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Crime and Justice in South Australia, 2005

Adult Courts and Corrections

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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 2005;
- The daily average number of prisoners during 2005;
- Persons in custody at 31 December, 2005;
- Prisoners discharged during 2005;
- Community based correction orders commenced during 2005; and
- Community based correction orders completed during 2005.

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

Joy Wundersitz
Director
Office of Crime Statistics and Research

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INTRODUCTION

This report, covering the period 1 January 2005 to 31 December 2005, is the nineteenth *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:

- selected criminal matters finalised in the Magistrates Courts of South Australia¹;
- all criminal matters finalised in the Supreme and District Criminal Courts; and
- all persons supervised by the Department for Correctional Services, either as prisoners or while undertaking community-based correction orders.

Summary of 2005 Statistics

Magistrates Courts

- During 2005, 28,308 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries were finalised in the Magistrates Court, which is 2.9% higher than the 27,499 cases finalised in 2004.
- *Driving offences* were listed as the major charge in three in ten (30.7%) of these cases, while *offences against good order* accounted for a further 19.7% and *larceny and receiving* offences for 12.5%. At the other end of the scale, very few cases involved either a *sexual offence* (1.6%) or *robbery and extortion* (0.7%). In addition, 4.6% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2005, 1,012 (3.6%) were committed to the District or Supreme Court for trial or sentence. This number is 8.9% higher than the 929 cases committed in 2004 but 43.5% 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 2005, over half (60.5%) of all cases finalised in the Magistrates Court resulted in the defendant being convicted of the major charge. In a further 11.9% of cases, the defendant was found guilty of the major charge but was not convicted.
- In one fifth of cases (19.7%) the major charge was either withdrawn by prosecution or dismissed.
- However, in 17.3% of the 5,693 cases where the major charge resulted in an acquittal, dismissal or withdrawal, finding of 'not guilty - mental incompetence' or 'withdrawn on completion of mental health diversion program', there was a finding of guilt to a lesser or other charge.
- In total then, of the 27,296 cases finalised in the Magistrates Court (excluding those committed to a higher court) over three quarters (78.7% or 21,490 cases) resulted in a finding of guilt to at least one charge.

¹ This report does not deal with all offences heard by the Magistrates Court. Many driving and traffic offences (except those of a more serious nature, such as *drive in a manner dangerous* or *drink driving*) most council matters (by-law breaches) and regulations are not included.

- Of the 1,304 *restraining, domestic violence or paedophile restraining orders* matters finalised in 2005, 814 (62.4%) resulted in the issuance of an order, 227 (17.4%) were varied, while 236 (18.1%) were either revoked, cancelled, withdrawn, dismissed or refused.
- Of the 21,490 cases finalised in 2005 by way of a conviction or a finding of guilt to at least one charge, three in ten (30.5%) received a driver's licence suspension as the most serious penalty, while 29.9% resulted in a fine. Only 3.7% of cases resulted in direct imprisonment while 9.6% received suspended imprisonment.
- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass offence* (average imprisonment of 77 weeks).
- Although females featured in only a small proportion (18.2%) of cases finalised in 2005, their level of involvement varied depending on the type of offence. For example, females accounted for only 1.8% of those cases in which a *sexual offence* was listed as the major charge, but 34.8% of all cases involving *fraud and misappropriation*.
- Just under two fifths (39.4%) of defendants dealt with in the Magistrates Court were aged between 20 and 29 years while relatively few (7.3%) were aged 50 years and over.
- The rate of appearance for Aboriginal defendants was considerably higher than that of non-Aboriginal defendants (282.3 per 1,000 adult Aboriginal population compared with 20.5 per 1,000 adult non-Aboriginal population respectively).
- Seven out of ten defendants (71.6%) in the Magistrates Court had at least one prior conviction, with an average of 14.1 previous convictions per defendant. Almost one in five cases (18.8%) involved defendants who had previously been sentenced to imprisonment.
- Of the 8,595 cases finalised at the first court hearing, only three defendants were remanded in custody at the time. In contrast, 23.9% of defendants who were committed to a higher court for trial or sentence were in custody at the time of their committal.
- 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 34.2% had a lawyer. This rose to over three quarters (77.4%) of those cases that required more than one hearing to finalise and 96.1% of those that were committed to a higher court for trial or sentence.

Higher Courts

- In 2005, there were 74 cases finalised in the Supreme Court and 879 finalised in the District Court, giving a total of 953. This was 2.4% lower than the number of cases disposed of in 2004.
- Cases involving a *drug offence* as the major charge accounted for the highest proportion of matters finalised (26.4% of the total), followed by *serious criminal trespass* (22.2%) and *offences against the person (excluding sexual offences)* (17.0%).
- The majority of defendants (76.2%) pleaded or were found guilty of at least one charge. In 60.4% of cases the defendant pleaded guilty to either the major or a lesser charge without the matter going to trial. In a further 15.0% of cases, a trial was held which resulted in either a plea or finding of guilt. In another 0.8% 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 2005 were imprisonment (imposed in 44.2% of cases where one or more charges had an outcome of *guilt*) and suspended imprisonment (imposed in 41.5% of such cases).

- The average length of imprisonment was just over four years (or 49.1 months, excluding sentences of life imprisonment). The average non-parole period set was just over three years (38.0 months).
- The offence group with the highest percentage imprisoned was *robbery and extortion*, with 75.0% of defendants found guilty receiving this penalty, followed by *sexual offences* (69.6%).
- Almost nine out of ten defendants (87.3%) were males, whose average age was 31.3 years. Females had an average age of 31.8 years.
- Persons of Aboriginal appearance made up 10.4% of defendants for whom information on racial appearance was available. This gave a rate of appearance of 7.4 per 1,000 adult Aboriginal population. This was much higher than non-Aboriginal defendants, whose appearance rate was 0.7 per 1,000 adult non-Aboriginal population.
- Over three quarters (82.1%) of defendants had at least one prior conviction, while 13.2% had 50 or more previous convictions. One third (33.6%) had been imprisoned before.
- Just over one quarter of defendants (28.3%) were being held in custody at the commencement of proceedings in the higher courts.

Correctional Services

Imprisonment

Prison receptions

- In 2005, there were 3,234 prison receptions. Of those from whom information on legal status was available, 10.7% were sentenced prisoners, 0.4% were fine defaulters and 89.0% were on remand. The number of receptions in 2005 was 6.0% lower than recorded in 2004, and well below the peak of 7,618 recorded in 1992.
- In 2005, the proportion of prison receptions that involved sentenced prisoners was comparable with that recorded in 2004 (10.7% compared with 10.9% respectively). Similarly, the proportion of admissions involving remanded prisoners was similar in both years (89.0% in 2005 compared with 88.6% in 2004).
- The overwhelming majority of receptions in 2005 involved males (89.8%). This figure was consistent for both remand and sentenced prison receptions.
- For those 3,233 receptions where age was known, four out of ten (38.8%) involved persons aged 20 to 29 years, while those in the older age groups (50 years and over) accounted for only 4.0%.
- Persons identified as Aboriginal accounted for 25.1% of the 2,953 prison receptions where information on racial identity was recorded. This figure was similar to that recorded for remand receptions (25.7% identified as Aboriginal), but slightly higher than the proportion of sentenced receptions (21.0%).

Daily averages

- Daily average prison numbers increased in 2005 from 1,475 per day in 2004 to 1,525.
- The majority of the 1,525 prisoners were serving a prison sentence (999 or 65.5%), while 519 (34.2%) were on remand.
- In 2005, males accounted for 93.8% of the daily average prison population, with a rate of 2.44 per 1,000 adult male population, compared with only 0.15 per 1,000 adult female population.

- On average, 295 Aboriginal persons were held in custody each day in 2005, which represents 19.9% of those for whom racial identity was recorded.

Census figures

- At midnight on 31 December 2005 there were 1,502 prisoners in custody. Remandees accounted for 32.4% of those for whom information on legal status was recorded while two thirds (67.6%) were sentenced prisoners.
- Males again dominated. For every 1,000 adult males in the South Australian population, 2.38 were in custody on that particular day compared with only 0.17 females per 1,000 adult female population.
- Aboriginal males accounted for 19.0% of all males in custody on 31 December 2005 where racial identity was known (compared with 21.2% in 2004), while Aboriginal females accounted for 29.3% of all females in custody (compared with 31.7% in 2004).

