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**CRIME AND JUSTICE
IN
SOUTH AUSTRALIA
2004**

-

**ADULT COURTS AND
CORRECTIONS**

OFFICE OF CRIME STATISTICS AND RESEARCH
Department of Justice

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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 2004;
- The daily average number of prisoners during 2004;
- Persons in custody at 31 December, 2004;
- Prisoners discharged during 2004;
- Community based correction orders commenced during 2004; and
- Community based correction orders completed during 2004.

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

Systems design and programming:	Carol Castle
Data tabulation:	Carol Castle and Lynne Sampson
Commentary and explanatory notes:	Paul Thomas
Data entry, coding and auditing:	Lynne Sampson, Natalie Gatis, Tina Conroy
JIS Codes maintenance:	Carol Castle and Lynne Sampson
Table layout:	Natalie Gatis, Tina Conroy
Final preparation for publication:	Natalie Gatis and Tina Conroy
Editing and coordination:	Joy Wundersitz and Paul Thomas

INTRODUCTION

This report, covering the period 1 January 2004 to 31 December 2004, 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 2004 Statistics

Magistrates Courts

- During 2004, there were 27,499 cases finalised in the Magistrates Court, which is 5.8% lower than the 29,206 cases finalised in 2003.
- *Driving offences* were listed as the major charge in approximately one quarter (27.7%) of these cases, while *offences against good order* accounted for a further 20.1% and *larceny and receiving* offences for 12.5%. At the other end of the scale, very few cases involved either a *sexual offence* (1.3%) or *robbery and extortion* (0.8%). In addition, 5.4% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2004, 929 (3.4%) were committed to the District or Supreme Court for trial or sentence. This number is 5.6% lower than the 984 cases committed in 2003 and 48.1% 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 2004, over half of all cases finalised in the Magistrates Court (57.2%) resulted in the defendant being convicted of the major charge. In a further 12.9% of cases, the defendant was found guilty of the major charge but was not convicted.
- In just over one fifth of cases (21.5%) the major charge was either withdrawn by prosecution or dismissed. However, in 19.4% 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 26,570 cases finalised in the Magistrates Court (excluding those committed to a higher court) just under three quarters (77.0% or 20,455 cases) resulted in a finding of guilt to at least one charge.
- Of the 1,493 *restraining, domestic violence or paedophile restraining orders* matters finalised in 2004, 926 (62.0%) resulted in the issuance of an order, 258 (17.3%) were varied, while 292 (19.6%) were either revoked, cancelled, withdrawn, dismissed or refused.
- Of the 20,455 cases finalised in 2004 by way of a conviction or a finding of guilt to at least one charge, one third (30.1%) received a fine as the major penalty, while approximately one quarter (27.9%) resulted in a driver's license suspension. Overall, 4.4% of cases resulted in direct imprisonment while 9.1% received suspended imprisonment.

- The average length of imprisonment (amongst offences categories with more than one case of imprisonment) was highest for those cases where the major charge proved was a *serious criminal trespass offence* (average imprisonment of 70 weeks).
- Although females featured in only a small proportion (17.7%) of cases finalised in 2004, their level of involvement varied depending on the type of offence. For example, females accounted for only 1.6% of those cases in which a *sexual offence* was listed as the major charge, but 40.1% of all cases involving *fraud and misappropriation*.
- Just under two fifths (38.9%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while relatively few (6.9%) were aged 50 years and over.
- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (266.4 per 1,000 adult Aboriginal population compared with 21.1 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 14.0 previous convictions per defendant. Over one in five cases (19.9%) involved defendants who had previously been sentenced to imprisonment.
- In the 8,341 cases finalised at the first court hearing, only eight defendants were remanded in custody at the time (0.1%). In contrast, 22.0% 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 34.7% had a lawyer. This rose to over three quarters (78.4%) of those cases that required more than one hearing to finalise and 96.6% of those which were committed to a higher court for trial or sentence.

Higher Courts

- In 2004, there were 52 cases finalised in the Supreme Court and 924 finalised in the District Court, giving a total of 976. This was 7.2% lower than the number of cases disposed of in 2003.
- Considering the major charge per case indicates that the largest offence groups were the *drug offences* (29.8% of the total), *serious criminal trespass* (24.7%) and offences *against the person (excluding sexual offences)* (12.9%) 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 16.5% 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 2004 were imprisonment, imposed in 44.9% of cases where one or more charges had an outcome of *guilty*, and suspended imprisonment (imposed in 41.9% of such cases).
- The average length of imprisonment was just over four years (or 49.4 months, excluding sentences of life imprisonment). The average non-parole period set was just over three years (36.7 months).
- The offence group with the highest percentage imprisoned was *fraud and misappropriation*, with 11 of the 13 defendants convicted receiving this penalty, followed by *sexual offences* (67.8%).
- Almost nine out of ten defendants (88.1%) were males, whose average age was 31.2 years. Females had an average age of 31.8 years.

- Persons of Aboriginal appearance made up 9.6% of defendants, with a rate of appearance of 7.2 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 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 2004, there were 3,440 prisoners received into custody. Of the 3,381 prison receptions where legal status was available, 10.9% were sentenced prisoners, 0.6% were fine defaulters and 88.6% were on remand. The number of receptions in 2004 was 1.5% lower than recorded in 2003, and well below the peak of 7,618 recorded in 1992.
- In 2004, a slightly lower proportion of prison receptions involved sentenced prisoners (10.9% compared with 12.8% in 2003). In contrast, the proportion of admissions involving remanded prisoners was marginally higher (88.6% in 2004 compared with 86.6% in 2003) and the proportion of fine defaulters remained stable (0.6% of all receptions in 2003 and 2004).
- The overwhelming majority of persons received into custody in 2004 were male (89.2%). This figure was consistent for both remand and sentenced prison receptions, while 17 of the 19 fine default receptions were male.
- For those 3,485 receptions where age was known, four out of ten (39.5%) involved persons aged 20 to 29 years, while those in the older age groups (notably 50 years and over) accounted for only 4.2%.
- Persons identified as Aboriginal accounted for 24.4% of the 3,084 prison receptions where information on racial identity was recorded. This figure was similar to that recorded for remand receptions (24.8% identified as Aboriginal), but slightly higher than the proportion of sentenced receptions (18.8%) and fine defaulters (14.3%).

Daily averages

- Daily average prison numbers decreased marginally in 2004 from 1,481 per day in 2003 to 1,475 in 2004.
- The majority of the 1,475 prisoners were serving a prison sentence (998 or 67.8%), while 473 (32.2%) were on remand.
- In 2004, males accounted for 94.0% of the daily average prison population, with a rate of 2.38 per 1,000 adult male population, compared with only 0.15 per 1,000 adult female population.
- On average, 257 Aboriginal persons were held in custody each day in 2004, which represents 19.4% of those for whom racial identity was recorded.

Census figures

- At midnight on 31 December 2004 there were 1,507 prisoners in custody. Remandees accounted for 31.2% of those for whom information on legal status was recorded while two thirds (68.8%) were sentenced prisoners.
- Males again dominated. For every 1,000 adult males in the South Australian population, 2.43 were in custody on that particular day compared with only 0.15 females per 1,000 adult female population.
- Aboriginal males accounted for 20.2% of all males in custody on 31 December 2004 where racial identity was known (compared with 19.7% in 2003), while Aboriginal females accounted for 31.7% of all females in custody (compared with 23.0% in 2003).

Escapes from custody

- In 2004, four prisoners escaped from the custody of the Department for Correctional Services. Three escapes were from an institution (Cadell Training Centre) while one was from escort.

Prison discharges

- In 2004, there were 3,400 discharges from custody. Where legal status was known, 34.2% were, at the time of discharge, serving a prison sentence. A further 65.2% were discharged from remand and 0.6% were discharged after having 'cut out' a fine.
- A higher proportion of females were on remand at the time of discharge (74.2% compared with 64.2% of males), while a lower proportion were classified as sentenced prisoners (25.2% compared with 35.2% of males).
- Of the 1,156 sentenced prisoners who were discharged in 2004, 14.8% spent less than one month in prison, while 34.3% were in prison for three months or less. At the other end of the scale, only 1.2% 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 106 discharges involving a *licence/registration* offence, more than one third (37.7%) were for periods of less than one month. However, of the 148 sentenced prisoners discharged after serving sentences for *serious criminal trespass*, only 1.4% had served less than one month, while 51.4% 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 31.0% of the discharges where the type of offence was recorded, followed by *serious criminal trespass* (12.9%) and *licence/registration* offences (9.2%).
- Overall, Aboriginal sentenced prisoners were more likely to serve periods of between two and six months (50.9% compared with 36.8%), but less likely to serve terms of six months or more than were their non-Aboriginal counterparts (35.6% compared with 48.3%).

Community-based Corrections

Orders commenced during 2004

- In 2004, there were 8,809 community-based correction orders commenced, which was 4.0% higher than the 8,474 recorded in 2003.
- Over one-third (37.7%) of the community-based correction orders commenced in 2004 involved some form of community work. This included stand-alone community service orders (27.4%) as well as instances where a financial penalty was expiated through community service (10.3%).

- Only 9.8% of supervisions involved home detention, generally as part of a bail agreement (7.3%) or for sentenced prisoners released from gaol (2.5%).
- The 8,809 orders commenced in 2004 involved 6,662 discrete individuals, giving an average of 1.32 orders per person. The total number of individuals who commenced an order in 2004 was almost identical to that recorded in 2003 (6,660) but 57.7% lower than the 15,738 persons recorded in 1999. This decrease is 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 2004

- On 31 December 2004, Correctional Services were supervising 6,447 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 2,510 discrete individuals registered. This equates to 38.9% of all persons under Correctional Services community supervision on that day.
- The total number of persons supervised was 14.1% higher than the 5,648 individuals under supervision twelve months earlier, on 31 December 2003.

Orders completed during 2004

- The number of community-based correction orders completed decreased in 2004 (by 6.1% from 9,209 in 2003 to 8,651).
- The majority of these orders were completed successfully (61.5%).
- The extent to which orders were revoked or estreated in 2004 varied depending on the type of order involved. The highest level of estreatment/revocation was recorded for home detention bail orders (48.4%), followed by orders where a financial penalty was expiated through community service (48.0%) and community service orders (46.0%). In contrast, only 9.6% of home detentions completed by sentenced prisoners in 2004 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 6.6% of *serious criminal trespass* reported to police in 2004 were cleared by way of an apprehension, as were 9.4% of *vehicle thefts*. Apprehension levels for *drug* and *driving offences* were considerably higher (99.4% 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 2004 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 2004.

Conversely, the court data will count persons apprehended and/or sentenced in 2004 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, an 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.

Likewise in late 2001 the Police Drug Diversion Initiative was introduced to respond to both adults and juveniles detected in possession of drugs or drug implements. Under this scheme, such individuals are diverted to a brief assessment and intervention without the offences being formally recorded on the Police Information Management System.

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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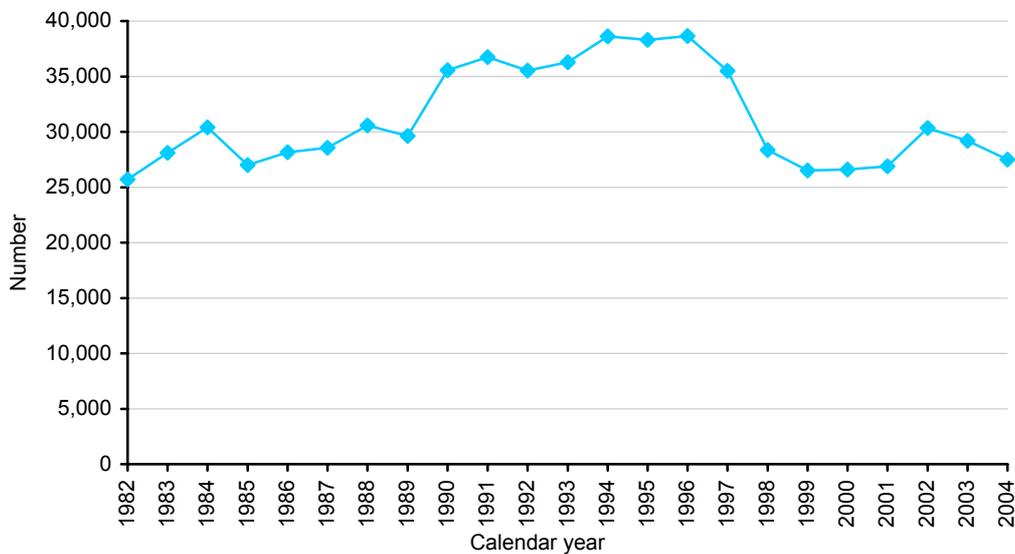
OVERVIEW

1.1 Magistrates Courts of South Australia

Overview

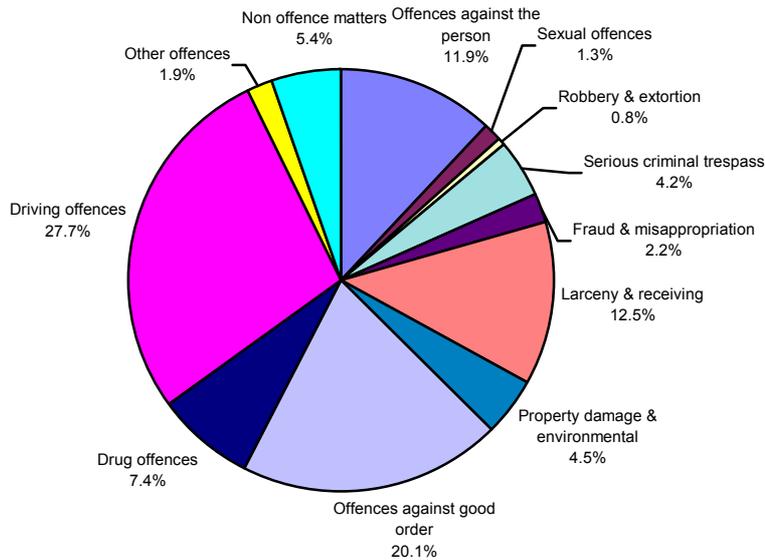
- During 2004, 27,499 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries were finalised in the Magistrates Court. This figure is 5.8% lower than the 29,206 finalised cases in 2003.
- As indicated in Figure 1, although the number of matters disposed 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. Since then the number has declined approaching the 1998 to 2001 levels and substantially lower than the peak recorded in 1996 (n=38,652).

Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 2004



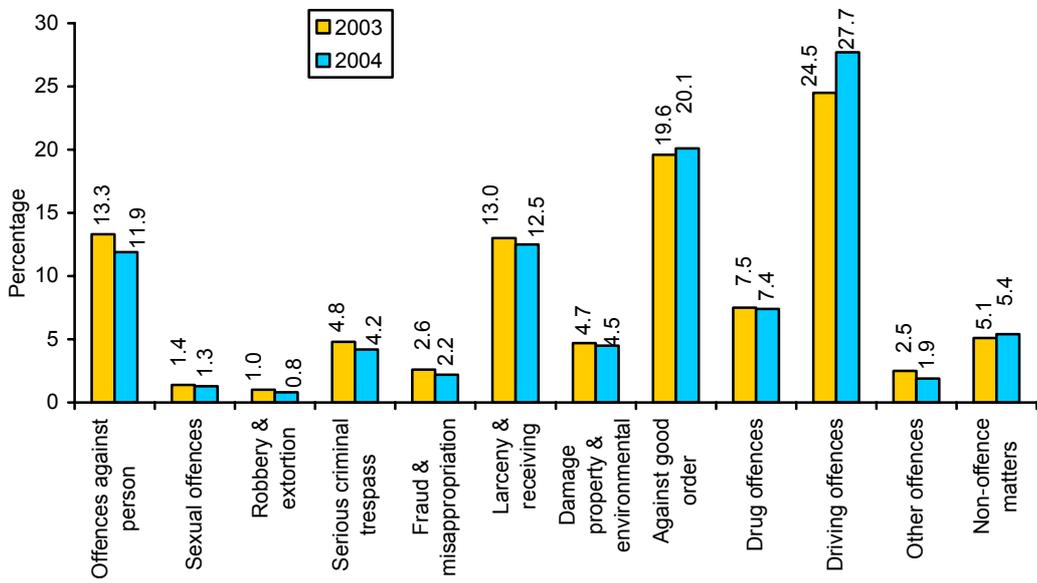
- As indicated in Figure 2, *driving offences* constituted the major charge in quarter (27.7%) of all cases finalised in 2004, while *offences against good order* featured in a further 20.1% of cases, *larceny and receiving* in 12.5% and *offences against the person* in 11.9%. At the other end of the scale, there were relatively few cases in which *robbery and extortion* or *sexual offences* constituted the major offence charged (0.8% and 1.3% respectively). In addition, 5.4% 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: 2004



- Overall, this offence profile is similar to that observed in 2003. As shown in Figure 3, in both 2003 and 2004, 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.

