



No.14

Adults under supervision and detention orders

Compiled and written by John Walker

*Our 200th birthday celebrations are reminding all of us that two centuries ago most white Australians were either sentenced criminals, or their guards. As late as 1841 about one-fifth of the New South Wales population was described as being on 'bond' while Van Dieman's Land was said to be 'saturated with prisoners'.**

Today, as this report indicates, the situation has changed dramatically. The Australian rate of imprisonment is now lower than that of the United Kingdom whence our founding white population was transported. And to our shame the original Aboriginal settlers of this country now disproportionately fill our gaols around the nation.

The cost of maintaining our contemporary correctional system both in economic and human terms clearly remains very high as we enter our third century of nationhood. The information presented here provides convincing evidence that this cost can be reduced still further through the use of non-custodial sentences.

Duncan Chappell
Director

What sort of people go to prison? Are our prisons full of murderers or traffic offenders? How many prisoners are women, and how many of those locked away each night are juveniles? Until the first National Prison Census was held on 30 June 1982, few questions of this nature could be readily be answered because of the differing statistical systems from state to state in Australia.¹ Similarly, the first National Census of Community-Based Corrections, in 1985-86, answered a whole range of questions about the sort of people serving probation orders, parole, community service orders and other forms of non-custodial supervision of offenders.²

This report uses evidence from the censuses and elsewhere to present some of the salient facts about adults under supervision and detention orders in Australia. Three broad categories are defined: those serving non-custodial orders, mostly probation and community service orders; those who are in prison serving orders, including both remandees and sentenced prisoners; and those who are serving post-prison orders, including parole and licence.

All states and territories of Australia have prisons, of varying sizes and security levels. Prisoners serve their sentences in institutions which vary from maximum security prisons, which

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are heavily guarded and surrounded by high walls and perimeter fences, to the minimum security prison farms and forestry camps, where relatively trusted prisoners can be given productive work and prepare themselves for their eventual return to society.

Three types of community-based supervision order are also available in all Australian jurisdictions: orders whose principal objective is the supervision of the offender, for example, probation (occasionally known as a Supervised Recognisance); orders whose principal objective is reparation, for example, community service orders; and orders whose principal objective is the supervision of an offender during their return to the community after serving all or part of a term of imprisonment, such as parole (which, in the case of persons released from life imprisonment sentences is called Release on Licence). Slight

Table 1 Numbers of adults under supervision and detention orders, by jurisdiction

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST
Non-custodial orders									
Probation	8944	3393	4224	2023	756	1123	551	146	21160
Community service orders	1647	388	977	790	228	337	101	-	4468
Other non-custodial orders*	60	469	700	-	1188	380	264	22	3083
Total non-custodial orders	9912	4165	5376	2360	2076	1569	916	168	26542
Prison orders									
Remand in custody	632	225	168	134	194	21	45	11	1430
Sentenced prisoners	3428	1654	1796	1361	580	207	406	55+	9496
Total prison orders	4060	1879	1999*	1495	783	228	451	66	10961
Post-prison orders									
After-care probation	550	-	577	-	84	-	-	6	1217
Pre-release orders	-	203	-	-	-	-	-	-	203
Parole/license	1750	832	398	705	420	56	155	52	4368
Total post-prison orders	2299	1035	990	706	487	56	155	58	5786
Total persons**	1606	7056	8354	4480	3321	1844	760	292	43009

Note: The data in this table relates to 30 June 1985, except for the Northern Territory data (August 1987), and the Non-custodial orders in Victoria (30 September 1985) and Tasmania (30 June 1986). Sources: *Australian Community-Based Corrections 1985-86* and *Australian Prisoners 1985*.

* Includes pre-sentence supervision (NSW 60, QLD 1, SA 1, ACT 2); fine option/default orders (QLD 699, NT 264); attendance centre orders (VIC. 469); and supervised suspended prison sentences (SA 1187, TAS 380 and ACT 22).

