FRAMEWORK FOR CHANGE:
SECOND REPORT ON THE CRIMINAL JUSTICE SYSTEM
IN THE NORTHERN TERRITORY

Of the recommendations made in "Restructuring the Criminal Justice System in the Northern Territory", some can be implemented immediately, some within a short period of time, and others over an extended period of time. Some will be costly, some will be economical. Some will be popular, some will be controversial. Some will succeed, some will fail. In this report we will attempt to establish a schedule of priorities - a framework in which the proposed changes can be implemented.

1. Probation and Parole

The need for the establishment of a probation and parole service for the Northern Territory is urgent. Discussions with a wide variety of persons and organizations involved in the criminal justice system support this proposition.

A developing penal system cannot function effectively without the assessment and supervisory skills and services provided by a probation and parole service. Upon these skills and services depend the development of diverse custodial and non-custodial programmes for offenders. A probation service provides the courts not only with an alternative to imprisonment but with information vital to sentencing generally. In addition a probation and parole service carries out a number of general welfare functions especially for prisoners.

The Northern Territory has the highest prisoner/population ratio in Australia and it is essential that this be reduced. The reasons for this high ratio must be diverse but would include a general lack of social welfare services, a shortage of psychiatric facilities and staff and a lack of alternatives to imprisonment. A probation service will provide a sentencing alternative and also will inform courts so that some social problems can be dealt with in ways other than imprisonment. A parole service enables prisoners to be released under supervision before their normal release date and then endeavours to assist their
resettlement in the community so as to avoid a return to prison. These services will assist in the reduction of the prisoner/population ratio and hopefully will also act to stabilize it as to the moment there are wide fluctuations from year to year in this ratio in the Territory. We hope the early introduction of a probation and parole service will thus allow these effects to become evident in a few years time and thus assist in the rational planning of further developments in the criminal justice system especially in the planning of custodial accommodation.

For these reasons at least the highest priority must be given to the establishment of a probation and parole service for the Territory. An early investigation by a person with wide experience in probation and parole into the special problems of establishing the service is important. The size of the Territory, its cultural diversity and its special social problems will provide difficulties which require expert investigation. A recommendation will be made at the end of this section suggesting a suitable adviser. However some general remarks are appropriate in this report.

Qualifications of Probation and Parole Officers

It appears difficult to recruit and retain social workers in any work situation in the Northern Territory. It is considered that social work qualifications are not necessary for all probation and parole officers although recruitment of suitable social workers is highly desirable. Selection of persons with certain minimum educational qualifications and with suitable personal qualities and life experiences is satisfactory provided they are given in-service training and are encouraged to seek additional relevant education. The probation service in New South Wales has had satisfactory experience with this sort of programme. In-service training can be geared to deal with persons without tertiary qualifications and also for persons with either social work or other appropriate academic qualifications.

Attempts to recruit only social workers and so have a fully professional service will probably fail to get sufficient numbers and so fail to retain those recruited because of heavy case loads, poor job satisfaction and the attraction of career opportunities in other places. Initially of course it is an advantage to recruit
social workers and persons with practical experience in the area of probation and parole.

In-Service Training

Adequate in-service training is essential for efficiency and morale regardless of the entry qualifications of those recruited. It is not necessary in this report to discuss the varieties of in-service training. As the service becomes more established probation and parole personnel from the Territory and teachers from specialized areas who are working in the Territory will be able to carry out most of the in-service training requirements. Initially, at least, use will probably have to be made of personnel visiting from other States. It may also be possible for other States to provide some training experiences for people recruited for work in the Territory.

Discussions with the principal of the Darwin Community College indicates that the College could have a vital role in training probation and parole officers and probably other correctional staff. After in-service training officers could be encouraged to attend the Community Adviser's course which will be available at the College. Initial impressions are that the course will be relevant and will contain material of importance on local conditions and problems. It may be that all persons recruited without social work qualifications could be required to do this course, if it is as suitable as it would now appear, provided appropriate arrangements are made about teaching times and so forth. It thus appears that in-service training and follow up external study will be possible in Darwin and in a short while there should be little need to make use of lecturers from other States.

Discussions with the principal of the College there should be commenced in the very near future so that some initial ideas can be formulated before a special adviser on the establishment of the probation and parole service visits the Territory.

The Function of the Probation and Parole Service

As there is sometimes some misunderstanding about the functions of a probation and parole service it would seem wise to make some general remarks about these at this stage. Both probation and parole officers have assessment, reporting and supervisory duties. Parole officers in addition frequently work in a welfare officer role in the prison setting.
(i) Probation Service. Pre-sentence reports are supplied when requested by courts. The pre-sentence report is based on court information, interviews with the offender, relatives and other significant persons and whatever documentary evidence can be acquired. The report attempts to be objective and to provide corroborative material where possible. It is designed to assist the court with sentencing and it is important for a court to obtain such a report especially if probation supervision appears to be a likely way of dealing with the offender. It is frequently difficult for the probation service to deal adequately with an offender if they have not had the opportunity to assess him for sentencing.