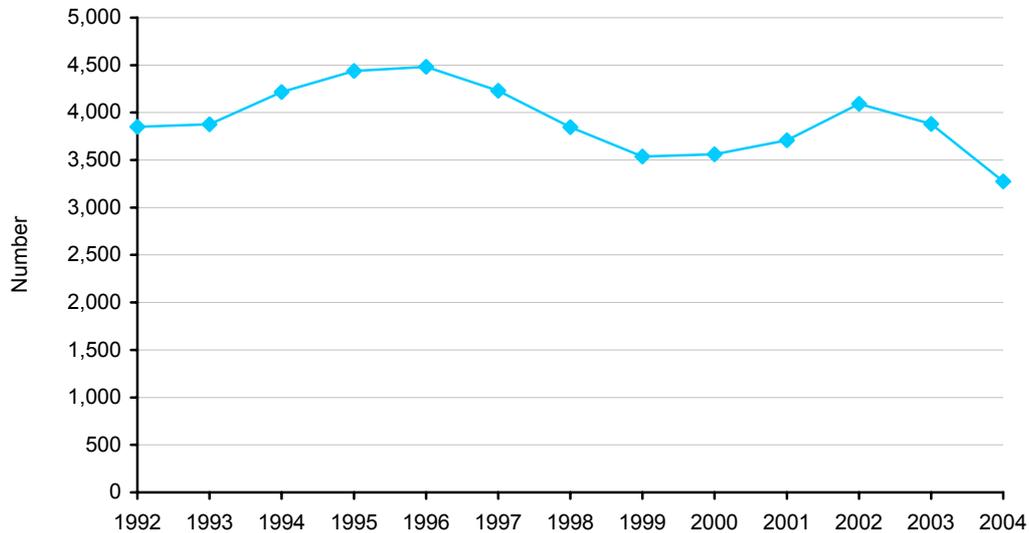
Figure 3 Cases finalised in the Magistrates Court by major charge: 2003 and 2004



- Longitudinal trends in the actual number of offences per category are detailed in Figure 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 2004.
- 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

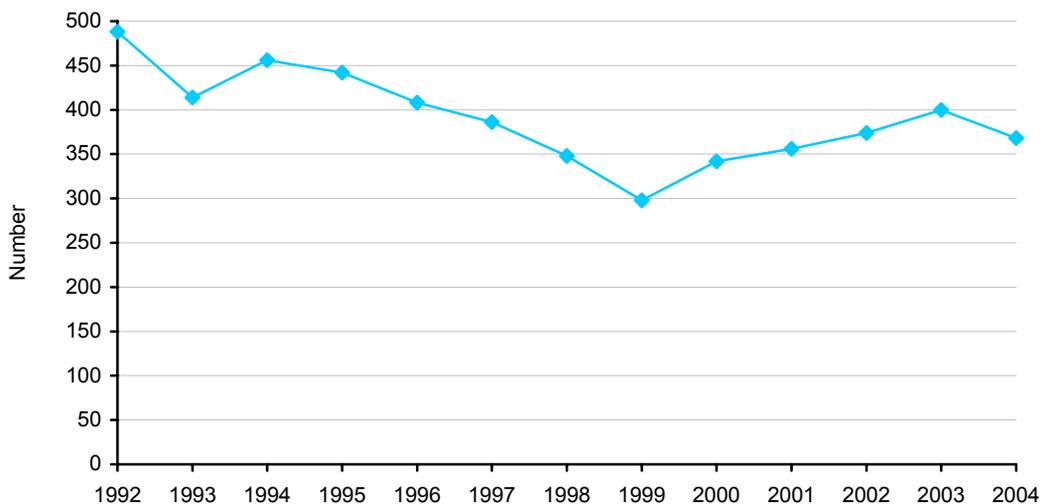
major charge again increased, with further increases recorded in 2001 and 2002. During the last two years this number has reduced and the 2004 total of 3,276 is the lowest level recorded during the past 13 years

Figure 4 Cases finalised in the Magistrate Court where the major charge was an *offence against the person, excluding sexual offences*: 1992 to 2004



- 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 during the next three years steady increases were recorded. The 2004 total of 368 represents an 8% reduction over the 2003 total of 400 cases.

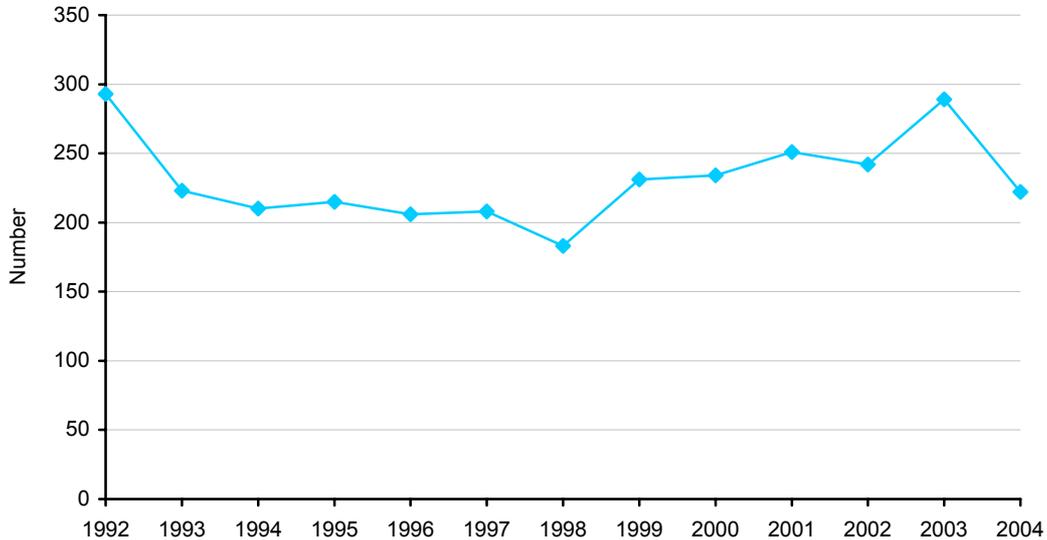
Figure 5 Cases finalised in the Magistrates Court where the major charge was a *sexual offence*: 1992 to 2004



- 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 1999 to the 2002 numbers were again relatively stable but at higher level than previously. After

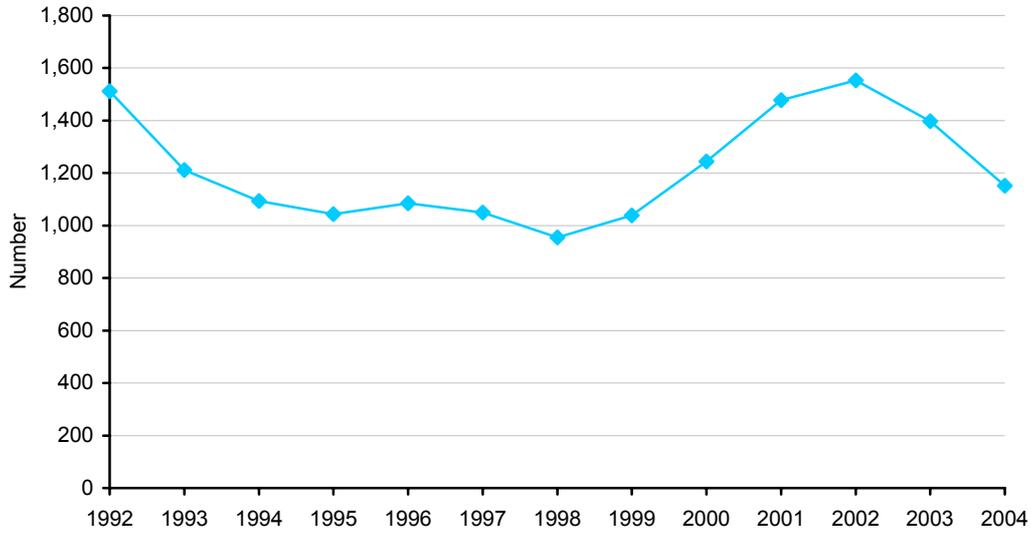
experiencing a marked increase in 2003 (up to 289 cases) the current figure has declined (to 222) returning to a similar level as that recorded in 1999.

Figure 6 Cases finalised in the Magistrates Court where the major charge was *robbery and extortion*: 1992 to 2004



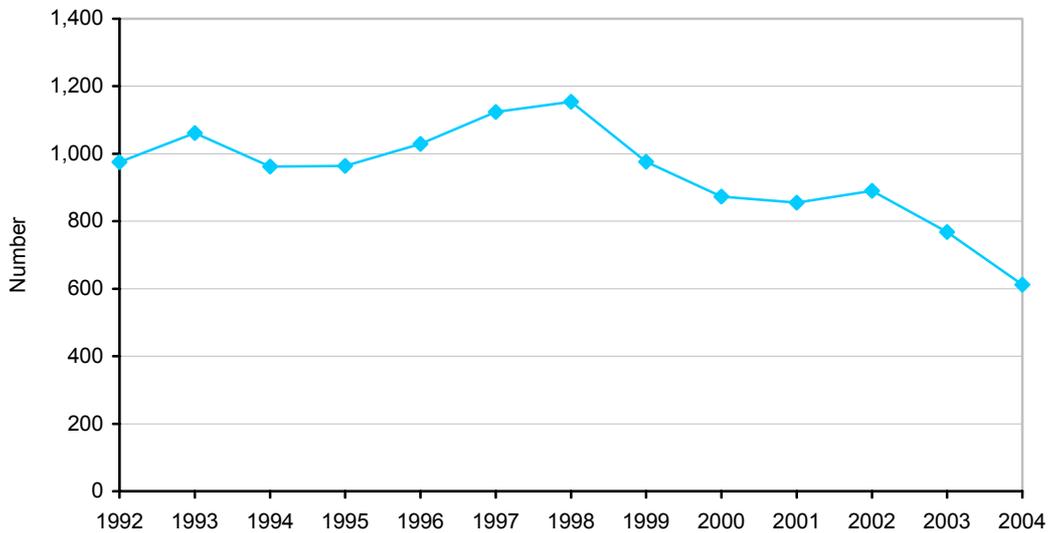
- Considering longitudinal trends for burglary, break and enter/serious criminal trespass offences is somewhat problematic due to the passage of the Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act. This piece of legislation, which came into effect on 25 December 1999, replaced break 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 years were classified as criminal trespass offences. However, in the year since 1999 there were some break and enter offences that, while reported post 1999, 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 subsequent 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. Commencing in 1999 an upward trend occurred which peaked in 2002 (with 1,553 case). In the two years since 2002 there has been successive reduction with the 2004 total of 1,152 cases being 17.5% lower than the 2003 figure and 25.8% lower than the 2002 figure.

Figure 7 Cases finalised in the Magistrates Court where the major charge was *serious criminal trespass*: 1992 to 2004



- Figure 8 indicates that in 2004 the number of cases where the major charge was *fraud and misappropriation* has continued the downward trend that has been observed since 1998. The 2004 figure of 612 was 20.3% lower than the number recorded in 2003 (768), 47.0% lower than the 1998 peak of 1,154 cases.

Figure 8 Cases finalised in the Magistrates Court where the major charge was *fraud and misappropriation*: 1992 to 2004

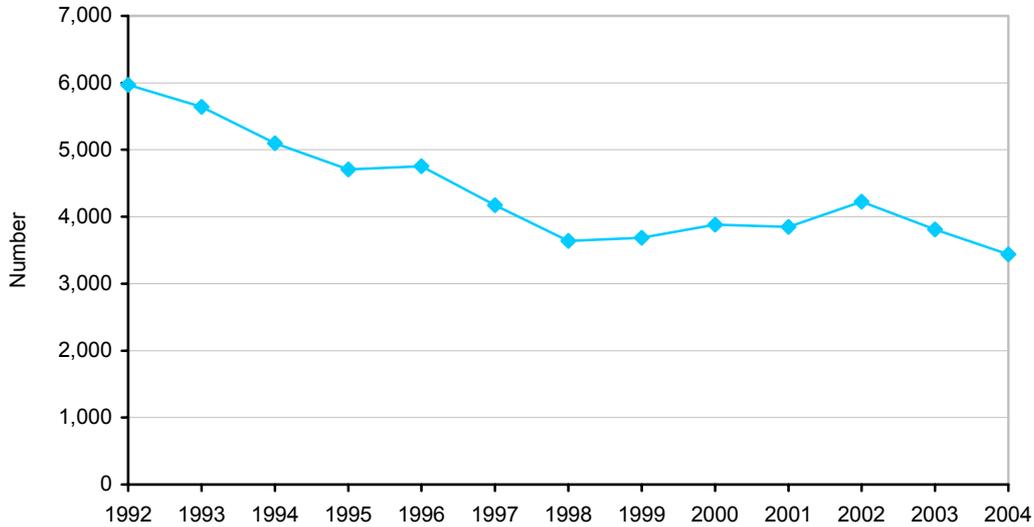


- As indicated in Figure 9, the number of cases in which *larceny and receiving*¹ was listed as the major charge declined from 5,969 in 1992 to 3,639 in 1998, after which time numbers stabilised. In 2002, a small increase was recorded, which was reversed in 2003. The 2004

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.

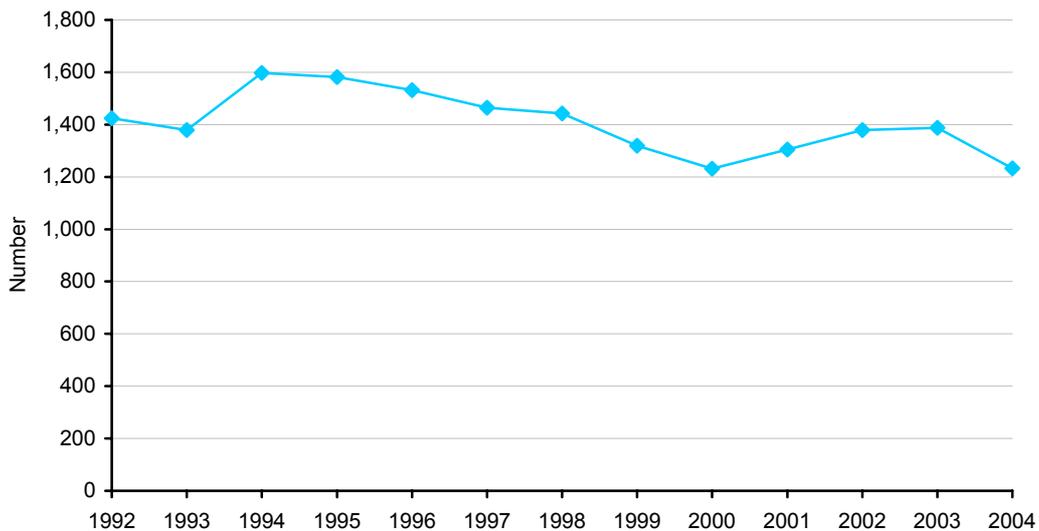
figure of 3,440 is 9.7% lower than that recorded in 2003 and 18.6% lower than the 2002 figure of 4,227.

Figure 9 Cases finalised in the Magistrates Court where the major charge was *larceny and receiving*: 1992 to 2004



- *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. The period between 2002 and 2003 saw numbers gradually increase, by 12.7%, however this total increase was reversed in 2004 with the 2004 figure falling to 3,440 and mirroring the figure recorded in 2000.

