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CRIME AND JUSTICE IN SOUTH AUSTRALIA 1999

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ADULT COURTS AND CORRECTIONS

OFFICE OF CRIME STATISTICS
Attorney-General's Department

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PREFACE

Crime and Justice in South Australia has been published annually by the Office of Crime Statistics since 1987. Until recently, it consisted of a single volume, encompassing statistics on all aspects of the South Australian criminal justice system. In 1997, for the first time, the *Crime and Justice* report was split into two volumes. In 1998, the report was further differentiated, with the publication of three volumes. Volume 1 deals exclusively with young offenders and the juvenile justice system. Volume 2 provides statistics on all offences reported to police, together with the characteristics of both victims and alleged perpetrators. This third volume deals with criminal matters finalised by the Magistrates, District and Supreme Courts, as well as persons supervised by the Department for Correctional Services, either as prisoners or while undertaking community-based correction orders.

The decision to publish three separate volumes of *Crime and Justice* was undertaken for several reasons: firstly, to accommodate the increased range and quality of data now available on all components of the criminal justice system in South Australia; secondly, to provide more scope for descriptive text and analysis; and thirdly, to contribute more constructively to on-going community debate about crime and criminal justice in this State by ensuring that the media, policy makers and the general public have access to as much information as possible.

We trust that readers will find the three volumes of *Crime and Justice in South Australia* useful and informative.

Joy Wundersitz
Director
Office of Crime Statistics

November 2000

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- Mr Tim Goodes and Ms Mary Hunt, Office of the Director of Public Prosecutions.

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Individual staff within the Office of Crime Statistics involved in the production of the report were as follows:

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INTRODUCTION

This report, covering the period 1 January 1999 to 31 December 1999, is the twelfth *Crime and Justice* report to be based on a calendar year reporting period. Prior to the 1987 report, these publications were based on six-month reporting periods, whilst figures from Magistrates Courts were published in a separate report.

Statistics in this report cover three main areas:

- criminal matters finalised in the Magistrates Courts of South Australia;
- criminal matters finalised in the Supreme and District Criminal Courts; and
- persons supervised by the Department for Correctional Services, either as prisoners or while undertaking community-based correction orders.

Summary of 1999 Statistics

Magistrates Courts

- During 1999, there were 26,518 cases finalised in the Magistrates Court, which is 6.5% lower than the 28,363 cases finalised in 1998.
- *Driving offences* were listed as the major charge in just over one quarter (26.9%) of these cases, while *offences against good order* accounted for a further 18.4% and *larceny and receiving* offences for 13.9%. At the other end of the scale, very few cases involved either a *sexual offence* (1.1%) or *robbery and extortion* (0.9%). In addition, 5.7% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 1999, 397 (1.5%) were committed to the District or Supreme Court for trial or sentence. This number is 9.2% lower than the 437 cases committed in 1998 and a substantial 77.8% lower than the 1,791 committals recorded in 1992 when legislative changes were introduced to ensure that matters were heard at the lowest, most appropriate jurisdictional level. The result of this legislative change has been a reduction in the number of cases committed to a higher court from the Magistrates Court.
- In 1999, over half of all finalised cases (56.8%) resulted in the defendant being convicted of the major charge. In a further 14.5% of cases, the defendant was found guilty of the major charge but was not convicted.
- In just over one quarter of cases (26.0%) the major charge was either withdrawn by prosecution or dismissed. In a further 15 cases, the defendant was acquitted of

the major charge. However, in 18.5% of the cases where the major charge resulted in either an acquittal, dismissal or withdrawal, there was a finding of guilt to a lesser or other charge.

- In total then, of the 26,121 cases finalised in the Magistrates Court (excluding those committed to a higher court) just under three quarters (73.7%) resulted in a finding of guilt to at least one charge.

- Of the 1,507 applications for *restraining, domestic violence* or *paedophile restraining orders* finalised in 1999, 954 (63.3%) resulted in the issuance of that order.

- Of the 19,253 cases finalised in 1999 by way of a conviction or a finding of guilt to at least one charge, just over one third (34.7%) received a fine as the major penalty, while just over one quarter (27.9%) resulted in a driver's license suspension. Overall, 5.6% of cases resulted in direct imprisonment while 11.8% received suspended imprisonment.

- The average length of imprisonment was highest for those cases where the major charge proved was a *sexual offence* (average imprisonment of 95 weeks). This was followed by *burglary and break and enter* (average of 57 weeks).

- Although females featured in only a small proportion (17.9%) of cases finalised in 1999, their level of involvement varied depending on the type of offence. For example, females accounted for only 1.0% of those cases in which a *sexual offence* was listed as the major charge, but 34.7% of all cases involving *fraud and misappropriation.*

- Just over two fifths (41.7%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while very few (5.9%) were aged 50 years and over.

- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (257.7 per 1,000 adult Aboriginal population compared with 20.6 per 1,000 adult non-Aboriginal population respectively).

- Persons resident in the Adelaide metropolitan area had a lower rate of appearance than did those in the remainder of South Australia (21.1 appearances per 1,000 population compared with 51.4 per 1,000 in country areas). Within metropolitan Adelaide, the Local Government Areas with the lowest appearance rates were Mitcham (9.3 per 1,000 adult population) and Burnside (9.8). In the remainder of South Australia, 'other country' (16.5 per 1,000 adult population) and Port Pirie (25.0 per 1,000 adult population) recorded the lowest rates of appearance.

- Seven out of ten defendants (69.9%) in the Magistrates Court had at least one prior conviction, with an average of 11.5 previous convictions per defendant. Just over one in five cases (21.3%) involved defendants who had previously been sentenced to imprisonment.

- In the 7,663 cases finalised at the first court hearing, only two defendants were remanded in custody at the time. In contrast, 23.7% of defendants who were committed to a higher court for trial or sentence were being held in custody at the time of finalisation.

- The proportion of cases which had legal representation varied depending on the number of appearances required to finalise the matter. Of those cases finalised at the first hearing, only 28.8% had a lawyer. This rose to over three quarters (77.6%) of those cases that required more than one hearing to finalise and 96.9% of those which were committed to a higher court for trial or sentence.

Higher Courts

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n 1999, there were 67 cases finalised in the Supreme Court and 774 finalised in the District Court, giving a total of 841.

- There was a decline of 80 cases (or 8.7%) compared with the number disposed of in 1998. In absolute terms the drop was greater in the District Court (down by 66) than the Supreme Court (down by 14) but not in percentage terms, with the District Court recording a decrease of 7.9% compared with a decline of 17.3% in the Supreme Court.

- Three offence groups accounted for 61.7% of the cases finalised in the higher courts, the largest being the *drug offences* (30.7%), *offences against the person (excluding sexual offences)* (15.8%) and *robbery and extortion* (15.2%) offence categories.

- The majority of defendants (79.9%) were convicted of at least one charge, with 65.4% pleading guilty to either the major charge or another charge.
- The majority (71.4%) of the cases which went to trial in 1999 resulted in one or more charges being found guilty. The defendants in three cases were found not guilty because of mental impairment, compared to 14 in 1998. Slightly more than one quarter (27.2%) of cases going to trial resulted in an acquittal on the major charge, whilst 19.7% either pleaded guilty to, or were found guilty of a lesser, alternate or other charge. Some 14.1% of defendants in trials changed their plea to guilty once the trial had begun.

- The two most frequently imposed penalties in 1999 were imprisonment (imposed in 43.0% of cases where one or more charges had an outcome of guilty) and suspended imprisonment (39.6% of such cases). The group with the highest percentage imprisoned was *robbery and extortion*, in which 81.1% of defendants convicted received this penalty. Excluding life sentences, the average length of imprisonment for the major charge was 41.1 months, although this varied from 57.4 months for cases involving *property damage and environmental offences* to 8.7 months for *other offences.*

- Life sentences were given in five cases, all for *murder*. The average non-parole period for these cases was 18 years and 10 months, with the shortest of these receiving 14 years and the longest 25 years.

- Approximately nine out of ten defendants (86.3%) were males, whose average age was 31.8 years. Females had an average age of 31.4 years.

- Persons of Aboriginal appearance made up 12.3% of all defendants, with a rate of appearance of 8.7 per 1,000 adult Aboriginal population. This was much higher than other defendants, whose appearance rate was 0.7 per 1,000 adult non-Aboriginal population.

- Approximately four out of five defendants had at least one prior conviction, while nearly one third (34.0%) had between 10 and 49 convictions. A further 8.2% had 50 or more previous convictions. Just over one third (34.4%) had been imprisoned before.

- Approximately three in ten defendants (29.7%) were being held in custody at the time of their final appearance.

Correctional Services

Imprisonment

Prison receptions

- In 1999, there were 4,030 prisoners received into custody, of whom 15.1% were sentenced prisoners, 23.8% were fine defaulters and 60.9% were on remand. Overall, the number of new receptions has decreased steadily since 1992, with the 1999 figure of 4,030 being well below the peak of 7,618 recorded in 1992.

- In 1999, proportionately fewer prison receptions involved sentenced prisoners than was the case in 1998, while the proportion involving fine defaulters was much lower (23.8% of all receptions in 1999 compared with 40.1% in 1998). In contrast, the proportion of admissions involving remanded prisoners was much higher (60.9% in 1999 compared with 41.1% in 1998).

- The overwhelming majority of persons received into custody in 1999 were male (88.2%) although this varied from 83.0% for fine defaulters to 89.8% and 90.2% for remand and sentenced prisoners respectively.

- For those 4,028 receptions where age was known, virtually one half (49.5%) involved persons aged 20 to 29 years, while those in the older age groups (notably 40 years and over) accounted for only 13.9%.

- Persons identified as Aboriginal accounted for 24.8% of the 3,567 prison receptions where information on racial identity was recorded. However, this varied from one legal status category to another, with Aboriginals accounting for 16.3% of those admitted as sentenced prisoners, compared with 21.8% of remandees and 38.1% of fine defaulters.

Daily averages

- Daily average prison numbers declined in 1999 (from 1,403 per day in 1998 to 1,358).

- In 1999, males accounted for 94.6% of the daily average prison population, with a rate of 2.31 per 1,000 adult male population, compared with only 0.13 per 1,000 adult female population.

- On average, 231 Aboriginal persons where held in custody each day in 1999, which represents 19.5% of those for whom racial identity was recorded.

Census figures

- At midnight on 31 December 1999 there were 1,275 prisoners in custody. Remandees accounted for 25.1% of the total, while almost three quarters (74.1%) were sentenced prisoners.

- Males again dominated. For every 1,000 adult males in the South Australian population, 2.17 were in custody on that particular day compared with only 0.12 females per 1,000 adult female population.

- Aboriginal males accounted for 17.6% of all males in custody on 31 December 1999 (compared with 19.3% in 1998 and 17.4% in 1997), while Aboriginal females accounted for 26.5% of all females in custody (compared with 39.3% in 1998 and 26.7% in 1997).

Escapes from custody

- In 1999, 18 prisoners escaped from the custody of the Department for Correctional Services. All involved escapes from institutions, while there were no escapes while the prisoner was under escort.

Prison discharges

- In 1999, there were 4,126 discharges from custody, including 1,379 (33.4% of the total) who, at the time of discharge, were serving a prison sentence. A further

34.7% were discharged from remand and 31.8% were discharged after having 'cut out' a fine.

- A higher proportion of females were categorised as fine defaulters at the time of discharge (44.1% compared with 30.2% of males), while a lower proportion were classified as sentenced prisoners (23.5% compared with 34.8% of males).

- Of the 1,312 fine defaulters discharged from prison in 1999, the majority had served only a relatively short period, with 38.6% in prison for less than one week prior to discharge and 23.5% in prison for one to two weeks. Relatively few (19.7%) were incarcerated for more than four weeks.

- Of the 1,110 fine default discharges where relevant information was available, the offence type most frequently listed as the major charge involved *licence/registration offences*. This group of offences constituted the most serious charge in 27.4% of fine default discharges, followed by *offences against justice procedures* (24.1% of discharges) and *driving offences* (17.8%).

- Of the 1,379 sentenced prisoners who were discharged in 1999, under one fifth (19.0%) spent less than one month in prison, while 39.4% were in prison for three months or less. At the other end of the scale, only 1.5% were incarcerated for more than five years. However, the time served varied depending on the nature of the offence for which the prisoner was being held at the time of release. Of the 214 discharges involving a *license/registration* offence, over one half (53.7%) were for periods of less than one month. However, of the 90 sentenced prisoners discharged for *robbery and extortion*, over one half (53.3%) involved terms of more than two years.

- The most prominent offence type for which sentenced prisoners were being held just prior to their discharge was that of *offences against justice procedures*. These were listed as the major offence in 23.8% of the 1,340 discharges where this information was recorded, followed by *licence/registration offences* (16.0%).

- Overall, Aboriginal sentenced prisoners were slightly less likely than non-Aboriginals to serve either very short or very long terms.

Community-based Corrections

Orders commenced during 1999

- In 1999, there were 18,950 community-based correction orders commenced, which was 18.1% fewer than the 23,126 recorded in 1998 and 23.5% lower than the peak recorded in 1997.

- Over eight in ten (81.3%) of the community-based correction orders commenced in 1999 involved some form of community work. This included stand-alone community service orders (7.9%) as well as community service undertaken as an

alternative to paying a fine (48.4%) or in lieu of payment of an expiation notice (25.0%).

- Only 2.6% of supervisions involved home detention, either as part of a bail agreement (1.2%) or for sentenced prisoners released from gaol (1.4%).

- The 18,950 orders commenced in 1999 involved 15,738 discrete individuals, giving an average of 1.2 orders per person. The total number of individuals who commenced an order in 1999 was 16.3% lower than in 1998, but 6.8% higher than the 1996 figure of 14,737, largely because of the introduction in 1997 of CSO (expiation notice) orders.

- Males accounted for 72.0% of those individuals for whom sex was recorded and 72.5% of all orders commenced where relevant data were available.

Persons supervised at 31 December 1999

- On 31 December 1999, Correctional Services were supervising 6,354 distinct individuals, some of whom were serving more than one community-based correction order.

- The order which recorded the highest caseload on that day was that of probation, with 2,269 discrete individuals registered. This equates to 35.7% of all persons under Correctional Services community supervision on that day.

- The total number of persons supervised was 17.7% lower than the 7,723 individuals under supervision twelve months earlier, on 31 December 1998.

Orders completed during 1999

- The number of community-based correction orders completed (either successfully or otherwise) decreased in 1999 (from 23,752 in 1998 to 20,634).

- Although the majority of these orders were completed successfully (58.7%), longitudinal trends indicate that, as the number of community based orders completed has increased over time, so the proportion which are being successfully finalised has decreased. In 1988, for example, when there were only 3,603 orders completed, 74.9% were successfully finalised. Just over a decade later in 1999, the number of orders had increased more than five-fold, but the proportion of successful completions had decreased to 58.7%.

- The extent to which orders were revoked or estreated in 1999 varied depending on the type of order involved. The highest level of estreatment was recorded for home detention bail orders (62.3%), followed by 'CSO as a fine option' orders (52.8%) and community service orders (37.0%). In contrast, only 16.5% of the 1,507 probation orders completed in 1999 were estreated or revoked.

Using crime and justice reports

As with all quantitative data, the tables in this publication can give rise to misunderstanding and confusion unless assessed carefully. The notes that follow are designed to assist understanding of the data in this *Crime and Justice* report. Readers are also asked to read the footnotes appended to individual tables and the explanatory notes in Appendix A.

Comprehensiveness

In using this *Crime and Justice* report it is important to understand that, although it encompasses several major areas of criminal justice administration, it does not purport to provide a comprehensive picture of the nature and level of offending in the community. For a matter to be counted in the court database, the criminal incident or offence must first be reported or come to police attention; then a suspect must be apprehended; and finally sufficient evidence must be available to bring the suspect before a court. It is well documented that at each of these points, less than 100% coverage is achieved. For example, victim surveys have indicated that many offences are never reported to police in the first place and so are never counted in official crime statistics. The level of under-reporting also varies from one offence category to another. While public surveys of victims of crime show that over ninety percent of motor vehicle thefts are reported to police, for other types of offence such as *sexual* or *non-sexual assaults* the rate of reporting is much lower. The 1998 crime survey conducted by the Australian Bureau of Statistics (*Crime and Safety, April 1998*, catalogue no. 4509.0), indicated that in South Australia the level of reporting for robbery was 42.5% and for *non-sexual assaults* was 30.8%.

Even for those offences which are reported to police, many never result in the apprehension of a suspect. And again, the likelihood of an apprehension varies depending on the type of offence. For example, only 7.7% of *break and enters* reported to police in 1999 were cleared by way of an apprehension, as were 9.4% of *vehicle thefts*. Apprehension levels for *drug* and *driving offences* were considerably higher (99.1% and 99.8% respectively) simply because these offences are detected by police at the time of their commission by the perpetrator.

As a result of these and other factors, the number of matters which end up before the courts is considerably lower than the number of criminal incidents which actually take place.

It should also be noted that the court statistics presented in Section 2 of this report do not include all adult criminal matters dealt with. While criminal court data on matters finalised in the District and Supreme Courts are based on all cases finalised, resource constraints have meant that the Magistrates Court section does not include prosecutions for minor traffic offences, breaches of local government by-laws, etc.

The statistics contained in Section 4 of this Report, relating to persons supervised by the Department for Correctional Services, are even further removed from the original

offending incidents, because they are dependent on decision made by the court. Not all persons apprehended by police and brought before the courts are remanded in custody or sentenced to imprisonment or given a community corrections order. And not all persons who receive a fine subsequently fail to pay and are imprisoned for fine default.

In summary then, the statistics contained in this report tell us little about the nature or extent of offending in the community. However, they do provide a wealth of information on the way in which the criminal justice system operates and the characteristics of defendants processed by that system. Before attempting to derive conclusions from the tables contained in this report, readers should review the relevant appendices and take careful note of the scope of each collection.

'Snapshot' rather than 'flow' statistics

Readers should not see this report as a source of information about the 'flow' of business through the justice system. It would be tempting, for example, to try to link police apprehension figures detailed in Volume 2 of *Crime and Justice* with figures relating to finalised court cases (Sections 2 and 3 of this volume) in an attempt to estimate the extent to which persons 'caught' for a particular offence are subsequently sentenced to imprisonment. However, this would not be a valid exercise. Many offences and offenders that came to the attention of the police in 1999 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 1999. Conversely, the court data will count persons apprehended and/or sentenced in 1998 or earlier. This is particularly true for the Supreme and District Courts, where cases many take several years to finalise, especially in they involve a complex trial. Similarly, persons held in a Correctional Services facility will contain individuals apprehended and/or sentenced in earlier years. In other words, this publication provides a 'snapshot' of the relevant operations of each agency rather than a 'tracking' system that follows the same group of offenders from the point of apprehension to final disposition.

Differences between agencies

Counting and classification differences between agencies also affect the statistics. For example, in the police volume, one of the main counting units used is the number of offences that were either reported to or cleared by police. In contrast, Magistrates Court and higher court figures are based on finalised cases, with only the most serious charge per case shown. Because a single defendant may have committed a number of offences, police statistics for any offence category invariably will be much higher than court figures. To illustrate, a incident in which an offender broke into a dwelling, and robbed and raped the victim would generate one count of *break and enter*, one *rape* and one *robbery* in the statistics on offences reported to police. If a suspect were apprehended for this incident and prosecuted, this would most likely generate just one court case. In the court tables presented in this report only the outcome for the most serious offence charged would be listed. Similarly, if found guilty, only the penalty for the charge receiving the heaviest penalty would be included.

In Section 4 of this report, tables relating to imprisonment numbers use three different counting rules; namely, the number of admissions, average daily occupancies and the number of persons in custody on a particular census date. Each is quite different from, and cannot be directly compared with, a discrete court case.

Detailed explanations of counting rules and definitions employed in each section of the report are outlined in Appendix A. Readers who wish to make proper use of this publication are again urged to read this section and to take account of footnotes to tables.

Interpreting criminal justice statistics

Another factor which must be borne in mind when using these *Crime and Justice* figures is that, because they derive from operational records, they are affected by changes to the criminal law or justice administration. For example, the number of driving offences coming to police and court attention in a given year will rise significantly if the police dedicate more resources to enforcing motor traffic regulations. Cannabis legislation provides a further example. On 30 April 1987 South Australia introduced an expiation notice system covering the possession, cultivation or use of small amounts of cannabis by adults. This resulted in a substantial decrease of 50% between 1986 and 1988 in the number of *drug offences* processed through the Magistrates Court. Those interested in actual usage of cannabis in the community, rather than the enforcement of cannabis legislation, are best served by reference to the occasional self-report surveys of adults or secondary school students.

Other changes in legislation can alter the relative proportions of serious offences dealt with by the court. As outlined in Appendix A, in July 1992 various pieces of legislation came into effect that were designed to streamline the processing of cases by changing the level of court in which particular offences could be handled. In general, these changes meant that a range of offences could be dealt with at the lower levels of court jurisdiction. As a result, these lower levels of jurisdiction began to acquire a higher percentage of more serious cases, whilst courts at the upper levels, having lost many of their less serious cases, experienced a fall in their overall number of cases, but a rise in the percentage of cases involving the most serious matters.