Regardless of what department administers the probation service it is important that the service feels it has a special relationship and responsibility to the courts.

In some criminal justice systems pre-sentence reports are obligatory in certain cases and must be obtained by courts. For example, in other countries some young offenders and some first offenders over a certain age must have pre-sentence reports prepared.

The supervisory role of a probation officer varies in the way performed and may involve case work, very direct help and advice to the client or co-operation with other social welfare agencies. A flexible approach to the supervision of the offender is essential.

(ii) Parole Service. The assessment and reporting function of the service is not dissimilar to that of the probation service but the responsibility in this case to the Parole Board. Supervision of the offender is similar but with the added problems which the released prisoner frequently presents. In reporting to the Parole Board the parole service attempts to predict the behaviour and problems of the offender in the post-release period and to plan to deal with them. The service should have some responsibility in the planning of custodial programmes for particular prisoners.

The function of probation and parole services can be satisfactorily combined in an integrated service with individual officers dealing with both types of client.
Special Problems in the Northern Territory

In some areas of the Northern Territory, a social worker or some other social welfare officer will do probation and parole work in addition to other duties. It seems unavoidable that some officers will have a multiplicity of functions because of the size of the Territory and staffing difficulties. There should be no particular difficulty with this provided that adequate training and instructions are given.

The cultural diversity and the large transient population will make for special difficulties in the Territory. The assessment and supervision of the aboriginal offender will certainly require particular attention and it is essential that there be a careful ongoing examination of the problems encountered in this area.

As prisoners will continue to be sent to South Australia for some time, the assessment and release to supervision of those prisoners who will return to live in the Territory will have to be given special consideration.

It is vital that there be established reciprocal arrangements with other States to enable the exchange of information about offenders and to allow the transfer interstate of offenders under supervision. This is important both to meet the problem of the transient population and also to allow residents of the Territory who offend in other States to return to the Territory under appropriate conditions.

It is important that special attention be given to the provision of conditions of service and a career structure which will retain staff recruited and trained. A recruitment of residents in the Territory including aboriginals and those with special knowledge and experience in Territorial problems is important.

Recommendations

1. The establishment of a probation and parole service for the Northern Territory.
2. An early resolution of the problems delaying the formation of a Parole Board for the Northern Territory. It is again recommended the qualifications of the members of the Board be not as rigidly defined as in the ordinance to which assent has been withheld.
3. The appointment of a special adviser on the establishment of the probation and parole service with terms of reference to include the following:
   (a) Investigation of the needs of the courts and the prison system.
   (b) The recommendation of an administrative structure and job descriptions to provide for the rapid establishment and future development of the service.
   (c) Staff requirements.
   (d) Recruitment methods and qualifications of officers.
   (e) Training.
   (f) Case loads of officers.
   (g) Relationships with other agencies including social welfare and psychiatric services.
   (h) Reciprocal arrangements with other States.
   (i) Special problems of the Northern Territory.
   (j) An evaluation programme relevant to the functions of a probation and parole service.

Appointment of a Special Adviser

Mr. W.J. Keefe, Director of Probation and Parole, Department of Corrective Services N.S.W., has indicated willingness to advise on these matters subject to the approval of the Minister of Justice for N.S.W. Mr. Keefe has had a very broad experience particularly of probation problems and several years ago advised on the establishment of a probation service in Tonga.

It is recommended that the Minister of Justice for N.S.W. be approached to obtain Mr. Keefe's services for a period during the early months of 1974.

II. Mental Defectives Ordinance

As remarked in the first report, there is a need for a review of this ordinance. All persons interviewed who had any interest at all in this area agreed strongly with this view.

It is highly inappropriate that the psychiatrically disturbed should be held in prison for assessment and then have to remain there until transferred to South Australia. There are apparently cases where the total period of confinement in prison is four weeks or perhaps longer. It is realized that
there is a general lack of psychiatric services and that some of the persons who are held in prison would be extremely difficult to manage in a small hospital without specialized services and accommodation.

From discussions with those involved in providing psychiatric services it is clear that the fourteen-day period for assessment is too short for adequate assessment and for any treatment programmes to be instituted and evaluated. For those patients who are fortunate enough to be transferred to Darwin Hospital for assessment and treatment it can be that the decision whether or not to transfer to South Australia must be made too rapidly. Transfers are thus made that could have been avoided if the assessment period had been longer.

From discussions it would seem that if the ordinance was amended to allow a longer period for assessment many transfers can be avoided. However safeguards must be established so that any amendment would not mean that an individual were held for an extended time in prison.