Escapes from custody

- In 2005, four prisoners escaped from a custodial institution, while there was one escape while the prisoner was on leave.

Prison discharges

- In 2005, there were 3,228 discharges from custody. Where legal status was known, 32.2% were, at the time of discharge, serving a prison sentence. A further 67.4% were discharged from remand and 0.5% were discharged after having 'cut out' a fine.
- A higher proportion of females were on remand at the time of discharge (74.6% compared with 66.6% of males), while a lower proportion were classified as sentenced prisoners (24.8% compared with 32.9% of males).
- Of the 1,033 sentenced prisoners who were discharged in 2005, 13.6% spent less than one month in prison, while 29.9% were in prison for three months or less. At the other end of the scale, only 2.4% 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 93 discharges involving a *licence/registration* offence, almost one third (31.2%) were for periods of less than one month. However, of the 135 sentenced prisoners discharged after serving sentences for *serious criminal trespass*, only 3.0% had served less than one month, while 47.4% involved terms of more than one year.
- Overall, Aboriginal sentenced prisoners were more likely to serve short periods of between one and six months (54.0% compared with 34.1%), but less likely to serve longer terms of over one year than were their non-Aboriginal counterparts (15.3% compared with 33.0%).
- 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 34.4% of all discharges where the type of offence was recorded, followed by *serious criminal trespass* (13.2%) and *assault* (10.5%).

Community-based Corrections

Orders commenced during 2005

- In 2005, there were 8,379 community-based correction orders commenced, which was 4.9% lower than the 8,809 recorded in 2004.
- Almost one third (32.0%) of the community-based correction orders commenced in 2005 involved some form of community work. This included stand-alone community service orders (22.1%) as well as instances where a financial penalty was expiated through community service (9.9%).
- Only 11.1% of supervisions involved home detention, generally as part of a bail agreement (8.7%) or for sentenced prisoners released from gaol (2.3%). There were also six orders involving home detention bond.
- The 8,379 orders commenced in 2005 involved 6,462 discrete individuals, giving an average of 1.30 orders per person. The total number of individuals who commenced an order in 2005 was slightly lower than that recorded in 2004 (6,662) but 58.9% 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 82.0% of all individuals and 82.6% of all orders commenced where relevant data were available.

Persons supervised at 31 December 2005

- On 31 December 2005, the Department for Correctional Services was supervising 6,350 distinct individuals, some of whom were serving more than one type of community-based corrections order.
- The order which recorded the highest caseload on that day was that of probation, with 2,500 discrete individuals registered. This equates to 39.4% of all discrete persons under Correctional Services community-based supervision on that day.
- The total number of persons supervised was 1.5% lower than the 6,447 individuals under supervision twelve months earlier, on 31 December 2004.

Orders completed during 2005

- The number of community-based correction orders completed (either successfully or otherwise) decreased in 2005 (by 2.6% from 8,651 in 2004 to 8,427).
- The majority of these orders (61.5%) were completed successfully.
- The extent to which orders were revoked or estreated in 2005 varied depending on the type of order involved. The highest level of estreatment/revocation was recorded for community service orders (47.8%), followed by orders where a financial penalty was expiated through community service (47.1%) and home detention bail orders (42.2%). In contrast, only 9.0% of home detentions completed by sentenced prisoners in 2005 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 around 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 2005 crime survey conducted by the Australian Bureau of Statistics (*Crime and Safety, April 2006*, catalogue no. 4509.4), indicated that in South Australia the level of reporting for *assault* was 37.4%.

Even for those offences which are reported to police, many never result in the apprehension of a suspect. And again, the likelihood of an apprehension varies depending on the type of offence. For example, only 7.6% of *serious criminal trespass* offences reported to police in 2005 were cleared by way of an apprehension, as were 10.6% of *vehicle thefts*. Apprehension levels for *drug* and *driving offences* were considerably higher (99.5% 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 2005 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 2005.

Conversely, the court data will count persons who, although sentenced in 2005, were apprehended 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 recorded by or cleared by police. In contrast, Magistrates Court and higher court figures are based on finalised cases, with only the most serious charge per case shown. Because a single defendant may have committed a number of offences, police statistics for any offence category invariably will be much higher than court figures. To illustrate, a incident in which an offender broke into a dwelling, and robbed and raped the victim would generate one count of *break and enter*, one *rape* and one *robbery* in the statistics on offences recorded by 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 (PDDI) 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 individual being charged or prosecuted in court. Since the introduction of PDDI, the number of court cases involving the use or possession of drugs has dropped dramatically.

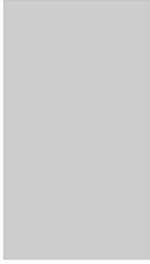
Other changes in legislation can alter the relative proportions of serious offences dealt with by the court. As outlined in Appendix A, in July 1992 various pieces of legislation came into effect that were designed to streamline the processing of cases by changing the level of court in which particular 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 deal with 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.

The passage of the *Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act* in December 1999 also impacted on the relative distribution of cases between the Magistrates and Higher Courts. This legislation replaced *break and enter* offences with *aggravated serious criminal trespass* offences, which, in contrast to the offences they replaced, were classified as major indictable matters that could only be heard in the higher court.

Other legislative changes, such as 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.



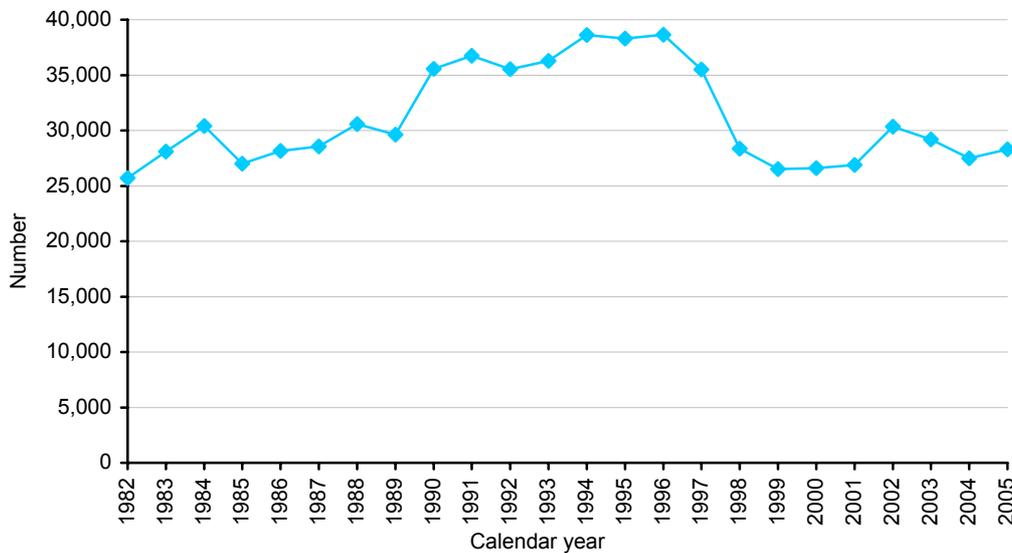
OVERVIEW

1.1 Magistrates Courts of South Australia

Overview

- During 2005, 28,308 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries¹ were finalised in the Magistrates Court. This figure is 2.9% higher than the 27,499 finalised cases in 2004.
- 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 generally stabilised. Hence, while the number of matters finalised in 2005 was slightly higher than in the previous year, it was considerably lower than the peak recorded in 1996 (n=38,652).

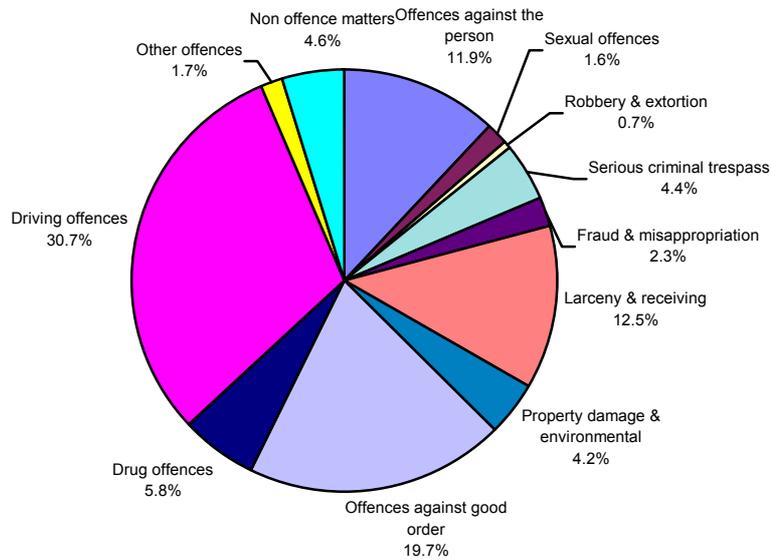
Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 2005



- As indicated in Figure 2, *driving offences* constituted the major charge in three in ten (30.7%) cases finalised in 2005, while *offences against good order* featured in a further 19.7% 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 (0.7% and 1.6% respectively). In addition, 4.6% of cases involved *non-offence* matters. As in previous years, these consisted almost entirely of restraining orders.

