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ADULT COURTS AND
CORRECTIONS

OFFICE OF CRIME STATISTICS AND RESEARCH

Attorney-General's Department

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PREFACE

Crime and Justice in South Australia, Adult Courts and Corrections is the final volume of a three volume report on crime and criminal justice statistics in South Australia which, in one form or another, has been published annually by the Office of Crime Statistics 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 2002;
- The daily average number of prisoners during 2002;
- Persons in custody at 31 December, 2002;
- Prisoners discharged during 2002;
- Community based correction orders commenced during 2002; and
- Community based correction orders completed during 2002.

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

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INTRODUCTION

This report, covering the period 1 January 2002 to 31 December 2002, is the sixteenth *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 2002 Statistics

Magistrates Courts

- During 2002, there were 30,359 cases finalised in the Magistrates Court, which is 12.9% higher than the 26,901 cases finalised in 2001.
- *Driving offences* were listed as the major charge in approximately one quarter (24.5%) of these cases, while *offences against good order* accounted for a further 19.0% and *larceny and receiving offences* for 13.9%. At the other end of the scale, very few cases involved either a *sexual offence* (1.2%) or *robbery and extortion* (0.8%). In addition, 5.2% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2002, 1,006 (3.3%) were committed to the District or Supreme Court for trial or sentence. This number is 3.4% higher than the 975 cases committed in 2001 but 43.7% 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 2002, over half of all cases finalised in the Magistrates Court (51.8%) resulted in the defendant being convicted of the major charge. In a further 13.3% of cases, the defendant was found guilty of the major charge but was not convicted.

- In just over one quarter of cases (27.0%) the major charge was either withdrawn by prosecution or dismissed. However, in 17.3% of the cases where the major charge resulted in an acquittal, dismissal or withdrawal, there was a finding of guilt to a lesser or other charge.
- In total then, of the 29,351 cases finalised in the Magistrates Court (excluding those committed to a higher court) just under three quarters (72.8%) resulted in a finding of guilt to at least one charge.
- Of the 1,571 applications for *restraining, domestic violence or paedophile restraining orders* finalised in 2002, 1,003 (63.8%) resulted in the issuance of that order.
- Of the 21,364 cases finalised in 2002 by way of a conviction or a finding of guilt to at least one charge, approximately one third (34.2%) received a fine as the major penalty, while one quarter (25.4%) resulted in a driver's license suspension. Overall, 4.4% of cases resulted in direct imprisonment while 9.9% 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 65 weeks).
- Although females featured in only a small proportion (17.%) of cases finalised in 2002, their level of involvement varied depending on the type of offence. For example, females accounted for only 1.9% of those cases in which a *sexual offence* was listed as the major charge, but 33.5% of all cases involving *fraud and misappropriation*.
- Just under two fifths (39.8%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while relatively few (6.7%) were aged 50 years and over.
- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (263.1 per 1,000 adult Aboriginal population compared with 23.2 per 1,000 adult non-Aboriginal population respectively).
- Seven out of ten defendants (69.7%) in the Magistrates Court had at least one prior conviction, with an average of 12.6 previous convictions per defendant. Over one in five cases (19.6%) involved defendants who had previously been sentenced to imprisonment.
- In the 9,016 cases finalised at the first court hearing, only five defendants were remanded in custody at the time (0.1%). In contrast, 24.0% 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 34.3% had a lawyer. This rose to almost three quarters (74.50%) of those cases that required more than one hearing to finalise and 96.1% of those which were committed to a higher court for trial or sentence.

Higher Courts

- In 2002, there were 67 cases finalised in the Supreme Court and 921 finalised in the District Court, giving a total of 988. This was 4.7% higher than the number of cases disposed of in 2001.
- Considering the major charge per case indicates that the largest offence groups were the *drug offences* (29.9% of the total), *serious criminal trespass* (19.5%) and offences *against the person (excluding sexual offences)* (16.2%) categories.
- The majority of defendants (76.2%) pleaded or were found guilty of at least one charge at trial. In 58.4% of cases the defendant pleaded guilty to either the major or a lesser charge. In a further 14.8% of cases, a trial was held which resulted in either a plea or finding of guilt. In another 3.0% of cases the major charge was dropped but there was a guilty outcome for another or lesser offence.
- The two most frequently imposed penalties in 2002 were imprisonment, imposed in 45.9% of cases where one or more charges had an outcome of *guilty*, and suspended imprisonment (imposed in 39.6% of such cases).
- The group with the highest percentage imprisoned was *robbery and extortion*, in which 75.0% of defendants convicted received this penalty.
- Almost nine out of ten defendants (85.8%) were males, whose average age was 30.9 years. Females had an average age of 30.0 years.
- Persons of Aboriginal appearance made up 10.5% of defendants, with a rate of appearance of 7.8 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 8.9% had 50 or more previous convictions. Slightly less than one third (30.5%) had been imprisoned before.
- Just over one third of defendants (31.6%) were being held in custody at the commencement of proceedings.

Correctional Services

Imprisonment

Prison receptions

- In 2002, there were 3,723 prisoners received into custody, of whom 10.9% were sentenced prisoners, 0.5% were fine defaulters and 88.6% were on remand. The number of receptions in 2002 was 1.2% higher than recorded in 2001, but was still well below the peak of 7,618 recorded in 1992.
- In 2002, a slightly lower proportion of prison receptions involved sentenced prisoners (10.9% compared with 12.9% in 2001), or fine defaulters (0.5% of all receptions in 2002 compared with 1.2% in 2001). In contrast, the proportion of admissions involving remanded prisoners was marginally higher (88.6% in 2002 compared with 87.9% in 2001). The continuing decrease in the number of receptions involving fine defaulters is 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 2002 were male (90.5%) although this varied slightly from 90.3% for remand to 94.3% for sentenced prisoners.
- For those 3,714 receptions where age was known, almost one half (44.6%) involved persons aged 20 to 29 years, while those in the older age groups (notably 50 years and over) accounted for only 3.3%.
- Persons identified as Aboriginal accounted for 20.6% of the 3,246 prison receptions where information on racial identity was recorded. This figure was consistent for both sentenced and remand prisoners.

Daily averages

- Daily average prison numbers increased in 2002 (from 1,395 per day in 2001 to 1,458).
- The majority of the 1,458 prisoners were serving a prison sentence (971 or 66.9%), while 480 (33.1%) were on remand.
- In 2002, males accounted for 94.0% of the daily average prison population, with a rate of 2.40 per 1,000 adult male population, compared with only 0.15 per 1,000 adult female population.
- On average, 245 Aboriginal persons were held in custody each day in 2002, which represents 18.9% of those for whom racial identity was recorded.

Census figures

- At midnight on 31 December 2002 there were 1,457 prisoners in custody. Remandees accounted for 32.3% of those for whom information on legal status was recorded while almost seven in ten (67.6%) were sentenced prisoners.
- Males again dominated. For every 1,000 adult males in the South Australian population, 2.40 were in custody on that particular day compared with only 0.14 females per 1,000 adult female population.
- Aboriginal males accounted for 18.0% of all males in custody on 31 December 2002 (compared with 19.1% in 2001), while Aboriginal females accounted for 28.4% of all females in custody (compared with 27.5% in 2001).

Escapes from custody

- In 2002, five prisoners escaped from the custody of the Department for Correctional Services. This was the same number as recorded the previous year. Three escapes were from institutions while two were from escorts.

Prison discharges

- In 2002, there were 3,665 discharges from custody. Where legal status was known, 32.4% were, at the time of discharge, serving a prison sentence. A further 66.9% were discharged from remand and 0.7% were discharged after having 'cut out' a fine.
- A higher proportion of females were on remand at the time of discharge (80.7% compared with 65.5% of males), while a lower proportion were classified as sentenced prisoners (19.0% compared with 33.8% of males).
- Of the 1,182 sentenced prisoners who were discharged in 2002, 16.2% spent less than one month in prison, while 35.4% were in prison for three months or less. At the other end of the scale, only 1.6% 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 111 discharges involving a *license/registration* offence, almost one half (44.1%) were for periods of less than one month. However, of the 178 sentenced prisoners discharged after serving sentences for *serious criminal trespass*, only 4.5% had served less than one month, while 36.0% involved terms of more than one year..
- 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 30.4% of the discharges where the type of offence was recorded, followed by *serious criminal trespass* (15.1%) and *assault* offences (9.6%).

- Overall, Aboriginal sentenced prisoners were slightly more likely to serve periods of between one and six months, but less likely to serve terms of six months or more than were their non-Aboriginal counterparts.

Community-based Corrections

Orders commenced during 2002

- In 2002, there were 9,670 community-based correction orders commenced, which was 2.4% fewer than the 10,350 recorded in 2001 and 61.0% lower than the peak recorded in 1997.
- Almost half (48.5%) of the community-based correction orders commenced in 2002 involved some form of community work. This included stand-alone community service orders (27.0%) as well as instances where a financial penalty was expiated through community service (21.5%).
- Only 7.8% of supervisions involved home detention, generally as part of a bail agreement (4.8%) or for sentenced prisoners released from gaol (2.9%).
- The 9,670 orders commenced in 2002 involved 7,565 discrete individuals, giving an average of 1.26 orders per person. The total number of individuals who commenced an order in 2002 was 7.8% lower than in 2001, largely due to the continuing affect of the abolition in 2000 of CSO (expiation notice) and CSO as fine option orders.
- Males accounted for 80.0% of all individuals and 81.3% of all orders commenced where relevant data were available.

Persons supervised at 31 December 2002

- On 31 December 2002, Correctional Services were supervising 6,267 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 2,462 discrete individuals registered. This equates to 39.3% of all persons under Correctional Services community supervision on that day.
- The total number of persons supervised was 6.2% lower than the 6,680 individuals under supervision twelve months earlier, on 31 December 2001.

Orders completed during 2002

- The number of community-based correction orders completed increased in 2002 (from 9,420 in 2001 to 10,004).
- The majority of these orders were completed successfully (66.0%).
- The extent to which orders were revoked or estreated in 2002 varied depending on the type of order involved. The highest level of estreatment/revocation was recorded for home detention bail orders (45.1%), followed by community service orders (43.3%) and orders where a financial penalty was expiated through community service (39.9%). In contrast, only 16.7% of home detentions completed by sentenced prisoners in 2002 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 2002 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 2002.

Conversely, the court data will count persons apprehended and/or sentenced in 2001 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.

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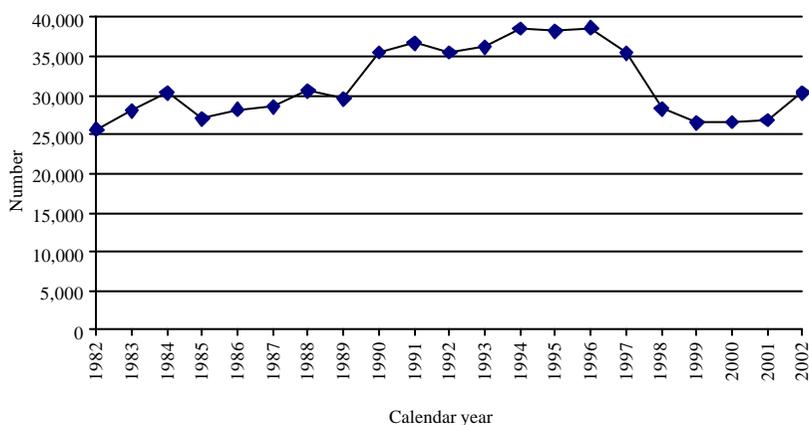
OVERVIEW

1.1 Magistrates Courts of South Australia

Overview

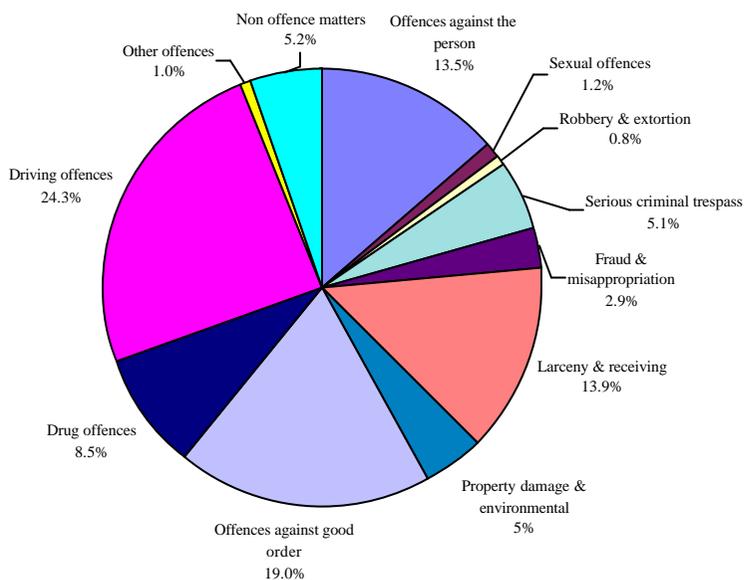
- During 2002, 30,359 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries were finalised in the Magistrates Court. This figure is 12.9% higher than the 26,901 finalised cases in 2001.
- As indicated in Figure 1, although the number of matters disposed 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. However, in 2002, there was an increase in the number of matters finalised. Nevertheless, the 2002 figure remains substantially lower than the peak recorded in 1996 (n=38,652).

Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 2002



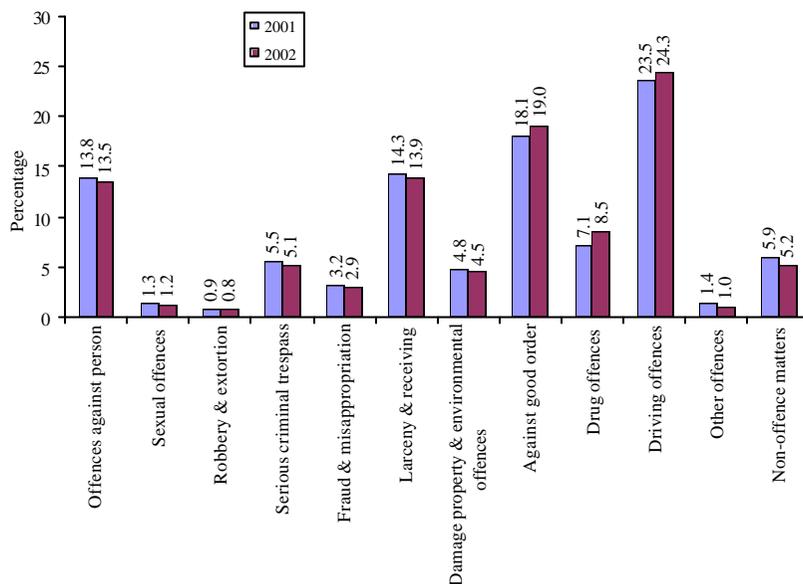
- As indicated in Figure 2, *driving offences* constituted the major charge in just under one quarter (24.3%) of all cases finalised in 2002, while *offences against good order* featured in a further 19.0% of cases, *larceny and receiving* in 13.9% and *offences against the person* in 13.5%. At the other end of the scale, there were relatively few cases in which *sexual offences* or *robbery and extortion* constituted the major offence charged (1.2% and 0.8% respectively). In addition, 5.2% 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: 2002



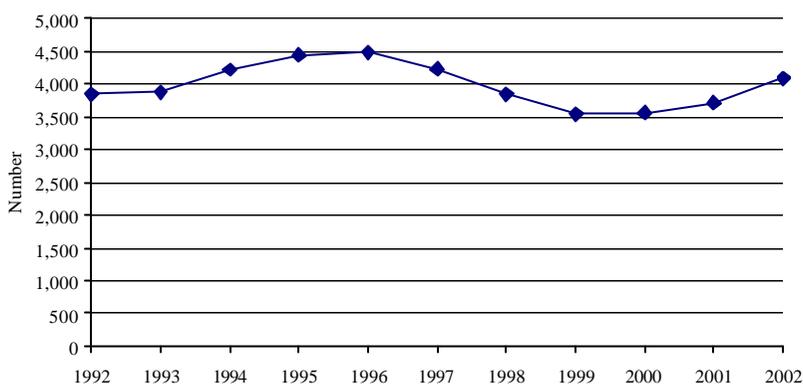
- Overall, this offence profile is similar to that observed in 2001. As shown in Figure 3, in both 2001 and 2002, four offence categories dominated: namely *driving offences*, *offences against good order*, *larceny/receiving* and *offences against the person*. Conversely, the proportion of cases involving *sexual offences* and *robbery and extortion* has remained consistently low.

Figure 3 Cases finalised in the Magistrates Court by major charge: 2001 and 2002



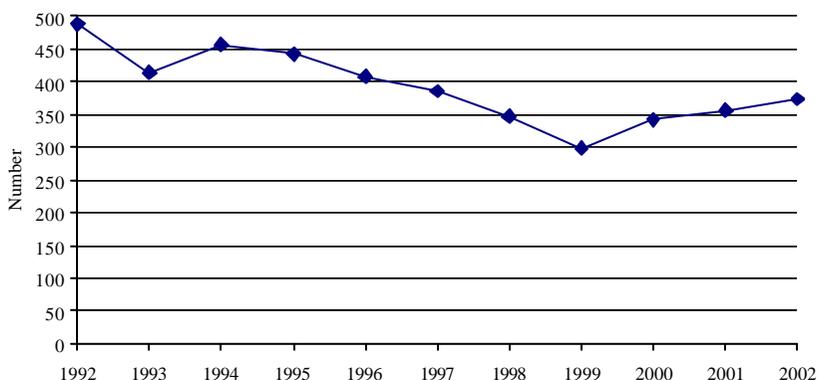
- Longitudinal trends in the actual number of offences per category are detailed in Figures 4 to 13, which plot the major charge recorded per case from 1992 (when data relevant to all twelve categories listed above were first published) to 2002.
- As indicated in Figure 4, between 1992 and 1996, Magistrate Court cases involving an *offence against the person* increased from 3,850 to 4,483. Then, from 1997 until 1999 this upward trend was reversed. However, in 2000 the number of cases involving this type of offence as the major charge again increased, with further increases recorded in 2001 and 2002. Nevertheless, the 2002 figure (n=4,093) was 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 2002



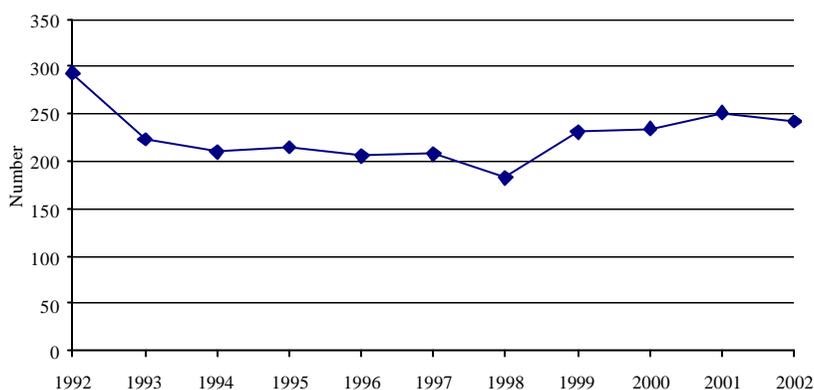
- Figure 5 shows that the number of cases where the major charge was a sexual offence generally declined between 1992 and 1999. However, this trend was reversed in 2000, and in 2001 and 2002 further increases were recorded. In spite of this, the number of cases recorded in 2002 (n=374) was 23.4% lower than the 488 recorded in 1992.

Figure 5 Cases finalised in the Magistrates Court where the major charge was a sexual offence: 1992 to 2002



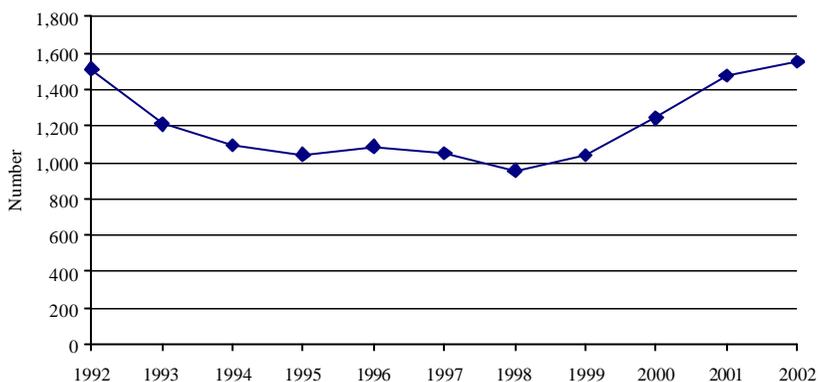
- After initially decreasing, the number of cases involving a major charge of robbery and extortion remained relatively stable between 1993 and 1998 (refer Figure 6). Then from 1998 to the 2001 an upward trend was evident. However, a slight decrease was recorded in 2002 (242 compared with 251 cases the previous year). 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 2002



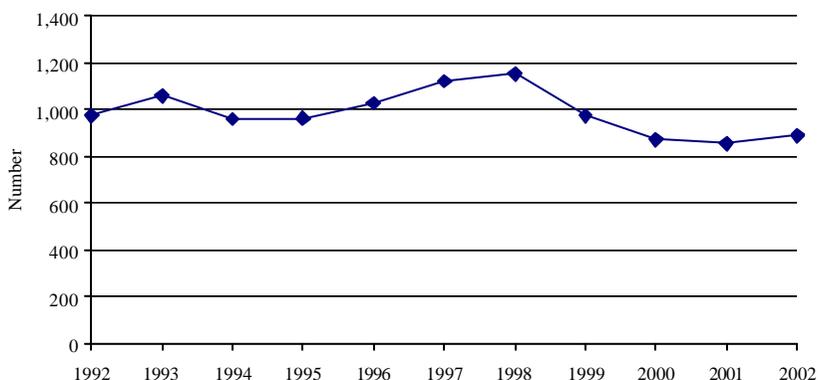
- Considering longitudinal trends for *burglary, break and enter/serious criminal trespass offences* is somewhat problematic due to the passage of the *Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act*. This piece of legislation, which came into effect on 25 December 1999, replaced *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 the subsequent two years were classified as *criminal trespass offences*. However, in all three years there were some *break and enter offences* that, while reported in 2000, 2001 or 2002, 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*. However, in the 2001 and 2002 reports, 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 (to 1,478). Another, albeit lesser, increase was recorded in 2002 (of 5.1% to 1,553). The 2002 figure is the highest recorded during the period, slightly above the number of cases recorded in 1992 (1,512).

Figure 7 Cases finalised in the Magistrates Court where the major charge was *serious criminal trespass*: 1992 to 2002



- Figure 8 indicates that in 2002 the number of cases where the major charge was *fraud and misappropriation* was comparable with the figures recorded in the previous two years. The lowest figure recorded for the period shown was 855 in 2001. This was 2.1% lower than the number recorded in 2000 (873). In 2002, the number increased slightly to 890 (up 4.1%).

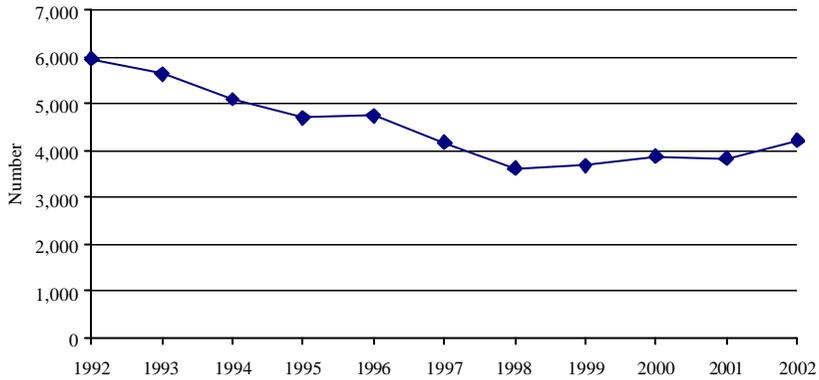
Figure 8 Cases finalised in the Magistrates Court where the major charge was *fraud and misappropriation*: 1992 to 2002



- As indicated in Figure 9, the number of cases in which *larceny and receiving*¹ was listed as the major charge declined from 5,969 in 1992 to 3,686 in 1999, after which time numbers stabilised. In 2002, an increase was recorded, up to 4,227 compared with 3,848 in 2001. However, the 2002 figure was still well below the numbers recorded in the early 1990s.

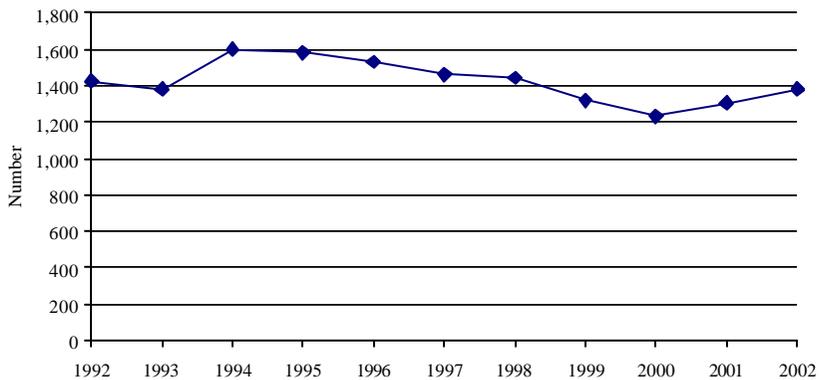
¹ Due to problems in coding the offence categories of *larceny from shops* and *other larceny* in 1998 care should be taken when comparing *larceny and receiving* figures from that year with those of other years.

Figure 9 Cases finalised in the Magistrates Court where the major charge was *larceny and receiving*: 1992 to 2002



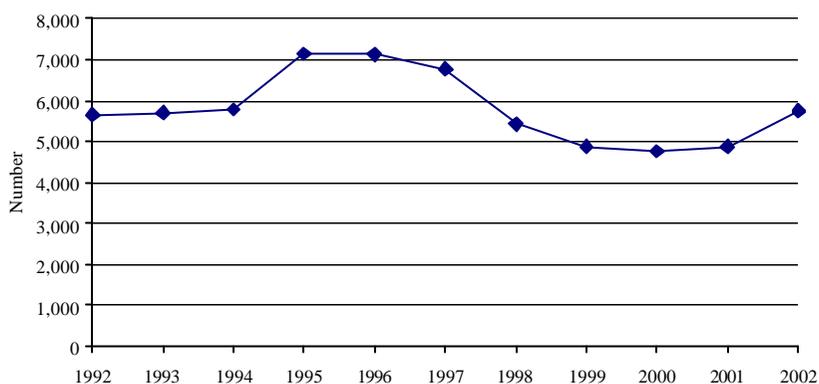
- *Damage property and environmental offences* feature as the major charge in a relatively small proportion of finalised Magistrates Court cases. As indicated in Figure 10, these cases had been steadily declining between 1994 and 2000. In 2001 this trend was reversed with 1,304 cases recorded. A further increase was recorded in 2002 (up 5.8% to 1,379).