** Includes 35 prisoners whose status was not known on the night of census.

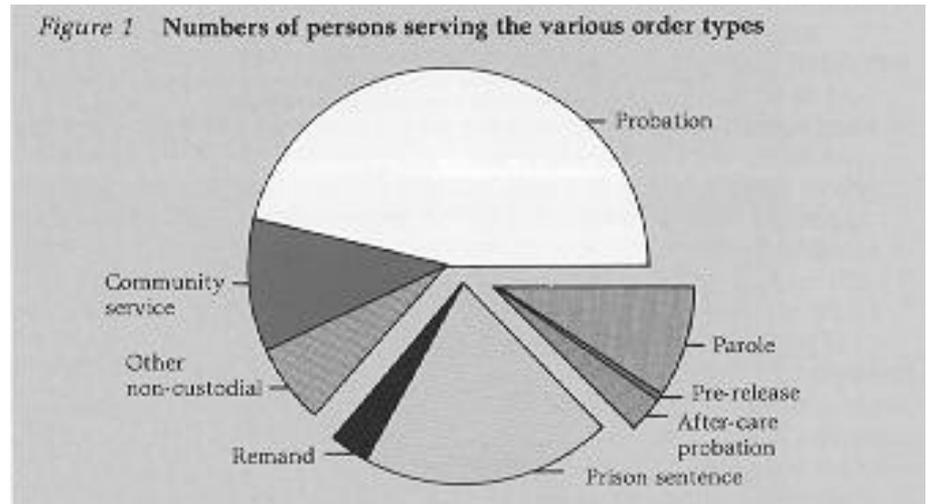
+ Prisoners sentenced in ACT courts are held in NSW prisons.

++ Columns do not add to totals because of persons serving more than one order-type

Table 2 Rates per 100 000 persons aged 17-69, by jurisdiction

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST
Non-custodial orders	281.6	154.2	334.8	269.1	229.7	553.4	1036.2	104.1	261.7
Prison orders	115.3	69.6	124.5	170.5	86.6	80.4	510.1	40.8	108.1
Post-prison orders	65.3	38.3	61.7	80.5	53.9	19.8	175.3	35.9	57.1
Total persons	456.4	261.2	520.3	510.9	367.4	650.4	1721.5	178.9	424.1

*Based on population figures extracted from *Estimated Resident Population by Sex and Age States and Territories of Australia, June 1984* Australian Bureau of Statistics, Cat No. 3201.0



differences do exist between jurisdictions, but the key feature which applies to all is the threat of immediate imprisonment should the offender breach the conditions of the order.

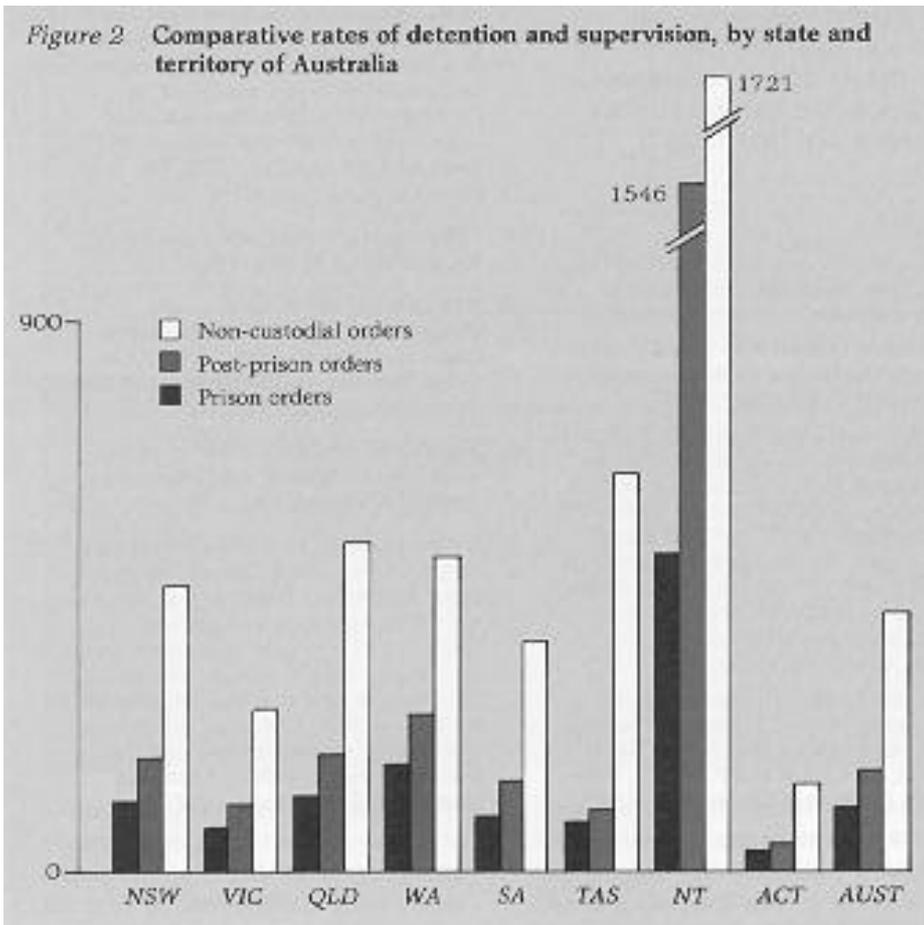
There are many common misconceptions about the characteristics of persons serving sentences of these types, and about the