The proposed psychiatric ward at the Alice Springs Hospital should be of great assistance as far as the Alice Springs area is concerned. It is understood that many persons coming under the Mental Defectives Ordinance in the top end of the territory are now largely dealt with at the Darwin Hospital.

If the ordinance is amended as recommended then the appropriate administrative arrangements should be made so that persons requiring assessment are transferred as soon as possible to a psychiatric ward avoiding as far as possible any time in custody in prison. Again it must be reiterated that in committal proceedings, legal counsel must be available to all.

**Recommendations**

1. The Mental Defectives Ordinance be amended to allow a longer period for assessment before a decision for transfer to South Australia is necessary. The most suitable time period should be decided on after discussions with the psychiatric services.

2. Administrative arrangements be made so that persons can be transferred rapidly to psychiatric facilities rather than be held in prison.

3. The Mental Defectives Ordinance be amended to require legal counsel in all committal proceedings and to guarantee the procedural rights of the individual.
4. The Mental Defectives Ordinance be continually reviewed as psychiatric services and facilities increase in the Territory. Special provision will have to be made for the psychiatrically disturbed offender but the nature of these arrangements will depend on the way both the penal system and the psychiatric services develop in the Territory. This matter needs to be kept under review.

III. Psychiatric Services For The Penal System

The general question of psychiatric services for the penal system will require very full investigation at a later date. At the present stage psychiatric services in the Territory are at a very early stage of development and there is a great shortage of trained staff and modern facilities. It would be quite unrealistic to expect the only psychiatrist in the Northern Territory to be able to provide full services to the offender population. The task of a psychiatrist at the pre-sentence level is made very much more difficult by the absence of a probation service which could provide him with objective information about offenders.

It would be possible to discuss some of the problems of providing psychiatric services to the penal system but it would not be a useful exercise at this stage. The whole matter should be taken up in detail when a probation and parole service is established and more psychiatric services are available. In any training programme for the probation and parole service particularly thorough attention should be paid to those areas of psychiatry particularly important in the assessment and supervision of offenders. Proper training and experience can greatly assist probation and parole officers in the handling of offenders with psychiatric problems and so reduce the number of referrals they have to make to psychiatrists. The referrals they do make then become more suitable and better presented.

IV. Berrimah Prison Complex

There would appear to be two major avenues open to the Government in regard to the construction of new gaol facilities in Darwin. The first alternative involves the immediate and simultaneous construction of two separate buildings on the proposed Berrimah
site - one to serve as a gaol, the other as a remand centre. This option also assumes the demolition of the present Fannie Bay Gaol complex, the establishment of a separate women's gaol and perhaps also the construction of a small, open institution on the Berrimah site to serve as a work release centre for those working in the community or farming the Berrimah site.

The actual size of the new Darwin gaol is dependent upon a number of factors such as the availability, use and effectiveness of alternatives to imprisonment. It is clear from the statistics that the large majority of persons imprisoned in the Northern Territory in general, and in Fannie Bay in particular, are not security risks. It is not necessary to repeat the analyses of figures that were made in the earlier report except to reiterate that a new Darwin gaol need not be large. But just how small can the institution be? In our initial report we stated that the size of the new Darwin prison should be limited to 60 inmates. We admit that any attempt to forecast how many persons will be sentenced to imprisonment is dependent upon factors about which we can only speculate.

It is clear from Appendix A that the convicted prisoners per 10,000 of population in the Northern Territory, as compared with the States, is extremely high. Even when compared to Western Australia the Northern Territory imprisons approximately 60% more per 10,000 population than does Western Australia. In our earlier report we noted that a high percentage of those who come before the courts are charged with drunkenness and drunk-related crimes. From Appendix B it is evident just how out of line the Northern Territory is when compared to all other States for convictions for drunkenness per 10,000 population. Queensland, which is the Northern Territory's closest rival for drunkenness convictions per 10,000 population has a conviction rate which is 70% lower than that in the Northern Territory. These figures do alert us to the fact that the Northern Territory, for a variety of reasons, is dealing with social problems differently than other States. But one must be careful in noting what these figures do not tell us. Firstly, the figures do not tell us how many separate individuals are involved in the convictions. Secondly, the figures do not reveal how many of the persons charged with
"drunkenness" would have been charged with a different
effence such as "offensive behaviour" had there been
no separate crime of being drunk in a public place.
Finally, although these figures do suggest that
drunkenness is a more serious problem in the Northern
Territory than elsewhere, they do not give us much
exact guidance for what we can expect in the future
for Darwin. They give us no guidance as to what extent
the courts will avail themselves of sentencing alternatives.
For example, prison population figures for Fannie Bay
reveal that in March, 1972, the average daily prisoner
holdings were 155.51 males and 7.46 females. Just two
months earlier in January, 1972, the daily average was
117.32 males and 4.6 females. Again, although it is
safe to say that a fair number of those imprisoned
during both periods should have been dealt with in a
manner other than imprisonment, one does not know just
how many persons the courts will insist must be
incarcerated.

