



The impact of abolishing short prison sentences

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The NSW Parliament's Select Committee on the Increase in Prisoner Population recommended that prison sentences of six months or less be abolished. It is estimated that, if all those who currently receive sentences of six months or less were instead given non-custodial penalties, the number of new prisoners received in NSW prisons would drop from about 150 per week to about 90 per week, the NSW prison population would be reduced by about 10 per cent, and there would be savings of between \$33 million and \$47 million per year in the recurrent cost of housing prisoners. About 10 per cent of those currently serving sentences of six months or less are female and about 20 per cent are Aboriginal or Torres Strait Islanders. For more than 90 per cent of prisoners serving sentences of six months or less the most serious offence is a theft offence, a breach of justice orders, an assault or a driving/traffic offence.

INTRODUCTION

Between 1996 and 2001 the NSW prison population grew by 19 per cent from an average daily inmate population of 6,288 in 1996, to 7,490 in 2001.

In its November 2001 report the NSW Parliament's Select Committee on the Increase in Prisoner Population recommended that sentences of six months or less be abolished.² Consequently the Bureau of Crime Statistics and Research was asked to estimate the impact on the prison population of abolishing these short sentences. This bulletin has been written in response to that request. It estimates the change in the prisoner population and provides a profile of the prisoners who would be affected, in terms of gender, Aboriginality and offence. It also provides an estimate of the expected savings in the recurrent costs of prison accommodation.

There are two factors which affect the size of a prison population: the numbers of persons given prison sentences and the duration of those prison sentences. For example, a person given a 10-year prison sentence will contribute to the prison population for each of the 10 years after sentencing. On the other hand a person given a three-month prison sentence only contributes to the prison population for a quarter of one year. If there are four persons, each sentenced to three months in prison, and if each person starts his or her sentence just as one of the others finishes his or her sentence (i.e. the sentences are spread over the year) it can be seen that these four persons entering the prison system only contribute a count of *one* to the prison population over the full year.

It is clear then that to estimate the impact of abolishing short prison sentences on the prison population we need to examine the stock of prisoners rather

than the flow of persons into prison. In this bulletin we concentrate mainly on stock data to assess the impact on the prison population and to describe the characteristics of prisoners serving sentences of six months or less. However we also briefly examine the flow of prisoners into prison, that is, how many persons are given short prison sentences, and use this information to estimate cost savings.

We begin with a description of the characteristics of prisoners serving sentences of six months or less, then provide estimates of the impact on the prison population of abolishing such sentences. We then examine prisoner reception data to assess the impact on new prisoner receptions and to estimate cost savings.

It should be noted that throughout the bulletin it is assumed that those who are currently sentenced to a prison term of

six months or less would instead be given non-custodial penalties, if such sentences were abolished.

CHARACTERISTICS OF PRISONERS SERVING SENTENCES OF SIX MONTHS OR LESS

Each year the NSW Department of Corrective Services undertakes a census of prisoners on 30 June, as part of the National Prison Census. At midnight on 30 June 2001 there were 7,735 full-time inmates in custody in NSW prisons.³ About 80 per cent of these prisoners were sentenced prisoners and the remaining 20 per cent were unsentenced, that is, remand prisoners awaiting court hearings.

Out of the total 7,735 prisoners, 716 were prisoners serving sentences of six months or less. However 4 of these 716 prisoners were either serving a sentence for a federal offence or were sentenced by an ACT court. Hence the total number of persons affected by abolishing sentences of six months or less is 712, or 9 per cent of the total prison population.

Similarly for the 2000 prison census, there were 7,330 full-time inmates on the night of 30 June 2000, of whom 750 (10%) were serving sentences of six months or less (again excluding ACT prisoners and those sentenced for a federal offence).

GENDER AND ABORIGINALITY

Tables 1 and 2 show the gender and Aboriginality breakdowns for the 2001 and 2000 prison census data, respectively.

It can be seen from Tables 1 and 2 that about 20 per cent of those serving short prison sentences are Aboriginal or Torres Strait Islanders. The percentage for females is higher than that for males – more than a quarter of the female prisoners serving short sentences are Indigenous Australians. Most of the short-term prisoners are male. Females account for about 10 per cent of all prisoners serving short sentences (9% in 2001; 11% in 2000).

