

Monograph Series

**The Sentencing Act 1989
and its effect on the size of the
prison population**

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JUDICIAL COMMISSION OF NEW SOUTH WALES

**THE SENTENCING ACT 1989
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The cover photograph depicts the front section of St James' Church, the oldest remaining ecclesiastical building in Sydney. St James, begun in 1819 and consecrated in 1824, was originally designed for use as a court house by convict architect Francis Greenway. Due to financial pressures at the time, a decision was made to abandon the construction of a large church in George Street and in so doing St James was adapted to serve as a place of worship. To afford the building an ecclesiastical air Greenway added a tower and a spire at its western end.

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Disclaimer

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PREFACE

The *Sentencing Act* 1989 (the “Act”) was a landmark piece of legislation in the area of sentencing. It has been widely assumed, although it is empirically difficult to prove, that the Act has had a significant effect on the size of the prison population.

The findings of this monograph may be summarised as follows —

- (i) the Act came into effect on 25 September 1989 — it abolished the system of remissions that had existed in New South Wales since colonial times, whereby most prisoners were released before the expiration of the sentence imposed by the sentencing court;
- (ii) the size of any prison population is a function of both rate of entry and length of stay;
- (iii) between 1988-1989 and 1993-1994, the daily average population of full time prisoners in New South Wales rose by 47.4%;
- (iv) the total cleared crime rate (calculated per 100,000 population) rose steadily between 1981 and 1990, but has been relatively stable since 1990;
- (v) the remand population has fallen as a proportion of the total prison population, from a high of 15.5% in 1988 to a low of 9.2% in 1995;
- (vi) sentenced reception numbers are heavily influenced by changes in the practice of imprisoning fine defaulters;
- (vii) the daily average full time prison population is not significantly affected by the fluctuating population of fine defaulters;
- (viii) the number of offenders being sentenced to full time custody has dropped from 7,603 prisoners in 1991-1992 to 7,121 in 1994-1995, reflecting a decrease in the number of cases finalised each year across the jurisdictions;
- (ix) between 1990 and 1995, an underlying pattern of very limited growth followed by a gradual fall in the number of persons being sentenced to full time custody is apparent;
- (x) the number of sentenced offenders entering full time custody has not changed significantly since 1982 and has fallen steadily since 1991-1992;
- (xi) although the number of sentenced prisoners entering gaol has declined since the late 1980s, the population within the prison system has actually increased;
- (xii) the median length of sentences imposed by courts was greater in the 1980s than in the early 1990s;
- (xiii) the average length of sentences imposed by the courts has not changed significantly since 1990;
- (xiv) the net effect of these changes since 1990 has been to increase the average “real time” that prisoners spend in gaol.

There are a number of factors which led to an increase in the average “real time” each prisoner spends in full time custody. In New South Wales, the most commonly cited factor for recent rises in the size of the prison population is, the abolition of remissions in 1989, without any corresponding reduction in the maximum penalties available for each offence. Another aspect of the Act, the fixing of terms of less than six months, may also have caused an increase in the average “real time” spent in gaol.

The effect of the *Sentencing Act 1989* on the prison population can be considered as one aspect of a general pattern of policies which aimed to increase the time spent by “serious” offenders in gaol. Although the abolition of remissions was probably one of the factors responsible for the increase in the average “real time” spent by prisoners in custody, it is certainly not the only factor behind the recent increases in the prison population.

Donna Spears
Research Director

Introduction

The introduction of the *Sentencing Act* 1989 marked a major change in the sentencing regime in New South Wales. Although the intention of the Act was to ensure that prisoners remained in custody for the full length of time imposed by the sentencing judge or magistrate, rather than be released at an earlier stage due to administrative remissions to the sentence, the Minister for Corrective Services, Mr Yabsley, when introducing the Bill, indicated that “the government is not seeking to make sentences longer ... we have an overcrowded prison system.”¹

Several social and academic commentators have however claimed that —

- (1) there has been a major increase in the New South Wales prison population; and
- (2) this increase has occurred as a direct result of the *Sentencing Act* 1989.²

For instance, in 1994 the Inter-Church Steering Committee on Prison Reform Report, on the issue of prison overcrowding in New South Wales, indicated that the total prison population had risen by 60% between 1987 and 1993, and that the Aboriginal prison population had increased by almost 100%.³ Vinson has also quoted a 60% expansion in the prison population, and asserts that “the ‘truth in sentencing’ legislation (is) responsible for much of the growth in prison numbers”⁴.

Michael Tonry, a leading American sentencing commentator has observed —

“In Australia, Victoria has shown how to implement the abolition of remissions while avoiding the unintended consequence of increased prison population and crowding. New South Wales has shown how not to do it.”⁵

This orthodoxy has also held widespread currency in the media. It has however been disputed. In 1994, in response to a question in parliament from a Labor MP about the operation of the *Sentencing Act* having the “unintended” effect of overcrowding prisons⁶, the then Attorney General, Mr Hannaford replied —

“During the last calendar year an additional 9,000 people were arrested and charged by the police for serious offences. Any increase in the number of people in gaol reflects of course on the number of people being brought before the courts and on the work being done by the courts to significantly reduce the backlog of criminal trials.”⁷

1 *New South Wales Hansard Parliamentary Debates*, Legislative Assembly, 10 May 1989, p 7907.

2 T Vinson, “Where to Begin Cutting the New South Wales Prison Population” (1995) 7 (1) *Current Issues in Criminal Justice* 77; N Cowdery, “Truth in Sentencing — The New South Wales Experience”, The International Bar Association Biennial Conference, Melbourne, 13 October 1994; L Cullinan, “A Right to Remissions?” (1994) 19 (2) *Alternative Law Journal* 61; Lawyers Reform Association, *Law and Order*, Position Paper No 4.

3 Inter-Church Steering Committee on Prison Reform, *Prison — Not Yet the Last Resort: A Review of the New South Wales System*, March 1994, p 5.

4 Vinson op cit fn 2, p 77.

5 M Tonry, *Sentencing Matters*, 1996, Oxford University Press, New York, p 189; also published in C Clarkson and R Morgan (eds), *The Politics of Sentencing Reform*, 1995, Clarendon Press, Oxford, p 281.

6 *New South Wales Hansard Parliamentary Debates*, Legislative Council, 19 April 1994, p 1322.

In light of these competing claims, it is useful to look critically at the assumption that the *Sentencing Act* is directly responsible for the increase in the New South Wales prison population. This paper examines many of the factors that influence the size of the New South Wales prison population, and attempts to identify the reasons for its recent large growth, focusing on the possible effect of the *Sentencing Act*. As one academic commentator, Andrew Rutherford has observed — “... prison populations are not delivered by a providential stork, but, like the prison systems of which they are a part, are determined by criminal justice policy and practice”⁸.

Historical Background

In May 1989, the New South Wales legislature passed an Act “to promote truth in sentencing”. The *Sentencing Act 1989* (NSW) was designed to abolish remissions and to create a new structure for custodial sentences. The abolition of remissions created a radical break from the past. As the High Court observed in *Hoare v The Queen*⁹, the practice of allowing remissions for good behaviour of the service of a part of a sentence of imprisonment has existed from the earliest times of European settlement in Australia. Such a system has been traditionally viewed, from the point of view of the prisoner, as being beneficial as it allows the sentence to be remitted or cut short by reason of good behaviour while it is being served.

Prior to the establishment of a Parole Board in 1950¹⁰, prisoners were required to serve their sentence in full less any remissions made by the Governor either directly (s 462) or by general regulations: s 461. From 1950, the Parole Board had power to consider individual applications, with a view to making a recommendation to the Minister as to whether the prisoner should be granted a written licence to be at large and as to the limits of residence and the conditions which should be specified in or endorsed on the licence.

The *Parole of Prisoners Act 1966* (which came into effect on 31 January 1967) created a more formal parole system. The Act provided for the specification of non-parole periods in respect of certain prisoners, for the release of prisoners on parole and for the constitution of the Parole Board. The general policy and intentment of the Act was that wherever possible a non-parole period should be fixed in order that the provisions of the Act should become applicable to a prisoner.¹¹ Remissions applied only to the head (full) sentence or to the determinate sentence if a non-parole period had not been specified.

7 *New South Wales Hansard Parliamentary Debates*, Legislative Council, 19 April 1994, p 1323.

8 A Rutherford, *Prisons and the Process of Justice*, 1986, Oxford University Press, New York, p 6.

9 (1989) 167 CLR 348 at 353 per Mason CJ, Deane, Dawson, Toohey and McHugh JJ.

10 s 464A of the *Crimes Act 1900* inserted by Act No, 36, 1950.

11 *R v Barben* [1969] 1 NSW 494.

The *Probation and Parole Act* 1983 enabled remissions to be deducted from the non-probation period or the non-parole period. These remissions were automatic and not dependent on the good behaviour of the prisoner. This situation was modified in 1987 to an “earned” remission system in which up to 17 days remission per month served could be earned for good behaviour. This meant that most prisoners served two thirds of their non-probation or non-parole period, or about one third of their head sentence.