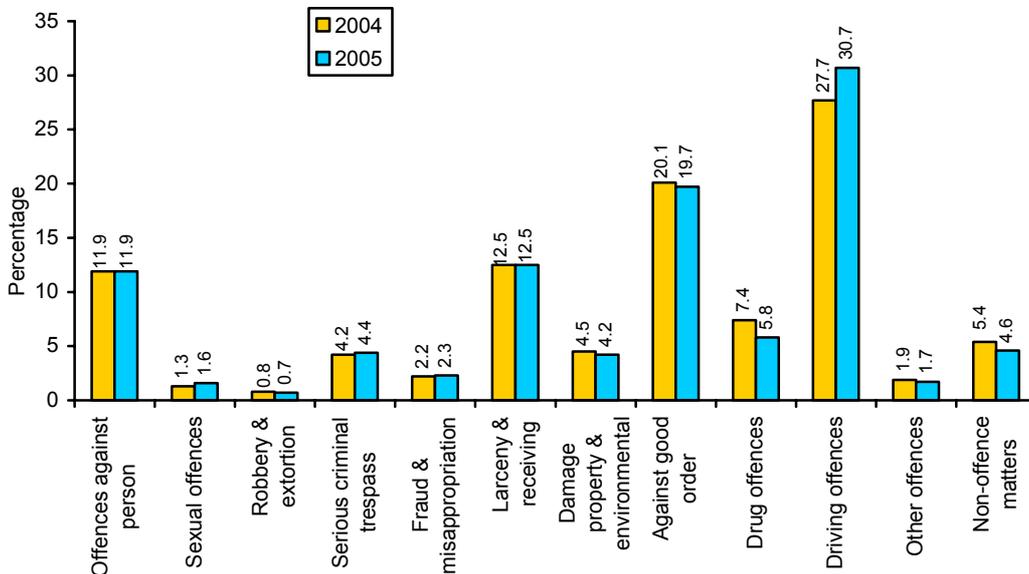
¹ This report does not deal with all offences heard by the Magistrates Court. Many driving and traffic offences (except those of a more serious nature such as *drive in a manner dangerous* or *drink driving*), most council matters (by-law breaches) and regulations are not included.

Figure 2 Cases finalised in the Magistrates Court by the major charge per case: 2005



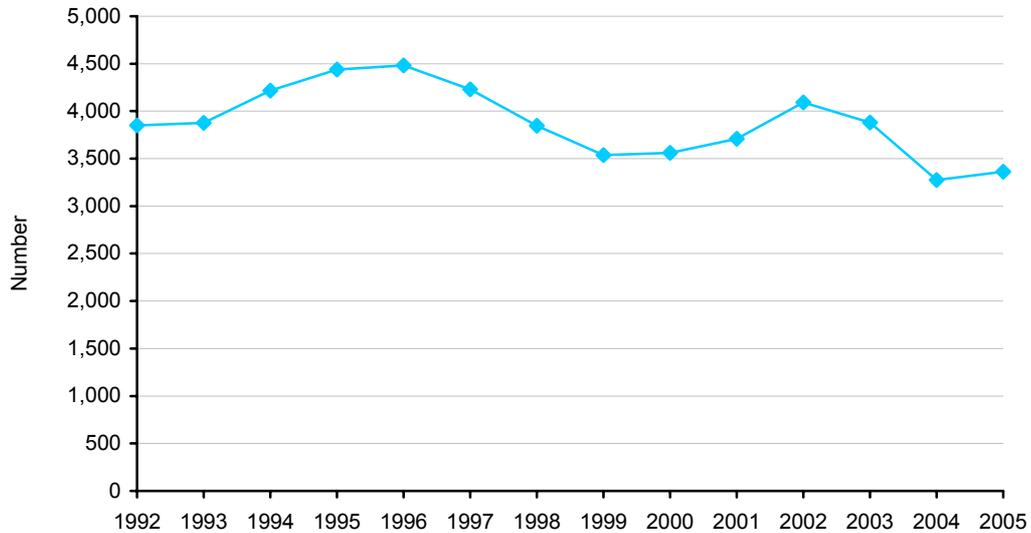
- Overall, this offence profile is similar to that observed in 2004. As shown in Figure 3, in both 2004 and 2005, four offence categories dominated: namely *driving offences*, *offences against good order*, *larceny/receiving* and *offences against the person*. Conversely, the proportion of cases involving *sexual offences* and *robbery and extortion* has remained consistently low.

Figure 3 Cases finalised in the Magistrates Court by major charge: 2004 and 2005



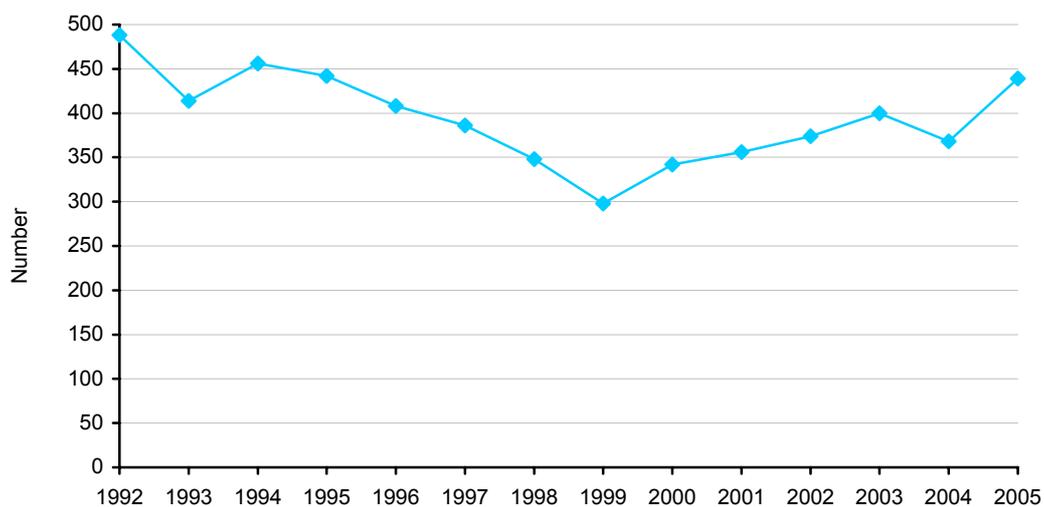
- Longitudinal trends in the actual number of cases per offence category are detailed in Figure 4 to 13, which plot the major charge recorded per case from 1992 (when data relevant to all twelve categories listed above were first published) to 2005.
- As indicated in Figure 4, despite annual fluctuations, in 2005 the number of cases involving an *offence against the person* was considerably lower than ten years earlier.

Figure 4 Cases finalised in the Magistrate Court where the major charge was an *offence against the person, excluding sexual offences*: 1992 to 2005



- 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. Despite a decline in 2004, the number of cases increased again in 2005, with the 2005 total of 439 the highest number of *sexual offence* cases disposed in the Magistrates Court since 1996. This increase in 2005 may reflect the impact of the removal of time limits for prosecution of certain sexual offences which occurred in June 2003².

