. As one officer said, 'I feel free to talk to them about ordinary everyday things, the children, the home, shopping. I expect respect, but I also give it. I find it easy to get inmates to do things. It is important to stay clear of sexual overtones - we all use different coping mechanisms.'

In summary, a small number of female officers working in male maximum security goals have made an organizational and social breakthrough. Whilst male officers are divided in their opinions about their desirability in institutions, the inmate population has accepted them almost without reservations.



CORPORATE PLANNING PROGRAMS

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I work in Corrective Services, New South Wales, in corporate planning, and am involved in the Women in Prison Task Force project, but the views expressed here are my own and not representative.

Why Corporate Planning?

At a recent corporate planning meeting in our organisation, a colleague exclaimed in frustration: 'What are we doing here spending time on this, when there are people in our prisons being destroyed?' I ask myself a similar question when I raise the topic of corporate planning at this seminar where problems of real suffering and deprivation are being tackled. However, my guilt at not being back in direct client work providing, not band-aids, but at least bandages, is again modified if I start to consider the issue of success.

John Byrne and Donald Yanuck (1982, p.216) note throughout the development of prison reform from humanitarian concerns to rehabilitation, and to offender rights, a 'pattern of failure'. The nature of that failure is not defined, but failure as a basic assumption underlies the continuing preoccupation with reform and correctional change. Criticisms levelled at Corrections cover a range of issues from failure to stem crime, to the damage done to the families of prisoners, and vary according to political groupings, current correctional philosophy and the latest media assault.

Byrne and Yanuck in that same article describe a period of correctional reform in Delaware, beginning in 1971 with the opening of a new campus-style prison 'with the professed aim of providing a setting conducive to inmate rehabilitation' (1982, p.217). A series of difficulties beset the governor: within a year the inmate population exceeded the planned capacity; there were complaints that families could not travel the 30 or 40 miles out of town to visit; the Delaware legislature disagreed with the attempt to move towards a community-based corrections and enacted a number of determinate sentencing statutes which aggravated the problem; the struggle for control provided the atmosphere for correctional reform to be a platform in the governor election campaigns. The winner, a reformist, introduced a series of policies including work release, work service, parole and half-way houses. However, community resistance forestalled the half-way house project, and a series of rapes by an inmate on furlough made correctional policy again an emotionally-charged controversy. In 1978 the governor submitted a

'master-plan' which included the construction of a large minimum-medium security prison - an apparent contradiction of his reformist policy.

I give this example in some detail because it runs through a familiar cycle and illustrates the key issue in reform failure. If there is only one part of a total system attempting change, other parts of that system will resist or counter-balance that change. This difficulty between corrections and legislature was exacerbated by other perennial problems:

- Within corrections a piecemeal philosophy of reform, concentrating only on one issue, the type of institution, without regard for other significant factors such as family support.
- The difficulties of accurate classification when the science of prediction is inadequate.
- The place of politics and its use of, or influence by emotionally-charged issues.
- The conservatism of the general public.

Corrections is one of many elements, the community, the government, the police and the courts in the attack on the problem of crime and processing the criminal offender. However, these autonomous and diverse elements function relatively independently, with goals that are only incidentally related (Klein et al, 1971, p.357). Therefore any new philosophy requires planning comprehensively, corporately, systemically, to ensure a unity of purpose, an awareness of the inter-relationships of different elements, and the bureaucratic, structural and political obstacles to change.

Corporate Planning in N.S.W. Corrective Services

This leads me to my concern for the success of current female offender management planning, and the significance of the principles underlying the corporate planning process which is being developed in New South Wales Corrective Services.

The first stage - the process of developing a set of articulated purpose and goals had two vital aims: to draw together and guide the activities of the different divisions in the organisation, and the involvement of staff of all levels.

New South Wales Corrective Services was an ungainly plant whose reluctantly grafted branches each continued to try to operate as if it were not only an independent tree, but the only one with the true fruit. The regular Waterloo for these struggles was the institution, where competing programs and philosophies struggled for survival. The inmates, of course, were losers, but also the staff, where years of blind struggle and failure, and the inevitable public criticism generated cynicism and defensive despair.

So it was vital not only to develop agreed goals towards which several paths may lead, but also to imbue our staff with a new sense of purpose, with an awareness of the inter-dependence of sections within the department and the wider judicial system, and consequently with feelings of worthwhile activity and motivation.

So in this instance we started with what was actually being done; asked each division what its objectives were, and drew from these conclusions as to what were the Department's goals.

GOALS

DIVERSION	To provide services such that all persons suitable for diversion from custody are so diverted.
CUSTODY	To provide services such that all persons not suitable for diversion are contained, cared for, given developmental opportunities and released at the earliest proper time.
AFTER-CARE	To provide services such that all prisoners released conditionally are supervised, cared for and given developmental opportunities over the minimum effective period.
SUPPORT	To provide support services such that the other goals are achieved.

The overall purpose of the Department could then be expressed:

To provide a broad range of community based and custodial services for the humane management and care of all persons referred to the Department for the minimum effective period having regard to the requirements of the law, community interests and the individual rights and needs of these persons.

The linking of different divisional objectives under common headings and goals in the actual corporate plan was just a beginning. The institutions are each currently developing mini-corporate plans - again a process where, by working together to develop a set of agreed goals and strategies, the concept of, and the basis for team management will be developed. This has been successful in some goals, where there has been a real recognition of the value and commitment of other disciplines; there has been a welcome and necessary broadening of perspectives; and the principles of participative management appear to have had initial success.

A classic corporate planning process involves a cycle of planning and achievement analysis - the hard part. Was it achieved, or why not? This analysis, collated across divisions revealed in a concrete way the serial and reciprocal dependencies of divisions, previously somewhat ignored in project development. Without this cycle of planning and

analysis and consequent organisational change, together with environmental analysis and forecasting, corporate planning can wither as merely an exercise without meaning to the real work, the actual operations of the organisation.

Some may argue that environmental forecasting is not possible in an organisation dependent upon government policies that are subject to many extraneous factors. Alan Newton (1979, p.84) summed these difficulties:

Government departments are part of a complex political system and are far more limited in their possible behaviour patterns. It becomes difficult to accurately portray the environment in a way that is consistent with the scenario pronounced by the government.

It is difficult to prescribe strategies in clear, actionable terms, whilst simultaneously observing the proprieties of government ...
In addition government departments do not have the convenient private enterprise targets ...
and the services provided by them in many cases are not predictable ...

However, if these difficulties do overwhelm attempts at forecasting and contingency planning, then the only management strategy is crisis reaction - a zig-zag and frustrating course.

Corporate Planning Principles in Task Force Planning

What relevance does our corporate planning attempts have for the Women in Prison Task Force planning?

Theoretically successful planning, that is planning that eventuates in effective implementation, is a happy compromise of philosophy and reality.

New South Wales Corrective Services so far have gone some way towards a philosophy and towards a marriage with reality.

I would hope the Task Force can do better. The broad composition of the Task Force provides the basis for a total system approach to the project - an opportunity to begin from first principles, to question every assumption, every traditional path and barrier, and to plan a comprehensive system of female offender management based on an agreed set of goals and principles of a criminal justice system. The danger is that these diverse elements, with diverse assumptions, perspectives and objectives will repeat our history, and bring together a group of discreet programs, linked neither to each other, nor to the environmental system on which they will impinge.

To what extent might the New South Wales Corrective Services purpose and goals provide the necessary co-ordinating philosophy?

