

by those managing corporations, whether they are expressly named in the legislation (such as directors officers, receivers or liquidators) or implied by phrases such as 'concerned in the management'.

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#### References

1. *EPA v Trevor Morgan*, unreported, Land and Environment Court, NSW, Nos 50034/95 and 50039/95
2. Unreported, Court of Petty Sessions, Western Australia, 9 March 1995, No. 34314.

## PRISONS

### *Go to gaol*

#### DAVID BROWN reports on the 1995 National Prison Census which reveals current trends in imprisonment rates.

In 1982 the Australian Institute of Criminology (AIC) began publishing a *National Prison Census* based on correctional returns from all jurisdictions taken on 30 June each year. They also published a monthly *Prison Trends* series. Both these publications were vital resources for those wanting to monitor trends in Australian corrections. With the restructuring of the Australian Institute of Criminology in 1994,<sup>1</sup> these functions were taken over by the Australian Bureau of Statistics (ABS). The ABS published the 1995 National Prison Census in May 1997. The ABS also publishes quarterly returns titled *National Correctional Statistics: Prisons* which provide more up to date figures. The latest of these published in May 1997 are those for the December Quarter 1996. Both publications are from the National Correctional Services Statistics Unit located in the Victorian office of the ABS. The publications are well produced, fairly expensive, and can be ordered through Jacqueline Oddie on (03) 9615 7673.

The following is a brief overview drawn from data contained in the Summary of Findings of the 1995 National Census.

#### Prisoners in 1995

- There were 17,428 prisoners in Australia on 30 June 1995, an increase of 2.9% since 1994.
- The Queensland prison population increased by 15.2% from 1994.
- NSW had the largest number of prisoners (7749);
- The national rate of imprisonment in 1995 was 127.3 prisoners for every 100,000 adult population.
- The imprisonment rate for males was 245.9 per 100,000 males and for females 12 per 100,000 females.
- The imprisonment rate for indigenous prisoners was 1681.9 per 100,000 adult indigenous population.
- Males between 20-24 had the highest age specific imprisonment rate at 526.4.
- More than half the prisoners (56.3%) had been previously imprisoned, 73.1% for indigenous prisoners.

- There were 2985 indigenous prisoners, an increase of 6.6% since 1994 (17.1% of total prison population).
- 84.6% of prisoners were serving fixed term or maximum-minimum sentences.
- 1.9% of prisoners were imprisoned for fine default.
- By most serious offence, prisoners were serving sentences for: sex offences (13.5%), break and enter (13.2%), robbery (12.5%) and assault (11.5%).
- 9.3% of prisoners had been sentenced for murder, manslaughter, culpable driving or attempted murder.
- 11.1% of prisoners had a drug offence as their most serious offence.
- The average aggregate sentence in 1995 was 4.5 years (4.6 for men and 3 for women).
- The average time expected to be served was 3.5 years.
- There were 1999 prisoners on remand, an increase of 2.7% since 1994.
- Unsented prisoners remanded by a lower court had spent on average three months in custody and by higher courts 9.3 months.

#### Comparison with 1985

- There has been a 60% increase in the number of prisoners in Australia from 1985-1995.
- This increase is over three times the adult population growth.
- The prison population is getting older, increasing in mean age from 29 in 1985 to 31.7 in 1995.
- The proportion of female prisoners has remained fairly constant since 1985 (5%).
- The proportion of indigenous prisoners is increasing, from 14.6% in 1987 to 17% in 1995.
- The proportion of prisoners held on remand has decreased from 13.3% in 1985 to 11.5% in 1995.
- The proportion of prisoners imprisoned for break and enter decreased from 18.6% to 13.2%, for assault increased from 6.1% to 11.5% and for sex offences increased from 9.1% to 13.5%.

#### Comments

The Australian prison population is continuing to grow steadily, well in excess of population growth, with an increase of 60% over the 10-year period 1985-1995 and a 2.9% increase since 1994. The rate of increase over the decade has been uneven across the States and Territories. NSW accounted for a big part of the increase in the years 1988 to 1992 with a 60% increase. Queensland reduced its prison population significantly over the period 1989-1992, but has had an alarming 15% increase between 1994 and 1995 (and a further increase of the same magnitude to December 1996).