Figure 10 Cases finalised in the Magistrates Court where the major charge was a *damage property and environmental offence*: 1992 to 2002



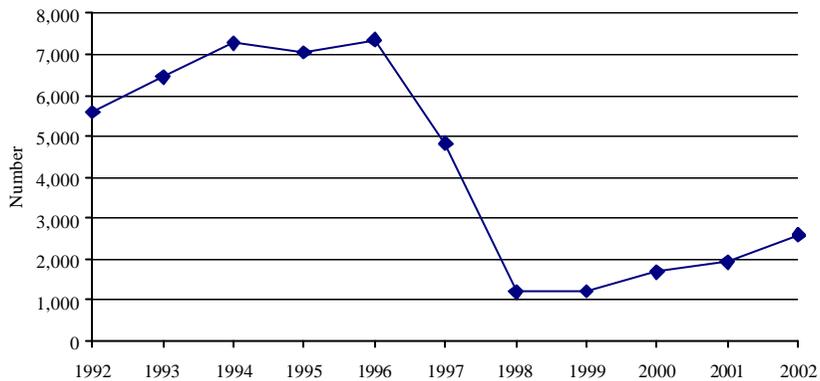
- As Figure 11 indicates, the number of cases involving a major charge of an *offence against good order* declined between 1996 and 2000. A slight increase of 2.5% was recorded in 2001 (n=4,877), followed by a larger increase of 18.0% in 2002 (n=5,756). However, the 2002 figure was still considerably lower than the peak 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 2002



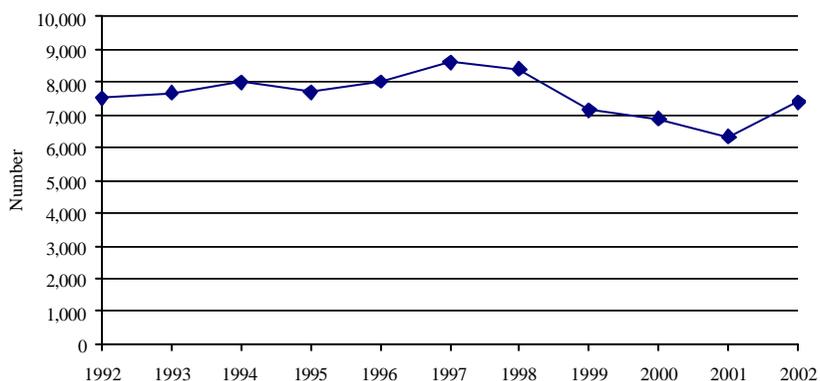
- As Figure 12 indicates, cases with a major charge of a *drug offence* experienced a dramatic drop in both 1997 and in 1998. This decline can be attributed to the changes introduced by the *Expiation of Offences Act 1996*, which came into operation in February 1997. Whereas previously expiation fee 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.
- There was an increase in the number of cases recorded in 2000 (n=1,682), followed by further increases in 2001 (of 14.1% to 1,919) and 2002 (of 34.8% to 2,587). In part, this increase could be the result of further changes to the Cannabis Expiation Notice (CEN) scheme. In recent years the number of cannabis plants that a person could possess and still be eligible for a CEN has been reduced from ten to three and then on 29th November 2001, further reduced to one. This latest change meant that adults detected with two or three plants who would previously have received a CEN were henceforth charged. This change could have impacted upon the number of adults appearing in court charged with these offences after this time.
- Another initiative that could impact upon the number of drug offences appearing in the courts is the Police Illicit Drug Diversion Initiative, which commenced operation in September/October 2001. Under this scheme, adults and juveniles detected in possession of small amounts of illicit drugs, are not apprehended by police but instead are given educational material or diverted to assessment and treatment programs. Hence, this initiative impacts directly on the number of persons apprehended for a drug offence and consequently the number appearing in court charged with these offences.

Figure 12 Cases finalised in the Magistrates Court where the major charge was a *drug offence*: 1992 to 2002



- As shown in Figure 13, cases where *driving offences* were listed as the major charge peaked at 8,620 cases in 1997 and then declined until 2001. In fact, the number of cases involving this major charge recorded in 2001 was the lowest recorded during the period depicted (n=6,355). However, in 2002 there was a 16.2% increase in the number of cases recorded (to 7,387).

Figure 13 Cases finalised in the Magistrates Court where the major charge was a *driving offence*: 1992 to 2002



Outcomes

- Of the 30,359 cases heard in the Magistrates Court in 2002, 1,008 were committed to the District or Supreme Court for trial or sentence. While

this was 3.4% higher than the 975 cases committed in 2001, this figure was 43.7% 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 comparison to the previous year, a slightly lower proportion of cases were committed for trial or sentence (3.3% compared with 3.6% in 2001).
- As expected, the percentage of cases committed to a higher court for trial or sentence in 2002 varied considerably according to the seriousness of the major charge. For example, 40.9% of all *robbery and extortion* cases had this outcome (which is lower than the 52.2% recorded in 2001), as did 28.3% of cases involving *sexual offences* (compared with 33.4% in 2001). 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 0.8% of cases involving *property damage and environmental offences*. It should also be noted that in 33 of the 1,008 cases which, in 2002, 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.
- Just over half (51.8%) of the cases dealt with at the Magistrates Court level resulted in a conviction for the major charge, either with or without penalty. This was slightly lower than the figure of 52.9% recorded in 2001. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 2.9% of cases involving *robbery and extortion* to 88.3% of cases in which a *driving offence* was listed as the major charge. Over half the cases (54.4%) that involved *fraud and misappropriation offences* and a similar proportion of cases involving *offences against good order* (55.4%) also resulted in a conviction for the major charge.
- In 4,031 cases (13.3% of the total), there was a finding of guilt for the major charge but no conviction was recorded. Twelve cases resulted in an acquittal for the major charge while in 25 cases an outcome of 'not guilty: mentally incompetent' was recorded. In just over one quarter of cases (27.0%) the major charge was either withdrawn (5,227) or dismissed (2,927), with the major charge withdrawn in 35 cases after completion of the mental health diversion program. It should be noted though, that in 1,603 (17.3%) of the 9,284 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 30,359 cases that were finalised in the Magistrates Court in 2002, 21,364 (70.4%) 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.

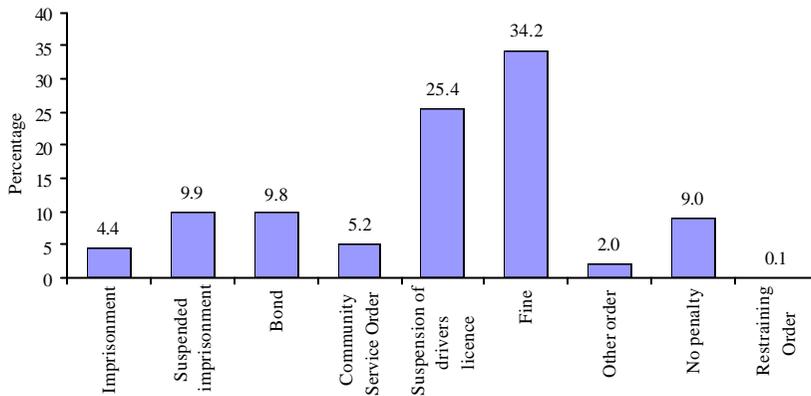
- The proportion of cases resulting in the dismissal or withdrawal of the major charge varied from one offence category to another. (Cases where the major charge was withdrawn after completion of the mental health diversion program have not been included in this analysis). It was relatively high for *robbery and extortion* (56.2% of all offences within this category), *offences against the person, excluding sexual offences* (52.9%), *serious criminal trespass* (51.4%), and *sexual offences* (44.4%), but was comparatively low for *offences against good order* (18.1%) and *driving offences* (11.0%).
- In relation to those cases where the major charge was dismissed or withdrawn, the proportion that 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 799 cases where the major charge dismissed or withdrawn was a *serious criminal trespass*, 262 (32.8%) resulted in a finding of guilt for another offence compared with only 15 (9.0%) of the 166 cases where the major charge dismissed or withdrawn was a *sexual offence*.
- Of the 1,571 applications for *restraining, domestic violence* or *paedophile restraining orders* finalised in 2002, 1,003 (63.8%) resulted in the issuance of that order, 241 (15.3%) were varied, while 307 (19.5%) 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 2002, there were 21,364 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 34.2% of these cases, followed by a driver's licence suspension (25.4% of cases). Only 4.4% of cases resulted in direct imprisonment, while 9.9% received suspended imprisonment. In a further 5.2% of cases, the major penalty imposed was a

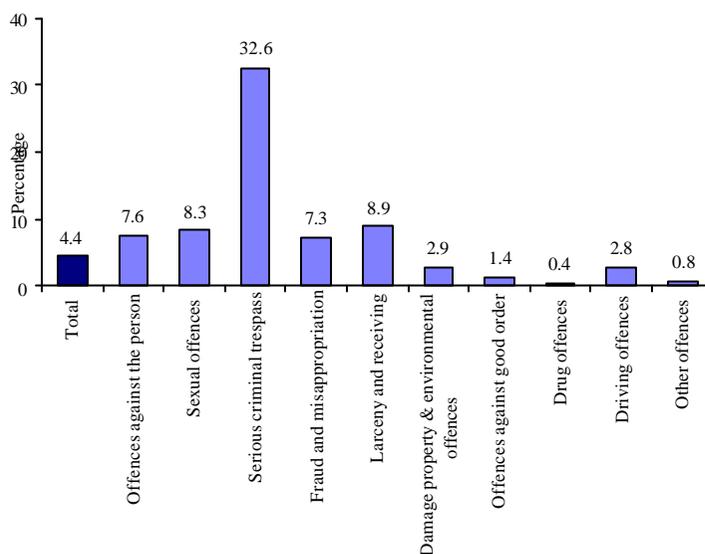
community service order, while 9.8% received a good behaviour bond. In 9.0% of cases, no penalty was imposed. In 2002, there were only 21 cases (0.1% of the total) where a restraining order constituted the major penalty.

Figure 14 Major penalty imposed for the most serious charge proved per case: 2002



- The number of cases resulting in imprisonment was slightly higher in 2002 than 2001 (942 compared with 910 respectively) but similar to the 2000 figure (944). The average length of the prison term was also slightly higher in 2002 than in the previous year (30 weeks compared with 28 respectively), but was equal to the 2000 figure.
- 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 527 cases finalised in 2002 in which the major charge proved was *serious criminal trespass*, 32.6% resulted in imprisonment. This was followed by cases involving *larceny and receiving* as the most serious charge proved (with 8.9% of cases resulting in prison), a *sexual offence* (8.3%), *offences against the person, excluding sexual offences* (7.6%), and *fraud and misappropriation* (with 7.3% ending in imprisonment). One of the eight cases involving *robbery and extortion* also resulted in imprisonment. In contrast, only 0.4% of cases involving a *drug offence* and 1.4% of cases involving an *offence against good order* as the most serious charge proved involved a custodial sentence.

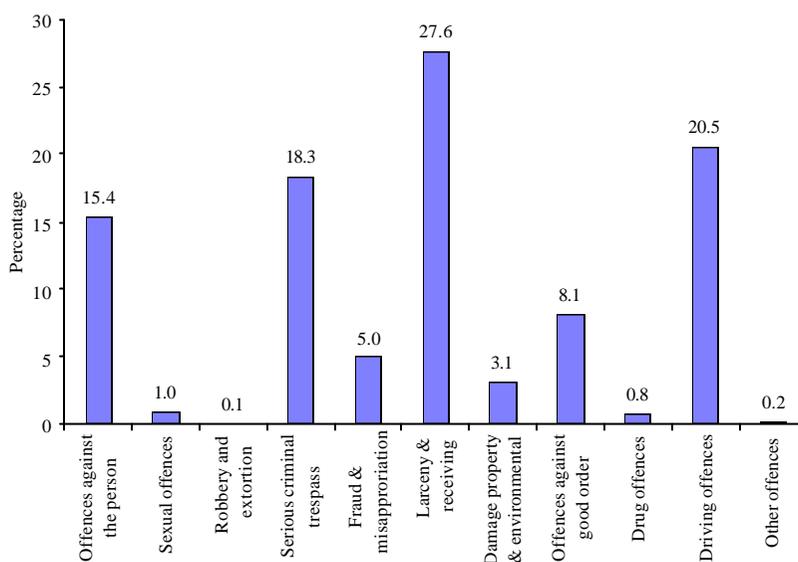
Figure 15 Major penalty imposed for the most serious charge proved, 2002: proportion of cases within each major charge category resulting in imprisonment



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 942 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 (27.6%). This was followed by *driving offences* (20.5%), *serious criminal trespass* (18.3%) and *offences against the person, excluding sexual offences* (15.4%). 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 (242 in 2002 compared with, for example, 7,387 *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 trial or sentence (99 out of 242 compared with none of the 7,387 *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, 2002



- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass* offence (average imprisonment of 65 weeks compared with 63 weeks in 2001). Even though the number of *fraud and misappropriation* cases that resulted in imprisonment was small (47), the average length of imprisonment in these situations was relatively high (41 weeks), with a maximum of 182 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 86.8% of all such cases. Over half (56.6%) of cases involving an *offence against good order* also resulted in a fine. At the other end of the scale, fines were the major penalty imposed in only 7.4% of *driving* matters and 3.6% of *serious criminal trespass* cases. Overall, the average amount of fine imposed was \$216 while the maximum was \$17,500 (for an *other 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.

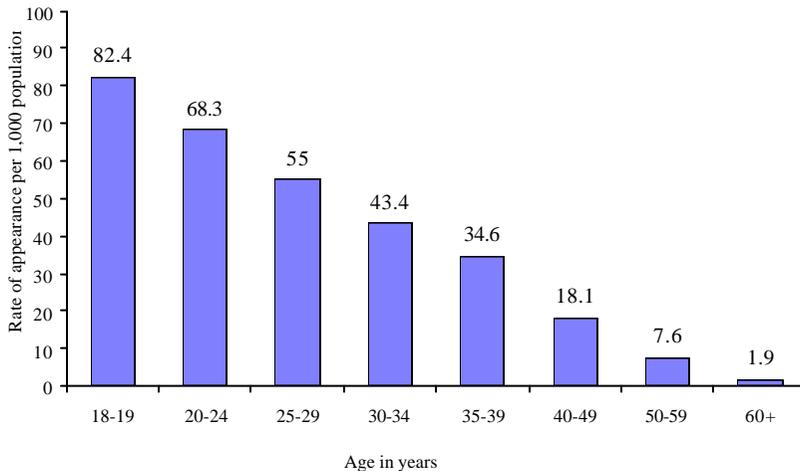
- In 2002, a total of 3,295 convictions were recorded for offenders with no prior convictions for a drink driving offence within the past five years. This figure was 19.6% higher than the 2,756 convictions recorded in 2001. For offenders who have had at least one previous drink driving conviction in the last five years the figure was lower, with 531 convictions in 2002 (compared with 485 convictions in 2001).
- 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 (96.5%) but also to those with a prior PCA conviction (94.2%). However, for those with a prior record, the average fine was higher than for those with no priors (\$938 compared with \$624 respectively). As was the case in 2001, a high proportion in both groups also received a licence disqualification (97.8% of those with no priors and 97.6% 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 8.4 months licence disqualification compared with 21.1 months for those with a prior PCA conviction.