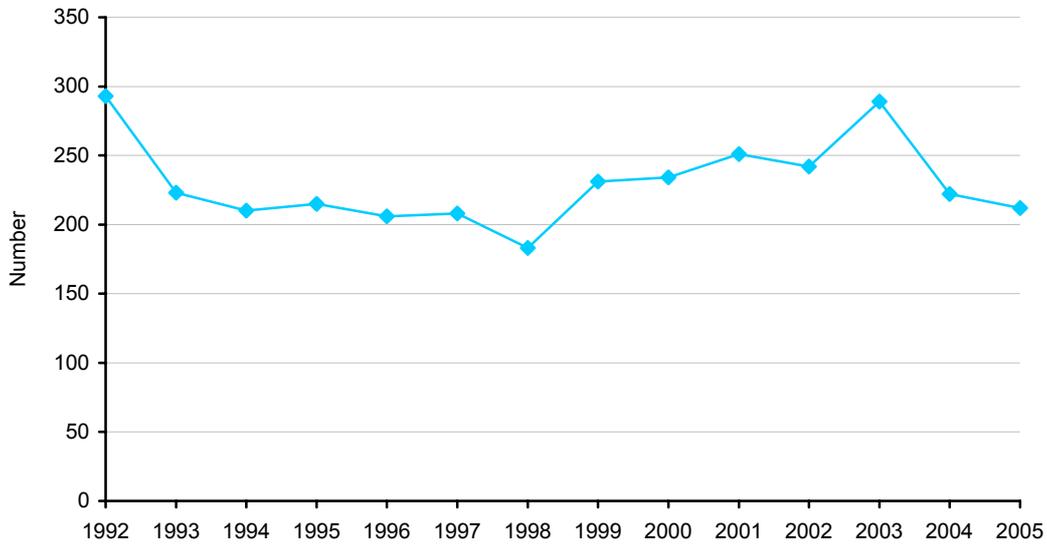
Figure 5 Cases finalised in the Magistrates Court where the major charge was a *sexual offence*: 1992 to 2005



² On 17th June 2003, the *Criminal Law Consolidation (Abolition of Time Limit for Prosecution of Certain Sexual Offences) Amendment Act 2003* came into effect. This legislation removed the time limitation for the prosecution of a wide range of sexual offences, including rape, indecent assault, acts of gross indecency, buggary and incest. Prior to this legislation, sexual offences committed prior to 1982 could not be prosecuted.

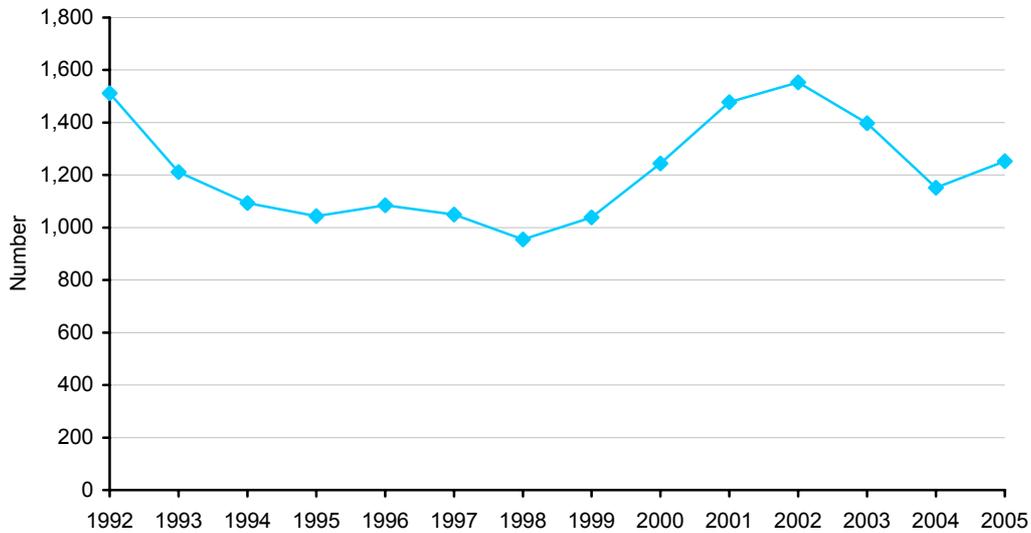
- After increasing from 1998 to 2003, numbers declined substantially in 2004 with a further slight decrease recorded in 2005 (to 212). The most recent figure is similar to those recorded in the 1993 to 1997 period.

Figure 6 Cases finalised in the Magistrates Court where the major charge was *robbery and extortion*: 1992 to 2005



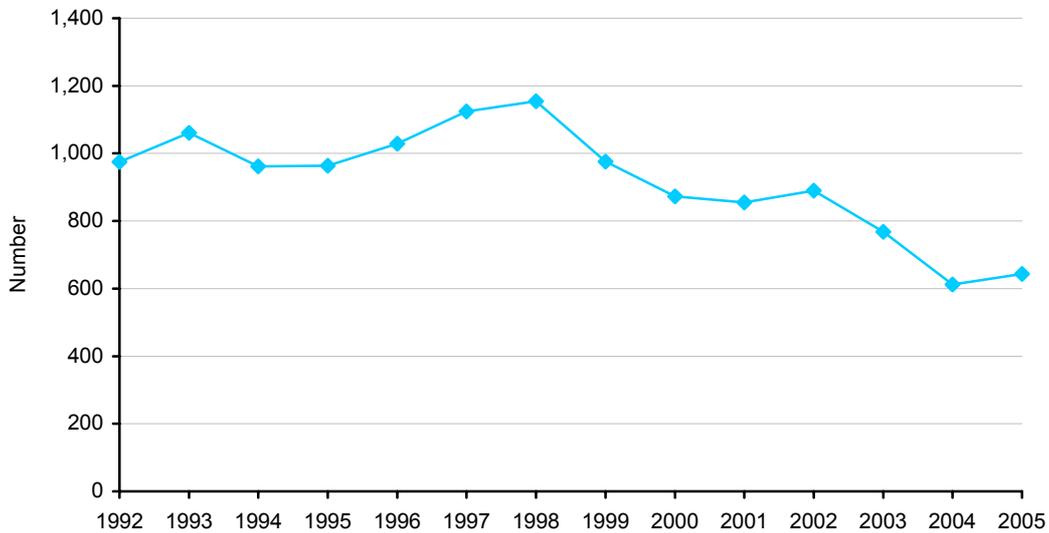
- Determining longitudinal trends for *burglary, break and enter/serious criminal trespass* offences is somewhat problematic due to the passage of the Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act. This piece of legislation, which came into effect on 25 December 1999, replaced *break and enter* offences (other than the offence of sacrilege) with *criminal trespass* offences. In Figure 6, all *criminal trespass/break and enter* offences have been combined.
- The number of cases involving *serious criminal trespass* as the major charge was comparatively low during the period 1992 to 1998. Commencing in 1999 an upward trend occurred which peaked in 2002 (with 1,553 cases). This was followed by an equally pronounced downward trend. As a result, although numbers rose slightly in 2005, the most recent figure of 1,253 cases is still well below the 2002 peak.

Figure 7 Cases finalised in the Magistrates Court where the major charge was *serious criminal trespass*: 1992 to 2005



- Figure 8 indicates that the number of cases where the major charge was *fraud and misappropriation* has continued the downward trend that commenced in 1999. Although the 2005 figure of 643 was slightly higher (4.8%) than the number recorded in 2004 (612), it is still well below 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 2005

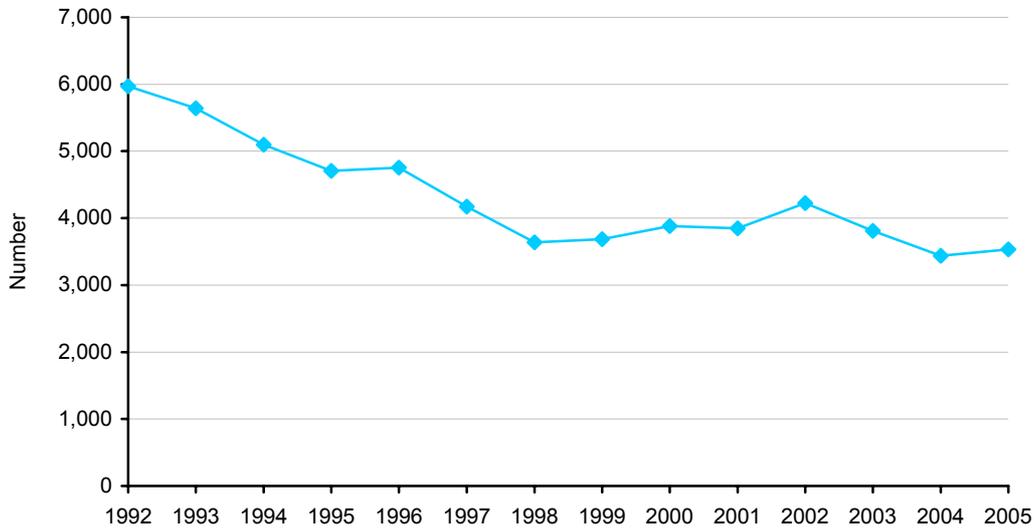


- As indicated in Figure 9, the number of cases involving *larceny and receiving*³ declined from 5,969 in 1992 to 3,639 in 1998, after which time numbers have remained relatively stable.