Under the *Sentencing Act* 1989, sentences were to consist of either —

- (1) a “minimum term” (during which the Executive had no discretionary power to release prisoners) and an “additional term” (during which the offender would be eligible for release to parole);
- (2) a “fixed term” (after which the prisoner would be released without being subject to parole); or
- (3) a “natural life” term (never to be released).

Remissions were abolished. Sentences of less than six months in total were required to be fixed terms, and parole was to be granted automatically upon the expiration of the minimum term for sentences of three years or less.

The Size of the Prison Population

Strong growth in the prison population has occurred in many jurisdictions in recent times. In the United States, for example, the prison population has risen by between 4% and 12% every year since 1973.¹² Within Australia, Gorta reports that “the overall trend in prisoner numbers from the beginning of the century has been one of increasing prisoner numbers.”¹³ In the ten years to June 1995, the nation wide adult male prison population increased by more than 25%.¹⁴ However the equivalent figures for New South Wales alone show that the pattern of growth in this State has been far more pronounced than the national average. The daily average New South Wales full time prison population rose by 80.8% in the ten years to June 1995: see Figure 1.

Much of this increase occurred in the latter half of this ten year period. Based on the census taken of prisoners on the last Sunday of each financial year, the New South Wales Department of Corrective Services reports that the full time prison population increased 35.2% from June 1989 to June 1994; this consisted of a 36.6% rise in the number of sentenced prisoners, and a 29.9% rise in the number of unsentenced prisoners.¹⁵ However the daily average figures show a larger rise: in

12 T Clear, “Mis-Truths in Sentencing”, September 1995, *State Government News* 11 at p 12.

13 A Gorta, “Impact of the Sentencing Act 1989 on the New South Wales Prison Population” (1992) 3 (3) *Current Issues in Criminal Justice* 308 at p 310.

14 Australian Institute of Criminology, “DataBank” (1995) 7 (1) *Criminology Australia* 15 at p 17.

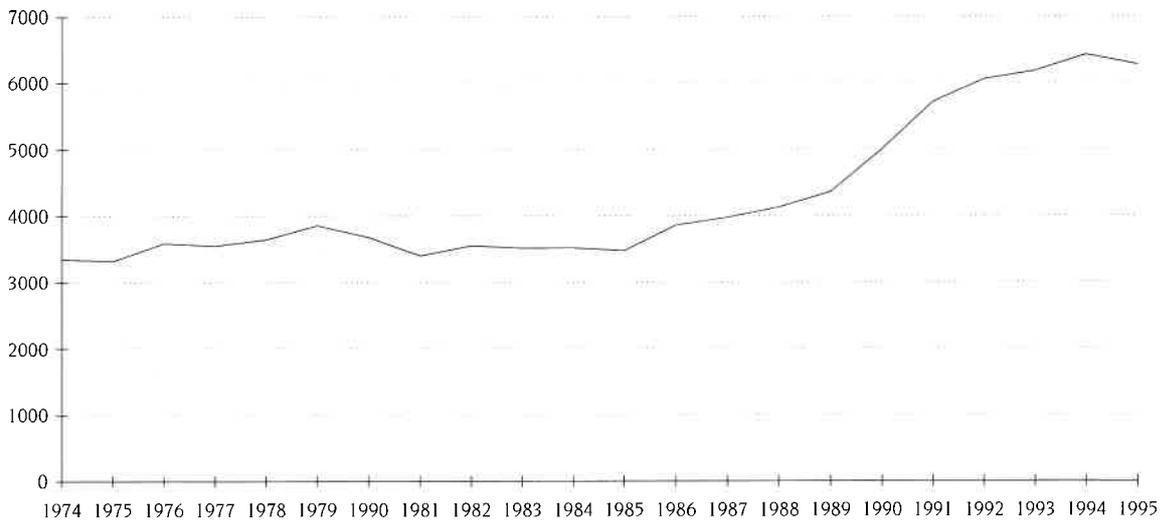
15 S Eyland and S Mariasson, *Inmate Statistics (Weekly States) July 1993 to June 1994*, Statistical Publication No 8, 1994, New South Wales Department of Corrective Services, p 4.

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1988-1989, the last full financial year before any impact from the *Sentencing Act* could be felt, the daily average full time prison population was 4,358. Within five years, this figure had increased by 47.4% to 6,423.

The daily average full time prison population fluctuated between 1973 and 1985, with changes in magnitude of between +8.1% and - 7.6%. From 1985, however, the daily average population rose steadily until 1994, the largest increases being in 1985-1986 (+11%), 1989-1990 (+14.8%) and 1990-1991 (+14.2%). Only in the past financial year has the daily average prison population decreased again (- 2.2%).

Figure 1
Daily Average Prison Population — New South Wales Full Time Prisoners

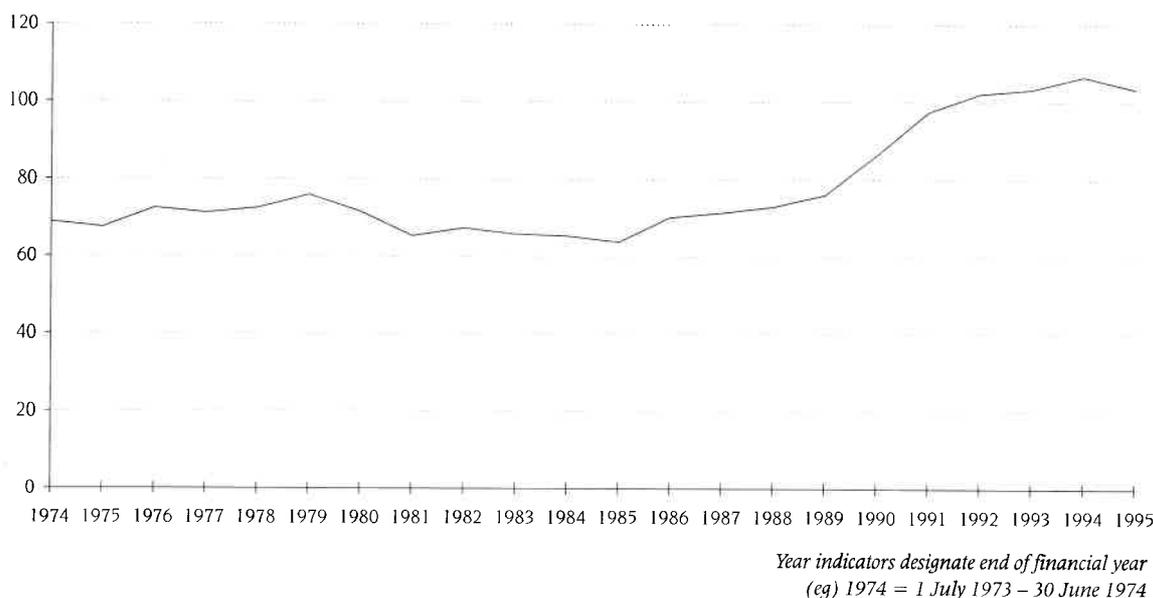


*Year indicators designate end of financial year
(eg) 1974 = 1 July 1973 – 30 June 1974*

Source — New South Wales Department of Corrective Services

A growth in the number of persons held in prisons is unremarkable in any society with an increasing general population. The increase in absolute numbers of persons in custody in New South Wales cannot be explained by any equivalent increase in general population. Over the period 1978-1993, the annual increase in the general population has been between 1-1.5%. The rate of imprisonment (calculated per 100,000 adults in New South Wales) has also increased since 1973, in a manner similar to the pattern found with the absolute numbers of the prison population. Between 1973 and 1985 the rate fluctuated, with changes in magnitude of between +7.4% and - 8.7%. Since 1985, the rate of imprisonment rose steadily until 1994, with the largest increases in 1985-1986 (+9.9%), 1989-1990 (+13.7%) and 1990-1991 (+12.9%). From mid-1994 to mid-1995 the rate dropped by 3%: see Figure 2.

Figure 2
Rate of Imprisonment per 100,000 adult residents in New South Wales



Source — New South Wales Department of Corrective Services

Thus the full time prison population was already increasing prior to the introduction of the *Sentencing Act*. This would suggest that although the *Sentencing Act* appears at first glance to be part of a simple cause and effect relationship with the prison population, in fact many other factors cannot be discounted as possible causes of recent growth. In particular, it should be noted that two of the three recent major increases in the New South Wales prison population occurred in 1985-1986, before the *Sentencing Act* existed, and in 1989-1990, when the Act had just begun to take effect.

Comparisons with Victoria's prison population provide some insight into the possible effect of changes to a sentencing regime. The prison population in Victoria did not begin to increase until 12 months after the introduction of the *Sentencing Act* 1991 (Vic) — legislation similarly aimed at ensuring "truth in sentencing" through the abolition of remissions.¹⁶ Although the average sentences imposed did not rise, the actual time spent in custody increased.¹⁷ The time lag evident before any effects were felt on the prison population was due to an accumulating effect: all else being equal, any increase in actual time served will not manifest itself in terms of prisoner numbers until such time as those prisoners affected would otherwise have been released under the previous scheme of remissions.

