

SERIES A No. 37(3)

NOVEMBER 2002

CRIME AND JUSTICE  
IN  
SOUTH AUSTRALIA  
2001

-

ADULT COURTS AND  
CORRECTIONS

OFFICE OF CRIME STATISTICS AND  
RESEARCH

Attorney-General's Department

First published 2002 by

Office of Crime Statistics and Research  
South Australian Attorney-General's Department  
G.P.O. Box 464  
ADELAIDE SA 5000

Copyright 2002 South Australian Attorney-General's Department

All rights reserved

Cover design by Andrew Davies  
Printed by Graphic Print Group  
ISSN: 1443-2862  
Printed on re-cycled paper

## CONTENTS

PREFACE	x
ACKNOWLEDGEMENTS	xi
INTRODUCTION	1
<b>Summary of 2001 Statistics</b>	<b>1</b>
Magistrates Courts	1
Higher Courts	3
Correctional Services	4
<b>Using crime and justice reports</b>	<b>9</b>
Comprehensiveness	9
‘Snapshot’ rather than ‘flow’ statistics	10
Differences between agencies	10
Interpreting crime statistics	11
<b>1 OVERVIEW</b>	<b>13</b>
<b>1.1 Magistrates Courts of South Australia</b>	<b>15</b>
Overview	15
Outcomes	23
Penalties	24
Background of defendants	28
<b>1.2 Supreme and District Courts</b>	<b>33</b>
Overview	33
Major charge per finalised case	35
Outcomes	36
Penalties	39
Background of defendants	43
<b>1.3 Correctional Services</b>	<b>46</b>
Imprisonment	46
Community-based Corrections	59
<b>MAGISTRATES COURTS OF SOUTH AUSTRALIA</b>	<b>67</b>
<b>Case outcome by major offence charged</b>	<b>69</b>
TABLE 2.1 Case outcome by major offence charged. Summary of all offence groups	69

TABLE 2.2	Case outcome by major offence charged. Offences against the person (excluding sexual offences)	70
TABLE 2.3	Case outcome by major offence charged. Sexual offences	71
TABLE 2.4	Case outcome by major offence charged. Robbery and extortion	75
TABLE 2.5	Case outcome by major offence charged. Serious criminal trespass	76
TABLE 2.6	Case outcome by major offence charged. Fraud and misappropriation	77
TABLE 2.7	Case outcome by major offence charged. Larceny and receiving	78
TABLE 2.8	Case outcome by major offence charged. Property damage and environmental offences	79
TABLE 2.9	Case outcome by major offence charged. Offences against good order	80
TABLE 2.10	Case outcome by major offence charged. Drug offences	82
TABLE 2.11	Case outcome by major offence charged. Driving offences	83
TABLE 2.12	Case outcome by major offence charged. Other offences	84
TABLE 2.13a	Case outcome by major offence charged. Non-offence matters	85
TABLE 2.13b	Disposition of cases involving persons declared to be liable to supervision on grounds of mental incompetence: Release and detention orders issued	86
	<b>Major penalty for major charge convicted or found guilty</b>	<b>87</b>
TABLE 2.14	Major penalty for major charge convicted or found guilty. Summary of all offence groups	87
TABLE 2.15	Major penalty for major charge convicted or found guilty. Offences against the person (excluding sexual offences)	88
TABLE 2.16	Major penalty for major charge convicted or found guilty. Sexual offences	89
TABLE 2.17	Major penalty for major charge convicted or found guilty. Robbery and extortion	93
TABLE 2.18	Major penalty for major charge convicted or found guilty. Serious criminal trespass	94
TABLE 2.19	Major penalty for major charge convicted or found guilty. Fraud and misappropriation	95
TABLE 2.20	Major penalty for major charge convicted or found guilty. Larceny and receiving	96

TABLE 2.21	Major penalty for major charge convicted or found guilty. Property damage and environmental offences	97
TABLE 2.22	Major penalty for major charge convicted or found guilty. Offences against good order	98
TABLE 2.23	Major penalty for major charge convicted or found guilty. Drug offences	100
TABLE 2.24	Major penalty for major charge convicted or found guilty. Driving offences	101
TABLE 2.25	Major penalty for major charge convicted or found guilty. Other offences	102
TABLE 2.26	Penalties imposed for cases involving offenders convicted or found guilty of driving with more than the prescribed content of alcohol (PCA) and who have no previous convictions for such an offence within the last five years, by PCA level	103
TABLE 2.27	Penalties imposed for cases involving offenders convicted or found guilty of driving with more than the prescribed content of alcohol (PCA) and who have one or more previous convictions for such an offence within the last five years, by PCA level	104
TABLE 2.28a	Age by major offence charged. Male defendants	105
TABLE 2.28b	Age by major offence charged. Female defendants	106
TABLE 2.28c	Age by major offence charged. All defendants	107
TABLE 2.29	Racial appearance of defendant by major offence charged	108
TABLE 2.30	Prior criminal convictions and prior imprisonments of defendant by major offence charged	109
TABLE 2.31	Bail status at final court appearance by major offence charged	110
TABLE 2.32	Legal representation at final court appearance by major offence charged	111
TABLE 2.33	Plea at final court appearance by major offence charged	112
<b>SUPREME AND DISTRICT COURTS OF SOUTH AUSTRALIA</b>		<b>113</b>
<b>Case outcome by major offence charged</b>		<b>113</b>
TABLE 3.1	Case outcome by major offence charged. Summary of all offence groups	115

TABLE 3.2	Case outcome by major offence charged. Offences against the person (excluding sexual offences)	116
TABLE 3.3	Case outcome by major offence charged. Sexual offences	117
TABLE 3.4	Case outcome by major offence charged. Robbery and extortion	118
TABLE 3.5	Case outcome by major offence charged. Serious criminal trespass	119
TABLE 3.6	Case outcome by major offence charged. Fraud and misappropriation	120
TABLE 3.7	Case outcome by major offence charged. Larceny and receiving	121
TABLE 3.8	Case outcome by major offence charged. Property damage and environmental offences	122
TABLE 3.9	Case outcome by major offence charged. Offences against good order	123
TABLE 3.10	Case outcome by major offence charged. Drug offences	124
TABLE 3.11	Case outcome by major offence charged. Other offences	125
	<b>Major penalty for major charge found guilty</b>	<b>126</b>
TABLE 3.12	Major penalty for major charge found guilty. Summary of all offence groups	126
TABLE 3.13	Major penalty for major charge found guilty. Offences against the person (excluding sexual offences)	127
TABLE 3.14	Major penalty for major charge found guilty. Sexual offences	128
TABLE 3.15	Major penalty for major charge found guilty. Robbery and extortion	129
TABLE 3.16	Major penalty for major charge found guilty. Serious criminal trespass	130
TABLE 3.17	Major penalty for major charge found guilty. Fraud and misappropriation	131
TABLE 3.18	Major penalty for major charge found guilty. Larceny and receiving	132
TABLE 3.19	Major penalty for major charge found guilty. Property damage and environmental offences	133
TABLE 3.20	Major penalty for major charge found guilty. Offences against good order	134
TABLE 3.21	Major penalty for major charge found guilty. Drug offences	135

TABLE 3.22	Major penalty for major charge found guilty. Other offences	136
TABLE 3.23	Cases where the total imprisonment was greater than that imposed for the single charge receiving the highest penalty	137
TABLE 3.24	Total head sentence and non-parole period for all imprisonments (including cumulative imprisonment penalties)	162
TABLE 3.25a	Age by major offence charged. Male defendants	163
TABLE 3.25b	Age by major offence charged. Female defendants	164
TABLE 3.25c	Age by major offence charged. All defendants	165
TABLE 3.26	Racial appearance of defendant by major offence charged	166
TABLE 3.27	Prior criminal convictions and prior imprisonments of defendant by major offence charged	167
TABLE 3.28	Bail status following the final committal hearing by major offence charged	168
TABLE 3.29	Final plea of defendant by major offence charged	169
TABLE 3.30	Month case finalised by final plea, Supreme Court	170
TABLE 3.31	Month case finalised by final plea, District Court	170
 <b>CORRECTIONAL SERVICES</b>		 171
<b>Prison receptions</b>		173
TABLE 4.1	Prison receptions: sex by legal status	173
TABLE 4.2	Prison receptions: age and sex by legal status	174
TABLE 4.3	Prison receptions: legal status by racial identity	175
TABLE 4.4	Prison receptions: sex and racial identity by legal status	176
TABLE 4.5	Prison receptions: age and racial identity by legal status	177
TABLE 4.6	Prison receptions: employment status and sex by legal status	178
 <b>Daily averages in custody</b>		 179
TABLE 4.7	Daily averages in custody: month by legal status	179
TABLE 4.8	Daily averages in custody: sex by legal status	180
TABLE 4.9	Daily averages in custody: sex and racial identity by legal status	181
 <b>Persons in custody</b>		 182
TABLE 4.10	Persons in custody at 31 December 2000: sex by legal status	182

TABLE 4.11	Persons in custody at 31 December 2000: age and sex by legal status	183
TABLE 4.12	Persons in custody at 31 December 2000: age and sex by legal status Rates per 1,000 adult population	184
TABLE 4.13	Persons in custody at 31 December 2000: sex and racial identity by legal status	185
TABLE 4.14	Persons in custody at 31 December 2000: legal status by racial identity	186
TABLE 4.15	Persons in custody at 31 December 2000: age and racial identity by legal status	187
<b>Prisoner escapes</b>		<b>188</b>
TABLE 4.16	Prisoner escapes	188
<b>Prison discharges</b>		<b>189</b>
TABLE 4.17	Prison discharges: sex by legal status	189
TABLE 4.18	Prison discharges: age and sex by legal status	190
TABLE 4.19	Prison discharges: legal status by racial identity	191
TABLE 4.20	Prison discharges: sex and racial identity by legal status	192
TABLE 4.21	Prison discharges: age and racial identity by legal status	193
TABLE 4.22a	Prison discharges: time served by major offence for male sentenced prisoners	194
TABLE 4.22b	Prison discharges: time served by major offence for female sentenced prisoners	195
TABLE 4.22c	Prison discharges: time served by major offence for total sentenced prisoners	196
TABLE 4.23a	Prison discharges: time served by major offence for Aboriginal sentenced prisoners	197
TABLE 4.23b	Prison discharges: time served by major offence for non-Aboriginal sentenced prisoners	198
TABLE 4.23c	Prison discharges: time served by major offence for sentenced prisoners for whom racial identity was not recorded	199
TABLE 4.24a	Prison discharges: aggregate (head) sentence by major offence for male sentenced prisoners	200
TABLE 4.24b	Prison discharges: aggregate (head) sentence by major offence for female sentenced prisoner	201
TABLE 4.24c	Prison discharges: aggregate (head) sentence by major offence for total sentenced prisoners	202

TABLE 4.25a	Prison discharges: aggregate (head) sentence by major offence for Aboriginal sentenced prisoners	203
TABLE 4.25b	Prison discharges: aggregate (head) sentence by major offence for non-Aboriginal sentenced prisoners	204
TABLE 4.25c	Prison discharges: aggregate (head) sentence by major offence for sentenced prisoners for whom racial identity was not recorded	205
<b>Community-based correction orders commenced in 2001</b>		<b>206</b>
TABLE 4.26	Community-based correction orders: sex by type of supervision order commenced for all offenders	206
TABLE 4.27a	Community-based correction orders: sex by type of supervision order commenced for Aboriginal offenders	207
TABLE 4.27b	Community-based correction orders: sex by type of supervision order commenced for non-Aboriginal offenders	208
TABLE 4.27c	Community-based correction orders: sex by type of supervision order commenced for offenders for whom racial identity was not recorded	209
<b>Persons supervised under community-based correction orders at 31 December 2001</b>		<b>210</b>
TABLE 4.28	Number of persons supervised under each type of community-based correction order at 31 December 2001: sex by type of supervision order for all offenders	210
TABLE 4.29a	Number of persons supervised under each type of community-based correction order at 31 December 2001: sex by type of supervision order for Aboriginal offenders	211
TABLE 4.29b	Number of persons supervised under each type of community-based correction order at 31 December 2001: sex by type of supervision order for non-Aboriginal offenders	212
TABLE 4.29c	Number of persons supervised under each type of community-based correction order at 31 December 2001: sex by type of supervision order for offenders for whom racial identity was not recorded	213

<b>Community-based correction orders completed during 2001</b>	<b>214</b>
TABLE 4.30	Community-based correction orders completed during 2001: type of supervision order by manner of completion. 214
TABLE 4.31	Community-based correction orders completed during 2001: manner of completion and sex by type of supervision order for all offenders 215
TABLE 4.32a	Community-based correction orders completed during 2001: manner of completion and sex by type of supervision order for Aboriginal offenders 216
TABLE 4.32b	Community-based correction orders completed during 2001: manner of completion and sex by type of supervision order for non-Aboriginal offenders 217
TABLE 4.32c	Community-based correction orders completed during 2001: manner of completion and sex by type of supervision order for offenders for whom racial identity was not recorded 218
<b>5 APPENDICES</b>	<b>219</b>
<b>A EXPLANATORY NOTES</b>	<b>221</b>
CRIMINAL JUSTICE IN SOUTH AUSTRALIA	
<b>MAGISTRATES COURTS OF SOUTH AUSTRALIA</b>	<b>226</b>
Introduction	226
Data sources	226
Definitions	228
Tables	233
<b>SUPREME AND DISTRICT CRIMINAL COURTS</b>	<b>240</b>
Introduction	240
Data Sources	242
Definitions	242
Tables	249
<b>CORRECTIONAL SERVICES</b>	<b>255</b>
Introduction	255
Tables	255
<b>B LIST OF CONTRIBUTING COURTS (MAGISTRATES COURTS OF SOUTH AUSTRALIA COLLECTION)</b>	<b>267</b>



## 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 and Research 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 2001;
- The daily average number of prisoners during 2001;
- Persons in custody at 31 December, 2001;
- Prisoners discharged during 2001;
- Community based correction orders commenced during 2001; and
- Community based correction orders completed during 2001.

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 and Research

November 2002

## ACKNOWLEDGEMENTS

Numerous people have contributed to this *Crime and Justice in South Australia: Adult Courts and Corrections* report. The Office of Crime Statistics and Research acknowledges the assistance of staff from other Departments, including:

- Mr Mike Reynolds, from the Strategic Services Division of the Department for Correctional Services;
- Staff from the Records Division, SAPOL;
- Mr Kevin Gleeson, Acting Chief Clerk of Arraignment, Criminal Registry, Courts Administration Authority;
- Offender History Unit, SAPOL; and
- Ms Mary Hunt, Office of the Director of Public Prosecutions.

The assistance of Court Registrars, Associates, clerical and computing staff of the Courts Administration Authority and the staff of JIS Services is also acknowledged.

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

Systems design and programming:	Carol Castle
Data tabulation:	Carol Castle and Lynne Sampson
Commentary and explanatory notes:	Nichole Hunter and Jayne Marshall
Data entry, coding and auditing:	Lynne Sampson and Carol Ware
JIS Codes maintenance:	Carol Castle and Lynne Sampson
Table layout:	Lynne Sampson and Carol Ware
Final preparation for publication:	Carol Ware and Tina Conroy

## INTRODUCTION

This report, covering the period 1 January 2001 to 31 December 2001, is the fourteenth *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 2001 Statistics

#### Magistrates Courts

- During 2001, there were 26,901 cases finalised in the Magistrates Court, which is 1.2% higher than the 26,587 cases finalised in 2000.
- *Driving offences* were listed as the major charge in approximately one quarter (23.5%) of these cases, while *offences against good order* accounted for a further 18.1% and *larceny and receiving* offences for 14.3%. 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, 5.9% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2001, 975 (3.6%) were committed to the District or Supreme Court for trial or sentence. This number is 12.8% higher than the 864 cases committed in 2000 but 45.6% 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.
- In 2001, over half of all finalised cases (52.9%) resulted in the defendant being convicted of the major charge. In a further 12.2% of

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

- In just over one quarter of cases (26.2%) the major charge was either withdrawn by prosecution or dismissed. 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 23 cases the defendant was found not guilty on grounds of mental incompetence.
- In total then, of the 25,926 cases finalised in the Magistrates Court (excluding those committed to a higher court) just under three quarters (72.9%) resulted in a finding of guilt to at least one charge.
- Of the 1,599 applications for *restraining, domestic violence* or *paedophile restraining orders* finalised in 2001, 1,018 (63.7%) resulted in the issuance of that order.
- Of the 18,909 cases finalised in 2001 by way of a conviction or a finding of guilt to at least one charge, approximately one third (33.1%) received a fine as the major penalty, while just under one quarter (24.0%) resulted in a driver's license suspension. Overall, 4.8% of cases resulted in direct imprisonment while 11.2% received suspended imprisonment.
- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass* offence (average imprisonment of 63 weeks). This was followed by drug offences (average of 51 weeks).
- Although females featured in only a small proportion (17.0%) of cases finalised in 2001, their level of involvement varied depending on the type of offence. For example, females accounted for only 2.0% of those cases in which a *sexual offence* was listed as the major charge, but 33.2% of all cases involving *fraud and misappropriation*.
- Just under two fifths (39.6%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while very few (6.3%) were aged 50 years and over.
- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (229.5 per 1,000 adult Aboriginal population compared with 20.6 per 1,000 adult non-Aboriginal population respectively).