Table 1: Prisoners serving sentences of six months or less at 30 June 2001, by gender and Aboriginality

| Aboriginality | Male | | Female | | Total | |
|----------------|------------|--------------|-----------|--------------|------------|--------------|
| | No. | % | No. | % | No. | % |
| Indigenous | 129 | 20.0 | 18 | 27.3 | 147 | 20.6 |
| Non-Indigenous | 512 | 79.3 | 48 | 72.7 | 560 | 78.7 |
| Unknown | 5 | 0.8 | 0 | 0.0 | 5 | 0.7 |
| Total | 646 | 100.0 | 66 | 100.0 | 712 | 100.0 |

Table 2: Prisoners serving sentences of six months or less at 30 June 2000, by gender and Aboriginality

| Aboriginality | Male | | Female | | Total | |
|----------------|------------|--------------|-----------|--------------|------------|--------------|
| | No. | % | No. | % | No. | % |
| Indigenous | 149 | 22.2 | 21 | 26.3 | 170 | 22.7 |
| Non-Indigenous | 517 | 77.2 | 59 | 73.8 | 576 | 76.8 |
| Unknown | 4 | 0.6 | 0 | 0.0 | 4 | 0.5 |
| Total | 670 | 100.0 | 80 | 100.0 | 750 | 100.0 |

Table 3: Prisoners serving sentences of six months or less at 30 June 2001 and at 30 June 2000, by most serious offence

| Most serious offence | 2001 | | 2000 | |
|-------------------------------|------------|--------------|------------|--------------|
| | No. | % | No. | % |
| Assault | 124 | 17.4 | 147 | 19.6 |
| Sex offences | 5 | 0.7 | 8 | 1.1 |
| Robbery (including extortion) | 11 | 1.5 | 2 | 0.3 |
| Fraud | 26 | 3.7 | 33 | 4.4 |
| Break and enter | 79 | 11.1 | 74 | 9.9 |
| Steal motor vehicle | 60 | 8.4 | 31 | 4.1 |
| Steal from person | 1 | 0.1 | 5 | 0.7 |
| Other stealing | 59 | 8.3 | 56 | 7.5 |
| Goods in custody / receiving | 54 | 7.6 | 63 | 8.4 |
| Arson | 1 | 0.1 | 0 | 0.0 |
| Malicious damage to property | 7 | 1.0 | 12 | 1.6 |
| Driving / traffic | 110 | 15.4 | 95 | 12.7 |
| Drug offences | 16 | 2.2 | 17 | 2.3 |
| Breaches of justice orders | 140 | 19.7 | 184 | 24.5 |
| Other offences against order | 12 | 1.7 | 17 | 2.3 |
| Other | 7 | 1.0 | 6 | 0.8 |
| Total | 712 | 100.0 | 750 | 100.0 |

OFFENCE TYPE

Table 3 shows the most serious offence for the prisoners serving sentences of six months or less, for both the 2001 and 2000 prison censuses.⁴

Theft offences (excluding robbery) accounted for 39 per cent of the short-term prisoners at the 2001 census and 35 per cent of those at the 2000 census. Breaches of orders were the next most frequent offence type, followed by assault and driving/traffic offences. Together these offence types (theft offences, breaches of orders, assault and driving/traffic offences) accounted for more than 90 per cent of the offence types for which short-term prisoners were serving sentences.

The data in Table 3 are for all prisoners regardless of gender or Aboriginality. There may be differences in offence profile for males and females, and for Indigenous and non-Indigenous prisoners. Offence profiles by gender and Aboriginality, for the 2001 prison census, are shown respectively in Figures 1 and 2.

Figure 1 shows gender and most serious offence for short-term prisoners in the 2001 prison census. For the purposes of this figure the number of offence categories has been reduced. The offence types of 'fraud', 'break and enter', 'steal motor vehicle', 'steal from person', 'other stealing' and 'goods in custody / receiving' are aggregated into a single category of 'theft'. In addition, because they had small frequencies, the offence types 'sex offences', 'robbery', 'arson', 'malicious damage to property' and 'other offences against order' are included with all other unspecified offence types in the 'other' category.