aims and characteristics of the sentences they were serving. The community-based orders are often regarded merely as a way of reducing prison numbers, and the way they are intended to work as an incentive for good behaviour is too often forgotten. Some see them as soft options, without considering that, for many offenders, they can be a salutary lesson and an effective deterrent to re-

offending. Courts are often accused of underestimating the risk to the public that inevitably exists when they choose to allow a proven offender to serve a term of probation or a community service order rather than a term in prison, and it is undoubtedly true that many do re-offend.³ On the other hand, there are risks involved in imprisonment too; for example it is clear that prison often has a hardening effect on young offenders, worsening their subsequent behaviour rather than improving it. Imprisonment also not only punishes the offender, but also the spouse and the children of the offender, and few would seriously argue that young children should suffer the consequences of their parent's foolishness. Furthermore, imprisonment is something like twenty times as costly as

community-based alternatives. Courts therefore spend considerable time assessing the suitability

Figure 2 Comparative rates of detention and supervision, by state and territory of Australia



of offenders for non-custodial penalties, in which the protection of the public is a prime consideration. A recent Australian Institute of Criminology survey found considerable public support for the use of community-based corrections in a number of areas including minor property offenders and some persons convicted of domestic violence offences.

The Use of Supervision and Detention Orders Differs From State to State

Table 1 presents the number of adults serving orders, both in and out of correctional institutions on specific dates in 1985-86. Individuals may be *simultaneously* serving several orders of the same type and/or of different types, but here they are counted once for every order-type they are serving. Almost half (49.2 per cent) of the 43 009 total under supervision or detention are serving probation orders. About a quarter are actually in prison and about one in seven are serving post-prison orders including parole and pre-release schemes.

The absolute numbers give an idea of the relative magnitudes of the workloads of correctional departments in the various jurisdictions (and show for example that the New South Wales workload is roughly twice that of the next largest state, Queensland). Rates per 100 000 of the general population, however, reveal sentencing and remission policy differences (see Table 2). For example, the Northern Territory's rates of adult detention are over four times the Australian average, while Victoria's rates of incarceration and non-custodial are both very low. Tasmania's rate of non-custodial orders is over double the national average. Such differences are indicative of substantially different sentencing and remission practices from jurisdiction to jurisdiction. Thus, it is possible that a person committing an offence might be given a prison