- Seven out of ten defendants (69.9%) in the Magistrates Court had at least one prior conviction, with an average of 12.2 previous convictions per defendant. Over one in five cases (20.5%) involved defendants who had previously been sentenced to imprisonment.
- In the 7,642 cases finalised at the first court hearing, 430 defendants were remanded in custody at the time (5.6%). In contrast, 27.9% 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 that had legal representation varied depending upon the number of appearances required to finalise the matter. Of those cases finalised at the first hearing, only 34.0% had a lawyer. This rose to over three quarters (76.0%) of those cases that required more than one hearing to finalise and 95.6% of those which were committed to a higher court for trial or sentence.

### Higher Courts

- In 2001, there were 60 cases finalised in the Supreme Court and 884 finalised in the District Court, giving a total of 944.
- This was 14.3% higher than the number of cases disposed of in 2000. All of the increase in case numbers was in the District Court, while the number in the Supreme Court decreased slightly in comparison to 2000.
- Considering the major charge per case indicates that the largest offence groups were the *drug offences* (28.3% of the total), *serious criminal trespass* (20.3%) and offences *against the person (excluding sexual offences)* (15.8%) categories.
- The majority of defendants (75.6%) were convicted of at least one charge. The majority (68.9%) of the cases that went to trial in 2001 resulted in one or more charges being found guilty. The defendants in 5.7% of cases were found not guilty because of mental impairment, compared to 7.4% in 2000. Approximately one quarter (25.4%) of cases going to trial resulted in an acquittal on the major charge, whilst 18.1% either pleaded *guilty* to, or were found guilty of a lesser, alternate or other charge. Some 13.5% of defendants in trials changed their plea to *guilty* once the trial had begun.
- The two most frequently imposed penalties in 2001 were imprisonment, imposed in 49.6% of cases where one or more charges

had an outcome of *guilty*, and suspended imprisonment (imposed in 36.4% of such cases).

- The group with the highest percentage imprisoned was *robbery and extortion*, in which 82.4% of defendants convicted received this penalty.
- Excluding life sentences, the average length of imprisonment for the major charge was just over three and a half years (44 months), although this varied from 82 months for cases involving *sexual offences* to 13 months for *larceny and receiving*.
- Life sentences were given in seven cases, all for *murder*. The average non-parole period for these cases was just under 16 years, with the shortest of these being 11 years and the longest 22 years.
- Approximately nine out of ten defendants (87.2%) were males, whose average age was 30.7 years. Females had an average age of 29.4 years.
- Persons of Aboriginal appearance made up 11.5% of defendants, with a rate of appearance of 8.1 per 1,000 adult Aboriginal population. This was much higher than other defendants, whose appearance rate was 0.8 per 1,000 adult non-Aboriginal population.
- Approximately four out of five defendants had at least one prior conviction, while one third (33.4%) had between 10 and 49 convictions. A further 9.7% had 50 or more previous convictions. Approximately one third (33.7%) had been imprisoned before.
- Just over one third of defendants (35.5%) were being held in custody at the time of their final appearance.

## **Correctional Services**

### Imprisonment

#### *Prison receptions*

- In 2001, there were 3,688 prisoners received into custody, of whom 12.9% were sentenced prisoners, 1.2% were fine defaulters and 85.9% were on remand. The number of receptions in 2001 was 7.0% higher than recorded in 2000, but was still well below the peak of 7,618 recorded in 1992.

- In 2001, a slightly lower proportion of prison receptions involved sentenced prisoners (12.9% compared with 13.1% in 2000), or fine defaulters (1.2% of all receptions in 2001 compared with 2.4% in 2000). In contrast, the proportion of admissions involving remanded prisoners was marginally higher (85.9% in 2001 compared with 84.5% in 2000). The continuing 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 2001 were male (89.0%) although this varied slightly from 86.4% for fine defaulters to 88.5% for remand and 93.2% for sentenced prisoners respectively.
- For those 3,684 receptions where age was known, almost one half (46.1%) involved persons aged 20 to 29 years, while those in the older age groups (notably 50 years and over) accounted for only 3.4%.
- Persons identified as Aboriginal accounted for 20.9% of the 3,145 prison receptions where information on racial identity was recorded. However, this varied from one legal status category to another, with Aboriginal persons accounting for 12.4% of those admitted as sentenced prisoners, compared with 9.4% of fine defaulters and 22.2% of remandees.

#### *Daily averages*

- Daily average prison numbers increased in 2001 (from 1,321 per day in 2000 to 1,395).
- In 2001, males accounted for 94.0% of the daily average prison population, with a rate of 2.33 per 1,000 adult male population, compared with only 0.14 per 1,000 adult female population.
- On average, 232 Aboriginal persons were held in custody each day in 2001, which represents 18.8% of those for whom racial identity was recorded.

#### *Census figures*

- At midnight on 31 December 2001 there were 1,391 prisoners in custody. Remandees accounted for 31.1% of those for whom

information on legal status was recorded while almost seven in ten (68.9%) were sentenced prisoners.

- Males again dominated. For every 1,000 adult males in the South Australian population, 2.32 were in custody on that particular day compared with only 0.15 females per 1,000 adult female population.
- Aboriginal males accounted for 19.1% of all males in custody on 31 December 2001 (compared with 17.8% in 2000), while Aboriginal females accounted for 27.5% of all females in custody (compared with 28.0% in 2000).

#### *Escapes from custody*

- In 2001, five prisoners escaped from the custody of the Department for Correctional Services, compared with two in 2000. All five escapes were from institutions rather than from escort.

#### *Prison discharges*

- In 2001, there were 3,604 discharges from custody, including 1,237 (34.4% of the total) who, at the time of discharge, were serving a prison sentence. A further 64.1% were discharged from remand and 1.4% were discharged after having 'cut out' a fine.
- A higher proportion of females were on remand at the time of discharge (73.7% compared with 63.0% of males), while a lower proportion were classified as sentenced prisoners (24.7% compared with 35.6% of males).
- Of the 52 fine defaulters discharged from prison in 2001, the majority had served only a relatively short period, with 88.5% in prison for less than 15 days prior to discharge and 7.7% in prison for two to four weeks. Only two fine defaulters were incarcerated for more than four weeks.
- Of the 1,237 sentenced prisoners who were discharged in 2001, 21.8% spent less than one month in prison, while 41.3% were in prison for three months or less. At the other end of the scale, only 3.5% were incarcerated for more than five years. However, the time served varied depending on the nature of the offence for which the prisoner was being held at the time of release. Of the 151 discharges involving a *license/registration* offence, almost one half (49.7%) were for periods of less than one month. However, of the 63 sentenced prisoners

discharged after serving sentences for *robbery and extortion*, nearly two-thirds (65.1%) 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 30.5% of the 1,237 discharges recorded, followed by *serious criminal trespass* (13.6%) and *licence/registration* offences (12.2%).
- Overall, Aboriginal sentenced prisoners were slightly more likely to serve periods of between one 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 2001*

- In 2001, there were 10,350 community-based correction orders commenced, which was 2.4% fewer than the 10,601 recorded in 2000 and 58.2% lower than the peak recorded in 1997.
- Over one half (54.5%) of the community-based correction orders commenced in 2001 involved some form of community work. This included stand-alone community service orders (24.8%) as well as instances where a financial penalty was expiated through community service (29.7%).
- Only 6.8% of supervisions involved home detention, generally as part of a bail agreement (3.9%) or for sentenced prisoners released from gaol (2.8%).
- The 10,350 orders commenced in 2001 involved 8,207 discrete individuals, giving an average of 1.26 orders per person. The total number of individuals who commenced an order in 2001 was 5.1% lower than in 2000, largely due to the continuing affect of the abolition in 2000 of CSO (expiation notice) and CSO as fine option orders.
- Males accounted for 79.0% of all individuals and 80.2% of all orders commenced where relevant data were available.

##### *Persons supervised at 31 December 2001*

- On 31 December 2001, Correctional Services were supervising 6,680 distinct individuals, some of whom were serving more than one community-based correction order.
- The order which recorded the highest caseload on that day was that of probation, with 2,505 discrete individuals registered. This equates to 37.5% of all persons under Correctional Services community supervision on that day.
- The total number of persons supervised was 1.2% higher than the 6,604 individuals under supervision twelve months earlier, on 31 December 2000.

#### *Orders completed during 2001*

- The number of community-based correction orders completed decreased in 2001 (from 10,293 in 2000 to 9,420).
- The majority of these orders were completed successfully (68.8%).
- The extent to which orders were revoked or estreated in 2001 varied depending on the type of order involved. The highest level of estreatment/revocation was recorded for home detention bail orders (43.7%), followed by community service orders (42.3%) and orders where a financial penalty was expiated through community service (33.3%). In contrast, only 13.1% of home detentions completed by sentenced prisoners in 2001 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 8.1% of *serious criminal trespass* reported to police in 2000 were cleared by way of an apprehension, as were 10.4% of *vehicle thefts*. Apprehension levels for *drug* and *driving offences* were considerably higher (99.0% 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.

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 1 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 2001 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 2001.

Conversely, the court data will count persons apprehended and/or sentenced in 2000 or earlier. This is particularly true for the Supreme and District Courts, where cases may 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.

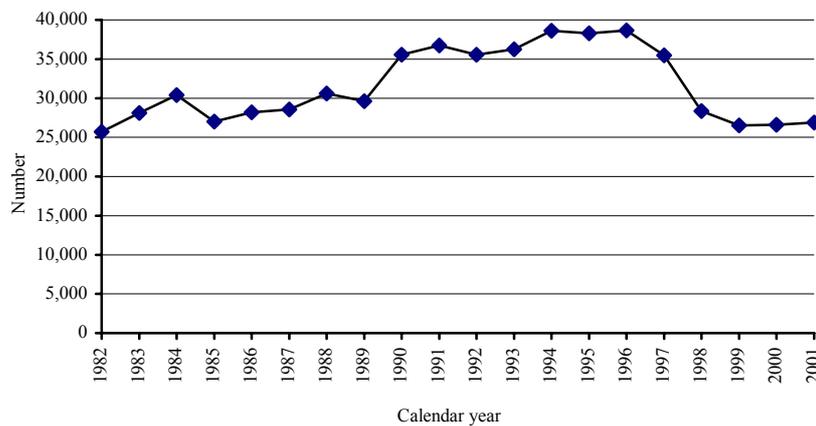
Again, the reader is referred to the Appendices for further details.

## 1.1 Magistrates Courts of South Australia

### Overview

- During 2001, 26,901 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries were finalised in the Magistrates Court. This figure is 1.2% higher than the 26,587 finalised cases in 2000.
- As indicated in Figure 1, although the number of matters disposed of in the Magistrates Court generally increased between 1982 and 1996, from then until 1999 there was a general downward trend, after which time numbers stabilised. As a result, the number of cases finalised in 2001 was substantially lower than the peak recorded in 1996 (26,901 compared with 38,652 in 1996) and was only 4.7% higher than the 25,699 recorded in 1982.

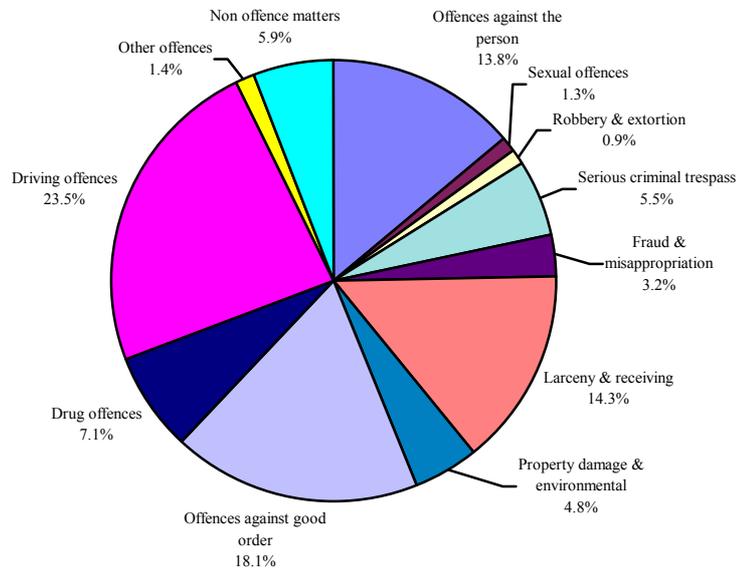
Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 2001



- As indicated in Figure 2, *driving offences* constituted the major charge in just under one quarter (23.5%) of all cases finalised in 2001, while *offences against good order* featured in a further 18.1% of cases, *larceny and receiving* in 14.3% and *offences against the person* in 13.8%. 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%

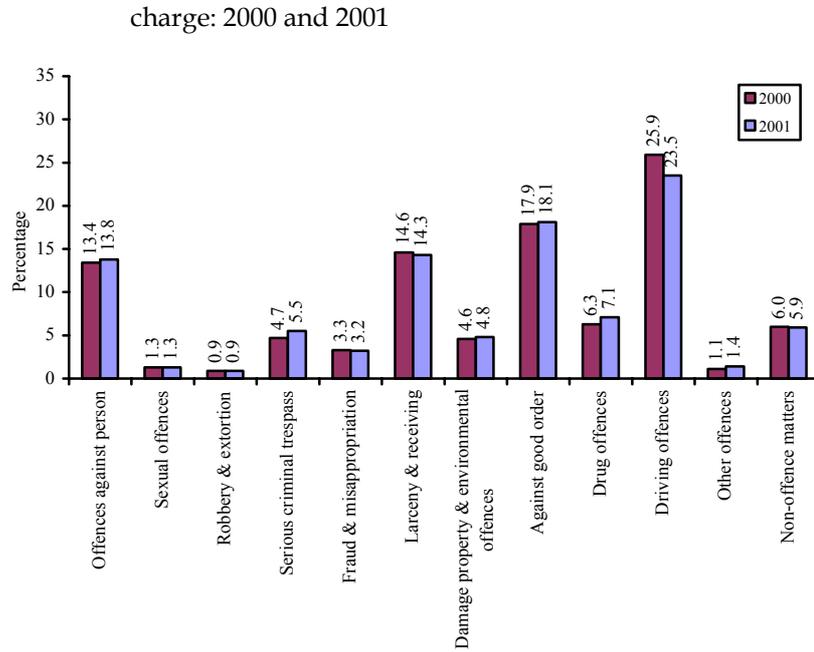
respectively). In addition, 5.9% of cases involved *non-offence* matters. As in previous years, these consisted almost entirely of restraining orders.

Figure 2 Cases finalised in the Magistrates Court by the major charge per case: 2001



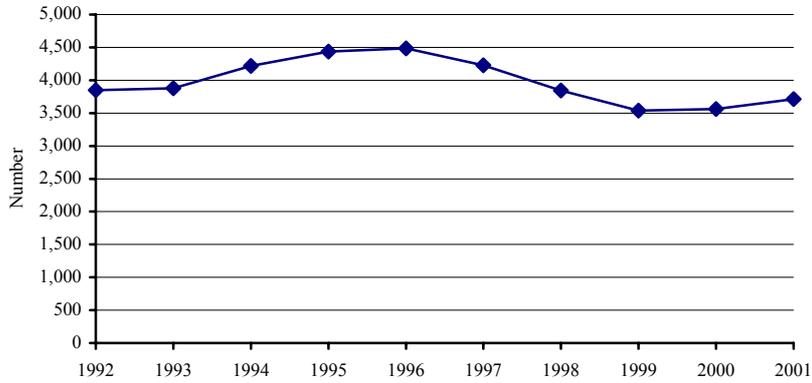
- Overall, this offence profile is similar to that observed in 2000. As shown in Figure 3, in both 2000 and 2001, four offence categories dominated: namely *driving offences*, *offences against good order*, *larceny/receiving* and *offences against the person*. Conversely, the proportion of cases involving *sexual offences* and *robbery and extortion* has remained consistently low.

Figure 3 Cases finalised in the Magistrates Court by major



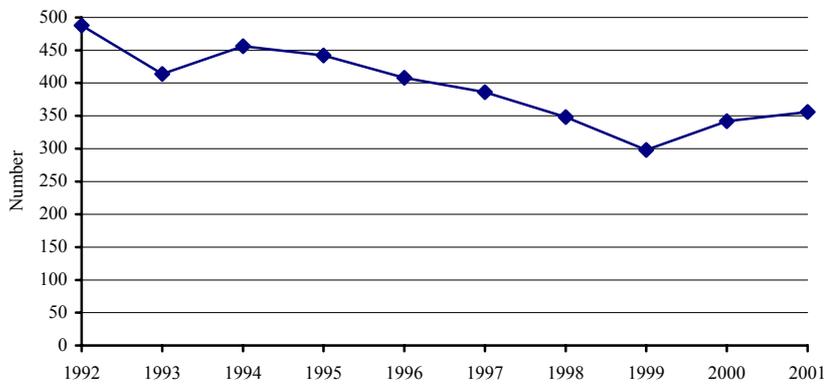
- Longitudinal trends in the actual number of offences per category are detailed in Figures 4 to 13, which plot the major charge recorded per case from 1992 (when data relevant to all twelve categories listed above were first published) to 2001.
- As indicated in Figure 4, between 1992 and 1996, Magistrate Court cases involving an *offence against the person* increased from 3,850 to 4,483. However, after this time this upward trend was reversed. Although the number of cases involving this type of offence as the major charge increased in 2001 (3,710), the number was 3.6% lower than at the beginning of the period depicted and well below the number recorded in the peak year of 1996 (4,483).