The main differences in the offence profiles of male and female prisoners, serving sentences of six months or less, are that there are relatively more males serving sentences for assault and driving/traffic offences whereas there are relatively more females serving sentences for theft offences. More than 50 per cent of female prisoners serving sentences of six months or less had a theft offence as their most serious offence.

Figure 2 shows Aboriginality and most serious offence for short-term prisoners in the 2001 prison census. As for Figure 1, the offence categories have been

Figure 1: Gender and most serious offence for prisoners serving sentences of six months or less at 30 June 2001

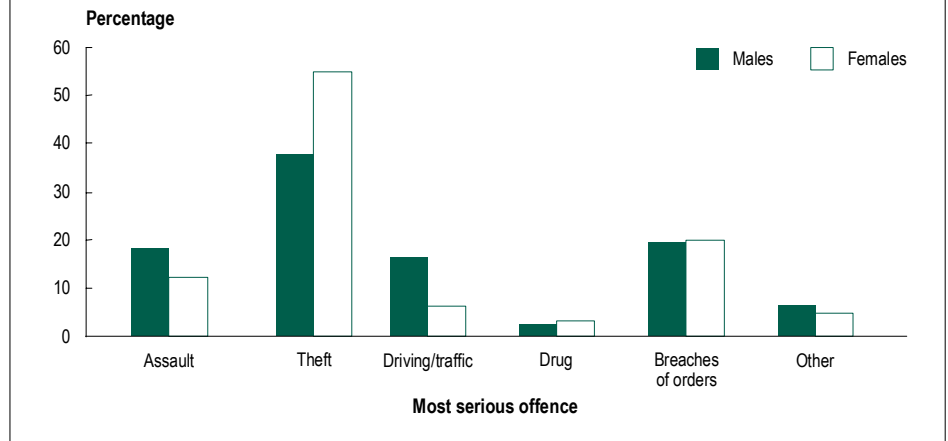
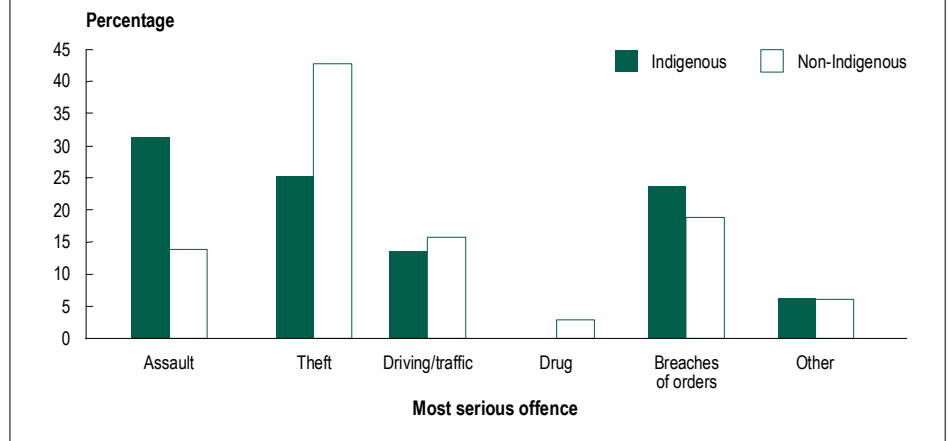


Figure 2: Aboriginality and most serious offence for prisoners serving sentences of six months or less at 30 June 2001



reduced by aggregating all theft offences into one category and including low-frequency offence types in the 'other' category. The five prisoners of unknown Aboriginality have been excluded from Figure 2.

It is clear from Figure 2 that there are differences in offence profile for Indigenous and non-Indigenous prisoners serving short sentences. Theft is the most frequent offence type for the non-Indigenous prisoners whereas assault is the most frequent offence type for the Indigenous prisoners. Theft offences accounted for 43 per cent of the non-Indigenous prisoners whereas they only accounted for 25 per cent of Indigenous prisoners.

On the other hand, assault accounted for 31 per cent of Indigenous prisoners but only 14 per cent of non-Indigenous prisoners. There were also relatively more Indigenous prisoners with breaches of justice orders as their most serious offence.

ESTIMATED CHANGES IN THE PRISON POPULATION

Table 4 presents a summary of the numbers of short-term prisoners and total prisoners, by gender and Aboriginality, for both the 2001 and 2000 prison censuses.