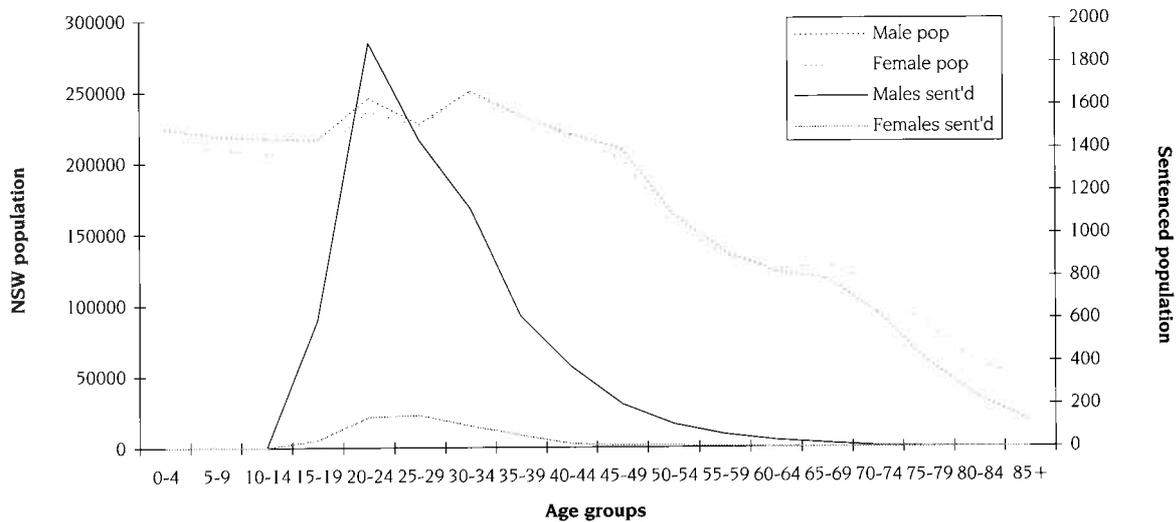
16 A Freiberg and S Ross, "Change and Stability in Sentencing: A Victorian Study" (1995) 13 (2) *Law in Context* 107.

17 Freiberg and Ross op cit p 24.

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One possible factor in the growth of the prison population may be found in the demographic characteristics of prisoners. The prison population does not mirror the general population: as Figure 3 shows, prisoners are concentrated within a small demographic group — young adult males. Fluctuations within this age and sex group will have a greater impact upon the crime rate (and hence the prison population) than fluctuations within the State's total adult population.

Figure 3
Comparison of NSW Population and Sentenced Persons by Age and Sex

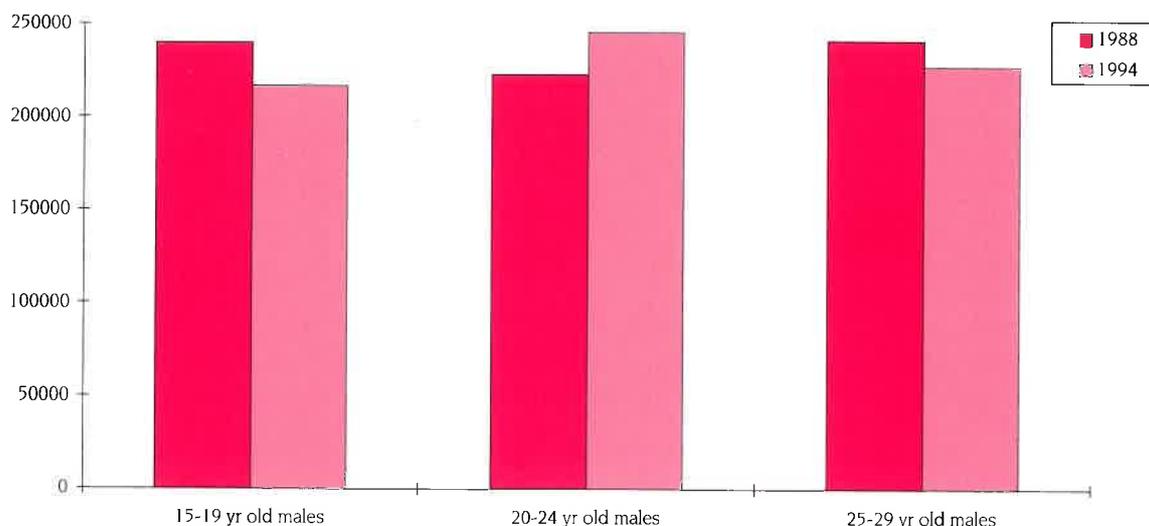


Source — (NSW population) Australian Bureau of Statistics
 Source — (sentenced persons) Judicial Commission of New South Wales

Between 1988 and 1994, the number of 15-29 year old males resident in New South Wales decreased in absolute terms (from 703,945 to 689,484), and as a proportion of the State's total population (from 12.4% to 11.4%)¹⁸: see Figure 4. However this demographic group accounts for 56.2% of all persons sentenced during 1994 to full time custody. Given that very few 15-17 year old males will actually be held in adult gaols, the adult prison population is even more concentrated in this demographic group.

18 J Wilson, *Age and Sex Distribution of the Estimated Resident Population of Statistical Local Areas, New South Wales 1988, 1990*, Australian Bureau of Statistics, Sydney, pp 42-43; G Bray, *Estimated Resident Population by Age and Sex in Statistical Local Areas, New South Wales, 30 June 1994 Preliminary*, 1995, Australian Bureau of Statistics, Sydney, pp 26-27.

Figure 4
Estimated Male Population of New South Wales Aged 15-29 1988 and 1994



Source — Australian Bureau of Statistics

The group which most significantly appears in the prison population is 20-24 year old males. They account for 27.1% of persons sentenced in 1994 to full time custody alone. As can be seen in Figure 4, there was an increase between 1988 and 1994 in the number of residents in New South Wales who fall within this demographic group: from 222,863 men, or 3.9% of the State's population, to 245,555 men, or 4.1%.¹⁹ This increase could have had an impact on the crime rate and hence the prison population in the early 1990s. Thus, as the persons currently occupying this period of high crime risk move into higher age groups, as part of the "ageing" of the population, one could reasonably expect both crime and imprisonment rates to fall.

Measuring prison populations

As Gallagher notes, the size of the prison population is a function of both rate of entry and length of stay. However the measurement of these factors is relatively difficult, and is complicated by varying definitions of what the population includes, and the near impossible task of determining exactly how long each person remains in custody.²⁰

For the purposes of this study, we are only concerned with the full time adult prison population: periodic detainees and persons held in juvenile detention centres have been excluded. It should be noted, however, that different criminal

19 Wilson op cit pp 42-43; Bray op cit pp 26-27.

20 P Gallagher, "Why Does New South Wales have a Higher Imprisonment Rate than Victoria?" (1995) 23 *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* 1.

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justice agencies may calculate the full time prison population as including people held in custody as forensic patients, while awaiting deportation, appeal results, sentencing, while on remand or because of defaulting on a fine. Thus the figures available from different sources may not match each other, because of these varying definitions of “the prison population”.

Table 1 indicates the complicated nature of identifying and measuring a prison population.

Table 1
Flows of People into and out of Prison

Entry due to —	Departure due to —
Remanded in custody	<ul style="list-style-type: none"> • Released on bail • End of remand – acquitted • End of remand – non-custodial sentence imposed
Sentenced to a fixed term	Released at end of fixed sentence
Sentenced to less than three years	Automatically released on parole at end of minimum term
Sentenced to more than three years	Parole Board allows release on parole
Successful Crown appeal against non-custodial sentence	Successful appeal against sentence
Parole revoked	Released at end of additional term
Returned escapee	Escaped
Default on fine	Fine cut out at \$100 per day
Waiting for deportation	Deported
Held as forensic patient	<ul style="list-style-type: none"> • Release of forensic patient • Successful appeal against conviction
Any of above	Death in custody

The rate of entry into prison

The rate of entry into prison is affected by a number of different factors, including the crime rate, court delays, the remand reception rate, the proportion of offenders given full time custodial sentences, and government policy regarding the imprisonment of fine defaulters. It is also worth noting at this point that the following discussions tend to relate solely to the operation of these factors within New South Wales, although the New South Wales prison system also holds offenders on behalf of the Australian Capital Territory.²¹

21 In the 1995 prison census, 81 (1.3%) full time prisoners in New South Wales had been sentenced in the Australian Capital Territory, and another 24 (0.3%) had been sentenced in other states: S Eyland, *New South Wales Inmate Census 1995: Summary of Characteristics*, Statistical Publication No 10, 1995, New South Wales Department of Corrective Services.

