

CHAPTER 3

STATISTICAL INFORMATION

3.1 The Committee's terms of reference require it to examine the impact of mandatory sentencing in a range of areas. However, the Committee notes that a lack of accurate and detailed statistical information makes such a task difficult. It also notes that attributing a number of problems to mandatory sentencing cannot be justified. The causes of many problems are far more extensive, and mandatory sentencing is only one among many causal factors affecting social issues in particular.¹

Statistical Information

3.2 One of the problems for people making submissions and giving evidence and for the Committee itself in considering the social, and, to some extent, the legal and cost impact of the mandatory sentencing legislation, has been the lack of specific statistical information.² In relation to some matters, only the Northern Territory Government was able to give recent figures. On the other hand, much statistical information was available in relation to the criminal justice system in general and many bodies making submissions and giving evidence sought to draw inferences from it. A considerable amount of material was provided in relation to the situation before mandatory sentencing came into operation.

Criminal justice statistics before mandatory sentencing came into operation

3.3 According to the Central Australian Aboriginal Legal Aid Service,³ Aboriginal people from Central Australia were being jailed at alarming rates even before mandatory sentencing. Thus, mandatory sentencing may be only one factor in the growth of unacceptably high rates of imprisonment and detention.

Total numbers of prisoners

3.4 There appears to be general agreement about the total number of prisoners in the Northern Territory over the years. The National Children's and Youth Legal Centre (NC&YLC) produced a table (from the Northern Territory Correctional Services Annual Report 1997-98)⁴ which showed that in the financial years mentioned the average numbers of prisoners in the Northern Territory were approximately:

1 See Chapter 7.

2 *Submission No. 67*, National Children's and Youth Law Centre, vol. 4, p. 707.

3 *Submission No. 49*, CAALAS, vol. 3, p. 586.

4 *Submission No. 67*, National Children's and Youth Law Centre, vol. 4, p. 711.

1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96
400	400	400	460	420	430	470	470

3.5 This corresponds reasonably well with the precise figures taken by the Tangentyere Council⁵ from a 1997 Australian Bureau of Statistics (ABS) publication.⁶ Any divergence from the NC&YLC figures can presumably be attributed to the fact that they relate to calendar years:

1988	1989	1990	1991	1992	1993	1994	1995	1996
381	351	415	465	447	422	455	471	482

3.6 NAALAS summarised the situation by saying that between 1990 and 1996, the prison population of the Northern Territory had remained fairly steady, averaging about 450.

Rate of imprisonment

3.7 The Northern Territory Legal Aid Commission submission⁷ shows that the imprisonment rates per 100 000 adults for the Northern Territory for the financial years from 1993-94 to 1995-96 were approximately:

1993-94	1994-95	1995-96
400	400	400

Comparison with the rest of Australia

3.8 The Northern Territory Legal Aid Commission information⁸ (taken from a 1999 report of the Commonwealth Productivity Commission), shows that in each of the 3 years between 1993-94 and 1995-96, the Northern Territory imprisoned more than twice as many people per head of population than any other Australian jurisdiction. This information was supported by the Tangentyere Council, again using ABS figures.⁹

5 *Submission No. 20*, Tangentyere Council, vol. 1, p. 129.

6 ABS, *Prisoners in Australia: 1996: A Report Prepared for the Corrective Services Ministers Council*.

7 *Submission No. 41*, Northern Territory Legal Aid Commission, vol. 3, p. 543, Figure 8.1.

8 *Submission No. 41*, Northern Territory Legal Aid Commission, vol. 3, p. 543.

9 *Submission No. 20*, Tangentyere Council, vol. 1, p. 129, ABS; *Prisoners in Australia: 1996: A Report Prepared for the Corrective Services Ministers Council*.