From Table 4 we can see that if sentences of six months or less were abolished, the total prison population would be reduced by about 10 per cent. Averaging over the percentages for the 2001 and 2000 prison censuses we can also see that the male prisoner population would be reduced by about 9 per cent, the female prisoner population by about 15 per cent (between 13% and 18%), and the Indigenous prisoner population by about 13 per cent (between 12% and 15%).

ESTIMATED CHANGES IN THE FLOW OF PRISONERS INTO PRISON

Not only would there be an impact on the prison population, if sentences of six months or less were abolished, there would also be a reduced workload for prisons in processing new prisoners received into prisons.

In the twelve months ended 30 June 2001 there were 8,646 persons sentenced to prison by NSW adult criminal courts. Of this total, 5,578 (65%) received sentences of six months or less. Not all of these persons sentenced to prison would have become new prisoner receptions in 2001 because some would already have been in custody serving sentences for previous offences. In fact there were only 7,842 new prisoners received in NSW prisons in the twelve months ended 30 June 2001. About 40 per cent (3,118 prisoners) were starting to serve a sentence of six months or less.

From these data it can be seen that abolishing sentences of six months or less would clearly have a substantial impact in terms of the flow of people into prison. The workload for NSW prisons in processing incoming prisoners would reduce by about 40 per cent from about 150 prisoners per week to about 90 prisoners per week.

COSTS

For the 2000-2001 financial year the Department of Corrective Services determined that the daily cost of housing a prisoner was \$182.59 for maximum

Table 4: Gender and Aboriginality of total prison population and of population of prisoners serving sentences of six months or less, at 30 June 2001 and 30 June 2000

| | <i>Total prison population</i> | <i>Short-term prisoners</i> | <i>Short-term as % of total</i> |
|--------------------|--------------------------------|-----------------------------|---------------------------------|
| 2001 census | | | |
| Male | 7,220 | 646 | 8.9 |
| Female | 515 | 66 | 12.8 |
| Indigenous | 1,244 | 147 | 11.8 |
| Non-Indigenous | 6,430 | 560 | 8.7 |
| Unknown | 61 | 5 | 8.2 |
| Total | 7,735 | 712 | 9.2 |
| 2000 census | | | |
| Male | 6,876 | 670 | 9.7 |
| Female | 454 | 80 | 17.6 |
| Indigenous | 1,166 | 170 | 14.6 |
| Non-Indigenous | 6,135 | 576 | 9.4 |
| Unknown | 29 | 4 | 13.8 |
| Total | 7,330 | 750 | 10.2 |

security, \$160.06 for medium security and \$144.67 for minimum security. At the time of the 2001 prison census, 18 per cent of the prisoners serving sentences of six months or less were being housed in maximum security prisons, 18 per cent in medium security prisons and 64 per cent in minimum security prisons. Applying these proportions to the costs per day for each level of security we estimate that the average cost per day of housing a prisoner serving a sentence of six months or less is \$154.27.

To estimate the total savings in recurrent costs if sentences of six months or less were abolished we need estimates of both the numbers of prisoners arriving in prison to serve these short sentences and their actual length of stay in prison. Hence we need to use the prisoner reception data for this exercise. We have already noted that in the year to 30 June 2001 there were 3,118 persons who entered NSW prisons to start serving a prison sentence of six months or less. The time they actually served in prison as sentenced prisoners (i.e. excluding any time spent on remand) is shown in Table 5. The table shows a frequency distribution for the length of time actually

served, in one-month intervals. Cost estimates are calculated using both the minimum and maximum number of days in each interval and are also shown in Table 5. For example, a person who served between three and four months may have stayed as few as 92 days or as many as 122 days. A cost estimate is calculated for each of these extremes. As can be seen from the totals in Table 5, the estimated savings in recurrent costs range between \$33 million and \$47 million.