Other legislative changes, such as the changes to the parole legislation in 1983 and the introduction of the *Statutes Amendment (Truth in Sentencing) Act* of 1994, have affected the time served by prisoners. The effects of such changes must be taken into account when comparing aspects of the criminal justice system over time.

Again, the reader is referred to the Appendices for further details.

1 OVERVIEW

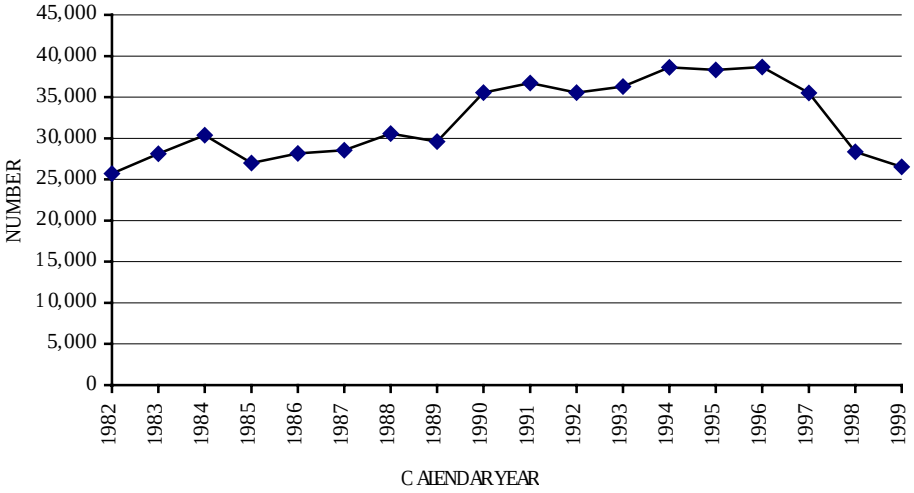
1.1 Magistrates Courts of South Australia

Overview

During 1999, 26,518 cases involving offences that fall within the Office of Crime Statistics collection boundaries were finalised in the Magistrates Court. This figure is

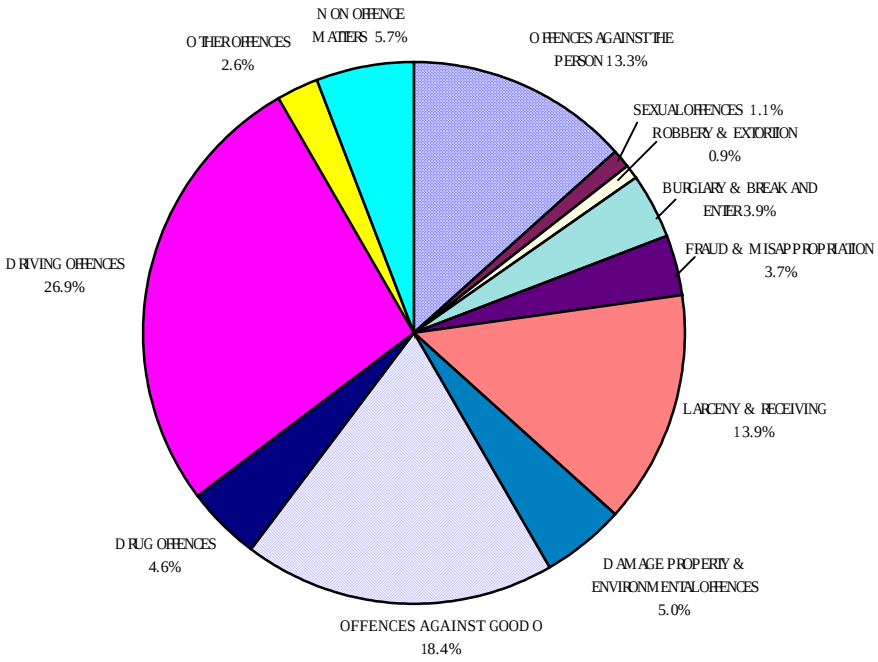
6.5% lower than the 28,363 finalised cases in 1998. As indicated in Figure 1, although the number of matters disposed of in the Magistrates Court generally increased between 1982 and 1996, over the past three years there has been a decline. As a result, the number of cases finalised in 1999 was significantly lower than that recorded at the beginning of the decade (26,518 compared with 35,551 in 1990) and was only 3.2% higher than the 25,699 recorded in 1982.

Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 1999



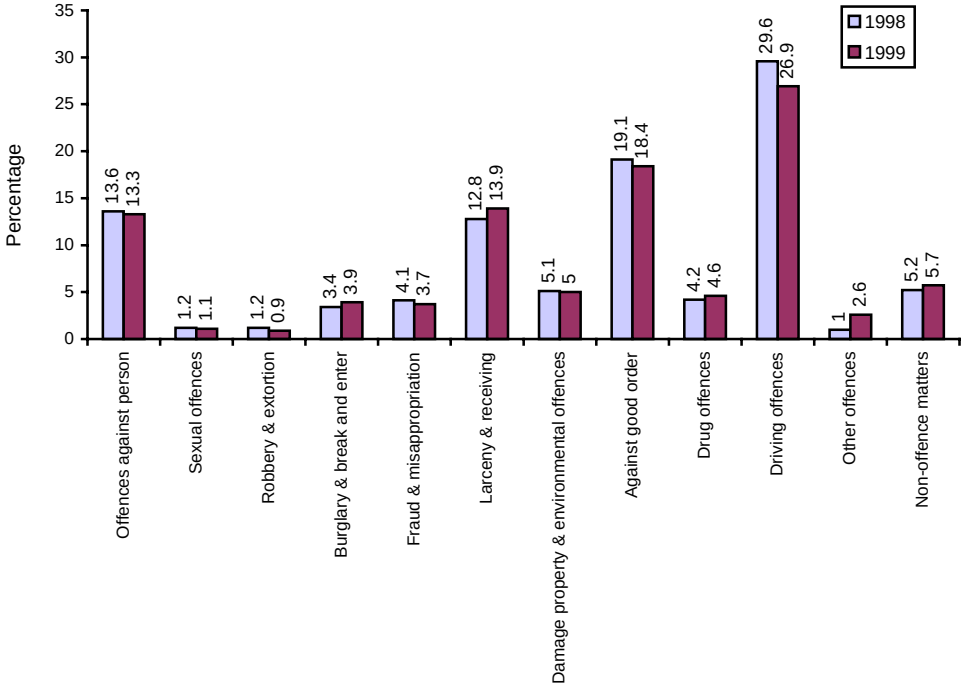
As indicated in Figure 2, *driving offences* constituted the major charge in over one quarter (26.9%) of all cases finalised in 1999, while *offences against good order* featured in a further 18.4% of cases, *larceny and receiving* in 13.9% and *offences against the person* in 13.3%. At the other end of the scale, there were relatively few cases in which *sexual offences* or *robbery and extortion* constituted the major offence charged (1.1% and 0.9% respectively). In addition, 5.7% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.

Figure 2 Cases finalised in the Magistrates Court by the major charge per case: 1999



Overall, this offence profile is similar to that observed in 1998. As shown in Figure 3, in both 1998 and 1999, four offence categories dominated: namely *driving offences*, *offences against good order*, *offences against the person* and *larceny/receiving offences*. Conversely, the proportion of cases involving *sexual offences* and *robbery and extortion* have remained consistently low. However, there have been some slight shifts within certain categories. For example, in 1999 *driving offences* accounted for a slightly lower proportion of finalised Magistrates Court cases than in the previous year (26.9% in 1999 compared with 29.6% in 1998). Overall, though, the differences between the two years are relatively minor.

Figure 3 Cases finalised in the Magistrates Court by major charge: 1998 and 1999



Longitudinal trends in the actual number of offences per category are detailed in Figures 4 to 7, which plot the major charge recorded per case from 1992 (when data relevant to all twelve categories listed above were first published) to 1999.

As indicated in Figure 4, between 1992 and 1996, Magistrate Court cases involving an *offence against the person* increased from 3,850 to 4,483. However, over the last three years this upward trend has been reversed. In 1999, the number of cases where this type of offence was listed as the major charge was 8.1% lower than at the beginning of the period depicted.

Figure 4 Cases finalised in the Magistrate Court where the major charge was an *offence against the person, excluding sexual offences*: 1992 to 1999

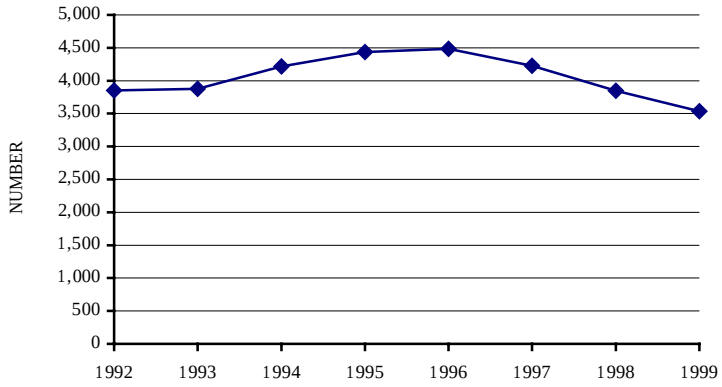
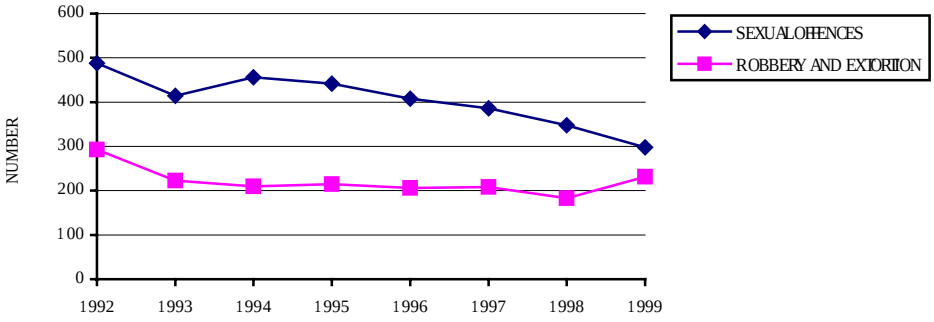


Figure 5 shows that the number of cases involving *sexual offences* has generally been declining since 1992. The figure of 298 recorded in 1999 was 38.9% lower than the 488 recorded in 1992. In contrast, *robbery and extortion* cases, which had remained relatively stable for much of the period depicted, recorded an increase in 1999 of 26.2% (from 183 in 1998 to 231). Overall, though, the number of cases involving either a *sexual offence* or *robbery and extortion* has remained very low throughout this period.

Figure 5 Cases finalised in the Magistrates Court where the major charge was a *sexual offence* or *robbery and extortion*: 1992 to 1999



As indicated in Figure 6, over this eight year time period, the number of cases in which *larceny and receiving*[1] was listed as the major charge declined markedly, from 5,969 in 1992 to 3,686 in 1999 - a decrease of 38.2%. Cases involving *burglary and break and enter* offences declined between 1992 and 1995 but have remained

relatively stable since then. *Fraud and misappropriation* cases showed an overall increase of 18.4% between 1992 and 1998 but declined in 1999. The 1999 figure of 976 was, in fact, virtually the same as that recorded in 1992 (n=975).

Figure 6 Cases finalised in the Magistrates Court where the major charge was *burglary and break and enter* or *fraud and misappropriation* or *larceny and receiving*: 1992 to 1999

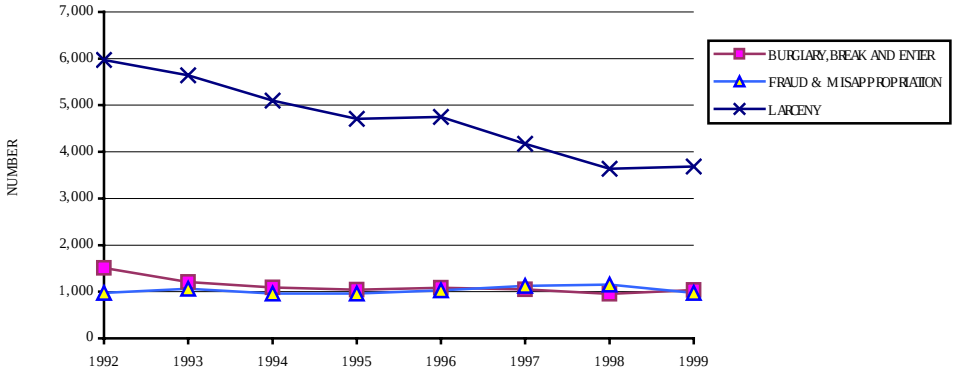


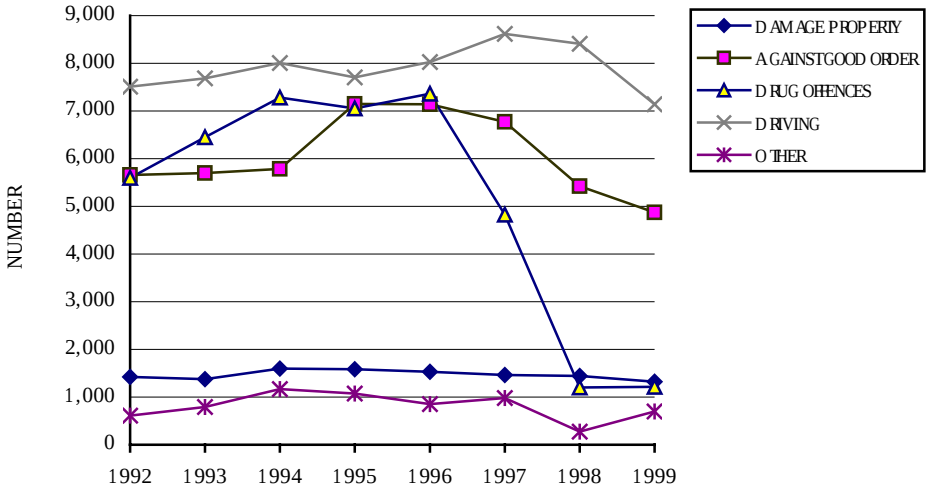
Figure 7 depicts longitudinal trends for five separate offence categories. As shown, cases where *driving offences* were listed as the major charge continued to decline in 1999, after peaking at 8,620 cases in 1997. *Drug offence* cases, which experienced a dramatic drop in both 1997 and in 1998, stabilised in 1999.

The number of cases involving *offences against good order* have been declining since 1995. This trend continued in 1999, with the result that the most recent figure was actually lower than that recorded seven years earlier in 1992 (4,870 compared with 5,660 in 1992).

In comparison with the three offence groupings discussed above, *damage property and environmental offences* and *other offences* feature as the major charge in a relatively small proportion of finalised Magistrates Court cases. As indicated in Figure 7, *damage property and environmental offence* cases have remained fairly stable throughout the period depicted, with the 1999 figure of 1,319 being relatively comparable with that recorded in 1992 (1,424). The trend for cases involving *other offences* has been more volatile. The number of cases in this category more than doubled between 1992 and 1994 (from 614 to 1,170) then stabilised before declining dramatically in 1998 (to 275). The trend changed again in 1999, with numbers increasing by 153.5%, to 697. This upswing was primarily due to an increase in the number of *electoral offences* (from 11 in 1998 to 476 in 1999).

[1] It should be noted that the problems affecting the Courts data for the category of *larceny* encountered in 1998 have been corrected and as such had no effect on the 1999 data. However, care should be taken when comparing the 1998 figures with those of 1999 and previous years.

Figure 7 Cases finalised in the Magistrates Court where the major charge was either *damage property and environmental offence* or an *offence against good order* or a *drug offence* or *a driving offence* or *'other'* offence: trends from 1992 to 1999



Outcomes

Outcomes for the major offence charged in the 26,518 cases finalised by the Magistrates Court in 1999 are detailed in Tables 2.1 to 2.13 in Section 2 of this report. It should be noted that in the 1996 *Crime and Justice* report, the presentation of data within these tables was modified slightly (see Appendix A). A further modification was introduced in the 1997 report. More specifically, whereas in previous reports the numbers given in brackets referred to cases where the major charge was not found proved but there was a ***conviction*** recorded for another or lesser offence, from 1997 onwards the bracketed numbers refer to cases where there was a ***finding of guilt*** to a lesser or other charge, irrespective of whether or not a conviction was recorded. Hence, care should be exercised when comparing the new figures with corresponding tables from these earlier, pre-1997 reports.

Of the 26,518 cases heard in the Magistrates Court in 1999, 397 (1.5%) were committed to the District or Supreme Court for trial or sentence. This number is 9.2% lower than the 437 cases committed in 1998 and a substantial 77.8% lower than the 1,791 committals recorded in 1992 when legislative changes were introduced to ensure that matters were heard at the lowest, most appropriate jurisdictional level. Those legislative changes meant that the Magistrates Court could henceforth deal with more serious cases than previously. The overall result, as indicated by the above

figures, has been a notable reduction in the number of committals from the Magistrates Court to a higher court.

As expected, the percentage of cases sent to a higher court for trial or sentence in 1999 varied considerably according to the seriousness of the major charge. For example, 29.0% of all *robbery and extortion* cases had this outcome (which is lower than the 39.9% recorded in 1998), as did 18.8% of cases involving *sexual offences (*compared with 17.8% in 1998). By contrast, only 0.1% of *larceny and receiving* and 0.2% of *offences against good order* cases resulted in a committal to the District or Supreme Court as did 0.4% of cases involving *property damage and environmental offences*. It should also be noted that in six of the 397 cases which, in 1999, resulted in committal to a higher court for the major charge, the Magistrates Court also recorded a finding of guilt for a lesser or other offence.

Overall, more than half (56.8%) of the cases dealt with at the Magistrates Court level resulted in a conviction for the major charge, either with or without penalty. This was slightly lower than the figure of 59.6% recorded in 1998. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 0.9% of cases involving *robbery and extortion* to 89.8% of cases in which a *driving offence* was listed as the major charge. Almost eight out of ten cases (77.2%) that involved *other offences* and six out of ten cases (61.9%) involving *fraud and misappropriation* also resulted in a conviction for the major charge.

In 2,903 cases (10.9% of the total), there was a finding of guilt for the major charge but no conviction was recorded. Only a very small number of cases (15 out of 26,518) resulted in an acquittal for the major charge. In just over one quarter of cases (26.0%) the major charge was either withdrawn (n=4,273) or dismissed (n = 2,616). It should be noted though, that in 1,275 (18.5%) of the 6,904 cases where the major charge resulted in either an acquittal, dismissal or withdrawal, the defendant was found guilty of a lesser or other charge. In total then, of the 26,121 cases which were finalised in the Magistrates Court in 1999 (excluding those committed for trial or sentence to a higher court), 19,247 (73.7%) resulted in a finding of guilt to at least one charge. In a further 0.1% of cases some other outcome (such as the death of the defendant) was recorded.

Again, the proportion of cases resulting in the acquittal, dismissal or withdrawal of the major charge varied from one offence category to another. It was relatively high for *robbery and extortion* (70.1% of all offences within this category), *offences against the person, excluding sexual offences* (54.0%), *sexual offences* (52.0%) and *burglary and break enter* (46.8%), but was comparatively low for *offences against good order* (18.4%), *other offences* (10.5%) and *driving offences* (9.8%).

In relation to those cases where the major charge was acquitted, dismissed or withdrawn, the proportion which resulted in a finding of guilt to a lesser or other charge also varied depending on the nature of the major charge. For example, of the 486 cases where the major charge acquitted, dismissed or withdrawn was a *burglary, break and enter*, 156 (32.1%) resulted in a finding of guilt for another offence compared with only twelve (7.7%) of the 155 cases where the major charge acquitted, dismissed or withdrawn was a *sexual offence*.

Of the 1,507 applications for *restraining, domestic violence* or *paedophile restraining orders* finalised in 1999, 954 (63.3%) resulted in the issuance of that order, 194 (12.9%) were varied, while 331 (22.0%) were either revoked or cancelled, withdrawn, dismissed or refused (see Table 2.13 in Section 2 of this report).