Year	No. of Prisoners	% Indigenous
1988	381	72.4
1989	351	69.2
1990	415	68.9
1991	465	70.5
1992	447	72
1993	422	75.6
1994	455	72.7
1995	471	72.6
1996	482	74.7

3.9 These figures may not quite tally with the NTAJAC table of half-yearly average daily prisoner populations, based on monthly daily averages, generated by NTCS from the second half of 1994. It showed that the average daily non-indigenous prison population climbed steadily from just over 100 to just under 200 while the indigenous averages fluctuated about the 300 mark until the first half of 1996 then rose to just under 400 in the second half of 1996. Reliance on the NTAJAC table would lead to the conclusion that the total prison population in 1996 was higher than the figure given by the Tangentyere Council and that the proportion of indigenous prisoners was a little lower. In addition, the NTAJAC table confirms the Northern Territory Government assertion¹⁰ that the prison population began to rise before mandatory sentencing was introduced.

3.10 This is supported by the statement of then Chief Minister Stone, on 28 April 1998, quoted by CAALAS:

Aboriginal people comprise some 80.7% of finalised court appearances, leading to a sentence of imprisonment. That was in 1996. That was 709 out of a total of 869 . . . there is twice the proportion of Aboriginal first offenders imprisoned compared to other Territorians.¹¹

3.11 The Tangentyere Council states that in March 1988, 75.1% of adult prisoners in the Northern Territory were indigenous, the highest in Australia. The rate of

¹⁰ See below, Paragraph 3.19.

¹¹ *Submission No. 49*, CAALAS, vol. 3, p. 594.

imprisonment of Aboriginal people was 1627 per 100 000 of the Northern Territory adult Aboriginal population.¹² The NTAJAC produced a table of half-yearly average daily prisoner populations based on monthly daily averages generated by NTCS from the second half of 1994 to the second half of 1997. It showed that the average daily non-indigenous prison population climbed steadily from just over 100 to just under 200 while the indigenous averages fluctuated at just over 300 until the first half of 1996 then rose to just under 400 in the second half of 1996. The Tangentyere Council says that prior to the introduction of Mandatory Sentencing in March 1997, the number of Aboriginal people in Northern Territory corrective facilities averaged 388 per month.

Men

3.12 The Northern Territory Legal Aid Commission produced a table showing the approximate numbers of sentenced male prisoners received into prisons.¹³ The following is based on that table:

	1993-94	1994-95	1995-96
Non-indigenous	200	200	200
Indigenous	600	600	600

Women

3.13 The Central Australian Women's Legal Service (CAWLS)¹⁴ stated that in the period July 1993 to June 1997, between 50 women (40 indigenous and 7 non-indigenous) and 70 women (60 indigenous and 12 non-indigenous) were sentenced to prison each year.

3.14 The Northern Territory Legal Aid Commission produced a table giving approximate figures on women sentenced in Northern Territory.¹⁵ The following is based on that table:

¹² *Submission No. 20*, Tangentyere Council, vol. 1, p. 129.

¹³ *Submission No. 41*, Northern Territory Legal Aid Commission, vol. 3, p. 544.

¹⁴ *Submission No. 19*, Central Australian Women's Legal Service, vol. 1, p. 123.

¹⁵ *Submission No. 41*, Northern Territory Legal Aid Commission, vol. 3, p. 551.

	1993-94	1994-95	1995-96
Non-indigenous Women	10	10	10
Indigenous Women	50	50	50

Juveniles

3.15 A table produced by the Northern Territory Legal Aid Commission¹⁶ showed approximate numbers of Juvenile Detention Commencements, with which NTAJAC agreed. The following is based on that table:

1993-94	1994-95	1995-96
30	40	30

3.16 A table produced by the NC&YLC¹⁷ showed Western Australia, Northern Territory and Australian juvenile detention rates per 100 000 relevant population. The following is extracted from that table:

	WA	NT	AUSTRALIA
1990	63.0	138.0	40.4
1991	58.3	166.2	34.2
1992	46.5	127.1	28.6
1993	51.6	102.7	32.2
1994	64.3	57.5	36.9
1995	49.3	74.8	38.3
1996	50.4	56.1	37.7

3.17 A second table used by NC&YLC,¹⁸ and produced by the Australian Institute of Criminology (AIC), seems to be more or less consistent. It relates to Juvenile Male Detainees per 100 000 of the relevant population:

16 *Submission No. 41*, Northern Territory Legal Aid Commission, vol. 3, p. 543.