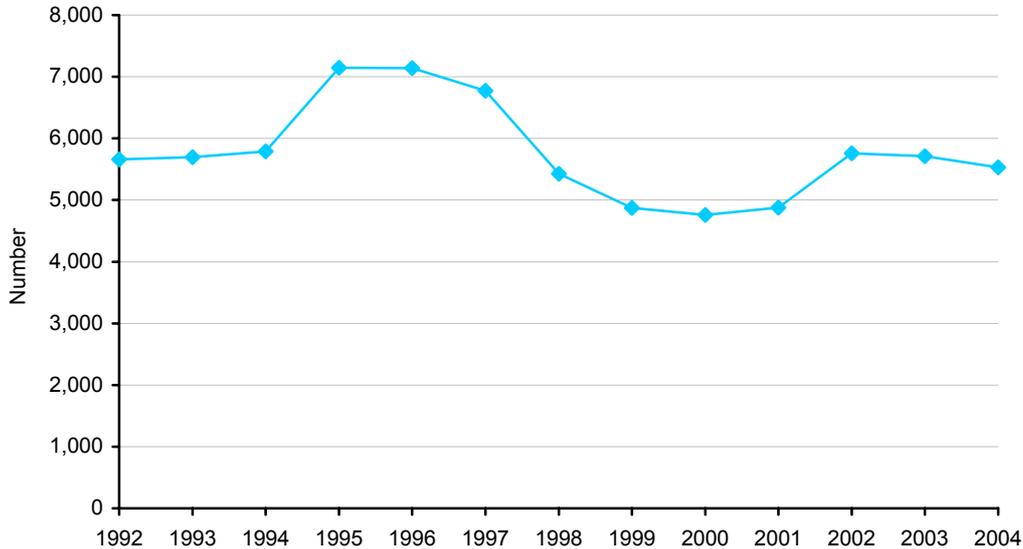
Figure 10 Cases finalised in the Magistrates Court where the major charge was a *damage property and environmental offence*: 1992 to 2004



- 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). Since 2002 the numbers

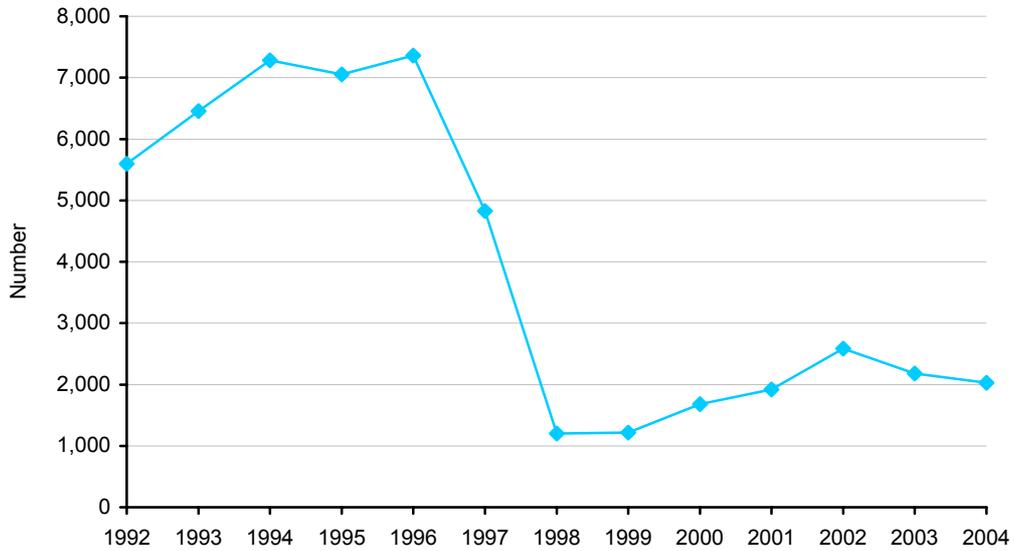
have been relatively stable with the 2004 figure being 5,529 and thus considerably lower than the peak of 7,146 recorded in 1995.

Figure 11 Cases finalised in the Magistrates Court where the major charge was an *offence against good order*: 1992 to 2004



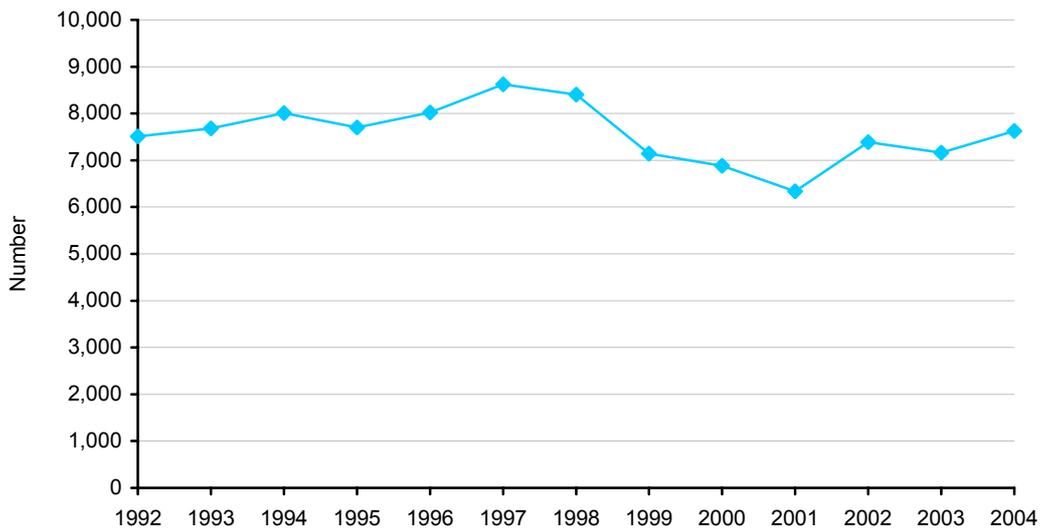
- As Figure 12 indicates, cases with a major charge of a drug offence experienced a dramatic drop in both 1997 and in 1998. This decline can be attributed to the changes introduced by the *Expiation of Offences Act 1996*, which came into operation in February 1997. Whereas previously expiation fee defaulters 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.
- Since 2002, however, the number of cases with a major charge of a *drug offence* has declined each year with the 2004 total of 5,529 being 21.% lower than the 2002 total. This decline may reflect the impact upon of 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 2004



- 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). During the last three years the number of cases recorded has been substantially higher with the 2004 total of 7,627 representing a 6.5% increase over the 2003 figure of 7,159 and a 20.4% increase over the 2001 figure.

Figure 13 Cases finalised in the Magistrates Court where the major charge was a *driving offence*: 1992 to 2004



Outcomes

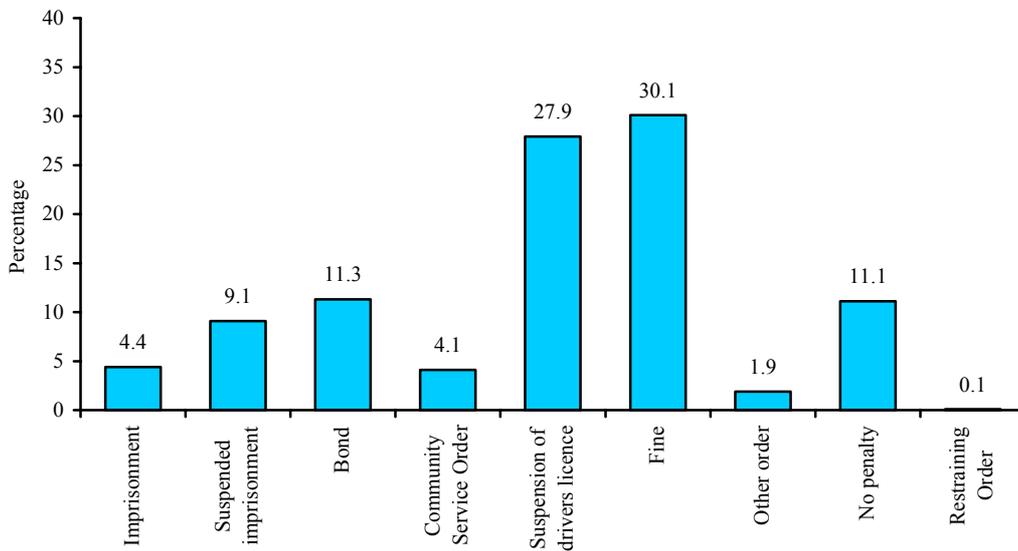
- Of the 27,499 cases heard in the Magistrates Court in 2004, 929 were committed to the District or Supreme Court for trial or sentence. This was 5.6% lower than the 984 cases committed in 2003, and 48.1% lower than the 1,791 committals recorded in 1992 when legislative changes were introduced to ensure that matters were heard at the lowest, most appropriate jurisdictional level.
- The proportion of cases finalised during the year that were committed for trial or sentence was 3.4% which was the same as that recorded in 2003.
- As expected, the percentage of cases committed to a higher court for trial or sentence in 2004 varied considerably according to the seriousness of the major charge. For example, 49.1% of all *robbery and extortion* cases had this outcome (also 49.1% in 2003), as did 34.8% of cases involving *sexual offences* (compared with 32.5% in 2003). In contrast, only 0.4% of *larceny and receiving* and 0.6% of *property damage and environmental offences* cases resulted in a committal to the District or Supreme Court, as did 0.7% of cases involving *offences against good order*. It should also be noted that in 17 of the 929 cases which, in 2004, 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.
- Over half (57.2%) 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 higher than the figure of 53.3% recorded in 2003. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 0.9% of cases involving *robbery and extortion* to 90.5% of cases in which a *driving offence* was listed as the major charge. Major charge conviction rates of more than 50% were also recorded for cases involving *other offences* (73.5%), *fraud and misappropriation* (61.6%), *offences against good order* (60.0%) and *property damage and environmental offences* (52.8%) as the major charge.
- In 3,545 cases (12.9% of the total), there was a finding of guilt for the major charge but no conviction was recorded. Sixteen cases resulted in an acquittal for the major charge while in 50 cases an outcome of 'not guilty: mentally incompetent' was recorded. In just over one fifth of cases (21.5%) the major charge was either withdrawn (3,287) or dismissed (2,632), with the major charge withdrawn in 22 cases after completion of the mental health diversion program. It should be noted though, that in 1,163 (19.4%) of the 5,985 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 27,499 cases that were finalised in the Magistrates Court in 2004, 20,455 (74.4%) resulted in a finding of guilt to at least one charge. In a further 35 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* (50.0% of all offences within this category), *offences against the person, excluding sexual offences* (49.9%), *serious criminal trespass* (47.8%), and *sexual offences* (36.4%), but was comparatively low for *driving offences* (8.3%) and *other offences* (14.4%).
- 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 551 cases where the major charge dismissed or withdrawn was a *serious criminal trespass*, 170 (30.9%) resulted in a finding of guilt for another offence compared with only 8 (6.0%) of the 134 cases where the major charge dismissed or withdrawn was a *sexual offence*.

- Of the 1,493 applications for *restraining, domestic violence or paedophile restraining orders* finalised in 2004, 926 (62.0%) resulted in the issuance of that order, 258 (17.3%) were varied, while 292 (19.6%) were either revoked or cancelled, withdrawn, dismissed or refused (see Table 2.13a in Section 2 of this report).

Penalties

- Tables 2.14 to 2.25 in Section 2 of this report detail the major penalty imposed for the most serious charge per case for which there was a finding of guilt. 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 2004, there were 20,455 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 30.1% of these cases, followed by a driver’s licence suspension (27.9% of cases). Only 4.4% of cases resulted in direct imprisonment, while 9.1% received suspended imprisonment. In a further 4.1% of cases, the major penalty imposed was a community service order, while 11.3% received a good behaviour bond. In 11.1% of cases, no penalty was imposed. In 2004, there were only 29 cases (0.1% of the total) where a restraining order constituted the major penalty.

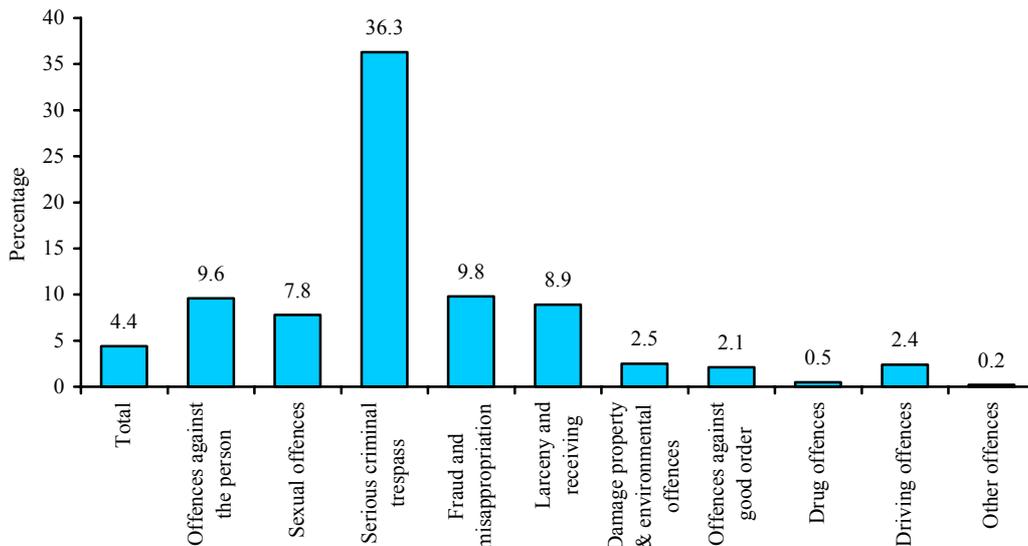
Figure 14 Major penalty imposed for the most serious charge proved per case: 2004



- The number of cases resulting in imprisonment was slightly higher in 2004 than 2003 (902 compared with 890 respectively), but the average length of the prison term was slightly lower in 2004 than in the previous year (30 weeks compared with 33 respectively).
- 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 402 cases finalised in 2004 in which the major charge proved was *serious criminal trespass*, 36.3% resulted in imprisonment. This was followed by cases involving *fraud and misappropriation* as the most serious charge proved (with 9.8% of cases resulting in prison), *offences against the person, excluding sexual offences* (9.6%), *larceny and receiving* (with 8.9% of cases resulting in prison), and *sexual offence* (with 7.8% ending in imprisonment). In contrast, only 0.2% of cases involving an *other offence* and 1.4% of cases involving an *drug offence* as the most serious charge proved involved a custodial sentence.