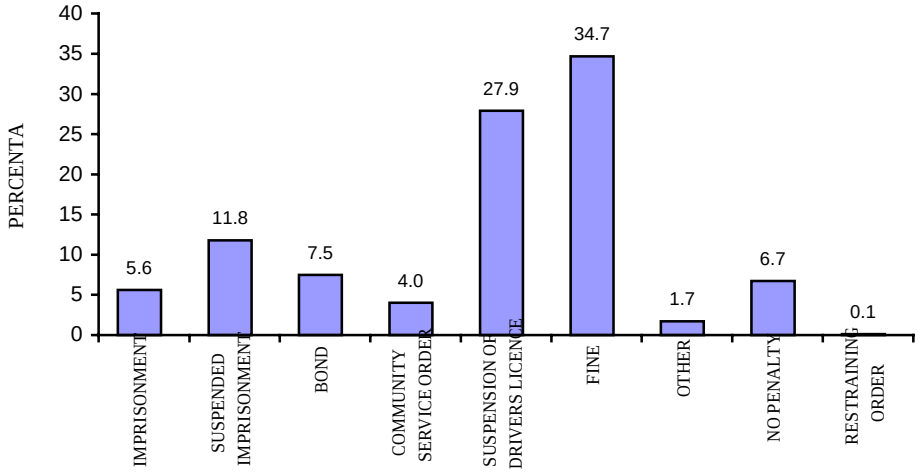
Penalties

Tables 2.14 to 2.25 in Section 2 of this report detail the major penalty imposed for the most serious charge per case for which there was a finding of guilt. As explained in Appendix A, in producing these tables for 1999, a different counting rule was used from that applied in *Crime and Justice* reports published prior to 1997. In the past, the focus was on the major charge convicted. However, from 1997 onwards, this shifted to the major charge found guilty, irrespective of whether or not a conviction was recorded. This brings the Magistrates Court tables into line with those produced for the higher courts and for the Youth Court (see *Crime and Justice in South Australia: Juvenile Justice*).

It should also be stressed that these tables do not include all penalties imposed per case. For example, in cases where several charges are proved, each charge may receive a different penalty. One charge may receive a fine, while another in that same case may result in imprisonment. Only the most serious (in this example, the imprisonment) is counted here. The same applies to cases in which there is a finding of guilt to only one charge but that charge attracts multiple penalties (such as a community service order and a driver's licence disqualification). Again, for the purposes of these tables, only the most serious penalty (in this case, a community service order) is counted. In effect then, the data detail the single, most serious penalty imposed in those cases where there was a finding of guilt to at least one charge.

In 1999, there were 19,253 cases finalised in the Magistrates Court that resulted in a finding of guilt to at least one charge. As shown in Figure 8, the most frequent penalty imposed was that of a fine (34.7% of these cases), followed by a driver's licence suspension (27.9% of cases). Only 5.6% of cases resulted in direct imprisonment, while 11.8% received suspended imprisonment. In a further 4.0% of cases, the major penalty imposed was a community service order, while 7.5% received a good behaviour bond. In 6.7% of cases, no penalty was imposed.

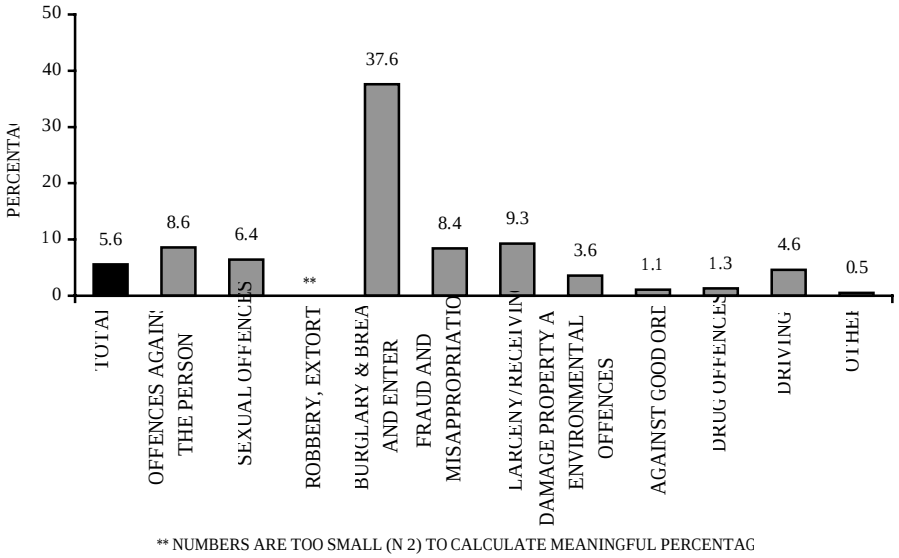
Figure 8 Major penalty imposed for the most serious charge proved per case: 1999



The category of 'restraining order' has once again been included in these tables. On 1 August 1994, the *Domestic Violence Act* came into operation. This Act amended the *Criminal Law (Sentencing) Act* by introducing *s.19A* whereby a Magistrates Court could issue a restraining order under either the *Domestic Violence Act* or the *Summary Procedure Act* on a finding of guilt or on sentencing. Prior to the introduction of this legislation, a restraining order could only be issued by separate application under the *Summary Procedure Act* or by attaching 'restraining order type' conditions to a bond. In 1999, there were only 18 cases (0.1% of the total) where a restraining order constituted the major penalty. This is slightly higher than the 14 recorded in 1998. However, the percentage of the total remains the same.

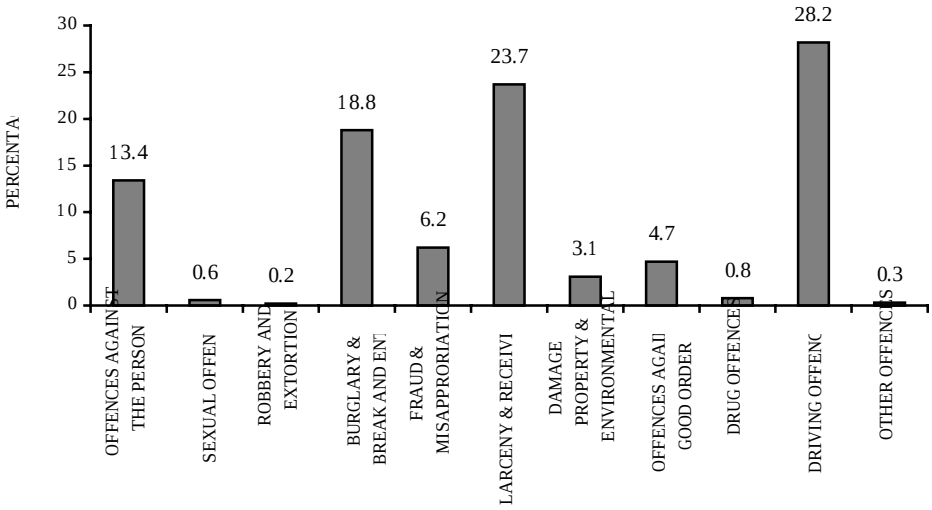
The number of cases resulting in imprisonment was lower in 1999 than in either 1998 or 1997 (1,083 compared with 1,185 and 1,509 respectively). However, the average length of the prison term was slightly higher (27 weeks compared with 24 weeks in 1998 and 21 weeks in 1997). The likelihood of a prison term again varied depending on the nature of the major charge for which a finding of guilt was recorded. Persons found guilty of the major charge of *burglary and break and enter* were proportionately more likely to receive imprisonment than those charged with other offences. As illustrated in Figure 9, of the 542 cases finalised in 1999 in which the major charge proved was *burglary and break and enter*, 37.6% resulted in imprisonment. This was followed by cases involving *larceny and receiving* as the most serious charge proved (with 9.3% ending in imprisonment), *offences against the person, excluding sexual offences* (with 8.6% of cases resulting in prison) and *fraud and misappropriation* (8.4%). Two of the four cases involving *robbery and extortion* also resulted in imprisonment. In contrast, only 1.3% of cases involving a *drug offence* and 1.1% of cases involving an *offence against good order* as the most serious charge proved involved a custodial sentence.

Figure 9 Major penalty imposed for the most serious charge proved, 1999: proportion of cases within each major charge category resulting in imprisonment



The above discussion described the proportion of cases within each major offence category which had a custodial sentence. Information relating to imprisonment is presented somewhat differently in Figure 10. This focuses only on those 1,083 cases that actually resulted in imprisonment, and identifies the proportion of all imprisonments accounted for by the different offence types. As shown, *driving offences* accounted for the largest proportion of imprisonments (28.2%). This was followed by *larceny and receiving* (23.7%), *burglary and break and enter* (18.8%) and *offences against the person, excluding sexual offences* (13.4%). In contrast, *drug offences* accounted for only 0.8%. The low proportion of imprisonments which involved *robbery and extortion* (0.2%) is due to two factors: first, the relatively small number of such cases which come before the Magistrates Court in the first place (231 in 1999 compared with, for example, 7,142 *driving* cases) and second, the fact that, as a major indictable offence, a high proportion of proven *robbery* matters are referred to a higher court for sentence (67 out of 231 compared with none of the 7,142 *driving* matters). These would therefore not appear in penalty data for the Magistrates Court. In effect then, only those robberies considered to be comparatively less serious in nature (and therefore not warranting imprisonment) would be finalised at this level.

Figure 10 Cases where imprisonment was the most serious penalty imposed by the major charge convicted, 1999



The average length of imprisonment was highest for those cases where the major charge proved was a *sexual offence* (average imprisonment of 95 weeks compared with 68 weeks in 1998). This was followed by *burglary and break and enter* (average of 57 weeks compared with 56 weeks in the previous year). Even though the number of *fraud and misappropriation* cases which resulted in imprisonment was small (n=67), the average length of imprisonment in these situations was relatively high (42 weeks), with a maximum of 364 weeks.

As in previous years, fines constituted the most frequent penalty imposed in those cases where the major charge proved was a *drug offence*, accounting for 81.7% of all such cases. Over two thirds (69.0%) of cases involving an *offence against good order* also resulted in a fine. At the other end of the scale, fines were imposed in only 4.0% of *driving* matters and 2.6% of *burglary and break and enter* cases. Overall, the average amount of fine imposed was $194 while the maximum was $12,500 (for an offence in the sub-category of *other offences*). This was lower than the maximum fine of $15,000 recorded in 1998 and well below the $60,000 recorded in 1996 for a *taxation and stamp duty, excluding excise* offence.

Tables 2.26 and 2.27 in Section 2 of this report provide a more detailed breakdown of the penalties imposed in those cases where the major charge proved was *exceeding the prescribed concentration of alcohol*. The *Road Traffic Act* sets different penalties for first, second and subsequent offenders. This distinction is based on whether the defendant was convicted for a PCA or related offence within a five year period immediately preceding the commission of the offence under consideration. Penalties also vary according to the blood alcohol level recorded. Both factors have been taken into account in these two tables. The first table provides details on those offenders

with no prior relevant convictions within the past five years, while the second relates to offenders who have had at least one relevant previous conviction in the last five years. It should be noted that these tables vary from Tables 2.14 - 2.25 in Section 2 of the report in that they include the three most serious penalties imposed per PCA conviction, rather than only the most serious.

In 1999, a total of 3,518 convictions were recorded for offenders with no prior convictions for a drink driving offence within the past five years. This figure was lower than the 4,161 convictions recorded in 1998. For offenders who have had at least one previous drink driving conviction in the last five years the figure also decreased, with 582 convictions in 1999 compared with 745 convictions in 1998.

As in previous years, the overwhelming majority of PCA cases resulted in a fine. This applied not only to those offenders who had no prior drink driving convictions (98.8% in 1999) but also to those with a prior PCA conviction (98.3 % in 1999). However, for those with a prior record, the average fine was higher than for those with no priors ($930 compared with $636 respectively). As was the case in 1998, a high proportion in both groups also received a licence disqualification (98.6% of those with no priors and 98.5% of those with priors). However, there were marked differences between the two groups in terms of the length of that disqualification. Offenders with no prior PCA convictions averaged 8.8 months licence disqualification compared with 19.2 months for those with a prior PCA conviction.

Background of defendants

Since 1994, background data on defendants processed through the Magistrates Court have been obtained by electronic transfer of data from the Police Department's computer system, using the apprehension number as the unique reference point for matching a particular court file with the appropriate police file. Until 1996, *Crime and Justice* reports contained tables detailing the occupational status, marital status and birthplace of the defendant, despite the very high number of cases in which such information was not available[2]. Since 1996, these tables have been omitted while a new table relating to the racial appearance of the defendant has been added. It should also be noted that the tables provide details on all persons involved in the 26,518 cases finalised by the Magistrates Court in 1999, irrespective of the outcome of those cases.

Males accounted for the overwhelming majority of finalised cases (82.1%) where information on the sex of the defendant was available. As in previous years, the level of female participation varied depending on the major charge involved. Of those cases where relevant information was recorded, females accounted for only 1.0% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 34.7% and 29.2% respectively of all cases involving *fraud*

[2] IN SOME CASES THIS WAS DUE TO THE ABSENCE OF AN APPREHENSION REPORT NUMBER (WHICH MEANT THAT THE COURT FILE COULD NOT BE MATCHED WITH THE APPREHENSION REPORT). IN OTHER CASES, ALTHOUGH THE COURT NUMBER WAS AVAILABLE, THE DEMOGRAPHIC DATA WERE NOT RECORDED ON THE APPREHENSION REPORT.

and misappropriation and *larceny and receiving*. Females also accounted for 19.6% of cases involving *drug offences* but only 12.4% of all *non-offence* matters (which, as noted earlier, relate to restraining order applications).

Defendants aged between 20 and 29 years were involved in 41.7% of all cases finalised by the Magistrates Court in 1999. Another 11.9% were 18 or 19 years of age, while a further 27.7% fell within the 30 to 39 year age bracket. Very few cases (5.9%) involved older defendants aged 50 years and over. The actual rate of appearance per age group is depicted in Figure 11. This shows that as age increased, so the likelihood of coming before the Magistrates Court decreased. To illustrate, the rate of appearance for those aged 18 and 19 was 79.6 per 1,000 age specific population, but this dropped to 1.7 per 1,000 for those aged 60 years and over. The average age of all defendants was 30.7 years, although this varied slightly from 36.9 years for cases involving a *sexual offence* to 26.6 years and 26.0 years for those involving *robbery and extortion* and *burglary and break and enter* respectively. Overall, female defendants were only marginally older than were male defendants, with an average age of 31.6 years compared with 30.6 years respectively.

Figure 11 Cases finalised in the Magistrates Court, 1999: rate per 1,000 age specific adult population.

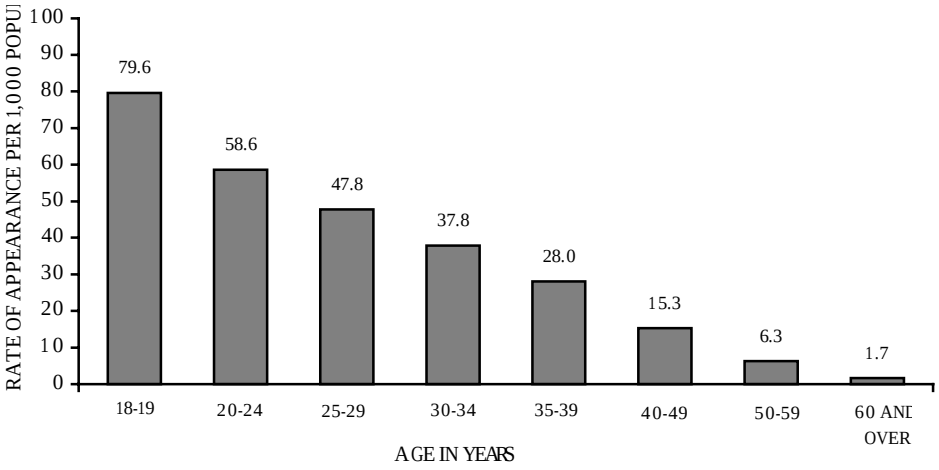
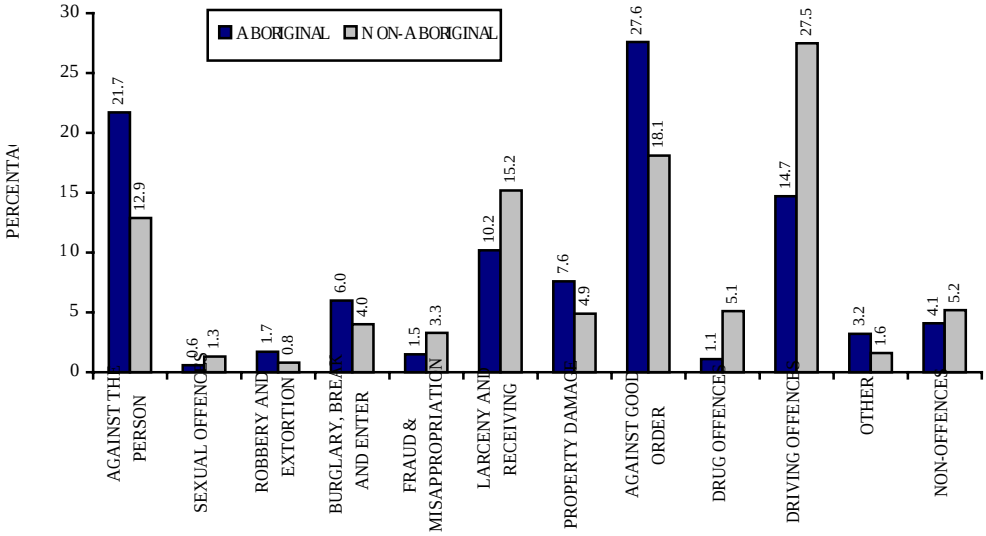


Table 2.29 in Section 2 of this report details the racial appearance of defendants involved in cases finalised in 1999. In interpreting the information presented here, it should be stressed that racial appearance is determined by police officers at the point of apprehension and is based on the officer's judgement of the physical appearance of the individual. The accuracy of the data is therefore questionable. Nevertheless, these data currently provide the only indicator of the extent of Aboriginal involvement in the court system.

Aboriginal defendants appeared before the Magistrates Court at a rate of 257.7 per 1,000 adult Aboriginal persons in the population. This is 12.5 times greater than the rate of 20.6 per 1,000 adult population recorded for persons of non-Aboriginal appearance. Stated differently, in 1999 Aboriginal people accounted for 12.0% of all Magistrates Court cases in which racial appearance was recorded, even though they represented only 1.1% of the State's adult population. Their rate of representation was therefore 10.9 times greater than would be expected on a per capita basis. The absolute number of Aboriginal cases dealt with in 1999 was similar to that recorded in 1998 (2,889 compared with 2,895 respectively). The rate of appearance per 1,000 Aboriginal adult population also remained stable (257.7 per 1,000 adult population in 1999 and 258.2 in 1998).

As indicated in Figure 12, there were some variations between Aboriginal and non-Aboriginal defendants in terms of the major charge involved. A higher proportion of Aboriginal than non-Aboriginal cases involved *offences against the person, excluding sexual offences* (21.7% compared with 12.9% respectively) and *offences against good order* (27.6% compared with 18.1% respectively). Conversely, a lower proportion comprised *larceny and receiving* charges (10.2% compared with 15.2% respectively), *drug offences* (1.1% compared with 5.1% respectively) and *driving offences* (14.7% and 27.5% respectively).

Figure 12 Cases finalised in the Magistrates Court, 1999: racial appearance by major offence charged



Tables 2.30 and 2.31 in Section 2 of this report detail the residential location of those defendants involved in cases finalised by the Magistrates Court in 1999. The rate of appearance per 1,000 adult population across Local Government Areas (LGAs) in South Australia is also documented. Overall, persons resident in the Adelaide metropolitan area had a lower rate of appearance than did those living in the remainder of the State (with 21.1 appearances per 1,000 population compared with 51.4 per 1,000 in country areas.) Within metropolitan Adelaide, the Local Government Areas with the lowest appearance rates were Mitcham (9.3 per 1,000 adult population), Burnside (9.8), East Torrens (10.9), Unley (11.9) and Happy Valley (12.4). LGAs with the highest rate of appearance per 1,000 adult residents were Elizabeth (51.3), Enfield (40.1) and Adelaide (37.7). In rural South Australia, Ceduna recorded the higher rate of appearance per 1,000 residents (75.9), followed by the Far North (70.7), Cooper Pedy (68.4) and Port Augusta (63.9). The lowest rates in the rural area were recorded for 'other country' (16.5) and Port Pirie (25.0).

Table 2.32 in Section 2 of this report detail the previous criminal record of defendants involved in all cases finalised by the Magistrates Court in 1999. As was the case in 1998, seven out of 10 defendants (69.9%) for whom such information was available had at least one previous conviction, with an average of 11.5 prior convictions per

defendant[3]. The proportion of defendants with prior convictions was highest amongst those charged with *burglary and break and enter* (with 85.2% having at least one prior conviction), followed by *robbery and extortion* (84.0% with priors) and *offences against the person, excluding sexual offences* (75.2% with priors). Not suprisingly, those charged with *burglary and break, enter* or *robbery and extortion* also had the highest **average** number of prior convictions (21.2 per defendant).

However, even for those offence categories at the other end of the spectrum, the proportion of defendants with prior convictions was still relatively high. The proportion with a prior conviction was lowest for cases involving *sexual offences* and *fraud and misappropriation*. Yet even here, 61.1% and 58.6% respectively had a prior criminal conviction, with an average of 9.7 and 8.8 convictions per defendant respectively.

One in five cases (21.3%) finalised in the Magistrates Court in 1999 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 45.0% of defendants involved in cases where *robbery and extortion* was the major charge, to 15.2% of *fraud and misappropriation* defendants and 13.9% of cases involving *driving offences*.