Figure 4 Cases finalised in the Magistrate Court where the major charge was an *offence against the person, excluding sexual offences*: 1992 to 2001



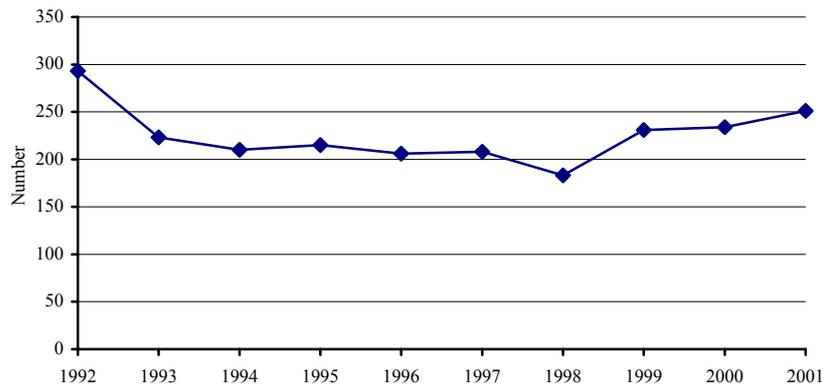
- Figure 5 shows that the number of cases where the major charge was a *sexual offence* generally declined between 1992 and 1999. However, this trend was reversed in 2000, and in 2001 a further increase of 4.1% was recorded (356 cases compared with 342 cases in 2000). In spite of this, the number of cases recorded in 2001 was 27.0% lower than the 488 recorded in 1992.

Figure 5 Cases finalised in the Magistrates Court where the major charge was a *sexual offence*: 1992 to 2001



- After initially decreasing, the number of cases involving a major charge of *robbery and extortion* remained relatively stable between 1993 and 1998 (refer Figure 6). Then from 1998 to the end of the period depicted an upward trend was evident. Although the number of cases involving a major charge of *robbery and extortion* increased in 2001 (251 cases compared with 234 in 2000), the number was 14.3% lower than recorded in 1992. Overall, the number of cases involving a *robbery and extortion* offence has remained relatively low throughout this period.

Figure 6 Cases finalised in the Magistrates Court where the major charge was *robbery and extortion*: 1992 to 2001

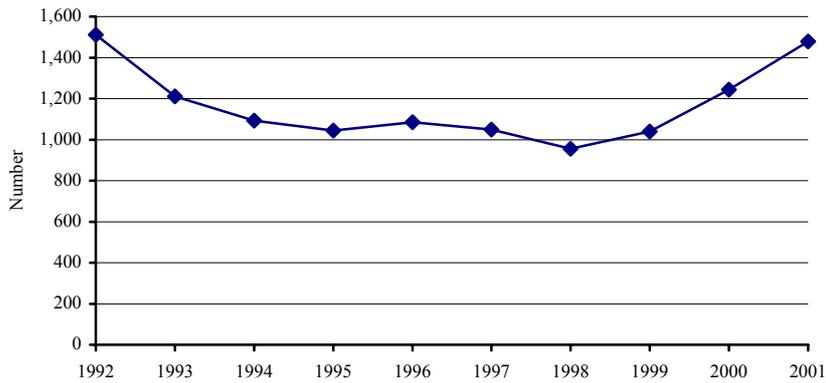


- Considering longitudinal trends for *burglary, break and enter/serious criminal trespass offences* is somewhat problematic due to the passage of the *Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act*. This piece of legislation, which came into effect on 25 December 1999, replaced *break and enter offences* (other than the offence of *sacrilege*) with *criminal trespass offences*. Because these legislative changes came into effect in the last week of 1999, the majority of offences recorded in 2000 and nearly all of those recorded in 2001 were classified as *criminal trespass offences*. However, in both years there were some *break and enter offences* that, while reported in 2000 or 2001, had occurred prior to the legislative change. Although these offences were all grouped together in the 2000 report the category retained the name *burglary, break and enter offences*. In this report, to more accurately reflect the nature of the offences within this

category, the name has been changed to *serious criminal trespass offences*.

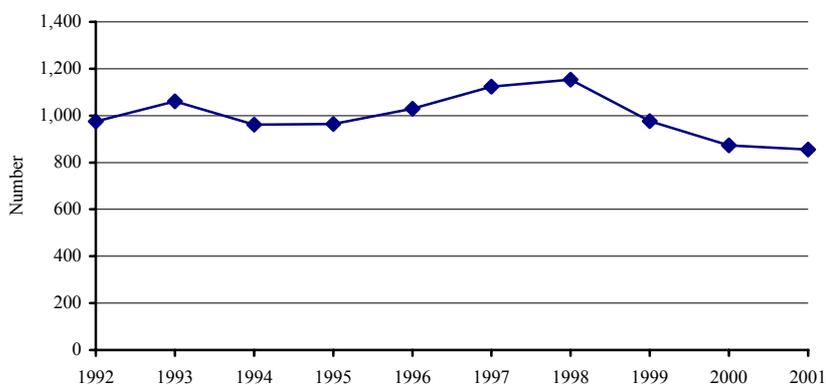
- The number of cases involving *serious criminal trespass offences* as the major charge generally declined during the period 1992 to 1998. However, since then, an upward trend has occurred, with increases in 1999 and 2000, followed by a further increase of 18.8% in 2001. Despite this, the number of cases recorded in 2001 (1,478) was still lower than the 1,512 recorded in 1992.

Figure 7 Cases finalised in the Magistrates Court where the major charge was *serious criminal trespass*: 1992 to 2001



- Figure 8 indicates that in 2001 the number of cases where the major charge was *fraud and misappropriation* was the lowest figure recorded for the period shown (855). This was 2.1% lower than the number recorded in 2000 (873).

Figure 8 Cases finalised in the Magistrates Court where the major charge was *fraud and misappropriation*: 1992 to 2001

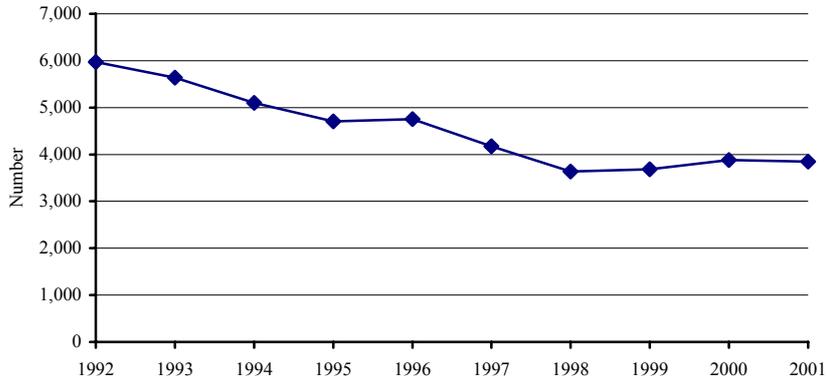


- As indicated in Figure 9, the number of cases in which *larceny and receiving*<sup>1</sup> was listed as the major charge declined from 5,969 in 1992 to 3,686 in 1999, after which time numbers stabilised. In 2001 3,848 cases were recorded, which was slightly lower than the 3,882 cases recorded in 2000.

---

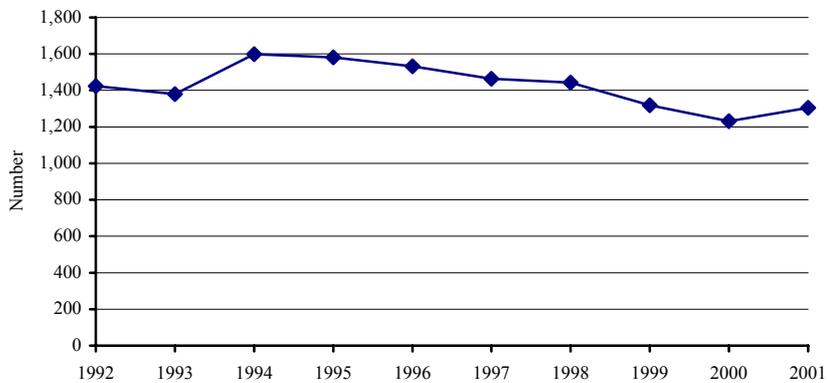
<sup>1</sup> Due to problems in coding the offence categories of *larceny from shops* and *other larceny* in 1998 care should be taken when comparing *larceny and receiving* figures from that year with those of other years.

Figure 9 Cases finalised in the Magistrates Court where the major charge was *larceny and receiving*: 1992 to 2001



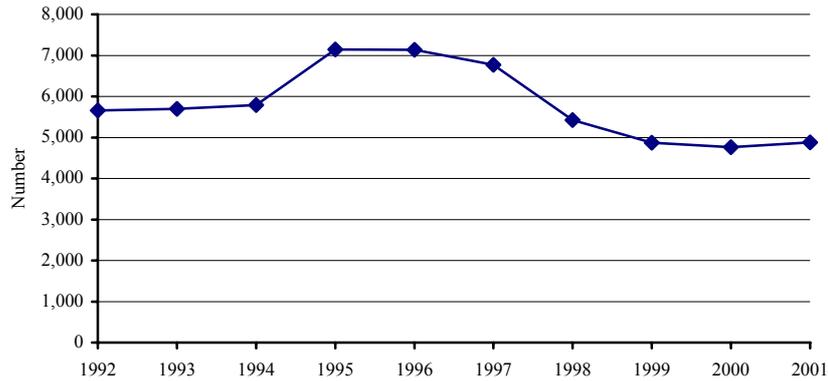
- *Damage property and environmental offences* feature as the major charge in a relatively small proportion of finalised Magistrates Court cases. As indicated in Figure 10, these cases had been steadily declining between 1994 and 2000. In 2001 this trend was reversed with 1,304 cases recorded (an increase of 5.9%).

Figure 10 Cases finalised in the Magistrates Court where the major charge was a *damage property and environmental offence*: 1992 to 2001



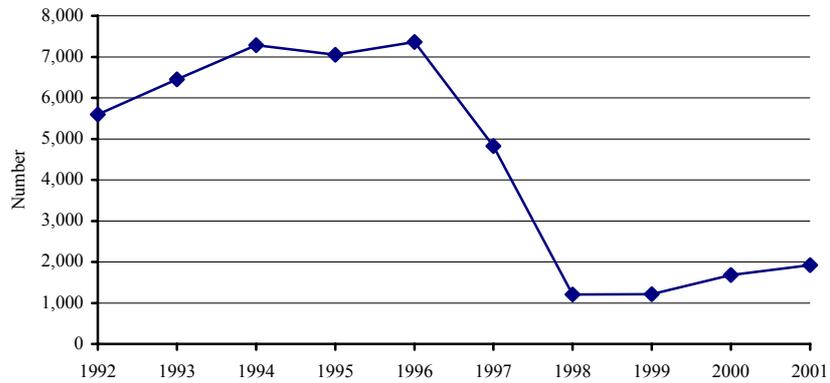
- As Figure 11 indicates, the number of cases involving a major charge of an *offence against good order* declined between 1996 and 2000. Although a slight increase of 2.5% was recorded in 2001 (4,877) this was still considerably lower than the figure of 7,146 recorded in 1995.

Figure 11 Cases finalised in the Magistrates Court where the major charge was an *offence against good order*: 1992 to 2001



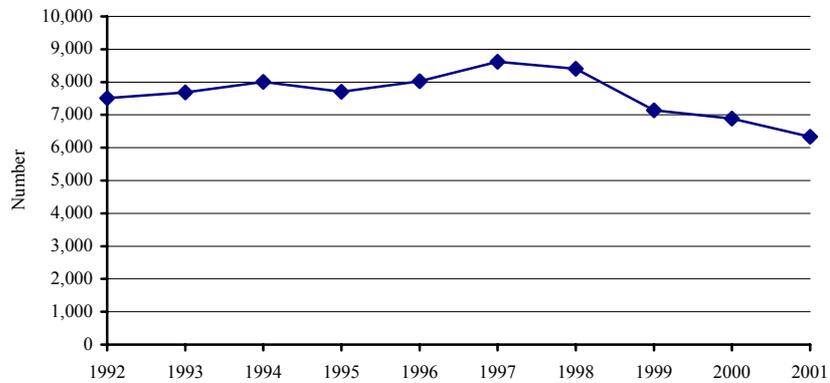
- As Figure 12 indicates, cases with a major charge of a *drug offence* experienced a dramatic drop in both 1997 and in 1998. This decline can be attributed to the changes introduced by the *Expiation of Offences Act 1996*, which came into operation in February 1997. Whereas previously expiation fee defaulters had their matters forwarded to court for prosecution, under the new legislation they received an automatic conviction without the requirement to appear in court. This resulted in a substantial decrease in the number of cases involving drug charges heard by the courts. Although the number of cases recorded in 2001 increased by 14.1%, this was still well below the number recorded in the early and mid 1990s.

Figure 12 Cases finalised in the Magistrates Court where the major charge was a *drug offence*: 1992 to 2001



- As shown in Figure 13, cases where *driving offences* were listed as the major charge continued to decline in 2001, after peaking at 8,620 cases in 1997. The number of cases involving this major charge recorded in 2001 was the lowest recorded during the period depicted.

Figure 13 Cases finalised in the Magistrates Court where the major charge was a *driving offence*: 1992 to 2001



## Outcomes

- Of the 26,901 cases heard in the Magistrates Court in 2001, 975 (3.6%) were committed to the District or Supreme Court for trial or sentence. While this is 12.8% higher than the 864 cases committed in 2000, this figure is 45.6% 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.
- As expected, the percentage of cases committed to a higher court for trial or sentence in 2001 varied considerably according to the seriousness of the major charge. For example, 52.2% of all *robbery and extortion* cases had this outcome (which is higher than the 45.3% recorded in 2000), as did 33.4% of cases involving *sexual offences* (compared with 27.8% in 2000). In contrast, only 0.3% of *larceny and receiving* and 0.5% of *offences against good order* cases resulted in a committal to the District or Supreme Court, as did 0.7% of cases involving *property damage and environmental offences*. It should also be noted that in 35 of the 975 cases which, in 2001, resulted in committal to a higher court for the major charge, a finding of guilt for a lesser or other offence was also recorded in the Magistrates Court.
- Overall, more than half (52.9%) 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 53.6% recorded in 2000. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 0.8% of cases involving *robbery and extortion* to 87.0% of cases in which a *driving offence* was listed as the major charge. Almost six out of ten cases (57.9%) that involved *fraud and misappropriation offences* and a similar proportion of cases involving *offences against good order* (58.2%) also resulted in a conviction for the major charge.
- In 3,272 cases (12.2% of the total), there was a finding of guilt for the major charge but no conviction was recorded. Seven cases resulted in an acquittal for the major charge while in 23 cases an outcome of 'not guilty: mentally incompetent' was recorded. In just over one quarter of cases (26.2%) the major charge was either withdrawn (4,316) or dismissed (2,720). It should be noted though, that in 1,381 (19.5%) of the 7,066 cases where the major charge resulted in either an acquittal, dismissal, withdrawal or finding of 'not guilty: mentally incompetent', the defendant was found guilty of a lesser or other charge. In total then,

of the 26,901 cases that were finalised in the Magistrates Court in 2001, 18,909 (70.3%) resulted in a finding of guilt to at least one charge. In a further 14 cases some other outcome (such as the death of the defendant) was recorded.

- The proportion of cases resulting in the dismissal or withdrawal of the major charge varied from one offence category to another. It was relatively high for *offences against the person, excluding sexual offences* (53.0% of all offences within this category), *serious criminal trespass* (49.1%), *robbery and extortion* (46.6%), and *sexual offences* (37.9%), but was comparatively low for *offences against good order* (16.9%), *other offences* (13.0%) and *driving offences* (12.3%).
- In relation to those cases where the major charge was 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 725 cases where the major charge dismissed or withdrawn was a *serious criminal trespass*, 236 (32.6%) resulted in a finding of guilt for another offence compared with only 12 (8.9%) of the 135 cases where the major charge dismissed or withdrawn was a *sexual offence*.
- Of the 1,599 applications for *restraining, domestic violence or paedophile restraining orders* finalised in 2001, 1,018 (63.7%) resulted in the issuance of that order, 256 (16.0%) were varied, while 308 (19.3%) were either revoked or cancelled, withdrawn, dismissed or refused (see Table 2.13a in Section 2 of this report).

