THE AUSTRALIAN CAPITAL TERRITORY (ACT) IS THE ONLY STATE OR territory in Australia that has no prison. Before trial, those accused in the ACT are held in a remand centre. There they spend boredom filled days, grateful only that it is thought to be better than what awaits them in Sydney or Goulburn.

Whatever the advantages of necessity and convenience that flow from this contemporary traffic in felons, there are drawbacks which prompt this paper. Firstly, once the prisoners enter New South Wales the ACT jurisdiction over them virtually ceases to exist. Specific directions from the bench seem to carry very little weight. Not only may the judge's special conditions or recommendations be ignored, they may not even be received by the New South Wales authorities if the relevant documents fail, for a variety of administrative reasons, to reach them. Likewise the ACT Department of Corrective Services has no control and seemingly little influence over the management of our prisoners in New South Wales institutions.

Second, legislative changes to the New South Wales sentencing system affect the fate of ACT prisoners, irrespective of the attitudes of the people and government of the ACT. The Sentencing Act 1989 (commenced 25 September
1989) abolished the remission system in New South Wales. As all custodially sentenced ACT prisoners serve their sentence in New South Wales, there is now no remission applying in the ACT either.

Early data on the effect of the 'truth in sentencing' policy indicates a rise in the New South Wales prison population from September 1989 to April 1991 from 4,692 to 5,741 while the number of ACT prisoners resident in New South Wales increased from seventy-two to ninety-five.

As of 30 June 1991 there were 113 ACT prisoners (104 males and nine females). Of these, five females and nineteen males were at the ACT's Remand Centre while the rest were spread across New South Wales, with most to be found close to Canberra, at Goulburn, Mannus and Cooma. As elsewhere in Australia, the clear majority of ACT prisoners are males aged between twenty and thirty-four. Most were born in Canberra, New South Wales or Victoria. None were identified as of Aboriginal descent. Their common offences are robbery and theft, sex offences, assault and homicide. Not surprisingly drug offences—possession, supply and manufacture—are an increasing component.

Over one-third of ACT prisoners are classified as maximum security but it must be pointed out that detainees held in the Belconnen Remand Centre are routinely classified as maximum security. When adjustment is made for this, fewer than 20 per cent of ACT prisoners in New South Wales have been classified as maximum security.

Whereas in past years most ACT prisoners had less than twelve months to serve (as of 30 June census each year) in 1990 the greatest number had more than two years to serve. All indications are that numbers in prison will continue to rise, despite the fact that the ACT has the lowest imprisonment rate in Australia.

As for non-custodial sentences, there has been a clear increase in the number of persons serving community service orders over the past two and a half years, a slower increase in the use of probation and a declining use of parole.

Females constitute over 13.5 per cent of the total (54 out of 397 as at 30 June 1989) serving orders, in contrast to those serving terms of imprisonment. Drug offences, theft and breaking and entering were the major offences with violence constituting only a small element of the total.

Both groups of ACT convicted persons—custodial and non-custodial—show higher rates of employment and higher levels of education than the national average, but unemployment and incompleted education are still significant and important factors needing attention, both being much higher than for the general population.

The commonest kind of special condition attached to sentencing by judges and magistrates was a direction to receive drug, alcohol or psychiatric treatment.

It is the mentally ill convicted person, sentenced to a term of imprisonment who fares the worst in the ACT system. The tragic case of Kieran Sen illustrates how the mentally ill are poorly served as a result of placement in the New South Wales prison system. Sen was a chronic schizophrenic who had been mentally ill for some years. He had been admitted several times to the local psychiatric unit and, despite a concerned and caring family he was frequently itinerant.
In October 1989 he was apprehended by police after being found in the kitchen of a university residence. Some days before, a female resident had been attacked in her bedroom, the assailant placing a pillow across her face. Sen was interviewed and confessed to the offence. Later he denied charges of attempting to suffocate and inflicting bodily harm with intent to have sexual intercourse. Despite the testimony of three psychiatrists that he was mentally ill (and indeed thought disordered and delusional) at the time he was interrogated and despite conflicts of corroborating evidence, a jury found him guilty. Before sentencing, frantic attempts were made to secure him a place in an appropriate psychiatric institution in New South Wales but this was refused because of his status as a convicted person.

Admission to a suitable treatment centre in the ACT was obtained but the authorities could not guarantee custodial care. The presiding judge decided the offence was too serious for anything but a custodial sentence. Sen was given seven years imprisonment with a minimum period of four years to serve. He was taken to Goulburn gaol and was homosexually raped the day after his arrival. On the next day he hanged himself.

This case, and the shortcomings of the system, spurred the appointment of a Corrections Review Committee which is now grappling with the task of designing a better system.