Background of defendants

- Males accounted for the overwhelming majority (82.6%) of the 30,310 cases finalised in 2002 where information on the sex of the defendant was available. As in previous years, the level of female participation varied depending on the major charge involved. Of those cases where relevant information was recorded, females accounted for only 1.9% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 33.5% and 28.2% respectively of all cases involving *fraud and misappropriation* and *larceny and receiving*.
- Defendants aged between 20 and 29 years were involved in 39.8% of all cases finalised by the Magistrates Court in 2002 where information on age was available. Another 11.5% were 18 or 19 years of age, while a further 28.5% fell within the 30 to 39 year age bracket. Very few cases (6.7%) 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 82.4 per 1,000 age specific population, but this

dropped to 1.9 per 1,000 for those aged 60 years and over. The average age of all defendants was 31.2 years, although this varied from 36.4 years for cases involving a *sexual offence* to 25.4 years for those cases involving a *robbery and extortion* offence. Overall, there was little difference in the age profiles of female and male defendants, with an average age of 31.6 years compared with 31.1 years respectively.

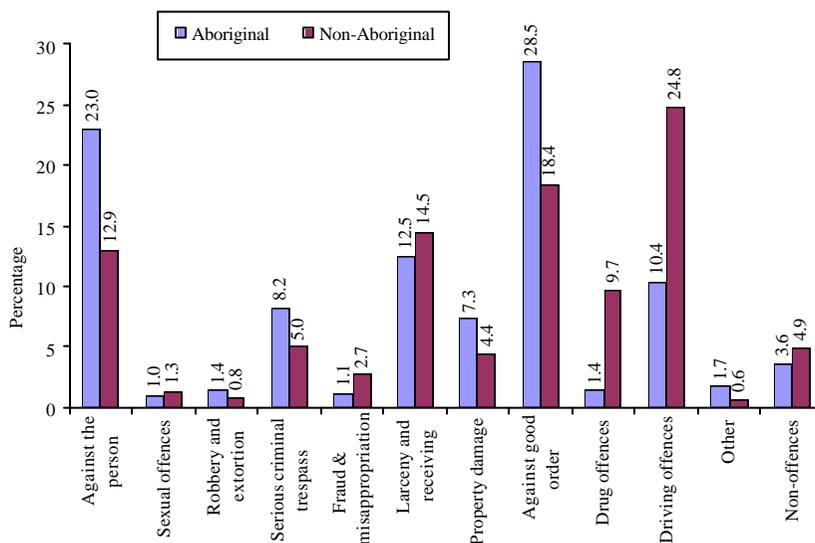
Figure 17 Cases finalised in the Magistrates Court, 2002: rate per 1,000 age specific adult population.



- Table 2.29 in Section 2 of this report details the racial appearance of defendants involved in cases finalised in 2002. 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 2002 Aboriginal defendants appeared before the Magistrates Court at a rate of 263.1 per 1,000 adult Aboriginal persons in the population. This is 11.3 times greater than the rate of 23.2 per 1,000 adult population recorded for persons of non-Aboriginal appearance.
- The absolute number of Aboriginal cases dealt with in 2002 was higher than recorded in 2001 (3,373 compared with 2,968 respectively). Similarly, the rate of appearance per 1,000 Aboriginal adult population also increased (263.1 per 1,000 adult population in 2002 compared with 229.5 in 2001).

- 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 *drug offences* and *driving offences*.

Figure 18 Cases finalised in the Magistrates Court, 2002: 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 2002. As was the case in 2001, seven out of 10 defendants (69.7%) for whom such information was available had at least one previous conviction, with an average of 12.6 prior convictions per defendant³. The proportion of defendants with prior convictions was highest amongst those charged with *serious criminal trespass* (with 83.2% 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 (24.9 and 22.4 per defendant, respectively).

³ Note that, in determining the number of prior convictions, all offences are counted, regardless of the number of finalised court appearances involved. This means that if a defendant, at a previous finalised court appearance, was convicted at the one hearing of three *sexual assaults* and two *larcenies*, this would be counted as five 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.

- 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 *other offences* or *fraud and misappropriation*. Yet even for these offences, 51.9% and 58.7% respectively, had a prior criminal conviction, with an average of 7.6 and 10.0 convictions per defendant.
- One in five cases (19.6%) finalised in the Magistrates Court in 2002 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 39.5% of defendants involved in cases where *serious criminal trespass* was the major charge, to 10.6% of cases involving *other 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 (59.0%), bail was not required: In other words, the defendant was not subject to any conditions imposed by the court. In a further 31.5% of cases, the defendant was on bail at the time of the final appearance, while in 9.5% 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 9,016 cases where the matter was dealt with at the first hearing, only five defendants were held in custody at the time (0.1%). This compares with 2,628 (or 13.0%) of the 20,258 defendants whose cases took two or more hearings to finalise, and 242 (or 24.0%) of the 1,008 defendants who were committed to a higher court for trial or sentence.
- Whether or not a defendant was legally represented also varied depending on the number of hearings required to finalise a matter (Table 2.32 in Section 2 of this report). In those cases where the matter was resolved at the first appearance, only three in ten (34.3%) had legal representation. This rose to almost three quarters (74.5%) of those whose cases took more than one hearing to finalise and 96.1% 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 (21.3%) where information relating to legal representation was missing.
- As indicated in Table 2.33 in Section 2 of this report, relatively few defendants (394 or 1.3%) in the 29,351 cases actually finalised in the Magistrates Court pleaded of ‘not guilty’ to the major charge at their final appearance. By contrast, of the 1,008 cases committed for trial or sentence to a higher court, over three quarters (80.0%) 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 Prosecutions⁴ will have committed the defendant *ex-officio*⁵.

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'⁶. In certain instances, a judge in the District or Supreme Court may hear matters that would normally be dealt with summarily by a magistrate or other justice. This usually occurs when a defendant has a case involving summary matters at the same time as one in the Supreme or District Court. Wherever possible such matters are consolidated and dealt with together by the judge who is hearing the indictable matters, as this is more just and efficient.

Only finalised⁷ cases involving trials or sentencing are included in Tables 3.1 to 3.31 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

- During 2002 there were 988 cases finalised in the Supreme and District Courts. This was 44 (or 4.7%) higher than in the 944 cases finalised in 2001. The number of cases finalised in the District Court increased by 37, while the number finalised in the Supreme Court increased by seven.
- Table 1 and Figure 19 show trends in the number of cases handled by the two jurisdictions since 1983. 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

⁴ Prior to the creation of the office of Director of Public Prosecutions, *ex officio* committals could only be performed by the Attorney General. The *Criminal Law Consolidation Act* gives that power to the Director of Public Prosecutions (s 275), but due to the conventions of the Westminster system of government, the Attorney General retains this power in his or her capacity as chief law officer. It is difficult to imagine circumstances in which this power would be exercised under the current arrangement.

⁵ An *ex officio* committal is one in which the DPP (or the Attorney General) commits a person for trial directly without a committal hearing in a Magistrates Court. This method of committal is seldom used, being reserved for unusual circumstances.

⁶ The classifications of offences as felonies or misdemeanours were abolished in 1994.

⁷ See Appendix A for the rules employed for determining when a case is finalised and whether it is eligible for counting.

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).

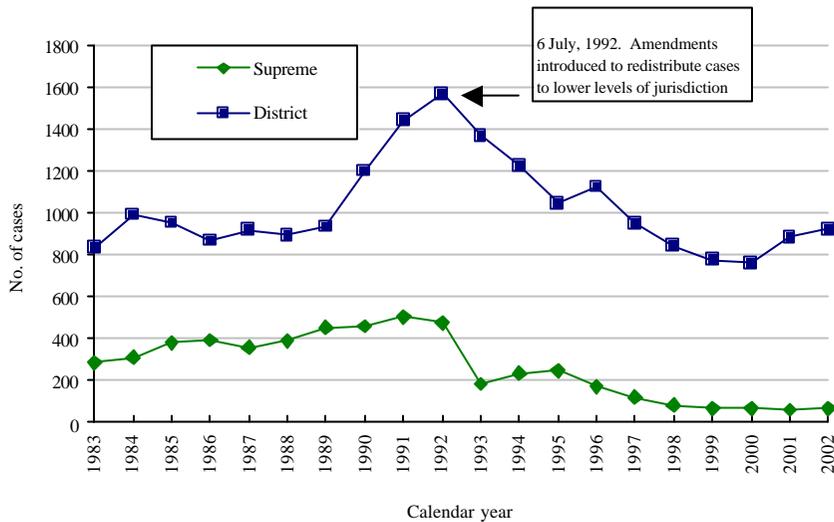
- After 1993 numbers in the District Court continued to decline and, despite a slight increase in 1996, numbers again fell in 1997 and continued to decline each year thereafter, with the result that the 2000 figure was the lowest recorded over the period depicted (n=759). However, in 2001 this trend was reversed, and a further increase was recorded in 2002 (n=921).
- 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 2001 figure of 60 cases was the lowest recorded over the 20 year period. However, an increase was recorded in 2002 when 67 cases were finalised, the same number as recorded in 1999 and 2000.

Table 1 Trends in the number of cases finalised by the Supreme and District Courts, 1983 to 2002 calendar years.

	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Supreme	285	309	380	392	356	389	453	457	504	473
District	830	988	952	866	917	891	932	1,199	1,439	1,566
	1993	1994	1995	1996	1997*	1998	1999	2000	2001	2002
Supreme	182	232	247	171	118	81	67	67	60	67
District	1,366	1,224	1,044	1,122	949	840	774	759	884	921

* 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.

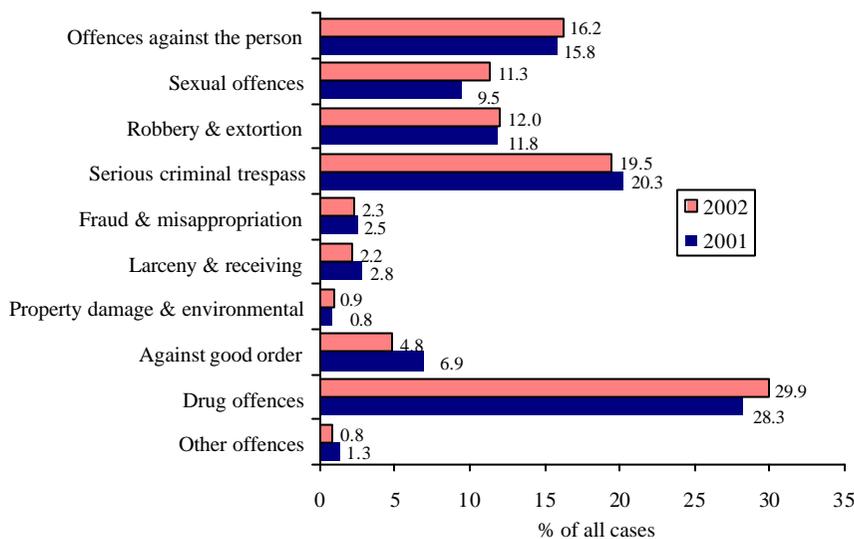
Figure 19 Trends in the number of cases finalised by the Supreme and District Courts by calendar year, 1983 to 2002.



Major charge per finalised case

- Part of the increase in the number of cases finalised in the higher courts between 2001 and 2002 was accounted for by an increase in the number of cases with a major charge of a *drug offence*. As Figure 20 indicates, the number of cases where this major charge increased from 267 cases (28.3% of the total) in 2001 to 295 (29.9% of the total) in 2002. The number of cases with a major charge of a *sexual offence* also increased, from 90 in 2001 (9.5% of the total) to 112 in 2002 (11.3% of the total). However, some categories did experience decreases, for example, *offences against good order* declined from 65 in 2001 (6.9%) to 47 in 2002 (4.8%).
- As Figure 20 indicates, in both 2001 and 2002 *drug offences* were the largest category of offence, being listed as the major charge in almost three in ten cases in both years. The *property damage and environmental offences* (0.8% in 2001 and 0.9% in 2002) and *other offences* (1.3% in 2001 and 0.8% in 2002) groups were the smallest categories in both years.

Figure 20 Type of offence listed as the major charge for cases finalised in the Supreme and District Courts, 2001 and 2002.



Outcomes

- The main outcomes for cases finalised in 2002 are summarised in Table 2. As in previous years, in six in ten cases (58.4%) the defendant pleaded *guilty* to either the major or a lesser charge. In a further 14.8% of cases, a trial was held which resulted in either a plea or finding of guilt. While not detailed in Table 2, in 3.0% of cases the major charge was dropped but there was a guilty outcome for another or lesser offence. Overall then, 76.2% of all cases resulted in one or more of the charges within the case having an outcome of *guilty*.
- In 17.8% 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 1.0% of cases the defendant was found not guilty due to mental incompetence, while 0.6% of cases had some other outcome.
- Outcome types vary according to the type of offence. For example, 65.5% of defendants involved in cases with a major charge of *robbery and extortion* entered a guilty plea while 19.3% 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 32.1% of these cases the defendant entered a guilty plea, while in a further 22.3% the defendant was found guilty at trial.