Crime rate

The total cleared crime rate (calculated per 100,000 population) rose steadily between 1981 and 1990; while property crime fell slightly over this period and violent crime increased, at a rate even more pronounced than the growth in the prison population.²² Ivan Potas, one academic commentator, describes these figures as “a warning to those who would seek to attribute all the increase in the rate of imprisonment exclusively to the effect of the *Sentencing Act*.”²³ However Cowdery reports that the Australian Institute of Criminology and the Bureau of Crime Statistics and Research deny that there has been any significant rise in the crime rate since the *Sentencing Act* came into force.²⁴

Court delay

Measures recently introduced to reduce court delay would, if successful, have a short term effect on the prison reception rate, by increasing the speed at which offenders are dealt with and sent to gaol. A recent study by the Judicial Commission found that the effect of the pilot Sentence Indication Scheme (which began at Parramatta District Court on 31 January 1993 and at Sydney District Court on 4 June 1993) — if all those persons accepting their indications would otherwise have proceeded to trial — could result in an estimated saving of approximately 200 weeks court time.²⁵

The New South Wales government announced in December 1995 that it planned to abolish the Sentence Indication Scheme, since it had not resulted in any significant increase in the number of people making early pleas of guilty, and had only been used by one person in the previous three months.²⁶

Nevertheless, figures calculated by the Bureau of Crime Statistics and Research indicate that the level of delay experienced by those involved in criminal prosecutions in the Local and District Courts has fallen since 1990.²⁷ Although the median delay in the Supreme Court increased over this time period, its effect on the absolute numbers of persons sentenced to imprisonment is small: in 1994, only 87 persons were convicted or sentenced in the Supreme Court.²⁸

22 I Potas, “The Sentencing Act 1989: Impact and Review” (1992) 3 (3) *Current Issues in Criminal Justice* 318 at pp 319-320.

23 Potas op cit p 320.

24 Cowdery op cit fn 2, p 3.

25 D Spears, P Poletti and I MacKinnell, *Sentence Indication Hearings Pilot Scheme*, 1994, Judicial Commission of New South Wales, Sydney, p 43.

26 M Sharp, “Scheme to Speed up Courts a Failure”, *Sydney Morning Herald*, 5 December 1995, p 4.

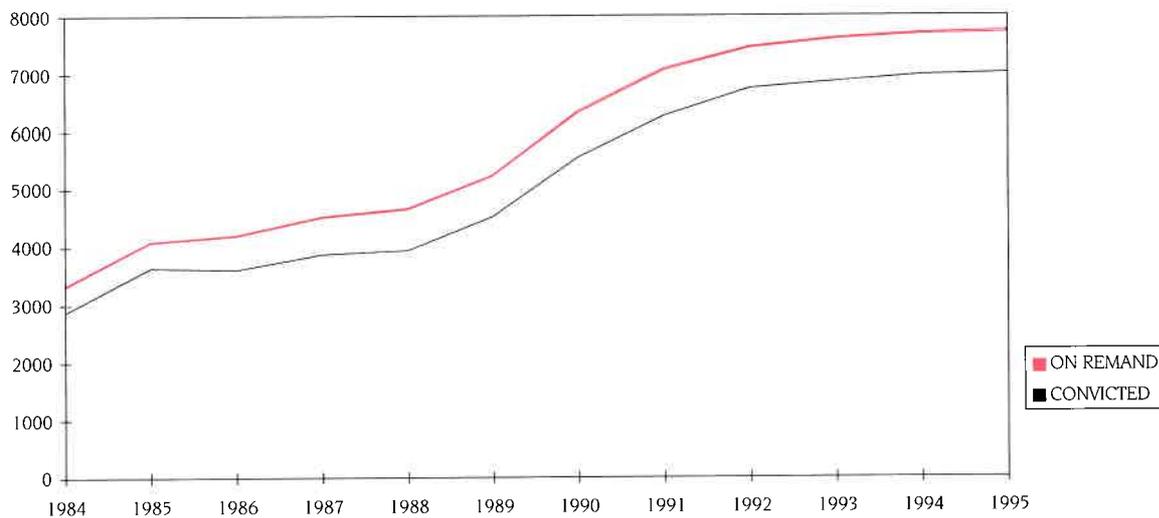
27 Between 1990 and 1994 the median delay between first appearance and determination for matters going to trial fell by 29.3% in the Local Court and by 23.1% in the District Court: New South Wales Bureau of Crime Statistics and Research, *Key Trends in Criminal Justice — New South Wales 1994*, Statistical Report Series, 1995, pp 6, 9.

28 New South Wales Bureau of Crime Statistics and Research, *New South Wales Criminal Courts Statistics 1994*, Statistical Report Series, 1995, p 82.

Remand population

There is no data available on the number of remand prisoners received into custody each year.²⁹ We do know that between 1984 and 1989 the remand population increased at about the same rate as the sentenced prison population.³⁰ However in the past few years, the remand population has fallen as a proportion of the total prison population, from a high of 15.5% in 1988 to a low of 9.2% in 1995.³¹ See Figures 5 and 6. It is unclear whether this is due to lower reception rates of remand prisoners, shorter time spent in custody awaiting trial, disproportionate growth in the number of sentenced prisoners, or a combination of all these factors.

Figure 5
Legal Status of Prisons held in June each year — NSW[†]

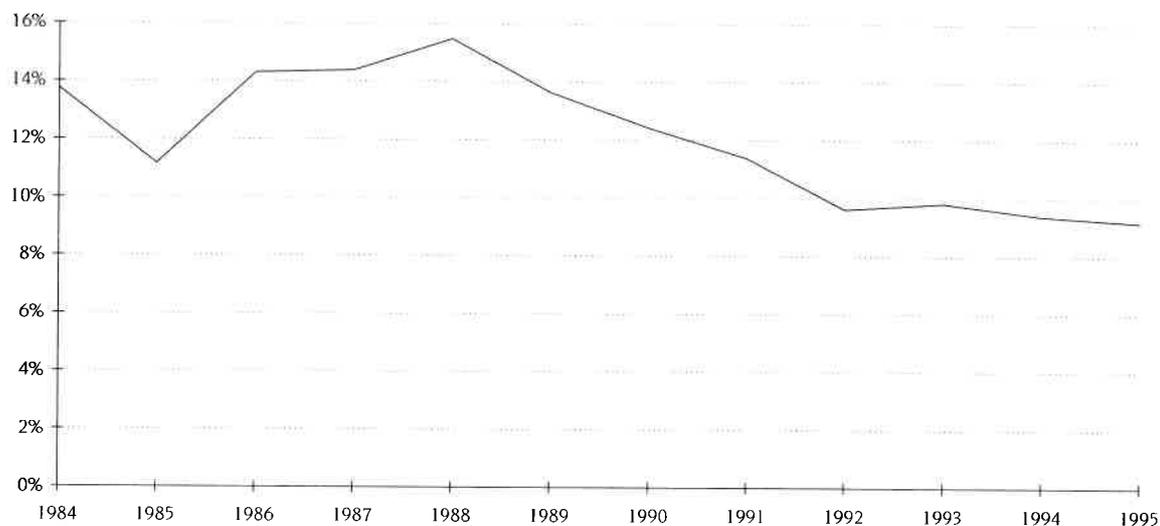


Source — New South Wales Department of Corrective Services

[†] This graph excludes a small number of persons held pending deportation or under psychiatric treatment.

- 29 L Babb, "Imprisonment Rates in New South Wales and Victoria: Explaining the Difference" (1992) 14 *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice* 3.
- 30 A Gorta and S Eyland, *Truth in Sentencing: Impact of the Sentencing Act 1989*, No 22, 1990, New South Wales Department of Corrective Services, p 34.
- 31 S Eyland, *New South Wales Inmate Census 1995: Summary of Characteristics*, Statistical Publication No 10, 1995, New South Wales Department of Corrective Services; S Eyland, *New South Wales Prison Census 1994: Summary of Characteristics*, 1994, Research and Statistics, New South Wales Department of Corrective Services; New South Wales Department of Corrective Services, *Statistical Supplement to the Annual Report 1993-1994*.

Figure 6
Remand Population as a Proportion of Total Prison Population — NSW



Source — New South Wales Department of Corrective Services

Fine defaulters

Jamie Partic, imprisoned for non-payment of fines, was assaulted in prison in November 1987. Sentenced prisoners from maximum security, not officially permitted to be in contact with fine defaulters, assaulted Partic to such a degree that he spent months in a coma and became a paraplegic.³² The consequence of this highly publicised crime was the introduction of alternatives to imprisonment for fine defaulters, more flexible payment arrangements, and a moratorium on the execution of fine default warrants. The number of fine defaulters in custody dropped sharply as a result; by mid-1993 however the rate of imprisonment for fine defaulters had already surpassed the level reached before the introduction of those measures.³³

The number of fine defaulters received into full time custody again dropped sharply in mid-1994, due to a second moratorium on the execution of fine default warrants between 1 April and 30 June 1994. As with the drop in the number of imprisoned fine defaulters in 1988, the 1994 moratorium impacted upon the total number of sentenced prisoner receptions during that period.

32 Miller and Gorta op cit p 9.

33 D Weatherburn's Preface in R Jochelson, *Fine Default: Enforcing Fine Payment*, 1995; New South Wales Bureau of Crime Statistics and Research, p iii.

Although their impact upon reception numbers is great, the number of fine defaulters in custody at any one time rarely exceeds 100.³⁴ Furthermore, these offenders receive very short sentences. The average time spent in custody by fine defaulters between September 1993 and March 1994 was 8.5 days, with a range of between two and 45 days.³⁵ The majority of defaulters serve six days or less.³⁶ Thus, although sentenced reception numbers are heavily influenced by changes in the practice of imprisoning fine defaulters, the daily average full time prison population is not significantly affected by the fluctuating population of fine defaulters.