Introduction

This paper outlines a proposal that may cut the knot in Canberra's long standing inability to look after its own prisoners, especially those who may benefit from psychiatric and/or psychological intervention. The concept is that the ACT should set up a special purpose system in which both most of its own and prisoners from elsewhere in Australia can be assessed and treated. By aggregating numbers there will be sufficient clients to pay for specialist programs, to employ properly qualified and experienced staff full time, to encourage research and to provide training so that the numbers of skilled forensic practitioners are increased around the country.

There is a hierarchy to all service provision and criminals—both convicted and accused—tend to be on the bottom of the list, regardless of the causes of their deviancy. Among the health services, spending on mental health runs a poor second cousin to other more 'glamorous' projects. The late twentieth century does not offer political glory for the building of institutions in which to help those who need to control their demons or who are simply unable to cope. Funding to provide trained psychiatrists, psychologists, other counsellors and social scientists comes a very poor second when the schools teaching numbers, nurses and police budgets are clearly more politically significant.

The judiciary may call for special treatment of particular prisoners. It may make remarks about the problems of sentencing, especially when there is an ever changing landscape of politically inspired 'administrative tinkering', but the truth in sentencing is that once the prisoner enters the system all the sermons and entreaties from the bench are as nought: the system delivers as much or as little of whatever it has, when and how it wants.
The ACT is not alone in its lack of services for adequate assessment, treatment and follow up of accused persons and prisoners: it seems to be a national problem. However, there is a way in which the capital can offer a solution which benefits both its local prisoners and others from elsewhere in the country—it is a program which tries to make the best of Canberra's geographic position and the money which has been spent there to make it a national centre.

As in the School without Walls (ACT School), the authors believe that good staffing is more important than purpose built structures, and that we can establish programs that work in existing buildings and then, after a few years, design places which accommodate proven programs and philosophy for people coming from around the country.

Target Groups

While what the accused did must be the focus for the police and sentencing, it is merely one of a number of factors that others must consider. Other matters are relevant to assessing a prisoner and forming a view about whether there are any services or specific arrangements which should be made to treat a condition or to ensure that the period of incarceration has some positive effects for the prisoner. When classifying prisoners for particular rehabilitation programs it is the prisoner, not his past deeds, which is the more important.

A report from a recent psychiatry symposium in Townsville (The Australian, 30 September 1991) notes that a recent study in Victoria found prisoners had a higher rate of mental disorder than the general community and that 21 per cent had had contact with psychiatric care before their gaoling. But most of the mental disorders were due to substance dependence and almost 70 per cent of the prisoners were substance abusers. However, severe mental disorder apart from substance addiction was 'relatively uncommon' with only about 6 per cent ever having been diagnosed as psychotic.

One significant change would be to recognise that proper assessment and the opportunity to take part in programs should be open to all prisoners before trial, not only after conviction. For some accused there is already a de facto system of this sort. For example, in the ACT, persons who are drug addicts may be given bail on condition that they reside at a particular drug program location. If they comply with that condition and are then found guilty or plead guilty to the commonly related offences of theft and fraud, then the sentence will likely be less than if they uselessly sat out the weeks or months before trial in the remand centre.

But apart from the drug rehabilitation programs there is very little assessment or treatment program available. The ACT remand centre does not have suitable interview facilities for a psychiatric or psychological assessment. Private practitioners request staff to bring remand prisoners to their consulting rooms so that the assessments can be done in a proper environment.

There is not only a lack of appropriate facilities; there are also too few properly trained practitioners. The problem has been illustrated this year by the fate of men who have been held in remand for alleged offences arising out
of domestic violence or the threat of it. In one example the accused's wife moved out, leaving him to look after several children. There was no history of domestic violence. The accused made several unsuccessful attempts to persuade his wife to return. After the last of these he sat in his car and drank a good portion of a bottle of Scotch and was found sitting there by a police patrol. The police took him to the watch-house where he scribbled on a piece of paper that he would end it all for him and the family. The police viewed this message as a threat to kill—a view which was shared by the magistrate who remanded him in custody for two weeks for psychiatric assessment. No assessment was arranged and the man sat, unassisted, until his next court date, when he was again remanded in custody.

It was quite obvious that if the man was in need of care, then the remand centre was not the appropriate place to keep him. But the system entirely failed to provide him with even minimal support and the case rather starkly shows how the line between criminality deserving of punishment and calls for help can be misplaced. His lawyers succeeded in getting him assessed by a private forensic psychiatrist and only then was he released on bail.