Table 2 Principal outcome type by major charge, Supreme and District Courts, 2002.

Offence group	Guilty plea – no trial* %	Guilty at trial** %	Acquitted %	All charges dropped*** %
Offences against the person (exc. sexual)	53.1	20.6	5.6	13.8
Sexual offences	32.1	22.3	17.0	25.9
Robbery and extortion	65.5	19.3	0.8	10.1
Serious criminal trespass	63.2	10.9	5.2	15.0
Offences against good order	61.7	4.3	0.0	27.7
Drug offences	65.4	11.5	1.0	19.3
Total	58.4	14.8	4.4	17.8

* 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:

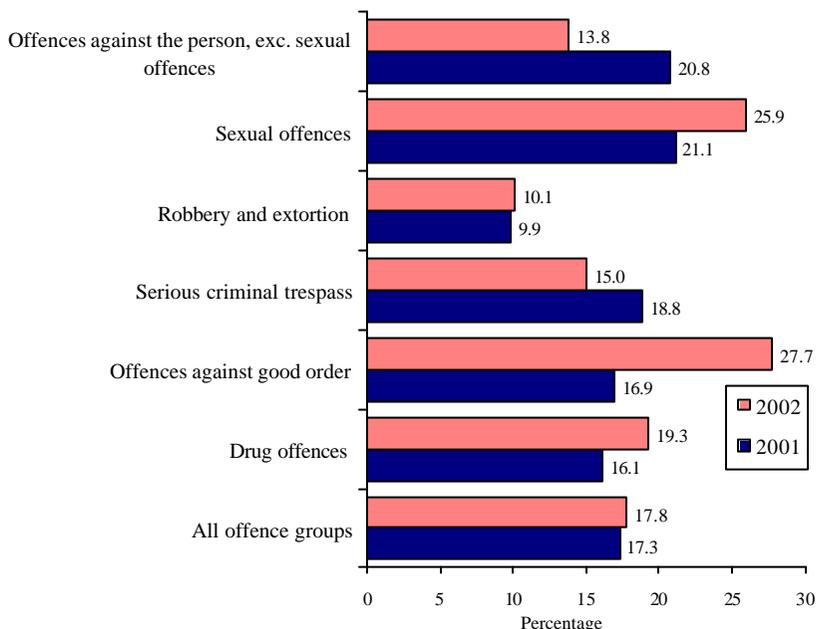
- ‘other outcome’ (e.g. defendant died, case struck out, permanently stayed etc),
- not guilty on the grounds of mental incompetence and
- major charge was dropped and a plea of *guilty* to another charge was accepted in satisfaction of the dropped charge (‘Major charge dropped – Guilty of other offence’).

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 2001 and 2002 where all charges were dropped by the DPP. Overall, a similar proportion of cases were dropped in 2002 and 2001 (17.8% compared with 17.3%).
- However, there were considerable differences between offence categories in the percentage of cases with this outcome. In 2002, 25.9% of *sexual offences* and 27.7% of *offences against good order* had this outcome compared with 10.1% of cases where the major charge was a *robbery and extortion* offence (the comparable figures for 2001 were 21.1%, 16.9% and 9.9% respectively).

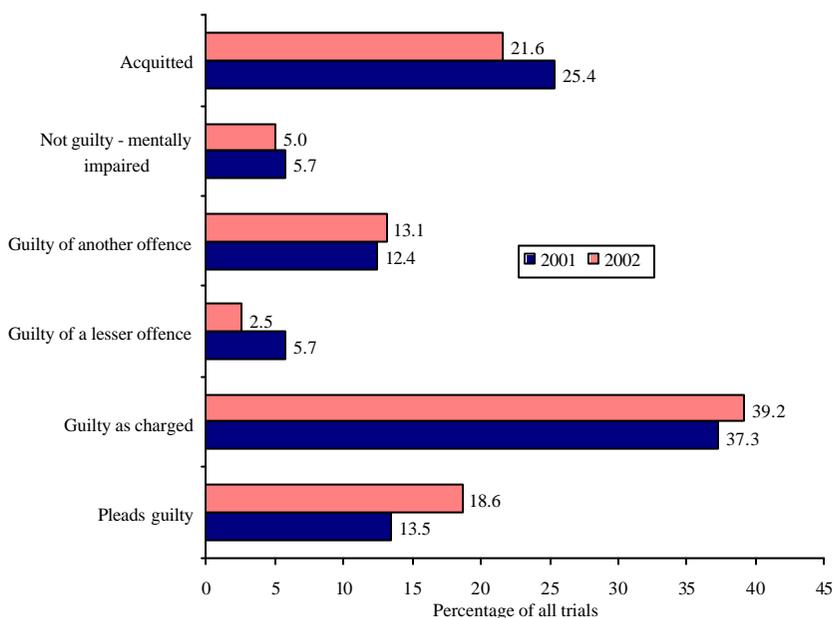
Figure 21 Percentage of cases within each offence group where the major charge was either not proceeded with or a *nolle prosequi* was entered, and no other charge was found guilty, Supreme and District Courts, 2001 and 2002.



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 199 cases finalised at trial in 2002 (20.1% of all finalised cases) compared with 193 in 2001 (20.4%). Figure 22 provides a breakdown of the outcomes for cases that went to trial in these two years.
- In comparison to 2001, in 2002 a higher proportion of defendants entered a guilty plea (18.6% in 2002 compared with 13.5% in 2001), while proportionally less defendants were acquitted (21.6% in 2002 compared with 25.4% in 2001). In both years, the majority of cases going to trial resulted in the defendant being found guilty as charged (39.2% in 2002 and 37.3% in 2001).

Figure 22 Outcome for the major charge for cases in which there was a trial, Supreme and District Courts, 2001 and 2002.



Penalties

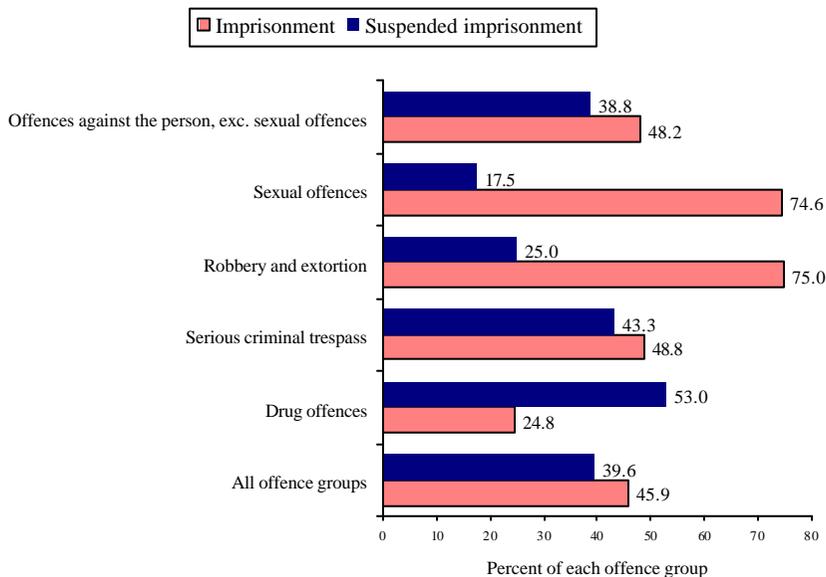
- Overall, 753 cases (76.2% of all cases) resulted in at least one guilty outcome during 2002. For these cases, the most common penalty was immediate imprisonment, which was imposed in slightly less than half (45.9%) of the cases that had an outcome of guilty.
- This was followed by suspended imprisonment (39.6%). Non-custodial penalties (such as fines, bonds and community service orders) accounted for the remaining 14.5%. The average length of imprisonment imposed was just under four years (or 47 months, excluding sentences of life imprisonment). The average non-parole period set was just over two and a half years (32 months)⁸.
- Life imprisonment was imposed in 11 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 five sentences of over 15 years, given in three instances for *offences against the person*

⁸ 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.

(two *major assaults* and one case of *attempted murder*) and in the other two for *armed robbery*. In an additional 14 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 75.0%, followed by *sexual offences* at 74.6%. In comparison, 48.2% of those with a major charge of an *offence against the person*, 48.8% of persons with a *serious criminal trespass* offence and 24.8% of those with a *drug offence* received immediate imprisonment.

Figure 23 Percentage of cases within each offence group receiving suspended imprisonment or imprisonment, Supreme and District Courts, 2002.



Note: The above graph excludes those offence categories where the number of cases in 2002 was less than 40, namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences, offences against good order and other offences*.

- Table 3 and Figure 24 indicate the trend in non-parole periods handed down for murder since 1983. 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 and declining even further to just under 13 years in 2002. The 2002 figure is particularly low because there were three cases where the non-parole periods had not be set at the time of data extraction. 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, 1983 to 2002.

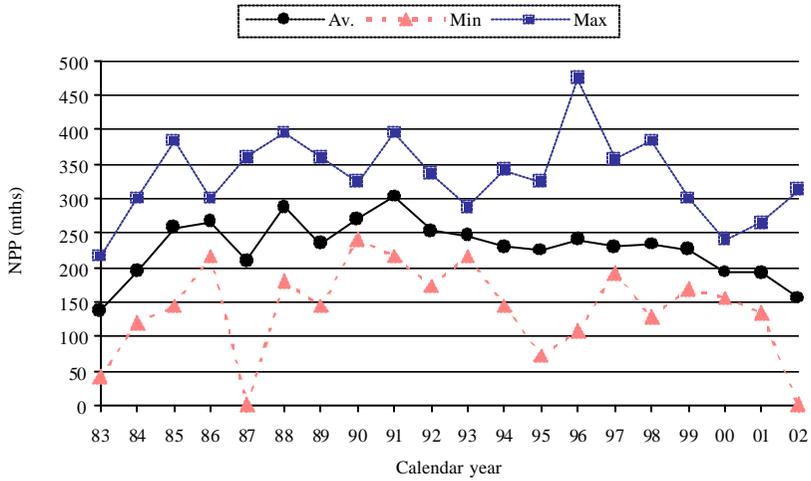


Table 3 Trend in non-parole period (in months) for life sentences for murder, 1983 to 2002.

	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Av.	137.6	194.0	258.0	266.4	210.1	288.0	234.6	270.0	303.3	253.7
Median	141.0	162.0	252.0	264.0	240.0	288.0	204.0	258.0	300.0	246.0
Min	42.0	120.0	144.0	216.0	10days	180.0	144.0	240.0	216.0	173.0
Max	216.0	300.0	384.0	300.0	360.0	396.0	360.0	324.0	396.0	336.0
No.	10	6(2)	6(3)	5(1)	4(2)	2	7	4	11	12(2)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Av.	246.0	230.2	224.7	240.5	230.1	233.8	225.6	193.3	191.9	155.3
Median	240.0	222.0	234.0	228.0	210.0	240.0	216.0	192.0	216.0	180.0
Min	216.0	144.0	72.0	108.0	192.0	129.0	168	156	133.0	0
Max	288.0	342.0	324.0	474.0	357.0	384.0	300	240	264.0	312.0
No.	4	11	11	13	10	12	5	9	7	11

Notes:

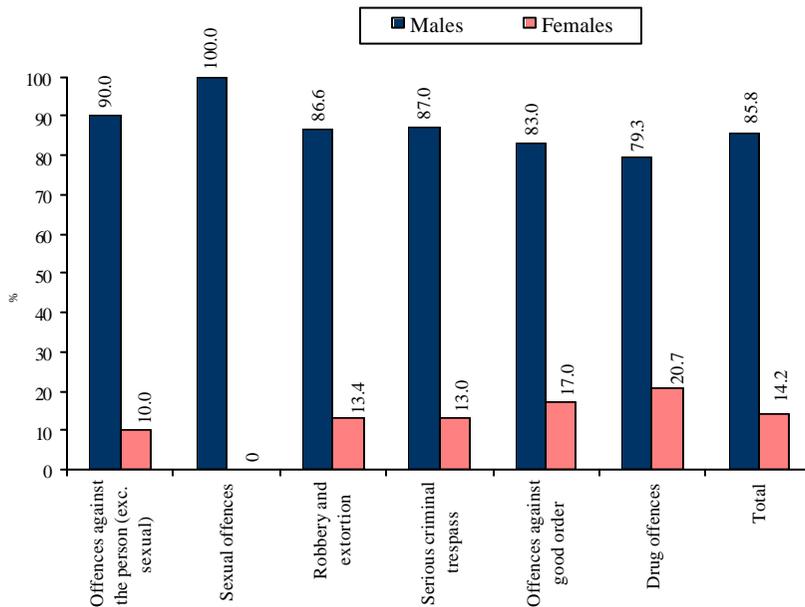
- 1 The non-parole period can apply to sentences additional to the charge in question where other sentences are made cumulative on it or when an existing sentence has been extended by the sentence imposed for the current charge.
 - 2 Non-parole period only is shown since murder carries a mandatory term 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.
- When total head sentences and non-parole periods for the entire case (rather than just the major charge) are examined, of the 346 head sentences, 66.2% were for periods of less than five years, 7.5% were for more than ten years but less than life, whilst 3.2% were for life. The vast majority (85.4%) of non-parole periods (excluding 32 cases⁹ where a non-parole period was not set) were for periods of less than five years, whilst 9.6% were for periods between five and ten years, and 5.1% were for more than ten years.

⁹ Non parole periods are not required to be set when the defendant is a juvenile sentenced to detention, where the offence is against South Australian legislation and the term of imprisonment is less than 12 months, or in the case of a Commonwealth offence, the imprisonment term is less than three years.

Background of defendants

- Where sex was known, the majority of cases finalised in the higher courts in 2002 involved male defendants (85.8%). The average age of male and female defendants was very similar, at 30.9 years and 30.0 years respectively. Seven 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 111 males and no females. The offence category with the highest proportion of females was *drug offences* (20.7%).