There is one further point which should be made. Many prisoners are remanded in custody prior to sentencing. Of the 3,118 persons starting a sentence of six months or less in the year to 30 June 2001, there were 1,086 (35%) who were on remand when received as sentenced prisoners. If prison sentences of six months or less were abolished it is not known whether any of the persons likely to attract these short sentences would still be remanded in custody or not. Our cost savings estimates relate only to the time actually served in prison. If fewer offenders were remanded in custody as a result of abolishing short sentences,

Table 5: Estimated costs of prison accommodation for prisoners serving sentences of six months or less, based on prisoner receptions in the year ended 30 June 2001

| <i>Time served</i> | <i>No. of persons</i> | <i>Minimum stay (days)</i> | <i>Maximum stay (days)</i> | <i>Minimum estimated cost</i> | <i>Maximum estimated cost</i> |
|---------------------------|-----------------------|----------------------------|----------------------------|-------------------------------|-------------------------------|
| 1 - 30 days (to 1mth) | 818 | 1 | 30 | \$126,000 | \$3,786,000 |
| 31 - 61 days (1 - 2mth) | 433 | 31 | 61 | \$2,071,000 | \$4,075,000 |
| 62 - 91 days (2 - 3mth) | 618 | 62 | 91 | \$5,911,000 | \$8,676,000 |
| 92 - 122 days (3 - 4mth) | 427 | 92 | 122 | \$6,060,000 | \$8,037,000 |
| 123 - 152 days (4 - 5mth) | 209 | 123 | 152 | \$3,966,000 | \$4,901,000 |
| 153 - 183 days (5 - 6mth) | 613 | 153 | 183 | \$14,469,000 | \$17,306,000 |
| Total | 3,118 | | | \$32,603,000 | \$46,781,000 |

Note: The cost estimates are shown to the nearest \$1,000.

there would be additional savings associated with a reduction in the remand population.

LIMITATIONS OF THE ANALYSIS

There are two limitations of our analysis which could affect the estimates of the impact on the prison population and on costs. First, we have assumed that a statutory prohibition on sentences of six months or less would result in the removal from prison of all persons serving this kind of sentence. It is possible, however, that sentencing courts would react to a statutory prohibition on sentences of six months or less by imposing longer sentences on some of those whom they would previously have given a sentence of six months or less. If this were to occur the estimates provided in this bulletin would over-state the reduction in prisoners and prison costs.

The second limitation is that, to estimate the prison population changes and the cost savings, we have used data relating to prisoners spending *no more than* six months in prison. Some of those who are sentenced to prison are already in prison, serving a sentence for a previous offence, when sentenced for the new offence. Therefore there may be some prisoners whose total stay in prison exceeds six months as a result of serving one or more sentences sequentially, at least one of which is a sentence of six months or less. Because we were

unable to identify such prisoners, they are not included in the analysis. Hence there could be additional reductions in both the prison population and in the costs, as a result of these offenders serving less time in prison. However, it is also possible that for these recidivist offenders, the courts would impose a sentence of more than six months for any additional offences. In these circumstances our estimates would over-state the reduction in prisoners and prison costs.

SUMMARY

If we assume that prison sentences of six months or less are abolished, and that all those currently sentenced to terms of six months or less are instead given non-custodial penalties, then the impact on NSW prisons is estimated to be as follows:

- the number of new prisoners received into NSW prisons would drop from 150 prisoners per week to 90 prisoners per week;
- the NSW prison population would be reduced by about 10 per cent;
- there would be savings of between \$33 million and \$47 million per year in the recurrent costs of housing prisoners.

The characteristics of the prisoners who currently serve sentences of six months or less are as follows:

- about 10 per cent are female;
- about 20 per cent are Aboriginal or Torres Strait Islanders;
- the most serious offence for more than 90 per cent of the prisoners is a theft offence, a breach of justice orders, an assault or a driving/traffic offence;
- females are more likely than males to have a theft offence as their most serious offence and less likely than males to have assault or a driving/traffic offence as their most serious offence;
- compared with their non-Indigenous counterparts, Indigenous prisoners are more likely to have assault or a breach of justice orders, but less likely to have a theft offence, as their most serious offence.

NOTES

- 1 Simon Eyland is Director of the Research and Statistics Division of the NSW Department of Corrective Services.
- 2 NSW Parliament, Legislative Council, *Select Committee on the Increase in Prisoner Population, Final Report - November 2001* (J. Ryan, Chair), Parl. Paper 924, Sydney, 2001.
- 3 Full-time inmates exclude periodic detainees.
- 4 The most serious offence is defined as the offence for which the longest sentence was imposed.

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