As a community we need a better system for promptly and thoroughly evaluating those in custody, both before and after trial. It would be a good investment for government to fund a research program to demonstrate just how much money could be saved by better and earlier assessment which could assist rehabilitation and determining release.

Among the prison population there are a number of groups for whom forensic psychiatry, psychology and counselling is relevant. The manner in which these prisoner and diagnostic groups may be listed can say much for the perspective of the author of the list. As the authors of this proposal are a multidisciplinary group, and a majority are or have been public servants, this list is alphabetical: Governor's Pleasure prisoners; juvenile offenders; mentally ill prisoners; organic brain damage; personality disorders leading to dangerousness; recidivist through institutionalisation; sexual offenders (the paraphilias); substance dependent/abuser groups; and, women with infants. The diagnostic categories relate to those in the Diagnostic and Statistical Manual (American Psychiatric Association 1987).

**Types of Programs**

We contend that a range of services should be offered selectively to accused and convicted prisoners in the belief that such services will benefit some of them, their families, and the community. Such benefit can be assessed by studies which examine not only outcomes such as lower rates of recidivism but also examine the costs of inputs such as comparing the costs of maintaining adequate levels of gaol security before and after implementing the kind of programs that we suggest. For example, would successful programs mean that more prisoners could be housed in low security residences, with substantial cost savings.

Obviously, a starting point is to evaluate how useful is early assessment of prisoners. Hence, would forensic assessments done routinely on persons in remand provide better information to a sentencing judge? Will it help both
the sentencing judge, the corrections administration and the community if offenders have already begun or even completed specific programs prior to sentencing? One would think the answer to each question is that such assessment and program involvement would help, albeit some rather more than others.

We recognise that such intervention pre-trial raises legal issues about voluntariness, whether the Crown can use such information at trial, privacy, and the possibility of remand prisoners manipulating such assessments. However, these problems can be resolved, particularly given that no action leaves the stark reality that remand is just prison by another name, just as ugly, and no less destructive of spirit.

Precisely what problems should receive priority is a function of interest and cost.

The Advantages of an Australian Capital Territory Site

The ACT is not alone in having inadequate assessment and treatment programs. Pragmatically there are insufficient resources to fund training, evaluation and treatment across the country. However, there must be sufficient resources to fund one training centre with all the practical offshoots of that.

Let us look at what opportunities already exist within the ACT. The Australian Institute of Criminology (AIC) is based there. This must surely be a good arrangement for having its experts doing fieldwork in the backyard. Both Monash University and the University of New South Wales have formal links with tertiary institutions in the ACT. Both universities have now appointed professors of forensic psychiatry and Monash has the only forensic psychology course in Australia. These universities have schools of social work. All these courses need practical placements and all could contribute, not only to assess clients, design, implement and evaluate programs, but also to conduct long-term, valuable research.

There are other bodies in Canberra which could play a significant role, including the Research Schools at the Australian National University, National Health and Medical Research Council, National Centre for Epidemiology and Population Health and Australian International Development Assistance Bureau—to take an international perspective.

Apart from the opportunities to put more of our tertiary sector to immediate practical use, the ACT also offers a very high standard of infrastructure, especially in transport links, communications and human services.

Because of the excellent road and air links the New South Wales, Victorian and even Queensland authorities might be persuaded that economics and social justice are both well served by using a Canberra based facility. Though distance may mean that users are not sent from other states, those states may wish to expand the numbers and skills of their forensic practitioners by sending clinicians to work in the proposed institute.

To test this proposal, a feasibility study might be commissioned from the Australian Institute of Criminology (AIC) and the Australian Institute of Judicial Administration (AIJA). The study should include a survey of possible populations which might benefit from these services, starting perhaps with
violent offenders. Some valuable work in this area has already been done by David Biles, Deputy Director of the AIC, for the ACT Corrections Review Committee. His work, and that of his assistants, is gratefully acknowledged as the source of the statistics quoted earlier in this paper.

The current interest in violence, as evidenced by this conference, the Report of National Committee on Violence (NCV 1990) and the work of the National Committee on Violence against Women (NCVAW) could be advanced by this practical proposal.

Undoubtedly, it is also an advantage that the Territory does not have one or more large gaols—so there is no investment in maintaining some relic of the past. However, as Canberra gets used to the 'user pays' consequences of self-government, there are vacant small buildings which could be adopted to the task such as recently closed schools.

What is Next?

The contributors to this paper are pragmatic, even phlegmatic about prisons policy. If this idea is to go any further then other, more powerful interests are going to have to become its champions. Perhaps the universities will see the opportunity, perhaps the ACT Government will be brave enough to be innovative, or perhaps the private sector will do its own feasibility study and decide that raw economics makes investment in a low security, program oriented, facility worthwhile.

References

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