Custodial sentences

The proportion of convicted persons sentenced to full time custody has increased slightly in the past five years. Pope claims that the *Sentencing Act* and political conditions have had the effect of diminishing the validity of the various sentencing alternatives to full time custody: "There is (now) a general presumption in favour of prison; different criteria are applied to prison alternatives. They have to justify their effectiveness, while the destructiveness and waste of imprisonment is ignored."³⁷

Based on figures supplied by the Bureau of Crime Statistics and Research, the Commission has calculated that the percentage of offenders convicted in the Local Courts who were sentenced to full time custody rose steadily from 5.6% in 1990-1991 to 6.3% in 1994-1995. The percentage of those sentenced in the Higher Courts fluctuated slightly, from a low of 49% in 1990-1991 to a high of 55% in 1994-1995.

However the absolute number of offenders being sentenced to full time custody has dropped from 7,603 prisoners in 1991-1992 to 7,121 in 1994-1995, reflecting a decrease in the number of cases finalised each year across the jurisdictions.³⁸

Sentenced receptions

The Department of Corrective Services collects data on individuals entering prison at the point of "reception". This includes sentenced prisoners and fine defaulters, but not those entering full time custody as remand prisoners. The calculation of "sentenced" prisoners does not include those who have received a sentence made cumulative on an existing sentence; that is, if a prisoner was already serving a term in full time custody, and part way through that sentence is dealt with for another offence, they will not be counted as a new "reception" when they return to prison at the end of their day in court. Problems have also emerged with the counting of

34 R Jochelson, *Fine Default: Enforcing Fine Payment*, 1995, New South Wales Bureau of Crime Statistics and Research, p 4.

35 *ibid* p 24.

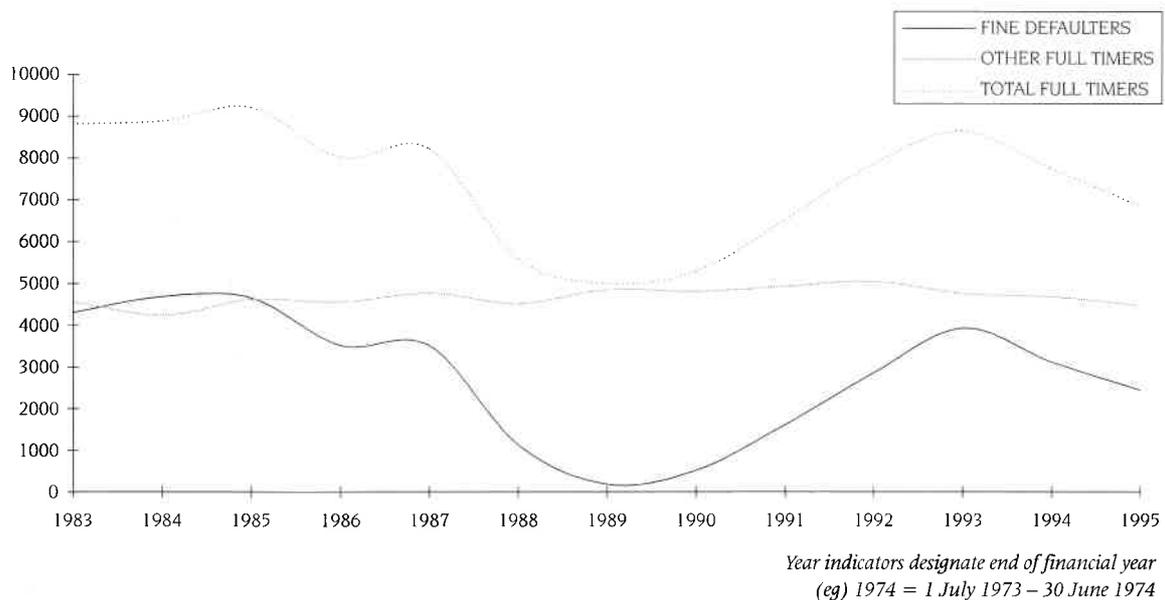
36 *ibid*.

37 Pope *op cit* p 9.

38 100,535 cases were finalised in 1990-1991, compared to 87,477 in 1994-1995.

prisoners whose sentences are back dated to take periods of remand into account. Thus the “sentenced receptions” data available from Corrective Services may not reveal information on those who change their status from remanded to sentenced prisoners. The difference between the “sentenced receptions” figures and data available from the courts on the number of people being sentenced to full time custody each month can be accounted for by this variation in calculation methods.

Figure 7
Persons Received Into Full Time Custody — NSW

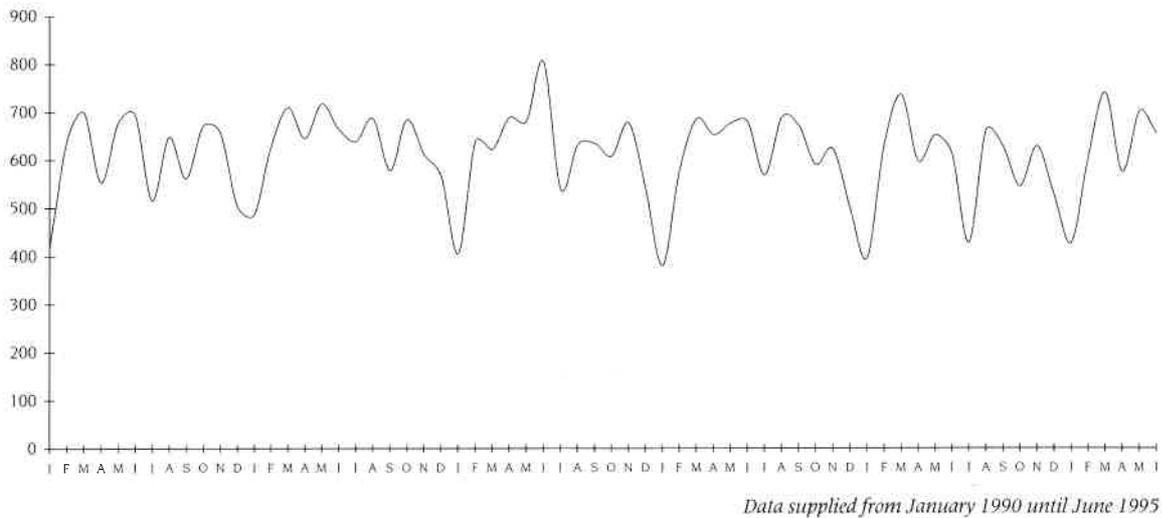


Source — New South Wales Department of Corrective Services

While the sentenced receptions data is available for each year since 1982-1983 (see Figure 7), the Bureau of Crime Statistics and Research does not have comparable data from the courts for cases finalised before 1990. Assuming that sentencing practice with regard to back dating and post dating sentences has not significantly changed since the early 1980s, the pattern evident in the 1990-1995 court based figures should equally hold for previous years.

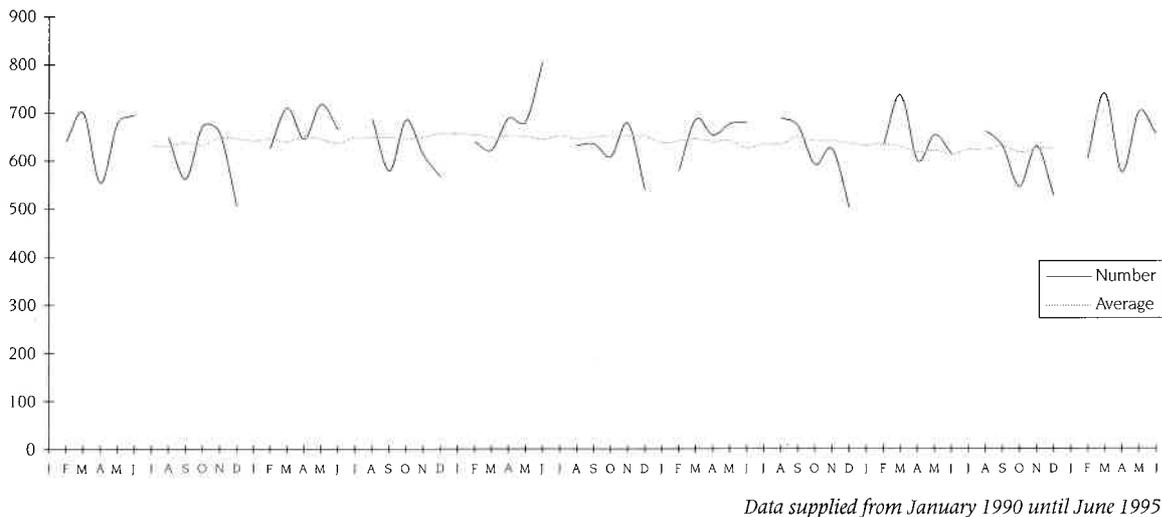
When looked at month by month, the number of persons being sentenced to full time custody fluctuates widely: see Figure 8. The sharp dip evident each January, and to a lesser extent each July, reflects general decreases in court workloads due to holiday recesses. When such seasonal variations are taken into account, a pattern of very limited growth and a gradual fall in the number of persons being sentenced to full time custody emerges: see Figure 9. This is similar to the pattern found by the Department of Corrective Services for sentenced receptions when fine defaulters are excluded from the figures: see Figure 7.

