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ADULT COURTS AND CORRECTIONS

OFFICE OF CRIME STATISTICS
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PREFACE

Crime and Justice in South Australia, Adult Courts and Corrections is the final volume of a three volume report on crime and criminal justice statistics in South Australia which, in one form or another, has been published annually by the Office of Crime Statistics since 1987. Volume 1 focuses on police-related activities and Volume 2 contains information about young offenders and the juvenile justice system. 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.

Eight main sections are included in this report, as follows:

- Outcomes and penalties received for cases finalised in the Magistrates Court;
- Outcomes and penalties received for cases finalised in the Supreme and District Courts;
- Prison receptions during 2000;
- The daily average number of prisoners during 2000;
- Persons in custody at 31 December, 2000;
- Prisoners discharged during 2000;
- Community based correction orders commenced during 2000; and
- Community based correction orders completed during 2000.

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 2001

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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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Commentary and explanatory notes:	Adrian Barnett, Lynne Sampson and Nichole Hunter
Data entry, coding and auditing:	Adrian Barnett, Lynne Sampson and Natalie Gatis
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INTRODUCTION

This report, covering the period 1 January 2000 to 31 December 2000, is the thirteenth *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 2000 Statistics

Magistrates Courts

- During 2000, there were 26,587 cases finalised in the Magistrates Court, which is 0.3% higher than the 26,518 cases finalised in 1999.
- *Driving offences* were listed as the major charge in just over one quarter (25.9%) of these cases, while *offences against good order* accounted for a further 17.9% and *larceny and receiving* offences for 14.6%. At the other end of the scale, very few cases involved either a *sexual offence* (1.3%) or *robbery and extortion* (0.9%). In addition, 6.0% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2000, 846 (3.2%) were committed to the District or Supreme Court for trial or sentence. This number is 113.0% higher than the 397 cases committed in 1999 but 52.8% 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 2000, over half of all finalised cases (53.6%) resulted in the defendant being convicted of the major charge. In a further 11.6% of

cases, the defendant was found guilty of the major charge but was not convicted.

- In just over one quarter of cases (26.5%) the major charge was either withdrawn by prosecution or dismissed. In a further seven cases, the defendant was acquitted of the major charge and 12 defendants were found not guilty on grounds of mental incompetence. However, in 17.4% 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 25,741 cases finalised in the Magistrates Court (excluding those committed to a higher court) just under three quarters (72.1%) resulted in a finding of guilt to at least one charge.

- Of the 1,601 applications for *restraining*, *domestic violence* or *paedophile restraining orders* finalised in 2000, 1,000 (62.5%) resulted in the issuance of that order.

- Of the 18,586 cases finalised in 2000 by way of a conviction or a finding of guilt to at least one charge, just under one third (31.8%) received a fine as the major penalty, while just over one quarter (25.3%) resulted in a driver's license suspension. Overall, 5.1% 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 79 weeks). This was followed by *burglary and break and enter* (average of 58 weeks).

- Although females featured in only a small proportion (17.9%) of cases finalised in 2000, their level of involvement varied depending on the type of offence. For example, females accounted for only 2.1% of those cases in which a *sexual offence* was listed as the major charge, but 33.9% of all cases involving *fraud and misappropriation.*

- Just over two fifths (40.8%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while very few (6.2%) were aged 50 years and over.

- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (257.0 per 1,000 adult Aboriginal population compared with 21.1 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 (20.8 appearances per 1,000 population compared with 32.0 per 1,000 in

country areas). Within metropolitan Adelaide, the Local Government Areas with the lowest appearance rates were Mitcham (9.1 per 1,000 adult population), Walkerville (9.5), East Torrens (9.7), Unley (9.9) and Burnside (10.7). In the remainder of South Australia, 'other country' (17.7 per 1,000 adult population) and Mount Gambier (25.3 per 1,000 adult population) recorded the lowest rates of appearance.

- Seven out of ten defendants (70.2%) in the Magistrates Court had at least one prior conviction, with an average of 12.0 previous convictions per defendant. Just over one in five cases (21.0%) involved defendants who had previously been sentenced to imprisonment.

- In the 7,325 cases finalised at the first court hearing, only five defendants were remanded in custody at the time. In contrast, 20.6% 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 34.9% had a lawyer. This rose to over three quarters (76.6%) of those cases that required more than one hearing to finalise and 94.5% of those which were committed to a higher court for trial or sentence.

Higher Courts

- In 2000, there were 67 cases finalised in the Supreme Court and 759 finalised in the District Court, giving a total of 826.

- There were 15 less cases (or 1.8%) compared with the number disposed of in 1999. All of the decline in case numbers was in the District Court, the Supreme Court remaining at the same level as in 1999.

- The largest offence groups were the *drug offences* (28.6% of the total), *offences against the person (excluding sexual offences)* (17.7%) and *robbery and extortion* (13.7%) offence categories.

- The majority of defendants (77.1%) were convicted of at least one charge, with 64.6% pleading guilty to either the major charge or another charge.

- The majority (68.3%) of the cases which went to trial in 2000 resulted in one or more charges being found guilty. The defendants in 49 cases were found not guilty because of mental impairment, compared to 3 in 1999. Slightly less than one quarter (24.3%) of cases going to trial resulted in an acquittal on the major charge, whilst 15.8% either

pleaded *guilty* to, or were found guilty of a lesser, alternate or other charge. Some 17.3% of defendants in trials changed their plea to *guilty* once the trial had begun.

- The two most frequently imposed penalties in 2000 were imprisonment, imposed in 46.6% of cases where one or more charges had an outcome of *guilty,* and suspended imprisonment (imposed in 37.2% of such cases).

- The group with the highest percentage imprisoned was *robbery and extortion*, in which 78.4% of defendants convicted received this penalty.

- Excluding life sentences, the average length of imprisonment for the major charge was three and a half years, although this varied from 63.7 months for cases involving *robbery and extortion* to 9.6 months for *other offences.*

- Life sentences were given in 9 cases, all for *murder*. The average non-parole period for these cases was 16 years and 1 month, with the shortest of these receiving 13 years and the longest 20 years.

- Approximately nine out of ten defendants (87.7%) were males, whose average age was 31.5 years. Females had an average age of 30.8 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 one third (33.3%) had between 10 and 49 convictions. A further 8.7% had 50 or more previous convictions. Just over one third (34.2%) had been imprisoned before.

- Approximately three in ten defendants (30.9%) were being held in custody at the time of their final appearance.

Correctional Services

Imprisonment

Prison receptions

- In 2000, there were 3,448 prisoners received into custody, of whom 13.1% were sentenced prisoners, 2.4% were fine defaulters and 84.5% were on remand. Overall, the number of new receptions has decreased steadily since 1992, with the 2000 figure of 3,448 being well below the peak of 7,618 recorded in 1992.

- In 2000, proportionately fewer prison receptions involved sentenced prisoners (13.1% compared with 15.1% in 1999), while the proportion involving fine defaulters was much lower (2.4% of all receptions in 2000 compared with 23.8% in 1998). In contrast, the proportion of admissions involving remanded prisoners was much higher (84.5% in 2000 compared with 60.9% in 1999). The decrease in the number of receptions involving fine defaulters is most likely due to legislative changes introduced in March 2000 which removed the option of completing a prison term instead of paying a fine.

- The overwhelming majority of persons received into custody in 2000 were male (89.8%) although this varied slightly from 88.1% for fine defaulters to 87.7% and 90.2% for sentenced and remand prisoners respectively.

- For those 3,441 receptions where age was known, almost one half (47.3%) involved persons aged 20 to 29 years, while those in the older age groups (notably 50 years and over) accounted for only 3.5%.

- Persons identified as Aboriginal accounted for 19.8% of the 3,034 prison receptions where information on racial identity was recorded. However, this varied from one legal status category to another, with Aboriginals accounting for 18.0% of those admitted as sentenced prisoners, compared with 19.9% of remandees and 28.8% of fine defaulters.

Daily averages

- Daily average prison numbers declined in 2000 (from 1,358 per day in 1999 to 1,321).

- In 2000, males accounted for 94.2% of the daily average prison population, with a rate of 2.22 per 1,000 adult male population, compared with only 0.13 per 1,000 adult female population.

- On average, 217 Aboriginal persons where held in custody each day in 2000, which represents 18.7% of those for whom racial identity was recorded.

Census figures

- At midnight on 31 December 2000 there were 1,284 prisoners in custody. Remandees accounted for 31.5% of the total, while almost seven in ten (68.5%) 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 18.2% of all males in custody on 31 December 2000 (compared with 18.0% in 1999 and 19.3% in 1998), while Aboriginal females accounted for 28.0% of all females in custody (compared with 26.5% in 1999 and 39.3% in 1998).

Escapes from custody

- In 2000, two prisoners escaped from the custody of the Department for Correctional Services, which was considerably lower than the 18 recorded in 1999. Both escapes were from escort rather than from institutions.

Prison discharges

- In 2000, there were 3,475 discharges from custody, including 1,279 (36.8% of the total) who, at the time of discharge, were serving a prison sentence. A further 59.7% were discharged from remand and 3.5% were discharged after having 'cut out' a fine.

- A higher proportion of females were on remand at the time of discharge (67.9% compared with 58.8% of males), while a lower proportion were classified as sentenced prisoners (28.1% compared with 37.8% of males).

- Of the 120 fine defaulters discharged from prison in 2000, the majority had served only a relatively short period, with 57.5% in prison for less than one week prior to discharge and 16.7% in prison for one to two weeks. Relatively few (11.7%) were incarcerated for more than four weeks.

- Of the 106 fine default discharges where relevant information was available, the offence type most frequently listed as the major charge involved *offences against justice procedures*. This group of offences constituted the most serious charge in 31.1% of fine default discharges, followed by *licence/registration offences* (21.7% of discharges) and *driving offences* (19.8%).

- Of the 1,279 sentenced prisoners who were discharged in 2000, 16.2% spent less than one month in prison, while 38.1% were in prison for three months or less. At the other end of the scale, only 2.0% 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 121 discharges involving

a *license/registration* offence, over one half (54.5%) were for periods of less than one month. However, of the 56 sentenced prisoners discharged for *robbery and extortion*, over one half (58.9%) 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 29.4% of the 1,249 discharges where this information was recorded, followed by break and enter (14.4%).

- Overall, Aboriginal sentenced prisoners were slightly 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.

Community-based Corrections

Orders commenced during 2000

- In 2000, there were 10,601 community-based correction orders commenced, which was 44.1% fewer than the 18,950 recorded in 1999 and 57.2% lower than the peak recorded in 1997.

- Six in ten (60.5%) of the community-based correction orders commenced in 2000 involved some form of community work. This included stand-alone community service orders (42.4%) as well as community service undertaken as an alternative to paying a fine (11.3%) or in lieu of payment of an expiation notice (6.8%). The number and combination of community-based correction orders commenced in 2000 was substantially different to the previous year, due to the introduction of legislation in March 2000 which removed the option of undertaking community work in lieu of a fine or expiation notice, without returning to court. CSO-fine option decreased from 9,171 in 1999 to 1,194 in 2000, while CSO (expiation notice) decreased from 4,738 to 722.

- Only 5.4% of supervisions involved home detention, either as part of a bail agreement (3.5%) or for sentenced prisoners released from gaol (1.9%).

- The 10,601 orders commenced in 2000 involved 8,646 discrete individuals, giving an average of 1.2 orders per person. The total number of individuals who commenced an order in 2000 was 45.1% lower than in 1999, largely because of the abolition in 2000 of CSO (expiation notice) and CSO as fine option orders.

- Males accounted for 77.9% of those individuals for whom sex was recorded and 77.8% of all orders commenced where relevant data were available.

Persons supervised at 31 December 2000

- On 31 December 2000, Correctional Services were supervising 6,604 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 stand-alone CSO, with 3,366 discrete individuals registered. This equates to 45.5% of all persons under Correctional Services community supervision on that day.

- The total number of persons supervised was 3.9% higher than the 6,354 individuals under supervision twelve months earlier, on 31 December 1999.

Orders completed during 2000

- The number of community-based correction orders completed decreased in 2000 (from 20,634 in 1999 to 10,293).

- Although the majority of these orders were completed successfully (65.2%), 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 2000, the number of orders had increased more than three-fold, but the proportion of successful completions had decreased to 65.2%.

- The extent to which orders were revoked or estreated in 2000 varied depending on the type of order involved. The highest level of estreatment was recorded for home detention bail orders (47.0%), followed by 'CSO as a fine option' orders (44.1%) and community service orders (40.4%). In contrast, only 20.6% of probation orders completed in 2000 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 2000 crime survey conducted by the Australian Bureau of Statistics (*Crime and Safety, April 2000*, catalogue no. 4509.4), indicated that in South Australia the level of reporting for robbery was 54.8% and for *assault* was 27.3%.

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 7.9% of *serious criminal trespass* reported to police in 2000 were cleared by way of an apprehension, as were 10.0% of *vehicle thefts.* Apprehension levels for *drug* and *driving offences* were considerably higher (99.7% and 99.9% 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 2000 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 2000. Conversely, the court data will count persons apprehended and/or sentenced in 1999 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.

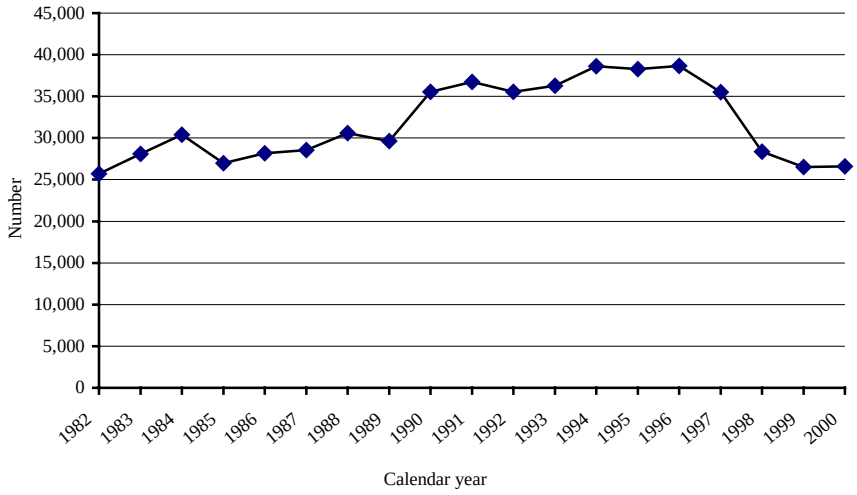
1 OVERVIEW

1.1 Magistrates Courts of South Australia

Overview

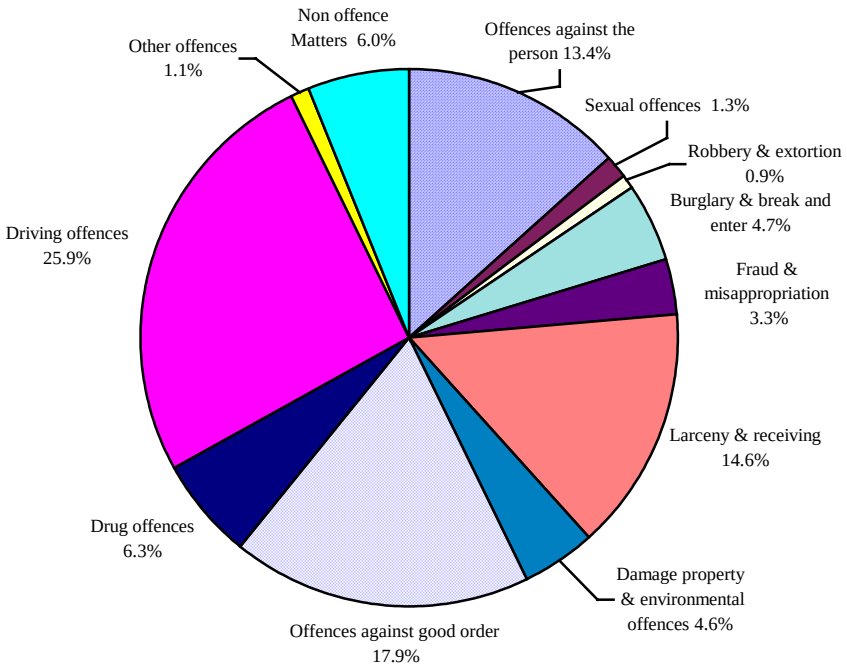
During 2000, 26,587 cases involving offences that fall within the Office of Crime Statistics collection boundaries were finalised in the Magistrates Court. This figure is 0.3% higher than the 26,518 finalised cases in 1999. As indicated in Figure 1, although the number of matters disposed of in the Magistrates Court generally increased between 1982 and 1996, over the next three years there was a decline. As a result, the number of cases finalised in 2000 was significantly lower than that recorded at the beginning of the decade (26,587 compared with 35,551 in 1990) and was only 3.5% higher than the 25,699 recorded in 1982.

Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 2000



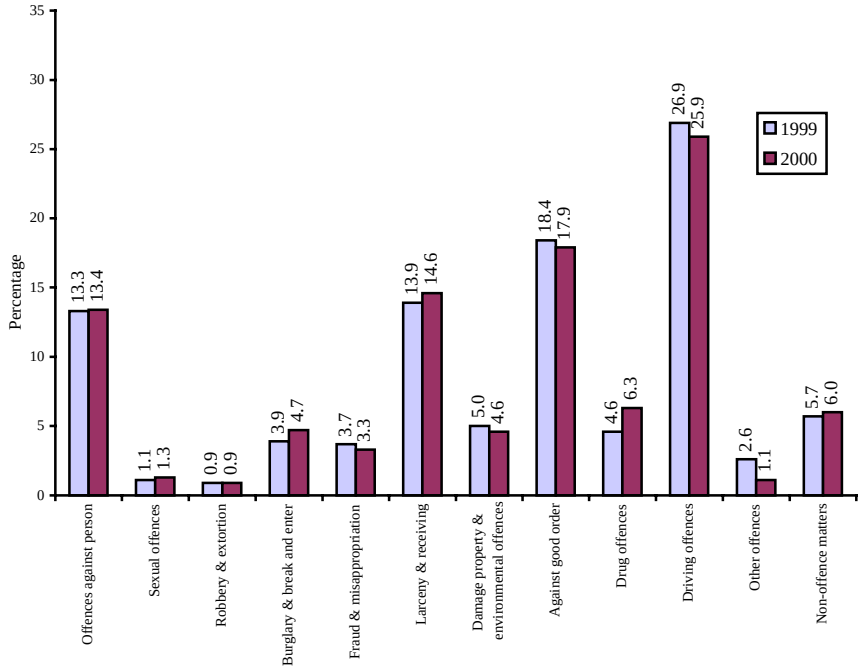
As indicated in Figure 2, *driving offences* constituted the major charge in over one quarter (25.9%) of all cases finalised in 2000, while *offences against good order* featured in a further 17.9% of cases, *larceny and receiving* in 14.6% and *offences against the person* in 13.4%. At the other end of the scale, there were relatively few cases in which *sexual offences* or *robbery and extortion* constituted the major offence charged (1.3% and 0.9% respectively). In addition, 6.0% of cases involved *non-offence* matters. As in previous years, these consisted almost entirely of restraining orders.

Figure 2 Cases finalised in the Magistrates Court by the major charge per case: 2000



Overall, this offence profile is similar to that observed in 1999. As shown in Figure 3, in both 1999 and 2000, 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* has remained consistently low. There have, however, been some slight shifts within certain categories. For example, in 2000 *drug offences* accounted for a slightly higher proportion of finalised Magistrates Court cases than in the previous year (6.3% in 2000 compared with 4.3% in 1999). Overall, though, the differences between the two years are relatively minor.

Figure 3 Cases finalised in the Magistrates Court by major charge: 1999 and 2000



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 2000.

It should be noted that extending longitudinal trends for *break and enter* offences into 2000 is somewhat problematic due to the passage of the *Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act*. This piece of legislation, which came into effect on 25 December 1999, replaced *break and enter offences* (other than the offence of *sacrilege*) with *criminal trespass offences*. More specifically, it introduced three new offence categories:

- *serious criminal trespass - non residential building*,
- *serious criminal trespass - places of residence*, and
- *criminal trespass - places of residence.*

The two *serious criminal trespass* offences are further sub-divided into aggravated and non-aggravated, depending on whether an offensive weapon is used or whether there are multiple offenders. A third aggravating factor applies to *serious criminal trespass - place of residence*:

namely whether another person is lawfully present in the dwelling at the time of the trespass, and the offender either knows of the other's presence or is reckless about whether anyone is in the place *(Criminal Law Consolidation Act 1935,* s170(2)(c)). This criterion was specifically included to 'capture' incidents of home invasion. The legislation also extends the definition of "place of residence" to include not only houses and flats, but any structure in which police consider the victim to be living at the time of the incident, such as a car or caravan.

Because these legislative changes came into effect in the last week of 1999, the majority of offences recorded in 2000 were classified as *criminal trespass offences.* However, there were some *break and enter offences* which, while reported in 2000, had occurred prior to the legislative change. For the purposes of the 2000 report these offences have been grouped together as *burglary, break and enter* offences.

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 four years this upward trend has been reversed. In 2000, the number of cases where this type of offence was listed as the major charge was 7.5% 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 2000

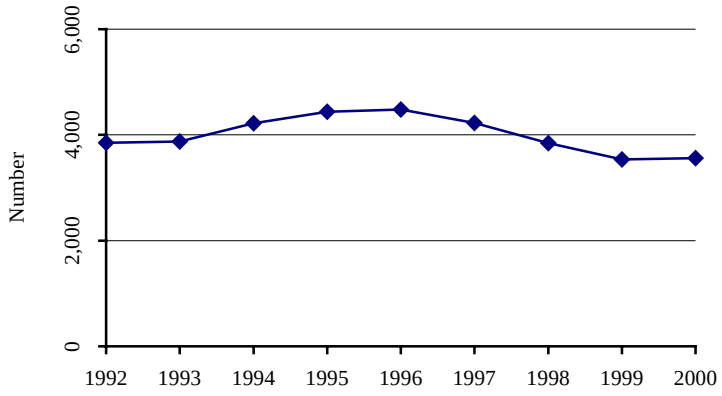
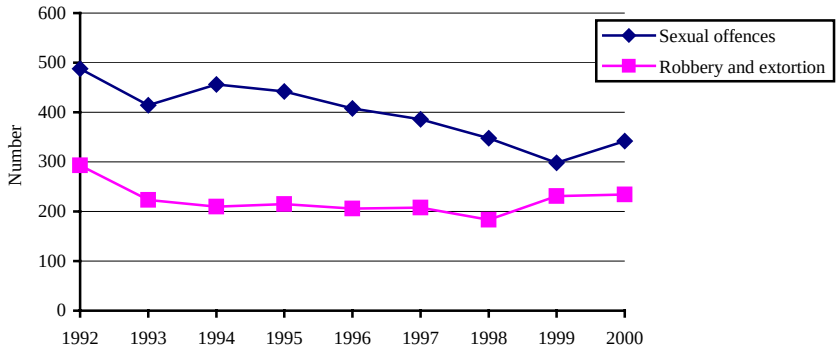


Figure 5 shows that the number of cases involving *sexual offences* has generally been declining since 1992. However, in 2000 an increase of 14.8% was recorded (342 cases compared with 298 cases in 1999). In spite of this, the number of *sexual offences* cases recorded in 2000 is 29.9% lower than the 488 recorded in 1992. Cases where *robbery and extortion* was the major charge listed remained stable after an increase was recorded in 1999. 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 2000



As indicated in Figure 6, the overall trend for cases in which *larceny and receiving*[1] was listed as the major charge has been a decline from 5,969 in 1992 to 3,686 in 1999. In 2000 however, 3,882 cases were recorded - a 5.3% increase. Cases involving *burglary and break and enter* offences have remained relatively stable throughout the period shown but recorded an increase of 16.0% in 2000 (from 1,039 in 1999 to 1,244). Conversely, *fraud and misappropriation* cases recorded the lowest figure for the period shown (n=873).

[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 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 2000

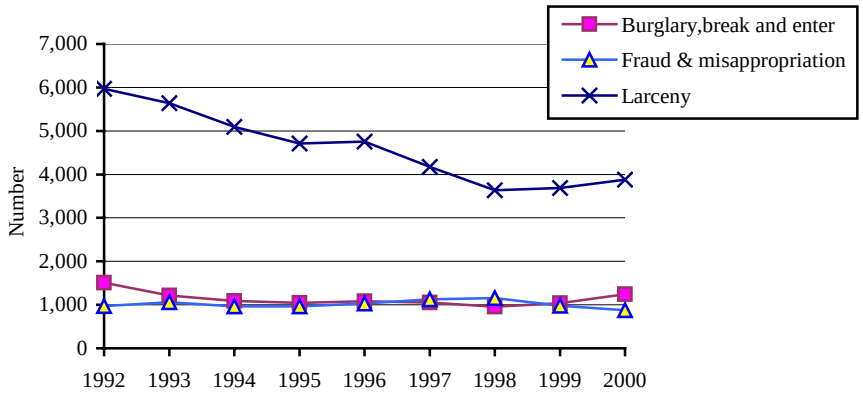
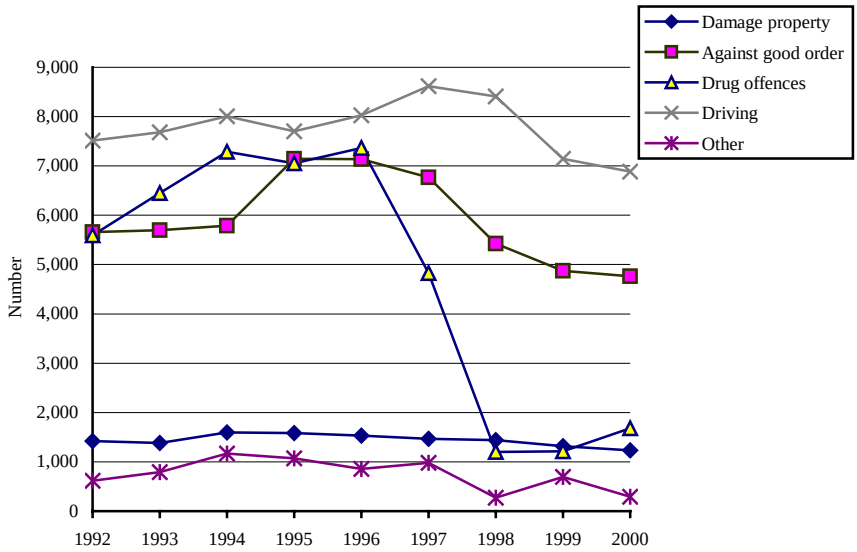


Figure 7 depicts longitudinal trends for five separate offence categories. As shown, cases where *driving offences* were listed as the major charge continued to decline in 2000, after peaking at 8,620 cases in 1997. *Drug offence* cases, which experienced a dramatic drop in both 1997 and in 1998, increased by 38.4% in 2000.

The numbers of cases involving *offences against good order* have been declining since 1995. This trend continued in 2000, with the result that the most recent figure is the lowest recorded for the period depicted.

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 been steadily declining throughout the period depicted, this trend continuing in 2000 (1,231 compared with 1,319 in 1999). 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). A dramatic increase was recorded in 1999. Numbers decreased in 2000 by 58.0% (from 697 to 293). This downswing was primarily due to a decrease in the number of *electoral offences* recorded in 2000 (476 in 1999 compared with 84 in 2000).

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 2000



Outcomes

Outcomes for the major offence charged in the 26,587 cases finalised by the Magistrates Court in 2000 are detailed in Tables 2.1 to 2.13b 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. A further modification was introduced in the 1997 report. Whereas the numbers given in brackets in previous reports 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. Therefore, care should be exercised when comparing the new figures with corresponding tables from these earlier, pre-1997 reports. In addition, a new column recording cases with the outcome "Not guilty: mentally incompetent" has been added to these tables in 2000. Appendix A to this report outlines the operation of the law in relation to mentally incompetent persons in more detail.

Of the 26,587 cases heard in the Magistrates Court in 2000, 846 (3.2%) were committed to the District or Supreme Court for trial or sentence. While this number is 113.0% higher than the 397 cases committed in 1999, the 2000 figure remains 52.8% 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 2000 varied considerably according to the seriousness of the major charge. For example, 45.3% of all *robbery and extortion* cases had this outcome (which is higher than the 29.0% recorded in 1999), as did 27.8% of cases involving *sexual offences (*compared with 18.8% in 1999). In contrast, only 0.4% of *larceny and receiving* and 0.7% of *offences against good order* cases resulted in a committal to the District or Supreme Court as did 0.9% of cases involving *property damage and environmental offences*. It should also be noted that in 18 of the 846 cases which, in 2000, 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 (53.6%) 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 56.8% recorded in 1999. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 1.7% of cases involving *robbery and extortion* to 86.0% of cases in which a *driving offence* was listed as the major charge. Almost six out of ten cases (63.3%) that involved *fraud and misappropriation offences* and just over five out of ten cases (56.4%) involving *offences against good order* also resulted in a conviction for the major charge.

In 3,088 cases (11.6% 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 (7 out of 26,587) resulted in an acquittal for the major charge. In just over one quarter of cases (26.5%) the major charge was either withdrawn (n=4,290) or dismissed (n = 2,758). It should be noted though, that in 1,230 (17.4%) of the 7,055 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 25,741 cases which were finalised in the Magistrates Court in 2000 (excluding those committed for trial or sentence to a higher court), 18,567 (72.1%) resulted in a finding of guilt to at least one charge. Of the 11 cases which recorded an outcome of "not guilty: mentally incompetent", 1 case received an outcome of guilty of a lesser offence. 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* (52.1% of all offences within this category), *offences against the person, excluding sexual offences* (51.9%), *sexual offences* (48.0%) and *burglary and break*

enter (48.0%), but was comparatively low for *offences against good order* (19.6%), *other offences* (14.3%) and *driving offences* (13.5%).

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 597 cases where the major charge acquitted, dismissed or withdrawn was a *burglary, break and enter*, 156 (26.1%) resulted in a finding of guilt for another offence compared with only seven (5.7%) of the 122 cases where the major charge acquitted, dismissed or withdrawn was *robbery or extortion.*

Of the 1,601 applications for *restraining, domestic violence* or *paedophile restraining orders* finalised in 2000, 1000 (62.5%) resulted in the issuance of that order, 241 (15.1%) were varied, while 330 (20.6%) were either revoked or cancelled, withdrawn, dismissed or refused (see Table 2.13a 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 2000, 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*).

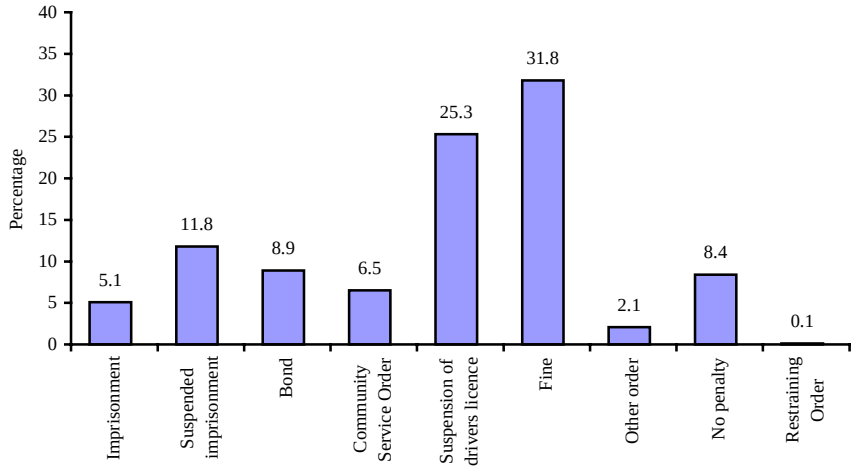
It should also be stressed that these tables do not include all penalties imposed per case. For example, in cases where several charges are proved, each charge may receive a different penalty. One charge may receive a fine, while another in that same case may result in imprisonment. Only the most serious (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 2000, there were 18,586 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 (31.8% of these cases), followed by a driver's licence suspension (25.3% of cases). Only

5.1% of cases resulted in direct imprisonment, while 11.8% received suspended imprisonment. In a further 6.5% of cases, the major penalty imposed was a community service order, while 8.9% received a good behaviour bond. In 8.4% of cases, no penalty was imposed.

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 2000, there were only 24 cases (0.1% of the total) where a restraining order constituted the major penalty. This is slightly higher than the 18 recorded in 1999. However, the percentage of the total remains the same.