Table 2.33 in Section 2 of this report details the bail status of the defendant at the time of his/her final court appearance. In the majority of cases (66.8%), bail was not required: in other words, the defendant was not subject to any conditions imposed by the court. In a further 30.1% of cases, the defendant was on bail at the time of the final appearance, while in a very small proportion of cases (3.1%) the defendant was in custody. However, the proportion of custodial remands varied depending on the number of court hearings required to finalise the case. Of the 7,663 cases where the matter was dealt with at the first hearing, only two defendants were held in custody at the time. This compares with 734 (or 4.0%) of the 18,458 defendants whose cases took two or more hearings to finalise, and 94 (or 23.7%) of the 397 defendants who were committed to a higher court for trial or sentence.

Whether or not a defendant was legally represented also varied depending on the number of hearings required to finalise a matter (Table 2.34 in Section 2 of this report). In those cases where the matter was resolved at the first appearance, only three in ten (28.8%) had legal representation. This rose to over three quarters (77.6%) of those whose cases took more than one hearing to finalise and 96.9% of those who were committed to a higher court for trial or sentence. However, some caution should be exercised when using these figures because of the relatively high proportion of cases (20.7%) where information relating to legal representation was missing.

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[3] NOTE THAT, IN DETERMINING THE NUMBER OF PRIOR CONVICTIONS, ALL OFFENCES ARE COUNTED, REGARDLESS OF THE NUMBER OF FINALISED COURT APPEARANCES INVOLVED. THIS MEANS THAT IF A DEFENDANT, AT A PREVIOUS FINALISED COURT APPEARANCE, WAS CONVICTED AT THE ONE HEARING OF THREE *sexual assaults* AND TWO *larcenies*, THIS WOULD BE COUNTED AS 5 PRIOR CONVICTIONS IN TABLE 2.32. THE NUMBER OF PRIOR CONVICTIONS WOULD THEREFORE BE THE SAME AS FOR AN INDIVIDUAL WHO HAD HAD FIVE SEPARATE FINALISED COURT APPEARANCES, WITH ONE OFFENCE OF *sexual assault* BEING FINALISED AT THE FIRST, ANOTHER *sexual assault* AT THE SECOND AND SO ON.

As indicated in Table 2.35 in Section 2 of this report, relatively few defendants (483 or 1.8%) in the 26,121 cases actually finalised in the Magistrates Court maintained a plea of 'not guilty' to the major charge at their final appearance. By contrast, of the 397 cases committed for trial or sentence to a higher court, over three quarters (79.6%) were pleading 'not guilty' at the time of their committal.

Some typical cases

Presented below are a number of case descriptions of matters found guilty in the Magistrates Court during 1999. These cases were randomly selected to give the reader an insight into the stories behind the statistics.

Stalking

The accused in this matter, a 41 year old male, met his victim in the city where she was employed. The accused had engaged the victim to work for him on a number of separate occasions and after a short time, according to the victim, he became a nuisance, calling her at work and following her as she drove home.

In late 1998, after a month of what the victim considered to be harassment, the accused was banned from attending her place of work. However, he continued to ring her there and attempted to book her to work for him.

In early February 1999, in response to a complaint from the victim, the police arrested the accused and, upon searching his car, found a sharpened screwdriver and a sharpened club lock end under the driver's side seat.

When questioned at the City Watch House the defendant indicated that he had done nothing wrong. He denied that the items found in his car were weapons and stated that both were tools used in his profession. He was charged with one count each of *stalking* and *carry offensive weapon* and was released on police bail.

The matter was finalised after 12 court appearances. The defendant did not enter a plea and the case was dismissed for want of prosecution. The defendant had 12 previous convictions for various offences but had never been in imprisoned.

Indecent behaviour

In September 1998, two police officers working as plain clothes transit response police, attended at a suburban train station as part of an operation targeting a male offender who had been reported for engaging in indecent behaviour at the station.

On arrival at the station the two officers saw a male person matching the description of the offender (a 50 year old man) and approached him to obtain details of his identification. After speaking to this man, the police were approached by a female commuter who indicated that she believed the man to be the same person who had exposed himself to her in August 1998. During this conversation, the suspect left.

The next day the police went to the address given to them by the suspect, only to discover that he had given them a false name and address. They then attended at a different address one block away, on the suspicion that the male they had spoken to was actually an offender known to police who lived there. They recognised the man as the male they had spoken to at the train station.

The accused refused to answer any questions and contacted his solicitor. Shortly afterwards the police and the accused attended at the solicitor's chambers and the accused was interviewed but still refused to answer any questions. He was subsequently arrested, charged with two counts of *indecent behaviour* and conveyed to the City Watch House to prevent the commission of further offences.

The matter was finalised after eight court appearances. The defendant was convicted of the charges and sentenced to six months imprisonment which was subsequently suspended upon him entering into a good behaviour bond for three years. The defendant had 19 previous convictions for similar offences but had never been imprisoned.

Illegal use of a Motor Vehicle

In early February 1998, the victim in this matter was contacted by police regarding the theft of his car. He had left the card locked and secured in his driveway and it had subsequently been taken without his permission.

The theft was brought to the attention of the police when plain clothes police, travelling in an unmarked car, began to follow a vehicle that was swerving from left to right on the road, narrowly missing a parked car. The police activated their lights and siren as a sign for the driver of the car to pull over but instead, it accelerated and made a right hand turn. The police continued to follow the car until it pulled into a car park where it appeared to stall. They then pulled up level with the car and requested that the driver get out. The vehicle restarted and travelled about 30 metres before coming to rest. The driver ran off. The police gave chase and a cordon was set up around the area. The Dog Patrol located the accused in nearby premises. He was searched and a large screwdriver was found in his pocket. A search of the car located a wallet belonging to the accused. Police formed the opinion that the accused had been driving under the influence due to his unsteady appearance and slurred speech.

The accused was conveyed to the police station where he undertook a breath analysis which gave a nil result. A blood sample was then taken. A further search of the accused at the police station revealed two small pieces of foil each containing a white powder. Further enquiries divulged that the accused was also disqualified from holding a driver's licence. The blood sample taken from the accused and the white powder located on him were sent to be tested.

During the police interview the accused stated that he had been at a party and had needed a car to drive home. He had broken into the vehicle with the screwdriver and found a set of keys in the console. He stated that he had nothing to drink at the party but had injected heroin earlier in the day. He said that he was not aware he had been swerving back and forth on the road. He stated that he did not stop the car when requested by police as he knew the car was stolen and didn't want to get caught. The accused also stated that he was aware that he didn't have a driver's licence and was disqualified from holding one. The accused was subsequently charged with one count each of *illegal use, drive under the influence, straddle lanes, disobey reasonable direction, drive disqualified* and *possess drugs of dependence*.

The matter was heard in the Magistrates Court and finalised after four court appearances. The defendant did not enter a plea and the case was dismissed for want of prosecution. The defendant had 50 previous convictions for various offences and had been imprisoned before.

Break and enter school

In the early hours of a Wednesday in July 1998, police attended at a suburban high school in response to an alarm activation. Upon arrival police observed two males run from a building in the school. Police gave chase and apprehended one male. As a result of a conversation with this individual, police went back to the school where they observed a building had been broken into.

The following morning the school confirmed that a range of items, including food, alcohol, a microwave, cookbooks and various cooking utensils, were missing. The total value of the goods was $1,110.50.

As a result of further enquiries police attended an address in the area where they located the accused (a male aged 18 years) and three other suspects. A search of the premises located some of the stolen food, while other stolen goods were found behind bushes near the school oval. However, not all of the stolen items were recovered.

Upon questioning, the accused in this matter stated that he and the three other defendants had gone to the school and noticed an open window with a pushed-through flyscreen. He and one of the others gained entry to the building and removed foodstuffs, which they took back to the accused's address. About half an hour later the four defendants returned to the school, entering the building through a door they had previously left open. They then removed numerous other items, which they

placed on the oval to come and get later. The accused was arrested and charged with one count of *break and enter building and commit offence*.

The matter was finalised after five court appearances. The defendant pleaded guilty to the offence, was convicted of the charge and was sentenced to six months suspended imprisonment, a community service order for 80 hours and a good behaviour bond (with supervision) for 18 months.

Cases committed for trial in a higher court

The following offences were heard initially in the Magistrates Court before being committed for trial in the District or Supreme Court.

Drive causing death

On an afternoon in November 1998, the accused in this matter (a male aged 35 years) was driving along the highway when his vehicle crossed to the right hand side of the road and collided with an on-coming vehicle. The victim, who was the driver and only occupant of that vehicle, died as a result of injuries sustained in the collision.

Three witnesses stated that they had observed the accused driving in a dangerous manner shortly prior to the collision.

The accused was taken to the Royal Adelaide Hospital for treatment. A total of $8,420 in cash was found in the accused's jeans pocket. No receipts or documentation were found in the vehicle or personal property belonging to the accused which could have explained the manner in which the money was obtained. A sample of the accused's blood tested positive for cocaine and methylamphetamines.

The police seized the accused's vehicle and took it to the police station to be searched. During the search, 1.5kg of green vegetable matter (later identified as cannabis) was located hidden in the spare tyre in the wheel well in the boot.

A fourth witness came forward and informed police that he had been with the accused earlier in the day. He reported that he had helped the accused hide the cannabis in the car's spare tyre and then observed the accused inject the methylamphetamine into his arm. Witness 4 stated that the accused then became drowsy and on several occasions nearly had collisions with other vehicles on the road.

When interviewed by police in hospital, the accused refused to make any statements regarding the collision. He was subsequently charged with one count each of *causing death by dangerous driving, possessing a controlled substance for sale, drive under the influence, drive in reckless or dangerous manner, due care* and *unlawful possession*.

The charge was heard in the Magistrates Court. The defendant pleaded not guilty. Due to the severity of the offences, the case was committed for trial in the District Court after six hearings in the Magistrates Court.

Armed robbery with violence

The accused in this matter (a 29 year old male) entered a hotel and held up a female gaming room attendant (Victim 1) with a knife. Victim 1 opened a safe, allowing the accused access to the money inside. While the accused was removing money from the safe, Victim 1 pressed a personal alarm which she wore around her neck. On attempting to leave the premises the accused noticed that a number of hotel patrons had observed him as he committed the offence. The accused then grabbed Victim 1 and told people not to do anything or he would harm her. The accused was allowed to leave the premises and once outside, relinquished his hold on Victim 1. He was then pursued by hotel patrons. One of the patrons (Victim 2) pursued the accused and attempted to trip him up. The accused grabbed Victim 2 and stabbed her in the back causing a wound. The accused then fled the scene onto a nearby main road where he was hit by a passing motorist. The accused was then apprehended by hotel patrons and handed over to police on their arrival.

The accused was arrested and conveyed to hospital and after a medical examination was taken to the police station to be interviewed. He refused to answer any questions in relation to the offence. He was charged with one count each of *armed robbery* and *wounding with intent to resist lawful apprehension*.

The defendant subsequently pleaded not guilty. After six hearings in the Magistrates Court, due to the severity of the offence the case was referred for trial and sentencing to the Supreme Court.

1.2 Supreme and District Courts

This section includes all finalised criminal cases before the Supreme and District Courts. In most instances a magistrate or other justice will have committed the defendant for trial or sentence after a committal hearing, although in a few cases the Director of Public Prosecutions[4] will have committed the defendant *ex-officio*[5].

In general, the offences involved in cases before these courts are of a more serious nature than those in the summary courts and are referred to as indictable offences. These are subdivided into major and minor types, which were formerly known respectively as felonies and misdemeanours[6]. In certain instances a judge in the District or Supreme Court may hear matters that would normally be dealt with summarily by a magistrate or other justice. This usually occurs when a defendant has a case involving summary matters at the same time as one in the Supreme or District Court. Wherever possible, such matters are consolidated and dealt with together by the judge who is hearing the indictable matters, as this is more just and efficient.

Only finalised[7] cases involving trials or sentencing are included in Tables 3.1 to 3.32 in Section 3 of this report. Cases which are only to hear a bail application, to vary the condition of a bond or order, to set a non-parole period or to hear an appeal are not included here.

Overview

A total of 841 cases were completed during 1999, a decline of 80 or 8.7%. The bulk of the decline came from four groups: *offences against the person (excluding sexual offences)* (declined by 66 cases), *burglary and break and enter offences* (13 cases fewer), *fraud, forgery and false pretences* (17 fewer) and *offences against good order* (21 cases fewer). These were offset to some extent by small increases in most of the remaining groups. The numbers in the Supreme Court dropped from 81 to 67 (17.3% fewer) and in the District Court the numbers went from 840 to 774 (7.9% lower).

Table 1 and Figure 13 show trends in the number of cases handled by the two jurisdictions since 1982, together with the number of cases committed from

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[4] PRIOR TO THE CREATION OF THE OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS, *ex officio* COMMITTALS COULD ONLY BE PERFORMED BY THE ATTORNEY GENERAL. THE *Criminal Law Consolidation Act* GIVES THAT POWER TO THE DIRECTOR OF PUBLIC PROSECUTIONS (*S 275*), BUT DUE TO THE CONVENTIONS OF THE WESTMINSTER SYSTEM OF GOVERNMENT, THE ATTORNEY GENERAL RETAINS THIS POWER IN HIS OR HER CAPACITY AS CHIEF LAW OFFICER. IT IS DIFFICULT TO IMAGINE CIRCUMSTANCES IN WHICH THIS POWER WOULD BE EXERCISED UNDER THE CURRENT ARRANGEMENT.

[5] AN *ex officio* COMMITTAL IS ONE IN WHICH THE DPP (OR THE ATTORNEY GENERAL) COMMITS A PERSON FOR TRIAL DIRECTLY WITHOUT A COMMITTAL HEARING IN A MAGISTRATES COURT. THIS METHOD OF COMMITTAL IS SELDOM USED, BEING RESERVED FOR UNUSUAL CIRCUMSTANCES.

[6] THE CLASSIFICATIONS OF OFFENCES AS FELONIES OR MISDEMEANOURS WERE ABOLISHED IN 1994.

[7] SEE APPENDIX A FOR THE RULES EMPLOYED FOR DETERMINING WHEN A CASE IS FINALISED AND WHETHER IT IS ELIGIBLE FOR COUNTING.

Magistrates Court. The sudden increase in cases in the District Court beginning in 1989 is a particularly striking feature of the trend. The number of cases reached a peak in 1992, at which point legislation came into effect to divert more cases out of both the Supreme and District Courts (see Appendix A for a more detailed discussion of the changes). This legislative change was accompanied by an immediate fall in the numbers of cases in both these jurisdictions. Between 1992 and 1993, the number of cases finalised in the Supreme Court decreased by 61.5% (from 473 to 182) while in the District Court, a 12.8% decrease was recorded (from 1,566 to 1,366). After 1993 numbers in the District Court continued to decline (by 10.4% between 1993 and 1994, and by 14.7% between 1994 and 1995.) Despite a slight increase in 1996, numbers again fell in 1997 and continued to decline each year thereafter. The 1999 figure is the lowest it has been in the period covered by these figures.

Trends in the Supreme Court have followed a slightly different pattern. Following the substantial decrease recorded in 1993, the number of cases finalised at this level increased slightly for several years before declining again. Numbers in 1999 are almost five times lower than 15 years before in 1982.

As would be expected, the change in numbers in the higher courts is closely reflected by the trend in the number of cases committed for trial or sentence from the Magistrates Court. Committal numbers escalated substantially in 1991 and 1992. This was followed by an equally dramatic decline in 1993 and subsequent years, before stabilising in the period 1997 to 1999. The number of committals recorded in 1999 (397) is the lowest within the range reported in the table. Because of the time lag between a case being committed and it being finalised in a higher court, it could be some years before the full effect of the decline in committals on higher court numbers is seen. If the number of committals is maintained at the levels of the last three years, Supreme and District Court numbers should continue to decline and then eventually stabilise at lower levels than those currently seen.

In January 1994, a Committals Unit was established within the office of the Director of Public Prosecutions (DPP), with the aim of further streamlining the processing of indictable offences. One of its goals was to reduce the number of cases of minor indictable offences reaching the Supreme and District Courts by ensuring that appropriate charges were laid at as early a stage as possible. Previously, significant numbers of cases were committed on charges that, upon reaching the higher courts, were altered to less serious ones which, in the view of the DPP, had a more realistic prospect of success. By attempting to ensure that appropriate charges are laid at the outset, the aim of the Committals Unit is to ensure that as many cases as possible which could reasonably be dealt with in a Magistrates Court are finalised there, with consequently lower costs and delays.

It is difficult to determine the extent of the Committals Unit's contribution to the trends outlined above, especially given the magnitude of the changes already resulting from the redistribution of cases out of the higher courts and the fact that, because the growth of the Committals Unit has been spread over several years, its full impact may only now be becoming evident. It must also be borne in mind that other factors also influence the number of cases finalised, ranging from the number entering the system (influenced by both rates of offending, reporting and detection), through to the

expedition with which matters are processed once they enter the court system. For example, a reduction of the time to handle cases could increase the output of cases in the short term.

Table 1 Trends in the number of cases finalised by the Supreme and District Courts and in the number of cases in Magistrates' Courts where the major charge was committed for trial or sentence, 1982 to 1999 calendar years.

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997*	1998	1999
Supreme	330	285	309	380	392	356	389	453	457	504	473	182	232	247	171	118	81	67
District	991	830	988	952	866	917	891	932	1,199	1,439	1,566	1,366	1,224	1,044	1,122	949	840	774
Committals	758	606	1,005	838	850	832	840	819	905	1,329	1,781	987	849	745	747	408	437	397

* Figures for 1997 Supreme and District Court numbers have been updated from those previously published to reflect the effect of case consolidations. Further details can be obtained from the 1998 *Crime and Justice* report.

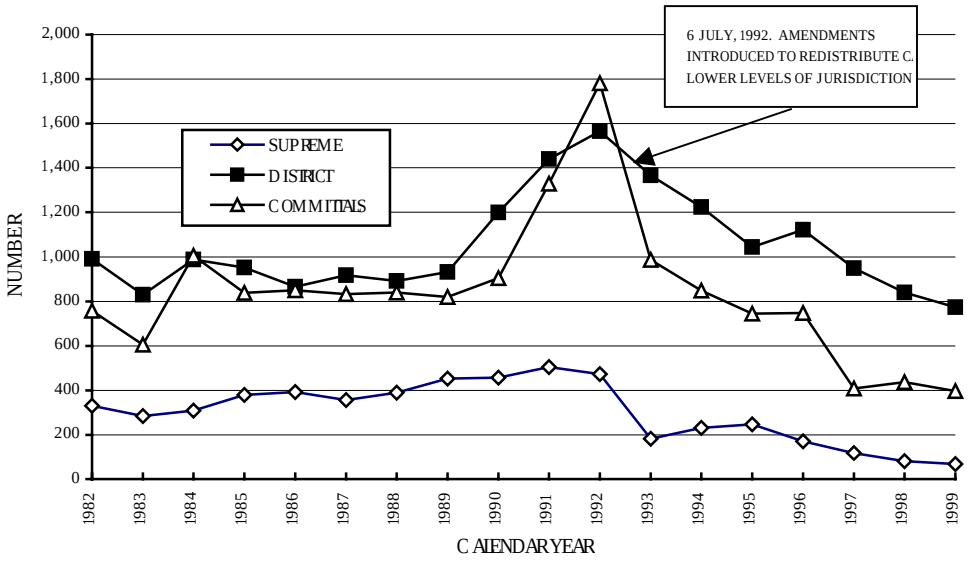
NOTE: The number of committals does not equal the number of finalised cases in the Supreme and District Courts for a variety of reasons, including:

(1) The number of committals presented here is the number of cases where the major offence charged was committed for trial or sentence; if the major charge was dismissed but another charge was committed, that will not show here;

(2) Cases committed in a given year will not always be finalised in a higher court in the same year;

(3) Matters which are finalised in a higher court can be a consolidation of two or more matters arising from Magistrates Court.

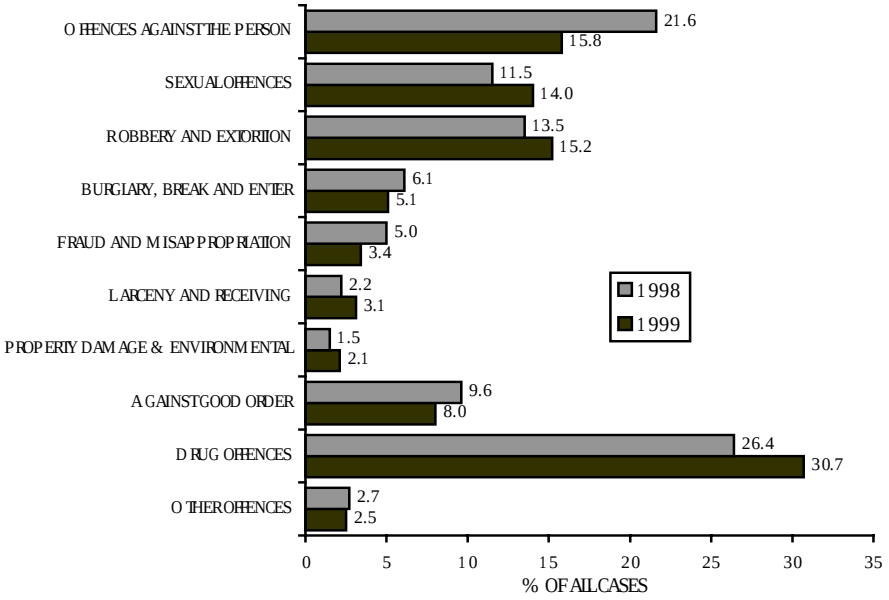
Figure 13 Trends in the number of cases committed from the Magistrates Court and the number finalised by the Supreme and District Courts by calendar year, 1982 to 1999.