Figure 3 Rates of imprisonment: Australia and comparable countries

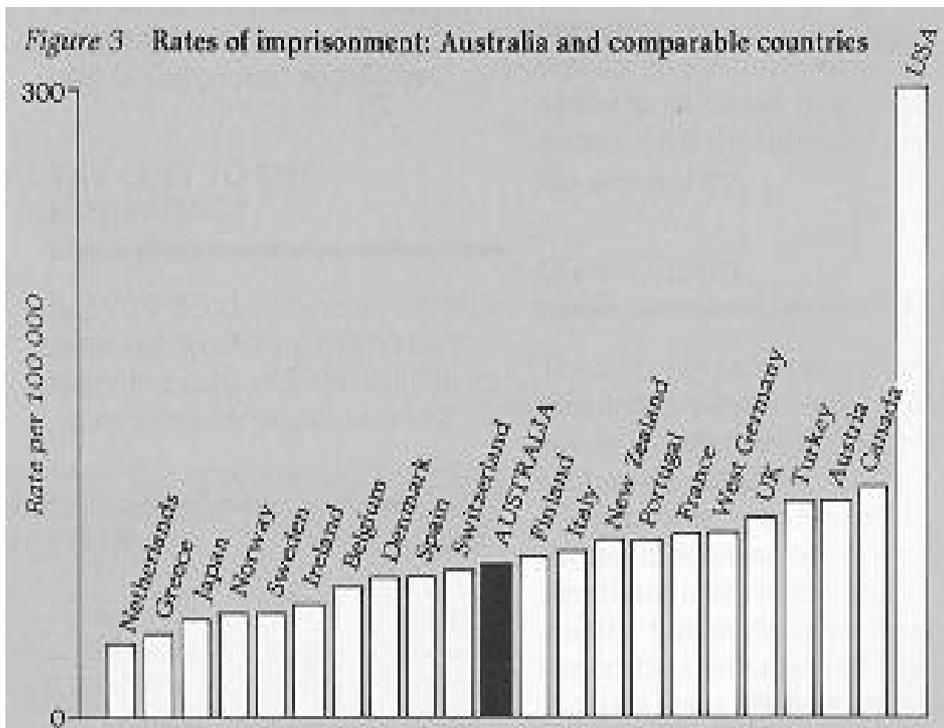


Table 3 Comparative rates of supervision and detention orders per 100 000 adults; selected countries 1985-86⁵

	Non-custodial orders	Prison orders	Post-prison orders
Australia	255	108	57
United Kingdom	223	145*	147
Canada	465	167*	64
United States	1064	459*	158

⁵Estimates based on published rates per 100 000 total population

term in one state, a term of probation in another, and perhaps a fine in a third. Differences such as these sometimes result from magistrates' collective responses to the comparative prevalence of particular offence types in the various jurisdictions, or from specific differences written into the state legislation which determines the permissible sentences for an offence or perhaps from differences in sentencing ethos from one jurisdiction to another.

How Does Australia Compare With Other Countries?

In terms of rates of imprisonment, for which statistics are readily available, Australia lies very much in the middle range of comparable countries (see Figure 3). It is not so easy to compare the non-custodial sentences because of the wide variation in the terms used, and the discrepancies in counting rules. For example, the term 'probation' is often used in cases where no face-to-face supervision is required; these *would* be counted in Australia, but there may be similar orders elsewhere which would not be included in official counts of supervision orders. Published statistics for the UK, Canada and the USA (see Table 3) appear to show that Australia's usage rates of non-custodial orders are relatively low, but it is not known to what extent these figures are genuinely comparable.

What Sorts of Offences Have They Committed?

Table 4 shows the most serious offences for which adults were serving sentences or remanded in custody on census night. Offenders are often sentenced for a variety of offences at the one court hearing, but only the most serious offence is tabulated here. The most significant feature of the table is the contrast between the

Table 4 Most serious offences for which serving an adult supervision or detention order