We can infer underlying beliefs:

- That prisons are a last resort.
- That whether in community or institution correction, there is an obligation to provide developmental opportunities, aimed, presumably towards a restitution of social liberty and responsibility as quickly as possible.
- That corrections is carried on in an environment where competing rights and needs, of the law, the community, and the offender have to be balanced.

These are valid and forward-thinking concepts. Can they be taken further?

Can we, instead of asking who can be diverted, ask for each offender, what special needs and problems should be addressed? Offenders with certain characteristics will imply the need for special treatment and/or management programs, for emotional disorders, for intellectual handicap, for drug abuse, or to develop a sense of social worth and responsibility. Within any of these classes, offenders may also possess characteristics which indicate a need to protect society from further offences, and that particular program, therefore, must provide a time of incapacitation.

Would it be valid still, in this society to suggest that women have a special responsibility to children and the home generally, and that this should be considered as requiring special encouragement and programs? A Polish report outlined the risk to marital relationships for women prisoners, especially if the marriage was previously less than strong (Polka-Slugocka and Slugocki, 1980). There is an extensive literature on the significance of the mother-child bond and the problems of separation. Studies of children of women prisoners (Zalda, 1964; Gibbs, 1967) reveal that dependent children suffer behaviour problems, irregularity of care-givers and loss of the regular home. However, many of these children had suffered separation and other deprivations prior to the mother's imprisonment.

These few representative statements suggest that an awareness at bail and at conviction of the need for family women to avoid imprisonment will not solve all these problems. I suggest that a broad philosophy is implied here: that if it is accepted that the family unit is important to society and to the adequate development of its children, and that the woman has a special role in this, then the maintenance and/or development of satisfactory family and/or marital ties is essential. This philosophy then has implications not only for bail and diversion, but it touches on a whole range of reforms suggested in the literature, for custody and for the community: relationship enrichment, family care, housing assistance, and satisfactory private and family visiting, etc.

This example points out that where there is a valid philosophy underlying a specific program, the implications across the system must be followed through, otherwise achievement will be limited.

Returning to first principles, should we again step further in a different direction and examine the concept of women's prisons. Questions that might be asked are: Are women's and men's prisons different? If so, what explains the differences, and are they useful distinctions? Are women separated from men as a punishment, a protection, or because they have special needs? Whatever the cause, the effect has been that women have been offered a comparatively limited range of accommodation, work, educational and recreational opportunities; the staff have suffered limited opportunities as well. The assumptions and beliefs underlying separation must be examined in the context of equality of opportunity for men and women, the reality of sexual activity in prisons, and the relevance of the concept of protecting women in today's society.

Reality

This example of the implications of examining basic principles leads immediately to one of the realities that philosophy must come to terms with in effective planning.

Would the community accept men and women offenders having some areas of interaction? Has the community really accepted the Nagle Commission's recommendation that the only prison punishment should be the deprivation of liberty? Does community corrections imply some loss of deterrent effect, and will the general community let that go?

Any planning must consider strategies of implementation, not only in terms of operations, but in the context of the environment. What can be done to prepare and educate the community, and those who influence both the public and political response, towards an understanding and acceptance of the philosophies and programs recommended?

Effective implementation also depends on the acceptance by another major group - an educated and experienced one, those working in the criminal justice system. This Task Force provides for adequate representation which is a basic step. As well, each recommendation must be examined as to implications for current staff structures, practices and attitudes. Management structure changes, staff development and training, and meeting staff needs must be an integral part of planning across the system.

Finally, perhaps the major reality to be faced is the political/ financial environment. Rarely is a total program or set of programs accepted. Frequently there are modifications or budget cuts made - sometimes in ways that defeat their meaning, or make success improbable. What steps can be taken to present the recommendations in a form that allows the government to make well-based decisions?

Principles of strategic planning can be followed. From our basic goals and purpose, clear objectives and target groups for each program and stage should be developed. Strategies and alternative options should be outlined, with costings and relative consequences. Programs and sub-programs should be presented in a hierarchy of urgency and/or needs. It seems axiomatic that it is the planners, in the context of an examination of needs, goals and strategies who are best able to determine where projects may be limited if necessary. With clear information as to target groups, objectives, options, costings and priorities, the government can make decisions that will better fulfil the purpose and implementation of the project.

Whilst not wanting to limit the creativity of planning, the main reality must be that the planned system of New South Wales female offender management must be shaped towards the environment in which it will be adopted and implemented.

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POLICE RESPONSIBILITIES FOR MANAGEMENT
OF WOMEN IN CUSTODY

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POWERS OF POLICE IN THE STATE OF NEW SOUTH WALES

By legislation, police officers have been given certain powers which are not enjoyed by private citizens, but in the exercise of both their statutory and common law powers, police officers must be mindful of the fact that no matter whether they act in good faith or not, excess of power can result in personal liability.

In New South Wales, police officers incur civil liability for wrongdoing which cannot be justified as a lawful exercise of their power and they may be sued in the ordinary courts of law. This situation contrasts with that prevailing in some European countries where a policeman incurs no civil liability for any wrong he commits in the course of his employment and enjoys an immunity.

Although police officers are, for some purposes, treated as Crown employees, when they commit wrongs in the course of their duties as police officers, they are not treated as servants of the Crown and the Crown is not vicariously responsible for their wrong doing. The authority given to police officers is conferred upon them directly as individuals, and it is not an authority conferred on the Crown and then delegated by the Crown to its servants. (A.G. of N.S.W. v. The Perpetual Trustee Co. (1955) A. C. 459.

A private citizen is able to take action against a policeman who exceeds his powers; in some circumstances conceivably it might be possible for the private citizen to obtain an order of mandamus from the Supreme Court to exercise their powers when they wrongly fail to do so.

The existing controls over police are both of a formal and an informal kind. The informal rules are accepted rules of good police practice and the instructions laid down for the guidance of police officers by the Police Commissioner. The formal rules are those which the Courts have laid down, chiefly in connection with the evidentiary value of information obtained by certain methods of questioning.

APPOINTMENT OF COMMISSIONER OF POLICE

Section 4, Sub-Section (1) of the Police Regulation Act, No. 20, 1899 empowers the Governor of New South Wales from time to time to appoint a Commissioner of Police who shall, subject to the direction of the Minister, be charged with the superintendence of the police force of New South Wales.

POLICE INSTRUCTIONS

The Commissioner:

- (a) Is responsible for the classification of the various duties which members of the Force are required to perform and for their allocation thereto;
- (b) Is responsible for the promotion of members of the Force to ranks up to and including that of Sergeant 1st Class;
- (c) Is responsible for recommending to the Minister the promotion of members of the Force to ranks beyond that of Sergeant 1st Class;
- (d) May approve the payment of gratuities, or recommend the payment of rewards, for special services;
- (e) Is responsible for the division of the State for Police purposes into Districts and Divisions and for the establishment of Branches, Sections and Squads for the performance of particular functions;
- (f) May issue such instructions for the government or direction of the Force as he considers the circumstances require; and

- (g) Shall report annually to the Minister the general state of the Force, its numerical strength, distribution, and general efficiency, the increase or diminution of crime, the establishment of new Stations, and such other information as may be required by the Minister.

POLICE POWERS OF SEARCH

After a lawful arrest has been effected, a constable may under both common law and by statute, search the person and relieve him of property found on his person.

The New South Wales Crimes Act, No. 40 of 1900, Section 353A (1) extends the right of search to constables other than the arresting constable once the arrest has been effected and a charge has been laid. In certain circumstances a medical examination of the person arrested and charged is permissible, (Crimes Act, Section 353A (2) and under Section 353 (3) the officer in charge of police at the station where a person is in custody may take, or cause to be taken, all such particulars as may be deemed necessary for the identification of such person, including his photograph, his fingerprints and palmprints. It is not sufficient that he should merely think that it would be desirable or helpful.