Major charge per finalised case

As Figure 14 shows, three offence groups together made up over 60% of all the cases finalised in the higher courts in 1999 - *drug offences*, *offences against the person (excluding sexual* offences) and *robbery and extortion*. These were listed as the major charge in 30.7%, 15.8% and 15.2% of all cases respectively. *Sexual offences* were the next most numerous (14.0%), followed by *offences against good order* (8.0%). The remaining offence groups made up quite small percentages of the total. This charge profile has changed relatively little over recent years, despite the decrease in absolute numbers and, not surprisingly, is somewhat different from that of the Magistrates Court, where *driving offences*, *drug offences* and *offences against good order* dominated.

Figure 14 Type of offence listed as the major charge for cases finalised in the Supreme and District Courts, 1998 and 1999.



Outcomes

Table 3.1 in Section 3 of this report shows the outcome of all cases, classified according to the type of offence listed as the major charge[8]. The majority of cases (79.9%) resulted in at least one of the charges having an outcome of guilty. A further 6.9% of the total were acquitted at a trial, while three were found not guilty on the grounds of mental incompetence (see Appendix A for an explanation of the operation of the law in relation to mentally incompetent persons). In 12.1% of cases all charges were abandoned and in 0.7% of cases either the defendant died or the proceedings were stayed.

Tables 3.2 to 3.11 in Section 3 take each of the offence groups in Table 3.1 and further subdivide them to show the outcome of the major charge in those offence groups.

The relative proportions of the major outcome types varied considerably between offence groups (see Table 2). The group with the largest percentage of cases in which the defendant pleaded *guilty* and did not go to trial was the *offences against good order* group (85.1%). This group was largely made up of defendants who had breached bonds or other undertakings and in these type of cases, the likelihood of a *guilty* plea is always high. The most usual manner of breaching a bond is by

[8] SEE APPENDIX A UNDER *Supreme and District Courts* FOR A DEFINITION OF *major charge*.

conviction for a fresh offence, in which case the breach allegation is automatically proven once the conviction occurs. *Guilty* pleas are least likely to occur in the *sexual offence* cases, where charges are more readily contestable due to the much lower chances of obtaining supporting evidence other than from the testimony of the alleged victim. Findings of guilt or pleas of *guilty* at trials also varied considerably between offence groups, ranging from a low of 1.5% for *offences against good order* to a high of 23.3% for *offences against the person (excluding sexual offences).* Acquittals were highest for the *sexual offences.* This was also the group with the highest percentage of cases where all charges were dropped.

Table 2 Percentage of each principal outcome type by offence group of the major charge, Supreme and District Courts, 1999 calendar year.

Offence group	Guilty plea – no trial*	Guilty at trial**	Acquitted	All charges dropped***
Offences against the person (excluding sexual offences)	50.4	23.3	9.8	12.0
Sexual offences	33.9	20.3	15.3	28.0
Robbery and extortion	55.5	22.7	5.5	12.5
Burglary and break and enter	60.5	20.9	9.3	2.3
Offences against good order	85.1	1.5	6.0	7.5
Drug offences	69.0	19.0	3.5	6.2
Total	59.8	18.1	6.9	12.1

* Pleads *guilty* to either the major charge or another charge and there is no trial on any charge.
** Pleads guilty or is found guilty of one or more charges (either the major charge or one or more other charges) at a trial.
*** Charges may be dropped by the DPP via one of the following means:

- entering a *nolle prosequi*,
- electing not to proceed on a charge,
- declining to file an Information (entering a "white paper"),
- tendering no evidence (in the case of a summary charge),
- withdrawing the charge (in the case of a summary matter or an allegation of a breach of bond or other such undertaking).

NB: This table excludes the less numerous outcome types of:

- 'other outcome' (e.g. defendant died, case struck out, permamently stayed etc),
- not guilty on the grounds of mental incompetence and
- major charge was dropped and a plea of *guilty* to another charge was accepted in satisfaction of the dropped charge ('Major charge dropped – Guilty of other offence').

Thus the percentages in the table do not sum to 100% within each row.
This table excludes those offence groups where the number of cases is less than 30, because percentages may be too unstable to provide meaningful information.

The number of trials held in 1999 was almost the same as the number in 1998 (213 in 1999 versus 215 in 1998). However, because the overall number of cases dealt with was smaller, the percentage of cases going to trial increased from 23.3% in 1998 to 25.3% in 1999. A breakdown of each type of outcome in trials is illustrated in Figure 15. When compared with 1998, a smaller percentage of defendants was acquitted in 1999 (27.2% versus 32.1%) and a higher percentage was found guilty as charged (37.6% versus 34.0%). Slightly fewer cases were found not guilty on the grounds of mental impairment, and in each of the remaining three categories, there were proportionately more defendants found guilty of at least one charge.

Figure 15 Major charge outcomes for cases going to trial, Supreme and District Courts, 1998 and 1999

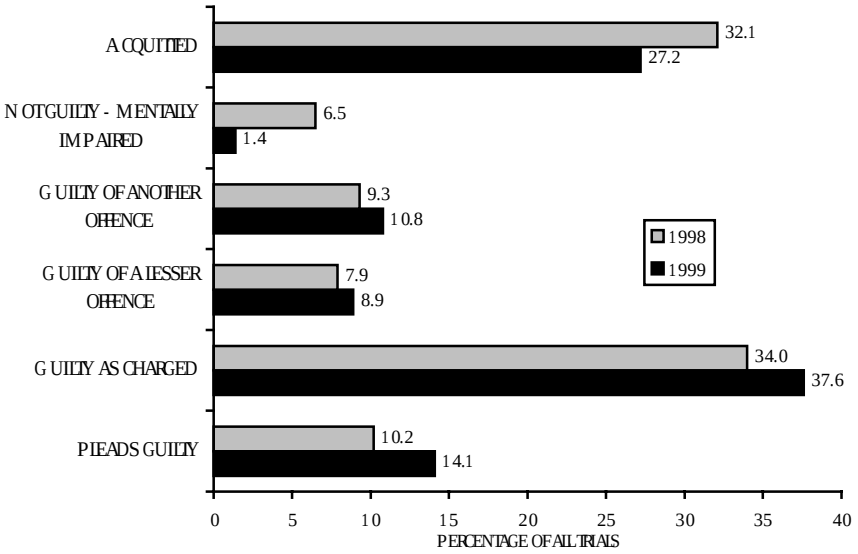
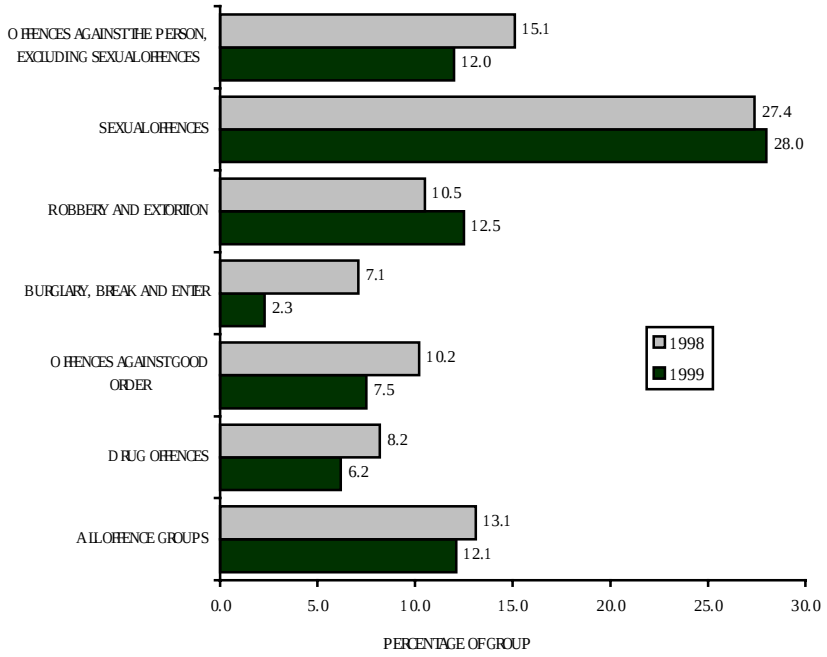


Figure 16 shows the percentage of cases in 1998 and 1999 where all charges were dropped by the DPP. A slightly lower percentage was dropped in 1999 than 1998 (12.1% versus 13.1%). There were considerable differences between offence categories in the percentage of cases ending in this way, ranging from nearly one in three of *sexual offences* down to just over 2% for *burglary and break and enter offences*. The profiles for the offence groups were similar for 1998 and 1999.

Figure 16 Percentage of cases within each offence group where the major charge was either not proceeded with or a *nolle prosequi* was entered, and no other charge was found guilty, Supreme and District Courts, 1999.



This graph excludes those offence groups where the number of cases is less than 30, because percentages may be too unstable to provide meaningful information.

Penalties

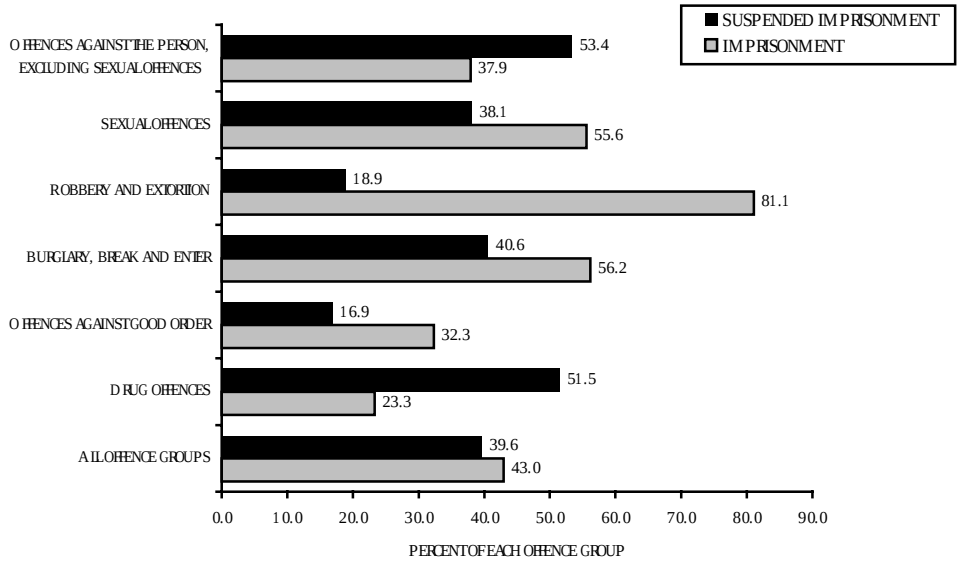
Table 3.12 in Section 3 of this report sets out the most serious penalty applied per case, and classifies cases according to the charge to which that penalty was attached[9]. There were 672 cases in which one or more charges had an outcome of 'guilty'. The most common penalty applied in these cases was imprisonment, which was imposed in 43.0% of cases, for an average of 41.1 months on the major offence convicted. The next most frequently applied penalty was suspended imprisonment, which was given

[9] THE MAJOR CHARGE FOUND GUILTY IS THE CHARGE WHICH RECEIVED THE HEAVIEST PENALTY. THE SEVERITY RANKING OF PENALTIES IS SET OUT IN APPENDIX A. A CASE IS CLASSED AS BEING FOUND GUILTY REGARDLESS OF WHETHER THE OUTCOME WAS ACHIEVED BY MEANS OF A *guilty* PLEA OR AN ACTUAL FINDING OF GUILT BY JUDGE OR JURY WHEN THE CHARGE WAS CONTESTED.

in 39.6% of cases. Other penalty types were rarely applied, reflecting the seriousness of the offences dealt with in the Supreme and District Courts.

As would be expected, however, the proportion of cases resulting in immediate imprisonment varied depending on the nature of the major charge found guilty. Figure 17 shows the percentage of each offence group which received either direct or suspended imprisonment. There were three[10] groups where the likelihood of imprisonment was greater than 50%: *sexual offences* (55.6%), *robbery and extortion* (81.1%), and *burglary and break and enter* (56.2%). The two groups with the smallest percentage imprisoned were *drug offences* and *offences against good order*, at 23.3% and 32.3% respectively. The *offences against good order* were mainly composed of breaches of bonds, whilst those most likely to receive a non-custodial sentence in the *drug offences* were the selling or possessing for sale of drugs and producing cannabis.

Figure 17 Percentage of cases within each offence group receiving suspended imprisonment or imprisonment, Supreme and District Courts, 1999



This graph excludes those offence groups where the number of cases is less than 30, because percentages may be too unstable to provide meaningful information.

[10] EXCLUDES ANY GROUP WHERE THE NUMBER OF CASES IS LESS THAN 30, WHERE PERCENTAGES MAY BE TOO UNSTABLE TO PROVIDE MEANINGFUL INFORMATION.

Table 3 and Figure 18 illustrate the trend in non-parole periods handed down for murder since 1981. Since all murders carry a mandatory term of life imprisonment, the non-parole period provides the best indication of effective sentence length. The average non-parole period increased up until 1986, after which time it briefly fluctuated before stabilising at approximately 19 years, reflecting the effect of the Truth In Sentencing legislation (see Appendix A 'Criminal Justice in South Australia' for a brief outline of the operation and effect of this on sentencing). The range of non-parole periods has varied very widely over the period, ranging from one sentence of ten days in 1987 to one of 39 years and six months in 1996. The latter sentence was for a prisoner already serving a life sentence for murder.

Table 3 Trend in non-parole period (in months) for life sentences for murder, 1981 to 1999.

	81	82	83	84	85	86	87	88	89
Av.	144.0	88.0	137.6	194.0	258.0	266.4	210.1	288.0	234.6
Median	144.0	84.0	141.0	162.0	252.0	264.0	240.0	288.0	204.0
Min	144.0	60	42.0	120.0	144.0	216.0	10days	180.0	144.0
Max	144.0	120.0	216.0	300.0	384.0	300.0	360.0	396.0	360.0
No.	1(1)	3	10	6(2)	6(3)	5(1)	4(2)	2	7

	90	91	92	93	94	95	96	97	98	99
Av.	270.0	303.3	253.7	246.0	230.2	224.7	240.5	230.1	233.8	225.6
Median	258.0	300.0	246.0	240.0	222.0	234.0	228.0	210.0	240.0	216.0
Min	240.0	216.0	173.0	216.0	144.0	72.0	108.0	192.0	129.0	168
Max	324.0	396.0	336.0	288.0	342.0	324.0	474.0	357.0	384.0	300
No.	4	11	12(2)	4	11	11	13	10	12	5

Notes:

1 The non-parole period can apply to sentences additional to the charge in question where other sentences are made cumulative on it or when an existing sentence has been extended by the sentence imposed for the current charge.

2 Non-parole period only is shown since murder carries a mandatory term of imprisonment for life.

3 Figures in parentheses are the number of additional cases receiving life sentences for which the judge declined to set a non-parole period.

4 The median is the point at which 50% of cases are larger and 50% smaller. It is less prone than the mean to being distorted by a small number of very extreme values. The effect of the one case in 1987 which received a non-parole period of 10 days is an example of this.

6 The non-parole periods shown here are for the original sentence and do not reflect the effect of subsequent appeals which may have altered the sentence either up or down, or have overturned the conviction.

7 The number of cases shown is the number where a non-parole period was set and on which the mean and median are based.

Figure 18 Non-parole periods for murder sentences, 1981 to 1999, Supreme and District Courts.

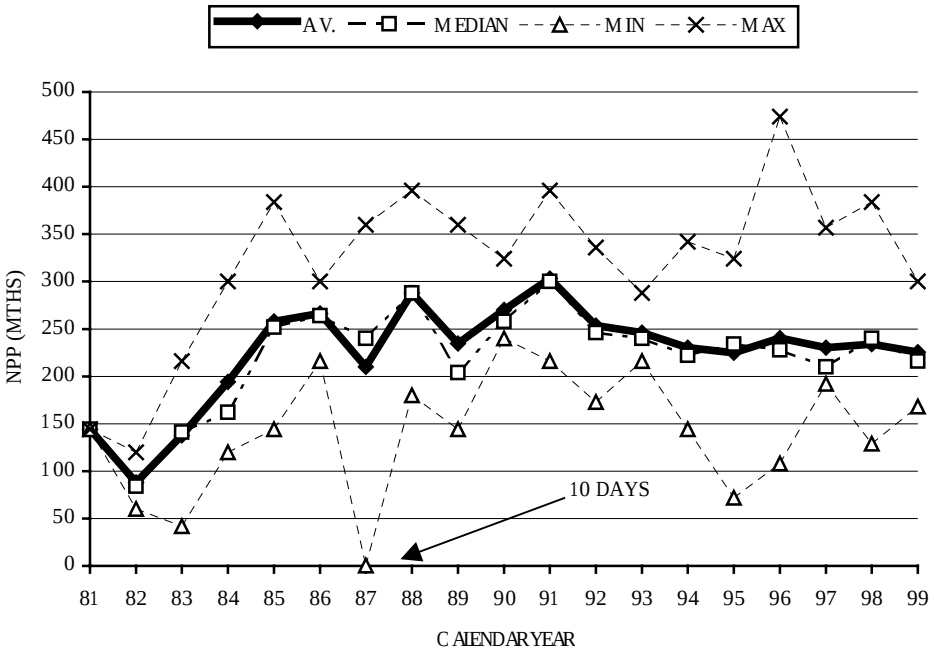


Table 3.23 in Section 3 of this report lists the individual counts in each case where one or more charges was made cumulative on either another charge in the case or on an existing sentence. It is intended to give some context to Tables 3.12 to 3.22, as well as to Table 3.24. It differs from Tables 3.12 to 3.22 in that in those tables, the column headed 'Av. Sentence (mths)' shows the sentence for the major charge alone, whilst the non-parole period is set in relation to all matters for which the defendant had a sentence of imprisonment. For example, a defendant may receive sentences of imprisonment on individual counts of *armed robbery* (4 years), *assault* (3 years) and *possession of an unregistered firearm* (1 year). In Table 3.12, this case would contribute four years to the average sentence for *armed robbery*. However, if these terms of imprisonment were all cumulative on one another, the total term of imprisonment (the head sentence) would be 8 years, with a non-parole period of 6 years. Thus the actual sentence for the *armed robbery* would be less than the non-parole period recorded for this case. An accumulation of this type of case can result in the average non-parole period being longer than the average sentence for the major charge, especially if there are instances where the non-parole period is very much longer than the sentence for the major charge alone. One example of this occurred in 1992, when a person serving a sentence of life imprisonment was convicted of an

assault whilst in prison. He received a sentence of two years for the *assault* and his 32-year non-parole period was extended by 18 months. Thus this case contributed two years to the average sentence length for *assault*, but 33 and a half years to the non-parole period for that offence group. In Table 3.24 in Section 3 his total (head) sentence appeared under the 'Life' category and his non-parole period in the '15 years or more' row.

As well as explaining apparently anomalous average sentence lengths, Table 3.23 gives some insight into the types of cases in which sentences are made cumulative on one another, and to the effect of existing sentences on new offences. In 1999, 13 out of 289 cases imprisoned (4.5%) received sentences cumulative on other or existing sentences. This figure is typical of the corresponding figures in recent years. The overwhelming majority of cases receiving cumulative sentences involved defendants who were either serving an existing sentence or, by being convicted of fresh offences, had breached either parole or a bond. For persons receiving a sentence of imprisonment for offences committed whilst on parole, the un-expired period of their non-parole period must be served before commencing the fresh imprisonment period.