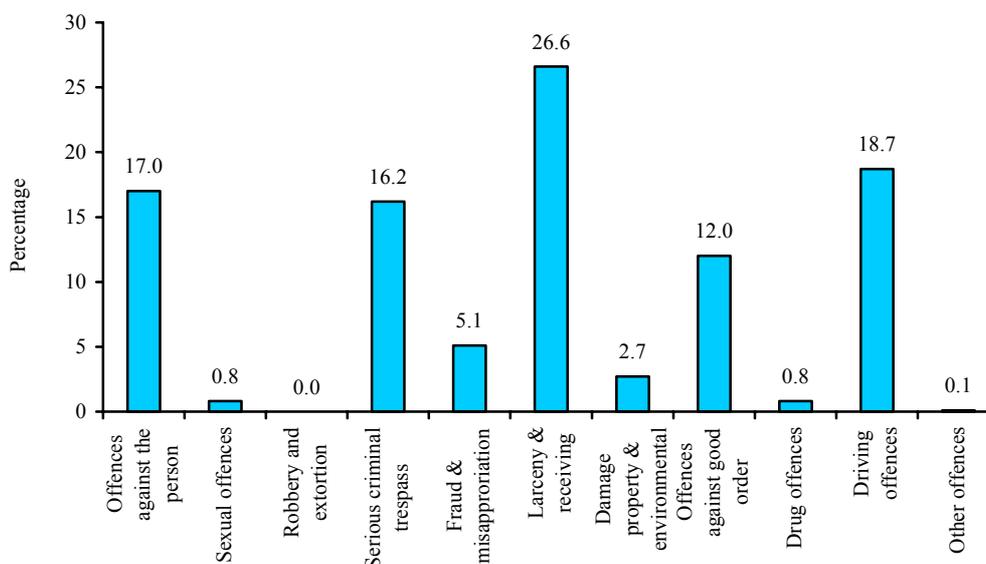
Figure 15 Major penalty imposed for the most serious charge proved, 2004: proportion of cases within each major charge category resulting in imprisonment



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 902 cases that actually resulted in imprisonment, and identifies the proportion of all imprisonments accounted for by the different offence types. As shown, *larceny and receiving* accounted for the largest proportion of imprisonments (26.6%). This was followed by *driving offences* (18.7%), *offences against the person, excluding sexual offences* (17.0%) and *serious criminal trespass* (16.2%). In contrast, *drug offences* and *sexual offences* each accounted for only 0.8%.
- The fact that none of the three cases involving *robbery and extortion* as the major charge convicted or found guilty is due to two factors: first, the relatively small number of such cases which come before the Magistrates Court in the first place (222 in 2004 compared with, for example, 7,627 *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 (109 out of 222 compared with none of the 7,627 *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



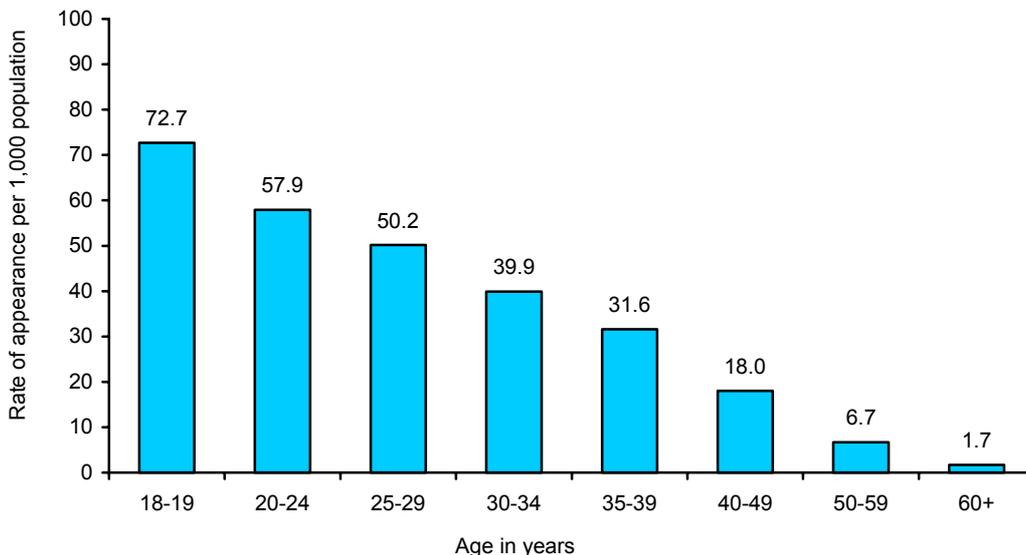
- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass* offence (average imprisonment of 70 weeks compared with 77 weeks in 2003). Even though the number of *fraud and misappropriation* cases that resulted in imprisonment was small (46), the average length of imprisonment in these situations was relatively high (41 weeks), with a maximum of 312 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 86.7% of all such cases. Over half (50.9%) of cases involving an *offence against good order* also resulted in a fine. At the other end of the scale, fines were the major penalty imposed in only 7.6% of *driving matters* and 2.7% of *serious criminal trespass* cases. Overall, the average amount of fine imposed was \$252 while the maximum was \$20,000 (for an *fraud and misappropriation 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 2004, a total of 3,642 convictions were recorded for offenders with no prior convictions for a drink driving offence within the past five years. This figure was 24.3% higher than the 2,930 convictions recorded in 2003. For offenders who have had at least one previous drink driving conviction in the last five years the figure was lower, with 583 convictions in 2004 (compared with 464 convictions in 2003).
- As in previous years, the overwhelming majority of PCA cases resulted in a fine. This applied not only to those offenders who had no prior drink driving convictions (98.0%) but also to those with a prior PCA conviction (95.5%). However, for those with a prior record, the average fine was higher than for those with no priors (\$885 compared with \$631 respectively).

As was the case in 2003, a high proportion in both groups also received a licence disqualification (98.4% of those with no priors and 96.4% of those with priors). However, there were marked differences between the two groups in terms of the length of that disqualification. Offenders with no prior PCA convictions averaged 8.5 months licence disqualification compared with 18.8 months for those with a prior PCA conviction.

Background of defendants

- Males accounted for the overwhelming majority (82.3%) of the 27,435 cases finalised in 2004 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 1.6% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 40.1% and 31.0% respectively of all cases involving *fraud and misappropriation* and *larceny and receiving*.
- Defendants aged between 20 and 29 years were involved in 38.9% of all cases finalised by the Magistrates Court in 2004 where information on age was available. Another 11.3% were 18 or 19 years of age, while a further 27.9% fell within the 30 to 39 year age bracket. Very few cases (6.9%) 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 72.7 per 1,000 age specific population, but this dropped to 1.7 per 1,000 for those aged 60 years and over. The average age of all defendants was 31.5 years, although this varied from 36.5 years for cases involving a *sexual offence* to 27.7 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 32.0 years compared with 31.3 years respectively.

Figure 17 Cases finalised in the Magistrates Court, 2004: rate per 1,000 age specific adult population.

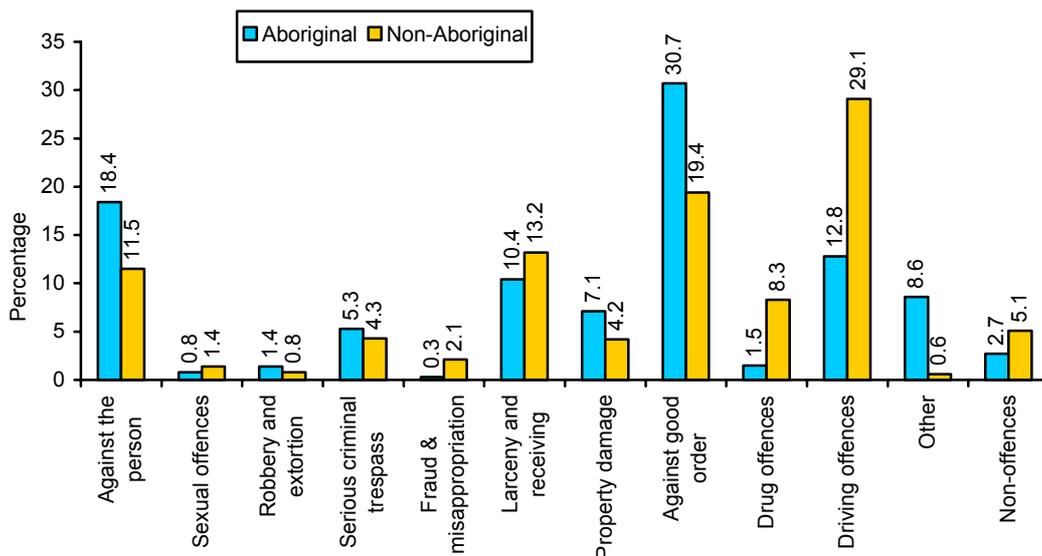


- Table 2.29 in Section 2 of this report details the racial appearance of defendants involved in cases finalised in 2004. In interpreting the information presented here, it should be stressed that racial appearance is determined by police officers at the point of apprehension and is based either on the 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 2004 Aboriginal defendants appeared before the Magistrates Court at a rate of 266.4 per 1,000 adult Aboriginal persons in the population. This is 12.6 times greater than the rate of 21.1 per 1,000 adult population recorded for persons of non-Aboriginal appearance.
- The absolute number of Aboriginal cases dealt with in 2004 was higher than recorded in 2003 (3,415 compared with 3,366 respectively). Similarly, the rate of appearance per 1,000 Aboriginal adult population also increased (266.4 per 1,000 adult population in 2004 compared with 260.3 in 2003).
- 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, 2004: 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 2004. As was the case in 2003, seven out of 10 defendants (69.7%) for whom such information was available had at least one previous conviction, with an average of 14.0 prior convictions per defendant³. The proportion of defendants with prior convictions was highest amongst those charged with *serious criminal trespass* (with 86.5% having at least one prior conviction), followed by *robbery and extortion* (83.3% with priors). Not surprisingly, those charged with *serious criminal trespass* or *robbery and extortion* also had the highest **average** number of prior convictions (27.9 and 27.7 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 *fraud and misappropriation* or *sexual offences*. Yet even for these offences, 60.0% and 61.47% respectively, had a prior criminal conviction, with an average of 9.2 and 9.1 convictions per defendant.
- One in five cases (19.9%) finalised in the Magistrates Court in 2004 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 44.25% of defendants involved in cases where *serious criminal trespass* was the major charge, to 12.1% of cases involving *driving offences*.
- Table 2.31 in Section 2 of this report details the bail status of the defendant at the time of his/her final court appearance. In the majority of cases (59.8%), bail was not required: In other words, the defendant was not subject to any conditions imposed by the court. In a further 32.35% of cases, the defendant was on bail at the time of the final appearance, while in 7.8% 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 8,341 cases where the matter was dealt with at the first hearing, only eight defendants were held in custody at the time (0.1%). This compares with 1,934 (or 10.7%) of the 18,152 defendants whose cases took two or more hearings to finalise, and 204 (or 22.0%) of the 928 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 one third (34.7%) had legal representation. This rose to three quarters (78.4%) of those whose cases took more than one hearing to finalise and 96.6% of those who were committed to a higher court for trial or sentence. However, some caution should be exercised when using these figures because of the relatively high proportion of cases (21.5%) where information relating to legal representation was missing.
- As indicated in Table 2.33 in Section 2 of this report, relatively few defendants (547 or 2.1%) in the 26,570 cases actually finalised in the Magistrates Court pleaded of ‘not guilty’ to the major charge at their final appearance. By contrast, of the 925 cases committed for trial or sentence to a higher court, over three quarters (80.6%) 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 Prosecutions² will have committed the defendant *ex-officio*³.

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’⁴. In certain instances, a judge in the District or Supreme Court may hear matters that would normally be dealt with summarily by a magistrate or other justice. This usually occurs when a defendant has a case involving summary matters at the same time as one in the Supreme or District Court. Wherever possible such matters are consolidated and dealt with together by the judge who is hearing the indictable matters, as this is more just and efficient.

Only finalised⁵ 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 2004 there were 976 cases finalised in the Supreme and District Courts. This was 76 (or 7.2%) lower than the 1,052 cases finalised in 2003, but similar to the 988 finalised in 2002. The number of cases finalised in the District Court increased by 72, while the number finalised in the Supreme Court decreased by four.
- 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 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 further increases were recorded in 2002 and 2003 (n=921 and 996 respectively).
- 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. While the rate of decline has slowed in recent years the 2004 figure of 52 cases was the lowest recorded over the 22 year period analysed.

² Prior to the creation of the office of Director of Public Prosecutions, *ex officio* committals could only be performed by the Attorney General. The *Criminal Law Consolidation Act* gives that power to the Director of Public Prosecutions (S 275), but due to the conventions of the Westminster system of government, the Attorney General retains this power in his or her capacity as chief law officer. It is difficult to imagine circumstances in which this power would be exercised under the current arrangement.

³ An *ex officio* committal is one in which the DPP (or the Attorney General) commits a person for trial directly without a committal hearing in a Magistrates Court. This method of committal is seldom used, being reserved for unusual circumstances.

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

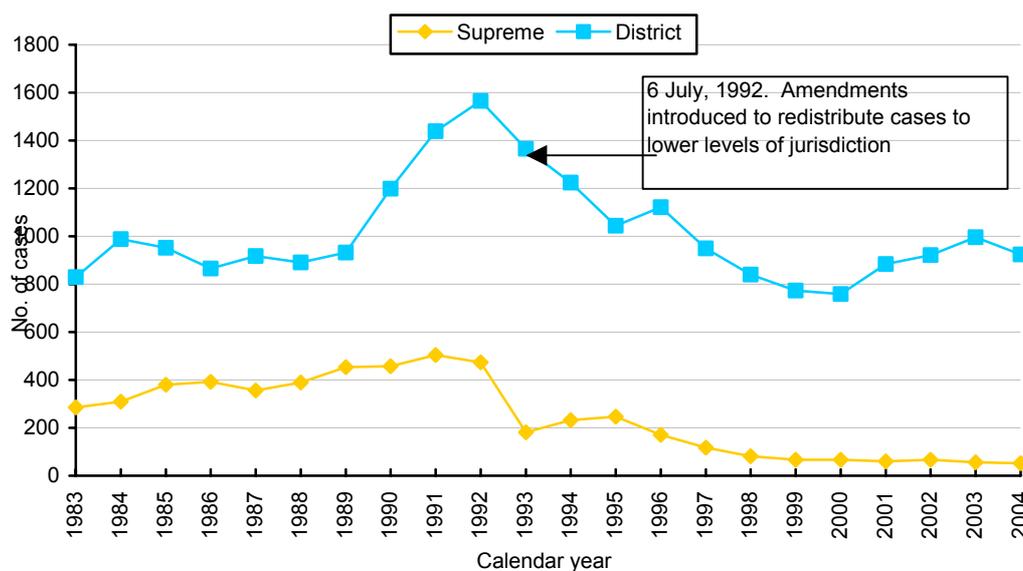
⁵ See Appendix A for the rules employed for determining when a case is finalised and whether it is eligible for counting.

Table 1 Trends in the number of cases finalised by the Supreme and District Courts, 1983 to 2004 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
	2003	2004								
Supreme	56	52								
District	996	924								

* 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.

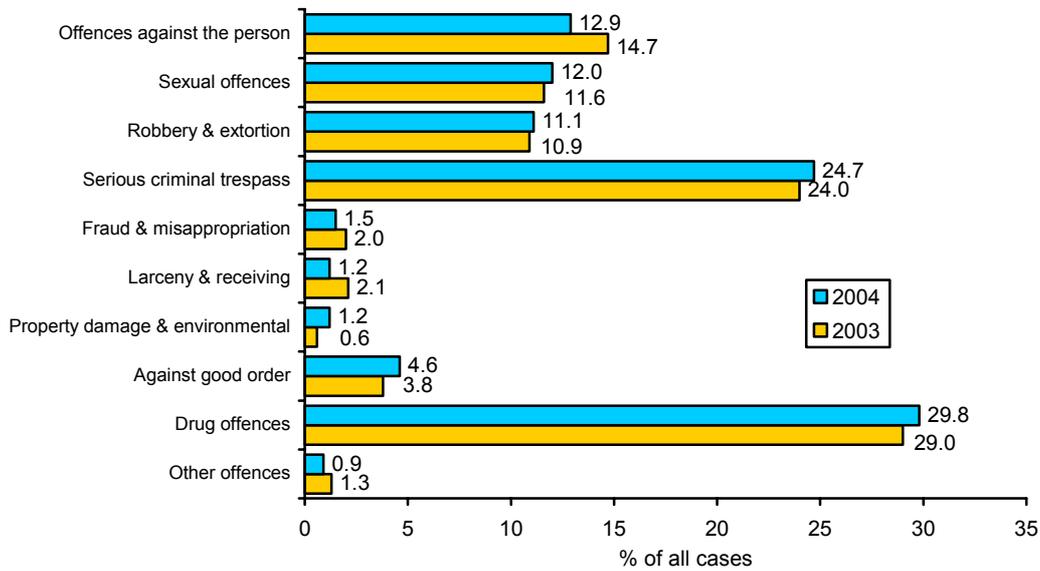
Figure 19 Trends in the number of cases finalised by the Supreme and District Courts by calendar year, 1983 to 2004.



Major charge per finalised case

- As Figure 20 indicates, in both 2003 and 2004 *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* (0.6% in 2003 and 1.2% in 2004) and *other offences* (1.3% in 2003 and 0.9% in 2004) 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, 2003 and 2004..



Outcomes

- The main outcomes for cases finalised in 2004 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 16.5% 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 16.0% 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 1.7% of cases the defendant was found not guilty due to mental incompetence, while 0.5% 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, 2004.