POLICE RULES IN RELATION TO CUSTODIAL MANAGEMENT OF FEMALE PRISONERS

The term "prisoners" is defined in Section 4 of the Prisons Act No. 9 of 1952 and it is meant to include all persons in police custody in respect of any offence. There is no distinction between MALE and FEMALE.

The Commissioner of Police by virtue of the power vested in him has issued specific written instructions to police for the manner in which FEMALE prisoners are to be dealt with whilst in police custody.

In the first instance, police in charge of Police Stations or lock-up keepers are directed to ensure prisoners are properly searched, finger printed and take all such particulars as may be deemed necessary for identification purposes.

METROPOLITAN AREA

Upon a female being arrested in the Metropolitan Area she is taken immediately to the nearest police station if practicable, where an appropriate charge is preferred. If a female is detained at a police station, the officer in charge takes steps to ensure there are no grounds for complaint and the Commissioner's directions for searching of the prisoner are strictly complied with.

The direction concerning searching of female prisoners is that they should be searched as soon as possible after arrest, but in minor charges where the prisoner is brought to the station at night and the services of a matron or female searcher are not readily available a discretion is exercised by the senior member of the police force as to whether special steps should be taken or let the matter stand over until searching staff are at hand. Where necessary the services of a female are procured to search the female prisoner and male members of the police force should be in readiness to assist if required.

COUNTRY AREA

Upon the arrest of a female prisoner in the country area where there are no female constables or matrons employed it is usual for the wife of the lock-up keeper to carry out the search of the female prisoner and in addition attend to the private needs of the prisoner whilst in custody. As soon as convenient the prisoner is escorted to the nearest head station where female members of the service are employed. In the past it has not been unusual for the wife of the lock-up keeper to assist in the transportation of the prisoner.

BAIL

After completing the necessary formalities of charging, searching etc. it is necessary for an authorised police officer to make a bail determination. Without canvassing the subject of bail herein I feel I should say that prior to the Bail Act, 1978, there was no clearly defined criteria for police or courts to follow when faced with a bail decision. The Attorney General when introducing the Bail Act, 1978, pointed out that it was "unfair to expect police, without guidance, to apply fairly the criteria relevant to bail when these cannot even be agreed upon by the courts and the legal profession." Section 32 of that Act endeavours to give both the police and the courts this

guidance by stipulating what criteria is to be considered when bail is determined.

The matters which the authorised officer must take into account when making a bail determination are:-

- (a) The probability of appearance of the accused. (A most important factor).
- (b) The interests of the accused person.
- (c) The protection and welfare of the community.

The aim of police is to release a prisoner on unconditional bail if possible. If this cannot be achieved then rather than refuse bail the prisoner is released if he/she is prepared to accept certain conditions and the conditions usually do not include financial terms. Bail is only refused where the authorised officer or the court is satisfied on the balance of probabilities that neither unconditional nor conditional bail is suitable.

ESCORT OF FEMALE PRISONERS

In instances where bail has not been granted to a female prisoner in the Metropolitan Area the Commissioner's instructions set out the female is to be removed in a police vehicle to Central Police Station which is located in the inner city area of Sydney. When escorting the prisoner it is essential that a female should act as an escort, except if only a short distance is involved a decision may be made by the Officer in Charge of the respective police station that a female escort is not necessary. When available, a female member of the police force acts as escort but when unavailable the services of a suitable female from outside the police force is used. In every case in which a female outside the force is utilised as an escort or special circumstances indicate that a female member of the police force may require assistance, a suitable male member of the force is detailed to assist.

Upon arrival at Central Police Station it is the duty of the matron on duty to:-

- (a) Take charge of female prisoners immediately they are brought to the station;
- (b) As far as possible, search female prisoners;
- (c) Conduct, or assist, female prisoners to their cells; be in charge of them whilst confined and not allow them to be conversed with, except by direction of the officer in charge.
- (d) Remain constantly at the station and be ready to perform any duty within their province;
- (e) Subject to the direction of the Officer in Charge, be responsible for the safe keeping of females in cells; visit them frequently, and give special attention to cases of injured or helpless females and notify the Officer at once if illness is such as to require medical attention.
- (f) Take charge of any lost children brought to the station.
- (g) Be held responsible for the good order and cleanliness of the cells devoted to the exclusive use of females.

It should be clearly understood that matrons are not members of the New South Wales Police Force but are employed as civilian support staff with the specific duties of looking after the well-being of female prisoners in police custody. At the present time the establishment provides for the employment of six matrons and their services have been utilised for many years in New South Wales. However, with the advent of more and more females joining the police force it is my opinion that it is not beyond the realms of possibility, in the long term, that this service may be phased out and replaced by fully trained female Constables.

CLASSIFICATION OF PRISONERS BY POLICE

In all cases, police in charge of police stations or lock-ups have the specific duty of classifying prisoners coming into their custody and they take steps to ensure:

- (a) Mental patients are kept alone;
- (b) Male and Female prisoners are kept apart;
- (c) Juveniles are segregated from all other offenders;
- (d) First offenders are apart from old offenders;
- (e) Not confining respectable persons charged with minor offences with criminals or persons in an offensive condition;
- (f) Intoxicated persons are separated where possible.

DETENTION OF PRISONERS IN POLICE STATIONS AND LOCKUPS

Section 45 (1) of the Prisons Act, allows a court of summary jurisdiction to order periods of imprisonment not exceeding one month to be served in specified lock-ups or police stations. There has been no discrimination between male or female. However, for management purposes, the holding of a female prisoner in a police station or lock-up for that period of time would be highly undesirable. In my experience I have not heard of a female serving a sentence at such establishments. The accepted practice is for the female prisoner to be escorted as soon as practicable to the nearest gaol where appropriate facilities are provided for the well-being of the prisoner.

Section 45 (2) of the same act provides that any prisoner so confined may be ordered to work within the precincts of the police station or lock-up in accordance with any instruction given by any member of the police force on duty at such place.

ACCOMMODATION FOR FEMALE PRISONERS IN POLICE STATIONS AND LOCKUPS

Due to the increase in women's participation in crime emphasis has been placed on the construction of suitable accommodation within police stations for female prisoners. The Sydney Police Centre is being constructed at a cost of approximately \$100 million. Included in this building are cells specifically designed to accommodate female prisoners.

The cells vary in size but they each contain toilet, washing and drinking facilities. All plumbing has been concealed and inaccessible from the cells to obviate the possibility of injury to prisoners. Each cell is infinitely supervisable although a degree of privacy is provided for prisoners using the toilet facilities. Female showers have been provided with police able to operate from a remote point but still able to supervise the prisoner. Privacy has been provided by a modesty panel and police are able to observe the head and shoulder of the prisoner. The prisoners are screened from sight of other prisoners.

THE SYDNEY POLICE CENTRE

Upon the opening of the Sydney Police Centre, hopefully about the middle of 1985, the matrons at present employed at Central Police Station will be transferred to that centre. It has been directed that all female prisoners in the Metropolitan Area be transported to the Sydney Police Centre where they will be accommodated until transferred to prison or released on bail.

In addition to matrons being on hand to perform their duties there will be the services of an occupational health nurse to assist the prisoners in custody at that centre if and when required with any minor medical needs. Without spelling out the decided advantage to the female prisoners it must be conceded that the appointment of such staff is a step in the right direction.