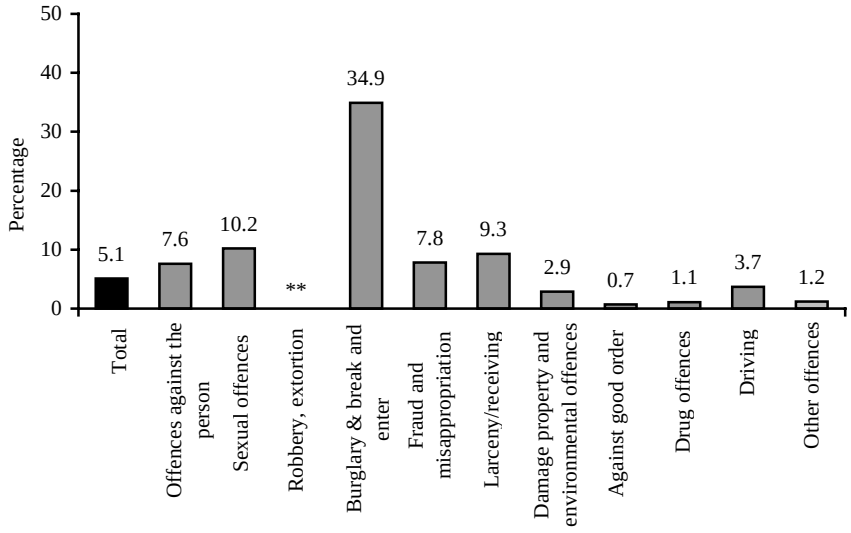
Figure 8 case: Major penalty imposed for the most serious charge proved per 2000



The number of cases resulting in imprisonment was lower in 2000 than in either 1999 or 1998 (944 compared with 1,083 and 1,185 respectively). The average length of the prison term, however, was slightly higher (30 weeks compared with 27 weeks in 1999 and 24 weeks in 1998). 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 504 cases finalised in 2000 in which the major charge proved was *burglary and break and enter*, 34.9% resulted in imprisonment. This was followed by cases involving a *sexual offence* as the most serious charge proved (with 10.2% ending in imprisonment), *larceny and receiving* (with 9.3% of cases resulting in prison), *fraud and misappropriation* (7.8%) and *offences against the person, excluding sexual offences* (7.6%). Four of the eight cases involving *robbery and extortion* also resulted in imprisonment. In contrast, only 1.1% of cases involving a *drug offence* and 0.7% of cases involving an *offence against good order* as the most serious charge proved involved a custodial sentence.

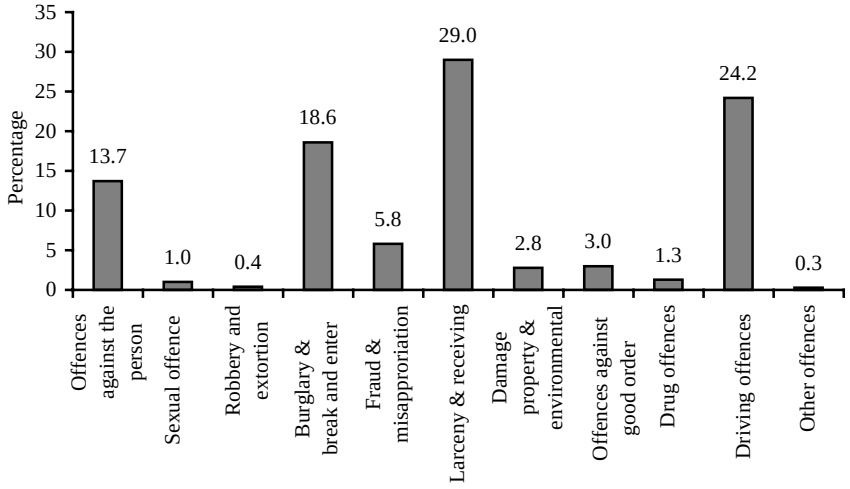
Figure 9 Major penalty imposed for the most serious charge proved, 2000: proportion of cases within each major charge category resulting in imprisonment



** Numbers are too small (n=4) to calculate meaningful percentages

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 944 cases that actually resulted in imprisonment, and identifies the proportion of all imprisonments accounted for by the different offence types. As shown, *larceny and receiving* accounted for the largest proportion of imprisonments (29.0%). This was followed by *driving offences* (24.2%), *burglary and break and enter* (18.6%) and *offences against the person, excluding sexual offences* (13.7%). In contrast, *drug offences* accounted for only 1.3%. The low proportion of imprisonments which involved *robbery and extortion* (0.4%) is due to two factors: first, the relatively small number of such cases which come before the Magistrates Court in the first place (234 in 2000 compared with, for example, 6,885 *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 (106 out of 234 compared with none of the 6,885 *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, 2000



The average length of imprisonment was highest for those cases where the major charge proved was a *sexual offence* (average imprisonment of 79 weeks compared with 95 weeks in 1999). This was followed by *burglary and break and enter* (average of 58 weeks compared with 57 weeks in the previous year). Even though the number of *fraud and misappropriation* cases which resulted in imprisonment was small (n=55), the average length of imprisonment in these situations was relatively high (33 weeks), with a maximum of 260 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 81.4% of all such cases. Almost two thirds (60.6%) of cases involving an *offence against good order* also resulted in a fine. At the other end of the scale, fines were the major penalty imposed in only 6.9% of *driving* matters and 1.8% of *burglary and break and enter* cases. Overall, the average amount of fine imposed was $196 while the maximum was $4,500 (for a *fraud and misappropriation* offence). This was much lower than the maximum fine of $12,500 recorded in 1999 for an offence in the sub-category of *other offences* 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 2000, a total of 2,758 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 3,518 convictions recorded in 1999. For offenders who have had at least one previous drink driving conviction in the last five years the figure increased slightly, with 598 convictions in 2000 compared with 582 convictions in 1999.

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 (97.4% in 2000) but also to those with a prior PCA conviction (93.8 % in 2000). However, for those with a prior record, the average fine was higher than for those with no priors ($934 compared with $628 respectively). As was the case in 1999, a high proportion in both groups also received a licence disqualification (98.2% of those with no priors and 99.0% 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 8.5 months licence disqualification compared with 19.8 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 26,587

[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.

cases finalised by the Magistrates Court in 2000, 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 2.1% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 33.9% and 30.2% respectively of all cases involving *fraud and misappropriation* and *larceny and receiving*. Females also accounted for 18.4% of cases involving *robbery and extortion* but only 14.2% of all *non-offence* matters (which, as noted earlier, relate to restraining order applications).

Defendants aged between 20 and 29 years were involved in 40.8% of all cases finalised by the Magistrates Court in 2000. Another 11.8% were 18 or 19 years of age, while a further 28.2% fell within the 30 to 39 year age bracket. Very few cases (6.2%) 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 76.4 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 30.9 years, although this varied slightly from 36.1 years for cases involving a *sexual offence* to 26.9 years for those cases involving either a *robbery and extortion* or *burglary and break and enter* offence. Overall, female defendants were only marginally older than were male defendants, with an average age of 31.5 years compared with 30.8 years respectively.

Figure 11 Cases finalised in the Magistrates Court, 2000: rate per 1,000 age specific adult population.

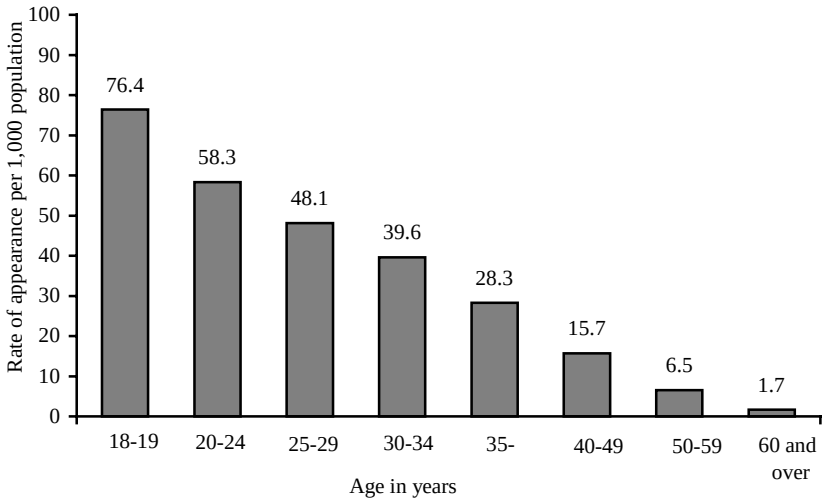
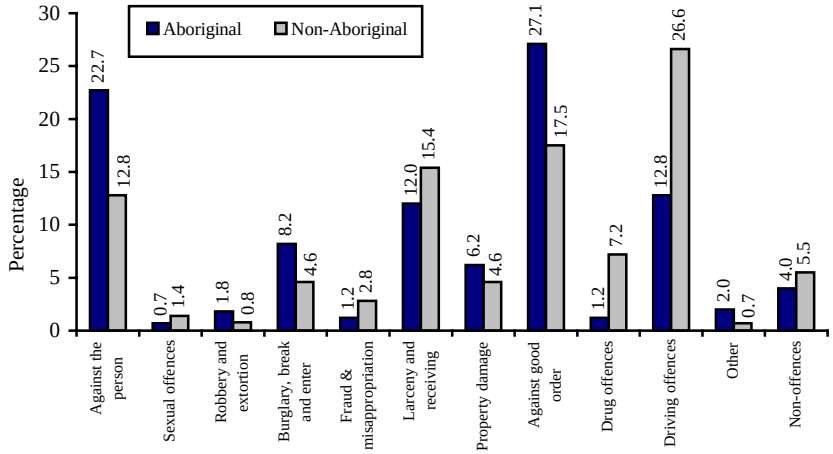


Table 2.29 in Section 2 of this report details the racial appearance of defendants involved in cases finalised in 2000. In interpreting the information presented here, it should be stressed that racial appearance is determined by police officers at the point of apprehension and is based on the officer's 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 257.0 per 1,000 adult Aboriginal persons in the population. This is 12.2 times greater than the rate of 21.1 per 1,000 adult population recorded for persons of non-Aboriginal appearance. Stated differently, in 2000 Aboriginal people accounted for 11.7% 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 2000 was similar to that recorded in 1999 (2,881 compared with 2,889 respectively). The rate of appearance per 1,000 Aboriginal adult population also remained stable (257.0 per 1,000 adult population in 2000 and 257.7 in 1999).

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* (22.7% compared with 12.8% respectively) and *offences against good order* (27.1% compared with 17.5% respectively). Conversely, a lower proportion comprised *larceny and receiving* charges (12.0% compared with 15.4% respectively), *drug offences* (1.2% compared with 7.2% respectively) and *driving offences* (12.8% and 26.6% respectively).

Figure 12 Cases finalised in the Magistrates Court, 2000: 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 2000. 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 20.8 appearances per 1,000 population compared with 32.0 per 1,000 in country areas.) Within metropolitan Adelaide, the Local Government Areas with the lowest appearance rates were Mitcham (9.1 per 1,000 adult population), Walkerville (9.5), East Torrens (9.7), Unley (9.9) and Burnside (10.7). LGAs with the highest rate of appearance per 1,000 adult residents were Elizabeth (50.9), Enfield (40.2) and Adelaide (36.6). In rural South Australia, Coober Pedy recorded the highest rate of appearance per 1,000 residents (88.6), followed by Ceduna (79.5), the Far North (72.4) and Port Augusta (67.5). The lowest rates in the rural area were recorded for 'other country' (17.7) and Mount Gambier (25.3)

Table 2.32 in Section 2 of this report details the previous criminal record of defendants involved in all cases finalised by the Magistrates Court in 2000. As was the case in 1999, seven out of 10 defendants (70.2%) for whom such information was available had at least one previous conviction, with

an average of 12.0 prior convictions per defendant[3]. The proportion of defendants with prior convictions was highest amongst those charged with *burglary and break and enter* (with 83.6% having at least one prior conviction), followed by *robbery and extortion* (82.1% with priors) and *property damage and environmental offences* (75.1% with priors). Not suprisingly, those charged with *burglary and break, enter* or *robbery and extortion* also had the highest **average** number of prior convictions (24.7 and 24.5 per defendant, respectively).

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, 64.0% and 56.8% respectively had a prior criminal conviction, with an average of 8.9 and 7.7 convictions per defendant respectively.

One in five cases (21.0%) finalised in the Magistrates Court in 2000 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 45.7% of defendants involved in cases where *burglary and break and enter* was the major charge, to 14.7% of cases involving *driving offences* and 14.1% of *fraud and misappropriation* defendants.

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 (64.8%), bail was not required: In other words, the defendant was not subject to any conditions imposed by the court. In a further 31.3% of cases, the defendant was on bail at the time of the final appearance, while in a very small proportion of cases (3.9%) 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 7,341 cases where the matter was dealt with at the first hearing, only five defendants were held in custody at the time. This compares with 852 (or 4.6%) of the 18,400 defendants whose cases took two or more hearings to finalise, and 174 (or 20.6%) of the 846 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 (34.9%) had legal representation. This rose to over three quarters (76.6%) of those whose cases took more than one hearing to finalise and 94.5% of those who were committed to a

[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.

higher court for trial or sentence. However, some caution should be exercised when using these figures because of the relatively high proportion of cases (21.8%) where information relating to legal representation was missing.

As indicated in Table 2.35 in Section 2 of this report, relatively few defendants (425 or 1.7%) in the 25,741 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 846 cases committed for trial or sentence to a higher court, over three quarters (81.6%) 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 2000. These cases were randomly selected to give the reader an insight into the stories behind the statistics.

Larceny of Livestock

This offence took place in the early hours of a Wednesday in late October 1999 in the country.

The accused in this matter, three males aged 21, 25 and 33, were out driving when they saw a number of piglets running on the road. They stopped the car, chased and caught two of the pigs, putting them in the vehicle's boot. On their way back into town they were stopped by a Police officer on a routine patrol. Whilst bonafiding the accused the Police officer heard a series of loud grunting noises coming from the boot of the vehicle, and subsequently requested the driver of the vehicle to open the boot, whereupon the piglets were discovered. As a result of the find, Police interviewed and reported the driver of the vehicle and its two occupants for larceny of livestock.

After reporting the three accused men, the Police officer accompanied them to the victim's property, which had been identified during the interview process. The piglets were identified by and returned to the owner, a local farmer. The farmer, stated that although he doubts the piglets got out of their pens and onto the road on their own, he never relinquished ownership of them and if they did get out of his property he would expect any person finding them to notify him and return them.

All three of the accused co-operated with police during their investigation. The first accused, the driver of the vehicle, acknowledged that neither he nor the co-offenders had permission to take the pigs, or any claim of right to them. He stated that he knew what they were doing was wrong, and had no intention of keeping the pigs himself. This accused was unable to give a value for the piglets or a reason why they didn't return the pigs to the victim's piggery as he knew that is where they had come from. At the conclusion of the interview the accused informed Police that he was sorry

for his actions and agreed to assist Police in returning the stolen piglets to the victim.

The second accused stated that he did not believe he had committed an offence, as he believed that stock that strayed from a property belonged to whoever found it. He further stated that the whole incident was a bit of a prank but denied intending to keep the piglets for his own use. He also acknowledged that the piglets were of value but could not say what amount. At the conclusion of the interview the accused indicated that he was sorry for his actions and that he was prepared to assist Police return the pigs to their rightful owner.

The third accused acknowledged that while neither he, nor either of his companions had permission to take the pigs, he and the others believed that anything found wandering at large was "fair game" and could be caught and kept by whoever saw it. To that end this accused drew a comparison between the piglets which he said he and the co-accused found and rabbits and kangaroos which live on a property being found on public roads. He could not give a value for the piglets and also stated that it was his intention to keep them as pets. At the completion of his interview this accused stated he was not sorry for his actions and believed that Police were unreasonable for not accepting his version of events.

The charges were heard in the Magistrates Court. All of the defendants pleaded guilty, were convicted of the offence and fined $100 each. Each of the defendants had previous convictions for various offences but none of them had ever been imprisoned.

Disorderly behaviour

In the early hours of a Thursday in late March 2000, the accused, a 39 year old male, was present in a city nightclub. A uniformed police foot patrol, consisting of two officers was performing duties in the nightclub. The accused threw several ice cubes at Police, one of which struck an officer in the face. Once they had ascertained who had thrown the ice, the police asked the accused to exit the premises so that they could talk to him. The accused swore at police and refused to comply. The officers noticed that the accused appeared to be intoxicated and in an aggressive mood so they exited the premises to arrange back up and re-entered shortly after to once again ask the accused to come outside. Once again the accused swore at Police and refused to comply with their request. Police then took hold of the accused and escorted him from the premises.

Once outside police asked the accused to state his name and address on several occasions. The accused was very aggressive towards the police and refused to answer questions. Eventually the accused provided the police with identification from his wallet. The accused was then arrested for *disorderly behaviour*. The accused resisted Police attempts to walk him to the cage car and to place handcuffs on him. He was conveyed to the

City Watch House where he was charged with 1 count each of *assault a police officer, fail to state name and address, resist a police officer* and *disorderly behaviour*. Due to the accused's aggressive demeanour he was not questioned in relation to any of these offences.