Figure 8
Persons Sentenced to Full Time Custody



Source — Judicial Commission of New South Wales

Figure 9
Comparison of Monthly and Trend Series for Full Time Prison Sentences
excluding cases finalised in January or July — NSW



Source — Judicial Commission of New South Wales

Rate of entry — conclusion

When fine defaulters are excluded it is evident that the number of sentenced offenders entering full time custody has not changed significantly since 1982 and has fallen steadily since 1991-1992. Thus arguments about increased crime, increased arrests and faster prosecutions are negated as factors affecting the prison

population, since the number of people *entering* the prison system at any one time has not changed significantly since the introduction of the *Sentencing Act*. Although the number of sentenced prisoners entering gaol has actually declined since the late 1980s, the population *within* the prison system has increased. The implication therefore is that the rise in prisoner numbers evident in the last decade is caused by growth in the average time served by prisoners in full time custody.

Length of Stay

The average length of time spent in custody by prisoners is affected by —

- (1) the plea rate;
- (2) court delay (time spent on remand);
- (3) a change in the composition of the principal offences for which offenders were remanded or sentenced;
- (4) a change in the maximum penalties for some offences;
- (5) the length and structure of sentences imposed by the courts;
- (6) successful appeals against conviction or sentence;
- (7) the release of a prisoner at the end of their minimum term;
- (8) escapes and deaths in custody;
- (9) additional time spent in custody for breach of parole/escape/misconduct;
and
- (10) the abolition of remissions.

Plea rate

Schemes such as the Sentence Indication Scheme³⁹, which aim to increase either the number or proportion of guilty pleas being entered at an early stage in the criminal justice process, affect the average time spent in custody, since discounts in sentence length are given to those who plead guilty, especially at an early stage. There does appear to have been an increase in the number of persons pleading guilty at an early stage in the justice process since 1993.⁴⁰ Weatherburn and Lind found that this phenomenon could be due to either the operation of the Sentencing Indication Scheme, and/or the introduction of early arraignment hearings.⁴¹

Court delay

The evidence available (above) regarding reduced court delay could also have had some effect on the average time spent on remand whilst awaiting trial. In terms of

39 See Part 12 of the *Criminal Procedure Act* 1986.

40 D Weatherburn and B Lind, "The Impact of the New South Wales Sentence Indication Scheme on Plea Rates and Case Delay" (1995) 18 (1) *University of New South Wales Law Journal* 211 at p 230.

41 *ibid* p 212.

“real time” spent in custody, the time spent on remand is usually relevant only when the person is not subsequently sentenced to a period of imprisonment which subsumes the time spent on remand. This would happen if the person is acquitted, or convicted but given a non-custodial sentence.

Composition of offences

Theoretically, a change in the types of offences for which offenders are being sent to gaol will have an impact upon the average sentence length. For example, a rise in the number of people convicted of serious offences and a corresponding drop in those convicted of minor offences could keep the absolute number of people entering gaol steady, even though the average sentence length would increase.

A comparison over time of the offences for which offenders are held reveals a number of changes. The proportion of prisoners in custody for homicide, robbery and property offences has decreased, the proportion of prisoners sentenced for assaults, sexual offences and offences against good order has increased, and the proportion sentenced for drug and traffic matters has remained relatively steady between 1984 and 1994: see Table in Appendix.

In this context, such broad statistical categories have limited utility. For example, the category of “traffic offences” includes offences from mid range Prescribed Concentration of Alcohol (PCA) to culpable driving causing death, “sexual offences” can include acts of indecency as well as serious sexual assaults, and “drug offences” encompass the use of cannabis as well as the importation of commercial quantities of heroin. Even “homicide” — a category of offences one would assume would attract the most severe penalties — includes the crime of manslaughter, which has the widest range of sentences of any crime.⁴² The data collected by the Department of Corrective Services on the composition of offences for which prisoners are held is therefore inconclusive for the purpose of determining whether any increase in the length of sentences imposed is related to an increase in the seriousness of offences.

Maximum penalties

The introduction of “natural life” sentences for certain offences can only have a small long term effect on the prison population, since the non-release of those prisoners will not be noticed for some years. Between 1990 and January 1996, only nine offenders were sentenced to “natural life”, and only five of those offenders are currently serving a “natural life” sentence.⁴³

42 H Donnelly, S Cumines and A Wilczynski, *Sentenced Homicides in New South Wales 1990-1993: A Legal and Sociological Study*, 1995, Judicial Commission of New South Wales, Sydney, p 89.

43 Two offenders have died, one successfully appealed and had his sentence reduced to a minimum term of 15 years and an additional term of five years, and one has had his conviction and sentence overturned on appeal and is awaiting a re-trial. Sentence details provided by the Sentence Administration Unit, Department of Corrective Services on 30 January 1996.

The maximum penalties available for certain other offences, such as stalking, culpable driving and “home invasion”, have recently been increased.⁴⁴ These amendments, however, will only now begin to have an impact upon the prison population, by increasing the average length of sentences imposed. Of the offences most commonly dealt with in each jurisdiction⁴⁵, the only other increases to maximum penalties since the late 1980s have been for sexual offences and escape. In 1991, the maximum sentence available for escape was increased from seven to ten years⁴⁶, and there was a substantial restructuring in 1989 of the sexual assault provisions in the *Crimes Act 1900* (NSW).⁴⁷ The maximum sentence for sexual intercourse without consent increased from eight to 14 years penal servitude, and for aggravated sexual intercourse without consent the sentence has increased from between ten and 14 years to a maximum of 20 years penal servitude. These increases in maximum penalties may well explain the changing composition of offenders in the prison population, described above.⁴⁸

Structure of sentences

The *Sentencing Act 1989* not only abolished remissions, but also required that all total sentences of six months or less were to be fixed prison terms. In relation to longer sentences, unless there was a finding of “special circumstances”, any additional term imposed was not to exceed one third of the minimum term. This so called “one third rule” echoed s 20A of the *Probation and Parole Act 1963*, a provision inserted in 1987 which directed that the non-parole period be at least 75% of the head sentence for “serious offences” unless it was determined that the circumstances justified a lower proportion.⁴⁹ Allowing for the delayed nature of any effect from this change in practice, the 1987 amendment could have contributed to the increases in the prison population seen in 1989-1990 and 1990-1991.

In a report released by the Department of Corrective Services, Gorta and Eyland found that in the six months following the commencement of the *Sentencing Act*, the average potential period spent under community supervision was drastically decreased, both in terms of days (from 799 to 205 days), and as a ratio of the minimum time to be spent in custody (from 2.4 to 0.4).⁵⁰ The proportion of prisoners who spend time under community supervision also dropped, from 56% to 32%.⁵¹

44 See the *Crimes (Threats and Stalking) Amendment Act 1994* (NSW), the *Crimes (Dangerous Driving Offences) Amendment Act 1994* (NSW), and the *Crimes (Home Invasion) Amendment Act 1994* (NSW).

45 I MacKinnell, “Common Offences in the Local Court” (1994) 5 *Sentencing Trends* 1; V Roby, “Common Offences in the Higher Courts” (1994) 6 *Sentencing Trends* 1.

46 See the *Prisons (Escape) Amendment Act 1991* (NSW).

47 See the *Crimes (Amendment) Act 1989* (NSW).

48 “Escape” is classified as an “offence against good order”. The proportion of prisoners held for sexual offences and escape increased between the late 1980s and the mid-1990s; see Table in Appendix. See also Figure 11, on the number of prisoners held for escape.

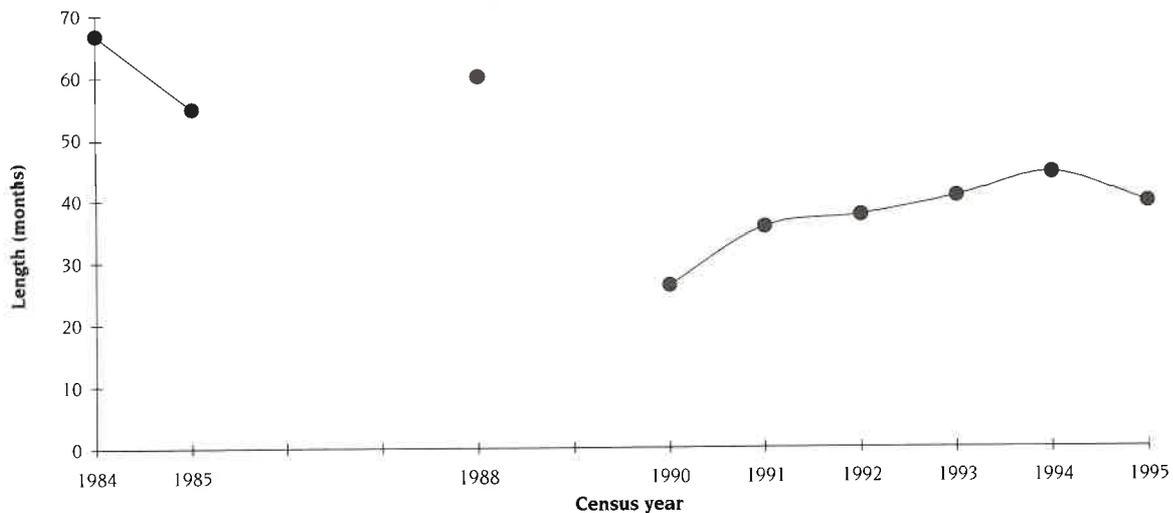
49 The list of “serious offences” included homicides, attempted murder, wounding with intent, abduction and kidnapping, robbery, sexual assault, and the cultivation, manufacture or supply of drugs: *Probation and Parole (Serious Offences) Amendment Act 1987* (NSW).