A fully equipped medical room for use by attending medical practitioners has also been provided in the new building. It is considered that this room will provide sufficient privacy for prisoners when being examined either at their own request or at the request of police.

It has been said in some quarters that prisoners abrogate their right to privacy but this view is certainly not held by the Commissioner of Police. Recently when inspecting a newly constructed police station on the north coast of New South Wales he expressed his displeasure at the cell accommodation for female prisoners and directed that further work be carried out to ensure the prisoners enjoyed a degree of privacy.

WOMEN IN THE NEW SOUTH WALES POLICE FORCE

At the present time there are 576 women employed in the New South Wales Police Force out of a total compliment of 10,000 members. Women therefore, comprise approximately 6% of the total workforce.

The female work role has been extended to include all phases of police duties. There are no duties within the force from which females are exempt. At the moment they are employed on all classes of duty except the Water Police and the Tactical Response Group and the simple reason for that is that no female has made application to be so employed.

There are 81 women police employed at strategic locations throughout the State covering such diverse areas as Broken Hill, Wagga Wagga, Tamworth, Tweed Heads, Parkes, Wollongong and Newcastle. Their presence at these locations has meant that where civilians were previously engaged to deal with female prisoners, their position has been taken over by female members of the police force.

It may be interesting to note that there are 149 one-man police stations and 215 larger police stations located in the country areas. There are 104 police stations located in the Metropolitan Area of Sydney.

It is my view that the female members of the police force perform a very necessary and important role in law enforcement. It is a decided advantage for male members to have a female member present when interrogating female suspects. Experience has shown that when they are apprehended, more than often, for reasons of nervousness or for the ulterior motive of destroying incriminating evidence they will invariably request to go to the toilet. Males have difficulty in deciding the genuineness of the request but the females have no problem identifying and solving the problem. In addition the women members appear to have a calming affect on many situations which otherwise may develop into serious outbreaks of violence.

COMPLAINTS MADE BY FEMALE PRISONERS AGAINST POLICE

Inquiries I have made indicate that in New South Wales there were four complaints made, in three years, by female prisoners concerning the conduct of members of the New South Wales Police Force. I am pleased to add that not one of the complaints could be sustained.

FEMALES INVOLVED IN SELECTED 'SERIOUS' OFFENCES

Selected crime reported to police comprise crimes within the following classifications:-

- (a) Homicide (murder, attempted murder, manslaughter)
- (b) Serious assault
- (c) Robbery
- (d) Rape
- (e) Breaking and entering
- (f) Motor vehicle theft
- (g) Fraud, forgery, false pretences etc.

	<u>MALES</u>	<u>FEMALES</u>	<u>TOTAL</u>
1982	23,256	3,159	26,415
	88.00	12.00	
1981	23,379	3,036	26,415
	88.50	11.50	
1980	19,261	2,501	21,762
	88.50	11.50	
1979	19,261	2,501	21,762
	88.50	11.50	
1978	23,952	2,505	26,457
	90.50	9.50	
1977	25,357	2,557	27,914
	90.80	9.20	

	<u>MALES</u>	<u>FEMALES</u>	<u>TOTAL</u>
1976	25,804	2,278	27,806
	92.80	8.20	
1975	25,526	2,280	28,082
	90.90	8.10	

- The percentage of females in relation to the total number of offenders has increased from 8.1% in 1975 to 12.0% in 1982.
- The number of females involved in selected 'serious' crime has increased from 2,280 (1975) to 3,159 in (1982). This represents an increase of 38.6%.

(See attached graph - page 13)

FEMALES INVOLVED IN 'DRUG' OFFENCES

	<u>MALES</u>	<u>FEMALES</u>	<u>TOTAL</u>
1982	9489	1534	11023
	85.8	14.0	
1981	8093	1339	9432
	85.8	14.2	
1980	5925	986	6911
	85.7	14.3	
1979	7594	1254	8848
	85.8	14.2	
1978	6675	1091	7766
	86.0	14.0	

	<u>MALES</u>	<u>FEMALES</u>	<u>TOTAL</u>
1977	8685	1195	9880
	87.9	12.1	
1976	8148	1053	9201
	88.6	11.4	
1975	7515	941	8456
	88.9	11.1	

- The percentage of females in relation to the total number of offenders has increased from 11.1% in 1975 to 14% in 1982.
- The number of females involved in drug offences has increased from 941 in 1975 to 1534 in 1982. This represents an increase of 61.3%.

(See attached graph - page 14)

CONCLUSION

It has been my experience that police in New South Wales actively strive to comfort female prisoners when in custody and it appears by analysing the number and type of complaints that they have been successful in this regard.

SERIOUS CRIME

'1982'

(Including Larceny)

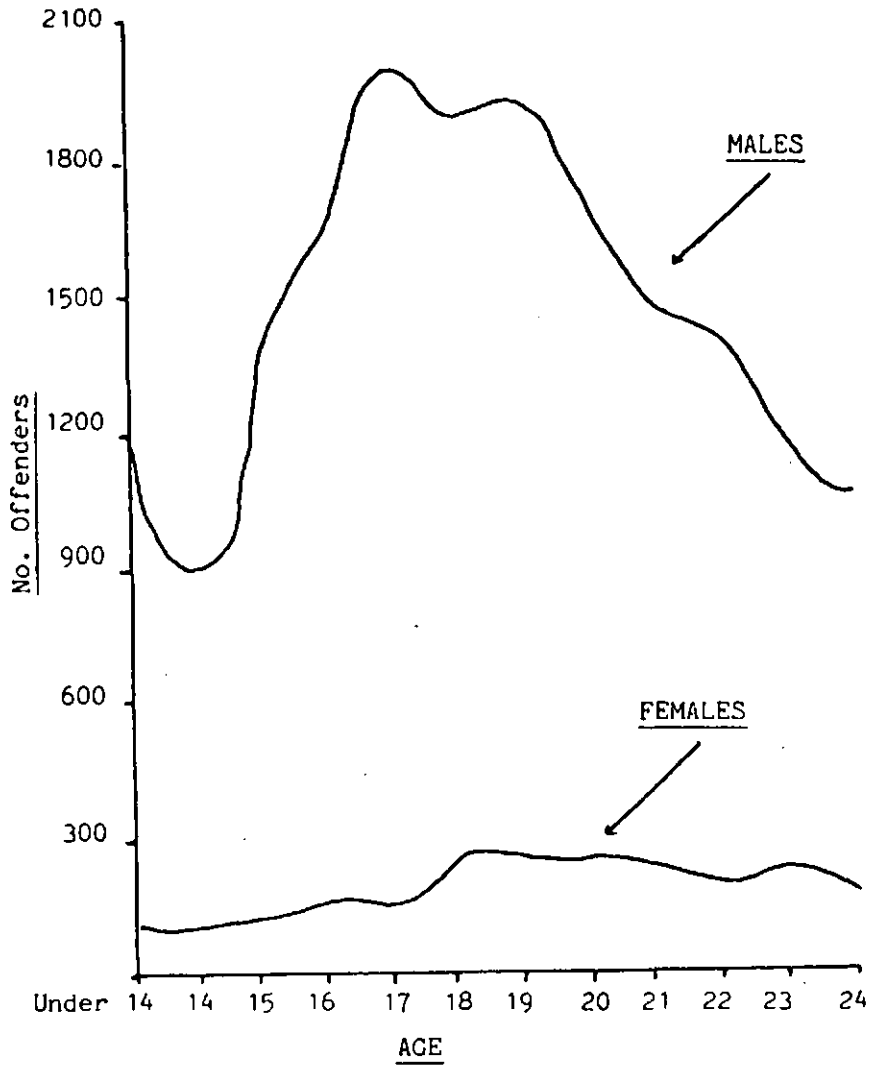
MALES

Age	under 14	14	15	16	17	18	19	20	21	22	23	24	over 24	TOTAL
No. Offenders	1228	896	1347	1672	2014	1904	1950	1752	1488	1418	1196	1080	7197	25342