The matter was finalised after four hearings in the Magistrates Court. The defendant did not enter a plea. The count of *assault a police officer* was withdrawn. The defendant was convicted of the remaining counts and fined $200. The defendant had 6 previous convictions for various offences and had been imprisoned.

Robbery with violence

On a Thursday in February 2000, the victim in this matter, a 15 year old male, boarded a train and sat at the rear of the second carriage of a two-carriage train. The accused, a 19 year old male, in company with another male (witness 1) also boarded the train and sat next to the victim. The victim was listening to a CD through ear plugs connected to a portable CD player. As the train approached the next railway station the accused grabbed one of the ear plugs and told the victim he wanted to listen to the CD. The other earplug fell out of the victim's ear so he placed it on the seat. As the train began approaching the next railway station, the accused picked up the other ear plug and told the victim he was going to take his CD Player. The victim replied that he could not have it. The accused then got up and grabbed hold of the CD Player, then let go and hit the victim in the bridge of his nose with a clenched fist causing the victim to fall to the left of his seat. The accused then grabbed the CD Player and walked to the exit doors of the train, which then stopped at the Railway Station and the doors opened. The victim states that witness 1 got off the train whilst the accused got in an argument with a female passenger who was trying to get the CD Player off him. She followed him to the doors, but he had already got off. The victim states he got to the doors but they closed, hitting him in the chin and causing an abrasion on his right hand. The victim told police he did not give the accused permission to take his CD Player or provoke him into hitting him. The CD Player was valued at about $200, and contained a Compact Disc valued at $30.00.

Police on uniform patrol viewed a surveillance tape from Trans Adelaide in relation to another robbery which had occurred on a train, in which a male passenger had his compact disc CD Player and a compact disc stolen. Upon viewing the video Police recognised the accused. They attended at his home address and had a conversation with him and witness 1. The accused refused to state where the stolen property was and was subsequently arrested and given his rights. Police searched the house, seized clothing seen to be worn by the accused and witness 1 in the surveillance video, but the stolen property was not located.

As the result of a further conversation with the accused Police left the house with the accused who directed them to a paddock where he stated he had thrown the CD Player in case the victim reported the offence. The

accused had intended to go back later to retrieve it. A Police search did not locate the stolen property.

The accused was subsequently conveyed to the Police Station and interviewed on videotape in relation to the matter. He made full admissions in regard to the offence. He told police that the victim was known to him and owed him money for drugs. He insisted that the victim had given him the CD Player, he did not grab it and that the victim did not follow or chase him. The accused admitted hitting the victim. The accused stated that he thought he had a right of claim to the CD Player because the victim owed him money, however if the victim had paid this debt he would have given the CD Player back to him. After the interview the accused was charged with one count of *rob from the person*.

The case was finalised after nine hearings in the Magistrates Court. The defendant did not enter a plea and the case was dismissed for want of prosecution. The defendant had 6 previous convictions for various offences and been imprisoned before.

Serious Criminal Trespass

The victim in this matter, a 46-year-old woman, was at her home address when her ex-husband (the accused, aged 52 years) attended at the premises and knocked on the door. She opened the door slightly to see who was there and on seeing her ex-husband attempted to shut the door and keep him out. The accused then tried to push the door open and with the help of her 7 year old daughter applied body pressure on the door to keep the accused out. The victim managed to get the chain latch on the door latched and was continuing to apply pressure to the door while her daughter went and phoned police as they were worried about the accused entering. The accused then pushed on the door breaking the chain latch and entered the premises. Once inside, the accused yelled at and threatened the victim, causing her and her daughter to become distressed. The phone rang and the victim attempted to answer the phone. Before she could do this however, the accused grabbed the phone and ripped it from the wall. The accused continued to remain at the premises and to yell at the witness until police arrived and removed him. The victim told police that the accused had not been given permission to enter her premises or damage any property while inside. Both the victim and her daughter were very distressed by the accused's actions.

Police questioned the accused after removing him from the premises. When asked to state his name and address, the accused refused. Believing the accused may have been having trouble with the language barrier, Police advised the accused that he was required to state his name and address and if he didn't he may be arrested. The accused still refused to comply and was subsequently arrested and taken to the police station, where he was interviewed with the assistance of an interpreter. The accused stated he believed he had done nothing wrong and declined to answer any questions. He was charged with one count each of *aggravated serious criminal*

trespass in place of residence, damaging property, and *refuse name and address.*

The matter was finalised after 4 court appearances. The defendant pleaded guilty. He was convicted of the offence and fined $300. The defendant had no previous convictions or imprisonment.

Cases Committed for Trial or Sentence to the Higher Court

Serious Criminal Trespass 1

On a Saturday evening in early September 2000, Witness 1 in this matter, a 39-year-old woman, left her premises to go out for the night. She had left a babysitter (Witness 2) with her three children, two boys aged 9 and 8 and a 14-year-old girl. Two hours later, the babysitter answered a knock to the front door. A male adult (the accused and estranged defacto of witness 1) stated that he wanted to gain entry. Witness 2 refused and tried to shut the door but the accused forced his way into the premises. Witness 2 demanded that the accused leave and suggested he return when Witness 1 was home. The accused faced Witness 2, reached inside his coat and produced a pistol.

The accused demanded the 14-year-old girl (Witness 3) tell him the location of the two boys. Witness 3 told the accused that the boys were in their bedroom. Witness 2 again asked the accused to leave. The accused again turned towards Witness 2 and again produced the pistol. The accused left the lounge room and went into the bedroom where the two boys were. Witnesses 2 and 3 then went next door to contact the Police and Witness 1. A cordon and call situation developed where Star Force personnel and a negotiator were used. The two male children were rescued and the accused was found sleeping in the bed of one of the children. The pistol and a silencer were found in the bedroom.

The accused was removed from the house, cautioned and given his rights. He was then arrested to prevent a continuation of the offence and to ensure the safety of Witness 1 and her children. At this time the accused appeared to be under the influence of drugs or alcohol. He was conveyed to the police station where he spoke to a solicitor. He refused to answer questions on legal advice. He was then charged with one count each of *aggravated serious criminal trespass in a place of residence* and *threaten another person with a firearm*.

The case was heard in the Magistrates Court. The defendant pleaded not guilty. Due to the severity of the charges the case was committed for trial to the Higher Court.

Serious Criminal Trespass 2

In the early hours of a Wednesday in late March 2000 Victim 1, a 32 year old female, was asleep in her house with her 3 small children when she was awoken by noises from within the house. She called out and then saw the accused, a 19 year old male, standing at the end of her bed with a knife. The victim was very frightened for herself and her children. After about 30 minutes, during which other offenders were removing property from the house, she was told to get out of bed and open the garage, which she did. The offenders removed property from the garage before re-entering the house. A variety of property was stolen to the value of about $5,650. Police were called and attended at the premises. During the subsequent investigation a fingerprint was found at the point of entry.

One month later Victim 2, a 35 year old male, reported to police that his home address was broken into. Entry was gained through the rear bathroom window and no-one was at home at the time of the offence. Several items were stolen to the value of about $500.

As a result of police enquiries police conducted a video interview with the accused. He made full admissions to both offences and told police he no longer had any of the stolen property as he had sold it. The accused was charged with 1 count each of *aggravated serious criminal trespass in a place of residence* and *non-aggravated serious criminal trespass in a place of residence*.

The case was heard in the Magistrates Court. The defendant pleaded guilty. Due to the severity of the offences the case was committed for sentence to the District Court after four hearings in the Magistrates Court.

Robbery with violence

The accused in this matter, a 24 year old male, committed 16 armed robberies at different businesses throughout the western suburbs between October and November 1999, to support a drug addiction.

The victims in these offences were four service stations, four delis, four video rental stores, three supermarkets and a pharmacy. One witness from each location- 15 females and one male - were interviewed by police. In nearly all of the offences the accused approached the counter asking for change and when the till was opened he jumped the counter and told the witness that he wanted money. On four occasions he threatened the witness with a kitchen knife and on three occasions with a syringe. On one occasion the accused told the witness he would kill her if she did not let him take the money. During every offence he pushed or shoved the witness away from the till before emptying it and decamping from the scene. During one offence the accused also stole the witness's handbag. Only one witness reported a injury (minor bruising) as a result of the offence. The total amount of cash taken was approximately $6,730.

Police identified of the suspect using video surveillance. Photo Identification and other information relative to the accused was circulated to all police. On a Friday afternoon in early December, an off duty policeman (Police Witness 1) recognised the accused as he walked down the street. This witness immediately phoned for police assistance and as he waited he watched the accused enter a nearby shop. When the police arrived Police Witness 1 advised them of the accused's position. Uniformed officers entered the shop to remove the accused and a scuffle commenced causing one officer to be forced to the ground while attempting to restrain the accused. Police Witness 1 then assisted in restraining the accused. The accused was then conveyed to the police station where an audiovisual interview was conducted. As a result of this interview the accused was charged with 7 counts of *armed robbery*, 5 counts of *robbery with violence* and 1 count of *resist police*. As a result of further conversations with the accused, he was further charged with and additional 2 courts of *armed robbery* and 2 counts of *robbery with violence*.

During all the police interviews the accused made full admissions in relation to each offence. He told police that he was remorseful for his actions and stated that he needed to get cash on a regular basis as he was spending the majority of the money on heroin.

Later on the day the accused was arrested and charged, he attempted to escape from police custody. When he was apprehended across the street from the police station, the accused attempted to punch the police officer who had hold of him. As a result, he was further charged with 1 count each of *assault police* and *escape from custody*. These offences were dealt with as a separate case.

The cases were heard together in the Magistrates Court. The defendant pleaded guilty. Due to the severity of the offences the case was committed for trial in the District Court after five hearings in the Magistrates 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[2] will have committed the defendant *ex-officio*[3].

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[4]. 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[5] 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

During the year 2000 there were 826 cases finalised in the Supreme and District Courts. This was 15 (or 1.8%) fewer than in 1999. The entire decline in numbers came from the District Court, with the Supreme Court maintaining the same number of cases as it had in 1999.

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 Magistrates' Courts. The sudden increase in cases in the District

[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.

[3] 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.

[4] The classifications of offences as felonies or misdemeanours were abolished in 1994.

[5] See Appendix A for the rules employed for determining when a case is finalised and whether it is eligible for counting.

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 2000 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. After reaching their lowest point in 1999, the level stabilised at that level in 2000, and is almost five times lower than 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, with committal numbers escalating substantially in 1991 and 1992, before an equally dramatic decline in 1993 and subsequent years, before showing a plateau for the period 1997 to 1999. The number of committals recorded in 1999 (397) is the lowest number within the range reported in the table. However, in 2000, a very sharp rise in committals occurred; reaching 846, more than double the previous year's level. Because of the time lag between a case being committed and it being finalised in a higher court, the effect of the change in numbers of committals on higher court numbers will not be fully seen in 2001, but an increase was to be expected.

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 resulting in a conviction. By attempting to ensure that appropriate charges are laid at the outset, the Committals Unit attempts 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 took some time to take effect. 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 2000 calendar years.

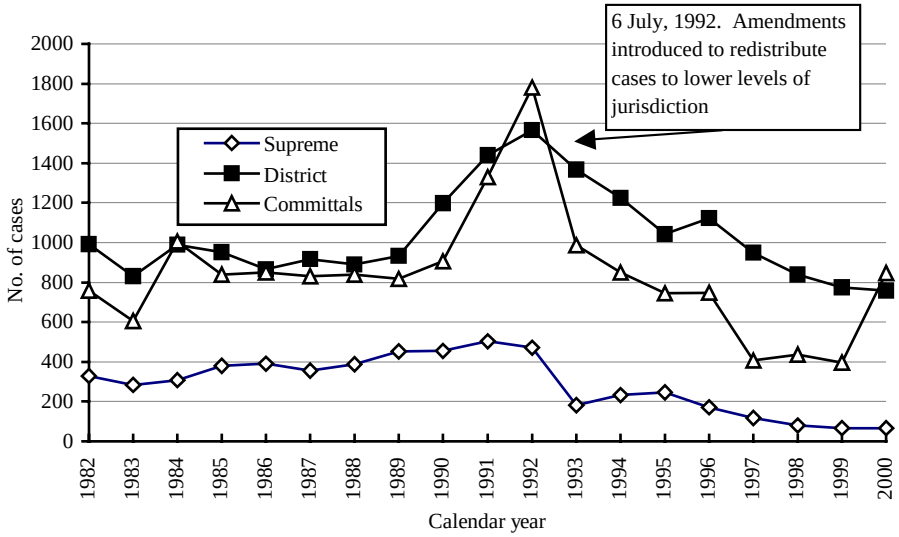
	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97*	98	99	00
Supreme	330	285	309	380	392	356	389	453	457	504	473	182	232	247	171	118	81	67	67
District	991	830	988	952	866	917	891	932	1,199	1,439	1,566	1,366	1,224	1,044	1,122	949	840	774	759
Committals	758	606	1,005	838	850	832	840	819	905	1,329	1,781	987	849	745	747	408	437	397	846

* Figures for 1997 Supreme and District Court numbers have been updated from those published in the report for that year 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 2000.



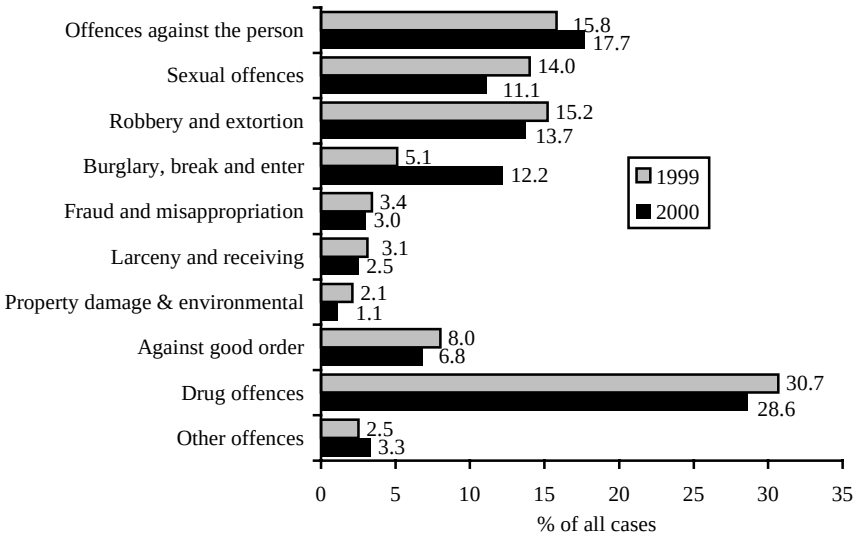
Major charge per finalised case

Although there was little overall change in the number of cases, there was a significant redistribution of numbers amongst the various categories of offences. The most obvious of these was the *burglary and break and enter* group, which went from 43 cases (5.1% of the total) in 1999 to 101 cases (12.2% of the total) in 2000. The additional cases were all in the new *serious criminal trespass* group of offences, which replaced the offences of *burglary* and *break and enter*, with effect from December 1999.

Whilst there was a net increase in the number of cases where one or more offences was from the *burglary and break and enter* group, the size of the increase was not wholly due to the increased numbers of cases of this type. Another factor in the increase was that the new *serious criminal trespass* offences are more likely to be selected as the major offence because of the longer maximum prison terms specified in the legislation (see Appendix A for an explanation of the method for selecting major charge.). To illustrate the effect of the greater penalties on the likelihood of this type of offence being chosen as the major charge, in 1999 there were 73 cases involving one or more offences of this type, whilst in 2000 there were 122. However, in 1999 58% of these were selected as the major charge, whilst in 2000 82.8% were designated as the major charge. What this means is that, when there is more than one type of offence in a case, a *break and enter offence* is less likely to be selected as the major charge than is a

serious criminal trespass offence, due to the higher maximum statutory penalty of the *serious criminal trespass.*

Figure 14 Type of offence listed as the major charge for cases finalised in the Supreme and District Courts, 1999 and 2000.



In seven out of the ten main offence classifications, the numbers were lower than in 1999. Only the categories *offences against the person*, *burglary and break and enter* and *other offences* increased in size in 2000, just failing (by 14) to offset the decline in the numbers in the other categories. The bulk of the increase came from the *burglary and break and enter* group, where, as just explained, the increase was almost entirely made up of *serious criminal trespass offences*. The figures for 2000 are not a good indication of the typical numbers to be expected in this category, since the group was composed of a mixture of the older and new offences and, due to the time it takes for cases to progress through the system, it may take several years before the last of the *burglary* and *break and enter* offences have disappeared from the system and only *criminal trespass* offences are left.