Offences	Percentages		
	Non-custodial orders	Prison orders	Post-prison orders
Offences against the person			
Homicide	0.3	10.7	9.2
Assault	9.8	6.4	9.7
Sex Offences	3.0	8.7	10.5
Other against person	0.3	1.0	0.9
Robbery and extortion			
Robbery	1.6	13.9	14.3
Extortion	0.1	0.3	0.4
Offences against property			
Break and enter	16.3	18.2	20.2
Fraud and misappropriation	9.0	3.9	6.2
Receiving	3.4	1.3	1.9
Other theft	24.1	8.5	7.8
Property damage	3.3	1.7	1.6
Environmental	-	-	-
Offences against good order			
Government security	-	0.1	-
Justice procedure	1.6	3.4	1.6
Prostitution	0.1	0.1	-
Offensive behaviour	1.2	0.4	-
Unlawful possession of weapon	0.7	0.4	0.3
Other offences against good order	0.9	1.2	0.5
Drug offences			
Possession, use drugs	7.2	2.6	3.1
Trafficking drugs	2.3	6.8	6.5
Manufacture drugs	1.5	0.9	1.7
Traffic Offences			
Driving offences	9.1	4.9	2.9
Administrative offences	2.6	3.7	0.3
Other traffic offences	0.2	0.4	0.1
Other offences	0.2	0.5	0.5
Unknown	0.5	0.1	0.3
Total	100.0	100.0	100.0



Table 5 Age-distribution of persons under adult supervision or detention orders

Age groups	Percentages		
	Non-custodial orders	Prison orders	Post-prison orders
15-19 years	22.4	10.2	5.7
20-24 years	34.2	28.6	28.1
25-29 years	18.5	23.6	26.5
30-34 years	10.4	15.4	12.3
35-39 years	6.2	9.4	11.1
40 and over	8.3	12.8	16.3
Total	100.0	100.0	100.0

Table 6 Sex of persons under supervision or detention orders

Sex	Percentages		
	Non custodial orders	Prison orders	Post-prison orders
Males	81.8	94.5	94.3
Females	18.2	4.6	5.7
Total	100.0	100.0	100.0

Table 7 Other characteristics of persons under supervision or detention orders (percentages of total persons serving orders)

Characteristics	Non-custodial orders	Prison orders	Post-prison orders
Aboriginal	7.8	13.4	12.0
Never married	60.6	57.8	46.4
Unemployed at date of arrest	42.2	61.7	42.2
Did not complete secondary education	78.0	84.3	80.0
Overseas born	14.5	19.5	17.3
Previously imprisoned	15.2	63.9	100.0

Table 8 Estimated average per capita costs per annum of persons under supervision or detention orders

Cost per annum per person serving order (\$)	Non-custodial orders	Prison orders	Post-prison orders
New South Wales	1800	40880	1800
Victoria	2561	33000	2561
Queensland	750	20142	750
Western Australia	963	35765	963
South Australia	1619	43974	1619
Tasmania	958	24568	1791
Northern Territory	3650	32580	3650
Weighted average	1630	34570	1638

Note: The precise basis for each of these estimates varies. It is not known, for example, to what extent they are affected by capital expenditures. Also, some prison activities actually raise revenue (e.g forestry camps, prison farms). It is not known to what extent these revenues are included in these estimates, which were supplied by the appropriate departments in each jurisdiction or computed from data published in their most recent annual reports.

prison and post-prison populations, on the one hand, compared with those under non-custodial supervision.

Those convicted of offences involving serious violence such as homicide, rape or robbery, are very much more likely to be in prison or under post-prison supervision than on probation or community service orders (see Figure 4). Non-custodial orders are dominated by relatively minor offenders such as persons convicted of petty shoplifting (included in the 'Other Theft' category), possession of drugs, or driving offences.

Some of the differences noted earlier between states and territories are partly explained by more detailed analysis of offences for which persons are under supervision. For example, in Tasmania, community-based corrections appear to be used as the standard penalty for driving offences; the Northern Territory appears to

prefer short prison terms to deter and punish traffic offenders, while in other jurisdictions the most common sentences for these offences would be a fine.

What Sort of People Are They?

Although persons under supervision and detention orders are predominantly males between 18 and 39 years, there are substantial minorities in the younger and older age-groups, and approximately one in six are females. Tables 5 and 6 present the data by age and sex. Those under 20 years are much more likely to be serving non-custodial orders — it is typical of court practices that young offenders are given a chance to reform themselves. If they continue to offend as they reach adulthood they

receive much less sympathy. Women are also more frequently on non-custodial orders, perhaps because the offences they commit tend to be less serious than those committed by men.