However a study of cases finalised in 1992 in which minimum/additional terms were imposed found that “special circumstances” were found to justify “longer than one third” additional terms in 47% of cases in the higher courts, and 17% of cases in Local Courts.⁵² Given that 63.6% of the full time prisoners in custody on 30 June 1995 had been sentenced in the higher courts⁵³, approximately 35% of prisoners with additional terms have the potential to serve more than one quarter of their sentence on parole.

Length of sentences

According to figures collated by the Department of Corrective Services, the median sentence length of those prisoners held as at 30 June each year has been shorter in the 1990s than it was in the 1980s. Since 1990 the figure rose from 26.2 months to a high in 1994 of 44.3 months, before dropping again in 1995 to 39.5 months. The peak on 30 June 1994 may be explained by the moratorium on fine defaulters for the three months immediately preceding the census: there were only 18 prisoners serving periods of one month or less as at 30 June 1994, compared to an average number of 72.8 prisoners over the remaining years between 1990 and 1995.

Figure 10
Median Sentence Length for Prisoners in Custody at 30 June



Source — New South Wales Department of Corrective Services

50 Gorta and Eyland op cit pp 19-21.

51 ibid p 16.

52 I MacKinnell, D Spears and R Takach, “Special Circumstances” Under the Sentencing Act 1989 (NSW), 1993, Judicial Commission of New South Wales, Sydney, p 3.

53 S Eyland, *New South Wales Inmate Census 1995: Summary of Characteristics*, Statistical Publication No 10, 1995, New South Wales Department of Corrective Services.

If the median sentence length is calculated each year for all prisoners (rather than just the new entries to the system), then the statistics will inevitably reflect previous sentencing regimes, as well as extraneous factors such as the presence of fine defaulters. To determine whether the growth in the prison population since the *Sentencing Act* may be due to an increase in sentence length, one must examine court sentencing data. (The issue of whether, through the abolition of remissions, "real" time spent in custody has increased is examined as a separate issue below.) Unfortunately, court sentencing data was not collected between 1984 and 1987. The Sentencing Information System currently holds data for the period 1990-1995.

The length of sentences imposed in the Local Courts has not varied greatly since 1990; the median minimum/fixed term imposed between July 1990 and June 1995 remained between 3 months 2 days and 3 months 12 days throughout this period. A figure of 84.4% of those sentenced to full time custody in the Local Courts between July 1990 and June 1995 received sentences with a minimum/fixed term of six months or less.⁵⁴

In the higher courts, the median aggregate non-parole period (including the effects of cumulative minimum terms) over 1990-1995 was 18 months 16 days. This figure was lowest in 1994-1995 (18 months 7 days), and highest in 1991-1992 (18 months 21 days), but again, there has been no significant change in sentencing practices since the 1990-1991 financial year. A figure of 81.3% of those sentenced to full time custody in the higher courts between 1990 and 1995 received an aggregate non-parole period of three years or less. Almost 40% were given an aggregate non-parole period of one year or less.

Appeals against conviction and/or sentence

The number of appeals disposed of by the Court of Criminal Appeal increased by 46% between 1990 and 1994, from 662 to 965 cases per year.⁵⁵ However not all these appeals were against conviction or sentence, and many were abandoned or disposed of summarily. In 1994, for example, only 601 of the 965 cases dealt with were finalised cases involving conviction and/or sentence appeals.⁵⁶ Of those 601 appeals, only 228 were successful. Thirty nine of the 228 were Crown appeals against the inadequacy of sentence. Thus in 1994, in only 39 cases were there persons whose sentences were increased by the Court of Criminal Appeal, and not all those persons were necessarily sentenced to full time custody. The remaining 189 cases involved persons whose convictions were quashed or whose sentences were reduced.

54 These figures do not take into account the effect of cumulative sentences, which only occur in 3.2% of cases in the Local Court.

55 Supreme Court of New South Wales, *Annual Review 1994*, p 44.

56 *ibid* p 45.

Releasing practice

In 1988, and the first nine months of 1989, control over the release of prisoners on parole was vested in the Parole Board. The proportion of applicants for parole who were successful was 83% in 1988 and 82% in 1989. Since 25 September 1989, the Offenders Review Board has been responsible for considering the release on parole of those prisoners whose total sentence exceeds three years. The proportion of prisoners released on parole declined between late 1989 and 1993, from 82% to 74%, and rose again in 1994 to 80%.⁵⁷

Escapes/deaths in custody

The number of escapes from full time custody has dropped in recent years, as has the *rate* of escape (measured per 100 offender years). Since 1977-1978 there have been 2,360 escapes in total. The period 1979-1980 had the highest number of escapes (210) as well as the highest rate (5.7%). The rate of escape has remained below the average of 3.2% since 1988-1989.⁵⁸ Figures indicating the number of escapees recaptured are unavailable. Deaths in custody since 1980-1981 have totalled 187.⁵⁹

Additional time as punishment

The number of people having their parole orders revoked by the Offenders Review Board each year peaked in 1990, declined until 1992 and has since risen again.⁶⁰ The percentage of prisoners in custody as at 30 June each year, solely by virtue of breaching their parole or licence conditions or because of an escape, dropped from 17.4% in 1984 to 9.8% in 1992, and has since increased slowly to 12.4% in 1995. See Figure 11.⁶¹

57 Offenders Review Board, *Report of the Offenders Review Board for the period 1 January 1994 - 31 December 1994*, 1995, p 8.

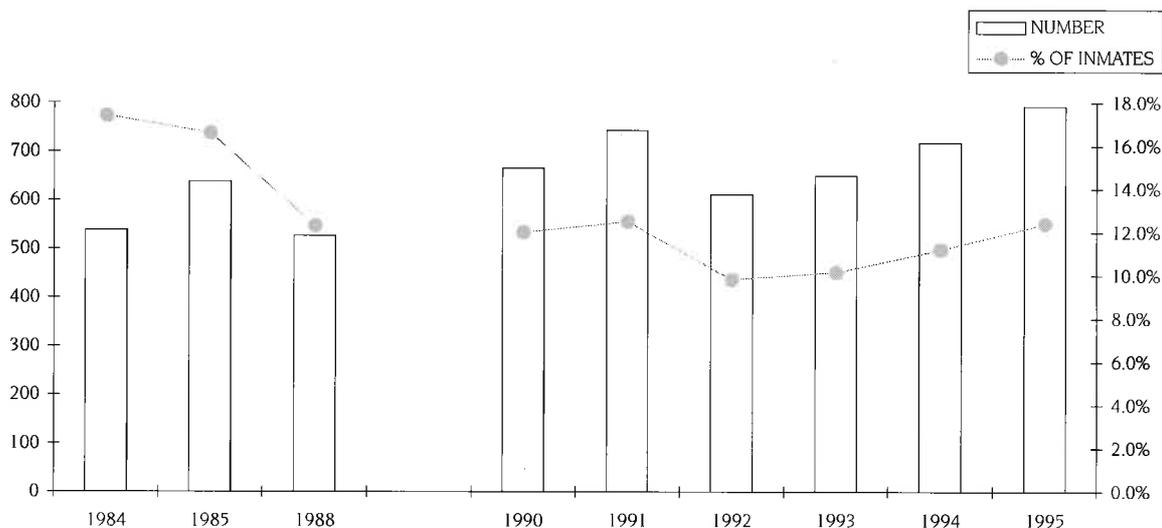
58 New South Wales Department of Corrective Services, *Statistical Supplement to the Annual Report 1993-1994*, p 15.

59 *ibid* p 21.

60 1988: 392 persons, 1989: 474, 1990: 709, 1991: 430, 1992: 405, 1993: 476, 1994: 522.

61 Eyland, 1995; S Eyland, *New South Wales Prison Census 1992: Summary of Characteristics*, 1992, Research and Statistics, New South Wales Department of Corrective Services; S Eyland, *New South Wales Prisoners 30 June 1984*, No 3, 1989, New South Wales Department of Corrective Services.

Figure 11
Prisoners in Custody following Breach of Parole or Escape from Custody — NSW



Source — New South Wales Department of Corrective Services

Abolition of remissions

In the absence of any legislative imprimatur to take into account the abolition of remissions in New South Wales, one may have expected an increase in the actual time spent in custody by each prisoner. Indeed Potas has asserted that “the *Sentencing Act*, as translated into practice, has meant that ‘real time’ served for those sentenced to imprisonment has increased.”⁶²

The New South Wales Department of Corrective Services has studied two groups of prisoners: those discharged from custody before the 1989 Act, and those received into prison after the Act came into force (excluding fine defaulters, Commonwealth prisoners and others to whom the *Sentencing Act* did not apply). The latter group was found to have an average *minimum* sentence length of 294 days. This was 20.5% longer than the average “real time” spent in gaol by the former group.⁶³ Based on this sample, they predicted an increase in the daily average sentenced prison population of between 525 and 831 prisoners by 1999, with the rate of increase peaking in March 1991, and the population beginning to plateau in late 1994.⁶⁴ In fact the prison population has increased to an even greater degree: see Figure 1.