As in previous years, *drug offences* were the largest category of offence, making up 28.6% of the total, followed by the *offences against the person group* (17.7%). These two groups were the largest in 1999 as well. The *property damage and environmental offences* group was the smallest in both 1999 and 2000.

Outcomes

Table 3.1 shows the outcome of the major charge in each of the ten main offence classifications. 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 the main constituents of those offence groups.

The main outcome types in Table 3.1 are summarised below in **Error! Reference source not found.**. As in previous years, the largest group of outcomes (comprising just over half of all cases) was where the defendant pleaded *guilty* to either the major or a lesser charge. In a further 16.6% of cases, a trial was held which resulted in either a plea or finding of guilt. The next largest category (with 14.4% of the total) was where the DPP dropped the major charge and no other charge had an outcome of *guilty* (see
Figure 15). In a further 2.9% of cases (not listed in table 2) the major charge was dropped but there was a guilty outcome for another or lesser offence. Overall then, 77.0% of all cases resulted in one or more of the charges within the case having an outcome of *guilty*.

Table 2 Percentage of each principal outcome type by offence group of the major charge, Supreme and District Courts, 2000 calendar year.

Offence group	Guilty plea – no trial*	Guilty at trial**	Acquitted	All charges dropped***
Offences against the person (excluding sexual offences)	39.7	26.7	10.3	16.4
Sexual offences	37.0	16.3	20.7	17.4
Robbery and extortion	57.5	15.9	4.4	12.4
Burglary and break and enter	61.4	9.9	3.0	14.9
Fraud and misappropriation	40.0	24.0	4.0	32.0
Larceny and receiving	81.0	4.8	4.8	9.5
Property damage and environmental offences	66.7	11.1	11.1	11.1
Offences against good order	75.0	7.1	0.0	12.5
Drug offences	68.2	17.8	1.7	11.9
Other offences	74.1	7.4	0.0	14.8
Total	57.5	16.6	5.9	14.4

* 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:

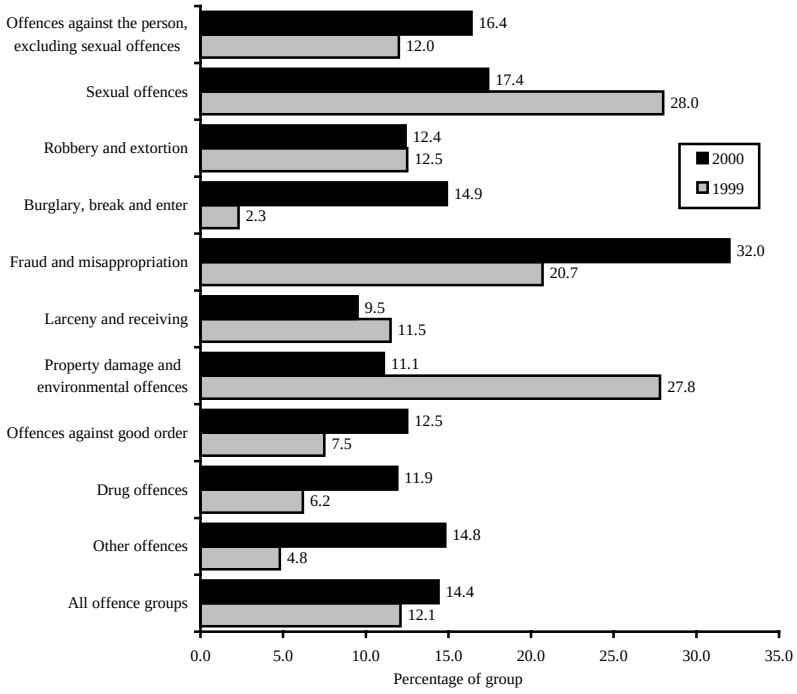
- entering a *nolle prosequi*,
- electing not to proceed on a charge,
- declining to file an Information (entering a "white paper"),
- tendering no evidence (in the case of a summary charge),
- withdrawing the charge (in the case of a summary matter or an allegation of a breach of bond or other such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

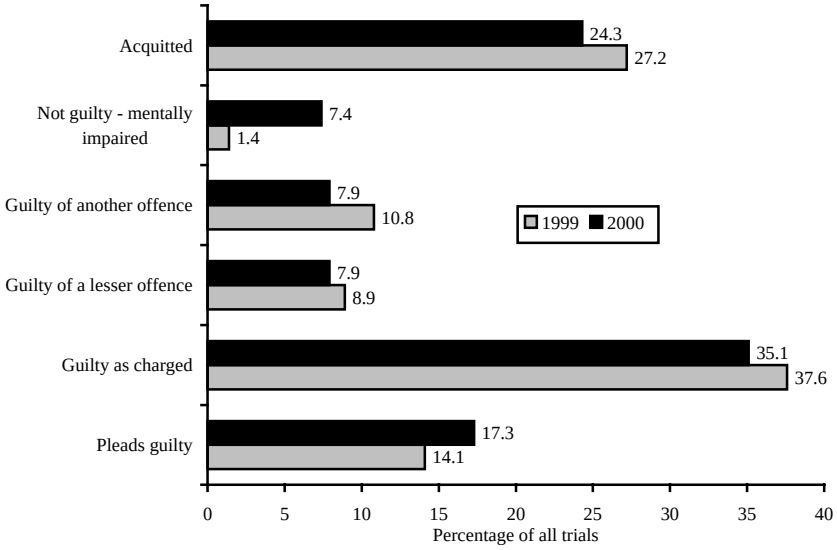
Thus the percentages in the table do not sum to 100% within each row.

Figure 15 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 and 2000.



Acquittals at a trial made up 5.9% of all cases, and 24.3% of all trials (see Figure 16 below). The three groups with the highest percentage of pleas of *guilty* as charged were the *larceny and receiving*, *offences against good order* and *other offences* groups, all of which were close to 75%. The *offences against good order* had a high percentage of *guilty* pleas because most of the cases in this group involved breaches of bonds, which are most commonly breached by means of a conviction for another offence committed during the term of the bond, and in such instances the matter is not usually contested. Similarly, the *other offences* group was largely composed of cases where the major charge was *escaping from prison* and in such cases the fact of the escape is rarely in dispute. The groups least likely to plead *guilty* as charged were the *offences against the person* and the *sexual offences* groups.

Figure 16 Outcome of the major charge, for cases in which there was a trial, Supreme and District Courts, 1999 and 2000.



The number of cases found *not guilty* on the grounds of mental impairment in 2000 was 15 (1.8% of all cases and 7.4% of all trials), an increase from its 1999 figure of 3 (4% of the total and 1.4% of all trials for that year).

Penalties

Some 637 cases (77.1% of all cases) received a penalty of some sort during 2000. Overall, the most commonly imposed penalty was imprisonment, which was imposed in slightly less than half (46.6%) of the cases in which the defendant was convicted of one or more charges. The average length of imprisonment in these cases was approximately three and a half years (excluding sentences of life imprisonment). The average non-parole period set was just under three and a half years[6].

Life imprisonment was imposed in nine instances, all for murder. The average non-parole period for such cases was 16 years and one month and ranged from a minimum of 13 years to a maximum of 20 years. The longest non-parole period imposed during 2000 was 29 years and 2 months, which was applied in the case of a person receiving a further terms of imprisonment for *escaping from prison*. This defendant was already serving a sentence of life imprisonment for *murder*.

Apart from sentences of life imprisonment, the longest sentences for the major charge alone (as distinct from the aggregate or head sentence, which may be made up of sentences for a range of other offences) were two sentences of over 15 years, given in one instance for *manslaughter* and in the other for *armed robbery*. An additional eight cases received imprisonments of between ten and fifteen years. These were for *conspiracy to murder*, *manslaughter*, *rape* (two cases), *unlawful sexual intercourse with a child under twelve*, *armed robbery* and *misappropriation*.

The offence group with the highest percentage of defendants imprisoned was *robbery and extortion*, which at 78.4% was well ahead of the next largest group, *fraud and misappropriation*, at 68.7%. Ignoring the *murder* group, the longest sentences were given in the *robbery and extortion* offence category, with an average imprisonment of five years and four months. The shortest average imprisonments came from the *other offences* group, at 9.6 months, which, as stated earlier, were mostly composed of defendants convicted of escaping from prison. Their average sentence was 10.2 months. All these cases had their existing sentences - some of which were considerable – extended, and consequently the non-parole periods averaged just over nine years. For these cases, their head sentences were usually considerably larger than the sentence for the escaping prison charge alone. The next paragraphs explain the difference between the tables setting out the sentence for the major charge and those which incorporate the total or head sentence.

[6] The average non-parole period include those given with sentences of life imprisonment and instances in which a serving prisoner has an existing non-parole period extended because of a conviction for fresh offences. In the latter instance, the non-parole period shown in this report is the total effective non-parole period after sentencing, not the amount by which the non-parole period was extended.

Figure 17 Percentage of cases within each offence group[7] receiving suspended imprisonment or imprisonment, Supreme and District

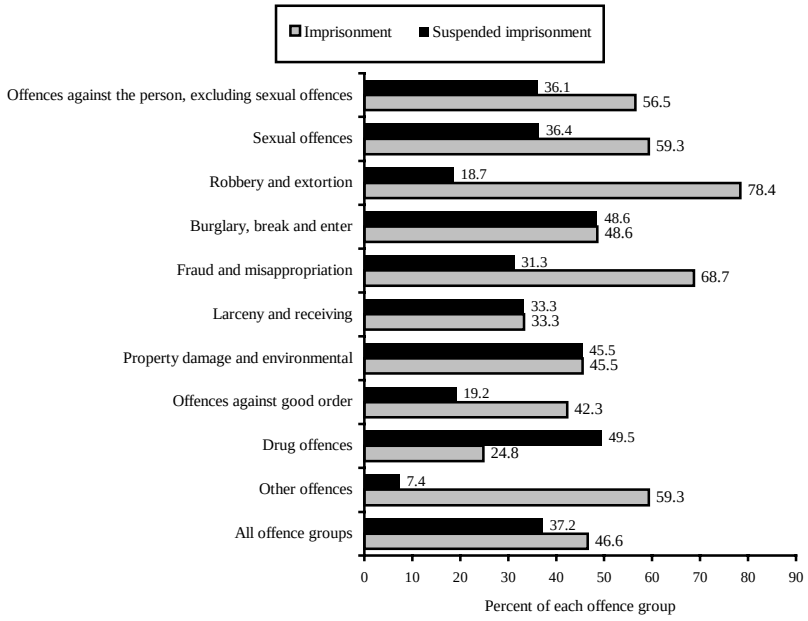
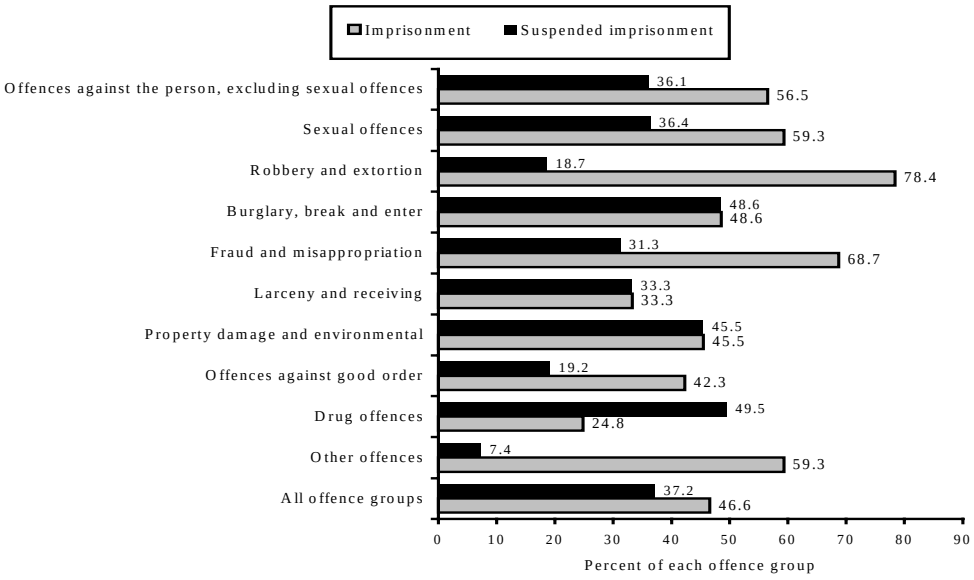


Figure 18 Non-parole periods for sentences for murder, 1981 to 2000.



[7] See previous footnote.

Table 3 Trend in non-parole period (in months) for life sentences for murder, 1981 to 2000.

	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
Av.	144.0	88.0	137.6	194.0	258.0	266.4	210.1	288.0	234.6	270.0
Median	144.0	84.0	141.0	162.0	252.0	264.0	240.0	288.0	204.0	258.0
Min	144.0	60	42.0	120.0	144.0	216.0	10days	180.0	144.0	240.0
Max	144.0	120.0	216.0	300.0	384.0	300.0	360.0	396.0	360.0	324.0
No.	1(1)	3	10	6(2)	6(3)	5(1)	4(2)	2	7	4

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Av.	303.3	253.7	246.0	230.2	224.7	240.5	230.1	233.8	225.6	193.3
Median	300.0	246.0	240.0	222.0	234.0	228.0	210.0	240.0	216.0	192.0
Min	216.0	173.0	216.0	144.0	72.0	108.0	192.0	129.0	168	156
Max	396.0	336.0	288.0	342.0	324.0	474.0	357.0	384.0	300	240
No.	11	12(2)	4	11	11	13	10	12	5	9

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 extreme values. The effect of the one case in 1987, which received a non-parole period of 10 days, is an example of this.

5 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.

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

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 2000, 108 out of 276 cases imprisoned (39.1%) 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 shows the relationship between head sentence and non-parole period. It differs from the sentences shown in Tables 3.12 to 3.22 in that those tables showed the penalty applying to the major charge alone, thus excluding penalties which were additional to that for the major charge. Examples of the latter are where:

- the penalty for another charge may be made cumulative on one or more other charges in the case;
- unexpired parole must be served before the new sentence, due to having committed the offence(s) whilst on parole;
- the defendant is already serving a term of imprisonment, or
- the defendant has breached a good behaviour bond, resulting in the revocation of the suspension of a sentence of imprisonment.

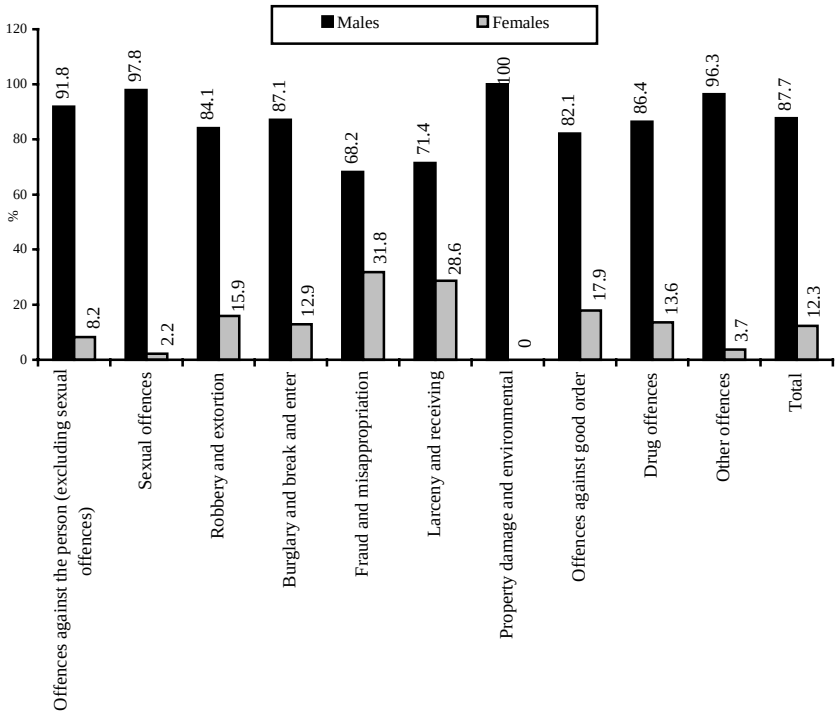
As shown in Table 3.24, non-parole periods were not set in 21 instances. All were in circumstances where a non-parole period was not required[8]. Of the 297 head sentences, 58.9% were for periods of less than five years, 7.4% were for more than ten years but less than life, whilst 4.7% were for life. The vast bulk (84.0%) of non-parole periods (excluding those where a non-parole period was not set) were for periods of less than five years, whilst 9.4% were for periods between five and ten years, and 6.5% were for more than ten years.