17 *Submission No. 67*, National Children's and Youth Law Centre, vol. 4, p. 708.

	NT	AUSTRALIA
1994	111.29	67.85
1995	127.87	70.66
1996	108.49	67.93

Criminal Justice Statistics after Mandatory Sentencing came into operation

3.18 Mandatory sentencing came into operation in the Northern Territory on 8 March 1997. There has been a striking increase in the numbers of arrests and imprisonments since approximately that time.

Numbers of adult prisoners

3.19 The Northern Territory Law Society refers to the ABS statement that the Northern Territory prison population has increased by 42% since the introduction of mandatory sentencing. NAALAS said that between June 1996 and March 1999 adult imprisonment increased by 40%. The Northern Territory Government's first submission, referred to statistics provided by the Correctional Services Annual Report.¹⁹ It said that they showed that the daily average prisoner population had increased between 1995-96 and 1997-98 (610) but that it appeared to have reached a plateau, only increasing slightly in 1998-99 (624). It claimed that the number of prisoners had recently decreased significantly, with the result that, on 19 November 1999, only 569 prisoners were in custody.

3.20 The general increase appears to be confirmed by ATSIK's Table 4, which shows adult imprisonment numbers as at 30 June 1997 and 30 June 1998 for the Northern Territory. It shows a rise from 606 to 635.²⁰ NAALAS stated that during the March quarter of 1999 the daily average number of people in prison was 629.²¹

3.21 The NC&YLC produced a table showing approximate Prisoner Numbers (from Correctional Services Annual Report 1997-98):

1995-96	1996-97	1997-98
470	540	600

18 *Submission No. 67*, National Children's and Youth Law Centre, Vol. 4, p. 725. The AIC publication is Carcach and G Mussat, *Juveniles in Corrective Institutions, Australia, 1981-1998*, AIC, 1999.

19 *Submission No. 91*, Chief Minister, Northern Territory government, vol. 4, p. 13.

20 *Submission No. 24*, ATSIK, vol. 1, p. 207.

21 *Submission No. 25*, North Australian Aboriginal Legal Aid Service, vol. 2, p. 270.

Imprisonment rates

3.22 The Northern Territory Legal Aid Commission submission's Figure 8.1 indicates that the approximate imprisonment rates per 100 000 adults for the Northern Territory were:

1995-96	1996-97	1997-98
400	450	450

3.23 Figures given by the NC&YLC showing the average daily adult prisoner population per 100 000 of the adult population for the calendar years 1995 to 1999 showed a similar increase. However, the Territorians for Effective Sentencing do not agree with the earlier figures. They state that according to the 1997-98 Northern Territory Correctional Services Annual report, the rate of imprisonment in the Northern Territory for the general population for 1996-97 was 384 per 100 000.²²

3.24 The Tangentyere Council states that the effect of the introduction of mandatory sentencing is clearly seen from the average daily number of prisoners, which increased from 482 in 1996 to 592 in 1997 and 602 during the first quarter of 1998.

	Number of Prisoners	% indigenous
1996	482	74.7
1997	592	75.1

(Source: ABS (1997) Prisoners in Australia: 1996: A report prepared for the Corrective Services Ministers Council).

3.25 The NC&YLC states²³ that the increases in adult imprisonment rates in the Northern Territory and Western Australia between 1996 and 1999 'have been dramatic and far in excess of the national trend'. This corresponded with the period from which mandatory sentencing regimes took effect in those jurisdictions.

3.26 The implication that mandatory sentencing had brought about the increase in the numbers of adults sentenced to imprisonment in the Northern Territory might be supported by the statement by the Tangentyere Council that the Correctional Services Annual Report 1996-97 acknowledged a decrease in the utilisation of all community corrections programs in 1996-97. NTAJAC produced figures from the NTCS Annual Report for 1997-98 on the use of conditional release dispositions for adults. As at 30

22 *Submission No. 3*, Territorians for Effective Sentencing, vol. 1, p16 (Attachment 3, p.1).