28,777

FEMALES

Age	under 14	14	15	16	17	18	19	20	21	22	23	24	over 24	TOTAL
No. Offenders	113	98	128	179	153	266	242	268	230	202	231	177	1148	3435



DRUG OFFENDERS

'1982'

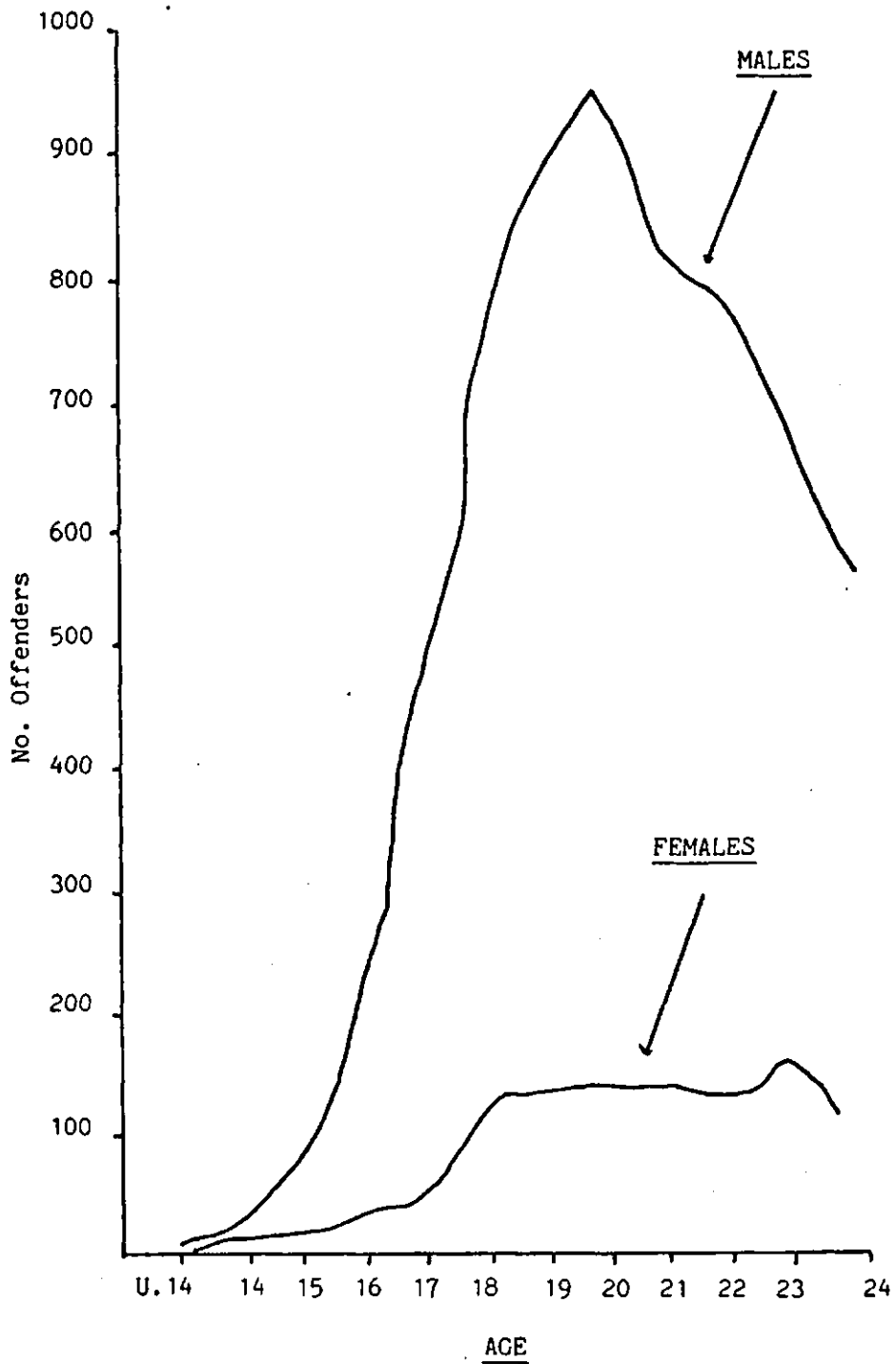
MALES

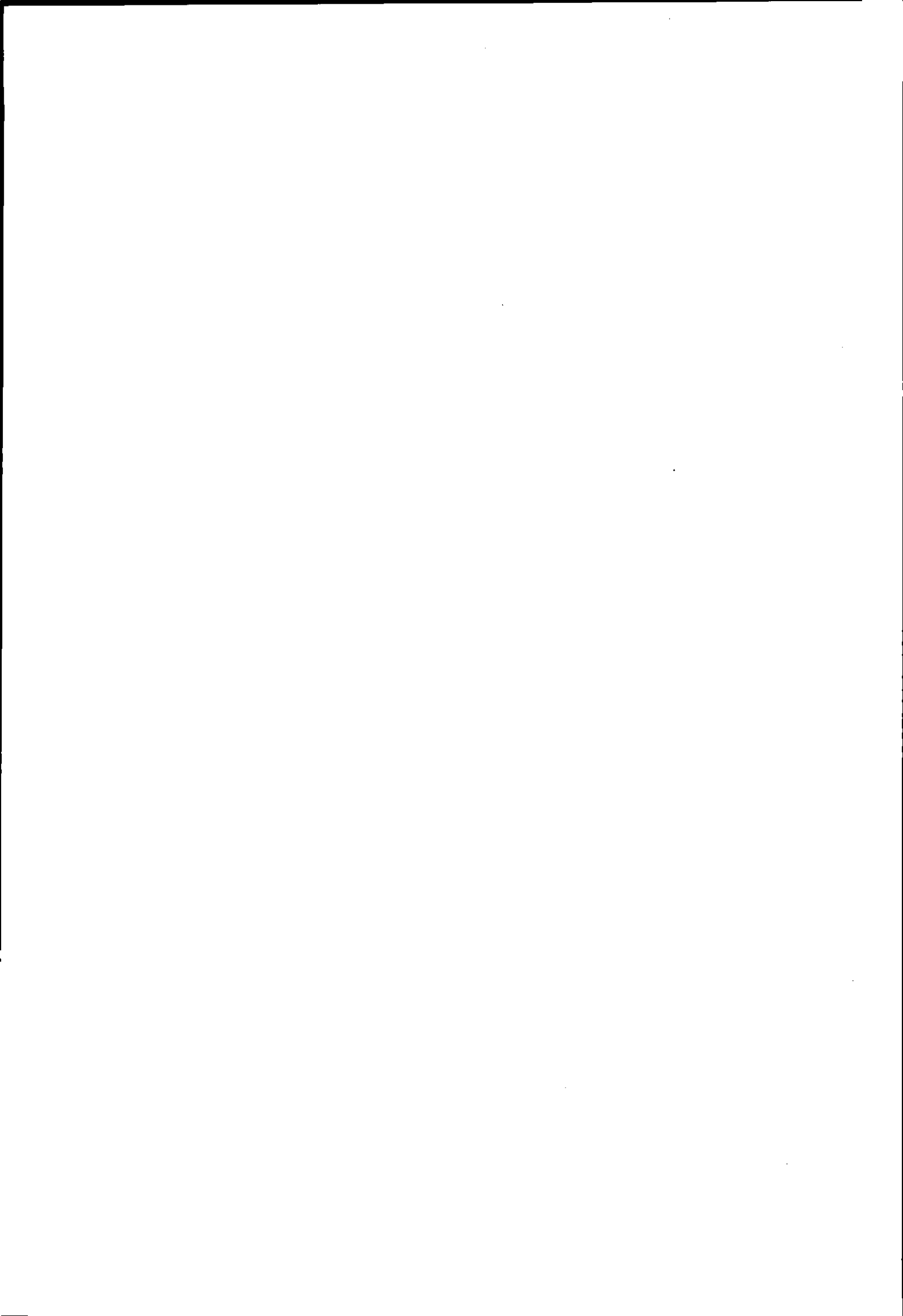
Age No. Offenders	under 14	14	15	16	17	18	19	20	21	22	23	24	over 24	TOTAL
		4	23	81	209	486	784	909	943	811	778	683	565	3213

