

Submission No.....	9121.....
Date Received.....	



**Caulfield, Melita (REPS)**

**From:**  
**Sent:** Wednesday, 6 June 2007 3:21 PM  
**To:** Caulfield, Melita (REPS)  
**Cc:**  
**Subject:** FW: Older People and the Law Inquiry

RECEIVED  
 06 JUN 2007  
 BY: LACA

Dear Melita,

I have made suggested changes to the transcript as shown by the tracked changes within the attached document.

In relation to the issues raised by the Committee, I respond as follows:

- An agreed definition should be settled as to when an accused person should be regarded as "geriatric" or "elderly" for the Directors of Public Prosecutions (Commonwealth and States) to determine in accordance with their policy what internal filtering processes should be followed to determine firstly, if a prosecution is to be either continued or commenced ("the decision to prosecute") and secondly, if a prosecution is to be conducted and if ultimately successful, what penalty in individual cases is to be sought from the sentencing authority ("prosecution submissions on sentence").
- An agreed definition (either the same as that considered by the prosecution or a separate definition) be settled as to when a prisoner is to be considered as "geriatric" or "elderly". This be equally applicable to those prisoners being sentenced and those prisoners who were sentenced when not "geriatric" or "elderly" but attain such an age during the term of their sentence.
- The Australian Institute of Criminology issued a report last week titled "Older Persons in Prison" (see attached). It discloses that the imprisonment rate (sentenced and remand) for "older groups" continues to increase despite an overall stabilising of imprisonment rates.

Please advise if you require any other material. We are currently obtaining information from overseas about older persons within various prison systems and can make that material available if you wish. Additionally we are also attempting to gather information from overseas concerning the exercise of prosecutorial decisions to prosecute elderly persons.

Regards,

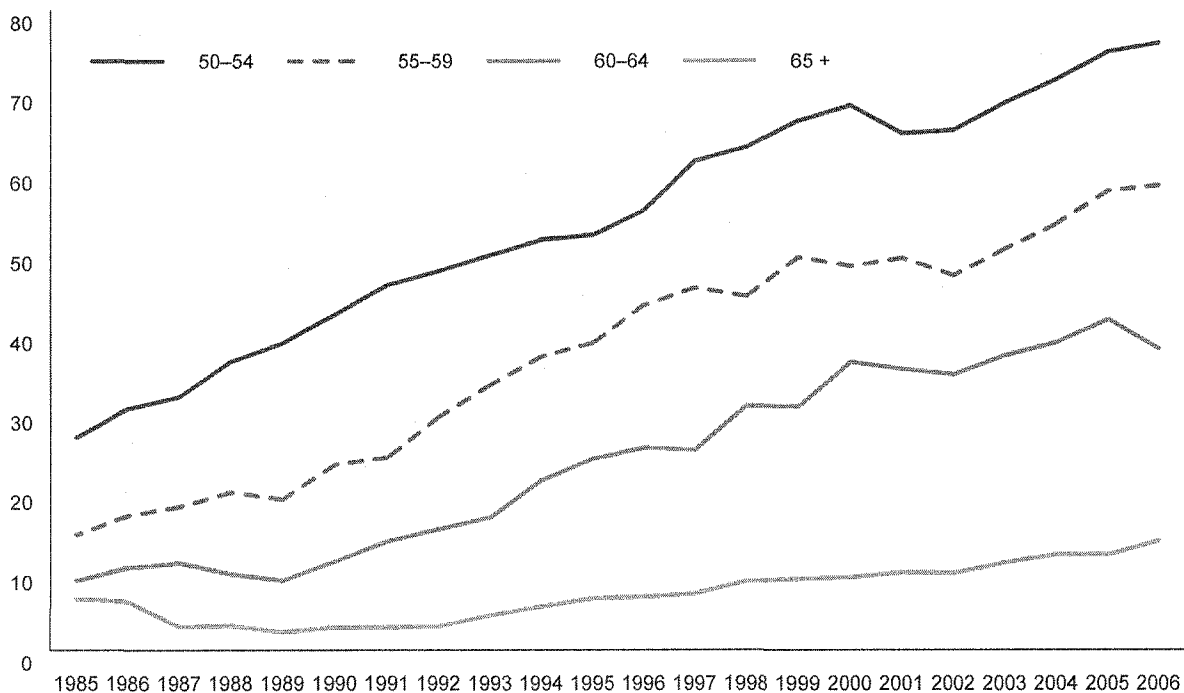
Steve O'Connor  
 Deputy CEO Legal  
 Legal Aid NSW



## Older Australians in prison

The ageing of the population is as much a concern within the justice system as in general society. In 2006, Australia's prison population had a median age of 33, (ABS 2006). While younger than the national median (37 years), the prison population contains a large proportion of older prisoners (50 years and older; Grant 1999). The figure below shows the imprisonment rate (sentenced and remand) for older age groups from 1985 to 2006. Although imprisonment rates overall may be stabilising (Crime facts info no. 147), they continue to increase for older groups. Growth varies across age groups, with the highest rate in the 60–64 years group, an average annual increase of 16 percent. Given that prisoners generally have poorer health outcomes, this increase will impact on health services within correctional facilities as well as post release programs.

Older prisoners in Australia, by age group, 1985–2006 (rate)<sup>a</sup>



a: Per 100,000 relevant adult population

Sources: AIC (1985–94), ABS (1995–2006)

### References

Australian Bureau of Statistics (ABS) 1994–2006. *Prisoners in Australia* (various issues). ABS cat. no. 4517.0. Canberra: ABS

Australian Institute of Criminology 1985–1994. *Australian prisoners* (various issues). Canberra: AIC

Grant A 1999. Elderly inmates: Issues for Australia. *Trends & issues in crime and criminal justice* no. 115. <http://www.aic.gov.au/publications/tandi/tandi115.html>