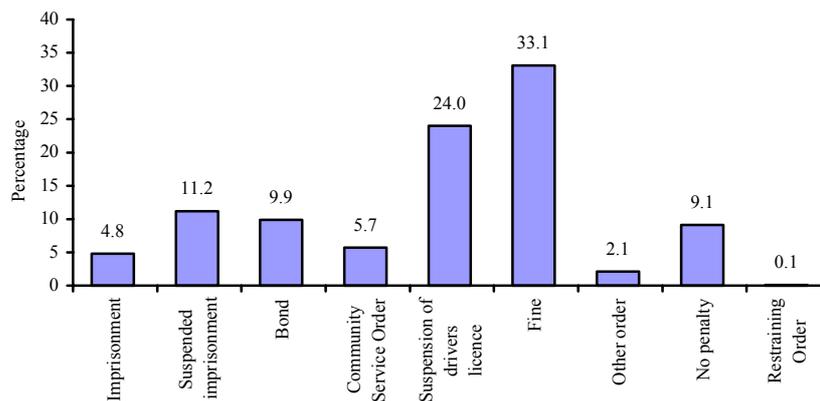
## Penalties

- 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. It should 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 2001, there were 18,909 cases finalised in the Magistrates Court that resulted in a finding of guilt to at least one charge. As shown in Figure 14, a fine was listed as the most serious penalty in 33.1% of these cases, followed by a driver’s licence suspension (24.0% of cases). Only 4.8% of cases resulted in direct imprisonment, while 11.2% received suspended imprisonment. In a further 5.7% of cases, the major penalty imposed was a community service order, while 9.9% received a good behaviour bond. In 9.1% of cases, no penalty was imposed. In 2001, there were only 14 cases (0.1% of the total) where a restraining order constituted the major penalty.

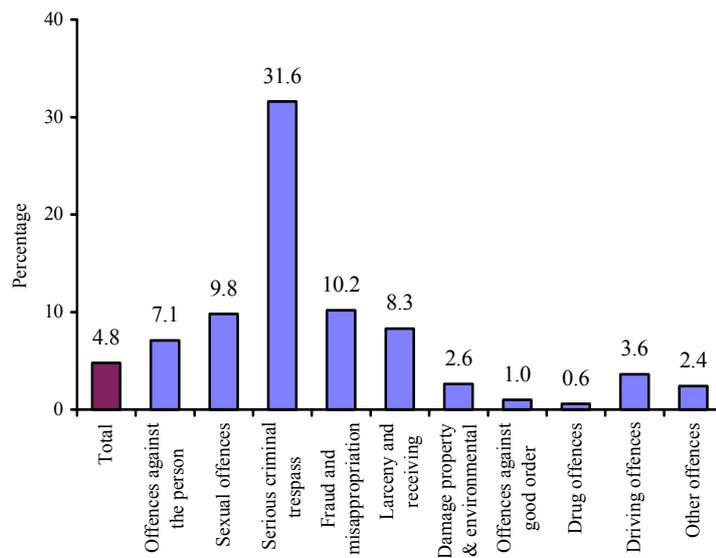
Figure 14 Major penalty imposed for the most serious charge proved per case: 2001



- The number of cases resulting in imprisonment was lower in 2001 than in 2000, 1999 or 1998 (910 compared with 944, 1,083 and 1,185 respectively). The average length of the prison term was also slightly lower in 2001 than in the previous year (28 weeks compared with 30 respectively), but higher than the average of 27 weeks in 1999 and the 24 weeks recorded in 1998.

- The likelihood of a prison term varied depending on the nature of the major charge for which a finding of guilt was recorded. As Figure 15 indicates, persons found guilty of the major charge of *serious criminal trespass* were proportionately more likely to receive imprisonment than those charged with other offences. Of the 535 cases finalised in 2001 in which the major charge proved was *serious criminal trespass*, 31.6% resulted in imprisonment. This was followed by cases involving *fraud and misappropriation* as the most serious charge proved (with 10.2% ending in imprisonment), a *sexual offence* (9.8%), *larceny and receiving* (with 8.3% of cases resulting in prison), and *offences against the person, excluding sexual offences* (7.1%). One of the four cases involving *robbery and extortion* also resulted in imprisonment. In contrast, only 0.6% of cases involving a *drug offence* and 1.0% of cases involving an *offence against good order* as the most serious charge proved involved a custodial sentence.

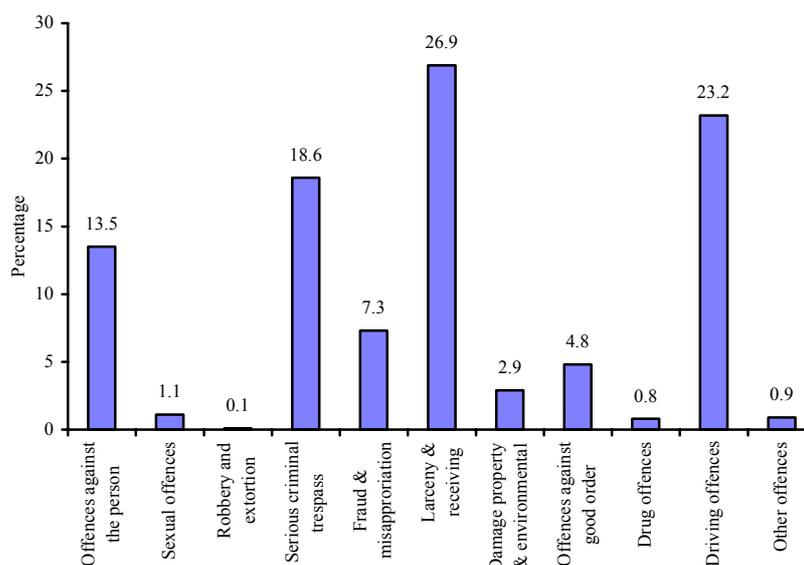
Figure 15 Major penalty imposed for the most serious charge proved, 2001: proportion of cases within each major charge category resulting in imprisonment



The *robbery and extortion* category has been omitted because the numbers are too small to calculate meaningful percentages.

- The above discussion described the proportion of cases within each major offence category that had a custodial sentence. Information relating to imprisonment is presented somewhat differently in Figure 16. This focuses only on those 910 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 (26.9%). This was followed by *driving offences* (23.2%), *serious criminal trespass* (18.6%) and *offences against the person, excluding sexual offences* (13.5%). In contrast, *drug offences* accounted for only 0.8%.
- The low proportion of imprisonments which involved *robbery and extortion* (0.1%) is due to two factors: first, the relatively small number of such cases which come before the Magistrates Court in the first place (251 in 2001 compared with, for example, 6,335 *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 (131 out of 251 compared with none of the 6,335 *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 16 Cases where imprisonment was the most serious penalty imposed by the major charge convicted, 2001



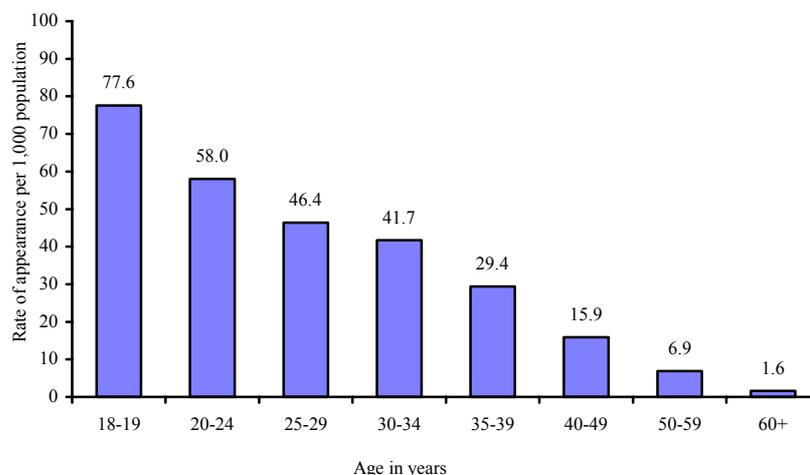
- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass* offence (average imprisonment of 63 weeks compared with 58 weeks in 2000). This was followed by *drug offences* (average of 51 weeks compared with 26 weeks in the previous year). Even though the number of *fraud and misappropriation* cases that resulted in imprisonment was small (66), the average length of imprisonment in these situations was relatively high (43 weeks), with a maximum of 468 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 84.5% of all such cases. Over half (57.9%) 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 6.7% of *driving matters* and 2.4% of *serious criminal trespass* cases. Overall, the average amount of fine imposed was \$226 while the maximum was \$50,000 (for a *property damage and environmental 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* (PCA). 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 2001, a total of 2,756 convictions were recorded for offenders with no prior convictions for a drink driving offence within the past five years. This figure was comparable with the 2,758 convictions recorded in 2000. For offenders who have had at least one previous drink driving conviction in the last five years the figure was lower, with 485 convictions in 2001 (compared with 598 convictions in 2000).
- 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 (96.8% in 2001) but also to those with a prior PCA conviction (94.4% in 2001). However, for those with a prior record, the average fine was higher than for those with no priors (\$956 compared with \$625 respectively). As was the case in 2000, a high proportion in both groups also received a licence disqualification (98.2% of those with no priors and 99.4% 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 8.7 months licence disqualification compared with 20.3 months for those with a prior PCA conviction.

### **Background of defendants**

- Males accounted for the overwhelming majority (83.1%) of the 26,857 cases finalised in 2001 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 2.0% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 33.5% and 29.0% respectively of all cases involving *fraud and misappropriation* and *larceny and receiving*. Females also accounted for 17.5% of cases involving *robbery and extortion* but only 21.3% of all *other offences*.
- Defendants aged between 20 and 29 years were involved in 39.6% of all cases finalised by the Magistrates Court in 2001. Another 11.9% were 18 or 19 years of age, while a further 29.1% fell within the 30 to 39 year age bracket. Very few cases (6.3%) involved older defendants aged 50 years and over.
- The actual rate of appearance per age group is depicted in Figure 17. 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 77.6 per 1,000 age specific population, but this dropped to 1.6 per 1,000 for those aged 60 years and over. The average age of all defendants was 31.0 years, although this varied from 35.8 years for cases involving a *sexual offence* to 26.3 years for those cases involving a *robbery and extortion* offence. Overall, female defendants were only marginally older than were male defendants, with an average age of 31.4 years compared with 30.9 years respectively.

Figure 17 Cases finalised in the Magistrates Court, 2001: rate per 1,000 age specific adult population.

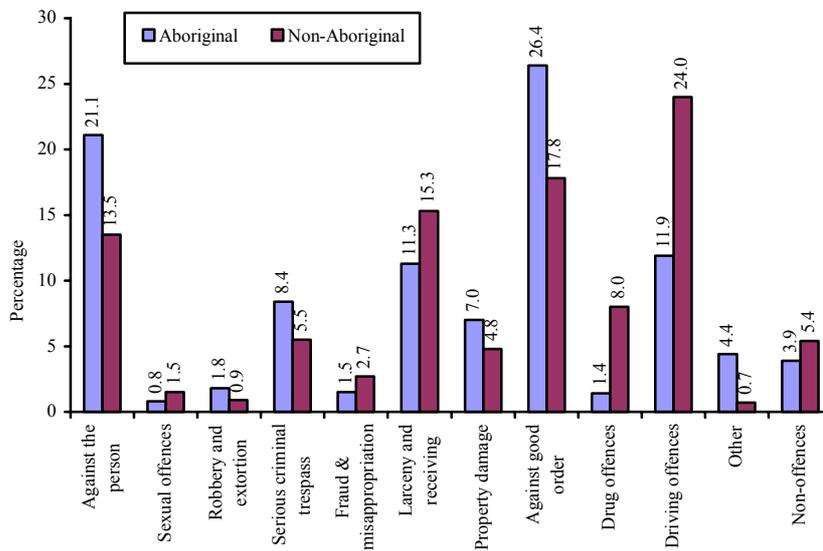


- Table 2.29 in Section 2 of this report details the racial appearance of defendants involved in cases finalised in 2001. In interpreting the information presented here, it should be stressed that racial appearance is determined by police officers at the point of apprehension and is based either on the officer's judgement of the physical appearance of the individual (in report-based cases) or by direct questioning (in arrest-based cases). The data may not be totally reliable. Nevertheless, these data currently provide the only indicator of the extent of Aboriginal involvement in the court system.
- In 2001 Aboriginal defendants appeared before the Magistrates Court at a rate of 229.5 per 1,000 adult Aboriginal persons in the population. This is 11.1 times greater than the rate of 20.6 per 1,000 adult population recorded for persons of non-Aboriginal appearance.
- The absolute number of Aboriginal cases dealt with in 2001 was slightly higher than recorded in 2000 (2,968 compared with 2,881 respectively). However, the rate of appearance per 1,000 Aboriginal adult population decreased (229.5 per 1,000 adult population in 2001 compared with 257.0 in 2000). That the number of cases increased while the rate decreased would seem contradictory. In fact, it reflects the different population data

used to calculate rates in the 2000 report compared with the 2001 report. In 2000, the rates per 1,000 population were derived from the Australian Bureau of Statistics 1996 Census Data while the 2001 rates were calculated from the more recent (and therefore more accurate) ABS 2001 Census Data.

- As indicated in Figure 18, 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 and offences against good order*. Conversely, a lower proportion comprised *larceny and receiving charges, drug offences and driving offences*.

Figure 18 Cases finalised in the Magistrates Court, 2001: racial appearance by major offence charged



- Table 2.30 in Section 2 of this report details the previous criminal record of defendants involved in all cases finalised by the Magistrates Court in 2001. As was the case in 2000, seven out of 10 defendants (69.9%) for whom such information was available had at least one previous conviction, with an average of 12.2

prior convictions per defendant<sup>3</sup>. The proportion of defendants with prior convictions was highest amongst those charged with *serious criminal trespass* (with 83.7% having at least one prior conviction), followed by *robbery and extortion* (79.3% with priors). Not surprisingly, those charged with *serious criminal trespass* or *robbery and extortion* also had the highest **average** number of prior convictions (22.5 and 22.3 per defendant, respectively).

- 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 *fraud and misappropriation*. Yet even here, 56.7% had a prior criminal conviction, with an average of 8.9 convictions per defendant.
- One in five cases (20.5%) finalised in the Magistrates Court in 2001 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 43.4% of defendants involved in cases where *robbery and extortion* was the major charge, to 14.1% of cases involving *driving offences*.
- Table 2.31 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 (55.5%), bail was not required: In other words, the defendant was not subject to any conditions imposed by the court. In a further 32.4% of cases, the defendant was on bail at the time of the final appearance, while in 12.1% of cases the defendant was in custody. However, the proportion in custody varied depending on the number of court hearings required to finalise the case. Of the 7,642 cases where the matter was dealt with at the first hearing, 430 defendants were held in custody at the time (5.6%). This compares with 2,554 (or 14.0%) of the 18,284 defendants whose cases took two or more hearings to finalise, and 272 (or 27.9%) of the 975 defendants who were committed to a higher court for trial or sentence.

---

<sup>3</sup> 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 2.30. 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.

- Whether or not a defendant was legally represented also varied depending on the number of hearings required to finalise a matter (Table 2.32 in Section 2 of this report). In those cases where the matter was resolved at the first appearance, only three in ten (34.0%) had legal representation. This rose to over three quarters (76.0%) of those whose cases took more than one hearing to finalise and 95.6% of those who were committed to a higher court for trial or sentence. However, some caution should be exercised when using these figures because of the relatively high proportion of cases (23.1%) where information relating to legal representation was missing.
- As indicated in Table 2.33 in Section 2 of this report, relatively few defendants (365 or 1.4%) in the 25,926 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 975 cases committed for trial or sentence to a higher court, over three quarters (80.1%) were pleading 'not guilty' at the time of their committal.

## 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<sup>2</sup> will have committed the defendant *ex-officio*<sup>3</sup>.

In general, the offences involved in cases before the higher 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'<sup>4</sup>. 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<sup>5</sup> cases involving trials or sentencing are included in Tables 3.1 to 3.32 in Section 3 of this report. Cases that 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.

### Overview

---

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> The classifications of offences as felonies or misdemeanours were abolished in 1994.

<sup>5</sup> See Appendix A for the rules employed for determining when a case is finalised and whether it is eligible for counting.

- During 2001 there were 944 cases finalised in the Supreme and District Courts. This was 118 (or 14.3%) higher than in 2000. The number of cases finalised in the District Court increased by 125, while the number in the Supreme Court decreased by seven.
- Table 1 and Figure 19 show trends in the number of cases handled by the two jurisdictions since 1982. As this table and graph indicate, there was a dramatic increase in cases finalised in the District Court, peaking in 1992. At this time 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 and, despite a slight increase in 1996, numbers again fell in 1997 and continued to decline each year thereafter, with the result that the 2000 figure was the lowest recorded over the period depicted. However, in 2001 this trend was reversed, with 884 cases finalised, compared with 759 the previous year.
- Trends in the Supreme Court have followed a slightly different pattern to those of the District Court. Following the substantial decrease recorded in 1993, the number of cases finalised at this level increased slightly in 1994 and 1995 before declining again. The latest figure of 60 cases is the lowest recorded over the 20 year period.

