

SERIES A No. 40 (3)

OCTOBER 2004

CRIME AND JUSTICE
IN
SOUTH AUSTRALIA
2003

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ADULT COURTS AND
CORRECTIONS

OFFICE OF CRIME STATISTICS AND RESEARCH
Attorney-General's Department

First published 2004 by

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

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ISSN: 1443-2862

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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 2003;
- The daily average number of prisoners during 2003;
- Persons in custody at 31 December, 2003;
- Prisoners discharged during 2003;
- Community based correction orders commenced during 2003; and
- Community based correction orders completed during 2003.

We are currently reviewing and redeveloping the structure and content of this report and it is anticipated that this will be the last *Crime and Justice* series in this format.

Unfortunately the resources associated with these processes have meant that the extent of the descriptive analysis included in this report has been reduced compared to previous years. It is anticipated that the next series of *Crime and Justice* reports will once again include more descriptive analysis of the statistics.

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

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Director
Office of Crime Statistics and Research

October 2004

ACKNOWLEDGEMENTS

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

- Mr Mike Reynolds, from the Strategic Services Division of the Department for Correctional Services;
- Staff from the Business Information Section, Data Management and Offender History Units, SAPOL;

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

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INTRODUCTION

INTRODUCTION

This report, covering the period 1 January 2003 to 31 December 2003, is the fifteenth *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 2003 Statistics

Magistrates Courts

- During 2003, there were 29,206 cases finalised in the Magistrates Court, which is 3.8% lower than the 30,359 cases finalised in 2002.
- *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 19.6% and *larceny and receiving* offences for 13.0%. At the other end of the scale, very few cases involved either a *sexual offence* (1.4%) or *robbery and extortion* (1.0%). In addition, 5.1% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2003, 984 (3.3%) were committed to the District or Supreme Court for trial or sentence. This number is 2.4% lower than the 1,008 cases committed in 2002 and 45.1% 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 2003, over half of all cases finalised in the Magistrates Court (53.3%) resulted in the defendant being convicted of the major charge. In a further 12.0% of cases, the defendant was found guilty of the major charge but was not convicted.
- In just over one quarter of cases (26.6%) the major charge was either withdrawn by prosecution or dismissed. However, in 19.6% 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 28,222 cases finalised in the Magistrates Court (excluding those committed to a higher court) just under three quarters (73.0%) resulted in a finding of guilt to at least one charge.
- Of the 1,502 *restraining, domestic violence or paedophile restraining orders* matters finalised in 2003, 939 (62.5%) resulted in the issuance of an order.
- Of the 20,649 cases finalised in 2003 by way of a conviction or a finding of guilt to at least one charge, one third (33.1%) received a fine as the major penalty, while approximately one quarter (24.4%) resulted in a driver's license suspension. Overall, 4.3% 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 *sexual offence* (average imprisonment of 100 weeks).
- Although females featured in only a small proportion (17.2%) of cases finalised in 2003, their level of involvement varied depending on the type of offence. For example, females accounted for only 1.5% of those cases in which a *sexual offence* was listed as the major charge, but 37.1% of all cases involving *fraud and misappropriation*.
- Just under two fifths (38.4%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while relatively few (6.8%) were aged 50 years and over.
- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (260.3 per 1,000 adult Aboriginal population compared with 22.5 per 1,000 adult non-Aboriginal population respectively).
- Seven out of ten defendants (70.7%) in the Magistrates Court had at least one prior conviction, with an average of 13.6 previous convictions per defendant. Over one in five cases (20.2%) involved defendants who had previously been sentenced to imprisonment.
- In the 8,958 cases finalised at the first court hearing, only six defendants were remanded in custody at the time (0.1%). In contrast, 22.1% 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 33.8% had a lawyer. This rose to over three quarters (76.9%) of those cases that required more than one hearing to finalise and 94.8% of those which were committed to a higher court for trial or sentence.

Higher Courts

- In 2003, there were 56 cases finalised in the Supreme Court and 996 finalised in the District Court, giving a total of 1,052. This was 6.5% higher than the number of cases disposed of in 2002.
- Considering the major charge per case indicates that the largest offence groups were the *drug offences* (29.0% of the total), *serious criminal trespass* (24.0%) and offences *against the person (excluding sexual offences)* (14.7%) categories.
- The majority of defendants (78.1%) pleaded or were found guilty of at least one charge at trial. In 61.2% of cases the defendant pleaded guilty to either the major or a lesser charge. In a further 13.2% of cases, a trial was held which resulted in either a plea or finding of guilt. In another 3.7% 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 2003 were imprisonment, imposed in 44.9% of cases where one or more charges had an outcome of *guilty*, and suspended imprisonment (imposed in 40.6% of such cases).
- The group with the highest percentage imprisoned was *fraud and misappropriation*, with 13 of the 14 defendants convicted receiving this penalty, followed by *robbery and extortion* (69.6%).
- Almost nine out of ten defendants (86.7%) were males, whose average age was 30.8 years. Females had an average age of 31.9 years.
- Persons of Aboriginal appearance made up 10.0% of defendants, with a rate of appearance of 8.0 per 1,000 adult Aboriginal population. This was much higher than other defendants, whose appearance rate was 0.9 per 1,000 adult non-Aboriginal population.
- Approximately four out of five defendants had at least one prior conviction, while 9.2% had 50 or more previous convictions. Almost one third (32.3%) had been imprisoned before.
- Just under one third of defendants (28.6%) were being held in custody at the commencement of proceedings.