23 *Submission No. 67*, National Children's and Youth Law Centre, vol. 4, p. 709.

June 1997 just under 1200 adults (800 Aboriginals) and at 30 June 1998 900 adults (just over 600 Aboriginals) were on conditional release.

3.27 However, this implication is not supported by the Northern Territory Legal Aid Commission statement about the increase in the number of prisoners sentenced to prison after being convicted of property offences which resulted from mandatory sentencing. By 30 June 1997 the number of prisoners serving sentences for property offences (as the major charge) had increased by over 20 (compared with 30 June 1996). By 30 June 1998 the increase was about 40 prisoners. It is also not supported by the evidence of the Northern Territory Government representative that 65% of the sentenced females received into custody in 1996-97 and 76% of those received in 1998-99 were received for fine default.

Aboriginal/Non-Aboriginal Comparison

3.28 There is general agreement that the rate of imprisonment of Aboriginal adults is much higher than that of non-Aboriginals. NC&YLC states that in the Northern Territory, Aboriginal people make up 25% of the overall population and 32% of the population aged 12-25.

3.29 NC&YLC states that as at 30 June 1999, 76% of all adults in prison custody were Aboriginal. Territorians for Effective Sentencing agree with NC&YLC that the imprisonment rate for Aboriginal people in the Northern Territory was almost 10 times as high as that for non-Aboriginal offenders, with a rate of about 1460 per 100 000 adults jailed, compared with 169 per 100 000 of non-indigenous adults.

3.30 NAALAS and NTLAC claim (apparently on the basis of the Northern Territory Corrective Services Annual Report for 1997-98) that Aboriginal people make up 73% of the Northern Territory's prison population.²⁴

3.31 The NTAJAC produced a table of half-yearly average daily prisoner populations based on monthly daily averages generated by NTCS from the second half of 1994 to the second half of 1997. It showed that the average daily non-indigenous prison population climbed steadily from just over 100 to just under 200 while the indigenous averages fluctuated at just over 300 until the first half of 1996, then rose to just under 400 in the second half of 1996, to 400 in the first half of 1997 and to about 430 in the second half of 1997. The Tangentyere Council may have relied on the same figures. It says that in March 1997, when the Northern Territory Government introduced mandatory sentencing, the number of Aboriginal people in Northern Territory corrective facilities increased from an average of 388 per month to 430 per month within a 12 month period.

24 The Northern Territory Legal Aid Commission apparently sources its statement that 78% of prisoners sentenced for a mandatory property offence as the major charge were Aboriginals, to the Northern Territory Correctional Services (or Police Fire and Emergency) Annual Report for 1997-98.

Men

3.32 The Northern Territory Legal Aid Commission produced a table showing the approximate numbers of sentenced male prisoners received into prisons:

	1996-97	1997-98
Non-indigenous	200	200
Indigenous	600	1200

The table does not appear to support the claim that incarceration rates for the first year of mandatory sentencing rose by 67% for indigenous males and 25% for non-indigenous males.

3.33 The Northern Territory Government gave precise figures of adult males sentenced receptions for the years 1996-97 to 1998-99.²⁵ They showed:

	1996-97	1997-98	1998-99
Indigenous	742	1142	1261
Non-indigenous	165	261	230
Unknown	3	15	18
Total	910	1418	1509

The ratio of Indigenous to Non-Indigenous prisoners seems to have fluctuated between approximately 5:1 and 4:1 but, in any case, is higher than before mandatory sentencing was introduced.

3.34 However, the Northern Territory Government's submission²⁶ also shows that the fine default process was a major cause of the increase in adult male sentenced receptions for at least the last two years. The figures are:

	1996-97	1997-98	1998-99
Indigenous	275	533	657
Non-indigenous	77	144	118

25 *Submission No. 91B*, Northern Territory government, Attachment B.

26 *Submission No. 91B*, Northern Territory government, Attachment B.

Unknown	2	9	15
Total	354	686	790

Unfortunately, no figures were given for the adult males who received mandatory or other sentences for property offences.