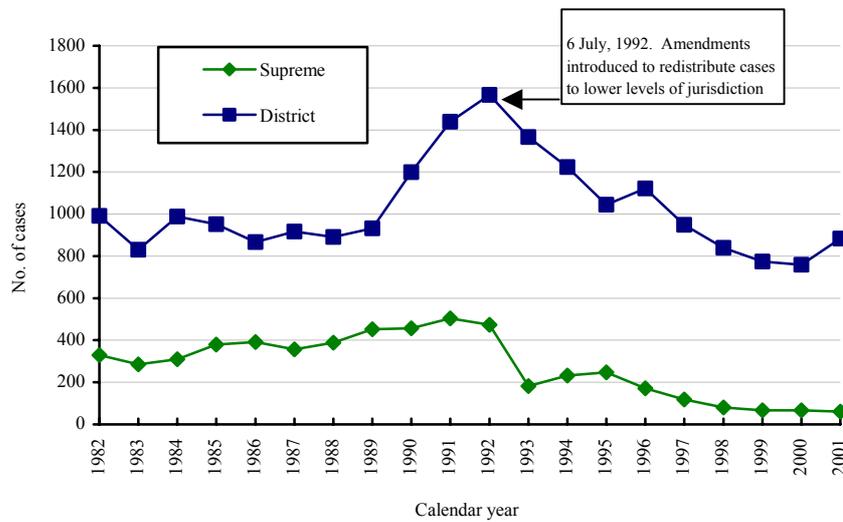
Table 1 Trends in the number of cases finalised by the Supreme and District Courts, 1982 to 2001 calendar years.

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Supreme	330	285	309	380	392	356	389	453	457	504
District	991	830	988	952	866	917	891	932	1,199	1,439

	1992	1993	1994	1995	1996	1997*	1998	1999	2000	2001
Supreme	473	182	232	247	171	118	81	67	67	60
District	1,566	1,366	1,224	1,044	1,122	949	840	774	759	884

\* 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.

Figure 199 Trends in the number of cases finalised by the Supreme and District Courts by calendar year, 1982 to 2001.



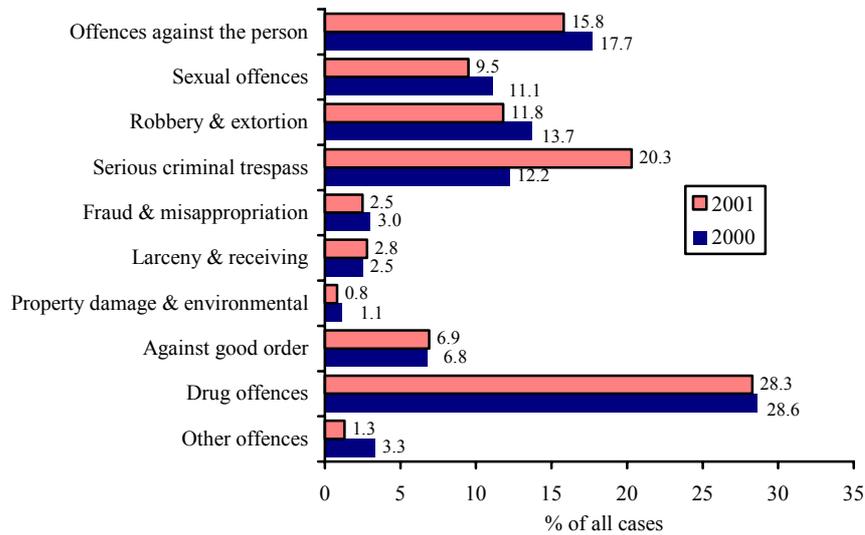
#### Major charge per finalised case

- Much of the 118 case increase in the number of cases finalised in the higher courts between 2000 and 2001 was accounted for by an increase in the number of cases with a major charge of *serious criminal trespass*. As Figure 20 indicates, the number of cases where the major charge was *serious criminal trespass* increased from 101 cases (12.2% of the total) in 2000 to 192 (20.3% of the total) in 2001. While not included in this graph, this offence category comprised only 43 cases (5.1% of the total) in 1999.
- Whilst there was a net increase in the number of cases involving a major charge of *serious criminal trespass* between 1999 and 2001, the size of the increase is not wholly due to the increased number of cases of this type. Another factor in the increase is that the new *serious criminal trespass* offences (introduced by legislative changes on 25 December 1999) are more likely to be selected as the major offence than were the old *break and enter* offences 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 this increase in the maximum statutory penalty on the likelihood of this type of offence being chosen as the major charge, in 1999 there were 43 cases in which one or more offences were of this type (ie. *serious criminal trespass/break and enter*), 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. This suggests 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*. This has implications for comparing 2000 and 2001 data as there are likely to be fewer *break and enter* and more *serious criminal trespass* offences recorded in 2001 compared with the previous year.

- As Figure 20 indicates, in both 2000 and 2001 *drug offences* were the largest category of offence, being listed as the major charge in 28.3% of the total cases in 2001 and 28.6% in 2000. The *property damage and environmental offences* group was the smallest category in both years (0.8% in 2001 and 1.1% in 2000).

Figure 20 Type of offence listed as the major charge for cases finalised in the Supreme and District Courts, 2000 and 2001.



### Outcomes

- The main outcomes for cases finalised in 2001 are summarised in Table 2. As in previous years, in six in ten cases (59.7%) the defendant pleaded *guilty* to either the major or a lesser charge. In a further 14.1% of cases, a trial was held which resulted in either

a plea or finding of guilt. While not detailed in Table 2, in 1.8% of cases the major charge was dropped but there was a guilty outcome for another or lesser offence. Overall then, 75.6% of all cases resulted in one or more of the charges within the case having an outcome of *guilty*.

- In 17.3% of cases the Office of the Director of Public Prosecutions dropped the major charge and no other charge had an outcome of *guilty*. Although not included in Table 2, in 1.2% of cases the defendant was found not guilty due to mental incompetence, while 0.7% of cases had some other outcome.
- Outcome types vary according to the type of offence. For example, 64.0% of defendants involved in cases with a major charge of *robbery and extortion* entered a guilty plea while 17.1% were found guilty at trial. In comparison, in cases where the major charge was a *sexual offence*, a lower proportion resulted in a finding of guilt. In 44.4% of these cases the defendant entered a guilty plea, while in a further 13.3% the defendant was found guilty at trial.

Table 2 Principal outcome type by major charge, Supreme and District Courts, 2001.

Offence group	Guilty plea - no trial* %	Guilty at trial** %	Acquitted %	All charges dropped*** %
Offences against the person (exc. sexual)	49.0	18.8	6.0	20.8
Sexual offences	44.4	13.3	17.8	21.1
Robbery and extortion	64.0	17.1	3.6	9.9
Serious criminal trespass	61.5	9.4	4.7	18.8
Offences against good order	70.8	7.7	0	16.9
Drug offences	61.8	18.0	3.4	16.1
Total	59.7	14.1	5.2	17.3

\* 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, permanently stayed etc),
- not guilty on the grounds of mental incompetence and
- major charge was dropped and a plea of *guilty* to another charge was accepted in satisfaction of the dropped charge (‘Major charge dropped - Guilty of other offence’).

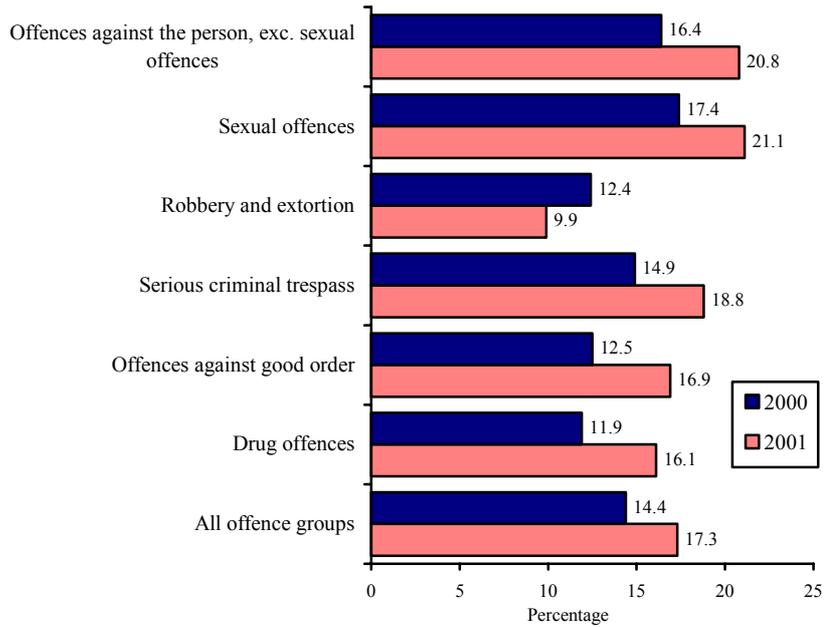
Thus the percentages in the table do not sum to 100% within each row.

This table also excludes those offence categories where the total number of cases is less than 50. The offence categories excluded are: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences*.

- Figure 21 shows the percentage of cases in 2000 and 2001 where all charges were dropped by the DPP. Overall, a higher proportion of cases were dropped in 2001 than in 2000 (17.3% compared with 14.4%).
- However, there were considerable differences between offence categories in the percentage of cases with this outcome. In 2001, 21.1% of *sexual* offences had this outcome compared with 9.9% of cases where the major charge was a *robbery and extortion* offence

(the comparable figures for 2000 were 17.4% and 12.4% respectively).

Figure 21 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, 2000 and 2001.



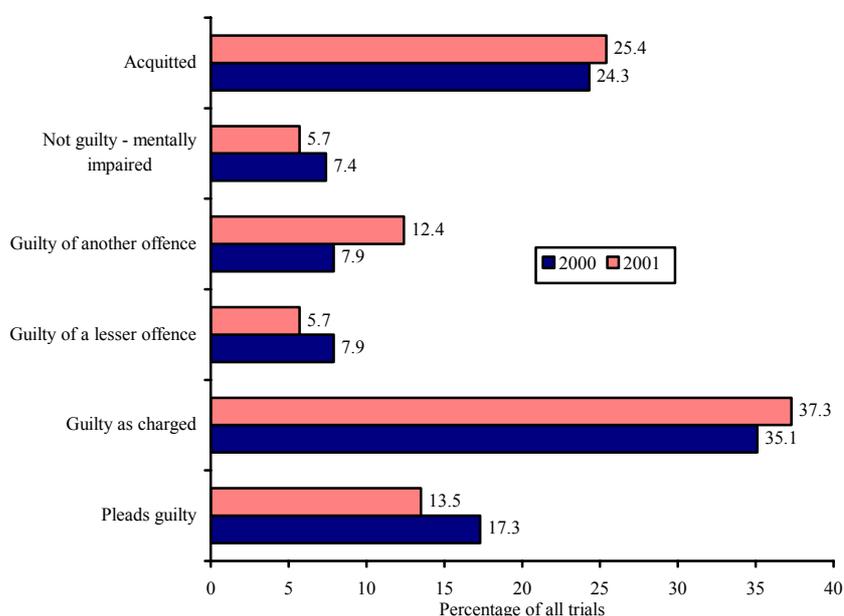
Note: The above graph excludes those offence categories where the number of cases is less than 40, namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences.*

- There were 193 cases finalised at trial in 2001 (20.4% of all finalised cases) compared with 202 in 2000 (24.5% of cases). Figure 22 provides a breakdown of the outcomes for cases that went to trial in these two years.
- In comparison to 2000, in 2001 a smaller proportion of defendants entered a guilty plea (13.5% in 2001 compared with 17.3% in 2000), while proportionally more defendants were found guilty of another offence (12.4% in 2001 compared with 7.9% in 2000). In both years, the majority of cases going to trial

resulted in the defendant being found guilty as charged (37.3% in 2001 and 35.1% in 2000).

- Acquittals at a trial made up 25.4% of all trials in 2001, which was comparable with the figure from the previous year (24.3%).
- Overall, the proportion of trials where the defendant entered a guilty plea or was found guilty of the major charge or a lesser charge was relatively similar in both years. In 2001, 68.9% of cases which went to trial had this outcome, compared with 68.3% in 2000.

Figure 22 Outcome for the major charge for cases in which there was a trial, Supreme and District Courts, 2000 and 2001.



### Penalties

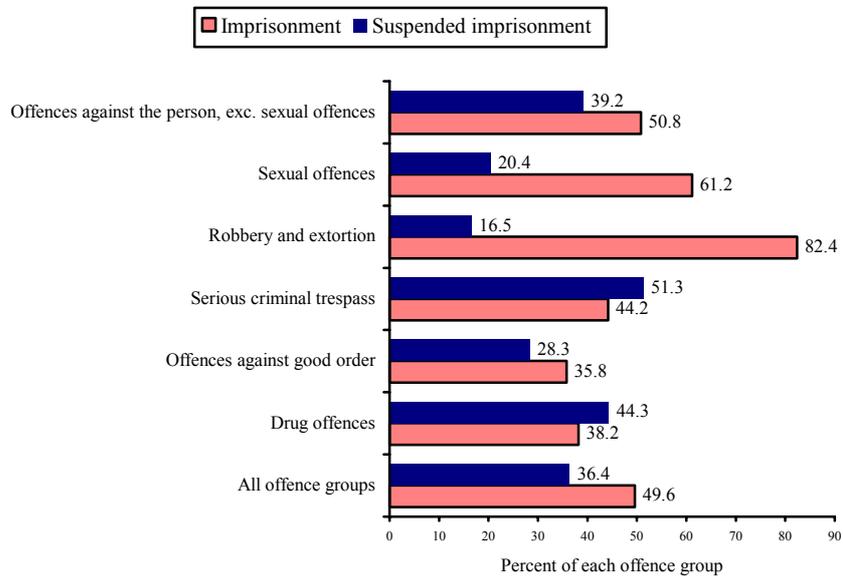
- Overall, 714 cases (75.5% of all cases) resulted in at least one guilty outcome during 2001. For these cases, the most common penalty was immediate imprisonment, which was imposed in slightly less than half (49.6%) of the cases that had an outcome of guilty.

- This was followed by suspended imprisonment (36.4%). Non-custodial penalties (such as fines, bonds and community service orders) accounted for the remaining 14.0%. The average length of imprisonment imposed was just under four years (or 44 months, excluding sentences of life imprisonment). The average non-parole period set was just over two and a half years (32 months)<sup>6</sup>.
- Life imprisonment was imposed in seven cases, all for murder. Apart from sentences of life imprisonment, the longest sentences imposed for the major charge (as distinct from the aggregate or head sentence, which may be made up of sentences for a range of other offences) were six sentences of over 15 years, given in three instances for *sexual offences* (two rapes and one case of unlawful sexual intercourse) and in the other three for *armed robbery*. In an additional 12 cases the defendants received imprisonments of between ten and fifteen years.
- The proportion of cases resulting in immediate imprisonment varied depending upon the major charge found guilty. Figure 23 shows that the offence group with the highest percentage of defendants imprisoned was *robbery and extortion* which, at 82.4%, was well ahead of the other offence categories. However, the likelihood of immediate imprisonment was also greater than 50% for *offences against the person, excluding sexual offences* (50.8%) and *sexual offences* (61.2%). In comparison, 35.8% of those with a major charge of an *offence against good order* and 38.2% of persons with a *drug offence* received imprisonment.

---

<sup>6</sup> The average non-parole period includes those given 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 23 Percentage of cases within each offence group receiving suspended imprisonment or imprisonment, Supreme and District Courts, 2001.



Note: The above graph excludes those offence categories where the number of cases in 2001 was less than 40, namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences.*

- Table 3 and Figure 24 indicate the trend in non-parole periods handed down for murder since 1982. As all murders have a mandatory term of life imprisonment, the non-parole period provides a more accurate indication of effective sentence length.
- The average non-parole period increased up until 1986, after which time it briefly fluctuated before stabilising at approximately 19 years in the 1992 to 1999 period. This stabilisation may reflect the effect of the *Truth in Sentencing* legislation. Over the last several years, however, the average has started to drop, reaching approximately 16 years in 2001. However, caution should be exercised in interpreting these data because of the small number of murder cases dealt with each year.

Figure 24 Non-parole periods for sentences for murder, 1982 to 2001.