³ 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.

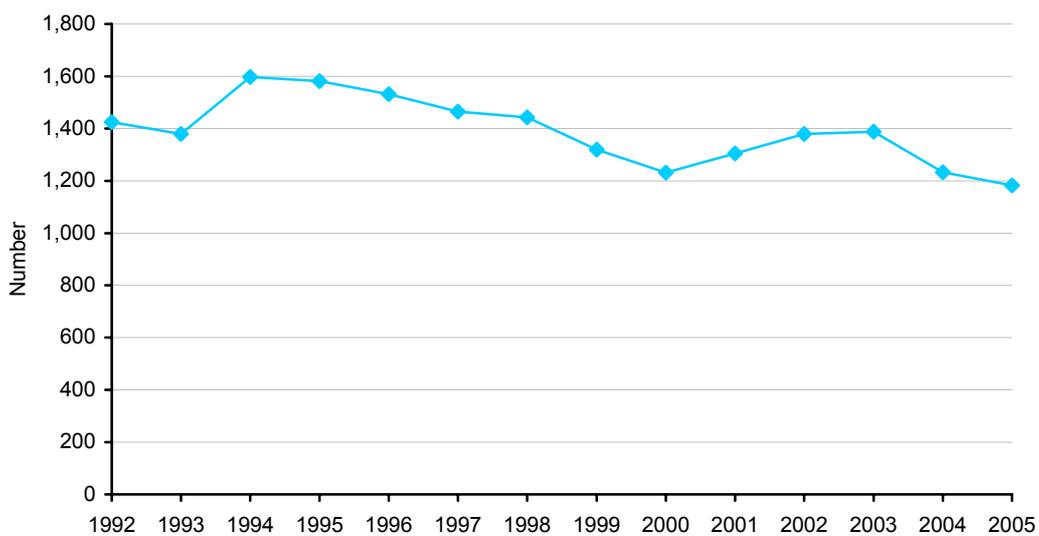
Although the 2005 figure of 3,531 is slightly higher (2.6%) than that recorded in 2004, it is still substantially lower than the levels recorded in the early 1990s.

Figure 9 Cases finalised in the Magistrates Court where the major charge was *larceny and receiving*: 1992 to 2005



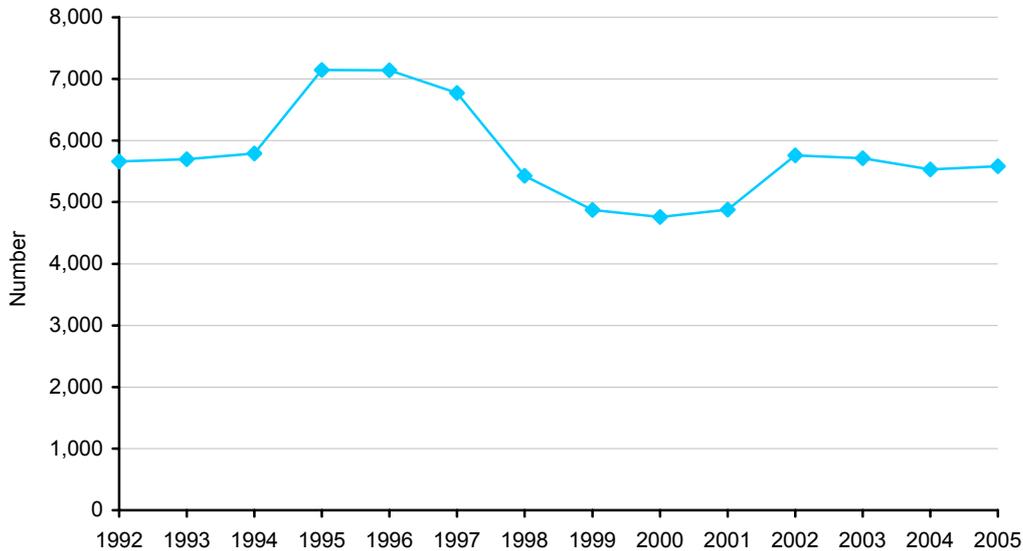
- *Damage property and environmental offences* feature as the major charge in a relatively small proportion of finalised Magistrates Court cases. As indicated in Figure 10, these cases steadily declined from 1994 to 2000. The period between 2001 and 2003 saw numbers gradually increase, by 12.7%, but this trend was reversed in 2004 and 2005, with the 2005 figure falling to the lowest level recorded over the 14 years depicted.

Figure 10 Cases finalised in the Magistrates Court where the major charge was a *damage property and environmental offence*: 1992 to 2005



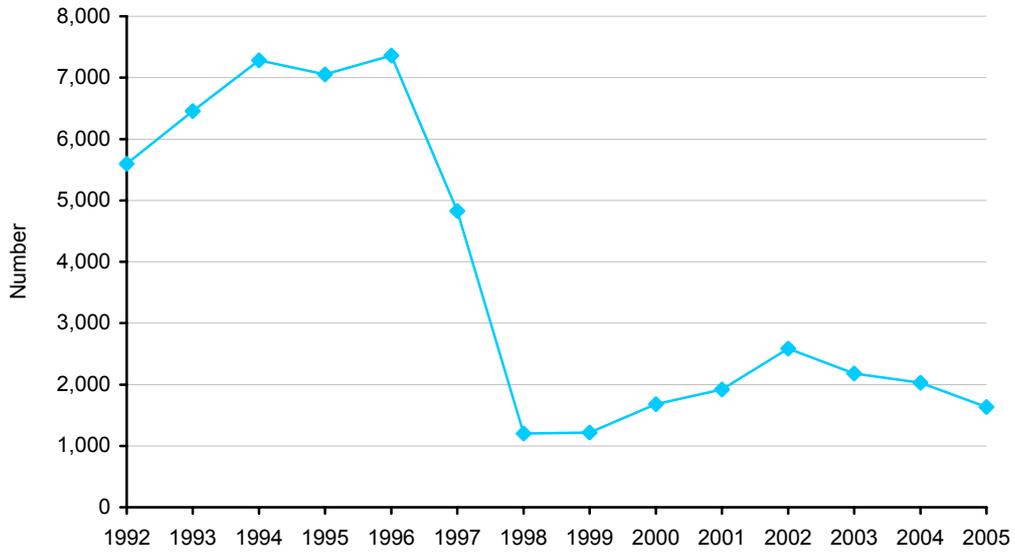
- As Figure 11 indicates, since 2002 the number of cases involving a major charge of an *offence against good order* has been relatively stable, with the 2005 figure of 5,581 comparable with those recorded in the 1992 to 1994 period.

Figure 11 Cases finalised in the Magistrates Court where the major charge was an *offence against good order*: 1992 to 2005



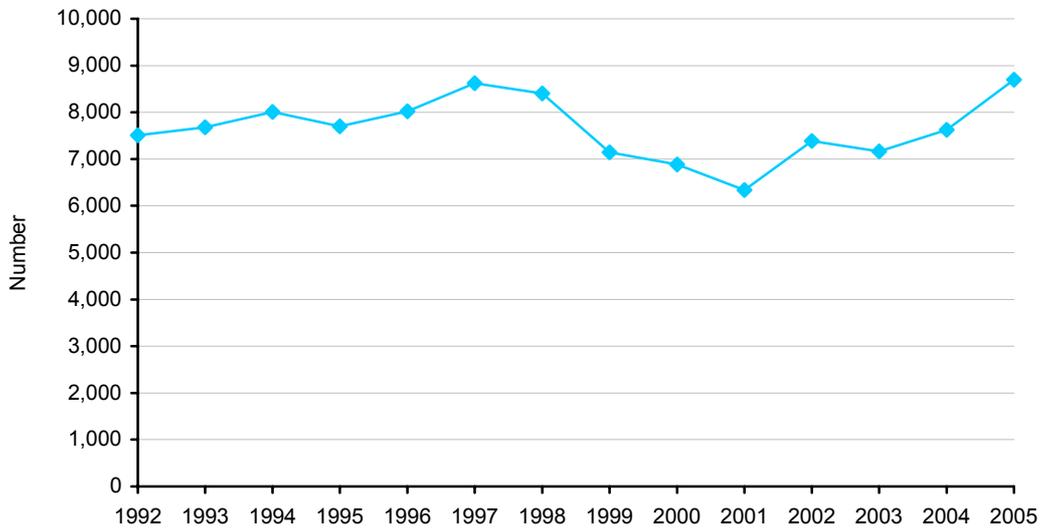
- As Figure 12 indicates, cases with a major charge of a *drug offence* experienced a dramatic drop in both 1997 and in 1998. This decline can be attributed to the changes introduced by the *Expiation of Offences Act 1996*, which came into operation in February 1997. Whereas previously, expiation fee 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.
- Following that marked decrease, numbers then increased slightly between 1998 and 2002. 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. These changes 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 2005 total of 1,632 being 36.9% lower than in 2002. 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 detected in possession of small amounts of illicit drugs are not apprehended by police but instead are diverted to assessment and treatment programs. Hence, this initiative impacts directly on the number of persons 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 2005