Offence group	Guilty plea – no trial* %	Guilty at trial** %	Acquitted %	All charges dropped*** %
Offences against the person (exc. sexual)	42.9	22.2	6.3	20.6
Sexual offences	28.2	22.2	21.4	27.4
Robbery and extortion	57.4	22.2	2.8	10.2
Serious criminal trespass	67.2	12.9	3.7	14.1
Drug offences	65.3	14.4	3.4	14.8
Total	58.4	16.5	5.7	16.0

* 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:

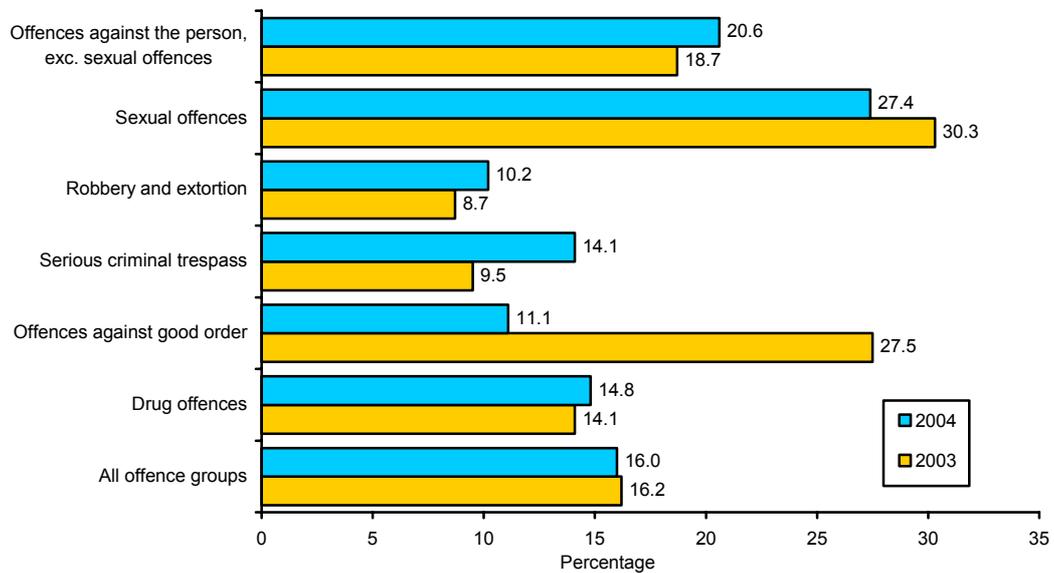
- ‘other outcome’ (e.g. defendant died, case struck out, permanently stayed etc),
- not guilty on the grounds of mental incompetence and
- major charge was dropped and a plea of *guilty* to another charge was accepted in satisfaction of the dropped charge (‘Major charge dropped – Guilty of other offence’).

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*.

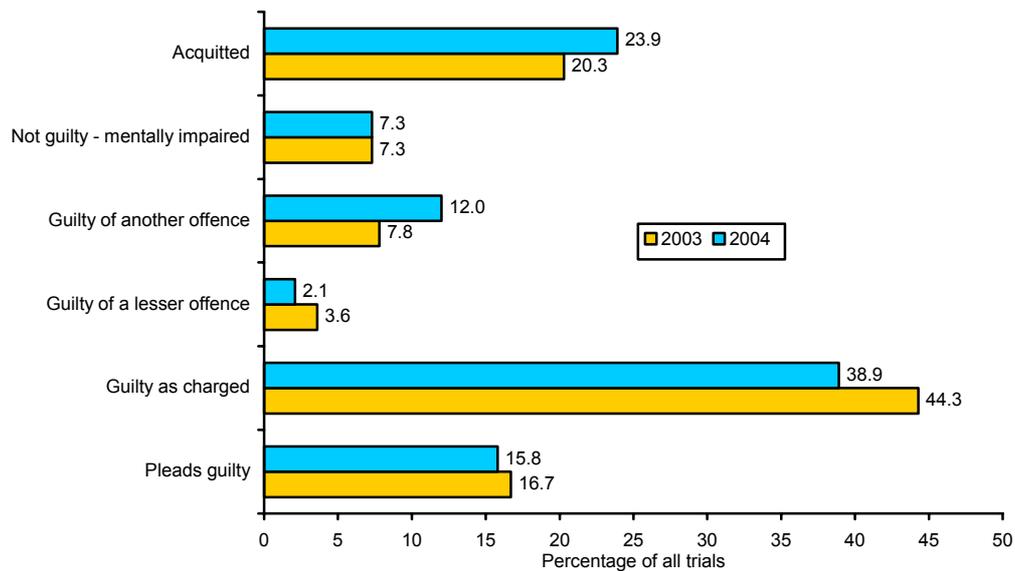
- Figure 21 shows the percentage of cases in 2003 and 2004 where all charges were dropped by the DPP. Overall, a similar proportion of cases were dropped in 2004 and 2003 (16.0% compared with 16.2%).
- However, there were considerable differences between offence categories in the percentage of cases with this outcome. In 2004, 27.4% of *sexual offences* and 20.6% of *offences against the person, excluding sexual offences* had this outcome compared with 10.2% of cases where the major charge was a *robbery and extortion* offence (the comparable figures for 2003 were 30.3%, 18.7% and 8.79% respectively).
- There were 234 cases finalised at trial in 2004 (25.3% of all finalised cases) compared with 192 in 2003 (19.3%). Figure 22 provides a breakdown of the outcomes for cases that went to trial in these two years.
- In comparison to 2003, in 2004 a lower proportion of defendants entered a guilty plea at trial (15.8% in 2004 compared with 16.7% in 2003), while proportionally more defendants were acquitted (23.9% in 2004 compared with 20.3% in 2003). In both years, the majority of cases going to trial resulted in the defendant being found guilty as charged (38.9% in 2004 and 44.3% in 2003).

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, 2003 and 2004.



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.*

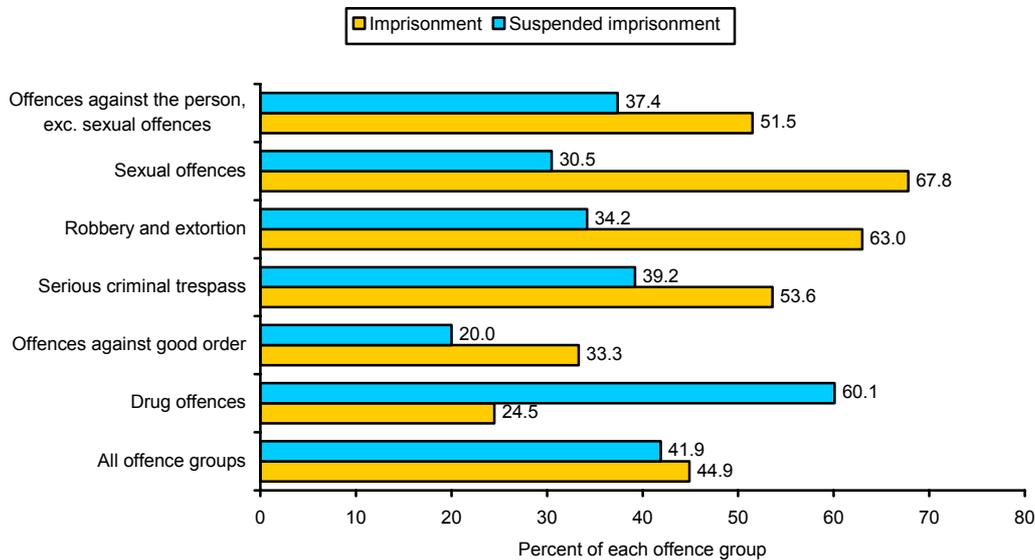
Figure 22 Outcome for the major charge for cases in which there was a trial, Supreme and District Courts, 2003 and 2004.



Penalties

- Overall, 742 cases (80.3% of all cases) resulted in at least one guilty outcome during 2004. For these cases, the most common penalty was immediate imprisonment, which was imposed in slightly less than half (44.9%) of the cases that had an outcome of guilty.
- This was followed by suspended imprisonment (41.9%). Non-custodial penalties (such as fines, driving licence suspensions, bonds, community service orders, etc.) accounted for the remaining 13.2%. The average length of imprisonment imposed was just over four years (or 49.4 months, excluding sentences of life imprisonment). The average non-parole period set was just over three years (36.7 months)⁶.
- Life imprisonment was imposed in 9 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 nine sentences of over 15 years, given in three instances for *sexual offences*, three for *robbery*, two for *serious criminal trespass* and one for *drug offences*. 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 sexual offences which, at 67.8%, followed by robbery and extortion at 63.0%. In comparison, 51.5% of those with a major charge of an offence against the person, 53.6% of persons with a serious criminal trespass offence, 33.3% of persons with an offence against good order and 24.5% 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, 2004.



Note: The above graph excludes those offence categories where the number of cases in 2004 was less than 40, namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences*.

- Table 3 and Figure 24 indicate the trend in non-parole periods handed down for murder since 1983. As all murders have a mandatory term of life imprisonment, the non-parole period provides a more accurate indication of effective sentence length.

⁶ 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.

- 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. After an particularly low figure in 2002, because there were three cases where the non-parole periods had not be set at the time of data extraction, the 2003 and 2004 figures increased considerably. The 2004 average of 287 months was the highest recorded since 1991. 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 2004

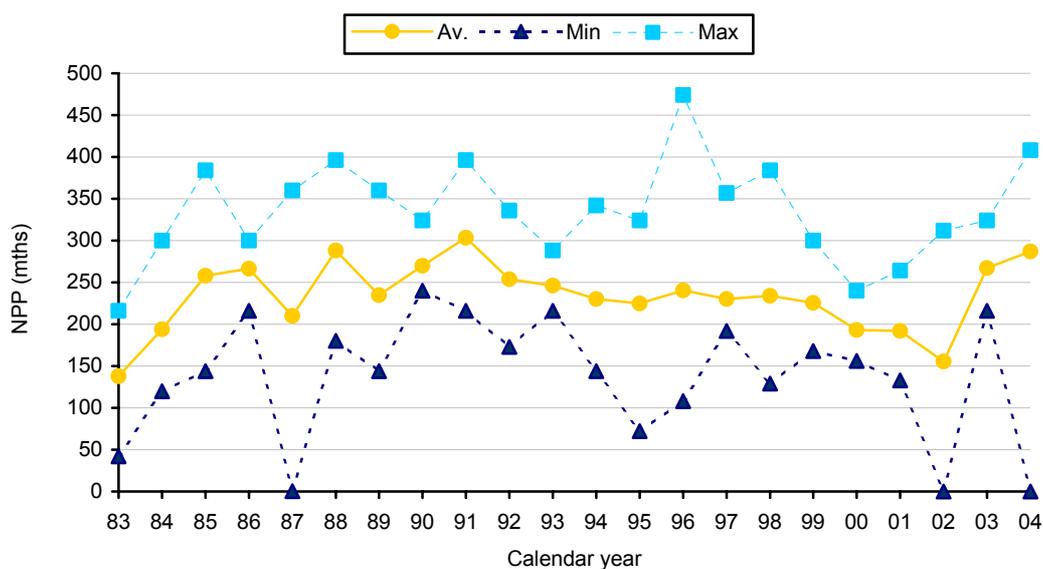


Table 3 Trend in non-parole period (in months) for life sentences for murder, 1983 to 2004.

	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
	2003	2004								
Av.	267.0	286.7								
Median	264.0	300.0								
Min	216.0	0								
Max	324.0	408.0								
No.	4	9								

Notes:

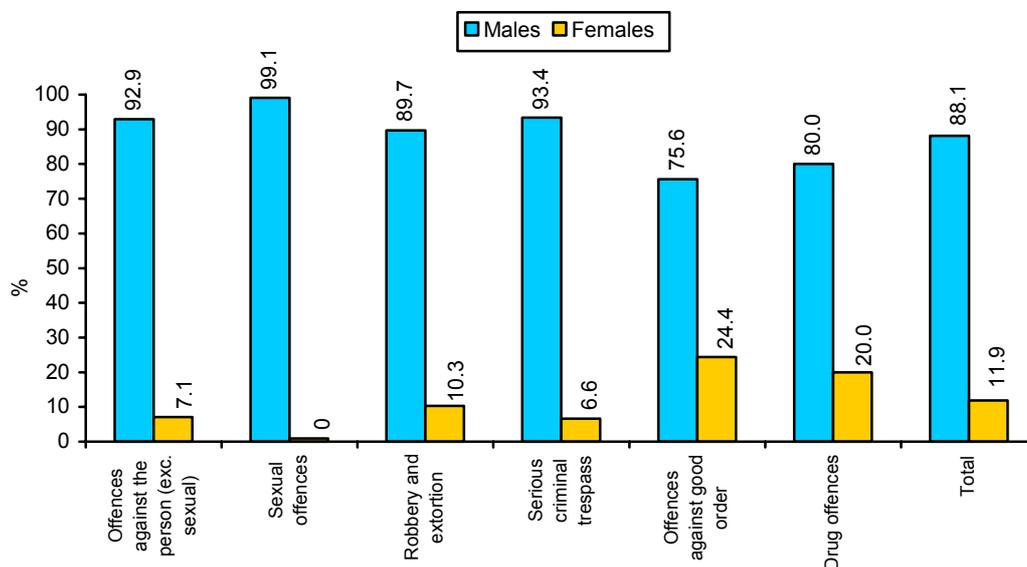
- 1 The non-parole period can apply to sentences additional to the charge in question where other sentences are made cumulative on it or when an existing sentence has been extended by the sentence imposed for the current charge.
- 2 Non-parole period only is shown since murder carries a mandatory term of imprisonment for life.
- 3 Figures in parentheses are the number of additional cases receiving life sentences for which the judge declined to set a non-parole period.

- 4 The median is the point at which 50% of cases are larger and 50% smaller. It is less prone than the mean to being distorted by a small number of extreme values. The effect of the one case in 1987, which received a non-parole period of 10 days, is an example of this.
 - 5 The non-parole periods shown here are for the original sentence and do not reflect the effect of subsequent appeals which may have altered the sentence either up or down, or have overturned the conviction.
 - 6 The number of cases shown is the number where a non-parole period was set and on which the mean and median are based.
- When total head sentences and non-parole periods for the entire case (rather than just the major charge) are examined, of the 333 head sentences, 66.4% were for periods of less than five years, 10.8% were for more than ten years but less than life, whilst 2.7 % were for life. The vast majority (83.1%) of non-parole periods (excluding 19 cases⁹ where a non-parole period was not set) were for periods of less than five years, whilst 12.1% were for periods between five and ten years, and 4.8% were for more than ten years.

Background of defendants

- Where sex was known, the majority of cases finalised in the higher courts in 2004 involved male defendants (88.1%). The average age of male and female defendants was very similar, at 31.2 years and 31.8 years respectively. Six 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 116 males and only one female. The offence category with the highest proportion of females was *offences against good order* (24.4%).

Figure 25 Percentages of males and females per major offence charged, Supreme and District Courts, 2004.



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 92 defendants whose appearance was judged at apprehension to be Aboriginal. They made up 9.6% of those for whom racial appearance information was available. The number of defendants of Aboriginal appearance represented a rate of 7.2 per thousand

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.

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. For example, *serious criminal trespass* was listed as the major charge in 50.0% of Aboriginal appearances compared to 22.2% of non-Aboriginal appearances. In contrast, *drug offences* featured as the major charge in a much smaller proportion of Aboriginal cases than non-Aboriginal cases (4.3% versus 32.5% respectively).
- In 2004, one fifth of defendants (20.4%) had no prior convictions which was consistent with the 20.6% recorded in the previous year. At the other end of the spectrum, 11.0% had 50 or more prior convictions.
- On average, defendants had 18.0 prior convictions. The average varied depending upon the offence group, with defendants charged with *fraud and misappropriation* having the lowest average number of priors (6.2). In comparison, persons with a major charge of *property damage and environmental offences* had an average of 34.8 prior convictions.
- Three out of ten defendants (29.3%) had been imprisoned at some point in their past. Again, the proportion varied depending upon the major offence charged, with 13.3% of persons with a major charge of *fraud and misappropriation* having been imprisoned before compared with 43.2% of persons with a major charge of *serious criminal trespass*.
- For those cases where relevant information was available, over two thirds of the defendants (70.6%) 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 *fraud and misappropriation* were on bail (86.3% and 80.0% respectively), only 50.0% of defendants in the *property damage and environmental offences* group were on bail.
- Overall, 51.70% 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 *fraud and misappropriation or larceny and receiving* pleaded guilty (73.3 and 66.7% respectively). The groups with the lowest percentage of *guilty* pleas was that involving *sexual offences* (28.2%) and *offences against the person* (32.5%). Similarly, only 46.7% 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, 42.2% 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 none in February to a peak of 12 cases in July 2002, with an average of 4.3 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 (77 cases) and the highest number in December (101 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 2004;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 2004.