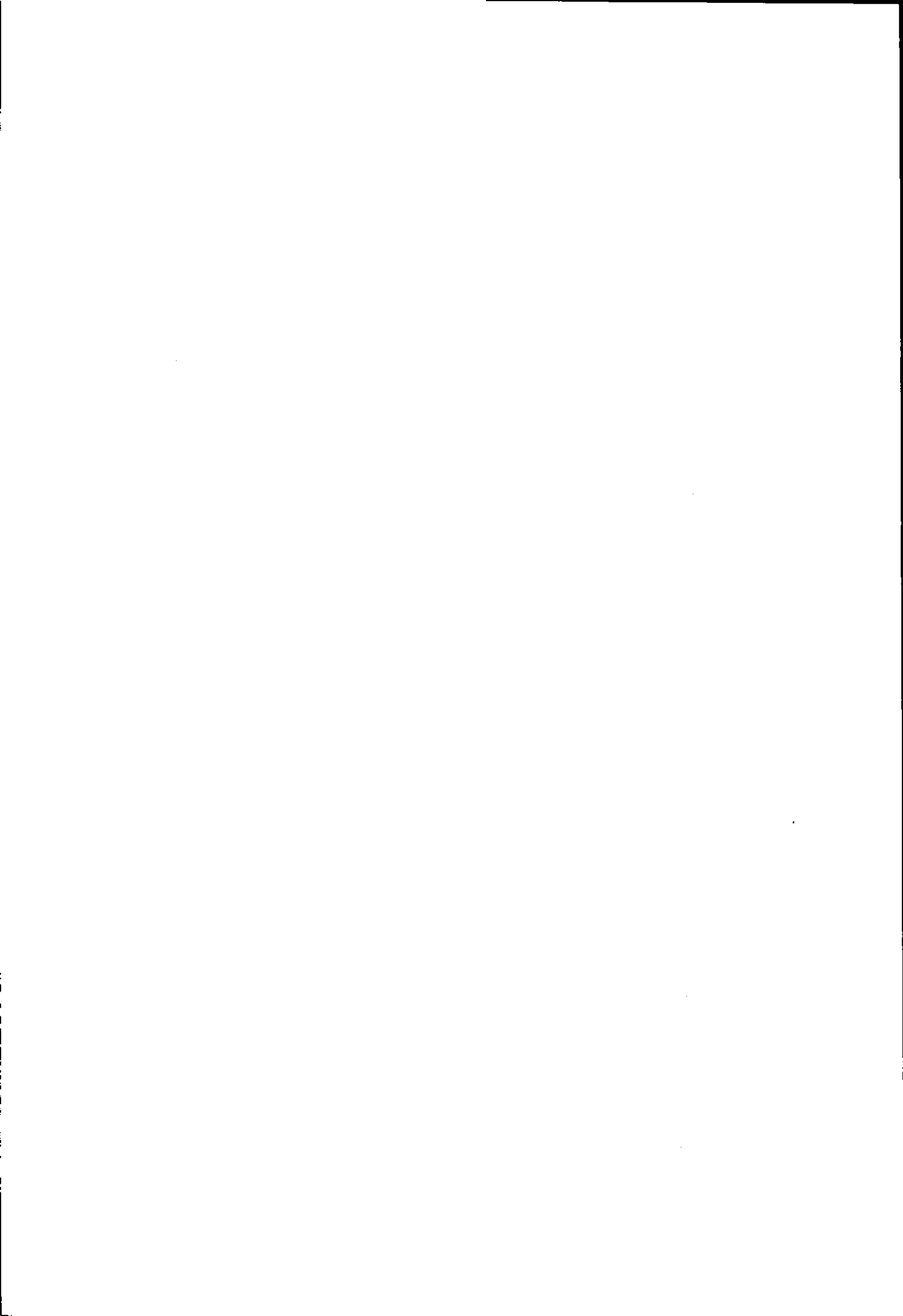
11,023

FEMALES

Age No. Offenders	under 14	14	15	16	17	18	19	20	21	22	23	24	over 24	TOTAL
			14	16	37	48	126	137	132	139	123	154	108	500







WOMEN BEHIND BARS

Jennifer Neil

Firstly, I would like to thank everyone for asking Women Behind Bars to give their point of view today, because we are not part of the system. and as you all realise, we do not have to fight the bureaucrats, we do not have to see that the prison officers are not upset - we do not have to do all those things. We have been going for eight years, and I think it is important to say what has happened over this time because Women Behind Bars started as a result of the way the Nagle Royal Commission was implemented. Women's goals were not included, so we asked to have Mulawa and other women's goals included so not only men's goals would be looked at.

That was a great advantage to us because there were only a very few people in Women Behind Bars. I am not giving the impression it is a huge organisation: you can actually count them all on two hands. Nearly everyone of us has been in gaol; in fact, there is no-one in Women Behind Bars who has not. So we have always tried to represent the prisoner's point of view, and when we have made complaints to Corrective Services about what prisoners are saying it might be totally contrary to what Corrective Services think is going on.

We were fortunate to have someone like Dr Vinson who was very serious about implementing the Nagle Commission's recommendations and tried very hard to do this with his hands tied behind his back. We made numerous representations to him about problems in Mulawa. Dr Vinson tried very hard to get some of the recommendations implemented, and one of them was that a prisoner should have one telephone call a week. This was a great help to prisoners in gaol because they could ring their families. We then had the potential problem of security with this. Prison officers thought we might plan escapes.

Mulawa had one exterior fence, and I am going to tell you the statistics. In the period of time when they had one exterior fence, very few people escaped. Since then, Mulawa has become a chicken coop. We have got internal fences plus internal fences plus fences that you have got to walk through to get into the hospital, and so on. It has just become a chaotic mess. This also puts more work on the prison officers which must have made their lives miserable, and still does. But just this one telephone call produced this enormous problem: they did not have any more ground to move around in because there were fences and more people escape when you put up more fences. So we began to wonder if we were detrimental to the health of prisons. I mean, every time we have asked to get something, the whole situation has become worse. We decided to start discussing who was in gaol and why they were there. Fortunately for us the Department of Corrective Services

in their wisdom had done reports. So we took all those reports unbeknown to them, put them all into this leaflet and went back to them and said; 'Look, this is who is in gaol. Approximately 80 per cent of people are drug and drug-related'.

