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WA Government Getting Smarter about Sentencing

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In the last financial year, the imprisonment rate in Western Australia fell by 11%, while the Indigenous imprisonment rate decreased by 18%. Although Western Australia still has the second highest imprisonment rate after the Northern Territory, this decrease comes at a time when Victoria's Indigenous prison population has increased by 8%.¹

According to the ABS, the fall in WA's imprisonment rate was a result of the following factors: an increase in the acquittal and dismissal rates in courts, greater use by the courts of suspended imprisonment and community orders as penalties; shorter sentences; and a decrease in the breach rate for early release orders.²

Various people involved in the criminal justice system in Western Australia have expanded upon this, or suggested additional reasons for the decrease.

- *A decrease in the arrest rate*
It has been suggested that as well as there being less police on the ground, the Royal Commission into Allegations of Police Corruption have inculcated the police with a sense of caution. Consequently, there are fewer arrests.
- *Government philosophy on imprisonment*
Legislation is before the Upper House to make the minimum sentence 6 months. The same legislation will also give the Prison Supervisor 30 days early release discretion rather than the current 10 days. It seems that magistrates are pre-empting the legislative changes, as there has been an increase in the use of community orders and suspended sentences in 6 months from Jan-June 2002. Additionally, there is currently a government policy of not giving sentences of less than three months.
However, although the government is lightening up on minor offences, it seems that there is a propensity to give heavier sentences for more severe offences. There is some concern that Western Australia plans to increase its fines to a level more comparable with the Eastern States. Such changes would have a disproportion effect on the Indigenous population, and could lead to increased use of imprisonment for failure to pay fines.
- *Small decline in the number of people breaching community orders.*
Administrative changes have led to a greater tolerance of breaches, with people no longer being automatically imprisoned.
- *Increasing emphasis on juvenile bail facilities*
In an attempt to decrease juvenile (especially Indigenous) offenders having to come to Perth for detention, bail facilities are being implemented in various regions (details of where and when are not known.)

¹ Australian Bureau of Statistics, *Corrective Services*, No. 4512.0, June Quarter 2002

² Australian Bureau of Statistics, *Corrective Services*, No. 4512.0, June Quarter 2002, page 4

- *A number of people have been released from prison, thereby reducing prison numbers.*
- *Drug court*
The drug court was initiated 2 years ago. Although the trial period was due to lapse in December 2002, the drug court will continue to operate into the New Year. The court has been seen as successful in diverting non-violent and drug offenders from prisons.

Victorian Aboriginal Legal Service would like to thank Peter Noble from Fitzroy Legal Service for drawing their attention to the ABS statistics.