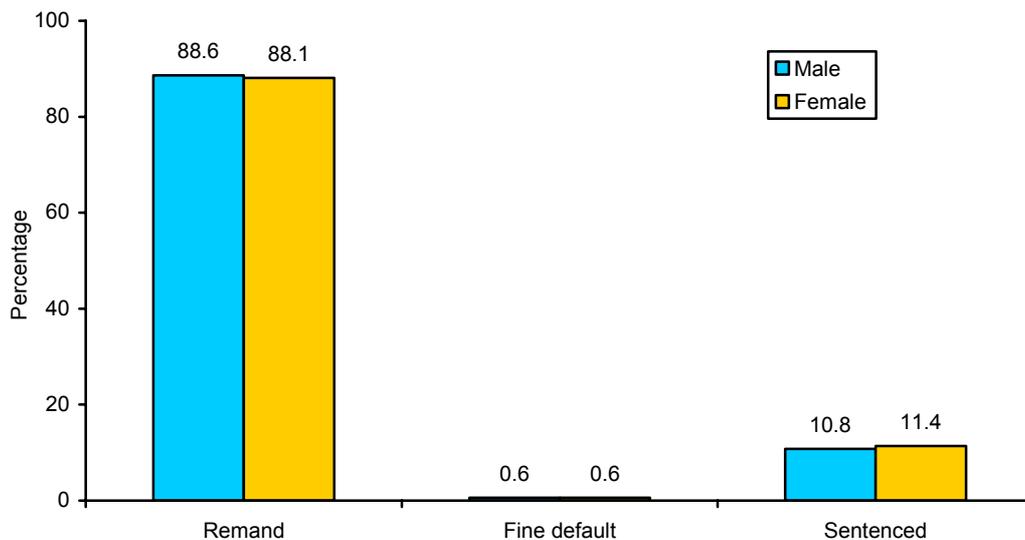
The number of tables relating to prisons and community correction orders administered by the Department for Correctional Services was increased and their content enhanced in the 1996 and again in the 1997 *Crime and Justice* reports. The changes made in those years and incorporated in all subsequent reports mean that caution must be exercised when comparing the 2004 data with that contained in reports produced prior to 1996.

Imprisonment

Prison receptions

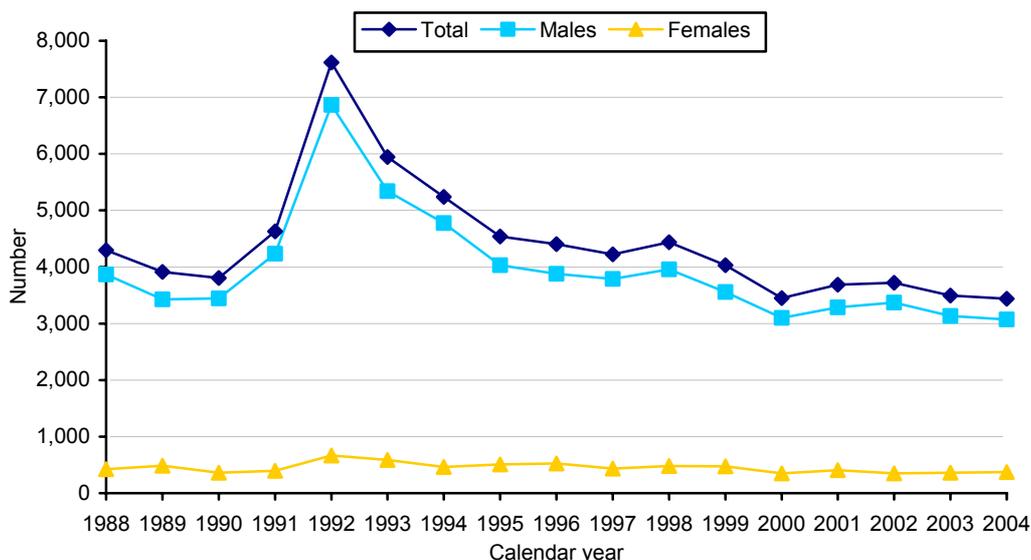
- In 2004, there were 3,440 prison receptions. This figure was slightly lower (by 1.5%) than the 3,493 recorded in 2003, but was still well below the peak of 7,618 recorded in 1992.
- Where legal status was known, 10.9% of receptions involved sentenced prisoners, 0.6% were fine defaulters and 88.6% were on remand. When compared with the previous year, a higher proportion of prison receptions involved remandees (88.6% in 2004 compared with 86.6% in 2003) and a lower proportion involved sentenced prisoners (10.9% compared with 12.8% in 2003).
- 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 has remained relatively stable over the last three years (19 in 2002, 22 in 2003 and 19 in 2004). 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 2004.
- The overwhelming majority of receptions in 2004 involved males (89.2%), and there was little variation in this percentage across the three categories of receptions. (89.4% for remandees, 88.9% for sentenced prisoners and 89.5% for fine defaulters).
- Likewise when analysed by the proportion of remandees, sentenced prisoners and fine defaulters within each sex the profiles were almost identical (see Figure 26).

Figure 26 Prison receptions: legal status of prisoner by sex, 2002



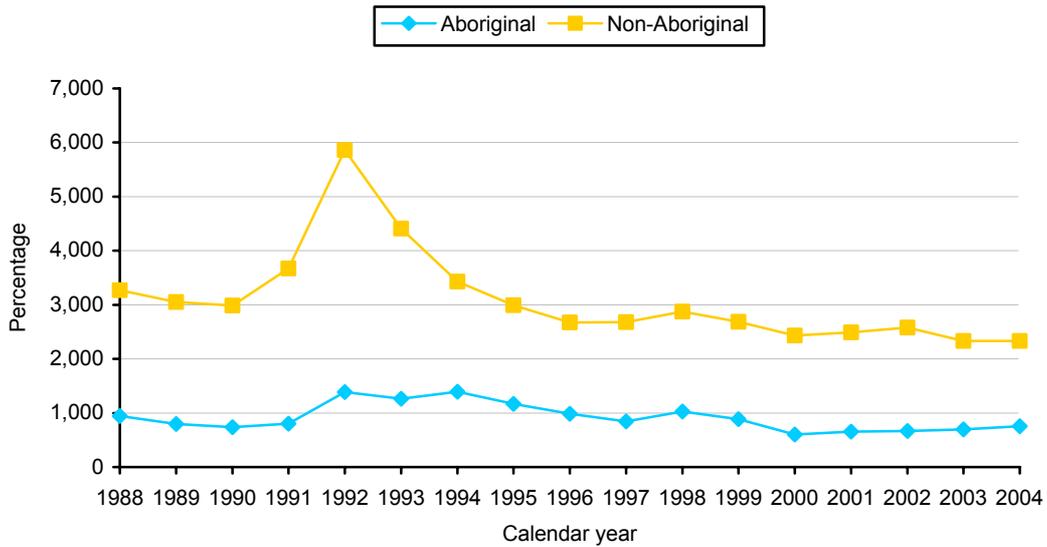
- As shown in Figure 27, there was a strong upward trend in the total receptions from 1990 to 1992, followed by a general decrease until 2000. This downward trend was reversed in 2001, with an increase of 7.0% followed by a smaller increase of 1.2% in 2002. During the last two years the level has fallen back to a similar level to that recorded in 2000, with the 2004 total being 1.5% lower than that recorded in 2003 and 7.6% lower than the 2002 total.
- The trend in male receptions mirrors that observed for total receptions. After increases in 2001 and 2002 (by 6.0% and 2.7% respectively), the number of male receptions decreased by 7.0% in 2003 and a further 2.0% in 2004. The 3,070 male admissions recorded in 2004 was considerably similar to the 3,098 recorded in 2000.
- 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. The number of female admissions in 2004 increased by 3.1% (from 359 to 370), which was on top of a 2.0% increase between 2002 and 2003. The 370 female admissions recorded in 2004 was still substantially lower than the peak observed in 1992 (n=664).
- The slight decrease in male receptions in 2004 was due to a decrease in the number of sentenced prisoners (from 396 in 2003 to 327 in 2004), as the number of remandees was stable (2,678 in 2003 and 2,677 in 2004) and the number of fine defaulters decreased by four (from 21 in 2003 to 17 in 2004).
- The small increase in female receptions in 2003 compared with 2004 can be attributed to an increase in the number of remand receptions (up by 3.3%, from 307 in 2003 to 317 in 2004).

Figure 27 Trends in the number of male and female prison receptions, 1988 to 2004.



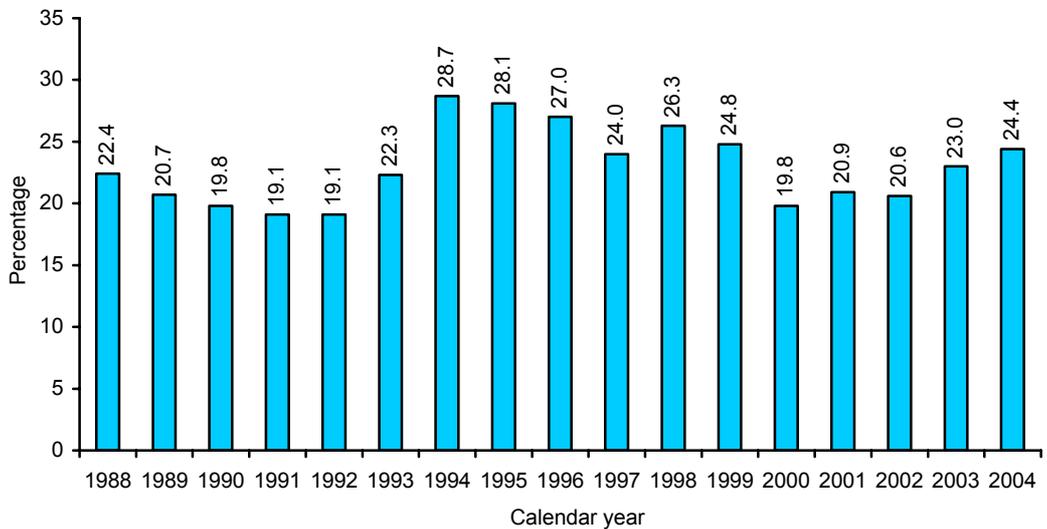
- For those 3,434 receptions where age was known, six out of ten were 20 to 34 years aged, comprising 20.1% aged 20 to 24, 19.4% aged 25 to 29 and 21.3% were aged 30 to 34 years. Those in the older age groups (notably 50 years and over) accounted for only 4.2% of all receptions, 4.3% of male receptions compared with 3.0% of female receptions.
- In 2004, persons identified as Aboriginal constituted 24.4% of the 3,084 prison receptions where information on racial identity was recorded. This figure varied, however, depending on the persons legal status. Amongst remandees persons identified as Aboriginal constituted 24.8%, compared to 18.8% of sentenced prisoners and 14.3% of fine defaulters.
- As indicated in Figure 28, 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. Between 2000 and 2004 there has been a steady annual increase in the number of Aboriginal admissions with the 7.9% increase recorded during 2004 taking the total increase since 2000 to 25.1%. However, the number of Aboriginal admissions recorded in 2004 was still 46.0% 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). During the 2003 and 2004 the number of non-Aboriginal receptions have been relatively stable at 2,333 and 2,331 respectively.

Figure 28 Trends in the number of Aboriginal and non-Aboriginal prison receptions, 1988 to 2004.



- Figure 29 shows that the number of Aboriginal receptions as a percentage of all receptions where racial identity was unknown has gradually increased over the last four years, rising from 19.8% in 2000 to 24.4% in 2004. The latest figure is still lower than the peak recorded in 1994, when Aboriginal persons accounted for 28.7% of all prison receptions.

Figure 29 Prison receptions: proportion involving Aboriginal persons, 1988 to 2004.

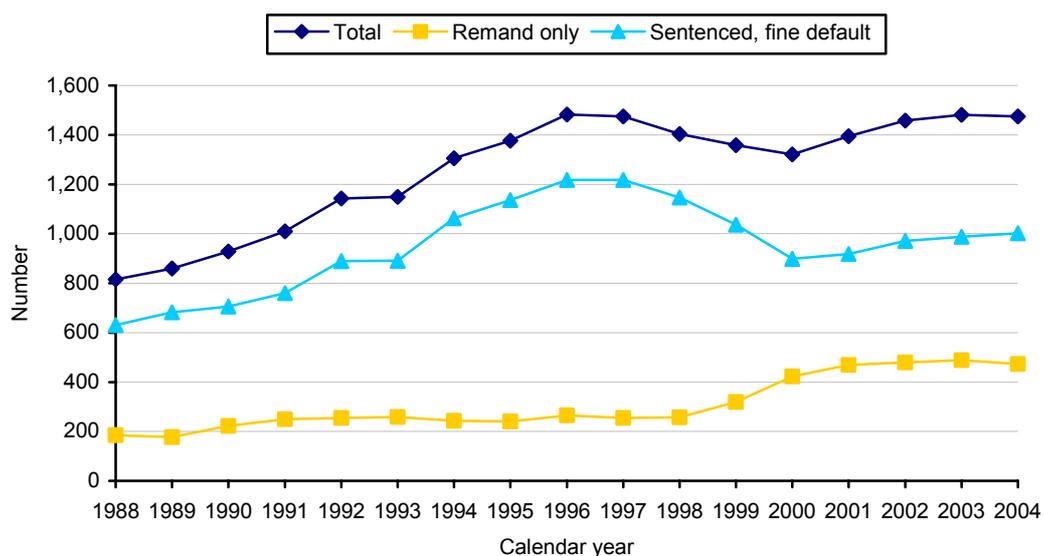


- Overall, the age profiles of the two racial groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (42.1% and 39.3% respectively) involving persons aged between 20 and 29 years, and relatively few (0.9% and 4.9% respectively) aged 50 years and over.

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 2004 are detailed in Tables 4.10 to 4.15.
- On average, on each day in 2004, there were 1,475 prisoners held in the State's prisons and adult remand centres. Of those for whom information on legal status was recorded, the majority (998 or 67.8%) were serving a prison sentence imposed by the courts, while 473 (32.2%) were on remand.
- Longitudinal trends in average daily occupancies are depicted in Figure 30. 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, between 2001 and 2003 this downward trend was reversed with an increase in daily averages. The 2004 average daily occupancy was similar to that recorded in 2003 only falling by 0.4% to 1,475.
- 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 further increases of 5.9%, 1.6% and 1.5% in 2002, 2003 and 2004 respectively. In contrast, after remaining relatively stable between 1991 and 1998, daily averages for remandees increased after 1998 and peaked in 2003 with 488. The daily average number of remandees recorded in 2004 was 3.1% lower than that recorded in 2003 (down to 473).

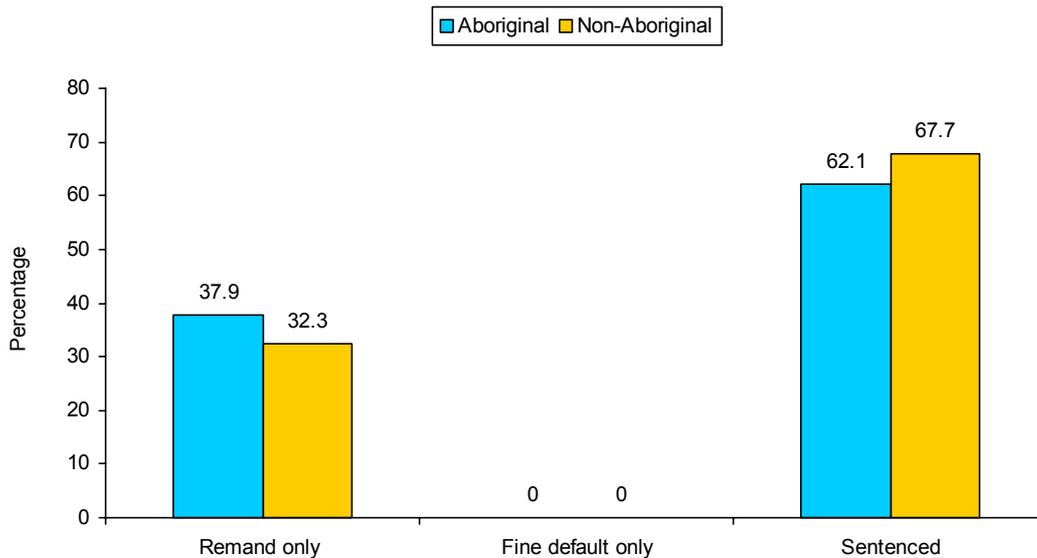
Figure 30 Daily averages by legal status: 1988 to 2004



- In 2004 males accounted for 94.0% of the daily average, with a rate of 2.38 per 1,000 adult male population compared with only 0.15 per 1,000 adult female population.