You cannot tell me that you can go on gaoling people all the time who have a problem. Namely, they are committing crimes to help their habits. Now surely if you want to stop all that you have got to look at the problem. And the problem is drugs. Why is society so firmly entrenched upon drugs? Because they have absolutely no motivation to go anywhere or do anything because there are no jobs, and having worked in Glebe House which is a halfway house for prisoners, we see it every single solitary day. It is impossible to get work. So to get people off drugs they have got to have some motivation to get off drugs. And your prison is full. We have maximum security prisons full of prisoners who are drug and drug related.

What about the dangerous prisoners? There are six lifers in Mulawa who are there for maybe domestic violence and child abuse which could be looked at in the community. The sorts of facilities in the community are not good enough. The mothers become very isolated and depressed. We decided we were no longer going to say we do not like that fence. We are going to say that we do not want the gaol. It is as simple as that.

We decided to have a campaign to close Mulawa. We started talking to Mr Dalton, and I have to admit that Mr Dalton became very receptive to what we were saying because we put it into figures. I think once you hit the people on the head then you start giving them figures, because then you have got them to sit up and start thinking about it. The biggest thing that came out was there was overcrowding in Mulawa. At one stage at Mulawa, about six months ago, we had 50 women on remand and this is a very high number. No other state in Australia has such a high number. Half of those people will not even get custodial sentences. Why are we gaoling all these people who will not even get a sentence? Why are we starting something that should never happen?

We do not expect everyone to get off drugs overnight with one drug program, but we do expect a variety of drug programs to be funded. It costs you \$40,000 to keep one woman in gaol (that is South Australia's figure; I think it is more in New South Wales). Why are we not pouring money into trying to get rid of the problem? We are just putting a band-aid on a huge cancer. The brutalisation that happens to people in gaol is incredible.

The Task Force is the most encouraging thing we have ever seen. Because first of all we know that there are people on that Task Force like Kevin Anderson, like Mr Hayes, like Liz Jackson, who are all really truly committed to seeing some sort of change. I guess that is to name just a few of them. We really do believe that it is not just the Department of Corrective Services that are involved, it is a whole society, a whole community. It is for magistrates to understand what the problem is, it is for the police to understand what the problem is, it is for society to understand what the problem is.

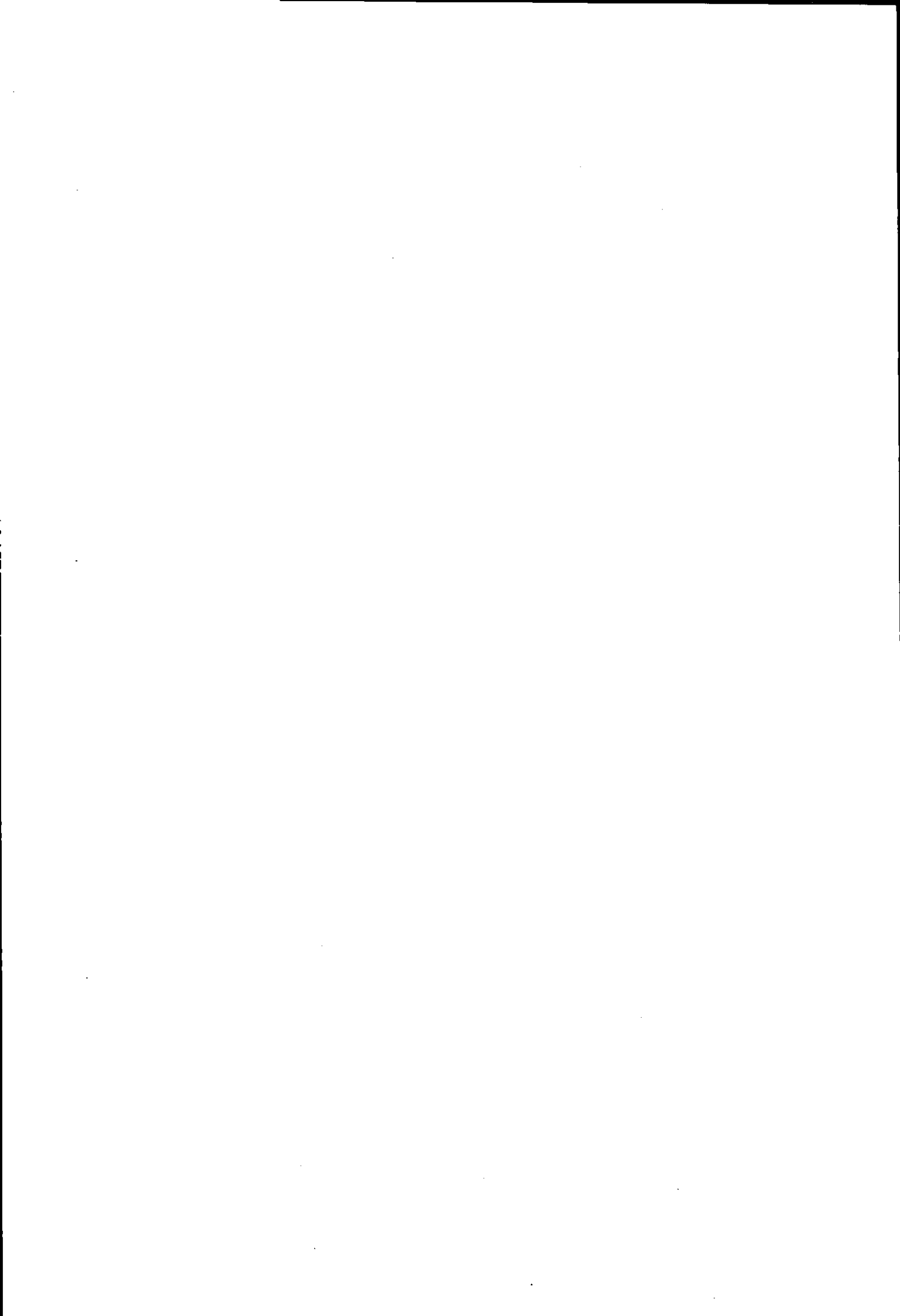
The other thing about Women Behind Bars, I think, is our association; we have seen so many people destroyed by the system that you know there is no compensation for what it does to people. If you want to solve the mothers and babies problem, you keep them out. I do not know any mother who should be there with the baby. I think that they should not go to gaol; they should be given some sort of restrictive sort of conditions, that they report, they should go down to child care, they should go out to work.

If you really want to rehabilitate people, you should surely be looking towards the point that if they are out in the community working, and their children are going to child care, they are carrying on a life with some sort of responsibility. When you withdraw all responsibility from people they then feel they are not responsible any more, and they do not behave responsibly. Treat a person like an animal and they behave like an animal and it has been proved time and time again.

I do believe that at the end of the year we will have some idea of some sort of alternatives, and the big question is money. I think if we are prepared to spend so much on one person a year, if you are not prepared to think of alternatives (and there are lots of them), then you should just pay each person \$40,000 a year and say right, that is your money, you go off and live responsibly on \$40,000. I can see that that is just as wasteful as putting up a new gaol. I mean we really have to start talking about who is there.

The media presents prisoners in a very distorted fashion. I read the papers and their headlines; society is getting a very distorted picture of who is in there. I just think that with this Task Force and the people working on it, we should have some change and Women Behind Bars are really glad to be part of that.

That is all I have to say. Thank you.