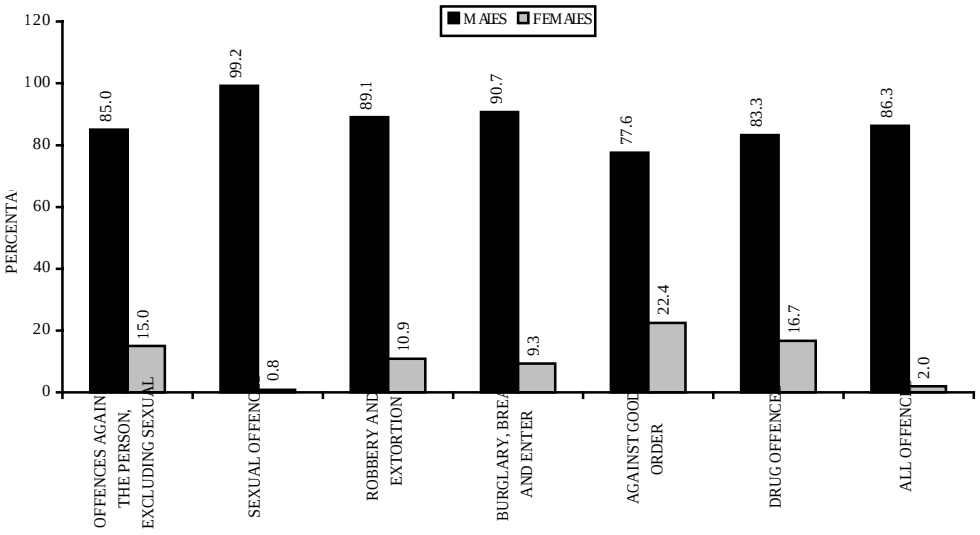
Table 3.24 in Section 3 illustrates the relationship between the head sentence and non-parole period, showing the proportionality between them. In addition, it shows the total effect of the sentences of imprisonment handed down, as the head sentence is the maximum term of imprisonment a prisoner may serve. In 1999, the average non-parole period for life sentences was 225.6 months, or 18 years and 10 months. Non-parole periods were not set in 20 cases, the bulk of which were for sentences of under 12 months, which under South Australian legislation do not require a non-parole period to be set. Commonwealth law does not require one for sentences of less than three years.

Background of defendants

The majority of cases finalised in the higher courts in 1999 involved male defendants (723 males versus 115 females). The average age of defendants for whom this information was available was 31.5 years, with those aged 20 - 29 years accounting for 42.6% of the total. By contrast, relatively few defendants were aged 50 years and over (5.8%). Males and females had very similar average ages (31.8 years compared with 31.4 years respectively).

As can be seen in Figure 19, males made up the majority of defendants in each offence group, with 86.3% of defendants overall being males. Some offence groups had particularly high numbers of males, the most notable being *sexual offences* (99.2%). Although never exceeding 50% in any offence group, the group with the highest percentages of females were the *offences against good order* (22.4%).

Figure 19 Percentages of males and females in each offence group[11] for the major offence charged, Supreme and District Courts, 1999.



NB: percentages exclude corporate bodies and defendants where information on sex was unknown.
This figure excludes those offence groups where the number of cases is less than 30, because percentages may be too unstable to provide meaningful information.

The racial appearance of defendants is detailed in Table 3.26 in Section 3. Persons of Aboriginal appearance were listed as the defendants in 12.3% of all finalised cases for which this information was available. However, this racial group accounted for only 1.05% of South Australia's adult population at the time of the 1996 census. Defendants of Aboriginal appearance had a rate of appearance of 8.7 per 1,000 of the adult Aboriginal population, which is far greater than that of other defendants, whose rate was 0.7 per 1,000 adult non-Aboriginal population.

Of those cases involving defendants of Aboriginal appearance, two offence categories accounted for 52.0% of cases: *offences against the person (excluding sexual offences)* and *robbery and extortion* (26.5% and 25.5% respectively). Although these two offence groups were also amongst the most numerous in non-Aboriginal cases, their contribution to the total for non-Aboriginals was lower, at 13.9% and 14.5% respectively. This was because of the much greater influence of *drug offences* amongst the latter group, which made up 35.8% of the total for that group. The

[11] EXCLUDES OFFENCE GROUPS WHERE THE NUMBER OF CASES IS TOO LOW TO PROVIDE RELIABLE PERCENTAGES.

relative absence of *drug offences* amongst defendants of Aboriginal appearance (at 3.1%) was a striking difference between the two groups.

Tables 3.27 and 3.28 in Section 3 detail the Local Government Area[12] of residence of those defendants appearing before the Supreme and District Courts in 1999. The majority (57.3%) were from the Adelaide metropolitan area. However, when the raw counts are converted to rates per 1,000 adult population, Adelaide's figure is slightly over half that for the remainder of South Australia (0.6 per 1,000 compared with 1.2 per 1,000 respectively). Amongst metropolitan Local Government Areas, Salisbury, Enfield, and Hindmarsh and Woodville contributed 11.8%, 16.8% and 10.0% respectively of the defendant population. The metropolitan areas with the highest rate of defendants per 1,000 adult resident population were Elizabeth (1.1) and Enfield (1.7). Of the non-metropolitan Local Government Areas, the three with the highest rates of appearance were Port Augusta (1.9 per 1,000 adult population), Port Lincoln (1.5) and Mount Gambier and Whyalla (both 1.2).

Approximately one fifth of defendants had no previous convictions (see Table 3.29 in Section 3), whilst nearly one third (34.0%) had between 10 and 49 convictions. A further 8.2% had 50 or more prior convictions. The average number of convictions per defendant was 19.9 although this varied from 50.0 for those defendants in the *other offences* group, to 10.2 for those in the *sexual offences* group. The offence groups differed widely in the percentage who were first offenders, ranging from a low of just 7.0% of those whose major offence was in the *burglary and break and enter* group, to a high of 48.3% for the *fraud, forgery and false pretences* group. Just over one third of defendants (34.4%) had been imprisoned before. The two groups with the highest percentage of defendants with one or more prior imprisonments were *burglary and break and ente*r and *other offence*s at 62.8% and 81.0% respectively. Defendants whose major offence was in the *sexual offences* group or the *fraud, forgery and false pretences* group had the lowest percentages with prior imprisonments, at 16.1% and 13.3% respectively. It should be noted, however, that the prior convictions and imprisonments recorded in Table 3.29 are for all offences, not just for the offence group identified within the table.

The bail status of defendants at their first hearing is set out in Table 3.30 in Section 3. The majority of defendants (70.3%) were on bail, while the remainder were in custody. Again, however, the defendant's bail status in the higher courts varied depending on the nature of the major offence with which they were charged. Cases involving *other offences* had the highest proportion in custody (14 out of 18 cases), followed by the *robbery and extortion* group, which had more than half of its defendants in custody (53.5%). Cases involving *fraud, forgery and false pretences offences* or *drug offences* as the major charge had the lowest percentages of defendants in custody (6.9% and 15.0% respectively).

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12 THE LOCAL GOVERNMENT AREAS IN THESE TABLES REFLECT THE BOUNDARIES IN PLACE PRIOR TO THE MAJOR AMALGAMATIONS WHICH RESULTED IN THE CREATION OF MUCH LARGER LOCAL GOVERNMENT AREAS. THE POPULATION FIGURES USED WERE THE LAST FOR WHICH ESTIMATES WERE AVAILABLE OF THE ADULT POPULATION OF THOSE AREAS, AND IS THE ESTIMATE FOR 30TH JUNE 1997.

At their final hearing, the majority of defendants (51.5%) pleaded *guilty*, 39.5% pleaded *not guilty*, whilst 9.0% entered no plea[13]. The charges most likely to be contested involved *offences against the person* (56.4% pleading *not guilty*) and *sexual offences* (63.6% *not guilt*y pleas). By a large margin, *drug offences* had the highest percentage of *guilty* pleas, with 70.5% of these cases involving a plead of *guilty* to the major charge.

The Supreme Court completed an average of slightly less than six cases per month in 1999, ranging from a low of two cases in January to a peak of nine in April. The District Court completed an average of 64.5 cases per month, with the lowest month being January (when 42 cases were finalised), whilst the maximum occurred in March, when 82 cases were completed (see Tables 3.32 and 3.33 in Section 3).

[13]THE ABSENCE OF A PLEA OCCURS WHEN, PRIOR TO THE DEFENDANT HAVING ENTERED A PLEA, THE DPP EITHER ENTERS A *nolle prosequi* TO THE CHARGE, BECAUSE THEY HAVE ACCEPTED A *guilty* PLEA TO ANOTHER CHARGE OR BECAUSE THEY ELECT NOT TO FURTHER PURSUE THE MATTER, HAVING SUBSTITUTED A DIFFERENT CHARGE FOR THE ORIGINAL. IT CAN ALSO OCCUR WHEN A JUDGE OR JURY DELIVERS A VERDICT OF *guilty* TO A LESSER OR ALTERNATIVE CHARGE TO WHICH THE DEFENDANT HAS NOT EXPLICITLY ENTERED A PLEA. FOR EXAMPLE A DEFENDANT MAY PLEAD NOT GUILTY TO *possessing heroin for sale* AND BE FOUND NOT GUILTY OF THAT, BUT GUILTY OF *possessing heroin*. IN THAT CASE, THE LATTER CHARGE WOULD USUALLY NOT HAVE A PLEA RECORDED FOR IT. IT CAN ALSO OCCUR WHEN THE DPP LAYS A FRESH INFORMATION BEFORE THE DEFENDANT HAS ENTERED A PLEA TO ANY OF THE CHARGES ON THE ORIGINAL INFORMATION.

1.3 Correctional Services

The Correctional Services tables contained in Section 4 of this report cover:

- prison receptions;
- daily averages;
- persons in custody on 31 December 1999;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 1999.

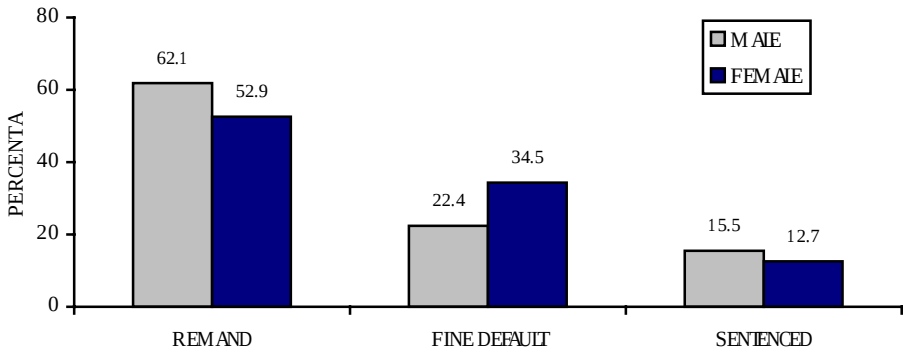
The number of tables relating to prisons and community correction orders administered by the Department for Correctional Services was increased and their content enhanced in the 1996 and again in the 1997 *Crime and Justice* reports. The changes made in those years and incorporated in all subsequent reports mean that caution must be exercised when comparing the 1999 data with that contained in reports produced prior to 1996.

Imprisonment

Prison receptions

In 1999, there were 4,030 prison receptions, of which 15.1% involved sentenced prisoners, 23.8% were fine defaulters and 60.9% were on remand. When compared with the previous year, in 1999 proportionately fewer prison receptions involved sentenced prisoners (15.1% of all receptions in 1999 compared with 17.7% in 1998) and fine defaulters (23.8% in 1999 compared with 40.1% in 1998). However, the proportion involving remandees was much higher (60.9% compared with 41.1% in 1998). As shown in Figure 20, for those receptions where the sex of the prisoner was recorded, a higher proportion of male than female admissions involved remandees (62.1% compared with 52.9% of females) or sentenced prisoners (15.5% compared with 12.7% respectively) while a lower proportion were admitted for defaulting on a fine (22.4% compared with 34.5%).

Figure 20 Prison receptions: legal status of prisoner by sex, 1999



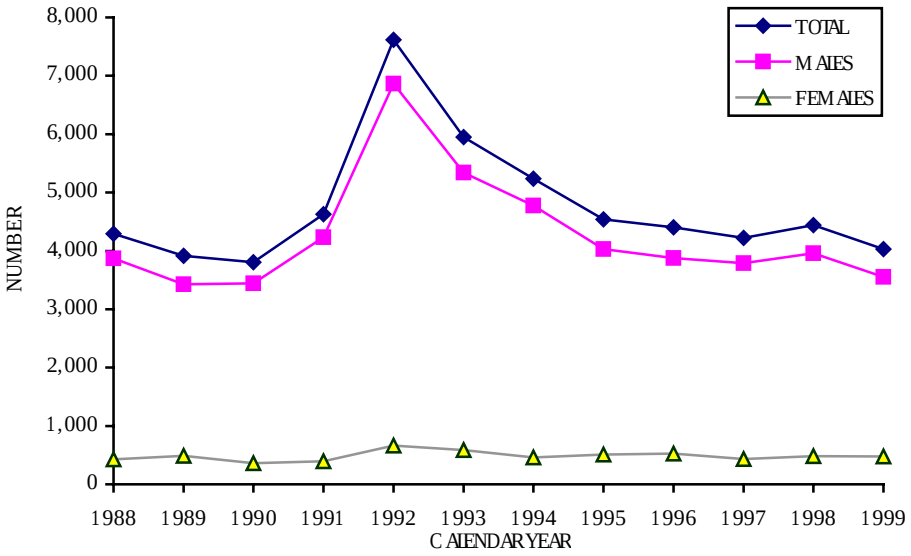
As shown in Figure 21, there was a steady decrease in total receptions from 1992 to 1997, with the number of receptions in 1997 being 44.6% lower than in 1992. After an increase of 5.2% in 1998, total receptions decreased again in 1999, by 9.2%. As a result, the 1999 figure of 4,030 was well below the peak of 7,618 recorded in 1992.

The trend in male receptions mirrors that observed for total receptions, with numbers peaking in 1992 and declining steadily until 1998 when a slight increase of 4.6% was recorded. However, this increase was short-lived, with the number of male receptions decreasing again in 1999 by 10.2%. As a result, the 3,555 male admissions recorded in 1999 was 48.2% lower than the 6,866 recorded in 1992.

In contrast, female admissions, which have annually accounted for only a small proportion of all admissions throughout this period, have remained more stable over time, despite the inevitable annual fluctuations. Following the peak of 664 recorded in 1992, numbers declined in 1993, 1994 and 1997, but increased in 1995, 1996 and 1998. The 475 female admissions recorded in 1999 was very similar to the 480 recorded in 1998. However, it was 28.5% lower than the peak observed in 1992.

The decrease in male receptions between 1998 and 1999 was due to a decline in numbers in the fine default category (down by 47.7% from 1,522 to 796) and the sentenced category (down by 24.1% from 725 in 1998 to 550 in 1999). Although the number of male receptions involving remandees increased (by 31.8%, from 1,671 in 1998 to 2,203 in 1999), this was not sufficient to offset the observed reductions in the fine default and sentenced categories.

Figure 21 Trends in the number of male and female prison receptions, 1988 to 1999.



For female receptions, there was a large increase in numbers in the remand category (up by 61.3% from 155 in 1998 to 250 in 1999), but a decrease in the fine default category (down by 36.8% from 258 in 1998 to 163 in 1999). The number of 'sentenced' female receptions remained steady (62 in 1998 and 60 in 1999).

The overwhelming majority of receptions in 1999 involved males (88.2%), although this varied slightly from 83.0% for fine defaulters to 89.8% and 90.2% for remand and sentenced prisoners respectively. For those 4,028 receptions where age was known, virtually one half (49.5%) involved persons aged 20 to 29 years, while those in the older age groups (notably 40 years and over) accounted for only 13.9% of all receptions.

In 1999, persons identified as Aboriginal constituted 24.8% of the 3,567 prison receptions where information on racial identity was recorded. However, this varied from one legal status category to another, with Aboriginals accounting for only 16.3% of those admitted as sentenced prisoners, compared with 21.8% of remandees and 38.1% of fine defaulters.

As indicated in Figure 22, the number of Aboriginal admissions was relatively high in the 1992 to 1994 period, but decreased between 1995 and 1997. After an increase in 1998, Aboriginal admissions again decreased in 1999 (by 13.9% from 1,025 to 883). As a result, the number of Aboriginal admissions recorded in 1999 was 36.7% lower than the high of 1,395 recorded in 1994. Longitudinal trends for non-Aboriginal receptions closely parallel those observed for all receptions. A substantial increase in 1991 and 1992 was followed by an even greater decrease from 1993 to 1996. After stabilising in 1997, non-Aboriginal receptions increased slightly in 1998 and then

decreased by 6.6% to 2,684 in 1999. The latest figures are actually lower than those recorded a decade earlier.

Figure 22 Trends in the number of Aboriginal and non-Aboriginal prison receptions, 1988 to 1999.

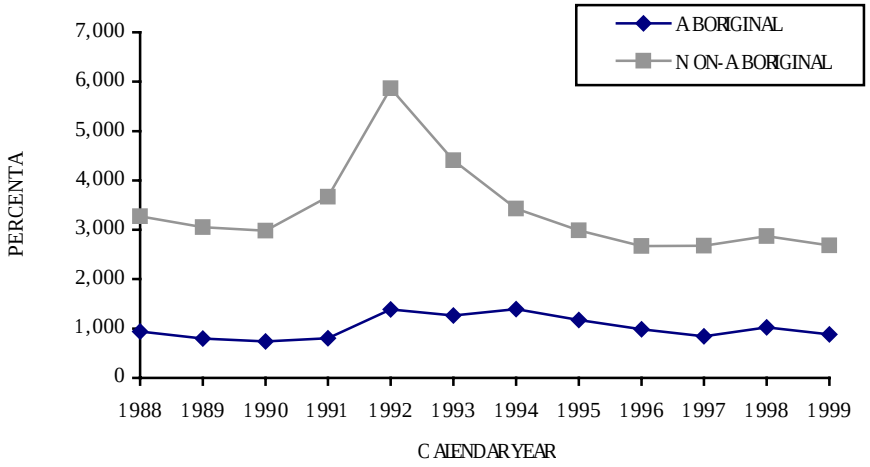
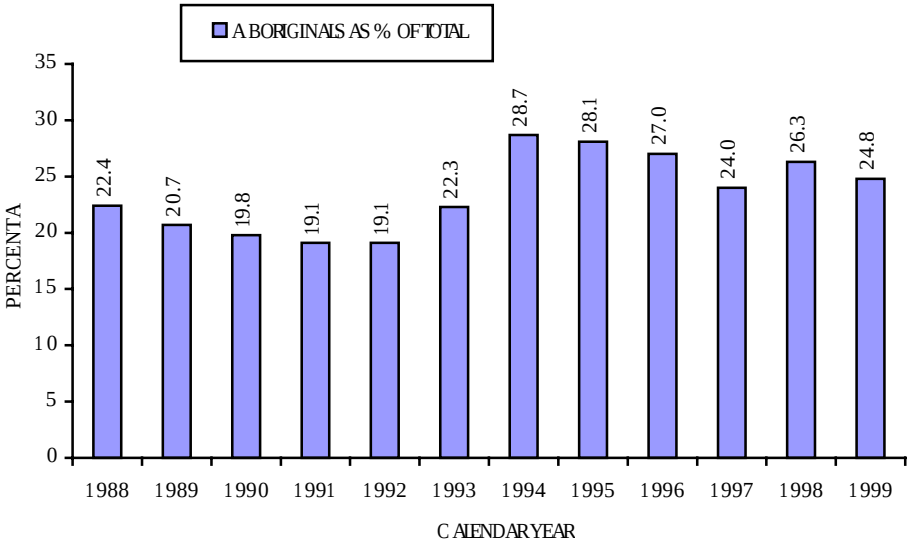


Figure 23 shows that the number of Aboriginal receptions as a percentage of all receptions where racial identity was known was lower in 1999 than in 1998 (24.8% compared with 26.3%). The 1999 figure was also lower than the peak recorded in 1994, when Aboriginals accounted for 28.7% of all prison receptions. It was noticeably higher, however, than in the early 1990s when persons identified as Aboriginal accounted for only 19% of total admissions.

Overall, the age profiles of the two racial groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (50.4% and 49.1% respectively) involving persons aged between 20 and 29 years, and relatively few (2.4% and 4.1% respectively) aged 50 years and over.

Figure 23 Prison receptions: proportion involving Aboriginal persons, 1988 to 1999.



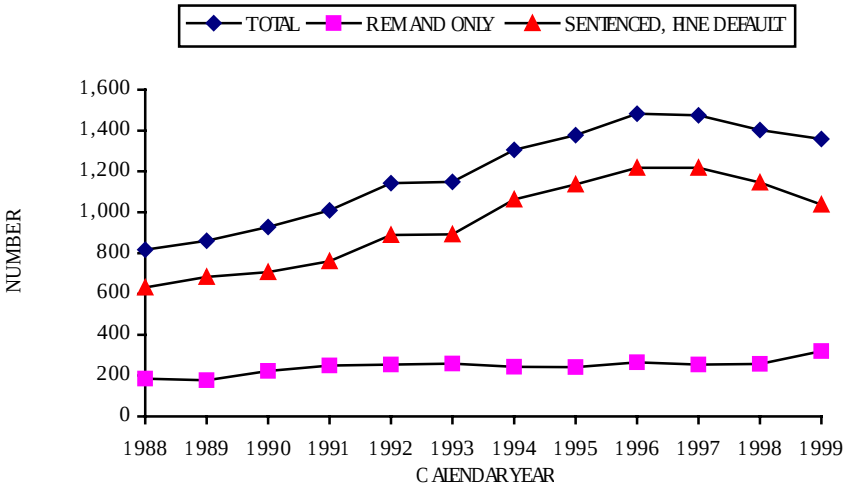
Daily averages

While reception-based information provides a useful insight into new custodial admissions, it tells us nothing about the number and profile of people actually held in prison at any given time. Two measures can be used for this purpose: daily averages (ie. the average number of persons held in prison per day over a stipulated time period, such as one month or twelve months), and a census figure (ie. the number of persons held in prison at one particular time on one particular day). Daily averages are presented in Tables 4.7 to 4.9 in Section 4 of this report, while census information relating to persons in custody at midnight on 31 December 1999 are detailed in Tables 4.10 to 4.15.