- On average, 257 Aboriginal persons were held in custody each day in 2004, which represents 19.4% of those for whom racial identity was recorded. As shown in Figure 31, sentenced prisoners accounted for the majority of both Aboriginals and non-Aboriginals alike, although on average during 2004 a slightly lower proportion of Aboriginal persons were serving a custodial sentence (62.1% compared with 67.7% of non-Aboriginals) while a slightly higher proportion were on remand (37.9% compared with 32.3%). As a result, for those cases where legal status and racial identity were recorded, Aboriginals accounted for 22.0% of the daily average number of 'remand only' prisoners but a lower 18.1% of sentenced prisoners.

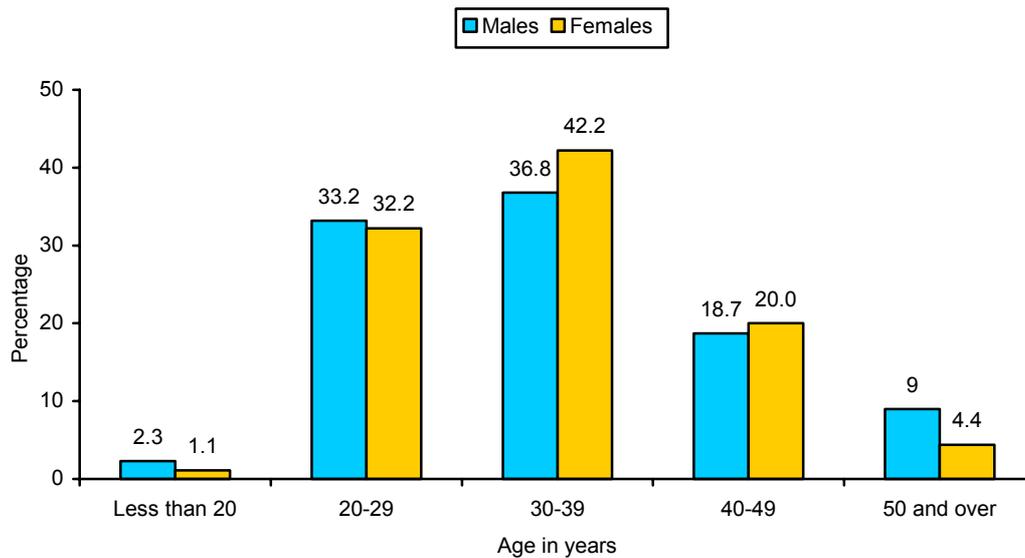
Figure 31 Daily averages: legal status by racial identity, 2004



Census figures

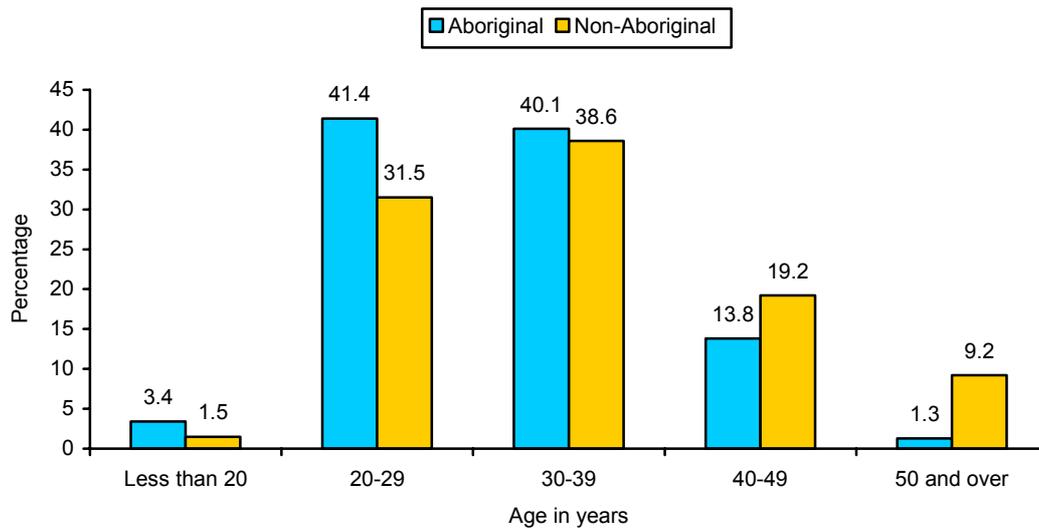
- At midnight on 31 December 2004, there were 1,507 prisoners in custody. This figure was slightly higher than the daily average recorded for 2004 (n=1,475) which illustrates the variability in prisoner numbers from one day to another and, in turn, points to the fact that daily averages rather than a census figure pertaining to a single day provide a more accurate measure of prison numbers.
- The number in custody on 31 December 2004 was substantially higher than the 1,438 prisoners held one year earlier on 31 December 2003. Remandees accounted for 31.2% of those for whom information on legal status was recorded, while two-thirds (68.8%) were sentenced prisoners.
- The majority of persons held in custody on 31 December 2004 were male (94.0%). For every 1,000 adult males in the South Australian population, 2.43 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 one third (33.1%) of those held in custody on 31 December 2004 for whom age was recorded. A further 37.1% were aged 30 to 39 years. Only a very small proportion (8.7%) were 50 years of age and over. This age profile was generally consistent for both males and females although, as Figure 32 indicates, a slightly higher proportion of females were in the 30 – 39 and 40 – 49 years age groups, while a lower proportion were aged under 30 or 50 years or more.

Figure 32 Persons in custody on 31 December 2004: age by sex



- Aboriginal persons accounted for 21.8% of the 1,361 persons in custody on 31 December 2004 for whom racial identity was recorded. This was slightly higher than the previous year, when they represented 19.9% of all persons incarcerated on 31 December 2003.
- However, this proportion varied depending on the sex of the prisoner. Excluding those cases where racial identity was not recorded, Aboriginal males accounted for 21.2% of all males in custody on that day (compared with 19.7% in 2003), whereas Aboriginal females accounted for 31.7% of all females in custody (compared with 23.0% in 2003).
- 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 26.6 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 18.0 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 91.2% of all Aboriginal prisoners and 94.7% of all non-Aboriginal prisoners in custody on 31 December 2004.
- The age profiles of the two racial groups are depicted in Figure 33. As shown, persons aged 20 to 29 years and 30 to 39 years accounted for the highest proportion of both Aboriginal and non-Aboriginal persons in custody on 31 December 2004, while those aged less than 20, and 50 years and over constituted only a small percentage of both. Nevertheless, there were some differences. Aboriginal prisoners tended to be younger than their non-Aboriginal counterparts, with a higher proportion aged less than 40 years (84.8% compared with 71.6% respectively) and a lower proportion aged 40 years and over (15.2% compared with 28.4% respectively).

Figure 33 Persons in custody on 31 December 2004: age by racial identity



Escapes from custody

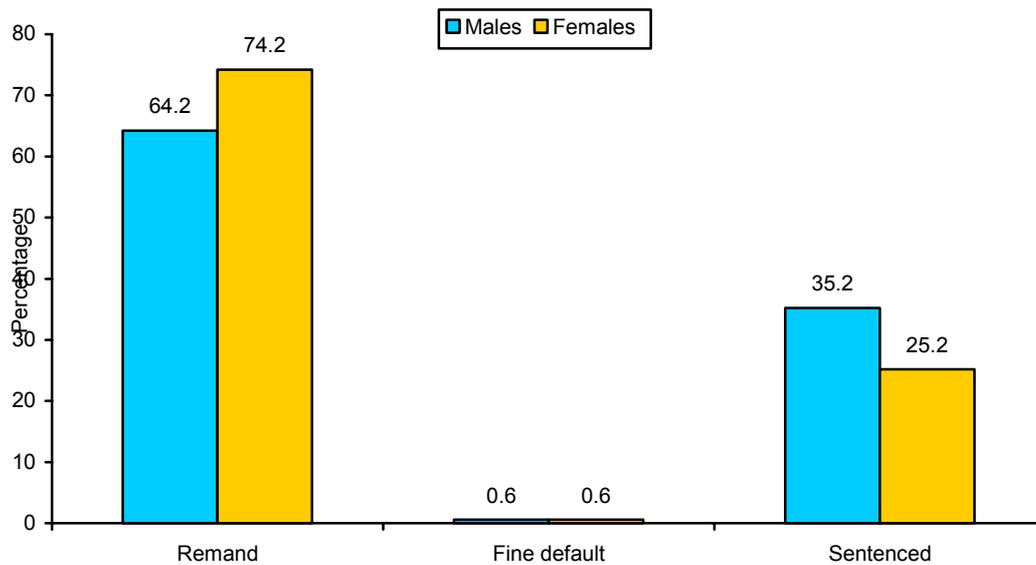
- In 2004, four prisoners escaped from custody. This compares with two escapes in 2003 and five in 2002. Three of the escapes in 2004 were from an institution (Cadell Training Centre) while one was from escort.
- The overall escape rate recorded in 2004 was 0.3 per 100 prisoners, compared with 0.1 in 2003, and 0.3 in 2002.

Prison discharges

- In 2004, there were 3,400 persons¹¹ discharged from custody, the majority of whom were males (89.3% of the total).
- Of the 3,389 persons discharged in 2004 where legal status was recorded, approximately one third (1,158 or 34.2%) were serving a prison sentence at the time of their release. A further 2,211 (65.2%) were discharged from remand and 20 (0.6%) were discharged after having 'cut out' a fine.
- As shown in Figure 34, 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.

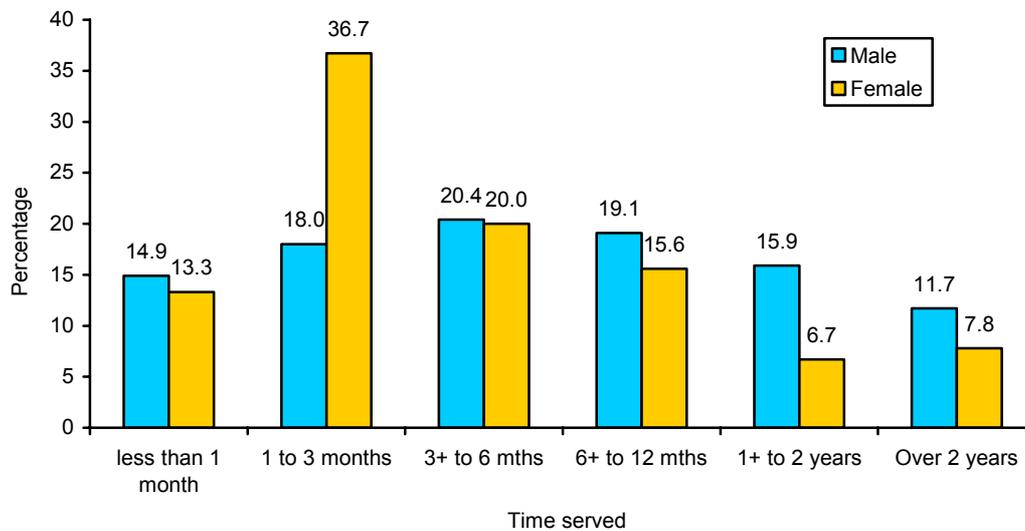
¹¹ This does not refer to discrete individuals. During the twelve month period, the same person may have entered prison and then been discharged on more than one occasion. Each discharge is counted separately in these tables.

Figure 34 Prison discharges: legal status by sex, 2004



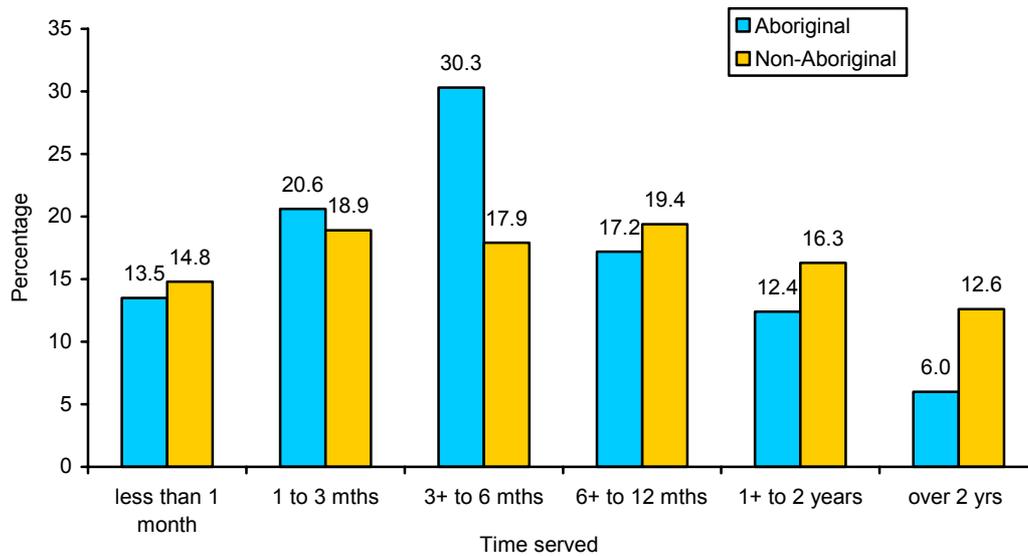
- As would be expected given the earlier data presented on prison receptions and census figures, of those persons discharged from custody for whom age was recorded, one in four (39.5%) were aged 20 to 29 years while only 4.1% were aged 50 years and over.
- Of the 3,137 discharges where racial identity was recorded, one in five (23.7%) were identified as Aboriginal. More specifically, for those cases where relevant information was available, this racial group accounted for 23.3% of all discharges from remand and 24.7% of all sentenced prisoners discharged.
- Tables 4.22 to 4.23 in Section 4 of this report detail the amount of time served by sentenced prisoners at the point of discharge. It should be stressed that time served relates only to the amount of time elapsed between the prisoner's date of intake and date of discharge for each admission period. In other words, if a person is admitted on remand, then released on bail, but later breaches that bail and is readmitted, 'time served' will be calculated separately for each admission, rather than aggregated (see Appendix for further discussion).
- In previous reports, separate information was provided for fine defaulters and sentenced prisoners. However, because of the very small number of fine defaulters now entering and leaving the prison system (with 20 discharges in 2004), these tables have been deleted.
- Of the 1,156 sentenced prisoners discharged in 2004, the majority were imprisoned for relatively short periods of time. More specifically, 14.8% spent less than one month in prison, while 34.3% were in prison for three months or less and 54.6% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 1.2% incarcerated for more than five years.
- As shown in Figure 35, compared with females, a lower proportion of males served less than three months, while proportionately more had served greater than six months at the time of their discharge.

Figure 35 Prison discharges: time served by sex of sentenced prisoners, 2004.