APPENDIX A



AUSTRALIAN INSTITUTE OF CRIMINOLOGYWOMEN IN THE PRISON SYSTEM

12-14 June 1984

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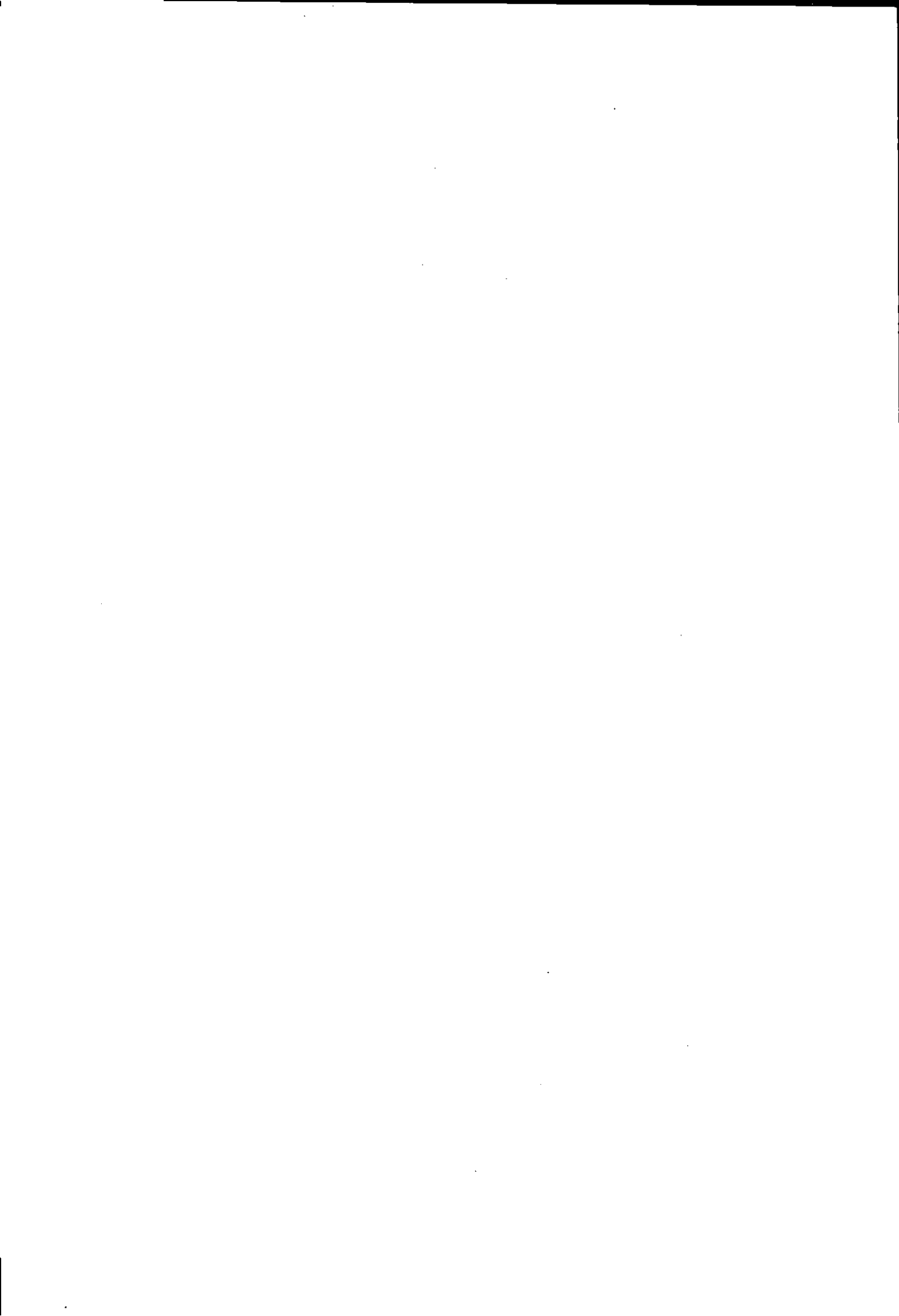
Mr Kim Stotter Superintendent,
"Nyandi",
Allen Court,
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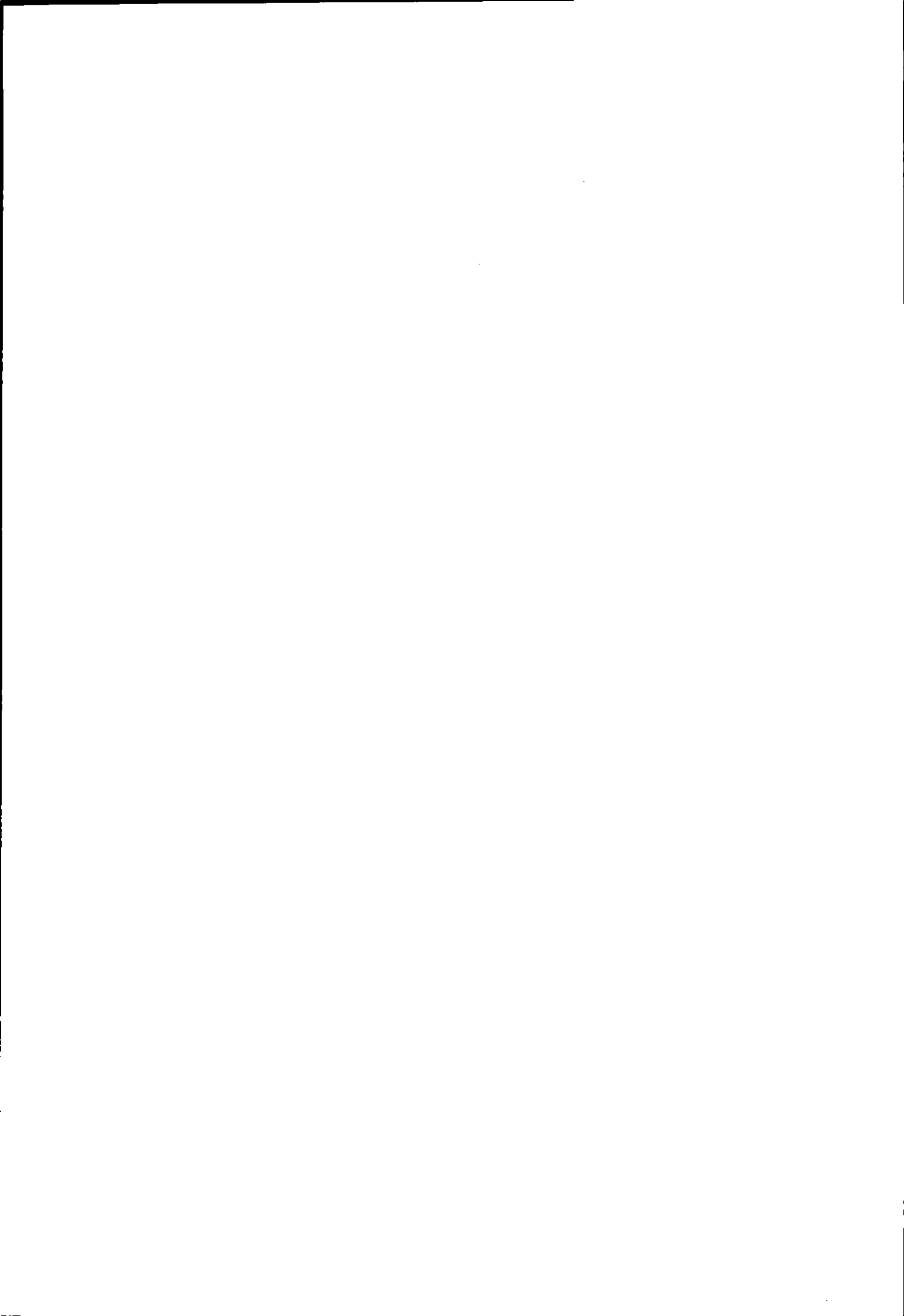
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