



# Research Bulletin

## Language Background of Prisoners

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Language Background of Prisoners:  
Notes on Some Special Groups

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### Introduction

There is increasing concern within Australian society about possible disadvantages which might be suffered by people whose first language is not English and who spent their formative years in a culture very different from the dominant Australian culture. Possible disadvantages which result purely from difference of language and culture have been well documented and governments have taken initiatives to overcome some of these.<sup>1, 2</sup>

Inspection of data on the country of birth of prisoners in New South Wales reveals that they are not over represented in the prison population. Table 1 presents the percentages of persons born in non-English speaking countries in the prison population in N.S.W. on 30 June, 1977, compared to the N.S.W. population for 30 June, 1976. These data suggest that any disadvantage that operates does not result in excessive numbers of these people being in prison at any one time. Without data on actual (as against detected) offence rates, this crude information does not show whether, given that an offence has been detected, cultural and language differences produce a disadvantage. It may be that despite lower offence rates, more offenders are apprehended or when apprehended, more are imprisoned.

Some investigation of specific groups within the prison population suggest that such disadvantages might in fact be in operation. Specifically, people of non-English speaking origin appear to be relatively over-represented among prisoners on remand and among prisoners serving indeterminate sentences. The remainder of this Bulletin examines this evidence in more detail.

### Language Background and Being Remanded in Custody

It seems reasonable to suggest that people born in non-English speaking countries might have greater difficulty in coping with the processes which follow being charged with a criminal offence.<sup>3</sup> If so, one possible effect would be a greater likelihood of being remanded in custody by police or the Courts either through bail being denied or being unable to meet conditions set for an offer of bail.

### Language Background of Prisoners: Notes on Some Special Groups

#### Summary:

Concern about disadvantages experienced by people living in Australia and born in non-English speaking countries is noted. Evidence is presented that despite this such people are under-represented in the prison population. Further evidence shows that this effect is not evident among certain specific groups. People born in non-English speaking countries are slightly more often found on remand and serving life sentences and far more often being held at the Governor's Pleasure than expected from the rate among sentenced prisoners or in the community at large.

Many explanations other than remediable disadvantages can be offered for the finding and the nature of any disadvantages is not clear from these results alone. Research which would clarify the correct explanations is outlined.

While it is not possible to determine the truth of this argument from data available within this Department, some data we have examined suggest that there could be an issue that deserves further study.

The issue was approached first through available statistics on receptions and on populations of prisoners held. Data on the numbers of sentenced and unsentenced prisoners classified by language origin are available in several Annual Reports of this Department. The majority of unsentenced prisoners are held on remand.

These data are summarized in Tables 2 and 3. The proportion of persons born in non-English speaking versus English speaking countries was compared for persons held under sentence and persons held not under sentence for:

1. All persons in prison on specific prison census dates; (Table 2), and
2. All receptions (including repeated receptions of one person) in particular years (Table 3).

For both methods the proportion of persons born in non-English speaking countries was greater among persons not under sentence. For seven of the eight census counts shown in Table 2 the difference was statistically significant. The absolute difference in rates was small, between 3% and 6%. The relative rate or odds ratio varied between 1.18 to 1.83, averaging 1.60. The difference was significant for each one year period of receptions shown in Table 3. The absolute

differences in rates ranged from 2% to 5% with ratios averaging 1.30, ranging from 1.23 to 1.48.

It is notable that the percentage held under sentence of non-English speaking birth on 30.6.76 was slightly (8.5% versus 10.1%) but significantly less than the rate for the N.S.W. population (chi square 9.67, 1 df,  $p < .01$ ).

These figures include unsentenced prisoners held for other reasons than remand for trial or sentence. Enquiries among the institutions revealed that the bulk of such remands of persons born in non-English speaking countries were held at the Metropolitan Remand Centre. Two special censuses were held at the M.R.C., one in August 1979, the other in May 1980. These showed that 16.65% of prisoners on these days were found to be of non-English speaking background. This suggests that the difference observed in the total prison population is due to remands to the M.R.C. from metropolitan police and courts.

A number of explanations can be offered for these findings. Among the more obvious are:

1. Differences in ability to deal with the bail proceedings and thus to have bail offered
2. Differences in the type of alleged offence, with a higher rate of charges which would result in bail being denied to any defendant among the non-English background persons
3. Differences in capacity to meet bail conditions (e.g. for cash surety or guarantor)
4. Difference in rate of conviction or in rate of imprisonment following conviction.