- As shown in Figure 13, cases where *driving offences* were listed as the major charge reached their lowest point in 2002 (n=6,355). Since then, numbers have increased steadily, with the 2005 figure of 8,697 the highest recorded during the 14 year period depicted.

Figure 13 Cases finalised in the Magistrates Court where the major charge was a *driving offence*: 1992 to 2005



Outcomes

- Of the 28,308 cases heard in the Magistrates Court in 2005, 1,012 were committed to the District or Supreme Court for trial or sentence. This was 8.9% higher than the 929 cases committed in 2004, but 43.5% 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 3.6% which was comparable to the 3.4% recorded in 2004.
- As expected, the percentage of cases committed to a higher court for trial or sentence in 2005 varied considerably according to the seriousness of the major charge. For example, 52.8% of all *robbery and extortion* cases had this outcome (compared with 49.1% in 2004), as did 35.8% of cases involving *sexual offences* (compared with 34.8% in 2004). In contrast, only 0.4% of *larceny and receiving* and 0.9% of *property damage and environmental offences* cases resulted in a committal to the District or Supreme Court, as did 1.1% of cases involving *offences against good order*.
- It should also be noted that in 21 of the 1,012 cases which, in 2005, 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 (60.5%) 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 57.2% recorded in 2004. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 13.2% of cases involving *sexual offences* to 91.7% 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* (75.1%), *fraud and misappropriation* (57.4%), *offences against good order* (64.8%) and *property damage and environmental offences* (54.1%) as the major charge.
- In 3,361 cases (11.9% of the total), there was a finding of guilt for the major charge but no conviction was recorded. Ten cases resulted in an acquittal for the major charge while in 60 cases an outcome of 'not guilty: mentally incompetent' was recorded. In almost one fifth of cases (19.7%) the major charge was either withdrawn (3,011) or dismissed (2,569). In a further 43 cases, the major charge was withdrawn after completion of the mental health diversion program. It should be noted though, that in 984 (17.3%) of the 5,693 cases where the major charge resulted in either an acquittal, dismissal, withdrawal, finding of 'not guilty: mentally incompetent' or 'withdrawn on completion of mental health diversion program', the defendant was found guilty of a lesser or other charge. The same applied in 21 of the 1,012 cases referred to the higher court for trial or sentence.
- In total then, of the 27,296 cases that were finalised in the Magistrates Court (excluding those committed to a higher court) in 2005, 21,490 (78.7%) resulted in a finding of guilt to at least one charge. In a further 31 cases some other outcome (such as the death of the defendant) was recorded, while in 1,084 cases an order was issued, varied or revoked.
- 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* (47.2% of all cases within this category), *offences against the person, excluding sexual offences* (44.5%), *sexual offences* (43.7%) and *serious criminal trespass* (41.9%), but was comparatively low for *driving offences* (7.5%), *offences against good order* (12.3%), *drug offences* (17.2%) and *other offences* (17.8%).
- 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

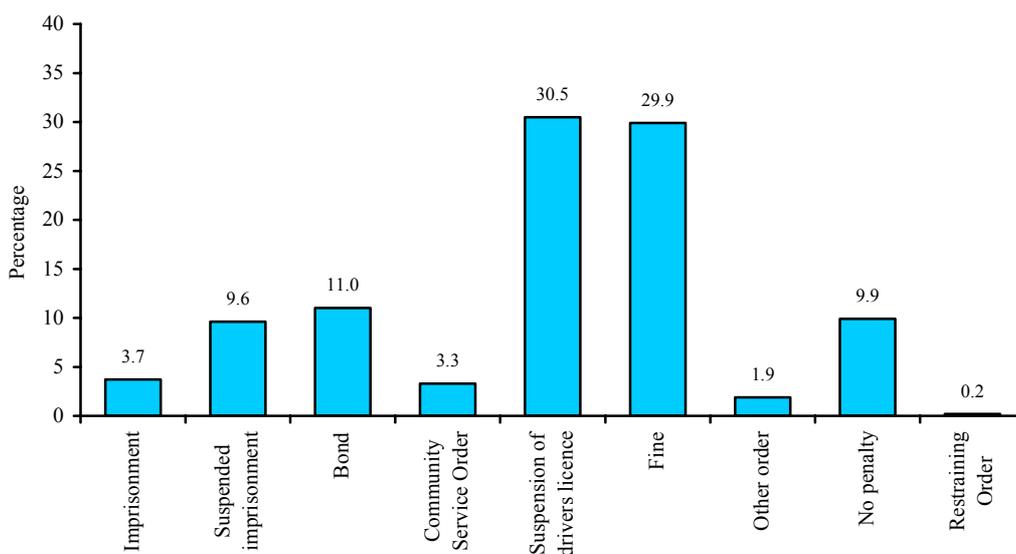
of the major charge. For example, of the 525 cases where the major charge dismissed or withdrawn was a *serious criminal trespass*, 124 (23.6%) resulted in a finding of guilt for another offence compared with only 13 (6.8%) of the 192 cases where the major charge dismissed or withdrawn was a *sexual offence*.

- Of the 1,304 applications for *restraining, domestic violence or paedophile restraining orders* finalised in 2005, 814 (62.4%) resulted in the issuance of that order, 227 (17.4%) were varied, while 236 (18.1%) were either revoked or cancelled, withdrawn, dismissed or refused (see Table 2.13a in Section 2 of this report).

Penalties

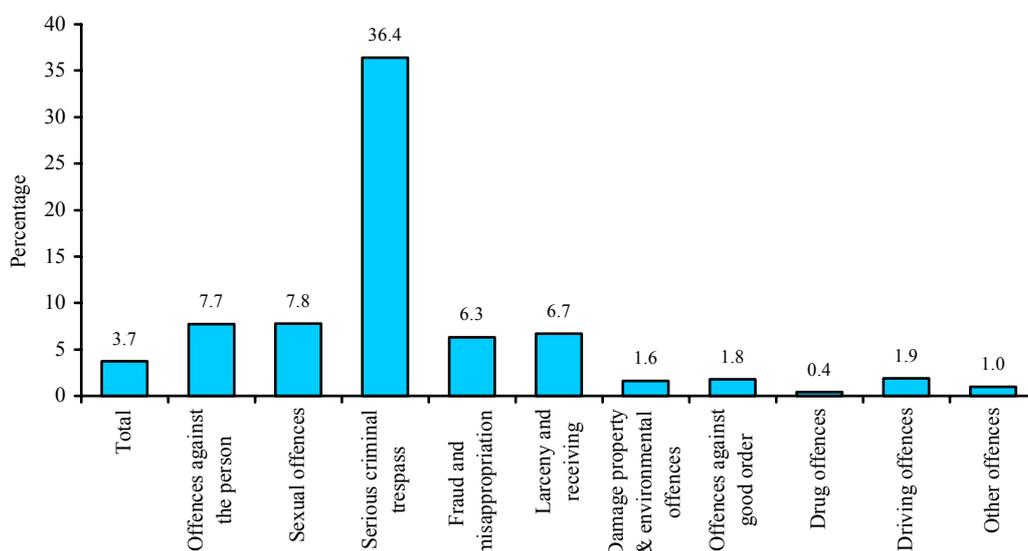
- Tables 2.14 to 2.25 in Section 2 of this report detail the major penalty imposed for the most serious charge per case for which there was a finding of guilt. It should be stressed that these tables do not include all penalties imposed per case. For example, in cases where several charges are proved, 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 2005, there were 21,490 cases finalised in the Magistrates Court that resulted in a finding of guilt to at least one charge. As shown in Figure 14, a driver's licence suspension was listed as the most serious penalty in 30.5% of these cases, followed by a fine (29.9% of cases). Only 3.7% of cases resulted in direct imprisonment, while 9.6% received suspended imprisonment. In a further 3.3% of cases, the major penalty imposed was a community service order, while 11.0% received a good behaviour bond. In 9.9% of cases, no penalty was imposed. In 2005, there were only 34 cases (0.2% of the total) where a restraining order constituted the major penalty.