3.35 NAALAS states that Western Australia and the Northern Territory have the highest rates of home burglary and attempted home burglary in Australia; that there had been no change in the overall reporting of property crime in the Northern Territory since mandatory sentencing was introduced; that reports of home burglaries increased between June 1997 and June 1998; and that there had been no real change in the number of offenders charged with property crimes. NAALAS also refers to the Correctional Services report, that the rate of re-offending had not declined since mandatory sentencing was introduced; that police report the clear-up rate for house breaking (in Darwin) is about 15%; and that the majority of offenders who are caught are Aboriginals, who have committed offences in a remote Aboriginal community.

3.36 Statistical analysis by NAALAS²⁷ on a sample of approximately 400 or 40-50% of its 'mandatory sentencing' cases between 8 March 1996 [sic] and 30 August 1999 showed that of the people caught by 'mandatory sentencing':

- 79% were young (under 24 years)
- 96% were men
- 76% were from remote communities
- 70% committed the offences in remote communities
- 68% had a first language other than English
- 63% had an education level less than year 8
- 90% were unemployed or students
- 63% had a substance abuse problem
- 26% had no prior criminal history
- 46% had no prior criminal history for property offences.

3.37 It is not clear what NAALAS means by 'mandatory sentencing'. It could mean persons who received the mandatory minimum sentence for property offences or it could mean people who received sentences for offences carrying a mandatory

27 *Submission No. 25*, North Australian Aboriginal Legal Aid Service, vol. 2, p. 255.

minimum sentence. It would also have been more useful in the light of the evidence given by the Northern Territory Government representative (which could not have been foreseen) if the figures had been broken down into juveniles and adults and if it were known what proportion of Aboriginal people lived in remote communities.

Adult Females Imprisoned

3.38 NAALAS claimed that the number of women in prison in the Northern Territory had increased by 485%. The Northern Territory Legal Aid Commission stated that the incarceration rates for the first year of mandatory sentencing rose by 232% for indigenous females and 142% for non-indigenous females.

3.39 The Northern Territory Government gave evidence, based on information from the Government's new Integrated Justice Information System, which was subject to a 5% variation. Its representative said²⁸ that in 1996-97, 94 sentenced adult females were received into prison but in 1997-98 and 1998-99 the number increased to 225 and 276 respectively. The 1996-97 figure appears to be contradicted by others, but in any case, an increase from 94 to 225 is nearly as dramatic as one from 60 to 225. NAALAS claims, apparently on the basis of material in the Corrective Services Annual Report, that 59 women were imprisoned in 1996-97 while 252 were imprisoned in 1998-99. The CAWLS figures were 225 women (196 indigenous and 29 non-indigenous) for 1997-98 and 276 women (252 indigenous and 24 non-indigenous) for 1998-99. The Northern Territory Legal Aid Commission produced a table showing the approximate figures of women sentenced in the Northern Territory:

	1995-96	1996-97	1997-98	1998-99
Non-indigenous women	10	10	50	25
Indigenous women	50	50	200	250

Women and Mandatory Sentencing

3.40 The Northern Territory Government representative, Mr Anderson, stated that the growth in the number of females in prison actually commenced in the latter part of 1996 before the introduction of mandatory sentencing on 8 March 1997.

3.41 It would seem from a table of comparative Northern Territory and national average daily female prisoner population rates per 100 000 of the adult female population produced by the NC&YLC that Mr Anderson's statement was literally correct but did not adequately describe the situation. The NC&YLC table shows that from the March 1995 quarter to the September 1996 quarter the Northern Territory rate was the same as, or slightly higher than, the national rate which fluctuated

28 *Transcript of evidence*, Northern Territory government, p. 45.

between 10 and 16. In the December 1996 and March 1997 quarters the Northern Territory rate rose to just above 20 but in the June 1997 quarter it rose to just above 30. In the September 1997 quarter, it went to nearly 40 and in the December 1997 quarter it went to above 40 where it remained until June 1999 (the end of the published series). The national rate rose steadily to just under 20 in the same period.