No data available within this Department will allow a simple test between these alternatives. Data would be required on persons charged who were granted bail and who met the conditions set as well as on those who did not. A possible research design would involve identification of a cohort of persons charged and then following all those of non-English speaking origin and a comparison group matched on seriousness and type of offence alleged, previous convictions and other objective factors relevant to bail decisions. Outcome measures would include whether bail was set, the conditions set, and the rate at which the conditions were met.

The data reported here are only suggestive of an area for investigation and do not in themselves establish that a problem requiring corrective action exists. We report it so that others can follow the matter further if they wish.

#### Country of Birth of Prisoners Held on Indeterminate Sentences

Two groups of prisoners are held without any definite limit to the time they serve: prisoners sentenced for life and prisoners held at Governor's Pleasure. The possibility that persons born in non-English speaking countries would be over-represented in these groups also appeared worthy of investigation.

All such persons were identified and a careful check made of their place of birth. The results were as shown in Table 4.

Among sentenced prisoners on 4.5.80, 92.6% (see Table 2) were born in English speaking countries. On this basis, we would expect 18-19 of the 266 life sentence prisoners and 2-3 of the 36 Governor's Pleasure prisoners to be from non-English speaking countries. Applying chi-square, the number observed among both life sentence prisoners and those detained at Governor's Pleasure have a probability of less than 0.1% if these were a random sample of the prison population. (chi-squares of 24.0 and 126.4 respectively, both 1 df)

In addition direct comparison of the two groups shows a probability of less than 0.1% of observing such a difference in the proportions coming from non-English speaking countries if these samples were drawn randomly from the same population (chi-square 34.0, 1 df).

Thus, both groups include significantly higher numbers of non-English speaking origins than the general prison population and the Governor's Pleasure detainees include a significantly higher proportion than among life sentence prisoners.

A rough estimate for the total Australian population in 1978 puts the percentage born in non-English speaking countries at 10.6%. The rate of life sentence prisoners is just significantly higher (chi-square 4.1, 1df,  $p < .05$ ) and for Governor's Pleasure prisoners very significantly higher (chi-square 72.7, 1df,  $p < .001$ ) than this rate.

The discrepancy for prisoners serving life sentences is relatively small even if statistically significant. That for prisoners held at the Governor's Pleasure is very much higher. It is the larger difference that warrants more careful consideration.

Several possible reasons can be offered for this discrepancy. The key known differential characteristic of Governor's Pleasure prisoners is their mental status: most have been found to have experienced a psychotic episode or been otherwise seriously disturbed at the time of the offence. Why should such a group be so much more often of non-English speaking origin? The following explanations could be considered.

1. Persons tending toward such instability might be more likely to migrate. This would not explain the lack of an excess of overseas born from English speaking countries.
2. Certain ethnic groups might have a greater rate of psychoses associated with violence. Krupinski and Stoller<sup>4,5</sup> reported an excess of migrants from central Europe among mental hospital admissions for schizophrenia and paranoid psychosis in Victoria.
3. Communication difficulties for offenders with poor English and cultural differences could result in incorrect diagnosis of mental disorder.
4. Among those correctly detained at Governor's Pleasure, migrants with language and cultural difficulties might be more difficult to treat successfully, might have greater difficulty than others in demonstrating a return to "sanity" and in negotiating the processes required for release and thus spend longer periods under detention. This could result in a "build up" of these cases in the prison population.

The slight excess of migrants of non-English speaking origin among life sentence prisoners can be understood given the specific countries involved (see Table 5). The majority are of Southern European origin where violence due to "crimes of passion", restoration of honour, conduct of vendetta and family arguments is more culturally and judicially acceptable than in Australia<sup>3</sup>. The possibility of a higher rate of undetected mental disorder must also be considered. A "build up" effect due to difficulties in gaining release on license could also be involved.