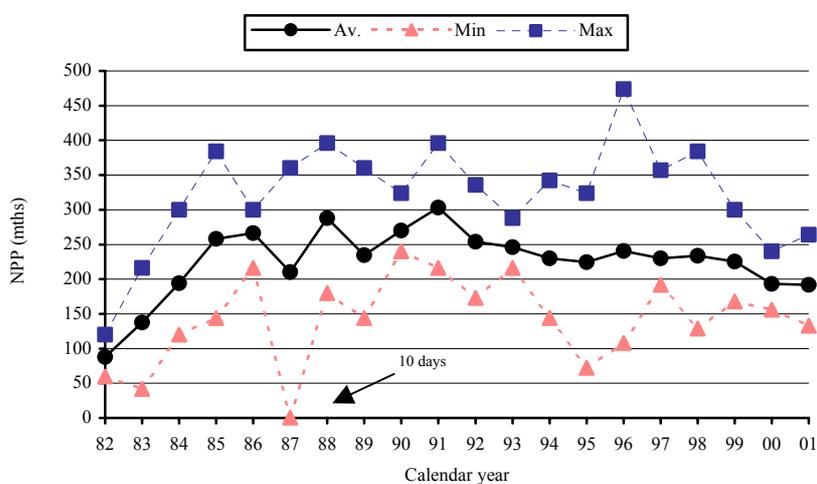


Table 3 Trend in non-parole period (in months) for life sentences for murder, 1982 to 2001.

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Av.	88.0	137.6	194.0	258.0	266.4	210.1	288.0	234.6	270.0	303.3
Median	84.0	141.0	162.0	252.0	264.0	240.0	288.0	204.0	258.0	300.0
Min	60	42.0	120.0	144.0	216.0	10days	180.0	144.0	240.0	216.0
Max	120.0	216.0	300.0	384.0	300.0	360.0	396.0	360.0	324.0	396.0
No.	3	10	6(2)	6(3)	5(1)	4(2)	2	7	4	11
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Av.	253.7	246.0	230.2	224.7	240.5	230.1	233.8	225.6	193.3	191.9
Median	246.0	240.0	222.0	234.0	228.0	210.0	240.0	216.0	192.0	216.0
Min	173.0	216.0	144.0	72.0	108.0	192.0	129.0	168	156	133.0
Max	336.0	288.0	342.0	324.0	474.0	357.0	384.0	300	240	264.0
No.	12(2)	4	11	11	13	10	12	5	9	7

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.
- In 2001, 128 out of the 354 cases imprisoned (36.2%) received sentences cumulative on other or existing sentences. Penalties additional to that for the major charge may be due to several factors:
    - the penalty for another charge may be made cumulative on one or more other charges in the case;
    - un-expired 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.
  - When total head sentences and non-parole periods for the entire case (rather than just the major charge) are examined, of the 354 head sentences, 65.5% were for periods of less than five years, 6.8% were for more than ten years but less than life, whilst 2.0% were for life. The vast majority (88.2%) of non-parole periods (excluding 24 cases<sup>9</sup> where a non-parole period was not set) were for periods of less than five years, whilst 7.6% were for periods between five and ten years, and 4.2% were for more than ten years.

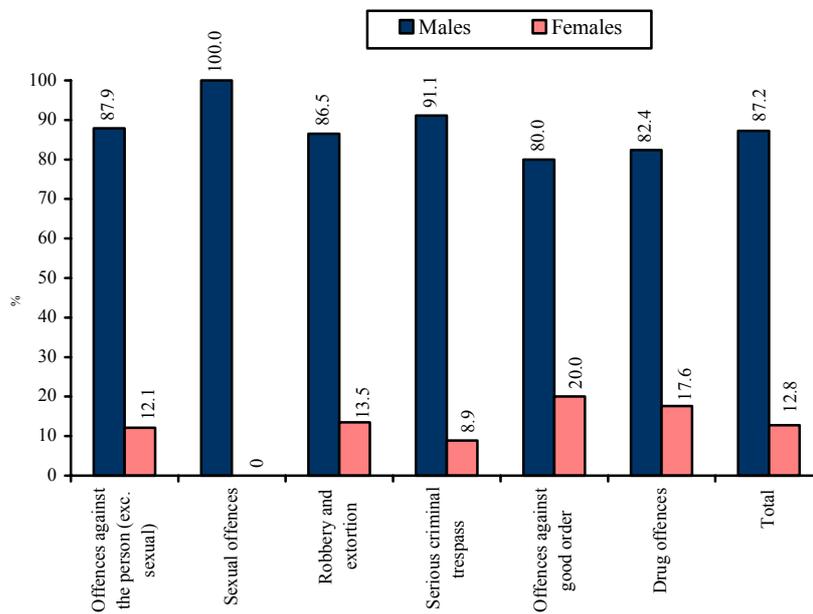
## Background of defendants

---

<sup>9</sup> 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.

- The majority of cases finalised in the higher courts in 2001 involved male defendants (87.2%). The average age of male and female defendants was very similar, at 30.7 years and 29.4 years respectively. Nine defendants were juveniles.
- As shown in Figure 25, males accounted for the majority of defendants in 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 and no females. The offence category with the highest proportion of females was *offences against good order* (20.0%).

Figure 25 Percentages of males and females per major offence charged, Supreme and District Courts, 2001.



Note: The above graph excludes those offence categories where the number of cases is less than 40 namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences*.

- There were 105 defendants whose appearance was judged at apprehension to be Aboriginal. They made up 11.5% of those for whom racial appearance information was available. The number of defendants of Aboriginal appearance represented a rate of 8.1 per thousand

Aboriginal population, whilst the corresponding figure for those of non-Aboriginal appearance was 0.8 (based on the 2001 Census figures).

- There were differences in the offence profiles of the two racial appearance categories, with *offences against the person* and *serious criminal trespass* being listed as the major charge in a higher proportion of Aboriginal than non-Aboriginal appearances. For *offences against the person* the figures were 23.8% for cases involving Aboriginal persons compared with 14.5% for non-Aboriginal cases, while for *serious criminal trespass* the proportions were 34.3% and 18.7% respectively. In contrast, *drug offences* featured in a significantly smaller proportion of Aboriginal cases than non-Aboriginal cases (2.9% versus 32.0% respectively).
- In 2001, just over one fifth of defendants (22.8%) had no prior convictions which was consistent with the 23.3% recorded in the previous year. At the other end of the spectrum, 9.7% had 50 or more prior convictions.
- On average, defendants had 17.2 prior convictions. The average varied depending upon the offence group, with defendants charged with sexual offences or drug offences having the lowest average number of priors (13.1 and 10.5 respectively). In comparison, persons with a major charge of serious criminal trespass had an average of 24.7 prior convictions.
- Approximately one third of defendants (33.7%) had been imprisoned at some point in their past. Again, the proportion varied depending upon the major offence charged, with 22.5% of persons with a major charge of a *drug* offence having been imprisoned before compared with 45.8% of persons with a major charge of *serious criminal trespass*.
- For those cases where relevant information was available, just under two thirds of the defendants (64.5%) were on bail at the commencement of proceedings in the Supreme and District Court, while the remainder were in custody. While the majority of defendants with a major charge of a *drug* or *sexual offence* were on bail (81.9% and 73.0% respectively), only 30.0% of defendants in the *robbery and extortion* group were on bail.
- Overall, 50.1% of final pleas to the major charge were *guilty*, but there were wide variations between the offence groups. A relatively high proportion of those with a major charge of a *drug* offence pleaded guilty (60.7%), as did two thirds of those with an *other* offence (eight out of 12), 15 out of 24 charged with *fraud and misappropriation* and

16 out of 26 in the *larceny and receiving* group. The group with the lowest percentage of *guilty* pleas was that involving offences *against the person* (35.6%). Similarly, only 38.5% of defendants with a major charge of an *offence against good order* pleaded *guilty*. Much of the latter 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 of these defendants fail to show cause why their breach should be excused, and are assigned to the *no plea* category. In total, 41.5% of cases in the *offences against good order* group fell within the *no plea* category.

- In terms of the number of cases finalised per month, the Supreme Court ranged from two finalisations in August to a peak of eight cases in February, April and June 2001, with an average of 5 per month. In contrast, the District Court completed an average of 73.7 cases per month, with the lowest number of finalisations occurring in April (50 cases) and the highest number in June (121 cases).

### 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 2001;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 2001.

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 2001 data with that contained in reports produced prior to 1996.

#### **Imprisonment**

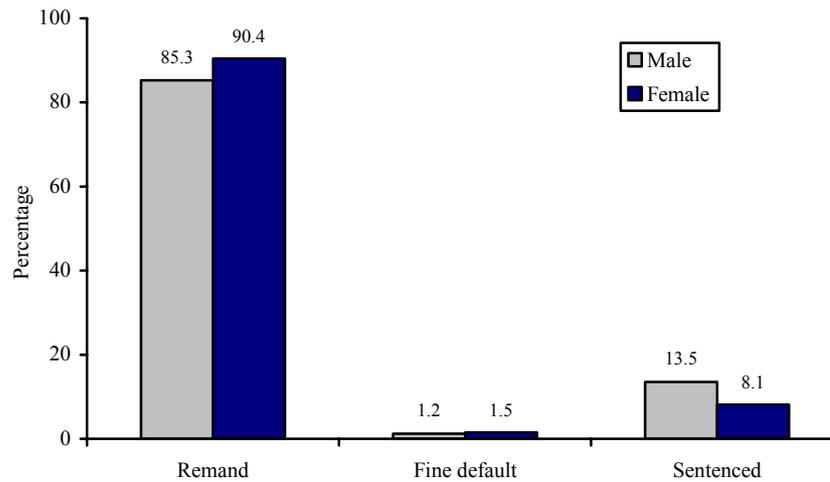
##### ***Prison receptions***

- In 2001, there were 3,688 prison receptions. This figure was 7.0% higher than the 3,448 recorded in 2000, but was still well below the peak of 7,618 recorded in 1992.
- Where legal status was known, 12.9% of receptions involved sentenced prisoners, 1.2% were fine defaulters and 85.9% were on remand. When compared with the previous year, in 2001 a lower proportion of prison receptions involved fine defaulters (1.2% in 2001 compared with 2.4% in 2000) and a higher proportion involved remandees (85.9% compared with 84.4% in 2000). The proportion involving sentenced prisoners was also slightly lower (12.9% compared with 13.1% in 2000).
- After a substantial decrease in 2000 (from 959 in 1999 to 84) the number of prison receptions for fine default decreased again in 2001 (down to 44). These reductions were 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 may confirm the initial penalty, remit it in whole or in part, or revoke it and order community service, driving disqualification or cancellation of driver's 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 2001.

- The overwhelming majority of receptions in 2001 involved males (89.0%), although this varied slightly from 86.4% for fine defaulters to 88.5% for remand receptions to 93.2% for sentenced prisoners respectively.
- As shown in Figure 20, for those admissions where information of gender and legal status was recorded, a higher proportion of female than male admissions involved remandees. Conversely, a lower proportion involved sentenced prisoners. A similar proportion of males and females were admitted for defaulting on a fine.

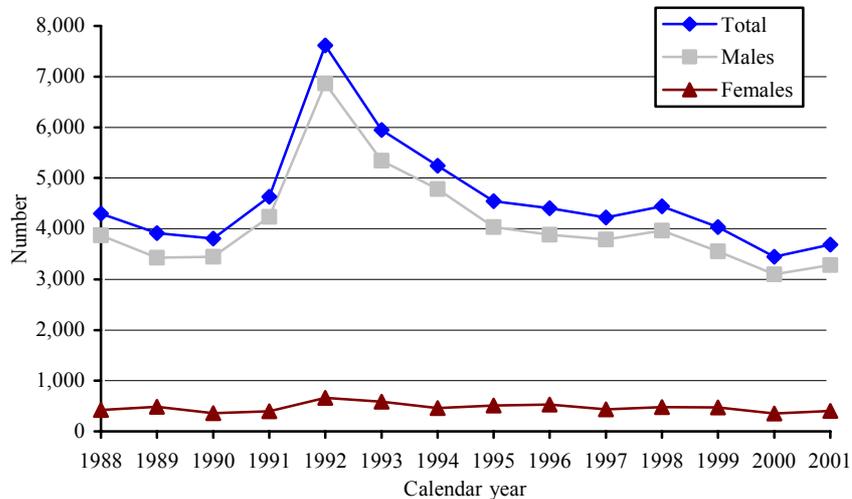
Figure 20 Prison receptions: legal status of prisoner by sex, 2001



- As shown in Figure 21, there was a strong upward trend in the total receptions from 1990 to 1992, followed by a general decrease until 2000. This downward trend was reversed in 2001, with an increase of 7.0%. Despite this increase, the 2001 figure of 3,688 was well below the peak of 7,618 recorded in 1992.
- The trend in male receptions mirrors that observed for total receptions. After decreases in 1999 and 2000 (by 10.2% and 12.9% respectively), the number of male receptions in 2001 increased by 6.0%. However, the 3,283 male admissions recorded in 2001 was still considerably 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 generally remained more stable over time, despite the inevitable annual fluctuations. Following a substantial decrease of 26.3% in 2000 (from 475 in 1999 to 350) the number of female admissions increased in 2001 by 15.4%. However, the 404 female admissions recorded in 2001 was still substantially lower than the peak observed in 1992 (n=664).

- The increase in male receptions in 2001 was due to an increase in the number of remandees (from 2,624 in 2000 to 2,765 in 2001) and in the sentenced category (from 400 in 2000 to 437 in 2001). While the decline in the number of male admissions in the fine default category continued in 2001, this was not sufficient to offset the increases in the remand and sentenced categories.
- The increase in female receptions in 2001 compared with 2000 can also be attributed to a substantial increase in the number of remand receptions (up by 25.2%, from 286 in 2000 to 358 in 2001). There were small reductions in the number of female admissions in the sentenced and fine default categories, but these were not sufficient to offset the increase in the female remand receptions.

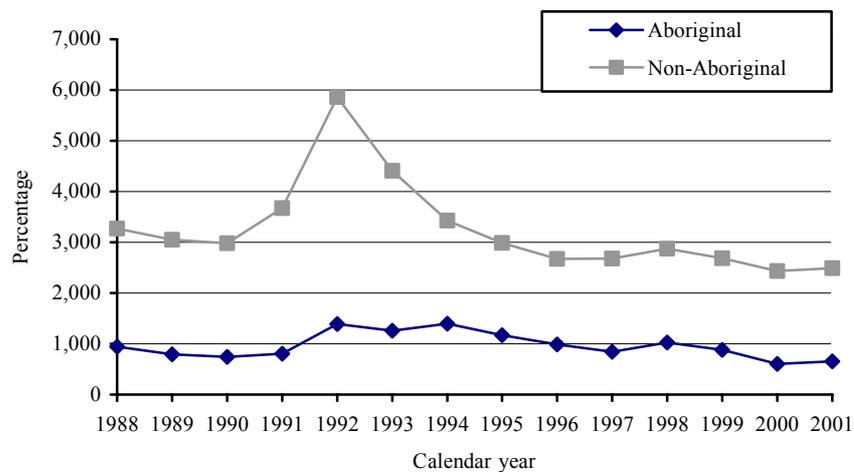
Figure 21 Trends in the number of male and female prison receptions, 1988 to 2001.



- For those 3,684 receptions where age was known, almost one half (46.1%) involved persons aged 20 to 29 years. Proportionally fewer males than females were in this age group (45.5% compared with 51.2% respectively). Those in the older age groups (notably 50 years and over) accounted for only 3.4% of all receptions, 3.7% of male receptions compared with 1.2% of female receptions.

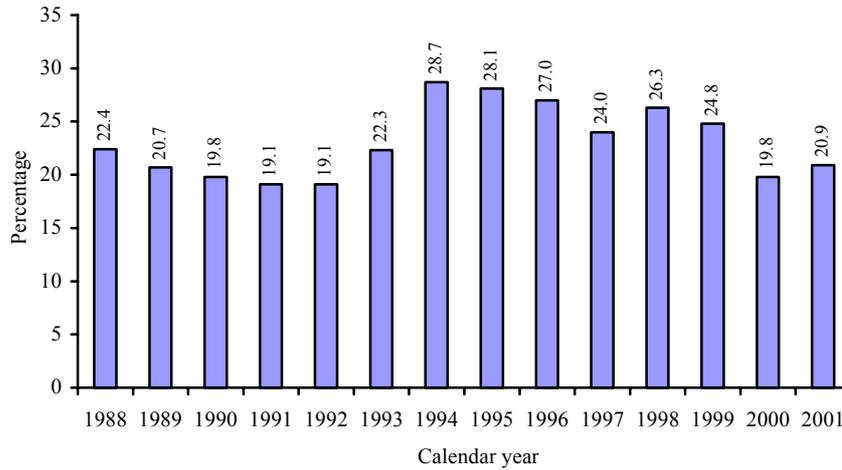
- In 2001, persons identified as Aboriginal constituted 20.9% of the 3,145 prison receptions where information on racial identity was recorded. However, this varied from one legal status category to another, with Aboriginal persons accounting for 9.4% of fine defaulters and 12.4% of those admitted as sentenced prisoners compared with 22.0% of remandees.
- As indicated in Figure 22, the number of Aboriginal admissions was relatively high in the 1992 to 1994 period, but decreased in 1995, 1996 and 1997 and again in 1999 and 2000. This downward trend was not sustained in 2001, with a 9.1% increase in the number of Aboriginal admissions (up to 657). However, the number of Aboriginal admissions recorded in 2001 was still 52.9% 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, with numbers remaining fairly stable since then. Despite a slight increase in 2001 (up 2.3% to 2,488), non-Aboriginal admissions remain comparatively low.