[8] Non parole periods are not required to be set when the defendant is a juvenile sentenced to detention, where the offence is against South Australian legislation and the term of imprisonment is less than 12 months, or in the case of a Commonwealth offence, the imprisonment term is less than three years.

Background of defendants

There were 722 male defendants and 101 females, representing 87.7% and 12.3% of the defendants where this information was available (See Tables 3.25a to 3.25c). The average age of male and female defendants was very similar, at 31.5 years and 30.8 years respectively. Defendants under 35 made up 69.9% of males and 70.3% of females. Five defendants were juveniles. For both males and females, the largest percentage was in the *drug offences* group (28.3% of males and 31.7% of females were in this group). The *property damage and environmental offences* group was the smallest for both males and females. As shown in Figure 19, males accounted for the highest proportion of offences within each offence category. One group in which the disparity in percentages was particularly pronounced was the *sexual offences* group, in which there were 90 males but only 2 females.

Figure 19 Percentages of males and females in each offence group for the major offence charged, Supreme and District Courts, 2000.



NB: percentages exclude corporate bodies and defendants where information on sex was unknown.

The racial appearance of defendants is set out in Table 3.26. There were 97 defendants whose appearance was judged at apprehension to be Aboriginal. They made up 12.3% of the defendants for whom racial appearance information was available. The number of defendants of Aboriginal appearance represented a rate of 8.7 per thousand of the population, whilst the corresponding figure for those of non-Aboriginal appearance was 0.7 (based on the 1996 Census figures). The offence profiles of the two racial appearance categories were broadly similar, with the exceptions of the *robbery and extortion* and *burglary and break and enter* groups, which made up more of the total amongst defendants of Aboriginal appearance than they did for those of non-Aboriginal appearance. In addition, the *drug offences* group made up a significantly smaller proportion of the total in the defendants of Aboriginal appearance than it did for the other group (2.1% versus 32.4%, respectively).

The Local Government Area (LGA) of residence of defendants is shown in Table 3.27. It should be noted that the boundaries of the LGAs in this table are those in effect prior to the major amalgamations of these entities.

Amongst metropolitan LGAs, the largest percentage of defendants (15.9%) came from the Enfield area. This area was equal highest with Elizabeth when adjusted for size of the population of the area, at 1.7 per thousand population. For areas outside the metropolitan area, the bulk of defendants came from outside the major rural centres ('other country'), although as a rate per thousand population, this category was one of the lowest at 0.5 per thousand. Defendants from the Port Augusta area appeared at the highest rate per thousand, and at 3.1, was nearly twice the rate of the next highest areas of Port Lincoln and Murray Bridge (both 1.6).

A summary of the prior convictions of defendants in each of the ten main offence groups is given in Table 3.29. On average, defendants had 21.5 prior convictions, although 23.3% had no prior convictions. Slightly over one third of defendants had been imprisoned at some point in their past. Most offence groups had similar average numbers of prior convictions, but the *sexual offences* group, at 10.7, and the *fraud and misappropriation* group, at 13.5, stood out for having by far the lowest average number of prior convictions. The group with the largest average number of prior convictions was the *offences against good order* group, with an average of 29.2 convictions. This group is largely comprised of defendants charged with breaching a good behaviour bond which was imposed when they were convicted of an offence at an earlier court appearance. Since such cases necessarily have at least one previous conviction, this factor contributes to their higher average. The group with the next highest average was the *other offences* group, which is mainly made up of defendants charged with *escaping from prison* (63.0%), and thus a similar explanation of their large average applies. This group also has the highest percentage of defendants (66.7%) with one or more previous imprisonments, as would be expected.

As can be seen in Table 3.30, just over two thirds of defendants (69.1%) were on bail at the commencement of proceedings in the Supreme and

District Court. Over 80% of defendants in each of the *fraud and misappropriation* (88.0%), *drug offences* (83.7%) and *sexual offences* (81.3%) groups were on bail, whilst the *other offences* group had the lowest percentage (42.9%) on bail. As explained earlier, the majority of the defendants in the latter group were already prisoners at the time of their offence and would therefore not be in a position to be granted bail in most instances.

The final plea to the major charge is set out in Table 3.31. Overall, 54.5% of pleas to the major charge were *guilty*, but there were wide variations between offence groups in this figure. The *larceny and receiving* group and the *other offences* group were the most likely to plead *guilty*, with approximately three quarters of each group pleading in this way. The group with the lowest percentage of *guilty* pleas was the *offences against good order*, where only 25.0% pleaded *guilty*. As explained earlier, much of this group consisted of cases where the DPP alleged that a previous good behaviour bond had been breached. The usual manner in which breach allegations arise is through a conviction for a new offence. Most such defendants fail to show cause why their breach should be excused, and are assigned to the *no plea* category for the purposes of Table 3.31. Thus, 53.6% of cases in the *offences against good order* group are shown in this table as belonging in the *no plea* category. Apart from the latter group, the group with the lowest percentage of *guilty* pleas was the *sexual offences* group, where only 35.9% pleaded *guilty*.

Tables 3.32 and 3.33 show the month of finalisation and the final plea for cases in the Supreme and District Courts, respectively. In the Supreme Court, 62.7% of the final pleas to the major charge were *not guilty*, whilst the corresponding figure for the District Court was 37.5%. Given that 40 of the Supreme Court cases were from the *offences against the person* group, most of which were serious assaults, and another 16 were charged with murder, the disparity between the two courts in the percentages of *guilty* pleas is explained by the relative proportions of charges carrying very severe penalties. January was the month in which both courts finalised the fewest cases (1.5% of the Supreme Court total and 3.8% in the District Court), whilst November (16.4%) was the heaviest month for the Supreme Court and equal heaviest with June for the District (11.1%).

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 2000;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 2000.

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 2000 data with that contained in reports produced prior to 1996.

Imprisonment

Prison receptions

In 2000, there were 3,448 prison receptions. Where legal status was known, 13.1% involved sentenced prisoners, 2.4% were fine defaulters and 84.4 % were on remand. When compared with the previous year, in 2000 proportionately fewer prison receptions involved sentenced prisoners (13.1% of receptions in 2000 compared with 15.1% in 1999) and fine defaulters (2.4% in 2000 compared with 23.8% in 1999). However, the proportion involving remandees was much higher (84.4% compared with 60.9% in 1999).

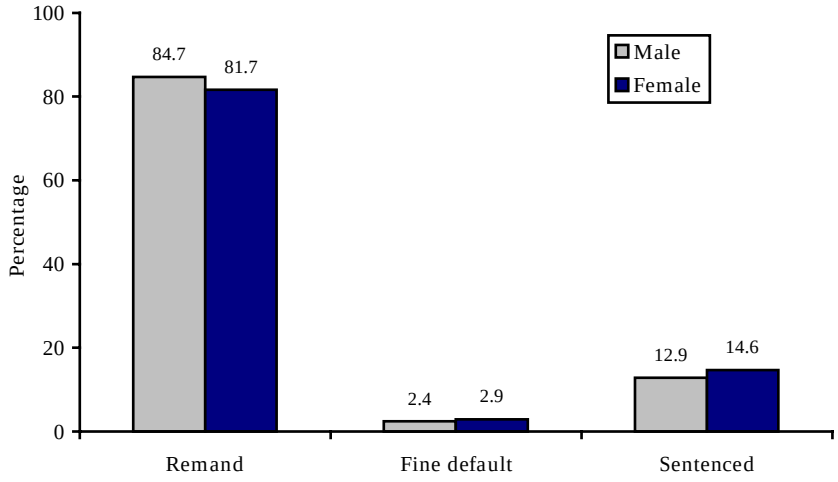
The substantial decrease in the number of prison receptions for fine default (from 959 in 1999 to 84 in 2000) was most likely due to legislative changes (the *Statutes Amendment (Fine Enforcement) Act)* that came into effect in March 2000. The Act provides a number of measures for the more effective collection of fines as an alternative to imprisonment or community service. For example, under these changes the option of imprisonment for fine default was abolished in favour of enforcement orders such as driver disqualification by licence suspension (even for non-vehicular offences), cessation of ability to do business with the Registrar of Motor Vehicles and warrants authorising the seizure and sale of property.

In addition, the simple option of 'cutting out' a fine or expiation by performing community service has also been removed. However, for those persons who cannot pay their obligation, the Act provides for the matter to be reconsidered in court. In these instances the Court can confirm the initial penalty, remit it in whole or in part, or revoke it and order

community service, driving disqualification or cancellation of drivers licence, plus disqualification. As discussed later in this report, these changes have also had an impact on the number and type of community service orders completed during 2000.

The overwhelming majority of receptions in 2000 involved males (89.8%), although this varied slightly from 88.1% for fine defaulters to 88.7% for sentenced prisoners to 90.2% for remand receptions respectively. As shown in Figure 20, a higher proportion of male than female admissions involved remandees (84.7% compared with 81.7% of females). Conversely, a lower proportion involved sentenced prisoners (12.9% compared with 14.6% respectively). A similar proportion of males and females were admitted for defaulting on a fine (2.4% compared with 2.9% respectively).

Figure 20 Prison receptions: legal status of prisoner by sex, 2000



As shown in Figure 21, there was a general upward trend in the total receptions from 1990 to 1992, followed by a steady decrease until 1997. After a slight increase in 1998 (of 5.2%), total receptions decreased in 1999 (by 9.2%) and again in 2000 (by 14.4%). As a result, the 2000 figure of 3,448 was well below the peak of 7,618 recorded in 1992.

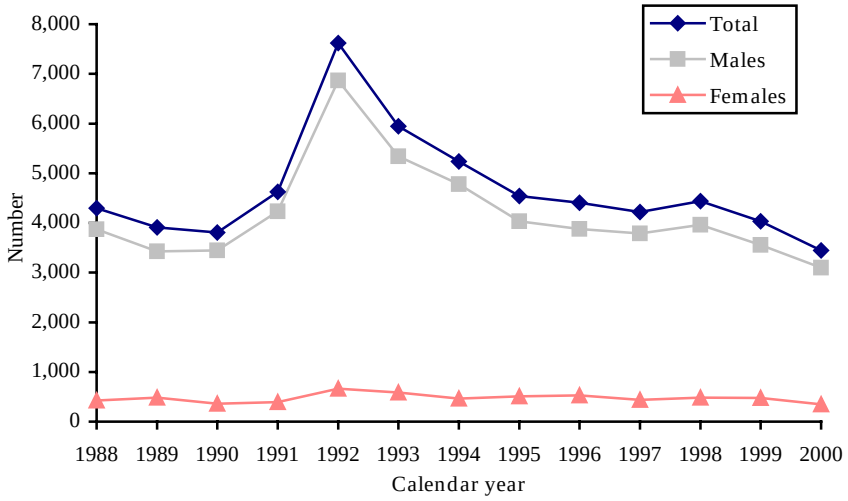
The trend in male receptions mirrors that observed for total receptions, with numbers peaking in 1992 and declining steadily until 1998 when a slight increase of 4.6% was recorded. However, this increase was short-lived, with the number of male receptions decreasing in 1999 (by 10.2%) and then again in 2000 (by 12.9%). As a result, the 3,098 male admissions recorded in 2000 was 54.9% 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 despite the inevitable annual fluctuations, remained more stable over time. Following the peak of 664 recorded in 1992, numbers declined in 1993, 1994 and 1997, but increased in 1995, 1996 and 1998. The 350 female admissions recorded in 2000 was the lowest number recorded over the period and was 47.3% lower than the peak observed in 1992 (n=664).

The decrease in male receptions in recent years was due to a decline in numbers in the fine default category (down from 1,522 in 1998 to 796 in 1999 to 74 in 2000) and the sentenced category (down from 725 in 1998 to 550 in 1999 to 400 in 2000). Although the number of male receptions involving remandees increased (from 1,671 in 1998 to 2,203 in 1999 to 2,624 in 2000), this was not sufficient to offset the observed reductions in the fine default and sentenced categories.

The decrease in female receptions in 2000 compared with 1999 can also be attributed to a decrease in the number of fine defaulters (down by 93.9%, from 163 in 1999 to 10 in 2000). While the number of female remand receptions increased from 250 in 1999 to 286 in 2000 (an increase of 14.4%), this was not sufficient to counteract the reductions in the fine default category. The number of 'sentenced' female receptions remained relatively stable (60 in 1999 and 51 in 2000).

Figure 21 Trends in the number of male and female prison receptions, 1988 to 2000.



For those 3,441 receptions where age was known, almost one half (47.3%) involved persons aged 20 to 29 years. Proportionally fewer males than females were in this age group (46.8% compared with 51.6% respectively). Those in the older age groups (notably 50 years and over) accounted for

only 3.5% of all receptions, 3.6% of male receptions compared with 2.6% of female receptions.

In 2000, persons identified as Aboriginal constituted 19.8% of the 3,034 prison receptions where information on racial identity was recorded. However, this varied from one legal status category to another, with Aboriginal persons accounting for 18.0% of those admitted as sentenced prisoners and 19.9% of remandees, compared with 28.8% 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 (to 1,025), Aboriginal admissions decreased in 1999 and again in 2000 (by 31.8% from 883 to 602). As a result, the number of Aboriginal admissions recorded in 2000 was 56.8% 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% in 1999 (to 2,684) and by 9.4% in 2000 (to 2,432). 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 2000.

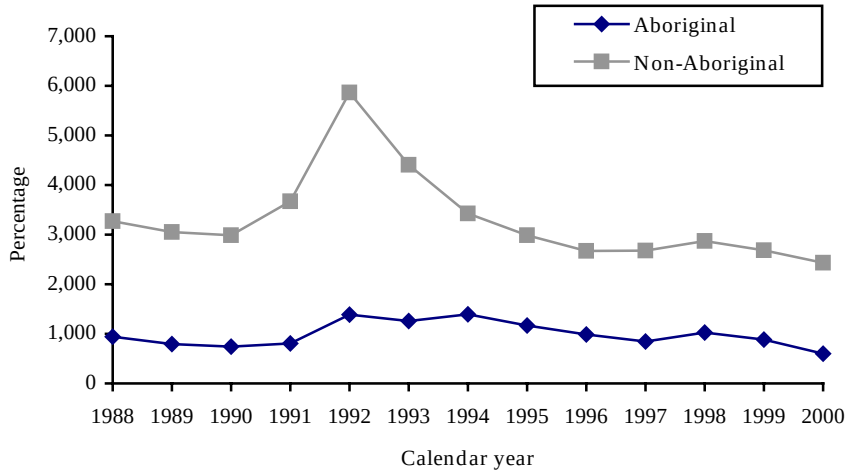
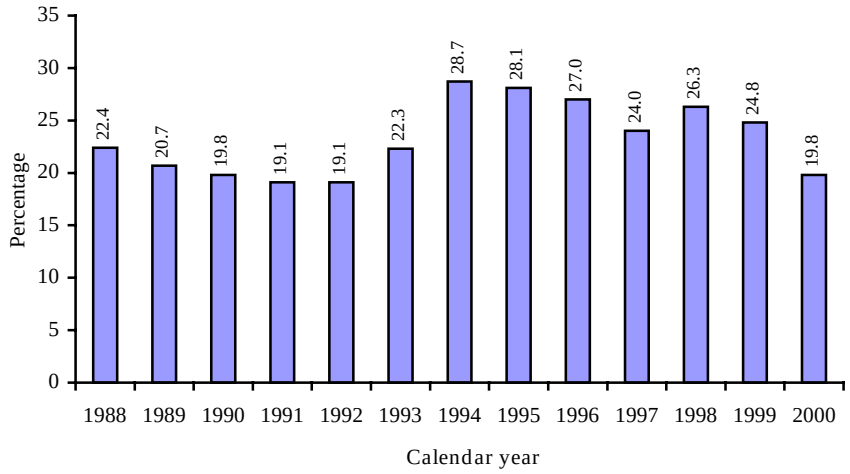


Figure 23 shows that the number of Aboriginal receptions as a percentage of all receptions where racial identity was known was lower in 2000 than in 1999 (19.8% compared with 24.8%). The 2000 figure was also lower than the peak recorded in 1994, when Aboriginal persons accounted for 28.7% of all prison receptions. The proportion of 2000 receptions involving Aboriginal persons was comparable with that recorded in the

early 1990s when persons identified as Aboriginal accounted for under 20% of total admissions.

Figure 23 Prison receptions: proportion involving Aboriginal persons, 1988 to 2000.



Overall, the age profiles of the two racial groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (48.8% and 46.7% respectively) involving persons aged between 20 and 29 years, and relatively few (1.3% and 3.7% respectively) aged 50 years and over.