On average, on each of the 365 days in 1999, there were 1,358 prisoners held in the State's prisons and adult remand centres. Of these, the majority (995 or 73.3%) were serving a prison sentence imposed by the courts, while 319 (23.5%) were on remand and 42 (3.1%) were serving time for a fine default.

Longitudinal trends in average daily occupancies are depicted in Figure 24. As shown, average daily occupancies increased steadily from 1988 to 1996. As a result, the daily average recorded in 1996 was 81.7% higher than the 816 recorded in 1988. Most of this increase was due to a rise in the daily average for sentenced/fine default prisoners, which grew by 93.0% between 1988 and 1996. However, since 1996, this upward trend has been reversed, with average daily occupancy figures declining slightly in 1999 (when a further decrease of 3.2% was recorded). Daily averages for sentenced/fine defaulters also decreased in 1999 (by 9.5%, from 1,146 to 1,037). In contrast, after remaining relatively stable between 1991 and 1998, daily averages for remandees increased in 1999 (by 24.1%, from 257 in 1998 to 319).

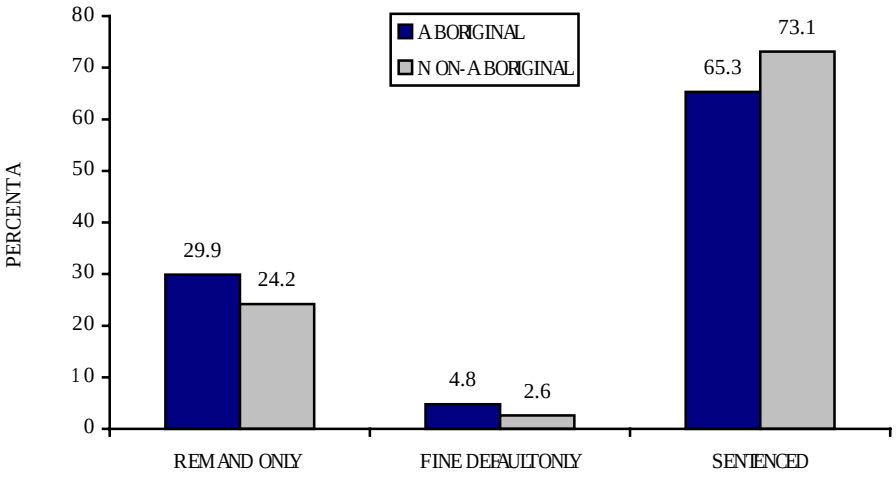
Figure 24 Daily averages by legal status: 1988 to 1999



In 1999 males accounted for 94.6% of the daily average, with a rate of 2.31 per 1,000 adult male population compared with only 0.13 per 1,000 adult female population. As was the case with receptions, females accounted for a slightly lower proportion of prisoners on remand only (6.0%) or serving time as a sentenced prisoner (4.8%).

On average, 231 Aboriginal persons were held in custody each day in 1999, which represents 19.5% of those for whom racial identity was recorded. As shown in Figure 25, sentenced prisoners accounted for the majority of both Aboriginals and non-Aboriginals alike, although on average during 1999 a slightly lower proportion of Aboriginals were serving a custodial sentence (65.3% compared with 73.1% of non-Aboriginals) while a slightly higher proportion were on remand (29.9% compared with 24.2%). As a result, for those cases where legal status and racial identity were recorded, Aboriginals accounted for 23.0% of the daily average number of 'remand only' prisoners but a lower 17.8% of sentenced prisoners.

Figure 25 Daily averages: legal status by racial identity, 1999.



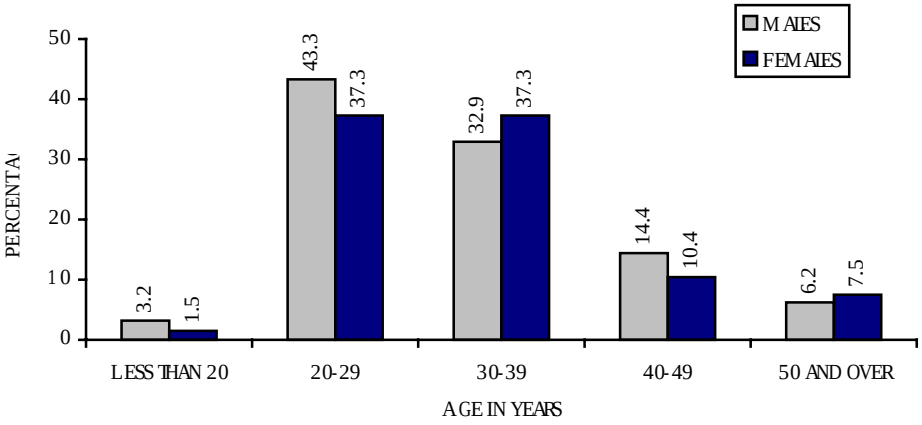
Census figures

At midnight on 31 December 1999, there were 1,275 prisoners in custody. This figure was lower than the daily average recorded for 1999 (n=1,358) which illustrates the variability in prisoner numbers from one day to another and, in turn, points to the fact that daily averages rather than a census figure pertaining to a single day provide a more accurate measure of prison numbers.

The number in custody on 31 December 1999 was 2.7% lower than the 1,311 prisoners held one year earlier on 31 December 1998. The 1999 figure was also lower (by 7.6%) than the number in custody on 31 December 1997 (n=1,380) and 11.9% lower than on 31 December 1996 (n=1,447). Remandees accounted for 25.1% of the total census figure, while almost three quarters (74.1%) were sentenced prisoners. Again, males dominated. For every 1,000 adult males in the South Australian population, 2.17 were in custody on that particular day compared with only 0.12 females per 1,000 adult female population. As was the case for prison receptions, persons aged 20 to 29 years accounted for over four in 10 (43.3%) of those held in custody on 31 December 1999 for whom age was recorded. A further 33.2% were aged 30 to 39 years. Only a very small proportion (6.3%) were 50 years of age and

over. This age profile was generally consistent for both males and females, as Figure 26 indicates.

Figure 26 Persons in custody on 31 December 1999: age by sex

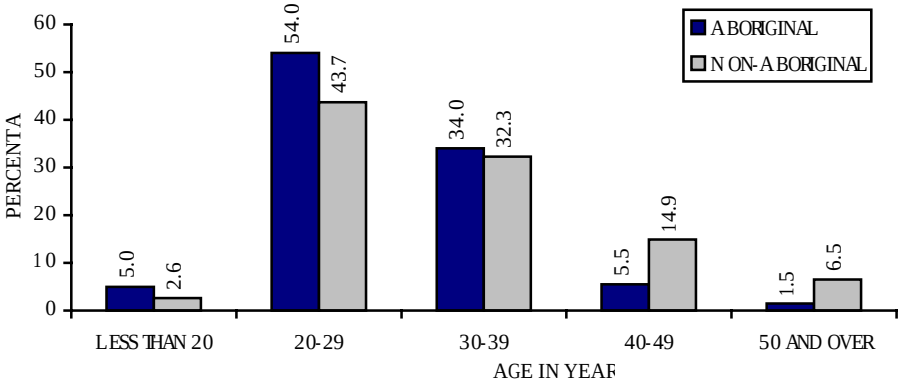


Aboriginal persons accounted for 18.0% of the 1,113 persons in custody on 31 December 1999 for whom racial identity was recorded. This was slightly lower than in the previous year, when they represented 20.2% of all persons incarcerated on 31 December 1998. However, this proportion varied depending on the sex of the prisoner. Excluding those cases where racial identity was not recorded, Aboriginal males accounted for 17.6% of all males in custody on that day (compared with 19.3% in 1998), whereas Aboriginal females accounted for 26.5% of all females in custody (compared with 39.3% in 1998). Given that at the time of the 1996 census Aboriginal males and females represented only 1.03% and 1.06% of the State's adult population respectively, this means that the extent of imprisonment of Aboriginal women was 25.0 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 17.1 times higher than expected. These figures indicate that, on a per capita basis, Aboriginal women are more likely to be imprisoned than their male counterparts. Nevertheless, males still dominated both racial groups, accounting for 93.5% of all Aboriginal prisoners and 96.1% of all non-Aboriginal prisoners in custody on 31 December 1999.

The age profiles of the two racial groups are depicted in Figure 27. As shown, persons aged 20 to 29 years accounted for the highest proportion of both Aboriginal and non-Aboriginal persons in custody on 31 December 1999, while those aged less than 20, and 50 years and over constituted only a small percentage of both. Nevertheless, there were some differences.

Aboriginal prisoners tended to be younger than their non-Aboriginal counterparts, with a higher proportion aged less than 30 years (59.0% compared with 46.3% respectively) and a lower proportion aged 40 years and over (7.0% compared with 21.4% respectively).

Figure 27 Persons in custody on 31 December 1999: age by racial identity



Escapes from custody

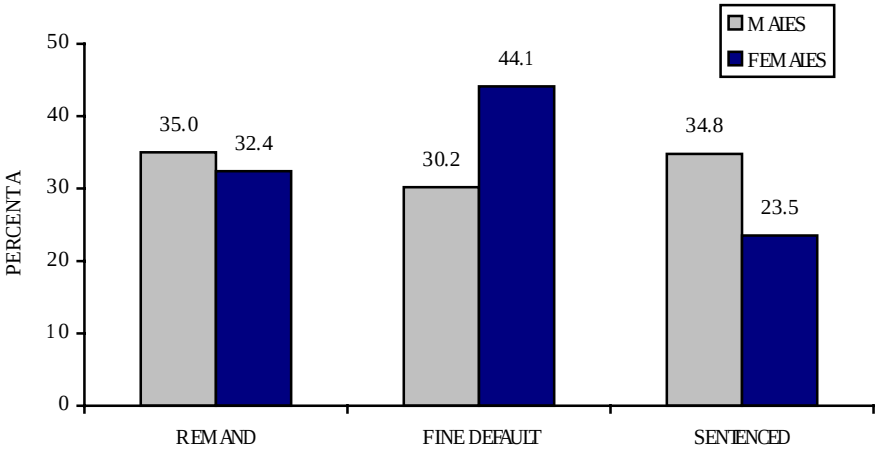
In 1999 18 prisoners escaped from custody, which was double that recorded in 1998 (n=9). The 18 escapes in 1999 all involved escapes from institutions. There were no escapes while the prisoner was under escort. Of the escapes from an institution in 1999, four were from the Cadell Training Centre and four were from Yatala Labour Prison. Three were from Port Augusta, with two each from Mobilong, Port Lincoln Prison and the Adelaide Remand Centre. There was also one escape from the Adelaide Pre-release Centre. The overall escape rate recorded in 1999 was 1.32 per 100 prisoners, compared with 0.64 per 100 prisoners in 1998 and 1.1 recorded in both 1997 and 1996.

Prison discharges

In 1999, there were 4,126 persons[14] discharged from custody, the majority of whom were males (88.2% of the total). Of those discharged in 1999, one third (1,379 or 33.4% of the total) were serving a prison sentence at the time of their release. A further 1,431 (34.7%) were discharged from remand and 1,312 (31.8%) were discharged after having 'cut out' a fine. However, as shown in Figure 28, there were some noticeable differences between males and females in the person's legal status at the time of discharge. While the proportion discharged from remand was generally similar for both groups (35.0% of males and 32.4% of females), a higher proportion of females were categorised as fine defaulters at the time of discharge (44.1% compared with 30.2% of males) while a lower proportion were identified as sentenced prisoners (23.5% compared with 34.8% of males).

[14] THIS DOES NOT REFER TO DISCRETE INDIVIDUALS. DURING THE TWELVE MONTH PERIOD, THE SAME PERSON MAY HAVE ENTERED PRISON AND THEN BEEN DISCHARGED ON MORE THAN ONE OCCASION. EACH DISCHARGE IS COUNTED SEPARATELY IN THESE TABLES.

Figure 28 Prison discharges: legal status by sex, 1999



As would be expected given the earlier data presented on prison receptions and census figures, of those persons discharged from custody for whom age was recorded, one half (49.4%) were aged 20 to 29 years while only 3.7% were aged 50 years and over. Of the 3,657 discharges where racial identity was recorded, one in four (25.8%) were identified as Aboriginal. More specifically, for those cases where relevant information was available, this racial group accounted for 22.5% of all discharges from remand, 34.9% of all discharged fine defaulters and 21.1% of all sentenced prisoners discharged.

Tables 4.22 to 4.25 in Section 4 of this report detail the amount of time served by prisoners at the point of discharge. It should be stressed that time served relates only to the amount of time elapsed between the prisoner's date of intake and date of discharge for each admission period. In other words, if a person is admitted on remand, then released on bail, but later breaches that bail and is readmitted, 'time served' will be calculated separately for each admission, rather than aggregated (see Appendix for further discussion). Separate information is provided for fine defaulters and sentenced prisoners.

In 1999, 1,312 fine defaulters were discharged from prison. Of these, the majority served only a relatively short period, with 38.6% in prison for less than one week and 23.5% in prison for one to two weeks. Relatively few (19.7%) were incarcerated for more than four weeks. This applied to both males and females alike, with 38.4% of all male and 39.7% of all female fine defaulters having served less than one week at the time of discharge, while 21.2% and 11.7% respectively had served over four weeks.

Table 4.22 in Section 4 details the major charge for which fine defaulters were being held at the time of their discharge (see Appendix for further discussion). For those 1,110 discharges where relevant information was available, the offence type most frequently listed as the major charge was *licence/registration offences.* This category

was listed as the major charge in 27.4% of all fine default discharges where relevant data were available. *Offences against justice procedures* (which primarily involve breach offences, such as breach of good behaviour bonds or breach of parole) were listed as the major charge in a further 24.1% of fine default discharges, followed by *driving offences* (listed in 17.8% of discharges). Just under one in ten fine defaulters (8.6%) were, at the time of discharge, being held for a *drug offence*. Of the 96 discharges for a *drug offence*, 57 involved the *possession/use of drugs* while 38 were for *manufacture/grow drugs* and only one was for *dealing or trafficking in drugs*.

A comparison of the major charge for which male and female fine defaulters were being detained at the time of discharge shows both similarities and differences. For both groups, *offences against justice procedures, licence and registration offences* and *driving offences* dominated but there were some differences between males and females in terms of the relative proportion accounted for by each of these offences. Whereas *licence/registration offences* accounted for relatively similar proportions in both groups (27.0% of male and 29.7% of female fine default discharges), *offences against justice procedures* were more prominent for females (accounting for 30.9% of all female fine default discharges compared with 23.0% of male discharges). In contrast, a higher proportion of male fine default discharges involved a *driving* offence than was the case for females (19.3% compared with 9.7% respectively.)

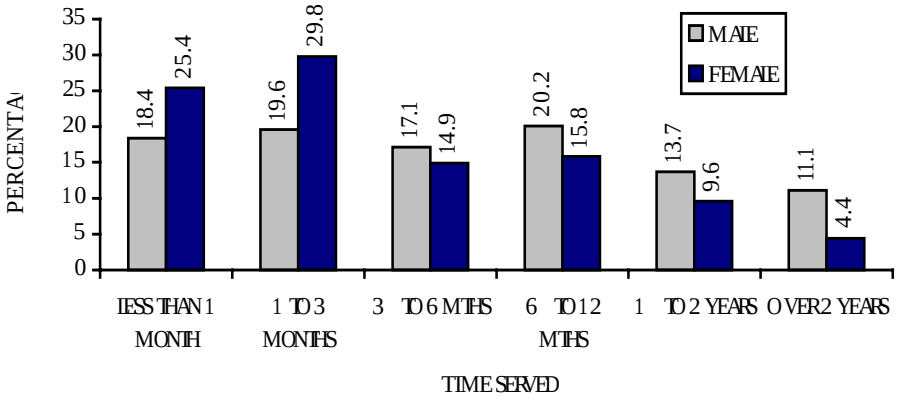
Tables 4.23a and b in Section 4 detail the time served by those Aboriginal and non-Aboriginal fine defaulters discharged in 1999 for whom racial identity was recorded. In presenting these data, however, it should be stressed that relevant information on racial identity was not available in 15.0% of cases, and so some caution should be exercised when interpreting these statistics. In 1999, Aboriginal fine defaulters were slightly more likely than their non-Aboriginal counterparts to serve less than one week in prison, with 39.1% of Aboriginal compared with 35.5% of non-Aboriginal discharges occurring after the individual had spent less than one week in custody. At the other end of the spectrum, a much lower proportion of Aboriginal fine defaulters served more than four weeks (13.9% compared with 24.7% of non-Aboriginal fine defaulters). This was in marked contrast to 1998, when a slightly higher proportion of Aboriginal fine defaulters served more than four weeks (19.5% compared with 16.4% of Aboriginal fine defaulters).

There were some differences in the major offence for which Aboriginal and non-Aboriginal fine defaulters were being held at the time of discharge. Although *offences against justice procedures*, *driving offences* and *licence/registration offences* dominated the charge profile of both groups, a higher proportion of Aboriginal than non-Aboriginal cases involved *offences against justice procedures* (31.0% compared with 22.9% respectively) and *driving offences* (21.1% compared with 16.9% respectively) while a lower proportion involved *licence/registration offences* (18.3% compared with 30.0% respectively). However, because of the high proportion (27.0%) of Aboriginal cases where information on the type of major offence was not available, these findings should be treated with caution.

Tables 4.24 and 4.25 in Section 4 of this report detail the time served by sentenced prisoners at the point of discharge. Of the 1,379 sentenced prisoners discharged in 1999, the majority were imprisoned for relatively short periods of time. More

specifically, 19.0% spent less than one month in prison, while 39.4% were in prison for three months or less and 56.3% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 1.5% incarcerated for more than five years. As shown in Figure 29, a lower proportion of males served six months or less (55.1% compared with 70.1% of females) while proportionately more had served over one year at the time of their discharge (24.8% compared with 14.0% respectively).

Figure 29 Prison discharges: time served by sex of sentenced prisoners, 1999.



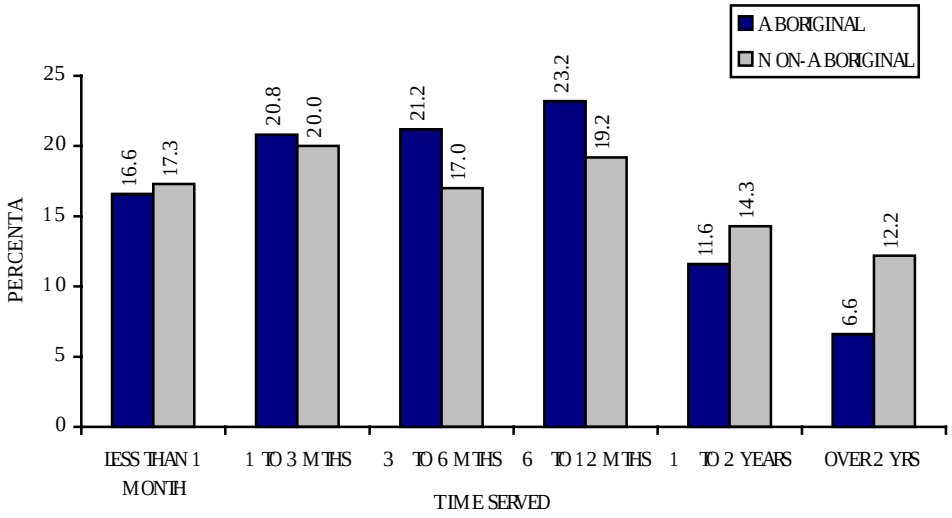
The most serious offence for which sentenced prisoners were being held at the time of their discharge is also outlined in Table 4.24 in Section 4. The most prominent were *offences against justice procedures*, which were listed as the major offence in 23.8% of the 1,340 discharges where this information was recorded. This category was followed by *licence/registration offences* (16.0%), *break and enter* (13.4%), *fraud* (10.7%) and *assault* (10.4%). As expected, there was a strong association between the nature of the offence and the time served. To illustrate, of the 214 discharges involving a *licence/registration* offence, over one half (53.7%) involved periods of less than one month. At the other end of the scale, of the 179 discharges involving a *break and enter* offence, only 4.5% had served less than one month, while 37.4% had served over one year at the time of discharge. Similarly, although there were relatively few prisoners who, at the time of discharge, were serving sentences for *robbery and extortion* (90 or 6.5% of those discharges where the type of offence was recorded), over one half of these (53.3%) involved terms of more than two years while none involved a period of less than one month.

There were also some differences between male and female sentenced prisoners in relation to the major offence under which they were being held at the time of discharge. Most notably, a much higher proportion of female discharges involved *fraud offences* (28.6% compared with 9.1% of male discharges where this information was recorded) while a lower proportion involved *licence/registration offences* (10.7% compared with 16.4% of male discharges).