Figure 22 Trends in the number of Aboriginal and non-Aboriginal prison receptions, 1988 to 2001.



- Figure 23 shows that the number of Aboriginal receptions as a percentage of all receptions where racial identity was known was slightly higher in 2001 than in 2000 (20.9% compared with 19.8%). However, the 2001 figure was lower than the peak recorded in 1994, when Aboriginal persons accounted for 28.7% of all prison receptions.

Figure 23 Prison receptions: proportion involving Aboriginal persons, 1988 to 2001.



- Overall, the age profiles of the two racial groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (49.5% and 45.1% respectively) involving persons aged between 20 and 29 years, and relatively few (0.9% and 3.5% respectively) aged 50 years and over.

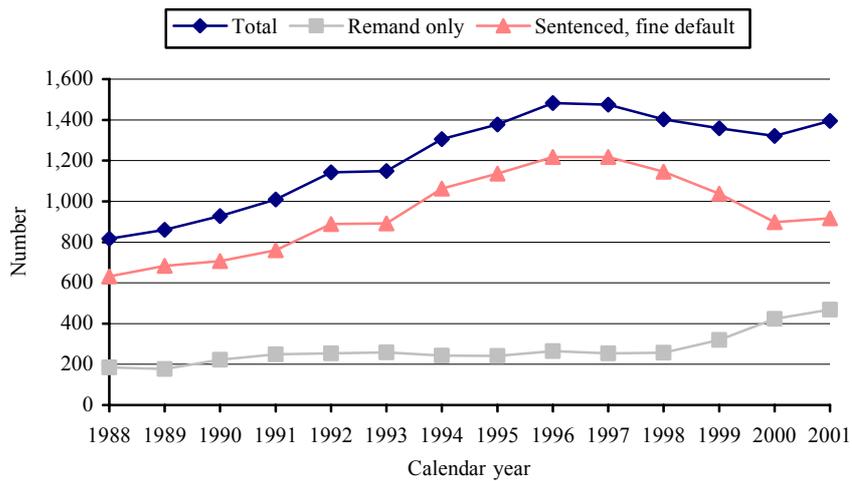
**Daily averages**

- 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 2001 are detailed in Tables 4.10 to 4.15.

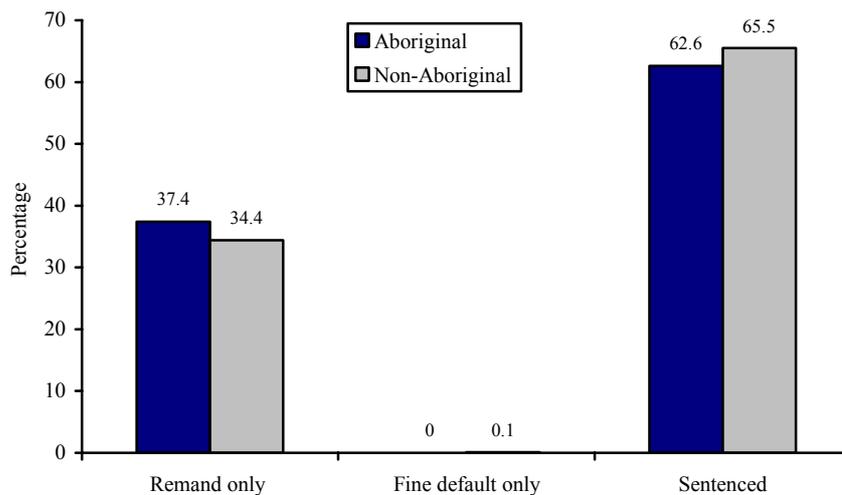
- On average, on each day in 2001, there were 1,395 prisoners held in the State's prisons and adult remand centres. Of those for whom information on legal status was recorded, the majority (916 or 66.1%) were serving a prison sentence imposed by the courts, while 469 (33.8%) were on remand.
- Longitudinal trends in average daily occupancies are depicted in Figure 24. As shown, these 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. Between 1996 and 2000 daily averages decreased (down to 1,321). However, in 2001 this downward trend was reversed. The average daily occupancy figure recorded in 2001 was 5.6% higher than that recorded in 2000.
- 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. After 1996 daily averages for sentenced/fine defaulters decreased steadily until 2001, when a slight increase of 2.1% was recorded. In contrast, after remaining relatively stable between 1991 and 1998, daily averages for remandees increased in 1999 and 2000 and then again in 2001 (to 469, an increase of 10.9% compared with 2000).

Figure 24 Daily averages by legal status: 1988 to 2001



- In 2001 males accounted for 94.0% of the daily average, with a rate of 2.33 per 1,000 adult male population compared with only 0.14 per 1,000 adult female population.
- On average, 232 Aboriginal persons were held in custody each day in 2001, which represents 18.8% 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 2001 a slightly lower proportion of Aboriginal persons were serving a custodial sentence (62.6% compared with 65.5% of non-Aboriginals) while a slightly higher proportion were on remand (37.4% compared with 34.4%). As a result, for those cases where legal status and racial identity were recorded, Aboriginals accounted for 20.1% of the daily average number of 'remand only' prisoners but a lower 18.1% of sentenced prisoners.

Figure 25 Daily averages: legal status by racial identity, 2001.

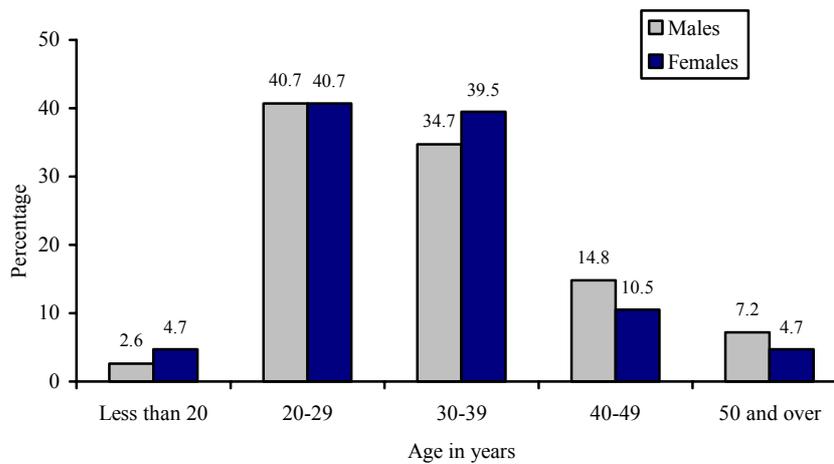


### *Census figures*

- At midnight on 31 December 2001, there were 1,391 prisoners in custody. This figure was slightly lower than the daily average recorded for 2001 (n=1,395) 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 2001 was substantially higher than the 1,284 prisoners held one year earlier on 31 December 2000 and the 1,275 held in December 1999. However, the 2001 figure was still lower (by 3.9%) than the number in custody on 31 December 1996 (n=1,447). Remandees accounted for 31.1% of those for whom information on legal status was recorded, while almost seven in ten (68.9%) were sentenced prisoners.
- The majority of persons held in custody on 31 December 2001 were male (93.8%). For every 1,000 adult males in the South Australian population, 2.32 were in custody on that particular day compared with only 0.15 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 (40.7%) of those held in custody on 31 December 2001 for whom age was recorded. A further 35.0% were aged 30 to 39 years. Only a very small proportion (7.1%) were 50 years of age and over. This age profile was generally consistent for both males and females although, as Figure 26 indicates, a slightly higher proportion of females were in the under 20 years and 30 – 39 years age groups, while a lower proportion were aged 40 years or more.

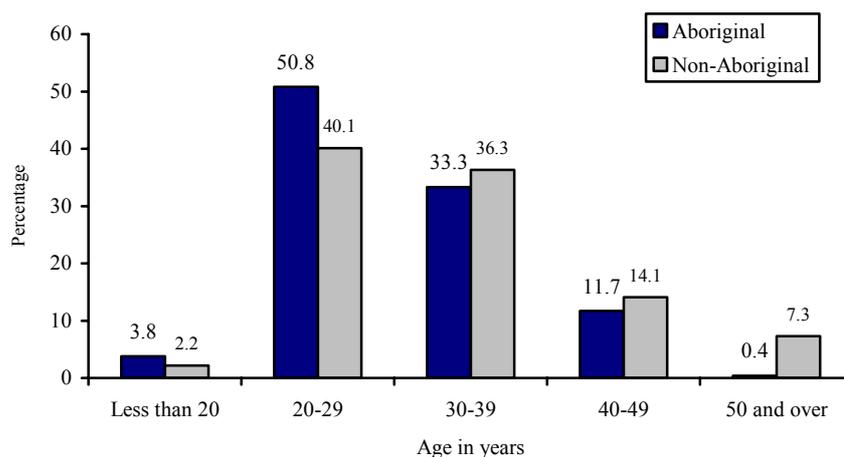
Figure 26 Persons in custody on 31 December 2001: age by sex



- Aboriginal persons accounted for 19.6% of the 1,227 persons in custody on 31 December 2001 for whom racial identity was recorded. This was slightly higher than the previous year, when they represented 18.2% of all persons incarcerated on 31 December 2000.
- However, this proportion varied depending on the sex of the prisoner. Excluding those cases where racial identity was not recorded, Aboriginal males accounted for 19.1% of all males in custody on that day (compared with 17.8% in 2000), whereas Aboriginal females accounted for 27.5% of all females in custody (compared with 28.0% in 2000).

- Given that, at the time of the 2001 census Aboriginal males and females represented only 1.18% and 1.19% of the State's adult population respectively, this means that the extent of imprisonment of Aboriginal women was 23.1 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 16.2 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 92.1% of all Aboriginal prisoners and 94.9% of all non-Aboriginal prisoners in custody on 31 December 2001.
- 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 2001, 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 (54.6% compared with 42.3% respectively) and a lower proportion aged 40 years and over (12.1% compared with 21.4% respectively).

Figure 27 Persons in custody on 31 December 2001: age by racial identity



### *Escapes from custody*

- In 2001, five prisoners escaped from custody. This was higher than the number recorded in 2000 (2) but lower than the number recorded in 1998 or 1999 (9 and 18 respectively). All five escapes were from institutions (two from Cadell Training Centre and one each from James Nash House, Mount Gambier Prison and Pt Lincoln Prison) rather than from escort.
- The overall escape rate recorded in 2001 was 0.36 per 100 prisoners, compared with 0.15 in 2000, 1.32 in 1999, 0.64 per 100 prisoners in 1998 and 1.1 recorded in both 1997 and 1996.

### *Prison discharges*

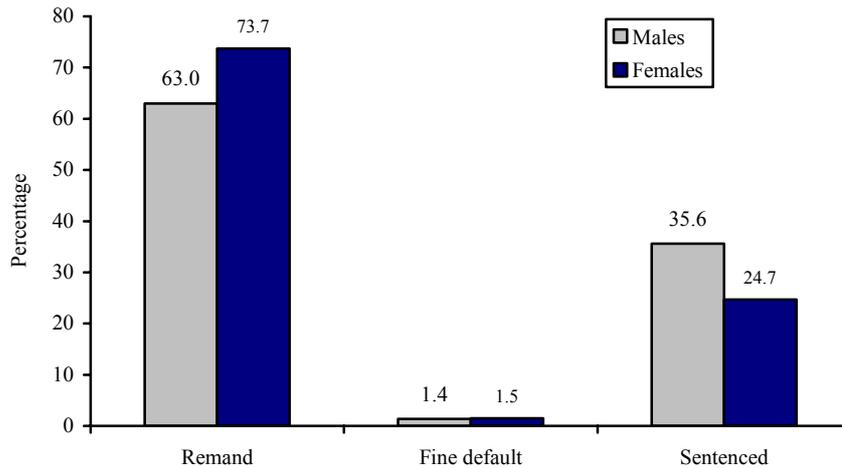
- In 2001, there were 3,604 persons<sup>11</sup> discharged from custody, the majority of whom were males (89.0% of the total).
- Of the 3,593 persons discharged in 2001 where legal status was recorded, approximately one third (1,237 or 34.4%) were serving a prison sentence at the time of their release. A further 2,304

<sup>11</sup> 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.

(64.1%) were discharged from remand and 52 (1.4%) were discharged after having 'cut out' a fine.

- 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, while a lower proportion were identified as sentenced prisoners.

Figure 28 Prison discharges: legal status by sex, 2001

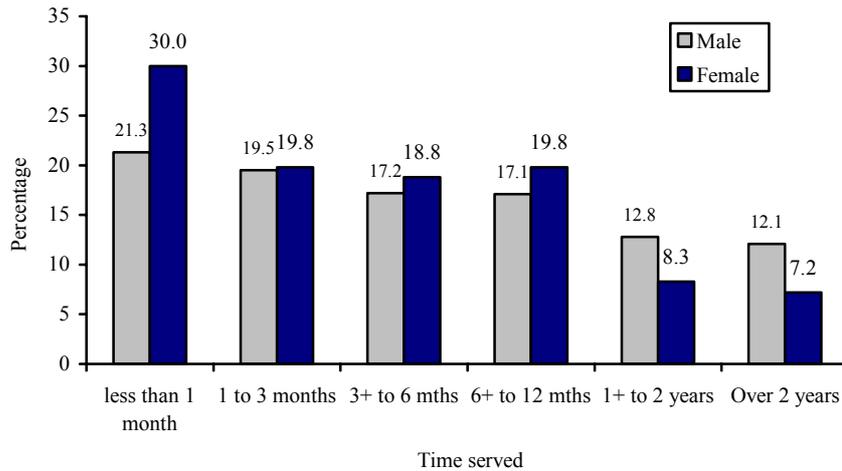


- As would be expected given the earlier data presented on prison receptions and census figures, of those persons discharged from custody for whom age was recorded, just under one half (45.7%) were aged 20 to 29 years while only 3.5% were aged 50 years and over.
- Of the 3,203 discharges where racial 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 and 19.7% of all sentenced prisoners discharged.
- Tables 4.22 to 4.23 in Section 4 of this report detail the amount of time served by sentenced 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).

- In previous reports, separate information was provided for fine defaulters and sentenced prisoners. However, because of the very small number of fine defaulters now entering and leaving the prison system (with 52 discharges in 2001), these tables have been deleted. However, it is worth noting that in 2001, of the 52 fine defaulters discharged from prison, the majority served only a relatively short period, with 46 (88.5%) in prison for less than 15 days and 4 (7.7%) in prison for two to four weeks. Only two fine defaulters discharged during 2001 were incarcerated for more than four weeks. This applied to both males and females alike, with 40 of the 46 male fine defaulters (87.0%) and all six female fine defaulters having served less than two weeks at the time of discharge.
- Of the 1,237 sentenced prisoners discharged in 2001, the majority were imprisoned for relatively short periods of time. More specifically, 21.8% spent less than one month in prison, while 41.3% were in prison for three months or less and 58.6% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 3.5% incarcerated for more than five years.
- As shown in Figure 29, a lower proportion of males served less than one month while proportionately more served over one year at the time of their discharge.

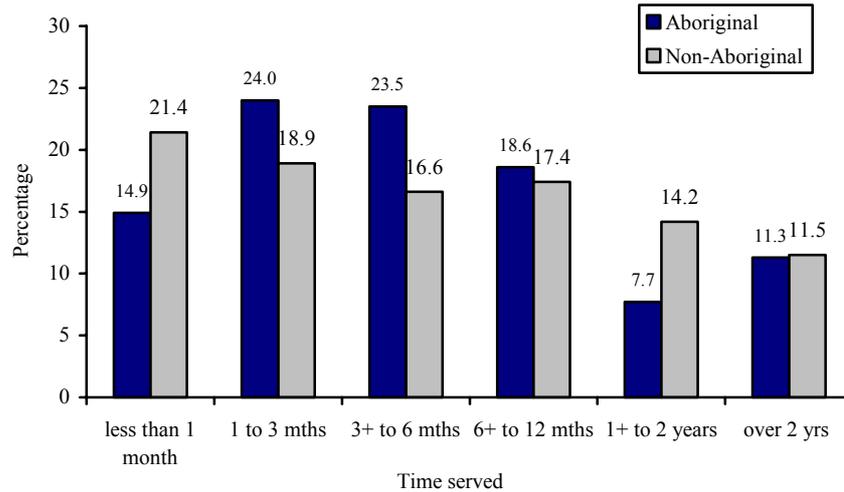
Figure 29 Prison discharges: time served by sex of sentenced prisoners, 2001.