To determine which explanations are correct, the following further research could be carried out:

1. Examine the length of time served by migrants born in non-English speaking countries with that for prisoners born in English speaking countries for both Life and Governor's Pleasure prisoners. This could also be compared to times served at release for prisoners of each type released in the past five years. These data would test the contribution of differences in release rates.
2. From Court records examine the circumstances of the offence (for Lifers) and the sentence (for G.P.'s) to test the possible contribution of cultural factors to the commission of the offence and to the Court's assessment of responsibility.
3. Assessment of Governor's Pleasure detainees by bi-lingual psychiatrists to assess more accurately their current mental state.

#### Conclusion

Despite the disadvantages of language and culture migrants born in non-English speaking countries are appearing in the prison population at a lower rate than in the community. However, they do appear at higher rate among prisoners remanded in custody, serving life sentences and (outstandingly) among those detained at the Governor's Pleasure. Further research is required to establish the reasons for these variations so that appropriate action can be taken if required.

#### References

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Table 1: Country of Birth of Persons in Prison on June 30, 1977 and in N.S.W. on 30.6.76

COUNTRY	Prison at 30.7.77		N.S.W. 30.6.76
	Number	%	%
<b>"English Speaking"</b>			
Australia	3208	81.4	80.7
Other	335	8.5	8.2
Sub-Total	3543	89.9	88.9
<b>"Non-English Speaking"</b>			
Germany	50	1.3	0.7
Greece	14	0.4	1.0
Hungary	8	0.2	0.2
Italy	37	0.9	1.6
Malta	9	0.2	0.5
Netherlands	12	0.3	0.5
Yugoslavia	72	1.8	1.2
Other European	87	2.2	1.8
Lebanon	30	0.8	2.2
Other Asian	57	1.4	
Other	22	0.6	0.6
Sub-Total	398	10.1	10.1
TOTAL	3941	100.0	100.0

Table 2: Comparison of Proportions of Persons of Non-English Speaking Origin Among Persons (a) Under Sentence and Persons (b) Not Under Sentence on 7 One Day Counts

Date	(a) Under Sentence	(b) Not Under Sentence	Chi-Square (1 df)	Relative Rate (b/a)
30.6.71	8.10% n 3493	13.74% 592	5.52 p < .05	1.70
30.6.72	8.54% n 3641	13.84% 585	16.85 p < .001	1.61
30.6.73	10.09% n 3399	11.88% 471	1.29 n.s	1.18
30.6.74	8.60% n 2696	11.84% 422	4.66 p < .05	1.38
30.6.75	7.84% n 3009	13.82% 376	15.37 p < .001	1.76
30.6.76	8.44% n 3221	15.44% 395	20.60 p < .001	1.83
30.7.77	9.75% n 3437	14.20% 514	9.67 p < .01	1.46
4.5.80	7.39% n 3326	11.96% 518	12.72 p < .001	1.62

**Table 3: Proportions of Persons of Non-English Speaking Origin Received in 5 One Year Periods Among (a) Persons Under Sentence and (b) Persons Not Under Sentence**

Year		(a) Under Sentence	(b) Not Under Sentence	Chi-Square (1 df)	Relative Rate (b/a)
1970	%	10.19%	13.89%	70.76	1.36
1971	n	11,692	9,957	p < .001	
1971	%	10.48%	13.67%	50.90	1.30
1972	n	12,535	11,071	p < .001	
1972	%	10.40%	15.37%	118.37	1.48
1973	n	11,277	9,988	p < .001	
1974	%	9.11%	11.16%	19.03	1.23
1975	n	8,319	8,124	p < .001	
1975	%	8.90%	11.00%	19.71	1.24
1976	n	8,408	7,652	p < .001	

**Table 4: Origin of Life Sentence and Governor's Pleasure Prisoners**

Origin	Life Sentence	Governor's Pleasure
English Speaking	227 (85%)	16 (44%)
Other	39 (15%)	20 (56%)
TOTAL	<u>266 (100%)</u>	<u>36 (100%)</u>

**Table 5: National Origins of Indeterminate Sentence Prisoners, May 1980**

National Origin	Life Sentence	Governor's Pleasure
English Speaking	227	16
Italian	9	3
Yugoslav	13	6
Lebanese	3	1
Maltese	3	—
Spanish	3	—
Philippino	2	—
Hungarian	1	1
Mauritian	1	—
German	1	3
Russian (Ukrainian)	1	2
Swiss	1	—
Turkish	1	—
Polish	—	2
Latvian	—	1
Greek	—	1
	<u>266</u>	<u>36</u>