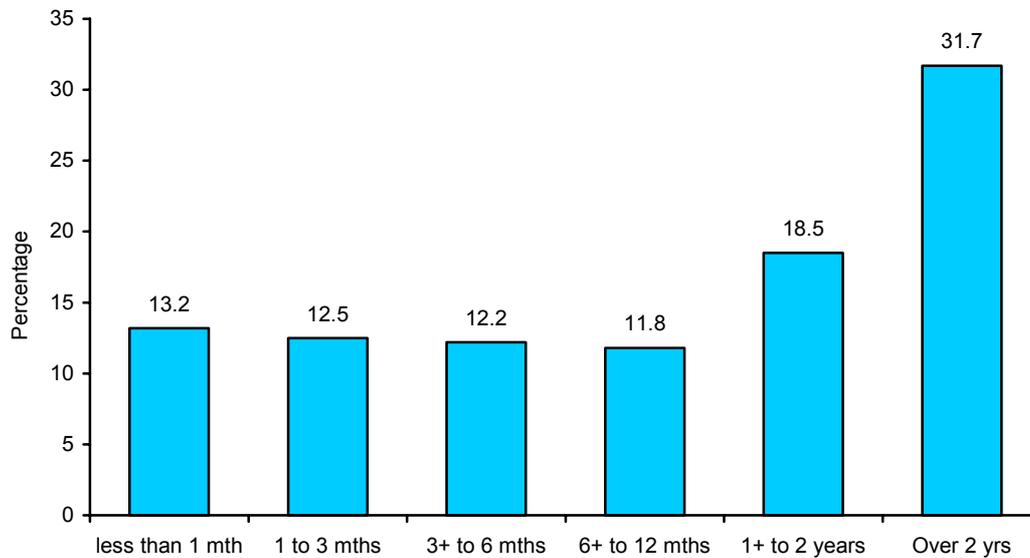
- The most serious offence types for which sentenced prisoners were being held at the time of their discharge were *offences against justice procedures*, which were listed as the major offence in 31.0% of all discharges where the type of offence was recorded. This category was followed by *serious criminal trespass* (12.9%), *assault* (10.9%), *licence/registration offences* (9.2%), and *fraud* (7.3%).
- As expected, there was a strong association between the nature of the offence and the time served. To illustrate, of the 106 discharges involving a *licence/registration* offence, more than one third (37.7%) involved periods of less than one month. At the other end of the scale, of the 148 discharges involving a *serious criminal trespass* offence, only 1.4% had served less than one month, while 51.4% had served over one year at the time of discharge. Similarly, although there were relatively few prisoners who, at the time of discharge, were serving sentences for *robbery and extortion* (62 or 5.4% of those discharges where the type of offence was recorded), over one half of these (51.6%) involved terms of more than two years while none involved a period of less than three months.
- There were also some differences between male and female sentenced prisoners in relation to the major offence for which they were being held at the time of discharge. Most notably, a much higher proportion of female discharges involved *fraud* (20.5% compared with 6.2% of male discharges where this information was recorded) while a lower proportion involved *serious criminal trespass* (7.9% compared with 13.3%) and *manufacture/grow drugs* (2.3% compared with 20.8% of male discharges).
- Figure 36 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 36 Prison discharges: time served by racial identity of sentenced prisoners, 2004.



- 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* (37.5% and 29.8% of Aboriginal and non-Aboriginal discharges respectively), a higher proportion of Aboriginal sentenced prisoners were being held for *assault* 22.5% compared with 7.2% of non-Aboriginal sentenced prisoners).
- Tables 4.24 and 4.25 in Section 4 of this report detail the aggregate (or head) sentence listed for those sentenced prisoners discharged during 2004. 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 37, half (49.7%) of prisoners discharged in 2004 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 18.5% received a head sentence of over one year to two years, while a further 31.7% received a head sentence of more than two years. A small number (9 of the 1,156 discharges recorded in 2004) had a head sentence of over 10 years, including one sentenced to life imprisonment for *homicide*.

Figure 37 Prison discharges: length of aggregate (or head) sentence for sentenced prisoners, 2004



Community-based Corrections

Orders¹² commenced during 2004

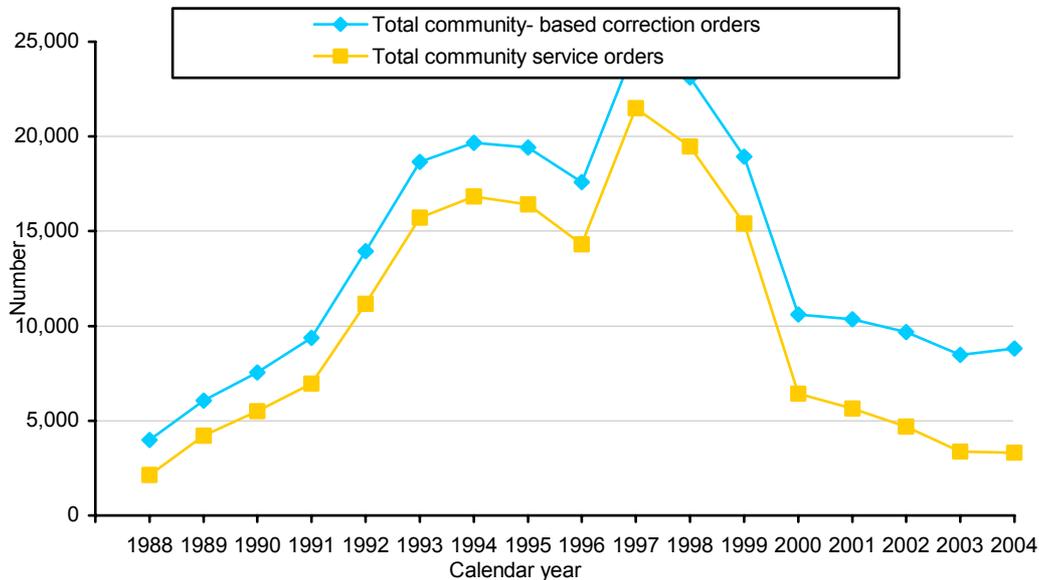
- Tables 4.26 to 4.32 in Section 4 of this report contain data on community correction orders supervised by the Department for Correctional Services.
- During 2004, a total of 8,809 community-based correction orders were commenced. One third (37.7%) of these orders involved some form of community work. This included stand-alone community service orders (27.4%), as well as instances where a financial penalty was expiated through community service (10.3%). At the other end of the scale, only 9.8% of orders involved home detention, generally as part of a bail agreement (7.3%) or for sentenced prisoners released from gaol (2.5%). There were also two orders involving a home detention bond¹³.
- The 8,809 community-based correction orders commenced in 2004 involved 6,662 discrete individuals, giving an average of 1.32 orders per individual. The total number of individuals who commenced a community-based correction order in 2004 was almost identical to that recorded in 2003 (6,660), but 57.7% lower than the 15,738 persons recorded in 1999.
- Males accounted for 81.1% of those individuals for whom sex was recorded and 81.7% of all orders commenced where relevant data were available. Although separate data are presented for Aboriginal and non-Aboriginal offenders, the proportion of cases in which information on racial identity was not recorded (25.2% 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 38. As shown, the number of community-based correction orders commenced in a

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

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 defendant's 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.

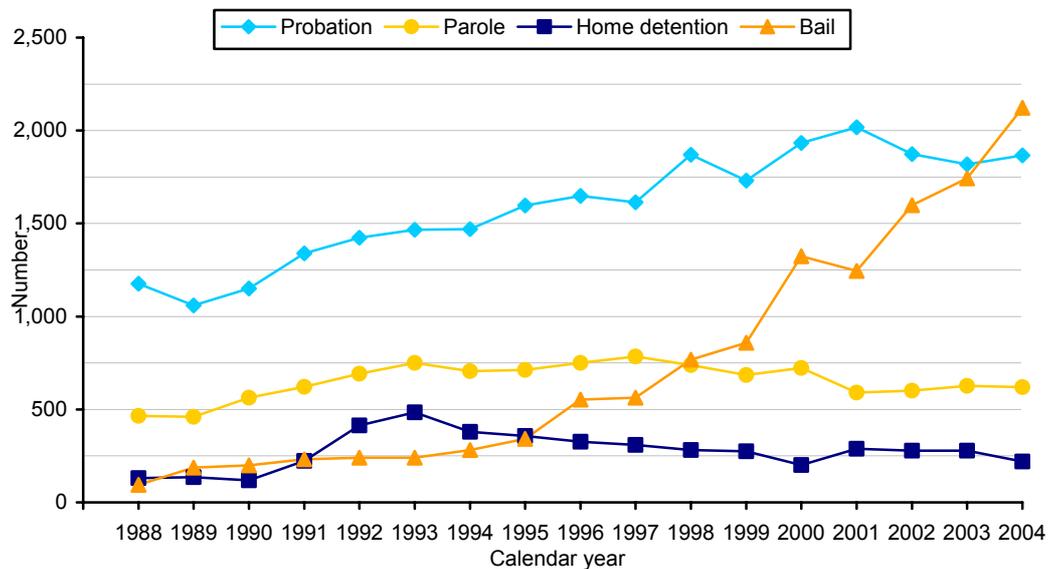
given year increased substantially between 1988 and 1997 before declining in the 1998 to 2000 period. Decreases were also recorded since 2000 although they were not as substantial as the decreases recorded between 1998 and 2000. Overall, the 8,809 orders commenced in 2004 was 64.4% lower than the peak recorded in 1997.

Figure 38 Community-based correction orders and community service orders commenced 1988 to 2004



- Also shown in Figure 38 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 expiation notices commenced in the years up to and including 2000, as well as the Financial Penalty expiated through community service orders that replaced them 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 78.5% from 15,401 in 1999 to 3,317 in 2004.
- Figure 39 shows trends in the number of other types of community-based correction orders commenced between 1988 and 2004. It should be noted that the category of bail also includes home detention bail.

Figure 39 Number of selected community-based correction orders commenced by type of order, 1988 to 2004



- The number of parole orders showed a general upward trend from 1988 to 1997. Between 1997 and 2004, despite some fluctuation in 2000, they generally declined. The number of parole orders decreased by 1.0% to 620 in 2004 and this figure was 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 39. However, in 2002 the number of probation orders declined by 7.1% to 1,874 and have remained around that level since with a total of 1866 orders in 2004.
- 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. Despite a small decrease to 219 in 2004 the numbers has remained relatively stable in recent years. 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 have continued to rise sharply, including a further 21.8% rise to 2,123 during 2004.

Persons supervised at 31 December 2004

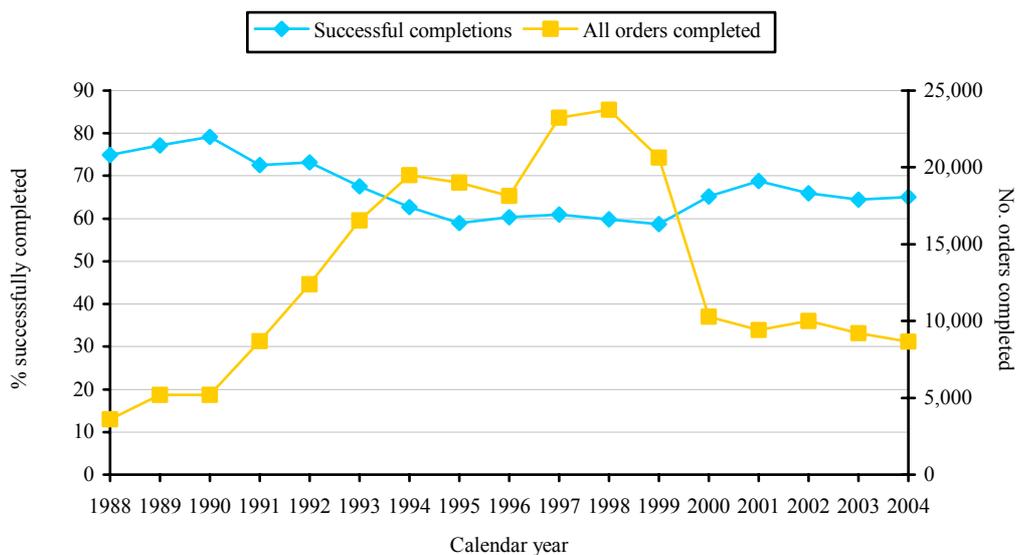
- On the 31st December 2004, the Department for Correctional Services was supervising 6,447 distinct individuals, some of whom were serving more than one community-based corrections order. (As explained in Appendix A, if the same person is on probation and doing community work at the same time, for the purposes of these tables (s)he would be counted in both categories.)
- The order that recorded the highest caseload on 31 December 2004 was that of probation, with 2,510 individuals registered on that day. This equates to 38.9% of all discrete persons under Department for Correctional Services community-based supervision on that particular day.
- There were also 826 individuals (12.8% of all discrete individuals) recorded in the category of *Financial penalty expiated through Community Service* and 1,397 (21.7%) serving a ‘stand alone’ community service order.

- At the other end of the scale, only 69 persons (1.1% of all discrete individuals) were sentenced prisoners on home detention while 963 (14.9%) were on bail, either with or without a home detention component.
- The total number of persons under supervision on 31 December 2004 (n=6,447) was 14.1% higher than the 5,648 individuals being supervised on 31 December 2003. When the number within each type of order are summed, total orders supervised in 2004 was 8.1% higher than in 2003 (6,932 compared with 6,412 respectively).
- In 2004 differences were observed in several categories in comparison with 2003. The number of persons on bail at 31 December 2003 (including home detention bail) was 43.9% higher than in 2003, while the number of persons on home detention decreased from 88 in 2003 to 69 in 2003.
- Males accounted for eight in ten (81.6%) of all discrete individuals supervised on 31 December 2004 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 on *probation orders* (45.4% compared with 37.4% respectively) and *financial penalty expiated through community service* (17.8% compared with 11.7% respectively) while a higher proportion of males than females were on *parole* (16.0% of all male 'orders' supervised on 31 December 2004 compared with 5.8% of all females 'orders').
- Because information on racial identity was not available for 23.4% 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 2004

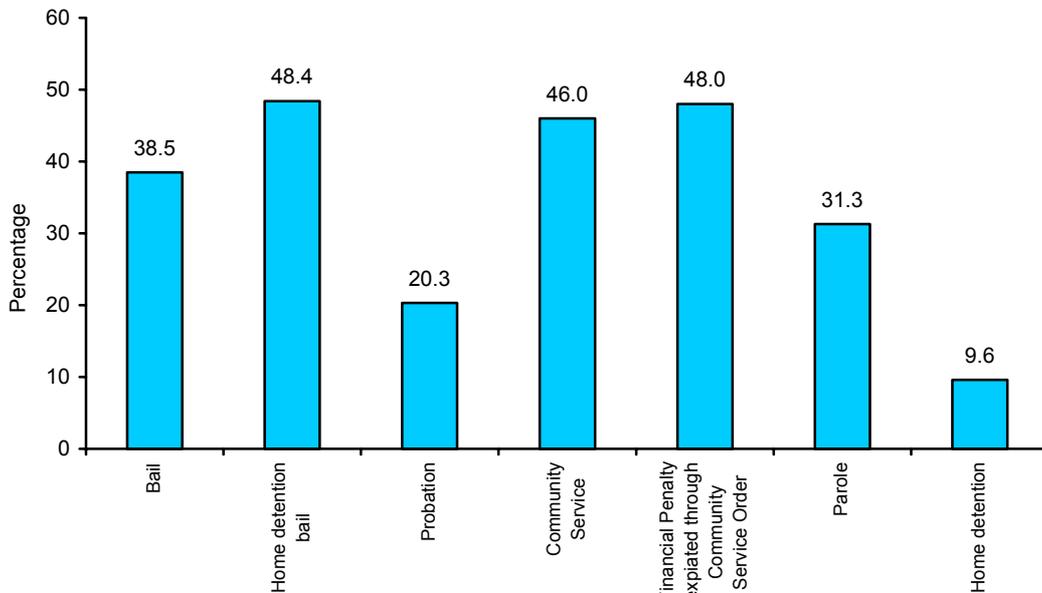
- The number of community-based correction orders completed (either successfully or otherwise) decreased in 2004 (from 9,209 in 2003 to 8,651). Of these 8,651 orders, the majority (65.1%) were completed successfully, while one third (34.8%) were revoked, estreated or breached.

Figure 40 Community-based correction orders completed and the percentage completed successfully, 1988 to 2004



- Figure 40 shows that, until 1999, despite some annual fluctuations, as the number of completed community-based correction orders has escalated, so the proportion of such orders successfully completed has diminished. In 1988, for example, when there were only 3,603 orders completed, 74.9% were successfully finalised. In 1998, the number of orders completed had increased more than five-fold, but the proportion of successful completions had more than halved. However, in 2000, the number of orders completed decreased substantially, while the proportion successfully completed rose to 65.2%. This trend continued in 2001 and 2002. The number of orders completed in 2001 decreased by 8.5%, but the proportion that were completed successfully rose to 68.8%. Since 2002 the number of order completed has declined slightly while the percentage successfully completed has remained stable.
- The extent to which orders were estreated or revoked in 2004 varied depending on the type of order involved. As indicated in Figure 41, the highest level of estreatment or revocation was recorded for home detention bail orders (48.4%), followed by Financial Penalty expiated through community service orders (48.0%) and community service orders (46.0%). In contrast, only 9.6% of the home detentions completed by sentenced prisoners were estreated in 2004.

Figure 41 Community correction orders completed in 2004: 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 2004, 34.8% of orders involving males were estreated or revoked, as were 34.5% of orders involving females.