- The most serious offence types for which sentenced prisoners were being held at the time of their discharge were *offences against justice procedures*, which were listed as the major offence in 30.5% of all discharges. This category was followed by *serious criminal trespass* (13.6%), *licence/registration offences* (12.2%), *fraud* (8.6%) and *assault* (8.1%).
- As expected, there was a strong association between the nature of the offence and the time served. To illustrate, of the 151 discharges involving a *licence/registration* offence, approximately one half (49.7%) involved periods of less than one month. At the other end of the scale, of the 168 discharges involving a *serious criminal trespass* offence, only 4.2% had served less than one month, while 29.2% 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* (63 or 5.1% of those discharges where the type of offence was recorded), nearly two-thirds of these (65.1%) involved terms of more than two years while none involved a period of less than one month.
- There were also some differences between male and female sentenced prisoners in relation to the major offence for which they were being held at the time of discharge. Most notably, a much higher proportion of female discharges involved *fraud offences* (16.7% compared with 8.0% of male discharges where this information was recorded) while a lower proportion involved *licence/registration offences* (5.2% compared with 12.7% 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 lower percentage of Aboriginal prisoners than non-Aboriginal prisoners served very short orders of less than one month, and long orders of over 1 year. Conversely, Aboriginal sentenced prisoners were more likely to serve mid-range periods of between one and 12 months.

Figure 30 Prison discharges: time served by racial identity of sentenced prisoners, 2001

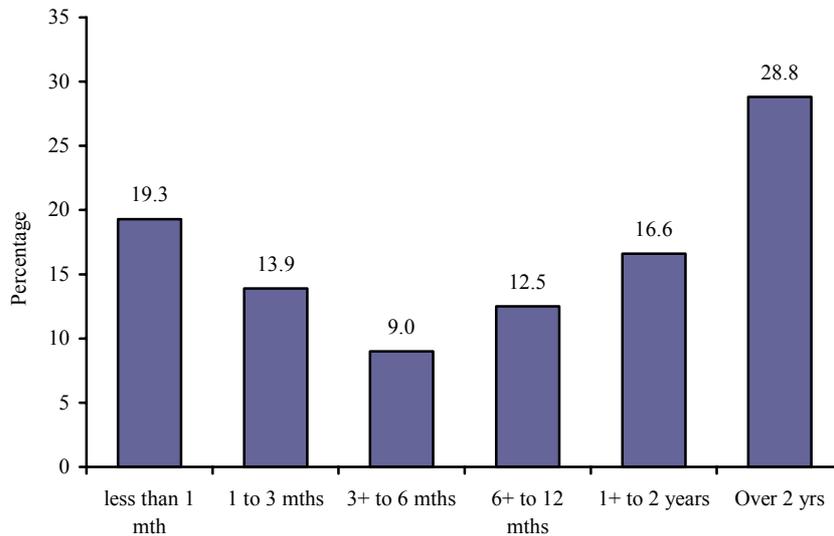


- There were also some differences between the two racial groups in terms of the major offence for which sentenced prisoners were being held at the time of discharge. While the most prominent offence for both groups was *offences against justice procedures* (30.3% and 31.1% of Aboriginal and non-Aboriginal discharges respectively), a higher proportion of Aboriginal sentenced prisoners were being held for *assault* (15.4% compared with 6.2% of non-Aboriginal sentenced prisoners).
- Tables 4.24 and 4.25 in Section 4 of this report detail the aggregate (or head) sentence listed for those sentenced prisoners discharged during 2001. 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 considered for release. 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, over half (54.7%) of prisoners discharged in 2001 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 16.6% received a head sentence of over one year to two years, while a further 28.8% received a head sentence of more than two years. A small number (25 of the 1,237 discharges recorded in 2001) had a head sentence of over 10 years, including seven sentenced to life imprisonment for *homicide*.

Figure 31 Prison discharges: length of aggregate (or head) sentence for sentenced prisoners, 2001



### Community-based Corrections

### *Orders<sup>12</sup> commenced during 2001*

- Tables 4.26 to 4.32 in Section 4 of this report contain data on community correction orders supervised by the Department for Correctional Services. It should be noted that some changes have been made to the 2001 tables. In previous years, there were three categories relating to community service orders; 'stand alone' community service orders, CSO as fine option and CSO (expiation notice). These last two categories have been replaced with the single category of *Financial Penalty expiated through Community Service*.
- These changes were necessary due to legislation 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. 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. In the 2000 report, persons in these circumstances after March 2000 were recorded against the 'stand alone' community service order category. However, in the 2001 report, they have been recorded in the new category of *Financial penalty expiated through Community Service*.
- During 2001, a total of 10,350 community-based correction orders were commenced. Over one half (54.5%) of these orders involved some form of community work. This included stand-alone community service orders (24.8%), as well as instances where a financial penalty was expiated through community service (29.7%). At the other end of the scale, only 6.8% of orders involved home detention, generally as part of a bail agreement (3.9%) or for sentenced prisoners released from gaol

---

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

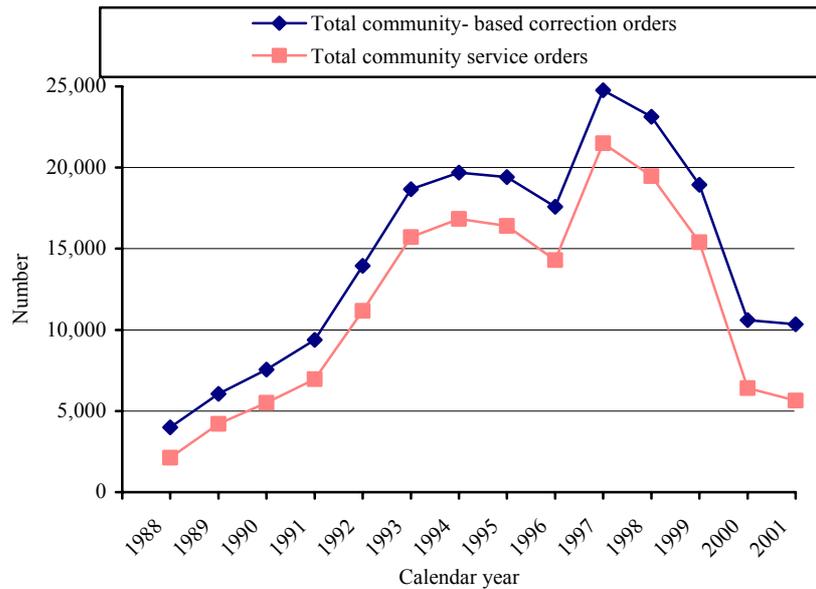
(2.8%). There were also 11 orders involving a home detention bond<sup>13</sup>.

- The 10,350 community-based correction orders commenced in 2001 involved 8,207 discrete individuals, giving an average of 1.26 orders per individual. The total number of individuals who commenced a community-based correction order in 2001 was 5.1% lower than in 2000 and 47.9% lower than the 15,738 persons recorded in 1999.
- Males accounted for 79.0% of those individuals for whom sex was recorded and 80.2% 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 (21.4% of all orders commenced) is too high to permit any meaningful analysis.
- The longitudinal trend in the total number of community-based correction orders is outlined in Figure 32. As shown, the number of community-based correction orders commenced in a given year increased substantially between 1988 and 1997 before declining in the 1998 to 2000 period. While numbers also declined in 2001, the size of this last decrease was relatively slight only 2.4% fewer than the 10,601 recorded in 2000 however, the 10,350 orders commenced in 2001 was 58.2% lower than the peak recorded in 1997.

Figure 32 Community-based correction orders and community service orders commenced 1988 to 2001

---

<sup>13</sup> 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.

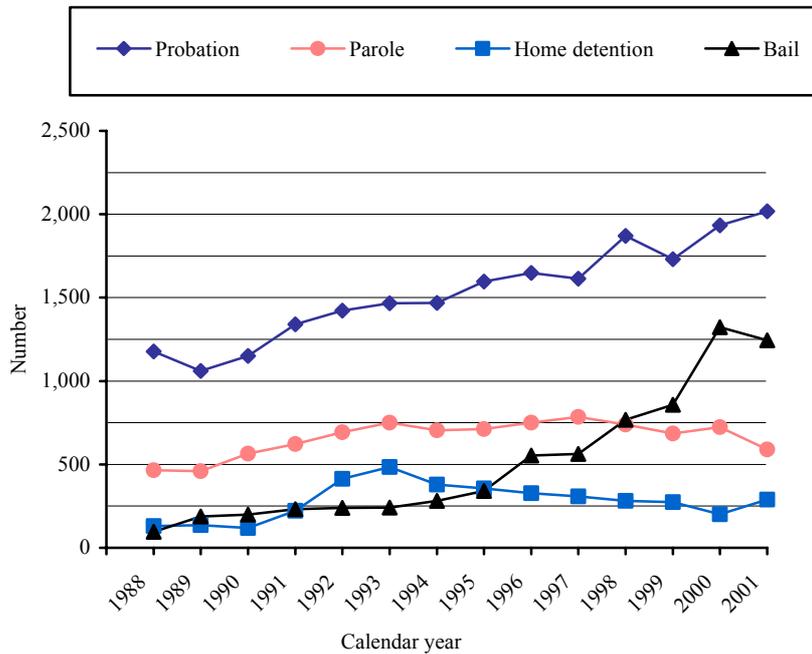


- Also shown in Figure 32 is the total number of community service orders completed between 1988 and 2001. This includes 'stand alone' community service orders, CSO (fine option) and CSO expiation notices commenced in the years up to and including 2000, as well as the Financial Penalty expiated through community service orders that replaced them in 2001. As indicated, community service orders have consistently made up the majority of community-based correction orders, with the trends parallel over the period depicted.
- The sharp upsurge in the number of community service orders 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.
- There were further 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. As a result of these changes, the number of community service orders commenced decreased substantially by 63.4% from 15,401 in 1999 to 5,644 in 2001.

- Figure 33 shows trends in the number of other types of community-based correction orders commenced between 1988 and 2001. It should be noted that the category of bail also includes home detention bail.

Figure 33 Number of selected community-based correction orders commenced by type of order, 1988 to 2001



- The number of parole orders showed a general upward trend from 1988 to 1997. Since then, despite some fluctuation in 2000, they have generally declined, with the 2001 figure of 590 being 24.8% lower than the peak of 785 recorded in 1997.
- Probation orders have increased steadily since 1988, with the 2,017 such orders recorded in 2001 being the highest in the 14 years depicted in Figure 33.

- The number of prisoners placed on home detention has remained relatively low, with a period of increase up to 1993 followed by a period of decline until 2000. Hence, although numbers increased in 2001 (by 43.8% from 201 to 289), they were still below the peak of 484 recorded in 1993.
- Bail orders showed a generally upward trend during the period 1988 to 1999, followed by a sharp increase in 2000 (by 54.2% from 858 to 1,323). In 2001, a drop of 5.6% (to 1,245) was recorded. This was the first decrease recorded in the 14 years depicted.

#### ***Persons supervised at 31 December 2001***

- On the 31<sup>st</sup> December 2001, the Department for Correctional Services was supervising 6,680 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 2001 was that of probation, with 2,505 individuals registered on that day. This equates to 37.5% of all discrete persons under Department for Correctional Services community-based supervision on that particular day.
- There were also 2,128 individuals (31.9% of all discrete individuals) recorded in the new category of *Financial penalty expiated through Community Service* and 1,479 serving a 'stand alone' community service order.
- At the other end of the scale, only 65 persons (1.0% of all discrete individuals) were sentenced prisoners on home detention while 342 (5.1%) were on bail, either with or without a home detention component.
- The total number of persons under supervision on 31 December 2001 (n=6,680) was 1.2% higher than the 6,604 individuals being supervised on 31 December 2000. When the number within each

type of order are summed, total orders supervised in 2001 was also slightly higher than in 2000 (7,628 compared with 7,399 respectively).

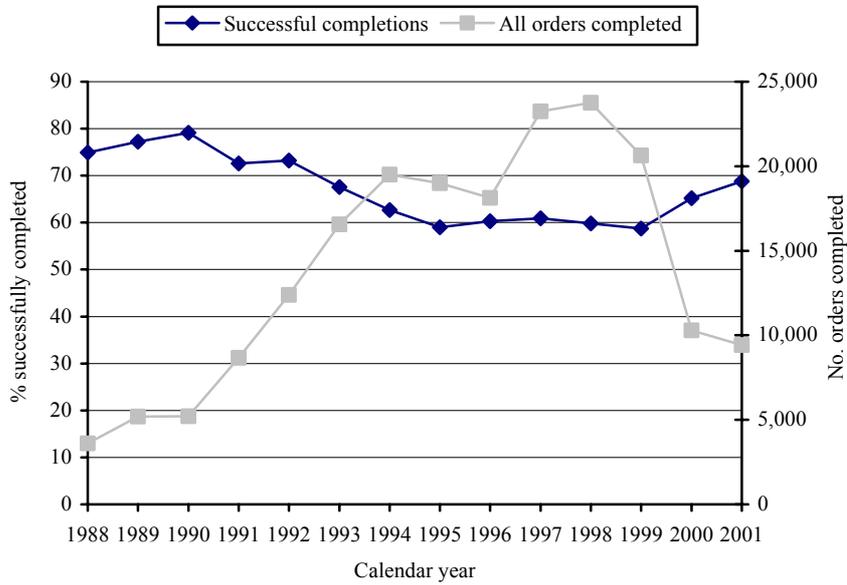
- In 2001 decreases were observed in several categories in comparison with 2000. The number of persons serving any type of community service order decreased by 56.1% (from 3,366 in 2000 to 3,607 in 2001). This substantial decrease was most likely due to the legislative changes, as well as the subsequent changes in recording practices in 2000 and 2001, which have been described previously. The number of persons on bail at 31 December 2001 (including home detention bail) was 8.9% lower than in 2000, and the number of persons on parole was 12.9% lower.
- In contrast, the number of persons on probation in 2001 was 5.0% higher than in 2000 and the number of persons on home detention increased from 58 in 2000 to 65 in 2001.
- Males accounted for eight in ten (80.1%) of all discrete individuals supervised on 31 December 2001 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 the new category of *financial penalty expiated through community service* (34.9% compared with 26.2% respectively) and probation (37.5% compared with 31.7% respectively). In contrast, a higher proportion of males than females were on parole (13.4% of all male 'orders' supervised on 31 December 2001 compared with 3.9% of all females 'orders').
- Because information on racial identity was not available for 19.5% of all discrete individuals under supervision, the data contained in Tables 4.29a and 4.29b in Section 4 should be interpreted with extreme caution.

#### ***Orders completed during 2001***

- The number of community-based correction orders completed (either successfully or otherwise) decreased in 2001 (from 10,293 in 2000 to 9,420). Of these 9,420 orders, the majority (68.8%) were completed successfully, while one third (31.1%) were revoked, estreated or breached. This is slightly less than

observed in 2000, when 33.0% of orders were revoked or estreated.

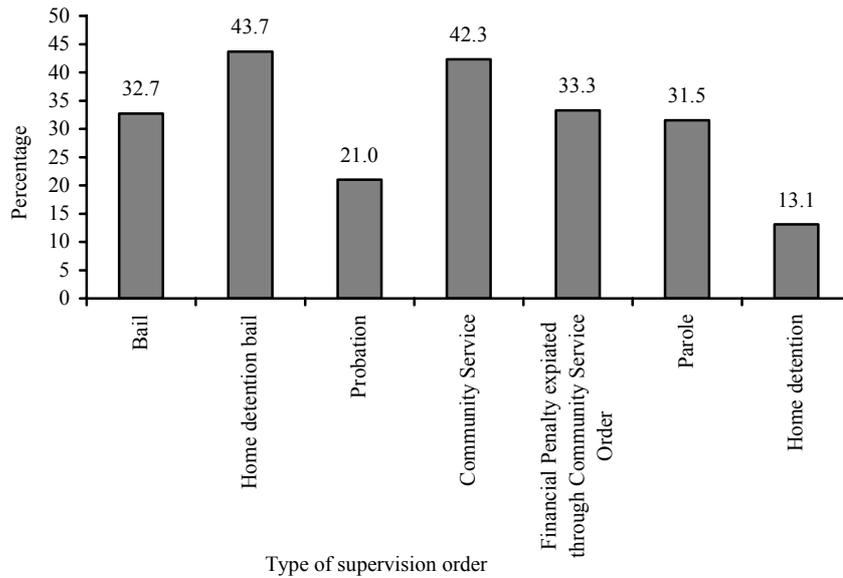
Figure 34 Community-based correction orders completed and the percentage completed successfully, 1988 to 2001



- Figure 34 shows that, until 1999, 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 1998, the number of orders completed had increased more than five-fold, but the proportion of successful completions had more than halved. However, in 2000, the number of orders completed decreased substantially, while the proportion successfully completed rose to 65.2%. This trend continued in 2001, with the number of orders completed decreasing by 8.5%, but the proportion that were completed successfully rising to 68.8%.
- The extent to which orders were estreated or revoked in 2001 varied depending on the type of order involved. As indicated in Figure 35, the highest level of estreatment or revocation was

recorded for home detention bail orders (43.7%), followed by community service orders (42.3%) and Financial Penalty expiated through community service (33.3%). In contrast, only 13.1% of the home detentions completed by sentenced prisoners were estreated in 2001.

Figure 35 Community correction orders completed in 2001: 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 2001, 31.3% of orders involving males were estreated or revoked, as were 30.6% of orders involving females.