3.42 The NC&YLC²⁹ stated that NTLAC research in 1997 which had predicted that imprisonment rates for women could increase by at least six times the current rate under mandatory sentencing had been borne out by prison population statistics. It stated that in 1994-95, a total of 25 women were imprisoned for property offences but 206 women were convicted of offences to which mandatory sentencing now applied.³⁰ However, the Northern Territory Government representative said that the number of females sentenced *solely* on the basis of mandatory sentencing increased from two in 1996-97 to 22 in 1998-99. The majority of sentenced females received into custody, that is, 65% in 1996-97 and 76% in 1998-99, were received due to fine default. It is difficult to reconcile these figures, but obviously much more analysis is required before the assessment of the Northern Territory Government can be seriously challenged.

Juvenile detention in the Northern Territory

3.43 The Northern Territory Government's submission³¹ stated that the daily average number of juveniles in Northern Territory detention centres during 1998-99 was 27, only 4 more than during the previous year. This appears to be more or less confirmed by Table 2 in ATSIAC's submission which shows the number of young people in detention on earlier specific dates, namely 30 June 1997 and 30 June 1998.³² It may or may not be compatible with a table produced by the Northern Territory Legal Aid Commission showing approximate Juvenile Detention Commencements, with which NTAJAC agreed:

1995-96	1996-97	1997-98
30	40	60

3.44 The table appears to be compatible with other evidence, for example, statements by Anglicare Top End and NAALAS that, according to statistics in the Northern Territory Correctional Services Annual Reports 1996-97 and 1997-1998, the number of young people in detention increased by 53.3%, and with a statement by NTLAC that in the first year of mandatory sentencing incarceration (post sentencing) rates increased by 56% for juveniles. It also seems to be more or less compatible with

29 *Submission No. 67*, National Children's and Youth Law Centre, vol. 4, pp. 728-729.

30 ABS, *Persons in Prison Custody by Gender, 1995-1999*.

31 *Submission No. 91*, Northern Territory government, vol. 4, p. 908.

32 *Submission No. 24*, ATSIAC, vol. 1, p. 205.

a table produced by the NC&YLC which shows both Western Australia and the Northern Territory to have recorded recent increases in juvenile detention rates per 100 000 of the relevant population against a national trend (in the years in which mandatory sentencing regimes took effect in both jurisdictions):

	WA	NT	AUSTRALIA
1996	50.4	56.1	37.7
1997	52.0	89.4	37.1
1998	62.7	103.5	37.1

3.45 A second table³³ used by NC&YLC also seems to be more or less consistent. It relates to Juvenile Male Detainees per 100 000 of the relevant population:

	NT	AUSTRALIA
1996	108.49	67.93
1997	172.15	66.27
1998	202.17	67.70

3.46 It would appear that the increase in the number of commencements is related to some extent to the number of mandatory sentences for juveniles given by the Northern Territory Government, although it is larger. Again, it would be desirable to have more information and more time to analyse it.

Indigenous Juvenile Detention Rate

3.47 The Northern Territory Government's representative gave evidence³⁴ the Australian Institute of Criminology statistics showed that, in the two years 1997 and 1998, the Territory indigenous juvenile detention rate was approximately half the national average, that is, 198 per 100 000 against 391. This appears to be confirmed by Table 1 of the ATSIC submission which shows the rate of indigenous young people in detention on 30 June 1997 as 227 per 100 000 for the Northern Territory and 583 per 100 000 for Australia.

33 See above, Paragraph 3.17 and Footnote 17.

34 *Transcript of evidence*, Northern Territory government, p. 36

Comparative Indigenous/Non-Indigenous Detention Rates for Juveniles

3.48 The Northern Territory Government representative evidence, based on information from the Government's Integrated Justice Information System, is that in 1996-97, 3 indigenous juveniles were received into Territory detention centres for every one non-indigenous juvenile. This ratio had remained constant for the next two years but had actually declined to two to one for the first half of the year 1999-2000. The earlier figure was confirmed by NC&YLC which claimed that according to the Northern Territory Correctional Services, 73% of all juveniles in juvenile corrective institutions were indigenous and by the Tangentyere Council which claimed that 80% of juveniles who began remand and 69% of those who commenced detention in 1996-97 were indigenous. Apparently on the basis of the NTCS Annual Report for 1997-98, NAALAS set the proportion of indigenous juvenile detainees at more than 75%.