Figure 14 Major penalty imposed for the most serious charge proved per case: 2005



- The number of cases resulting in imprisonment was slightly lower in 2005 than 2004 (802 compared with 902 respectively), but the average length of the prison term was slightly higher in 2005 than in the previous year (35 weeks compared with 30 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 494 cases finalised in 2005 in which the major charge proved was *serious criminal trespass*, 36.4% resulted in imprisonment. This was followed by cases involving *sexual offences* as the most serious charge proved (with 7.8% of cases resulting in prison), *offences against the person, excluding sexual offences* (7.7%), *larceny and receiving* (with 6.7% of cases resulting in prison), and *fraud and misappropriation* (with 6.3% ending in imprisonment). In contrast, only 1.0% of cases involving an *other offence* and 0.4% of cases involving a *drug offence* as the most serious charge proved involved a custodial sentence.

Figure 15 Major penalty imposed for the most serious charge proved, 2005: proportion of cases within each major charge category resulting in imprisonment

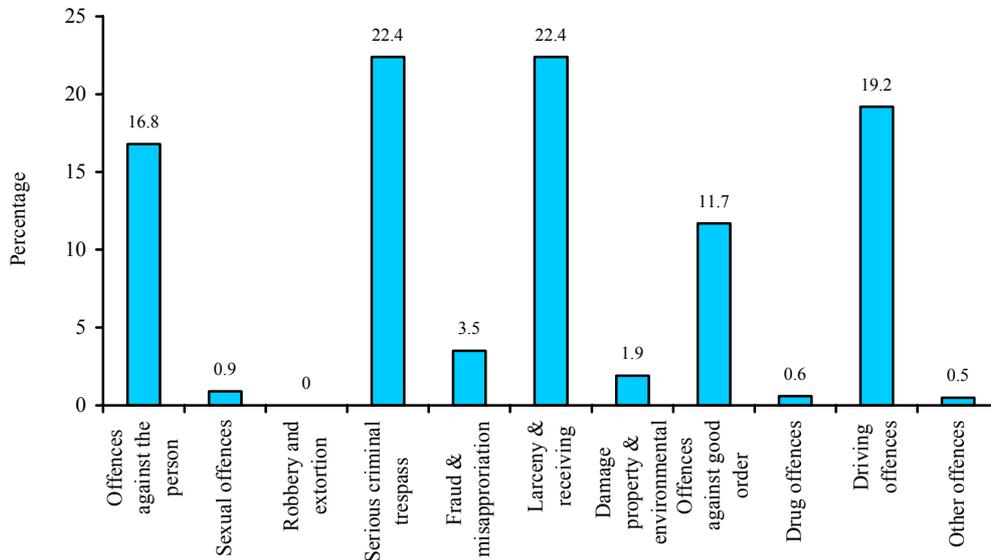


The *robbery and extortion* category has been omitted because there were no cases finalised in the Magistrates Court in 2005 where this was the major charge found guilty. Instead, all robbery cases were committed to the higher court for trial or sentencing.

- 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 802 cases that actually resulted in imprisonment, and identifies the proportion of all imprisonments accounted for by the different offence types. As shown, *serious criminal trespass* and *larceny and receiving* accounted for the largest proportion of imprisonments (22.4% for each). This was followed by *driving offences* (19.2%), *offences against the person, excluding sexual offences* (16.8%) and *offences against good order* (11.7%). In contrast, *drug offences* and *other offences* accounted for only 0.6% and 0.5% of cases respectively.
- The fact that there was no imprisonment for cases involving *robbery and extortion* as the major charge convicted or found guilty is due to the fact that, as a major indictable offence, a high proportion of *robbery* matters that commence in the lower court are referred to a higher court for trial or sentence (112 out of 212 in 2005 compared with none of the 8,697 *driving* matters). These would therefore not appear in penalty data for the Magistrates Court. The

same applies to other major indictable offences, such as many *sexual assaults* and *aggravated serious criminal trespass*. In effect then, only those cases 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



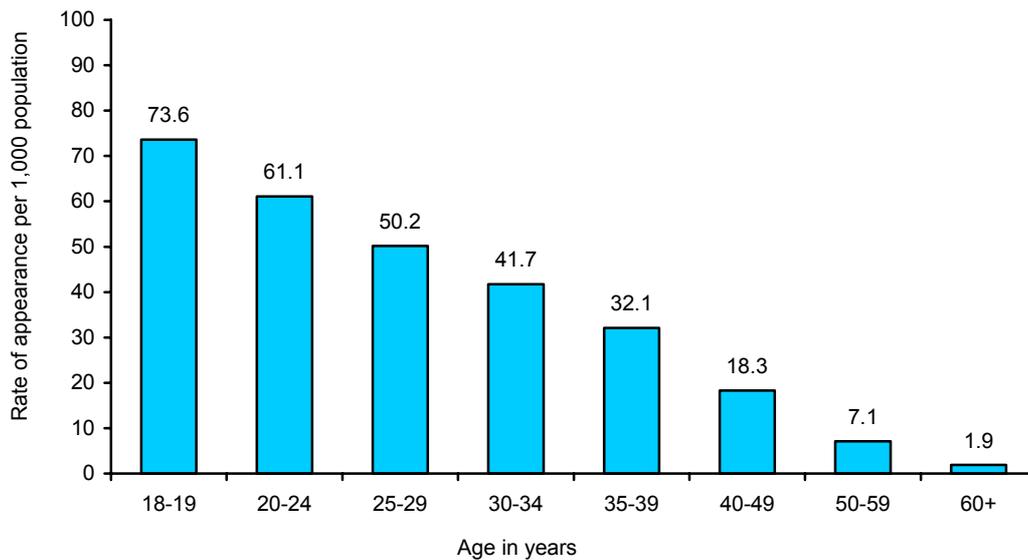
- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass* offence (average imprisonment of 77 weeks compared with 70 weeks in 2004) followed by *sexual offences* (50 weeks in 2005). Even though the number of *fraud and misappropriation* cases that resulted in imprisonment was small (28), the average length of imprisonment in these situations was relatively high (38 weeks), with a maximum of 195 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 85.3% of all such cases. Over half (51.4%) 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 8.6% of *driving matters* and 1.2% of *serious criminal trespass* cases. Overall, the average amount of fine imposed was \$300 while the maximum was \$10,000 (for an *other offence*).
- Tables 2.26 and 2.27 in Section 2 of this report provide a more detailed breakdown of the penalties imposed in those cases where the major charge proved was *exceeding the prescribed concentration of alcohol* (PCA). The *Road Traffic Act* sets different penalties for first, second and subsequent offenders. This distinction is based on whether the defendant was convicted for a PCA or related offence within a five-year period immediately preceding the commission of the offence under consideration. Penalties also vary according to the blood alcohol level recorded. Both factors have been taken into account in these two tables. The first table provides details on those offenders with no prior relevant convictions within the past five years, while the second relates to offenders who have had at least one relevant previous conviction in the last five years. It should be noted that these tables vary from Tables 2.14 - 2.25 in Section 2 of the report in that they include the three most serious penalties imposed per PCA conviction, rather than only the most serious.
- In 2005, a total of 4,265 convictions or findings of guilt were recorded for offenders with no prior convictions for a drink driving offence within the past five years. This figure was 17.1% higher than the 3,642 convictions recorded in 2004.