Figure 25 Percentages of males and females per major offence charged, Supreme and District Courts, 2002.



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 100 defendants whose appearance was judged at apprehension to be Aboriginal. They made up 10.5% of those for whom racial appearance information was available. The number of defendants of Aboriginal appearance represented a rate of 7.8 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, robbery and extortion* 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 31.0% for cases involving Aboriginal persons compared with 14.0% for non-Aboriginal cases, while for *robbery and extortion* the proportions were 21.0% and 11.5% respectively and for *serious criminal trespass* they were 30.0% and 18.9% respectively. In contrast, *drug offences* featured in a much smaller proportion of Aboriginal cases than non-Aboriginal cases (3.0% versus 32.9% respectively).
- In 2002, just over one fifth of defendants (22.1%) had no prior convictions which was consistent with the 22.8% recorded in the previous year. At the other end of the spectrum, 8.9% had 50 or more prior convictions.
- On average, defendants had 16.1 prior convictions. The average varied depending upon the offence group, with defendants charged with *sexual offences* having the lowest average number of priors (7.2). In comparison, persons with a major charge of serious criminal trespass had an average of 24.8 prior convictions.
- Just under one third of defendants (30.5%) had been imprisoned at some point in their past. Again, the proportion varied depending upon the major offence charged, with 16.3% of persons with a major charge of a *drug* offence having been imprisoned before compared with 42.9% of persons with a major charge of *robbery and extortion*.
- For those cases where relevant information was available, just under two thirds of the defendants (68.4%) 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 (87.3% and 76.1% respectively), only 41.9% of defendants in the *robbery and extortion* group were on bail.
- Overall, 36.0% 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 (46.4%). The group with the lowest percentage of *guilty* pleas was that involving *sexual offences* (20.5%). Similarly, only 23.4% 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, 59.6% 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 one finalisation in March and May to a peak of nine cases in July 2002, with an average of 5.6 per month. In contrast, the District Court completed an average of 76.8 cases per month, with the lowest number of finalisations occurring in January (55 cases) and the highest number in February (96 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 2002;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 2002.

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 2002 data with that contained in reports produced prior to 1996.

Imprisonment

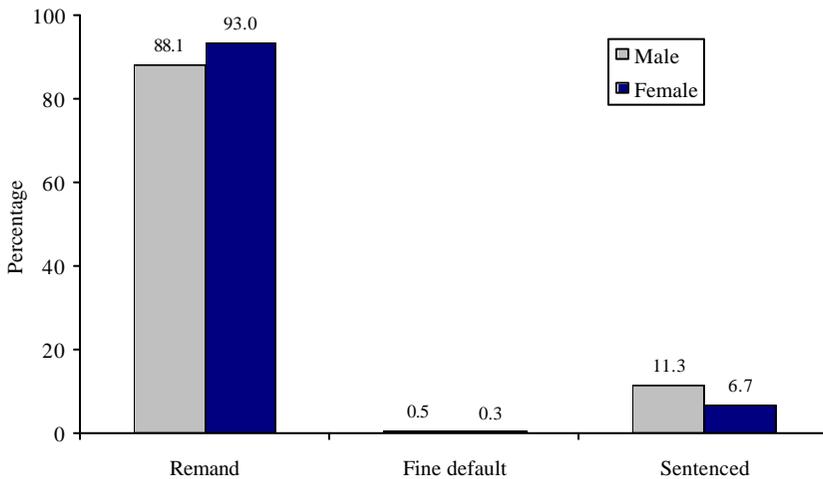
Prison receptions

- In 2002, there were 3,723 prison receptions. This figure was slightly higher (by 1.2%) than the 3,688 recorded in 2001, but was still well below the peak of 7,618 recorded in 1992.
- Where legal status was known, 10.9% of receptions involved sentenced prisoners, 0.5% were fine defaulters and 88.6% were on remand. When compared with the previous year, a lower proportion of prison receptions involved fine defaulters (0.5% in 2002 compared with 1.2% in 2001) and a higher proportion involved remandees (88.6% compared with 85.9% in 2001). The proportion involving sentenced prisoners was also slightly lower (10.9% compared with 12.9% in 2000).
- After substantial decreases in 2000 and 2001 (from 959 in 1999 to 84 in 2000 and 44 in 2001) the number of prison receptions for fine default decreased again in 2002 (down to 19). 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 2002.

- The overwhelming majority of receptions in 2002 involved males (90.5%), although this varied slightly from 90.3% for remand receptions to 94.3% for sentenced prisoners to 94.7% for fine defaulters 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.

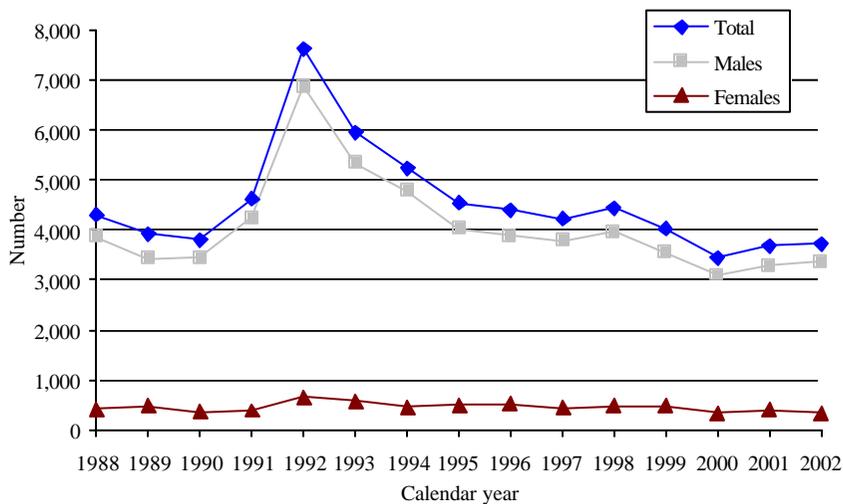
Figure 20 Prison receptions: legal status of prisoner by sex, 2002



- 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% followed by a smaller increase of 1.2% in 2002. Despite recent increases, the 2002 figure of 3,723 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 increased by 6.0% in 2001 and a further 2.7% in 2002. However, the 3,371 male admissions recorded in 2002 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. After increasing in 2001 by 15.4%, the number of female admissions in 2002 fell by 12.9% (from 404 to 352). Again, the 352 female admissions recorded in 2002 was still substantially lower than the peak observed in 1992 (n=664).
- The increase in male receptions in 2002 was due to an increase in the number of remandees (from 2,765 in 2001 to 2,948 in 2002). While there was a decline in both the sentenced category (from 437 in 2002 to 379 in 2002) and the fine default category (from 44 to 19) this was not sufficient to offset the increases in the remand category.
- The decrease in female receptions in 2002 compared with 2001 can be attributed to decreases in all categories, but particularly in the number of remand receptions (down by 12.9%, from 404 in 2001 to 352 in 2002).

Figure 21 Trends in the number of male and female prison receptions, 1988 to 2002.

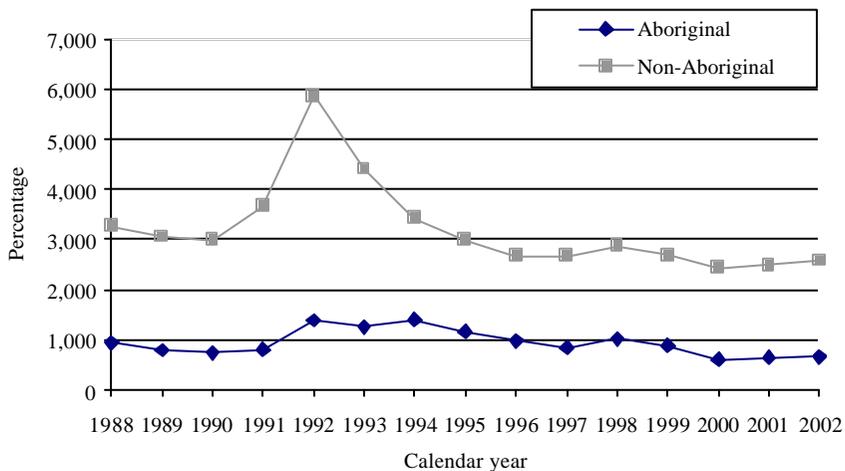


- For those 3,714 receptions where age was known, almost one half (44.6%) involved persons aged 20 to 29 years. Proportionally fewer males than females were in this age group (44.1% compared with 48.8% respectively). Those in the older age groups (notably 50 years and over)

accounted for only 3.3% of all receptions, 3.4% of male receptions compared with 2.6% of female receptions.

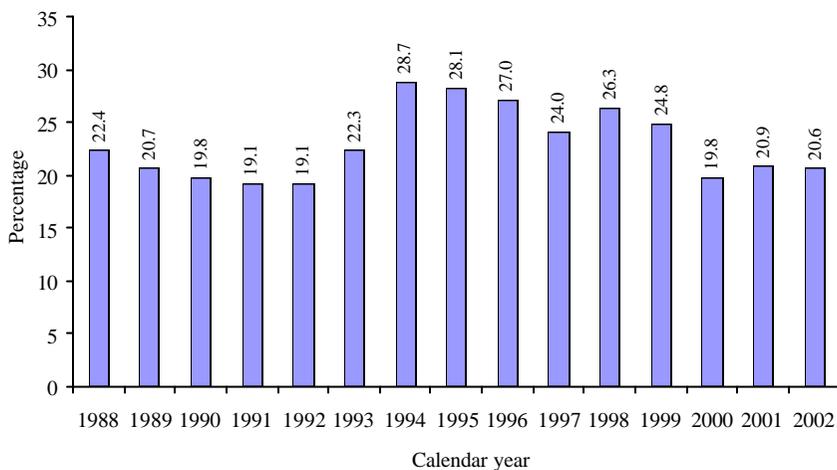
- In 2002, persons identified as Aboriginal constituted 20.6% of the 3,246 prison receptions where information on racial identity was recorded. This figure was consistent for both sentenced and remand prisoners.
- As indicated in Figure 22, the number of Aboriginal admissions was relatively high in the 1992 to 1994 period, but decreased in 1995, 1996 and 1997 and again in 1999 and 2000. This downward trend was not sustained with a 9.1% increase in 2001 and a further increase of 1.7% in 2002 (up to 668). However, the number of Aboriginal admissions recorded in 2002 was still 52.1% lower than the high of 1,395 recorded in 1994.
- Longitudinal trends for non-Aboriginal receptions closely parallel those observed for all receptions. With the exception of 1998, non-Aboriginal receptions generally decreased between 1993 and 2000. This trend was reversed in 2001 with a 2.3% increase and a further 3.6% increase was recorded in 2002 (up to 2,578). However, the number of non-Aboriginal receptions in 2002 was still well below the peak of 5,863 recorded in 1992.

Figure 22 Trends in the number of Aboriginal and non-Aboriginal prison receptions, 1988 to 2002.



- Figure 23 shows that the number of Aboriginal receptions as a percentage of all receptions where racial identity was unknown was similar in 2002 to that recorded in 2001 (20.6% compared with 20.9%). This 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 2002.



- Overall, the age profiles of the two racial groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (46.7% and 44.3% respectively) involving persons aged between 20 and 29 years, and relatively few (2.4% and 3.4% respectively) aged 50 years and over.

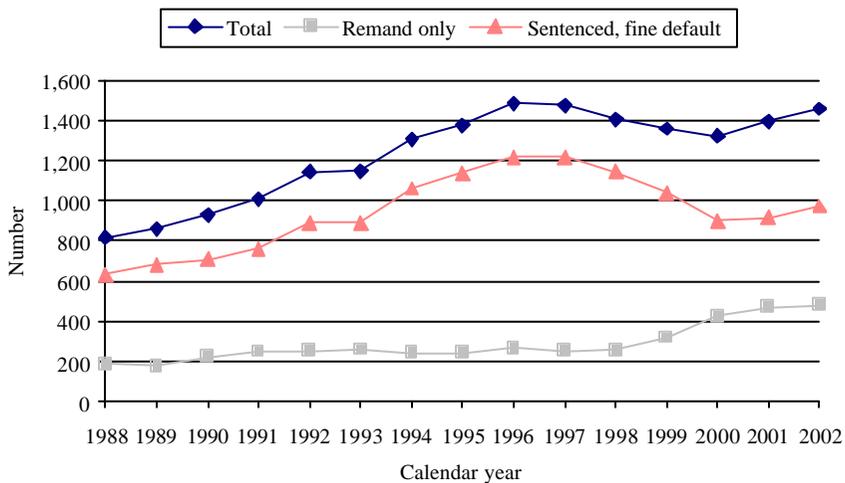
Daily averages

- 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 2002 are detailed in Tables 4.10 to 4.15.
- On average, on each day in 2002, there were 1,458 prisoners held in the State's prisons and adult remand centres. Of those for whom information on legal status was recorded, the majority (971 or 66.9%) were serving a prison sentence imposed by the courts, while 480 (33.1%) 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, with a 5.6% increase. The average daily occupancy figure also increased in 2002 (by 4.5% to 1,458).
- 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, followed by a further increase of 5.9% in 2002. In contrast, after remaining relatively stable between 1991 and 1998, daily averages for remandees have increased since 1999. The daily average number of remandees recorded in 2002 was 2.3% higher than that recorded in 2001 (up to 480).