Daily averages

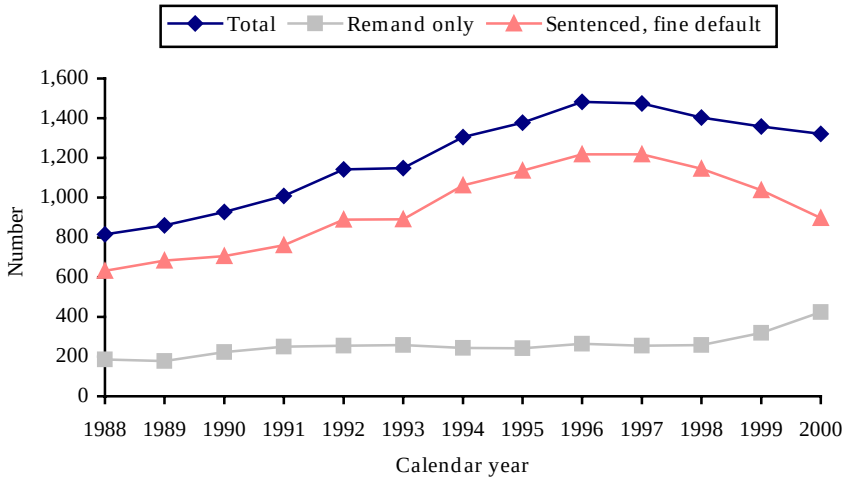
While reception-based information provides a useful insight into new custodial admissions, it tells us nothing about the number and profile of people actually held in prison at any given time. Two measures can be used for this purpose: daily averages (ie. the average number of persons held in prison 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 2000 are detailed in Tables 4.10 to 4.15.

On average, on each day in 2000, there were 1,321 prisoners held in the State's prisons and adult remand centres. Of these, the majority (898 or 68.0%) were serving a prison sentence imposed by the courts, while 423 (32.0%) were on remand.

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. However, since 1996, this upward trend has been reversed. The average daily occupancy figure recorded in 2000 was 2.7% lower than recorded in 1999.

Most of the increase in average daily occupancies between 1988 and 1996 was due to a rise in the daily average for sentenced/fine default prisoners, which grew by 93.0% over this time period. However, after 1996 daily averages for sentenced/fine defaulters decreased. The 1999 figure of 1,037 was 9.5% lower than recorded in 1998 (n=1,146), and in 2000 the number dropped further to 898 (down by 13.4%). 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) and then again in 2000 (to 423, an increase of 32.6%).

Figure 24 Daily averages by legal status: 1988 to 2000

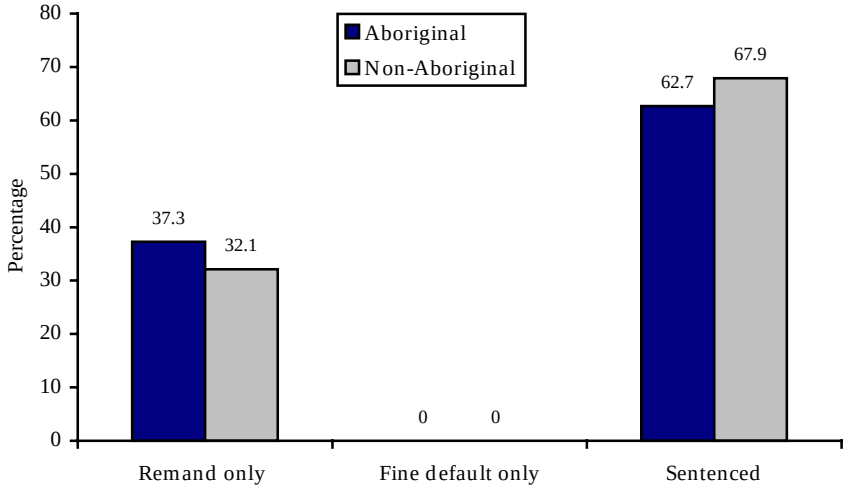


In 2000 males accounted for 94.2% of the daily average, with a rate of 2.22 per 1,000 adult male population compared with only 0.13 per 1,000 adult female population. As was the case with total receptions, females accounted for a lower proportion of prisoners on remand only (6.9%) or serving time as a sentenced prisoner (5.2%).

On average, 217 Aboriginal persons were held in custody each day in 2000, which represents 18.7% 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 2000 a slightly lower proportion of Aboriginal persons

were serving a custodial sentence (62.7% compared with 67.9% of non-Aboriginals) while a slightly higher proportion were on remand (37.3% compared with 32.1%). As a result, for those cases where legal status and racial identity were recorded, Aboriginals accounted for 21.1% of the daily average number of 'remand only' prisoners but a lower 17.5% of sentenced prisoners.

Figure 25 Daily averages: legal status by racial identity, 2000.



Census figures

At midnight on 31 December 2000, there were 1,284 prisoners in custody. This figure was lower than the daily average recorded for 2000 (n=1,321) 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.

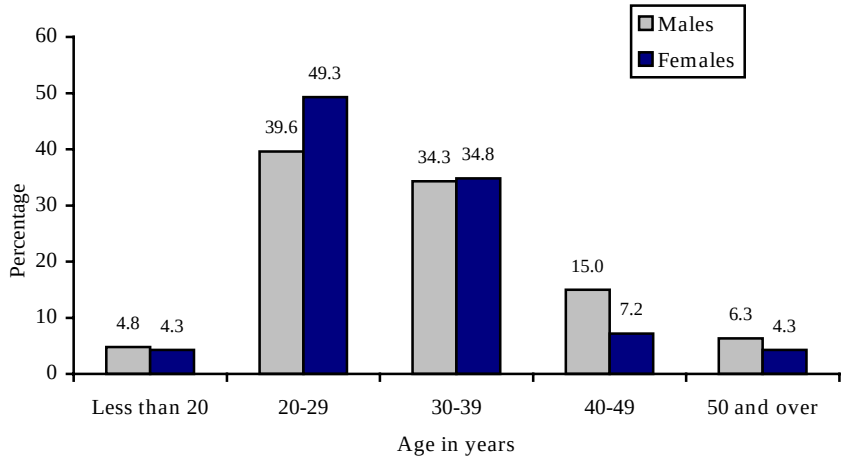
The number in custody on 31 December 2000 was comparable with the 1,275 prisoners held one year earlier on 31 December 1999 and slightly lower (2.1%) than the number held in December 1998. However, the 2000 figure was lower (by 7.0%) than the number in custody on 31 December 1997 (n=1,380) and 11.3% lower than on 31 December 1996 (n=1,447). Remandees accounted for 31.5% of the total census figure, while almost seven in ten (68.5%) were sentenced prisoners.

The majority of persons held in custody on 31 December 2000 were male (94.6%). 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 approximately four in 10 (40.2%) of those held in custody on 31 December 2000 for whom age was recorded. A further 34.3% were aged 30 to 39 years. Only a very small proportion (6.2%) were 50 years of age and over. This age profile was generally consistent for both males and females, although as Figure 26 indicates, females tended to be younger than their male counterparts.

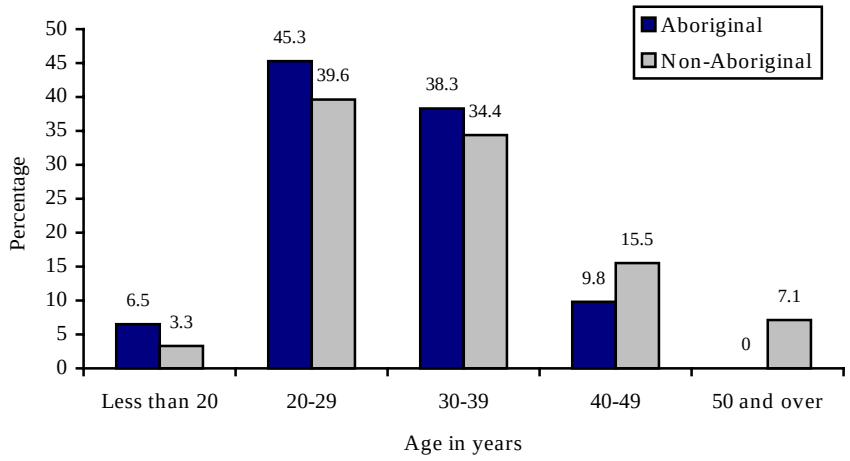
Figure 26 Persons in custody on 31 December 2000: age by sex



Aboriginal persons accounted for 18.2% of the 1,176 persons in custody on 31 December 2000 for whom racial identity was recorded. This was comparable with the previous year, when they represented 18.0% of all persons incarcerated on 31 December 1999. However, this proportion varied depending on the sex of the prisoner. Excluding those cases where racial identity was not recorded, Aboriginal males accounted for 17.8% of all males in custody on that day (compared with 17.6% in 1999), whereas Aboriginal females accounted for 28.0% of all females in custody (compared with 26.5% in 1999). 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 26.4 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 17.3 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 96.3% of all non-Aboriginal prisoners in custody on 31 December 2000.

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 2000, 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 (51.8% compared with 42.9% respectively) and a lower proportion aged 40 years and over (9.8% compared with 22.6% respectively).

Figure 27 Persons in custody on 31 December 2000: age by racial identity



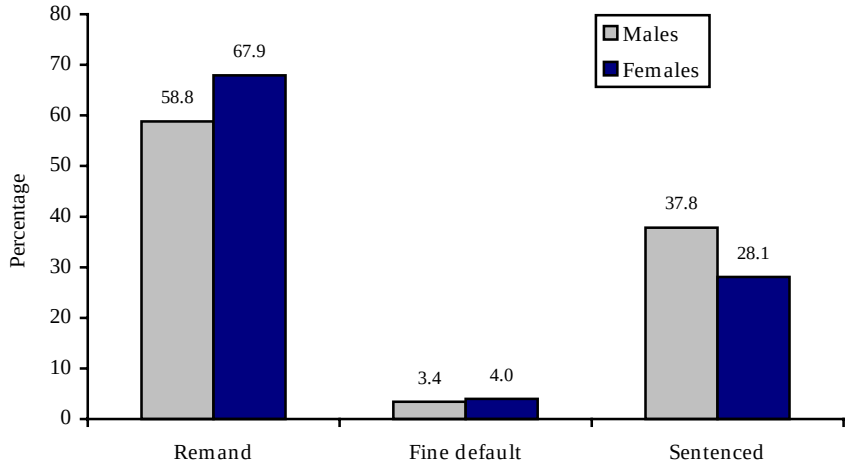
Escapes from custody

In 2000, two prisoners escaped from custody. This was considerably lower than the number recorded in 1998 or 1999 (9 and 18 respectively). Both escapes were from escort rather than from institutions. The overall escape rate recorded in 2000 was 0.15 per 100 prisoners, compared with 1.32 in 1999, 0.64 per 100 prisoners in 1998 and 1.1 recorded in both 1997 and 1996.

Prison discharges

In 2000, there were 3,475 persons[11] discharged from custody, the majority of whom were males (90.0% of the total). Of those discharged in 2000, approximately one third (1,279 or 36.8% of the total) were serving a prison sentence at the time of their release. A further 2,076 (59.7%) were discharged from remand and 120 (3.5%) 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. The proportion discharged from remand was higher for females than males (67.9% compared with 58.8% respectively), while a lower proportion were identified as sentenced prisoners (28.1% compared with 37.8% of males).

Figure 28 Prison discharges: legal status by sex, 2000



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, just under one half (47.8%) were aged 20 to 29 years while only 3.5% were aged 50 years and over. Of the 3,084 discharges where racial identity was recorded, one in five (20.1%) were identified as Aboriginal. More specifically, for those cases where relevant information was available, this racial group accounted for 20.5% of all discharges from remand, 32.3% of all discharged fine defaulters and 18.4% of all sentenced prisoners discharged.

[11] 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.

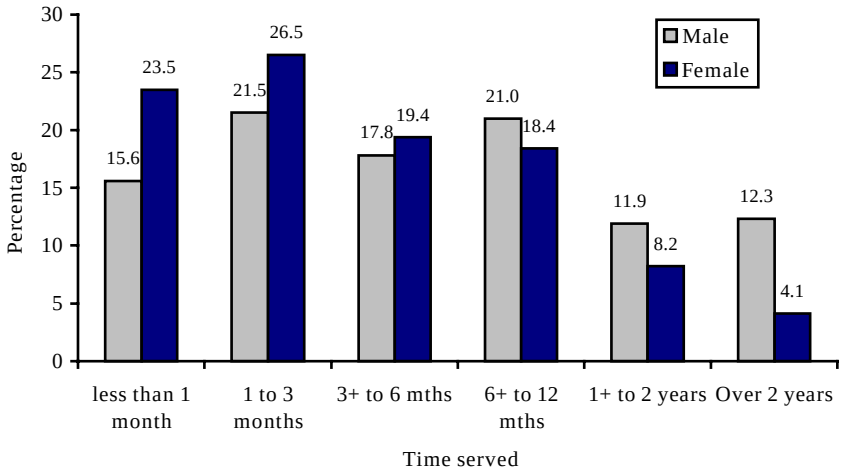
Tables 4.22 to 4.25 in Section 4 of this report detail the amount of time served by prisoners at the point of discharge. It should be stressed that time served relates only to the amount of time elapsed between the prisoner's date of intake and date of discharge for each admission period. In other words, 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 2000, 120 fine defaulters were discharged from prison. Of these, the majority served only a relatively short period, with 57.5% in prison for less than one week and 16.7% in prison for one to two weeks. Relatively few (11.7%) were incarcerated for more than four weeks. This applied to both males and females alike, with 55.7% of all male and 71.4% of all female fine defaulters having served less than one week at the time of discharge, while 12.3% and 7.1% 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 106 discharges where relevant information was available, o*ffences 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 31.1% of fine default discharges. Other offence types frequently listed as the major charge were *licence/registration offences* (21.7%) and *driving offences* (listed in 19.8% of discharges).

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 1,279 sentenced prisoners discharged in 2000, the majority were imprisoned for relatively short periods of time. More specifically, 16.2% spent less than one month in prison, while 38.1% were in prison for three months or less and 56.0% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 2.0% incarcerated for more than five years. As shown in Figure 29, a lower proportion of males served six months or less (54.9% compared with 69.4% of females) while proportionately more had served over one year at the time of their discharge (24.2% compared with 12.3% respectively).

Figure 29 Prison discharges: time served by sex of sentenced prisoners, 2000.



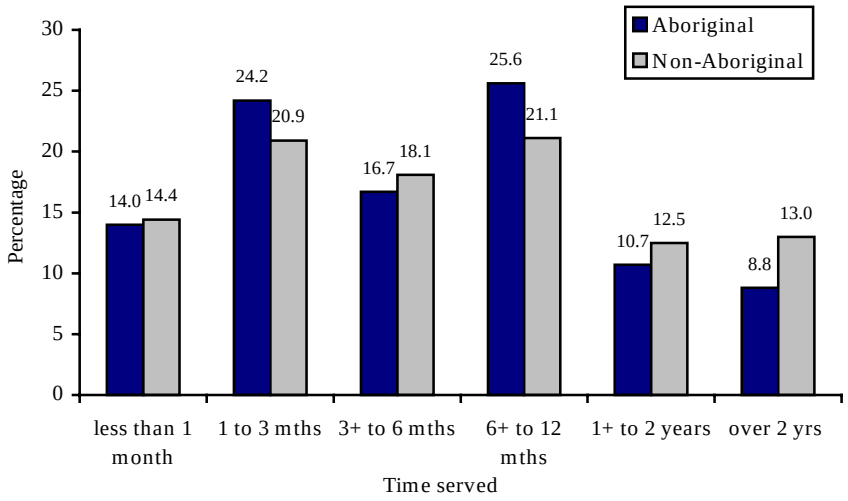
The most serious offence for which sentenced prisoners were being held at the time of their discharge is also outlined in Table 4.24 in Section 4. The most prominent were *offences against justice procedures*, which were listed as the major offence in 29.4% of the 1,249 discharges where this information was recorded. This category was followed by *break and enter* (14.4%), *assault* (9.8%) and *licence/registration offences* (9.7%). As expected, there was a strong association between the nature of the offence and the time served. To illustrate, of the 121 discharges involving a *licence/registration* offence, over one half (54.5%) involved periods of less than one month. At the other end of the scale, of the 180 discharges involving a *break and enter* offence, only 5.6% had served less than one month, while 30.6% 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* (56 or 4.5% of those discharges where the type of offence was recorded), over one half of these (58.9%) involved terms of more than two years while only two (3.6%) 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* (24.7% compared with 7.6% of male discharges where this information was recorded) while a lower proportion involved *licence/registration offences* (2.1% compared with 10.3% of male discharges).