3.49 NTAJAC stated that Northern Territory indigenous juvenile arrests from 1993-94 showed a fluctuating figure at or above 250 until 1996-97 with a jump to above 350 in 1996-97 while the non-indigenous figure remained reasonably static at about 100 and declined in 1996-97.

3.50 NTAJAC claims that the NTCS Annual Report 1997-98 shows a dramatic decline in the use of conditional release dispositions and a corresponding increase in the imprisonment of Aboriginal adults and juveniles. The total number of juveniles on conditional liberty as at 30 June 1997 was about 170 (just over 100 indigenous) and as at 30 June 1998 about 130 (indigenous about 80).

Juveniles Liable to Mandatory Sentencing

3.51 The Northern Territory government representative said that between the introduction of mandatory sentencing on 8 March 1997 and 31 December 1999, the number of juveniles found guilty of second or subsequent property offences was 113. He also said that the numbers of juveniles convicted of second or subsequent property offences were 46 in 1997-98, 60 in 1998-99, and only 21 in the first half of 1999-2000. The figures are compatible if the latter set is taken to include juveniles referred for assessment for diversionary programs since the commencement of the amendments on 1 August 1999, stated by NAALAS to be approximately 13.

Actual sentencing of such juveniles

3.52 The Western Australian Government stated in its submission that data provided by the Children's Court showed that a total of 83 juveniles had been sentenced under the mandatory sentencing legislation up until 30 June 1999. The submission also stated that that number included 9 juveniles who received Intensive Youth Supervision OrderS and 2 cases that were overturned on appeal. It further stated:

The number of juveniles being sentenced under the legislation has diminished over time. The legislation became operative in November 1996, with the first sentence being handed down in February 1997. For the remainder of 1997 the monthly average number of sentences was 5.2; for

1998 the average was 0.7; and for the first six months of 1997, the average was 2.3.³⁵

3.53 In his evidence, given on 3 February 2000, the Western Australian Government representative said that 88 juveniles had been sentenced since the introduction of the legislation. The addition of only 5 sentenced juveniles after 30 June 1999 suggests that the number of juveniles receiving sentences under the legislation had declined further in the second half of 1999.

3.54 The Northern Territory Government representative stated that the 113 juveniles convicted of second or subsequent property offences up until 31 December 1999 had been given 139 orders for custody.³⁶ Only 35 of these were for the mandatory minimum period of detention. The figures made available by the Northern Territory Government's supplementary submissions³⁷ show that:

- i) in 1997-98, the mandatory sentences of 28 days received by juveniles for property offences numbered 16 whereas the other sentences received by juveniles for property offences numbered 37;
- ii) in 1998-99, the mandatory sentences received by juveniles for property offences again numbered 16 whereas the other sentences received by juveniles for property offences numbered 63; and
- iii) in the first half of 1999-2000, the mandatory sentences received by juveniles for property offences numbered 3 whereas the other sentences received by juveniles for property offences numbered 10.

Conclusions from statistical information

3.55 Mandatory sentencing *per se* in the Northern Territory, on the figures provided by the Northern Territory Government, does not appear to be having the effect predicted and suggested, by many of the submissions and witnesses, with respect to the numbers and percentages of different groups.

3.56 The Committee is cautious about accepting the figures uncritically and it would have appreciated more time to study and assess the data in detail in order to determine:

- The correct numbers;

35 *Submission No. 96*, Western Australian Ministry of the Premier and Cabinet, p. 8.

36 *Transcript of evidence*, Northern Territory government, p. 37.

37 *Submissions Nos 91D and 91E*, Northern Territory government.

- The extent to which mandatory sentencing as opposed to high levels of sentencing in general is responsible for high imprisonment levels among the indigenous population.
- The extent to which factors such as disability (including that caused by drug abuse) has contributed to conviction rates.