The rate of imprisonment of indigenous Australians is continuing to increase despite numerous reports on the disproportionate rates and the many damaging consequences. The 1996 December quarter ABS statistics show a rapid increase in indigenous imprisonment to 19% of the prison population. On average 1812.9 per 100,000 indigenous adults are in prison. An indigenous adult is 18.1 times more likely to be imprisoned than a non-indigenous adult. The latest figures provide yet further evidence, if any were needed,

that the rhetorics of law and order translate into higher prison populations and in particular to ever increasing indigenous imprisonment.

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## Reference

1. See Coad and others, 'Report of the Review of Commonwealth Law Enforcement Arrangements', 1994; Tanzer and others, 'Review of the Australian Institute of Criminology', 1994; Brown, D., 'Facing the Knife', (1994) 19(3) *Alt.LJ* 125-8; Geis, G., "'This Sort of Thing Isn't Helpful': The Dilemmas of the Australian Institute of Criminology", (1994) 27(3) *ANZJ of Crim* 282-98; James, S., and Sutton, A., 'Criminology and Crime Control in Australia', (1994) 27(3) *ANZJ of Crim* 299-308.

## Gagging the public

**AMANDA GEORGE** discusses the rise of corporate prisons and the lack of public accountability.

The last five years have seen the development of a new agenda in prison policy and public discussion of prison issues in Australia, and a significant change in prison life for the 17,000 men and 900 women who live there. There is no doubt that this has been inspired by governments keen to distance themselves from human services delivery by seeing themselves as business enterprises that prefer to purchase these services. The turning of government into business is graphically evidenced by the intention of QCORE, Queensland's corporatised public prison service, to tender for the running of prisons in Asia.

Australia's preferred option of allowing United States-based private prison corporations to run our prisons has meant that interested Australians must now gain access to company records in the United States to find out the terms of contracts under which these prisons perform their services, while governments here cite commercial confidentiality

to protect this information. The Metropolitan Women's Correctional Centre (MWCC) in Victoria (operated by Corrections Corporation of Australia, a subsidiary of an American company) is Australia's first private women's prison and the first private prison in the world to hold women and children. Examination of overseas records shows that the MWCC contract contains clauses which identify permissible numbers of deaths in custody. This prison was the site of the Victoria's first tear gassing of women prisoners (the first in Australia was on women at Mulawa in New South Wales in 1980). At MWCC three handcuffed and physically entwined women who were inside a prison van were tear gassed because they refused to get out.

The focus of governments on justifying privatisation and giving prison bed guarantees to private companies has had the effect of eclipsing discussion of programs to keep people out of prison. We have also seen a dramatic reduction in the numbers of people on community-based alternatives. Astonishingly, in the midst of bleating by government about high prison costs, one-third of prison admissions in 1995 were fine defaulters, i.e. 7400 prisoners. The drastic cutback of services that assist people on the outside, e.g. drug rehabilitation and counselling services, mental health services, legal aid, and a reduction in the amount that people can earn on the dole have pushed people barely surviving on the margins into prison. Prisons may be the most significant form of 'welfare' provision in the 21st century, hiding unemployment and becoming major accommodation providers.

New sentencing laws — three strikes and you're in, mandatory sentencing and truth in sentencing — effectively put increasing numbers of people in prison for longer periods. This may be great news for shareholders of private prisons, but where does it leave the community?

A significant consequence of running prisons as businesses is that their 'commercial reputation' can be litigated in defamation proceedings. The gagging of public discussion by claims of commercial confidentiality, reinforced by threats of litigation over commercial reputation (profits), is the most serious threat to community engagement with prisoners and the lives we demand they lead. The little 'peering over walls' that was possible is vastly diminishing. Media approaches to government and prison operators in Victoria are either refused or answered by bureaucrats. In this new corporate world it seems political accountability has shifted away from government Ministers.

The community must constantly remind our governments that the corporate paradigm is a naive and single interest view of the world. Private prisons must lead to more, not less, political accountability in government. We should not be forced to become shareholders in corporations in order to have an impact on decisions; we already elect and pay government to participate in this process.

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*Protesters at opening of Metropolitan Women's Correctional Centre, August 1996. Photo: Sharon Jones*