Figure 24

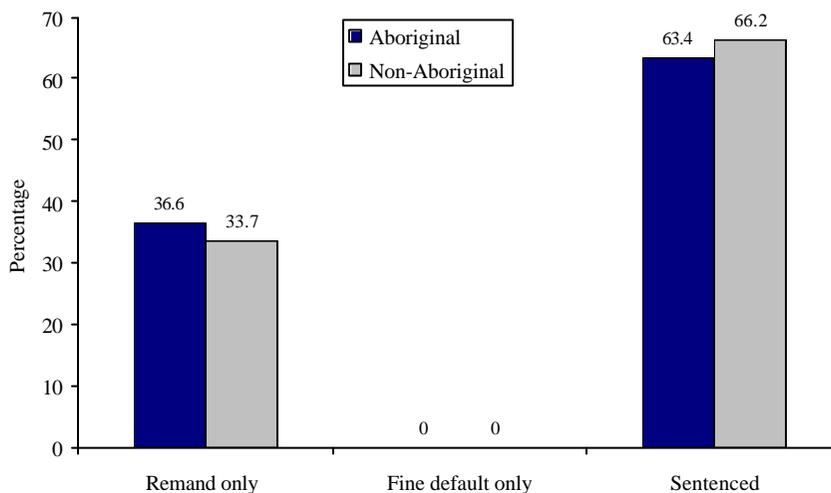
Daily averages by legal status: 1988 to 2002



- In 2002 males accounted for 94.0% of the daily average, with a rate of 2.40 per 1,000 adult male population compared with only 0.15 per 1,000 adult female population.
- On average, 245 Aboriginal persons were held in custody each day in 2002, which represents 18.9% 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 2002 a slightly lower proportion of Aboriginal persons were serving a custodial sentence (63.4% compared with 66.2% of non-

Aboriginals) while a slightly higher proportion were on remand (36.6% compared with 33.7%). 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, 2002.

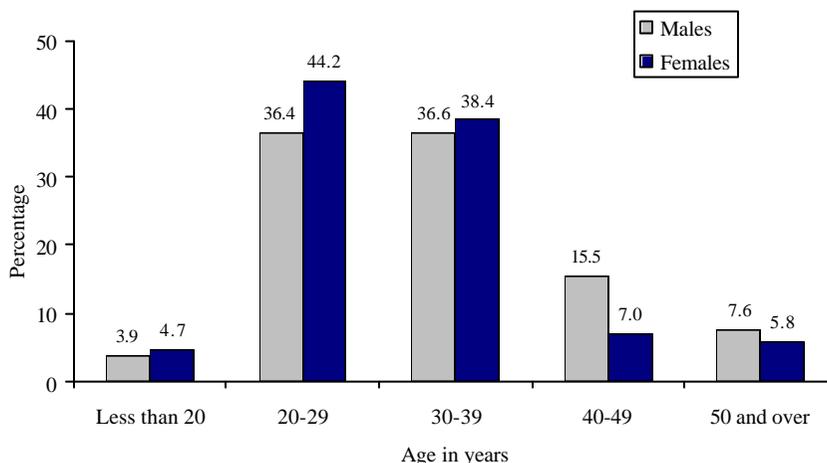


Census figures

- At midnight on 31 December 2002, there were 1,457 prisoners in custody. This figure was slightly lower than the daily average recorded for 2002 (n=1,458) 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 2002 was substantially higher than the 1,395 prisoners held one year earlier on 31 December 2001 and the 1,284 held in December 2000. Remandees accounted for 32.3% of those for whom information on legal status was recorded, while two-thirds (67.6%) were sentenced prisoners.
- The majority of persons held in custody on 31 December 2002 were male (94.1%). For every 1,000 adult males in the South Australian population, 2.40 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 (36.9%) of those held in custody on 31 December 2002 for whom age was recorded. A further 36.7% were aged 30 to 39 years. Only a very small proportion (7.5%) 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 2002: age by sex

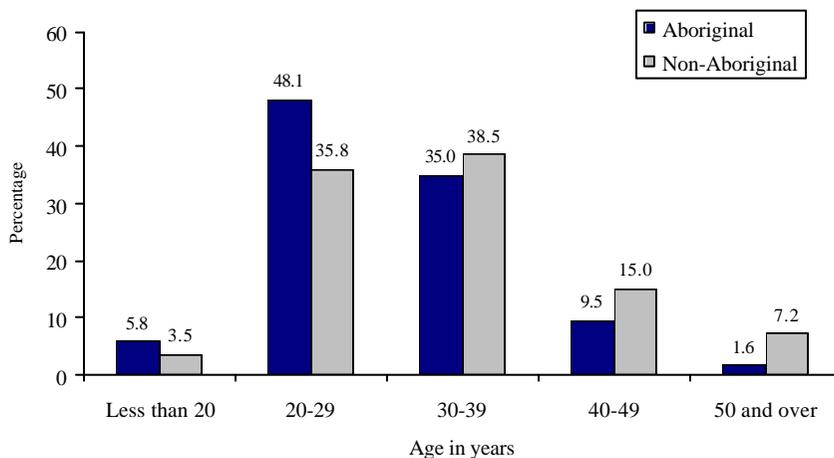


- Aboriginal persons accounted for 18.6% of the 1,308 persons in custody on 31 December 2002 for whom racial identity was recorded. This was slightly lower than the previous year, when they represented 19.6% of all persons incarcerated on 31 December 2001.
- However, this proportion varied depending on the sex of the prisoner. Excluding those cases where racial identity was not recorded, Aboriginal males accounted for 18.0% of all males in custody on that day (compared with 19.1% in 2001), whereas Aboriginal females accounted for 28.4% of all females in custody (compared with 27.5% in 2001).
- 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 23.9 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 15.3 times higher than expected. These figures indicate that, on a per capita basis, Aboriginal women are more likely to be imprisoned than their male

counterparts. Nevertheless, males still dominated both racial groups, accounting for 91.4% of all Aboriginal prisoners and 95.0% of all non-Aboriginal prisoners in custody on 31 December 2002.

- 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 Aboriginal persons in custody on 31 December 2002, while non-Aboriginal persons were most frequently aged 30-39 years. 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 2002: age by racial identity



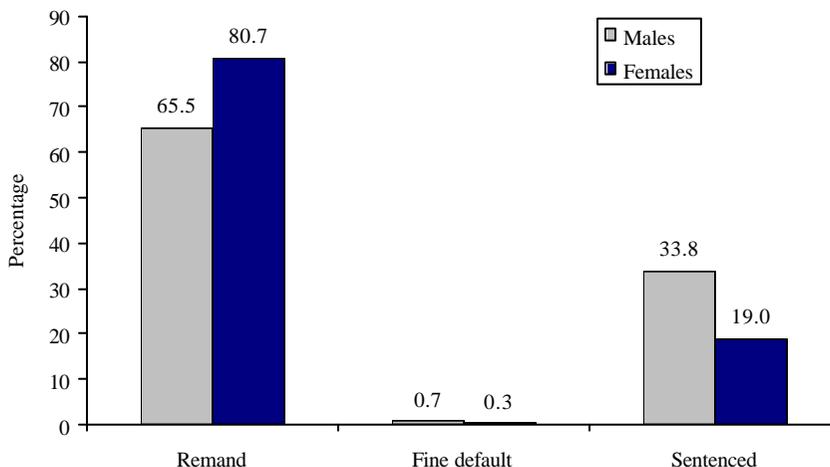
Escapes from custody

- In 2002, five prisoners escaped from custody. This was the same as the number recorded in 2001 and higher than that recorded in 2000 (2) but lower than the number recorded in 1998 or 1999 (9 and 18 respectively). Three of the escapes were from an institution (Cadell Training Centre) while two were from escort.
- The overall escape rate recorded in 2002 was 0.34 per 100 prisoners, compared with 0.36 in 2001, 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 2002, there were 3,665 persons¹¹ discharged from custody, the majority of whom were males (90.4% of the total).
- Of the 3,648 persons discharged in 2002 where legal status was recorded, approximately one third (1,182 or 32.4%) were serving a prison sentence at the time of their release. A further 2,441 (66.9%) were discharged from remand and 25 (0.7%) 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, 2002

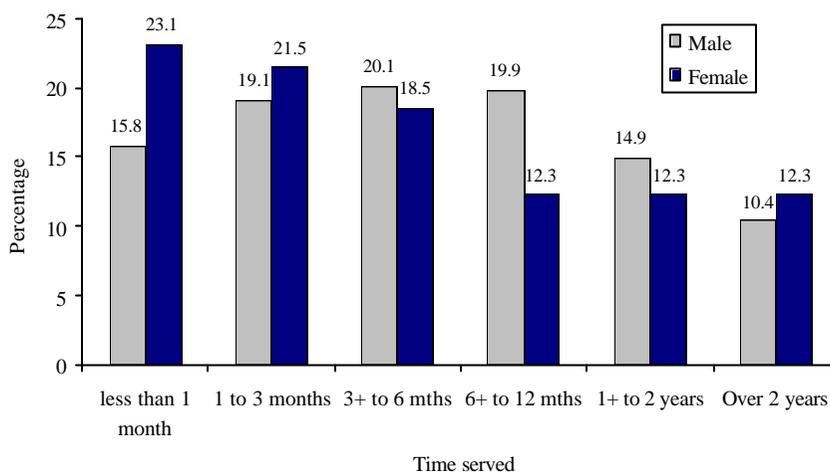


- As would be expected given the earlier data presented on prison receptions and census figures, of those persons discharged from custody for whom age was recorded, just under one half (45.2%) were aged 20 to 29 years while only 3.3% were aged 50 years and over.
- Of the 3,305 discharges where racial identity was recorded, one in five (20.8%) were identified as Aboriginal. More specifically, for those cases where relevant information was available, this racial group accounted for 18.7% of all discharges from remand and 25.4% of all sentenced prisoners discharged.

¹¹ This does not refer to discrete individuals. During the twelve month period, the same person may have entered prison and then been discharged on more than one occasion. Each discharge is counted separately in these tables.

- Tables 4.22 to 4.23 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 25 discharges in 2002), these tables have been deleted. However, it is worth noting that in 2002, of the 25 fine defaulters discharged from prison, the majority served only a relatively short period, with 24 in prison for less than 15 days and 1 in prison for two to four weeks.
- Of the 1,182 sentenced prisoners discharged in 2002, the majority were imprisoned for relatively short periods of time. More specifically, 16.2% spent less than one month in prison, while 35.4% were in prison for three months or less and 55.4% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 1.6% incarcerated for more than five years.
- As shown in Figure 29, compared with females, a lower proportion of males served less than three months or two years or more, while proportionately more had served three months to two years at the time of their discharge.

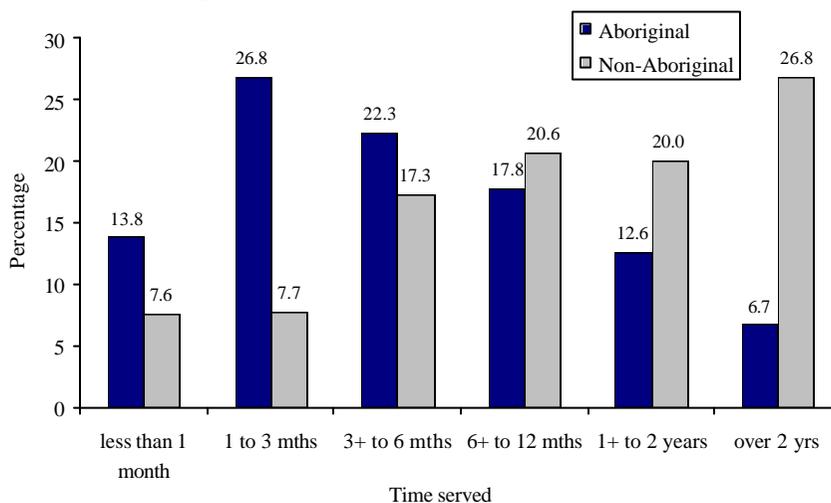
Figure 29 Prison discharges: time served by sex of sentenced prisoners, 2002.



- 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 30.4% of all discharges where the type of offence was recorded. This category was followed by *serious criminal trespass* (15.1%), *assault* (9.6%), *licence/registration offences* (9.5%), and *fraud* (7.6%).
- As expected, there was a strong association between the nature of the offence and the time served. To illustrate, of the 111 discharges involving a *licence/registration* offence, just under one half (44.1%) involved periods of less than one month. At the other end of the scale, of the 178 discharges involving a *serious criminal trespass* offence, only 4.5% had served less than one month, while 36.0% 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* (59 or 5.0% of those discharges where the type of offence was recorded), over one half of these (59.3%) involved terms of more than two years while only one 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 *robbery and extortion* (12.3% compared with 4.6% of male discharges where this information was recorded) and *fraud offences* (13.8% compared with 7.3%) while a lower proportion involved *serious criminal trespass* (6.2% compared with 15.6%) and *licence/registration offences* (4.6% compared with 9.7% of male discharges).

- Figure 30 compares the time served by Aboriginal and non-Aboriginal sentenced prisoners at the point of discharge. As shown, a lower percentage of Aboriginal prisoners than non-Aboriginal prisoners served very short orders of less than one month, and longer orders of over six months. Conversely, Aboriginal sentenced prisoners were more likely to serve mid-range periods of between one and six months.