Figure 30 compares the time served by Aboriginal and non-Aboriginal sentenced prisoners at the point of discharge. As shown, a slightly higher percentage of Aboriginal prisoners than non-Aboriginal prisoners served less than three months (38.2% compared with 35.3% respectively).

Similarly, Aboriginal sentenced prisoners were slightly 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, 42.3% of Aboriginal prisoners served between three and 12 months compared with 39.2% of non-Aboriginal prisoners, while at the other end of the scale, 8.8% of Aboriginal compared with 13.0% of non-Aboriginal prisoners served more than two years.

Figure 30 Prison discharges: time served by racial identity of sentenced prisoners, 2000



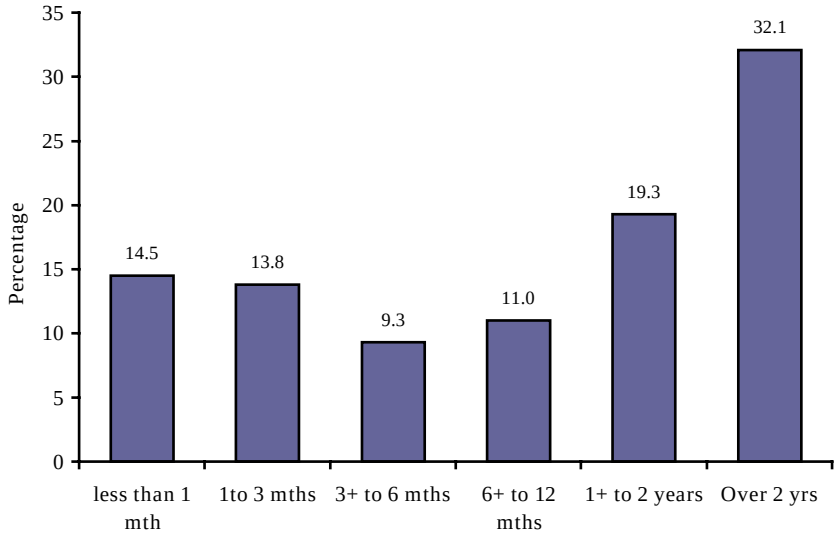
There were also some differences between the two racial groups in terms of the major offence for which sentenced prisoners were being held at the time of discharge. Although the most prominent offence for both groups was *offences against justice procedures*, this category was listed in a higher proportion of Aboriginal than non-Aboriginal discharges (37.4% compared with 28.2% of discharges respectively where relevant information was available). Moreover, a higher proportion of Aboriginal sentenced prisoners were being held for *assault* (19.0% compared with 8.0% of non-Aboriginal sentenced prisoners) while a lower proportion were serving time for *fraud* (2.4% compared with 9.8% 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 2000. 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 under one half (48.6%) of prisoners discharged in 2000 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 19.3% received a head sentence of over one year to two years, while a further 32.1% received a head sentence of more than two years. A small number (19 of the 1,279 discharges recorded in 2000) had a head sentence of over 10 years. The majority of these involved *robbery or extortion* (n=8) or *homicide* (n=5) as the major offence.

Figure 31 Prison discharges: length of aggregate (or head) sentence for sentenced prisoners, 2000



Community-based Corrections

Orders[12] commenced during 2000

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 2000, a total of 10,601 such orders were commenced. Over six in

[12] For convenience, the term 'order' is applied to post-prison home detention supervision, even though this is not an order of the court.

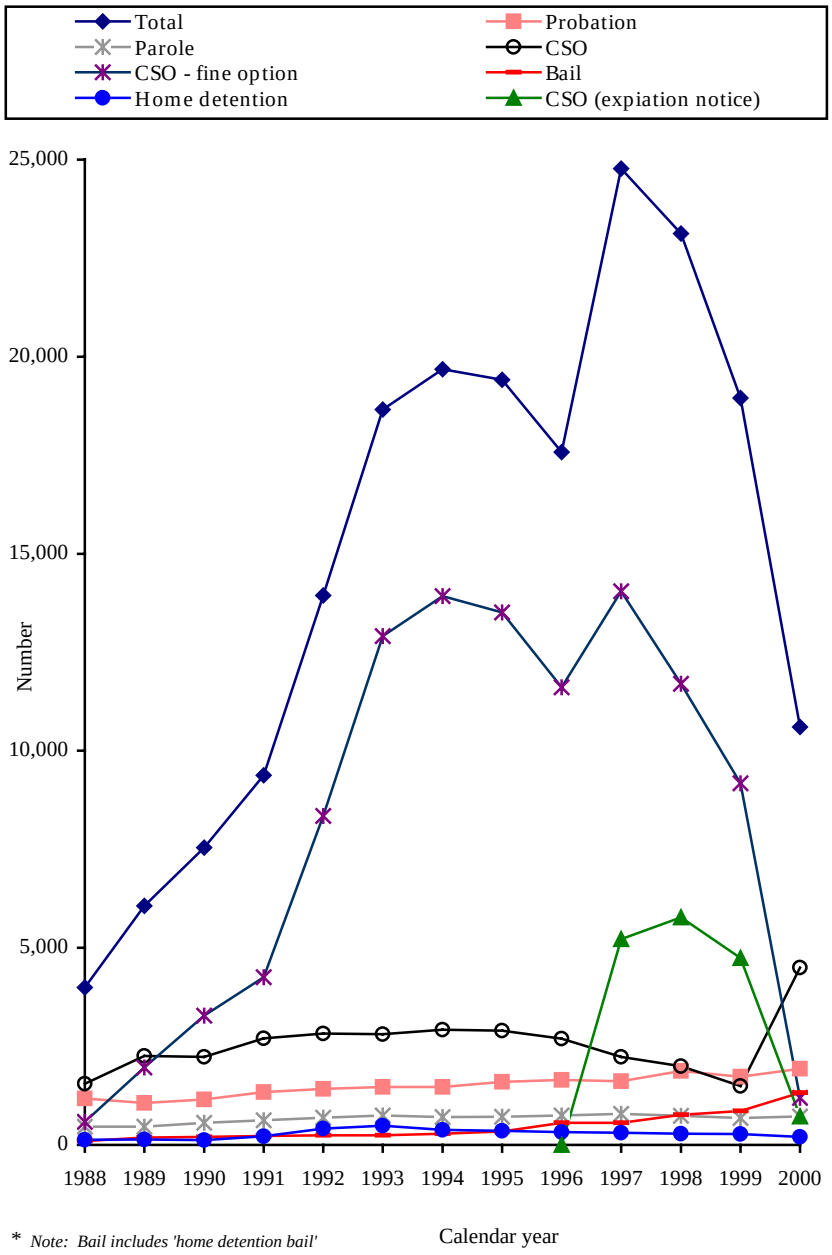
ten (60.5%) of the community-based correction orders commenced in 2000 involved some form of community work. This included stand-alone community service orders (42.4%), as well as community service undertaken as an alternative to paying a fine (11.3%) or in lieu of payment of an expiation notice (6.8%). At the other end of the scale, only 5.5% of orders involved home detention, generally as part of a bail agreement (3.5%) or for sentenced prisoners released from gaol (1.9%). There were also four orders involving a home detention bond[13].

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 and 2000. The 10,601 orders commenced in 2000 was 44.1% fewer than the 18,950 recorded in 1999, and 57.2% lower than the peak recorded in 1997. However it was still higher than the 3,997 recorded just over a decade earlier in 1988.

The upsurge in numbers recorded in 1997 was primarily due to legislative changes (*Expiation of Offences Act 1996*) which allowed community service orders to be undertaken as an alternative to paying an expiation notice. According to that legislation, persons issued with an expiation notice but not able to pay were 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 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. In 2000, there was a further reduction in this category to 722, decreasing by 84.8% in comparison with 1999.

[13] This reporting category was 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, disability 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.

Figure 32 Number of community-based correction orders commenced by type of order, 1988 to 2000



* *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 traditionally accounted for a much higher proportion of all orders than any

other category, although this changed in 2000. 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). In 2000, the number of orders decreased further to 1,194, down by 87.0%.

As mentioned earlier, the decreases in the number of *CSO (expiation notice)* and *CSO-fine option* is most likely due to legislative changes introduced in March 2000 (the *Statutes Amendment (Fine Enforcement) Act)*, which provided new measures for the collection of fines as an alternative to imprisonment or community service. In effect, the legislative changes removed the option of completing community service instead of paying a fine or expiation notice, without returning to court.

The other categories depicted in Figure 32 have, until 2000, accounted for only a small proportion of all orders commenced. Of these, CSOs have declined in the four years 1995 to 1999 (from 2,899 to 1,492), but increased in 2000 to 4,500, an increase of 201.6%. This increase can also be explained in terms of the new legislation. For those people who simply cannot pay (as opposed to those who have the means to pay but who delay payment or, as in previous years, would rather complete a term of imprisonment or community service) there is provision for the matter to be reconsidered in court. In these instances, amongst other options, the Court can revoke the initial penalty and order community service.

It is likely that the increase in the number of ordinary community service orders has occurred because a number of persons initially receiving a fine during 2000 have had the penalty revoked and replaced with an ordinary community service order. In previous years, before the new legislation was introduced, these persons would probably have received a *CSO- fine option* or *CSO (expiation notice*) and been recorded in these categories.

Overall, as a result of the legislation, the total number of community services orders commenced has decreased by 58.3% from 15,401 in 1999 to 6,416 in 2000. Parole orders went from 738 in 1998 to 685 in 1999 before increasing to 723 in 2000. Probation orders, which had recorded a 10.9% increase in 1998, declined in 1999 by 7.4% (from 1,870 to 1,731), and then increased to 1,934 in 2000 (up by 11.7%). The number of sentenced prisoners placed on home detention has remained relatively low. In 2000 there were 201 orders recorded, compared with 274 in 1999 and 282 in 1998. In contrast, an increase was recorded in the number of bail orders, from 767 in 1998 to 858[14] in 1999 to 1,323 in 2000.

The 10,601 community-based correction orders commenced in 2000 involved 8,646 discrete individuals, giving an average of 1.2 orders per individual. The total number of individuals who commenced a community-based correction order in 2000 was 45.1% lower than the 15,738 persons recorded in 1999. Males accounted for 77.9% of those

[14] This includes home detention bail.

individuals for whom sex was recorded and 77.8% 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 (25.7% of all orders commenced) is too high to permit any meaningful analysis.

Persons supervised at 31 December 2000

Caseload data as at 31 December 2000 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 6,604 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 2000 was that of CSO, with 3,366 individuals registered on that day. This equates to 45.5% of all persons under Department for Correctional Services community-based supervision on that particular day. There were also 2,386 individuals (32.2% of the total) on probation and 1,009 (13.6%) on parole. At the other end of the scale, only 58 persons (0.8% of the total) were sentenced prisoners on home detention while 375 (5.1%) were on bail, either with or without a home detention component. Only one individual was under supervision under the category of CSO (expiation notice) at the end of the calendar year.

The total number of persons under supervision on 31 December 2000 (n=6,604) was 3.9% higher than the 6,354 individuals being supervised on 31 December 1999, but 14.5% lower than the 7,723 in 1998. When the number within each type of order are summed, total orders supervised in 2000 was also slightly higher than in 1999 (7,399 compared with 7,143 respectively), but lower than in 1998 (8,987).

Of the eight different order types (excluding the new category of 'home detention bond') in 2000 decreases were observed for three of the categories in comparison with 1999. More specifically, the number of persons on a CSO as fine order on 31 December 2000 was considerably lower (by 90.0%) than on the corresponding day in 1999, as was the number of persons serving a CSO-expiation notice order (99.8% lower). There were also fewer sentenced persons on home detention (37.6% lower). In contrast, the number of persons on bail (including home detention bail) in 2000 was higher than in 1999 (by 59.6%), as was the number on probation (5.2% higher) and serving a community service order (216.4% higher). The number of persons on parole on 31 December 2000 was similar to that recorded in 1999 (1,009 and 1,008 respectively).

Males accounted for three quarters (78.9%) of all persons supervised on 31 December 2000 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 community service order (52.2% compared with 44.1% respectively) and probation (36.3% compared with 30.7% respectively). In contrast, a higher proportion of males than females were on parole (16.5% of all males supervised on 31 December 2000 compared with 4.0% of females). Because information on racial identity was not available for 22.0% 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 2000

The number of community-based correction orders completed (either successfully or otherwise) decreased in 2000 (from 20,634 in 1999 to 10,293). Of these 10,293 orders, the majority (65.2%) were completed successfully, while one third of orders (33.0%) were revoked, estreated or breached. This is slightly less than observed in 1995, 1996, 1997 and 1998, when 39.7%, 38.8%, 38.4% and 39.6% of orders respectively were revoked or estreated.

Figure 33 Community-based correction orders completed and the percentage completed successfully, 1988 to 2000

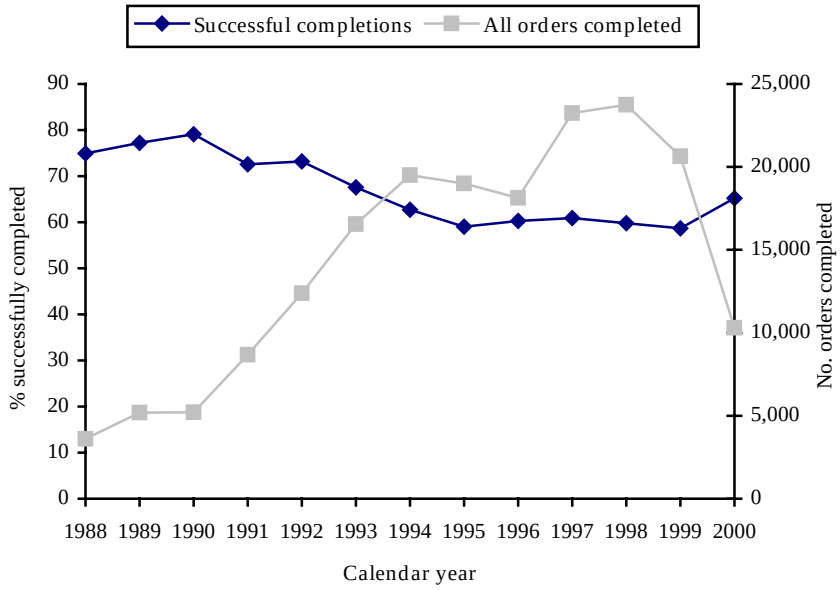
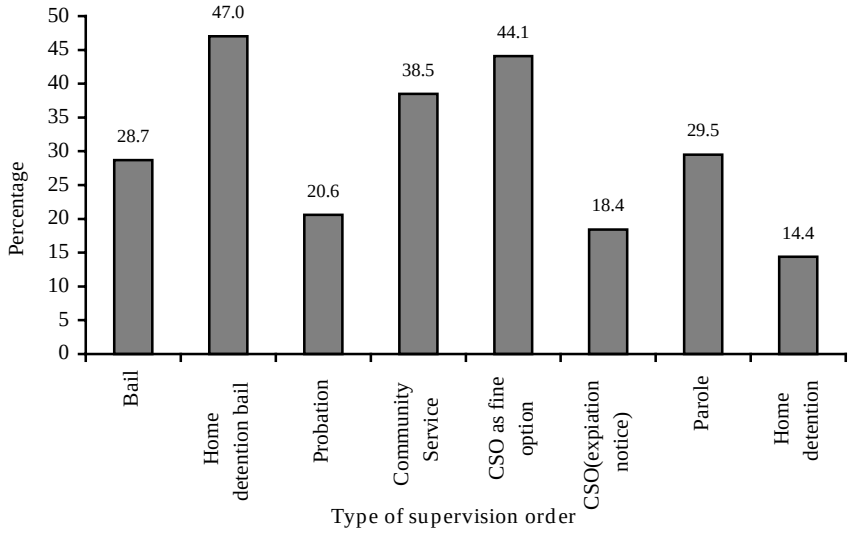


Figure 33 shows that, until 2000, despite some annual fluctuations, as the number of completed community-based correction orders has escalated, so

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%. However, in 2000, the number of orders completed decreased, while the proportion successfully completed rose to 65.2%.

The extent to which orders were estreated or revoked in 2000 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 (47.0%), followed by 'CSO as a fine option' orders (44.1%) and community service orders (40.4%). In total, 14.4% of the home detentions completed by sentenced prisoners were estreated in 2000.

Figure 34 Community correction orders completed in 2000: 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 2000, 33.8% of orders involving males were estreated or revoked, as were 33.7% of orders involving females.

Table 4.34 in Section 4 details the number of community-based correction orders completed in 2000 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 (28.8%), thereby rendering the accuracy of the statistics on Aboriginal offenders highly questionable.