By constructing a prison before alternative
programmes can be initiated, it may fairly be said that
in some degree we are impinging upon judges' and
magistrates' future discretion in regard to sentencing.
We cannot forecast, with any great feeling of certainty,
what the prisoner/population ratio will be in the future.

If one were merely to take the present
number of convicted prisoners per 10,000 of population
and project that figure for 1980, one would conclude
that the new Darwin gaol should be able to accommodate
approximately 250. But to build so large a prison
would be not only to perpetuate a system which has
already manifestly failed but also to continue a rate
of imprisonment in the Northern Territory which is
excessively high both by Australian and world standards.
So the dilemma with the first option open to the
government is that on part figures and present population
projections a large prison is seemingly needed. But when
one reduces the present figures by a factor to compensate
for those who should be paroled, placed on probation, placed
in open institutions such as Guan Point, fined, given
week-end detention, dealt with by other social agencies
and so on, one concludes that a small gaol for Darwin is
a practical possibility. But even when this conclusion
is reached, one is faced with a second dilemma. An
overcrowded prison is unacceptable to all, yet a larger
prison may be just asking for the courts to fill it.
Our original estimate of prison size was 60. We do not feel that the benefits of our concept of a "small" prison will necessarily be lost if the maximum number were increased to 80. If it is felt that the size of the prison must be larger than 60 to ensure that in the foreseeable future there is no overcrowding, we do not feel that this in any substantial way jeopardizes the advantages of having a small institution. Perhaps a viable compromise between 60 man and a larger prison is to build an 80 man institution and also on the same site, build a smaller building which could accommodate work release prisoners and prisoners who were farming the acreage surrounding the prison. (See Appendix C)

Such an institution, housing between 20 to 30 prisoners, could serve many functions, one of which being an alternative for those who do not wish to go to Gunn Point.

The second major option open to the government is to immediately begin construction of the remand centre and the establishment of a woman's institution while retaining Fannie Bay for an indefinite time. Keeping in mind the ministerial comments concerning the demolition of Fannie Bay and the construction of a new gaol and the history of foot-dragging of past governments and the effect this has had upon the citizenry of the Northern Territory, it is almost certain that this option is not politically acceptable. This option would delay construction of the new gaol by at least two years in which time alternatives to imprisonment to include detoxification centres could be put into practice and effectively analyzed. The benefit of this option is, of course, that in two years, one would have a much more accurate estimation of future needs. The major drawback is that the Territory has been promised in no uncertain words that in the very near future they would receive a new prison. From a penological point of view, however, we believe that even if future analyses were to show that by 1985 Darwin will need security prison facilities for 200 individuals, we feel that it would be better to house these individuals in two institutions of 100 or three of 65 each as opposed to one large institution. Consequently even though in two years we may be more exact in our prisoner population forecast, on a balance of factors we feel that construction of a new Darwin gaol should begin immediately.
We recommend therefore that subject to further population projections, the construction of the Berrimah site should begin immediately for a prison capable of housing 80 inmates, a remand and reception centre and a separate, more open institution. Adequate accommodation for a separate women's institution must be found. We also stress that a deeper inquiry must be made into past figures to determine what factors are present in the Northern Territory and not present elsewhere, which cause the great fluctuation in prison statistics.

At the present time we are seeking out existing small prisons which might serve as guides for the construction of the new Darwin gaol. In this interim report all we can do is to convey a philosophy of the function of the new prison. First and foremost, we are convinced that the new prison should not be a medieval castle sans moat. The prison in appearance should be similar to an office building, housing development or some other "civilian" structure. It should not be an ominous, dreary conglomeration of stone and iron. Security can be achieved without the message of repression being constantly shouted to staff and inmates. Security does not mean bars and locks - it means careful evaluation and astute use of manpower. The prison in its operation should attempt to maintain and support the individual personalities of the inmates. Regimentation and militarisation are to be discouraged. Unless and until abuses occur, an inmate must be able to exercise a right of privacy over his own quarters and exercise some control over what amenities he has in his room.

Hopefully in our subsequent report we will be able to present more definite comments on the actual physical arrangement of the new prison.

V. Further Report.

Specific recommendations regarding dettification centres, administration of justice on Aboriginal settlements and reserves, psychiatric services, mental health ordinances, juvenile justice, revision of the criminal law and redrafting of the prison rules and regulations will follow.
### APPENDIX A

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### Appendix B

#### Drunkeness: Convictions (Total No.)

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#### Drunkeness: Convictions per 10,000 Population

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