Figure 30 Prison discharges: time served by racial identity of sentenced prisoners, 2002

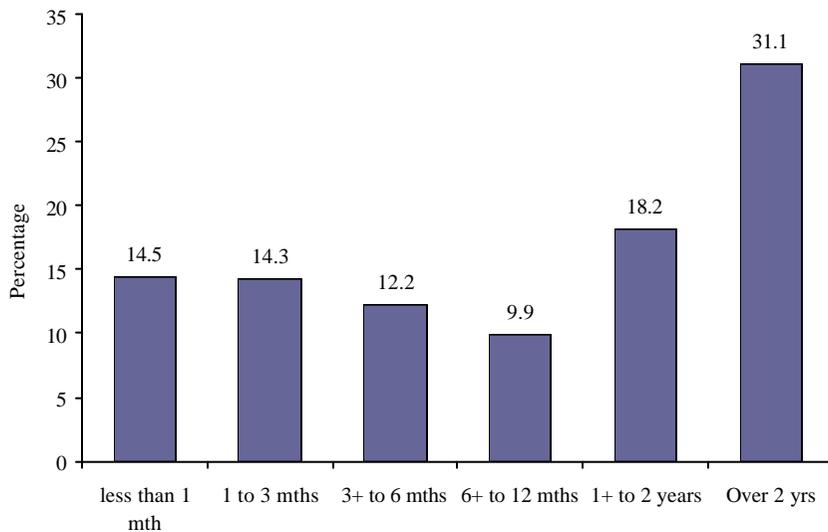


- There were also some differences between the two racial groups in terms of the major offence for which sentenced prisoners were being held at the time of discharge. While the most prominent offence for both groups was *offences against justice procedures* (30.5% and 37.2% of Aboriginal and non-Aboriginal discharges respectively), a higher proportion of Aboriginal sentenced prisoners were being held for *assault* (20.1% compared with 6.9% 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 2002. 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, half (50.9%) of prisoners discharged in 2002 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 18.2% received a head sentence of over one year to two years, while a further 31.1% received a head sentence of more than two years. A small number (11 of the 1,182 discharges recorded in 2002) had a head sentence of over 10 years, including two sentenced to life imprisonment for *homicide*.

Figure 31 Prison discharges: length of aggregate (or head) sentence for sentenced prisoners, 2002



Community-based Corrections

Orders¹² commenced during 2002

- 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.
- During 2002, a total of 9,670 community-based correction orders were commenced. Nearly one half (48.5%) of these orders involved some form of community work. This included stand-alone community service orders (27.0%), as well as instances where a financial penalty was expiated

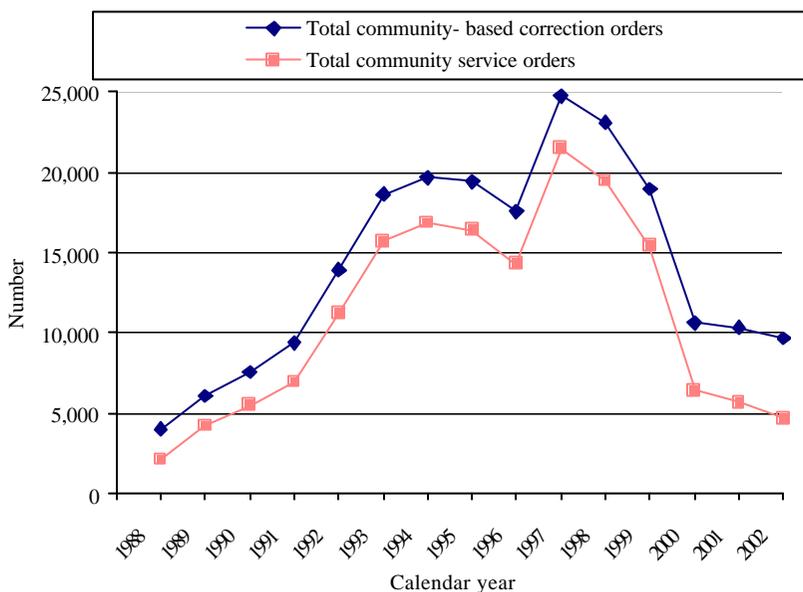
¹² For convenience, the term 'order' is applied to post-prison home detention supervision, even though this is not an order of the court.

through community service (21.5%). At the other end of the scale, only 7.8% of orders involved home detention, generally as part of a bail agreement (4.8%) or for sentenced prisoners released from gaol (2.9%). There were also six orders involving a home detention bond¹³.

- The 9,670 community-based correction orders commenced in 2002 involved 7,565 discrete individuals, giving an average of 1.26 orders per individual. The total number of individuals who commenced a community-based correction order in 2002 was 7.8% lower than in 2001, 5.1% lower than in 2000 and 47.9% lower than the 15,738 persons recorded in 1999.
- Males accounted for 80.0% of those individuals for whom sex was recorded and 81.3% of all orders commenced where relevant data were available. Although separate data are presented for Aboriginal and non-Aboriginal offenders, the proportion of cases in which information on racial identity was not recorded (23.8% 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. Decreases were also recorded in 2001 and 2002 (2.4% and 6.6% respectively) although they were not as substantial as the decreases recorded between 1998 and 2000. Overall, the 9,670 orders commenced in 2002 was 156.1% lower than the peak recorded in 1997.

¹³ This reporting category was introduced in 1999 in response to an amendment of the *Criminal Law (Sentencing) Act* 1988. Under S38 (2c) of that Act, the court can now suspend a sentence of imprisonment in those circumstances where it considers that, because of the defendants' ill health, disability or frailty, it would be unduly harsh for the offender to serve time in prison. In suspending that sentence, the defendant is required to enter into a good behaviour bond, which, in these circumstances, may include a home detention condition.

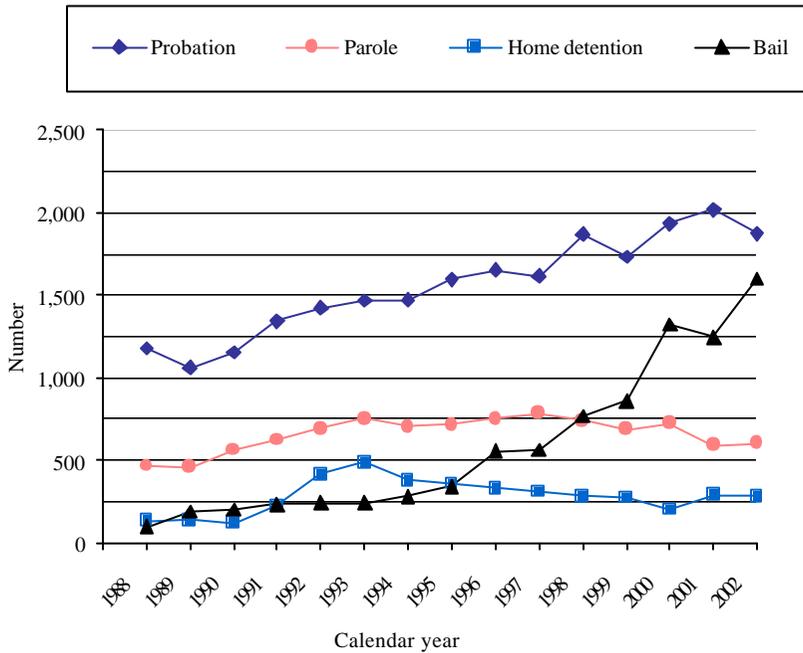
Figure 32 Community-based correction orders and community service orders commenced 1988 to 2002



- Also shown in Figure 32 is the total number of community service orders completed between 1988 and 2002. This includes ‘stand alone’ community service orders, CSO (fine option) and CSO expiration notices commenced in the years up to and including 2000, as well as the Financial Penalty expiated through community service orders that replaced them from 2001. As indicated, community service orders have consistently made up the majority of community-based correction orders with 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 69.5% from 15,401 in 1999 to 4,693 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 2002



- The number of parole orders showed a general upward trend from 1988 to 1997. Between 1997 and 2001, despite some fluctuation in 2000, they generally declined. While the number of parole orders increased by 1.9% to 601 in 2002 this figure was still 16.9% below the number recorded in 1997.
- Probation orders generally increased steadily 1988 and 2001, with the 2,017 such orders recorded in 2001 being the highest in the 14 years depicted in Figure 33. However, in 2002 the number of probation orders declined by 7.1% to 1,874.
- 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. Numbers increased by 43.8% in 2001 and then steadied in 2002 (279). However, 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). While a drop of 5.6% (to 1,245) was recorded in 2001, this decrease was not sustained and numbers rose sharply in 2002, by 28.4% to 1,599.

Persons supervised at 31 December 2002

- On the 31st December 2002, the Department for Correctional Services was supervising 6,267 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 2002 was that of probation, with 2,462 individuals registered on that day. This equates to 39.3% of all discrete persons under Department for Correctional Services community-based supervision on that particular day.
- There were also 1,559 individuals (24.9% of all discrete individuals) recorded in the category of *Financial penalty expiated through Community Service* and 1,490 serving a 'stand alone' community service order.
- At the other end of the scale, only 74 persons (1.2% of all discrete individuals) were sentenced prisoners on home detention while 529 (8.4%) were on bail, either with or without a home detention component.
- The total number of persons under supervision on 31 December 2002 (n=6,267) was 6.2% lower than the 6,680 individuals being supervised on 31 December 2001. When the number within each type of order are summed, total orders supervised in 2002 was 5.4% lower than in 2001 (7,215 compared with 7,628 respectively).
- In 2002 decreases were observed in several categories in comparison with 2001. The number of persons serving any type of community service order decreased by 15.5% (from 3,607 in 2001 to 3,049 in 2002) and the number of persons on parole was 2.0% lower and the number on probation was 1.7% lower compared with 2001.
- In contrast, the number of persons on bail at 31 December 2002 (including home detention bail) was 54.7% higher than in 2001 and the number of persons on home detention increased from 65 in 2001 to 74 in 2002.
- Males accounted for eight in ten (80.3%) of all discrete individuals supervised on 31 December 2002 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

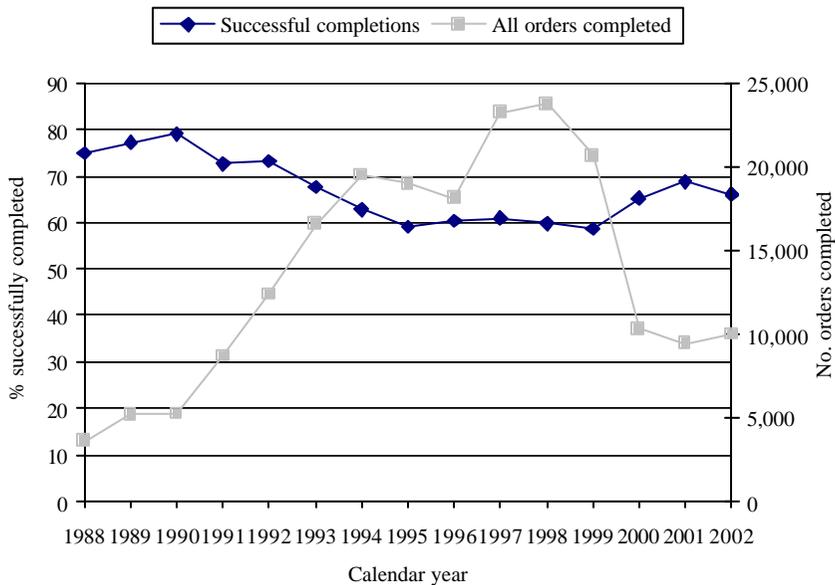
particular, a higher proportion of females than males were listed under the category of *financial penalty expiated through community service* (31.4% compared with 23.3% respectively) while a higher proportion of males than females were on parole (16.1% of all male 'orders' supervised on 31 December 2002 compared with 4.5% of all females 'orders').

- Because information on racial identity was not available for 23.3% 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 2002

- The number of community-based correction orders completed (either successfully or otherwise) increased in 2002 (from 9,420 in 2001 to 10,004). Of these 10,004 orders, the majority (66.0%) were completed successfully, while one third (33.8%) were revoked, estreated or breached. This is slightly more than observed in 2001, when 31.1% of orders were revoked or estreated.

Figure 34 Community-based correction orders completed and the percentage completed successfully, 1988 to 2002

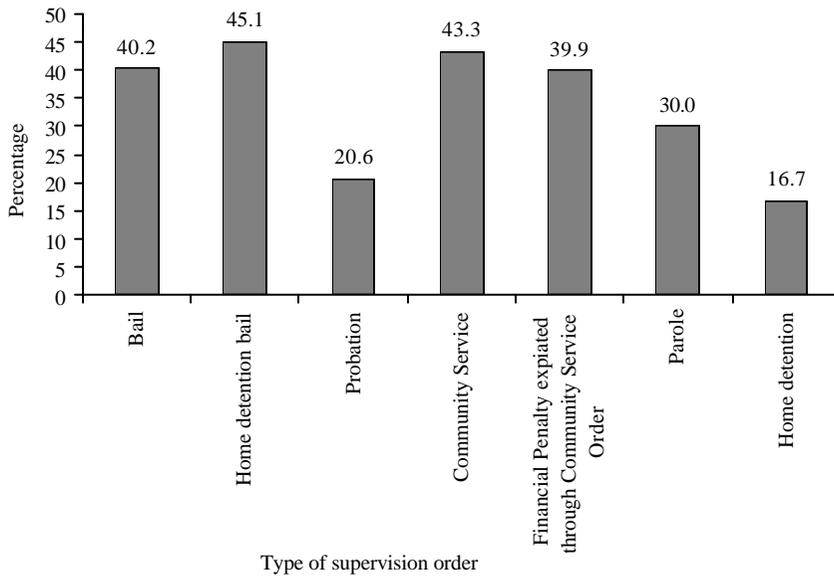


- Figure 34 shows that, until 1999, despite some annual fluctuations, as the number of completed community-based correction orders has escalated, so the proportion of such orders successfully completed has diminished. In 1988, for example, when there were only 3,603 orders completed, 74.9%

were successfully finalised. In 1998, the number of orders completed had increased more than five-fold, but the proportion of successful completions reduced to around 60%. However, in 2000, the number of orders completed decreased substantially, while the proportion successfully completed rose to 65.2%. This trend continued in 2001 and 2002. The number of orders completed in 2001 decreased by 8.5%, but the proportion that were completed successfully rose to 68.8%. In 2002, the number of orders completed increased by 6.2%, but the proportion that were completed successfully dropped to 66.0%.

- The extent to which orders were estreated or revoked in 2002 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 (45.1%), followed by community service orders (43.3%) and Financial Penalty expiated through community service (39.9%). In contrast, only 16.7% of the home detentions completed by sentenced prisoners were estreated in 2001.

Figure 35 Community correction orders completed in 2002: 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 2002, 34.0% of orders involving males were estreated or revoked, as were 33.0% of orders involving females.