Table 7 shows some of the other key characteristics of persons serving supervision or detention orders. Although Aboriginals constitute little more than 1 per cent of the population, they make up nearly 8 per cent of those on non-custodial orders and over 13 per cent of those in prison. Persons never married constitute around 60 per cent of the persons under supervision and detention. Around 80 per cent of all persons under corrections did not complete secondary education. Three-fifths of those in prison were unemployed at the time of arrest, whereas only around two-fifths of those under community-based supervision were unemployed at the time of the Census, perhaps reflecting the fact that it is often those who can remain in employment who avoid imprisonment or obtain an early parole. The overseas-born are under-represented in supervision and detention, being only 14.5 per cent of the prisoners group, compared with around 22 per cent in the general population.⁶

The Cost to the Community

In 1984-85 the Commonwealth, state and territory governments spent in excess of \$350 million on prisons and corrective services;⁷ i.e. almost \$8 500 per person serving an order. Of course, prison orders are considerably more expensive than non-custodial orders. Table 8 shows some recent departmental estimates of the average annual costs borne by the community for each person serving supervision or detention orders. They show that the cost of imprisonment is around 20 times that of the community-based alternatives; and of course, these are not the *total* costs to the community. To the prison costs, for example, must be added the burden of social welfare payments for the families and

dependents of those incarcerated. On the other hand, community-based orders are not without social costs too, as the media (and victims) are quick to point out when a person given conditional liberty commits further offences.

Sentencing an offender to a term of imprisonment effectively minimises the risk to the community, but at considerable cost to the taxpayers of that community. There is little evidence to suggest that jurisdictions with high rates of imprisonment succeed in reducing crime rates below those with less punitive courts (see for example, Mukherjee *et al*⁸). Conversely, however, when faced with high or increasing rates of offending, there is often no politically feasible alternative to increased penalties, no matter what the financial cost to the community.

Conclusion

The use of supervision and detention orders varies considerably between jurisdictions in Australia. Sentencing authorities face a dilemma where, on the one hand, the use of imprisonment imposes significant costs on the community, but on the other hand, the less costly alternatives to imprisonment leave offenders at large in the community, thus inevitably exposing that community to the possibility of further offending. There is little empirical evidence either to support or counter the deterrence claims of those who demand harsher sentencing for offenders, and even the undoubted incapacitation effects of imprisonment have to be weighed against the probability that prison experience may turn misguided youngsters into hardened criminals. Thus, from the taxpayers' point of view at least, the tendency to try to hold down prison numbers is a rational one. However, while rates of offending appear to be increasing in many respects, inevitably prisons are being filled. All the mainland jurisdictions' prison systems are

currently filled to or over their official capacities, and governments therefore face the unpalatable decision of whether to expand their prison systems or rely even more on non-custodial alternatives. The first option is not popular with the residents near proposed new prison cells, or with besieged state treasurers in times of fiscal restraint, while the second option carries the inevitable risk of re-offending by persons already under community supervision. The only signs of relief come from the demographers who point out that the current large cohort of people in the most criminogenic age groups will soon pass, and by the end of the decade we could see a reduction in the numbers under supervision and detention.⁹

⁸ *Statistically Confirmable Relationships Explaining Well-known Time Honoured Reactions to Electoral, Administrative and Demographic Stress*, J. Walker, Australian Institute of Criminology, 1986.

* L. L. Robson (1965) *The Convict Settlers of Australia*, Melbourne University Press, Melbourne

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 7. *Size of the Crime Problem in Australia*, S.K. Mukherjee *et al.*, Australian Institute of Criminology, 1987.
- See the example *Australia's Changing Population*, G. Hugo, Oxford University Press, Melbourne, 1986; and *Forecasting Prison Numbers*⁹ *a Computer Model for Correctional Administrators; and Screw Threads*



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