Correctional Services

Imprisonment

Prison receptions

- In 2003, there were 3,493 prisoners received into custody. Of the 3,448 prison receptions where legal status was available, 12.8% were sentenced prisoners, 0.6% were fine defaulters and 86.6% were on remand. The number of receptions in 2003 was 6.2% lower than recorded in 2002, and well below the peak of 7,618 recorded in 1992.
- In 2003, a slightly higher proportion of prison receptions involved sentenced prisoners (12.8% compared with 10.9% in 2002), In contrast, the proportion of admissions involving remanded prisoners was marginally lower (86.6% in 2003 compared with 88.6% in 2002) and the proportion of fine defaulters remained stable (0.6% of all receptions in 2003 compared with 0.5% in 2001).
- The overwhelming majority of persons received into custody in 2003 were male (89.7%). This figure was consistent for both remand and sentenced prison receptions, while 21 of the 22 fine default receptions were male.
- For those 3,485 receptions where age was known, almost one half (42.6%) involved persons aged 20 to 29 years, while those in the older age groups (notably 50 years and over) accounted for only 3.1%.
- Persons identified as Aboriginal accounted for 23.0% of the 3,031 prison receptions where information on racial identity was recorded. This figure was similar to that recorded for remand receptions (23.4% identified as Aboriginal), but slightly higher than the proportion of sentenced receptions (20.7%).

Daily averages

- Daily average prison numbers increased in 2003 from 1,458 per day in 2002 to 1,481.
- The majority of the 1,481 prisoners were serving a prison sentence (988 or 66.7%), while 487 (32.9%) were on remand.
- In 2003, males accounted for 93.7% of the daily average prison population, with a rate of 2.40 per 1,000 adult male population, compared with only 0.16 per 1,000 adult female population.
- On average, 253 Aboriginal persons were held in custody each day in 2003, which represents 19.0% of those for whom racial identity was recorded.

Census figures

- At midnight on 31 December 2003 there were 1,438 prisoners in custody. Remandees accounted for 30.8% of those for whom information on legal status was recorded while almost seven in ten (69.2%) were sentenced prisoners.
- Males again dominated. For every 1,000 adult males in the South Australian population, 2.35 were in custody on that particular day compared with only 0.14 females per 1,000 adult female population.
- Aboriginal males accounted for 19.7% of all males in custody on 31 December 2003 where racial identity was known (compared with 18.0% in 2002), while Aboriginal females accounted for 23.0% of all females in custody (compared with 28.4% in 2002).

Escapes from custody

- In 2003, two prisoners escaped from the custody of the Department for Correctional Services. This was three less than the number recorded the previous year. Both escapes were from institutions.

Prison discharges

- In 2003, there were 3,506 discharges from custody. Where legal status was known, 35.1% were, at the time of discharge, serving a prison sentence. A further 64.2% 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 (76.4% compared with 62.8% of males), while a lower proportion were classified as sentenced prisoners (23.6% compared with 36.4% of males).
- Of the 1,223 sentenced prisoners who were discharged in 2003, 18.2% spent less than one month in prison, while 38.8% 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 128 discharges involving a *licence/registration* offence, almost one half (49.2%) were for periods of less than one month. However, of the 165 sentenced prisoners discharged after serving sentences for *serious criminal trespass*, only 2.4% had served less than one month, while 40.0% 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 29.3% of the discharges where the type of offence was recorded, followed by *serious criminal trespass* (13.5%) and *licence/registration* offences (10.5%).

- Overall, Aboriginal sentenced prisoners were more likely to serve periods of between one and six months (48.2% compared with 37.4%) , but less likely to serve terms of six months or more than were their non-Aboriginal counterparts (32.9% compared with 47.9%).

Community-based Corrections

Orders commenced during 2003

- In 2003, there were 8,474 community-based correction orders commenced, which was 12.4% fewer than the 9,670 recorded in 2002.
- Over one-third (39.6%) of the community-based correction orders commenced in 2003 involved some form of community work. This included stand-alone community service orders (26.5%) as well as instances where a financial penalty was expiated through community service (13.1%).
- Only 9.6% of supervisions involved home detention, generally as part of a bail agreement (6.2%) or for sentenced prisoners released from gaol (3.4%).
- The 8,474 orders commenced in 2003 involved 6,660 discrete individuals, giving an average of 1.27 orders per person. The total number of individuals who commenced an order in 2003 was 12.0% lower than in 2002, largely due to the continuing affect of the abolition in 2000 of CSO (expiation notice) and CSO as fine option orders.
- Males accounted for 81.1% of all individuals and 81.7% of all orders commenced where relevant data were available.

Persons supervised at 31 December 2003

- On 31 December 2003, Correctional Services were supervising 5,648 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 2,309 discrete individuals registered. This equates to 36.0% of all persons under Correctional Services community supervision on that day.
- The total number of persons supervised was 9.9% lower than the 6,267 individuals under supervision twelve months earlier, on 31 December 2002.

Orders completed during 2003

- The number of community-based correction orders completed decreased in 2003 (by 7.9% from 10,004 in 2002 to 9,209).

- The majority of these orders were completed successfully (64.5%).
- The extent to which orders were revoked or estreated in 2003 varied depending on the type of order involved. The highest level of estreatment/revocation was recorded for community service orders (47.9%), followed by orders where a financial penalty was expiated through community service (47.4%) and home detention bail orders (41.4%). In contrast, only 10.9% of home detentions completed by sentenced prisoners in 2003 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 2003 were cleared by way of an apprehension, as were 11.8% of *vehicle thefts*. Apprehension levels for *drug* and *driving offences* were considerably higher (99.3% 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.