Figure 30 compares the time served by Aboriginal and non-Aboriginal sentenced prisoners at the point of discharge. As shown, while there was minimal difference in the percentage of Aboriginal prisoners and non-Aboriginal prisoners who served less than three months (37.4% compared with 37.3% respectively), Aboriginal sentenced prisoners were more likely to serve mid-range periods of between three and 12 months, but less likely to serve terms of one year or more than were their non-Aboriginal counterparts. More specifically, 44.4% of Aboriginal prisoners served between three and 12 months compared with 36.2% of non-Aboriginal prisoners,

while at the other end of the scale, 6.6% of Aboriginal compared with 12.2% of non-Aboriginal prisoners served more than two years.

Figure 30 Prison discharges: time served by racial identity of sentenced prisoners, 1999



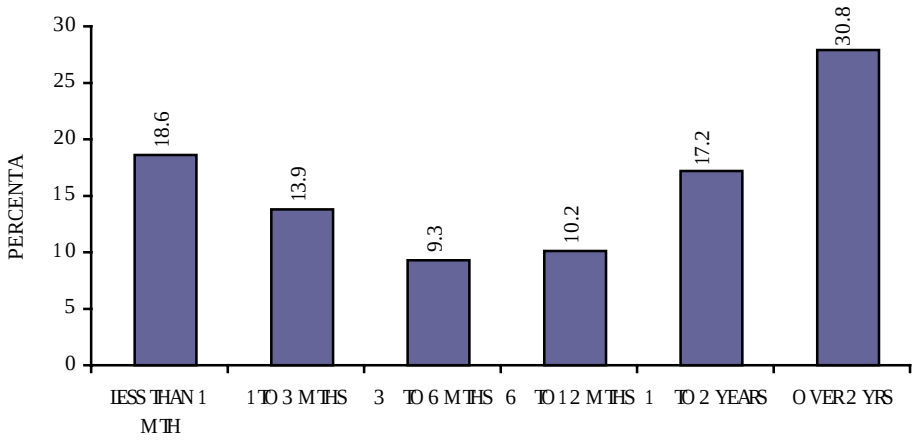
There were also some differences between the two racial groups in terms of the major offence for which sentenced prisoners were being held at the time of discharge. Although the most prominent offence for both groups was *offences against justice procedures*, this category was listed in a higher proportion of Aboriginal than non-Aboriginal discharges (31.0% compared with 24.4% of discharges respectively where relevant information was available). Moreover, a higher proportion of Aboriginal sentenced prisoners were being held for *assault* (18.0% compared with 8.0% of non-Aboriginal sentenced prisoners) while a lower proportion were serving time for *fraud* (2.4% compared with 12.0% respectively). Similar percentages of Aboriginal and non-Aboriginal sentenced prisoners were being held for *licence/registration offences* (14.7% and 15.0% respectively) and *break and enter* (13.9% compared with 14.1% respectively).

Tables 4.26 and 4.27 in Section 4 of this report detail the aggregate (or head) sentence listed for those sentenced prisoners discharged during 1999. This refers to the maximum period of imprisonment imposed by the court. Persons who receive a prison sentence of less than 12 months do not qualify for parole and so must serve the maximum sentence imposed by the court. In these cases then, the aggregate or head sentence is the same as the actual time served. In contrast, sentences of 12 months or more receive both a head sentence and a non-parole period. The latter is the time that must be served before a prisoner can be released. In normal circumstances, a prisoner will be released on parole once (s)he has served that non-parole period, with the result

that, in most cases, the aggregate or head sentence will be longer than the actual time served.

As shown in Figure 31, just over one half (52.0%) of prisoners discharged in 1999 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 17.2% received a head sentence of over one year to two years, while a further 30.8% received a head sentence of more than two years. A small number (16 of the 1,379 discharges recorded in 1999) had a head sentence of over 10 years. The majority of these involved *robbery or extortion* as the major offence.

Figure 31 Prison discharges: length of aggregate (or head) sentence for sentenced prisoners, 1999.



Community-based Corrections

Orders[15] commenced during 1999

Tables 4.28 to 4.34 in Section 4 of this report contain data on community correction orders supervised by the Department for Correctional Services. During 1999, a total of 18,950 such orders were commenced. As in 1998, over eight in ten (81.3%) of the community-based correction orders commenced in 1999 involved some form of community work. This included stand-alone community service orders (7.9%), as well as community service undertaken as an alternative to paying a fine (48.4%) or in

[15] FOR CONVENIENCE, THE TERM 'ORDER' IS APPLIED TO POST-PRISON HOME DETENTION SUPERVISION, EVEN THOUGH THIS IS NOT AN ORDER OF THE COURT.

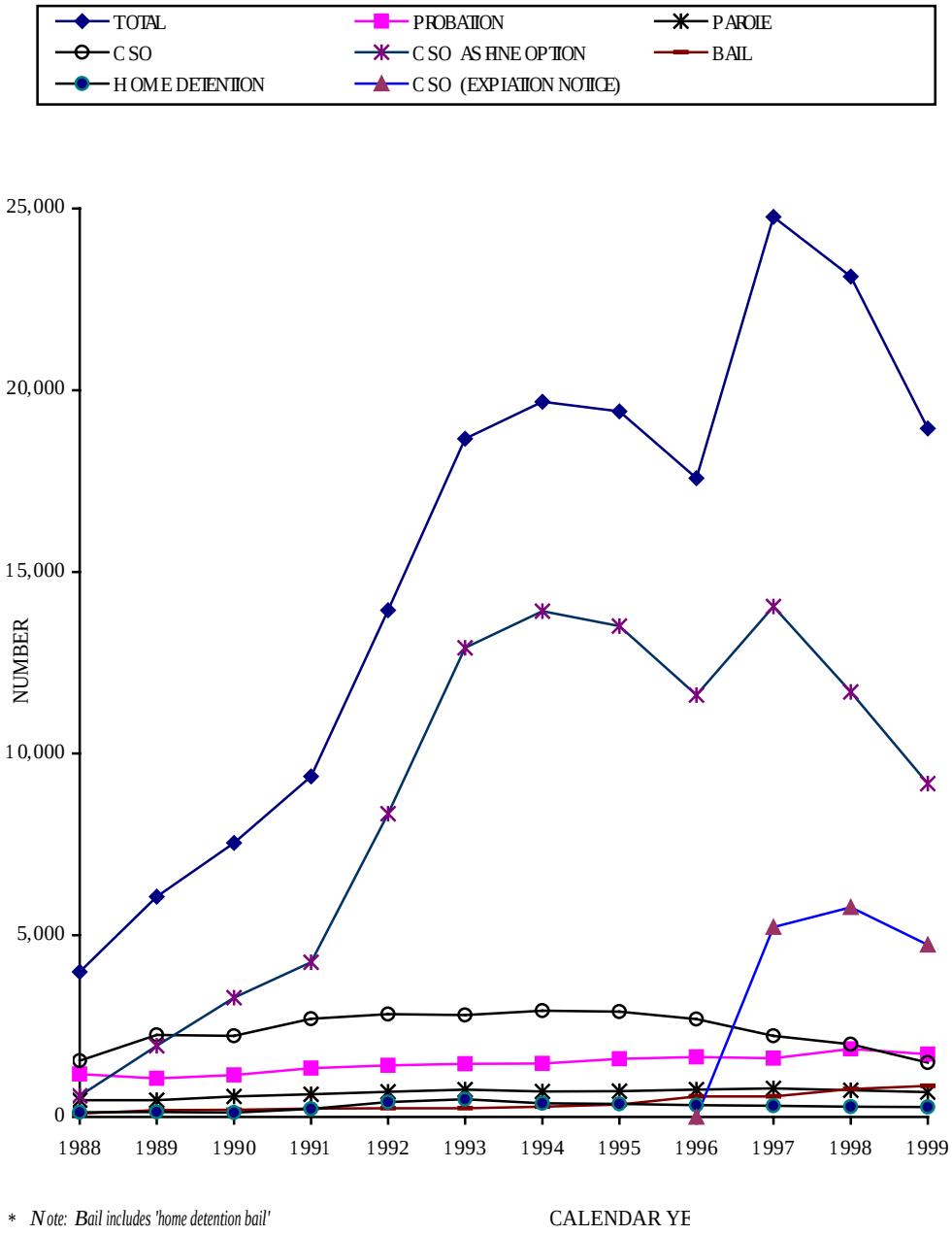
lieu of payment of an expiation notice (25.0%). At the other end of the scale, only 2.6% of orders involved home detention, generally as part of a bail agreement (1.2%) or for sentenced prisoners released from gaol (1.4%). There was also one order involving a home detention bond[16].

Longitudinal trends in community-based correction orders are outlined in Figure 32. As shown, the total number of community-based correction orders commenced in a given year increased substantially between 1988 and 1997 before declining in 1998 and again in 1999. The 18,950 orders commenced in 1999 was 18.1% fewer than the 23,126 recorded in 1998, and 23.5% lower than the peak recorded in 1997. However it was dramatically higher than the 3,997 recorded just over a decade earlier in 1988.

The upsurge in numbers recorded in 1997 was primarily due to the introduction in that year of community service orders undertaken as an alternative to paying an expiation notice. This option was introduced by the *Expiation of Offences Act* 1996. According to that legislation, if a person is issued with an expiation notice but is not in a position to pay, they are now able to do community service without going to court. Previously, if they had not been able to pay, they had to go to court, and the court decided whether or not to impose community service. In the first year of operation of the new legislation, 5,223 such orders were commenced. In 1998, this increased to 5,769 orders, but in 1999 this category decreased by 17.9% to 4,738.

Figure 32 Number of community-based correction orders commenced by type of order, 1988 to 1999

[16] THIS IS A NEW REPORTING CATEGORY INTRODUCED IN 1999 IN RESPONSE TO AN AMENDMENT OF THE CRIMINAL LAW (SENTENCING) ACT 1988. UNDER S38 (2C) OF THAT ACT, THE COURT CAN NOW SUSPEND A SENTENCE OF IMPRISONMENT IN THOSE CIRCUMSTANCES WHERE IT CONSIDERS THAT, BECAUSE OF THE DEFENDANTS ILL HEALTH, DISABILILTY OR FRAILTY, IT WOULD BE UNDULY HARSH FOR THE OFFENDER TO SERVE TIME IN PRISON. IN SUSPENDING THAT SENTENCE, THE DEFENDANT IS REQUIRED TO ENTER INTO A GOOD BEHAVIOUR BOND WHICH, IN THESE CIRCUMSTANCES, MAY INCLUDE A HOME DETENTION CONDITION.



* *Note: Bail includes 'home detention bail'*

The longitudinal trend for 'CSO as fine option' orders parallels that observed for total orders. This is to be expected, given that this category annually accounts for a much higher proportion of all orders than any other category. Following several years of decline in 1995 and 1996, this type of order recorded a substantial increase in 1997,

followed by an equally substantial decrease in 1998. There was a further sharp decline in 1999 of 21.6% (from 11,700 to 9,171). As a result, the number of 'CSO as fine option' orders recorded in 1999 was the lowest recorded since 1992.

The other categories depicted in Figure 32 have annually accounted for only a small proportion of all orders commenced. Of these, CSOs have declined in the last four years (from 2,899 in 1995 to 1,492 in 1999). The 1999 figure was 25.4% lower than in 1998 and 48.5% lower than in 1995. Parole and probation orders also decreased in 1999. Parole orders went from 738 in the previous year to 685 in 1999, while probation orders, which had recorded a 10.9% increase in 1998, declined in 1999 by 7.4% (from 1,870 to 1,731). The number of sentenced prisoners placed on home detention has remained relatively low, with 1999 figures being marginally smaller than those recorded in 1998 (274 compared with 282). In contrast, an increase was recorded in the number of bail orders, from 767 in 1998 to 858[17] in 1999. The most recent figure is nine times higher than the 95 recorded in 1988.

The 18,950 community-based correction orders commenced in 1999 involved 15,738 discrete individuals, giving an average of 1.2 orders per individual. The total number of individuals who commenced a community-based correction order in 1999 was 16.3% lower than the 18,795 persons recorded in 1998. However, the 1999 figure was still higher (by 6.8%) than the 1996 figure of 14,737, largely because of the introduction in 1997 of CSO (expiation notice) orders. Males accounted for 72.0% of those individuals for whom sex was recorded and 72.5% of all orders commenced where relevant data were available. Although separate data are presented for Aboriginal and non-Aboriginal offenders, the proportion of cases in which information on racial identity was not recorded (23.6% of all orders commenced) is too high to permit any meaningful analysis.

Persons supervised at 31 December 1999

Caseload data as at 31 December 1999 are presented in Tables 4.30 and 4.31 in Section 4 of this report. On that particular day, the Department for Correctional Services was supervising 6,354 distinct individuals, some of whom were serving more than one community-based corrections order. (As explained in Appendix A, if the same person is on probation and doing community work at the same time, for the purposes of these tables (s)he would be counted in both categories.)

The order that recorded the highest caseload on 31 December 1999 was that of probation, with 2,269 discrete individuals registered on that day. This equates to 35.7% of all persons under Department for Correctional Services community-based supervision on that particular day. There were also 2,013 individuals (31.7% of the total) on 'CSO as fine option' and 1,064 (16.7%) being supervised for a stand-alone CSO. The new category of CSO (expiation notice) accounted for a further 7.2% of individuals under supervision at the close of the calendar year. At the other end of the scale, only 93 persons (1.5% of the total) were sentenced prisoners on home detention while 235 (3.7%) were on bail, either with or without a home detention component.

[17] THIS INCLUDES HOME DETENTION BAIL.

The total number of persons under supervision on 31 December 1999 was 17.7% lower than the 7,723 individuals being supervised on 31 December 1998. Moreover, when the number within each type of order are summed, total orders supervised in 1999 was also lower than in 1998 (7,143 compared with 8,987 respectively). Of the eight different order types (excluding the new category of 'home detention bond'), decreases were observed for four of the categories. More specifically, the number of persons on a community service order on 31 December 1999 was considerably lower (by 19.4%) than on the corresponding day in 1998, as was the number of persons serving a CSO as a fine option (35.1% lower), and a CSO-expiation notice (44.4% lower). There were also fewer on parole (6.2% lower). In contrast, the number of persons on bail (including home detention bail) in 1999 was higher than in 1998 (by 11.9%), as was the number on probation (5.3% higher). The number of sentenced persons on home detention on 31 December 1999 was similar to that recorded in 1998 (94[18] and 90 respectively).

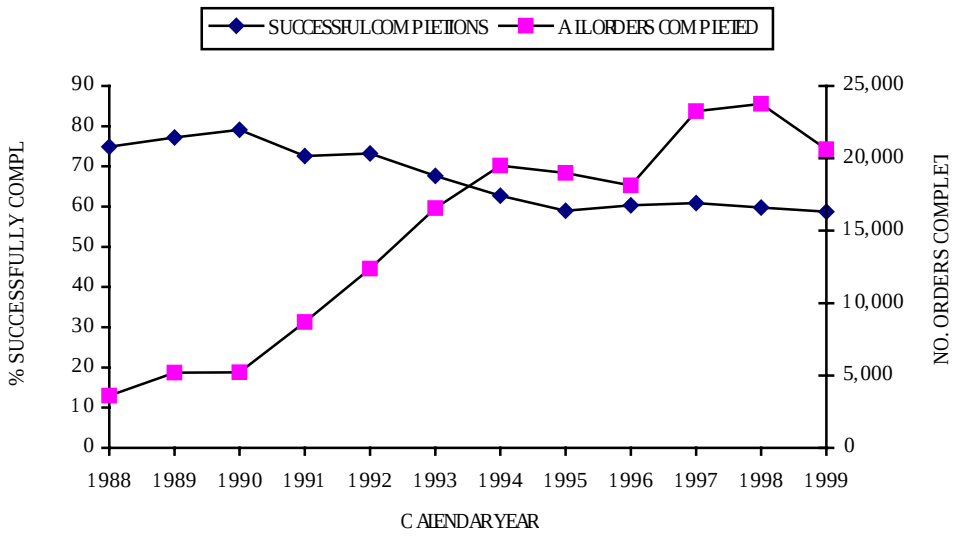
Males accounted for three quarters (75.6%) of all persons supervised on 31 December 1999 for whom relevant information was available. Nevertheless, there were some differences between the sexes in terms of the type of order under which they were being supervised. In particular, a higher proportion of females than males were listed under a 'CSO as a fine option' order (46.9% compared with 26.7% respectively) and a 'CSO (expiation notice)' order (12.6% compared with 5.4% respectively). In contrast, a higher proportion of males than females were undertaking a community service order (18.4% of all males supervised on 31 December 1999 compared with 11.4% of females) and parole (19.7% compared with 4.5% respectively). Because information on racial identity was not available for 27.9% of individuals under supervision, the data contained in Tables 4.31a and 4.31b in Section 4 should be interpreted with extreme caution.

Orders completed during 1999

The number of community-based correction orders completed (either successfully or otherwise) decreased in 1999 (from 23,752 in 1998 to 20,634). Of these 20,634 orders, the majority (58.7%) were completed successfully, while four in 10 orders (40.3%) were revoked or estreated. This is very similar to the situation observed in 1995, 1996, 1997 and 1998, when 39.7%, 38.8%, 38.4% and 39.6% of orders respectively were revoked or estreated.

[18] THIS INCLUDES THE ONE 'HOME DETENTION BOND'.

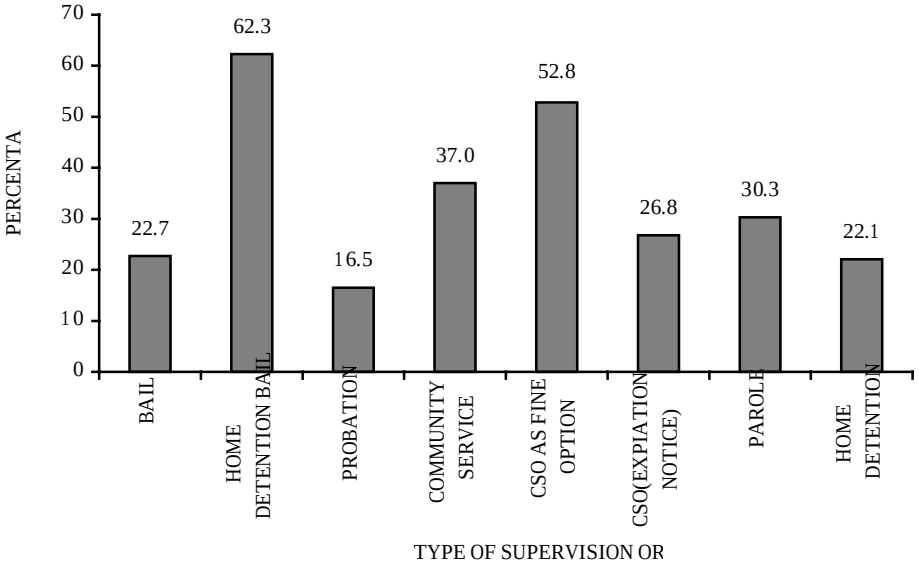
Figure 33 Community-based correction orders completed and the percentage completed successfully, 1988 to 1999



Over a longer time period, Figure 33 shows that, despite some annual fluctuations, as the number of completed community-based correction orders has escalated, so the proportion of such orders successfully completed has diminished. In 1988, for example, when there were only 3,603 orders completed, 74.9% were successfully finalised. In 1999, the number of orders completed had increased more than five-fold, but the proportion of successful completions had decreased to 58.7%. This may in part be due to an increasing volume of fine option undertakings. Variations, a power granted to the courts in 1992, means that the same offender can receive multiple opportunities to complete the original penalty. A consequence of the inability of the current database to link these variations to the original penalty is that several new registrations of the same order, and the recording of several failed interim outcomes for these, can occur prior to a final outcome. This results in an inflated breach rate for fine option, which is the largest community-based category.

The extent to which orders were estreated or revoked in 1999 varied depending on the type of order involved. As indicated in Figure 34, the highest level of estreatment or revocation was recorded for home detention bail orders (62.3%), followed by 'CSO as a fine option' orders (52.8%) and community service orders (37.0%). In contrast, only 16.5% of the 1,507 probation orders completed in 1999 were estreated or revoked. In total, 22.1% of the 271 home detentions completed by sentenced prisoners were estreated in 1999.

Figure 34 Community correction orders completed in 1999: percentage estreated/revoked within each category of supervision order



The extent to which orders were estreated did not vary according to the sex of the offender. In 1999, 40.3% of orders involving males were estreated or revoked, as were 40.2% of orders involving females.

Table 4.34 in Section 4 details the number of community-based correction orders completed in 1999 according to the racial identity of the offender. Again, however, it should be noted that the number of cases where racial identity was not recorded was relatively high (24.7%), thereby rendering the accuracy of the statistics on Aboriginal offenders highly questionable.

2 MAGISTRATES COURTS OF SOUTH AUSTRALIA