62 Potas op cit p 318.

63 Gorta and Eyland op cit p 13.

64 The higher estimate was based on the (highly unlikely) scenario that all prisoners with sentences greater than three years in length would be forced to serve their entire additional term in custody. Thus this figure was considered an extreme estimate: Gorta and Eyland op cit pp 13-14, 49.

Length of stay — conclusion

The average length of sentences imposed by the courts has not changed significantly since 1990 (data is unavailable before this time). This belies any effect on the average time spent in custody of any increases in the number of people making early guilty pleas, the changing composition of offences, or changes in sentencing practice in line with increased maximum penalties for certain offences. Nevertheless, the length of “real time” spent in custody has increased since the late 1980s. Possible explanations for this centre around politicising the practice of releasing prisoners on parole. Between 1988 and 1993 a decreasing proportion of prisoners who applied for parole were released by the Parole Board/Offenders Review Board. In 1987 the non-parole period for “serious offences” was increased, and in 1989 the scheme by which remissions were granted for good behaviour was abolished. All else being equal, the net effect of these changes would be to increase the average “real time” that prisoners spent in gaol. The Department of Corrective Services predicted that, as a result, the prison population would rise sharply.

The Judiciary

Cullinan has suggested that, as a result of the *Sentencing Act*, “A considerable onus has been placed on the judiciary to reduce head sentences so that a sudden increase in sentences does not lead to overcrowding.”⁶⁵ However Cullinan notes that judicial officers are prevented by the Act from taking into account the absence of remissions when sentencing offenders.⁶⁶

Appellate courts have held that judicial officers cannot take the loss of remissions into account when sentencing.⁶⁷ The Court of Criminal Appeal has said that prior to the *Sentencing Act*, “neither in relation to head sentences nor in relation to non-parole periods were sentencing judges to increase terms to negative the effect of remissions that would be applied to them.”⁶⁸ In reference to the comments made in parliament about the government not intending to cause increased sentences through the abolition of the remissions scheme, the Court of Criminal Appeal has stated that “our task is to construe the Act of parliament, not the Minister’s speech”⁶⁹.

65 Cullinan op cit p 63.

66 *ibid.*

67 “By the time the *Sentencing Act* was passed, it was well settled as a matter of principle that the existence of such a remission system was not of itself a circumstance justifying an increase in the sentence imposed so as to counter the effect of any remissions which may be granted: *Paivinen* (1985) 158 CLR 489 at 494-495; 15 A Crim R 50 at 53-54; *Hoare* at 353-355; *Malvaso* (1989) 64 ALJR 44; and *Carbone* (1989) 64 ALJR 51. As the High Court said in the second of those cases, the main considerations justifying that principle were that the prisoner had no right to and no guarantee of remissions and that it could not be assumed that the law relating to remissions would remain the same for the duration of the sentence”: *R v Maclay* (1990) 46 A Crim R 340 at 344, *per curiam*.

68 *R v Maclay* (1990) 46 A Crim R 340 at 348, *per curiam*.

One academic commentator, Janet Chan, has suggested that since the passage of the Act, “some sentencers have adjusted, and others have not, either consciously or subconsciously.”⁷⁰ Figures from Corrective Services appear to confirm Chan’s view: the average *aggregate* sentence (the minimum plus additional term) imposed in the six months following the commencement of the *Sentencing Act* was shorter (360 days) than the average “head” sentence imposed prior to the change in legislation (738 days).⁷¹ Furthermore, the terms imposed within the first six months of the Act’s operation appeared to be following a pattern of decreasing length.⁷²

In contrast to the New South Wales legislation, s 10(1) of the *Sentencing Act* 1991 (Vic) specifically directed judicial officers to reduce sentences to account for the loss of remissions: this specific wording was designed to avoid the “unhappy experience” of the “explosion of the prison population” in New South Wales as a result of the abolition of remissions.⁷³ Nevertheless, it appears that judicial officers in Victoria did not change their sentencing practices: the abolition of remissions caused a substantial increase in the average “real time” served in gaol.⁷⁴ Freiberg and Ross suggest that at the same time the *Sentencing Act* 1991 (Vic) was directing judicial officers to reduce sentences to take into account the loss of remissions, “social and political pressures” may also have been at work to encourage more severe sentencing of those convicted of serious crimes.⁷⁵

Discussion

Between 1988-1989 and 1993-1994, the daily average population of full time prisoners in New South Wales rose by 47.4% — somewhat less than the 60% increase suggested by some commentators. The prison population was already growing steadily at the time the *Sentencing Act* commenced. Thus the relationship between the introduction of “truth in sentencing” legislation and the size of the prison population is not the simple case of cause and effect that it is often portrayed to be.

The size of a prison population at any one time is a function of both the rate at which people enter prison, and the time they spend there. From the figures available, it appears that when seasonal fluctuations, and the impact of fine defaulters on reception numbers are taken into account, the number of people entering gaol has remained relatively static since the late 1980s. Thus the rise in the

69 *ibid* at p 353, *per curiam*.

70 J Chan, “Contemporary Comment: Dangers and Opportunities in the Sentencing Crisis” (1992) 3 (3) *Current Issues in Criminal Justice* 349 at p 349.

71 Gorta and Eyland *op cit* p 16.

72 *ibid* pp 14-16.

73 The then Attorney General, Mr Kennan, speaking in parliament at the second reading of the Act: *Victorian Hansard Parliamentary Debates*, Legislative Assembly, 19 March 1991, p 336.

74 Freiberg and Ross *op cit* p 130.

75 *ibid* p 131.

prison population cannot be accounted for by increases in crimes committed, arrests, or numbers processed through the courts. The implication, therefore, is that prisoners now spend more “real time” in custody than they did in the 1980s.

The length of time spent in custody is not a strict function of the sentence imposed by the court, although the abolition of remissions has ensured that the length of sentences imposed by the courts more closely matches the time served. Nevertheless, other factors affecting the length of time a prisoner will spend in custody may include the length of time spent on remand, extensions of time for misconduct, breaches of parole or escapes committed while serving a sentence, and, for total sentences greater than three years, the discretionary decision whether or not to release at the end of the minimum term. It is therefore important to distinguish between the “sentence” imposed by a court, and the “real time” spent by a prisoner in custody.

As seen above, many factors could have led to increases in the average “real time” each prisoner spends in full time custody. The most commonly cited factor is the abolition of remissions in 1989, without any corresponding reduction in the maximum penalties available for each offence. However another aspect of the *Sentencing Act* — the fixing of terms of less than six months — could also have caused an increase in the average “real time” spent in gaol. Even before the *Sentencing Act* was proposed, “law and order” had become a volatile political issue. Public pressure at the time may also have contributed to the peak in the numbers of parole orders revoked in 1990, and to the increasing proportion of prisoners whose applications for parole were refused.

At the same time as these factors were operating to increase the average length of “real time” spent in custody, other influences would have been operating to reduce it. These included a shortening of the average time spent on remand because of reduced court delay (affecting the time spent in custody for those who were not subsequently sentenced to full time imprisonment), and the reduced number of people having their sentences extended as a result of escapes or breaches of parole/licence.

Other factors considered within this report can be seen to have had a negligible impact upon the size of the prison population, including deaths in custody and appeals against conviction or sentence. When the daily average population is considered rather than sentenced receptions, the effect of fine defaulters on the prison population can also be seen to be minimal.

Thus the effect of the *Sentencing Act* on the prison population can be considered one aspect of a general pattern of policies which aimed to increase the time spent by “serious” offenders in gaol. Although the abolition of remissions caused the average “real time” spent by prisoners in custody to increase, it is certainly not the only factor behind the increases in the prison population over the last ten years.

Appendix

Table 1
Most serious type of offence for sentenced prisoners held as at 30 June each year

Year	% Homicide	% Robbery	% Assault	% Sexual	% Property	% Drug	% Traffic	% Order	TOTAL
1984	9.6	19.0	8.1	6.3	35.7	10.1	8.6	2.6	2722
1985	8.6	18.9	6.8	5.9	35.3	12.7	8.5	3.2	3339
1986	8.5	19.2	5.6	6.9	34.7	14.1	8.0	3.0	3478
1987	8.3	15.2	7.5	6.2	36.0	14.6	9.0	3.2	3702
1988	8.6	15.2	8.9	6.1	36.5	13.8	7.8	3.2	3712
1989	8.0	11.9	10.0	6.8	39.5	11.2	7.4	5.3	4174
1990	7.1	11.1	10.4	7.6	36.5	10.4	10.6	6.4	4983
1991	6.4	11.2	11.3	7.6	35.9	9.5	10.4	7.7	5651
1992	6.5	11.8	10.5	8.2	33.8	10.9	9.9	8.4	6056
1993	6.5	13.3	10.2	8.4	31.2	12.6	8.5	9.3	6161
1994	6.1	14.3	10.8	9.7	30.0	13.9	6.6	8.7	6353

Source — New South Wales Department of Corrective Services

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