- For offenders who had at least one previous drink driving conviction in the last five years the figure was 13.6% higher, with 662 convictions in 2005 compared with 583 convictions in 2004.
- 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 (98.2%) but also to those with a prior PCA conviction (97.1%). However, for those with a prior record, the average fine was higher than for those with no priors (\$865 compared with \$629 respectively).
- As was the case in 2004, a high proportion in both groups also received a licence disqualification (98.4% of those with no priors and 95.9% 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 8.3 months licence disqualification compared with 17.4 months for those with a prior PCA conviction.

Background of defendants

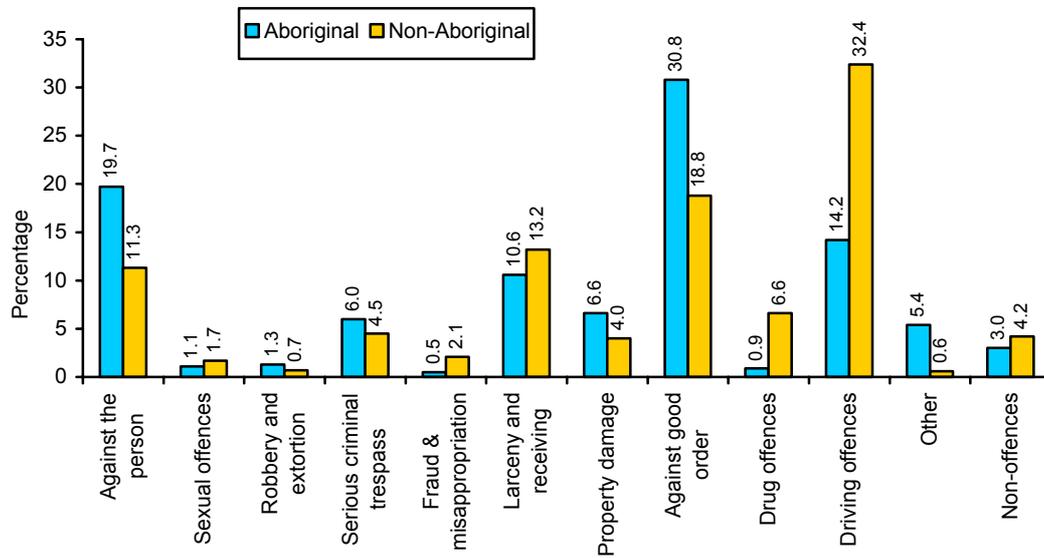
- Males accounted for the overwhelming majority (81.8%) of defendants in the 28,217 cases finalised in 2005 where information on the sex of the defendant was available. As in previous years, the level of female participation varied depending on the major charge involved. Of those cases where relevant information was recorded, female defendants accounted for only 1.8% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 34.8% and 33.1% respectively of all cases involving *fraud and misappropriation* and *larceny and receiving*.
- Defendants aged between 20 and 29 years were involved in 39.4% of all cases finalised by the Magistrates Court in 2005 where information on age was available. Another 11.0% were 18 or 19 years of age, while a further 27.6% fell within the 30 to 39 year age bracket. Very few cases (7.3%) involved older defendants aged 50 years and over.
- The actual rate of appearance per age group is depicted in Figure 17. This shows that as age increased, so the likelihood of coming before the Magistrates Court decreased. To illustrate, the rate of appearance for those aged 18 and 19 was 73.6 per 1,000 age specific population, but this dropped to 1.9 per 1,000 for those aged 60 years and over. The average age of all defendants was 31.5 years, although this varied from 35.9 years for cases involving non-offence matters to 25.9 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 32.1 years compared with 31.4 years respectively.

Figure 17 Cases finalised in the Magistrates Court, 2005: 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 2005. 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). Hence, 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 2005 Aboriginal defendants appeared before the Magistrates Court at a rate of 282.3 per 1,000 adult Aboriginal persons in the population. This is almost 14 times greater than the rate of 20.5 per 1,000 adult population recorded for persons of non-Aboriginal appearance.
- The absolute number of Aboriginal cases dealt with in 2005 was higher than recorded in 2004 (3,639 compared with 3,415 respectively). Similarly, the rate of appearance per 1,000 Aboriginal adult population also increased (282.3 per 1,000 adult population in 2005 compared with 266.4 in 2004).
- 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, 2005: 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 2005. As was the case in 2004, seven out of 10 defendants (71.6%) for whom such information was available had at least one previous conviction, with an average of 14.1 prior convictions per defendant³. The proportion of defendants with prior convictions was highest amongst those charged with *serious criminal trespass* (with 88.6% having at least one prior conviction), followed by *robbery and extortion* (84.4% with priors). Not surprisingly, those charged with *serious criminal trespass* or *robbery and extortion* also had the highest **average** number of prior convictions (32.1 and 30.8 per defendant, respectively).
- Even for those offence categories at the other end of the spectrum, the proportion of defendants with prior convictions was still relatively high. The proportion with a prior conviction was lowest for cases involving *other offences* and *fraud and misappropriation*. Yet even for these offences, 55.6% and 61.7% respectively, had a prior criminal conviction, with an average of 10.5 and 10.6 convictions per defendant.
- Almost one in five cases (18.8%) finalised in the Magistrates Court in 2005 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 44.9% of defendants involved in cases where *serious criminal trespass* was the major charge, to 10.3% of cases involving *driving offences* and 9.9% of cases involving *other offences*.
- Table 2.31 in Section 2 of this report details the bail status of the defendant at the time of his/her final court appearance. In the majority of cases (59.8%), bail was not required. In other words, the defendant was not subject to any conditions imposed by the court. In a further 32.1% of cases, the defendant was on bail at the time of the final appearance, while in 8.1% of cases the defendant was in custody. However, the proportion in custody varied depending on the number of court hearings required to finalise the case. Of the 8,595 cases where the matter was dealt with at the first hearing, only three defendants were held in custody at the time. This

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.

compares with 2,024 (or 10.9%) of the 18,629 defendants whose cases took two or more hearings to finalise, and 242 (or 23.9%) of the 1,011 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 (34.2%) had legal representation. This rose to over three quarters (77.4%) of those whose cases took more than one hearing to finalise and 96.1% of those who were committed to a higher court for trial or sentence. However, some caution should be exercised when using these figures because of the relatively high proportion of cases (21.6%) where information relating to legal representation was missing.
- As indicated in Table 2.33 in Section 2 of this report, relatively few defendants (659 or 2.4%) in the 27,296 cases actually finalised in the Magistrates Court pleaded ‘not guilty’ to the major charge at their final appearance. By contrast, of the 1,012 cases committed for trial or sentence to a higher court, over three quarters (81.1%) were pleading ‘not guilty’ at the time of their committal.

1.2 Supreme and District Courts

This section includes all finalised criminal cases before the Supreme and District Courts. In most instances a magistrate or other justice will have committed the defendant for trial or sentence after a committal hearing, although in a few cases the Director of Public Prosecutions⁴ will have committed the defendant *ex-officio*⁵.

In general, the offences involved in cases before the higher courts are of a more serious nature than those in the summary courts and are referred to as ‘indictable offences’. These are subdivided into major and minor types, which were formerly known respectively as ‘felonies’ and ‘misdemeanors’⁶. In certain instances, a judge in the District or Supreme Court may hear matters that would normally be dealt with summarily by a magistrate or other justice. This usually occurs when a defendant has a case involving summary matters at the same time as one in the Supreme or District Court. Wherever possible such matters are consolidated and dealt with together by the judge who is hearing the indictable matters, as this is more just and efficient.

Only finalised⁷ cases involving trials or sentencing are included in Tables 3.1 to 3.31 in Section 3 of this report. Cases that are only to hear a bail application, to vary the condition of a bond or order, to set a non-parole period or to hear an appeal are not included.

Overview

- During 2005 there were 953 cases finalised in the Supreme and District Courts. This was 23 (or 2.4%) lower than the 976 cases finalised in 2004. The number of cases finalised in the District Court decreased by 45, while the number finalised in the Supreme Court increased by 22.
- Table 1 and Figure 19 show trends in the number of cases handled by the two jurisdictions since 1986. As this table and graph indicate, there was a substantial increase in cases finalised in the District Court, from 1989 to 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, with the 2000 figure the lowest recorded over the period depicted (n=759). However, in 2001 this trend was reversed, with an increase that peaked in 2003, followed by another downward trend in 2004 and again in 2005.
- Trends in the Supreme Court have followed a slightly different pattern from 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. Over the past seven years, numbers have consistently fallen below 70 until 2005, when 74 cases - the highest since 1998 - was recorded.

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

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

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

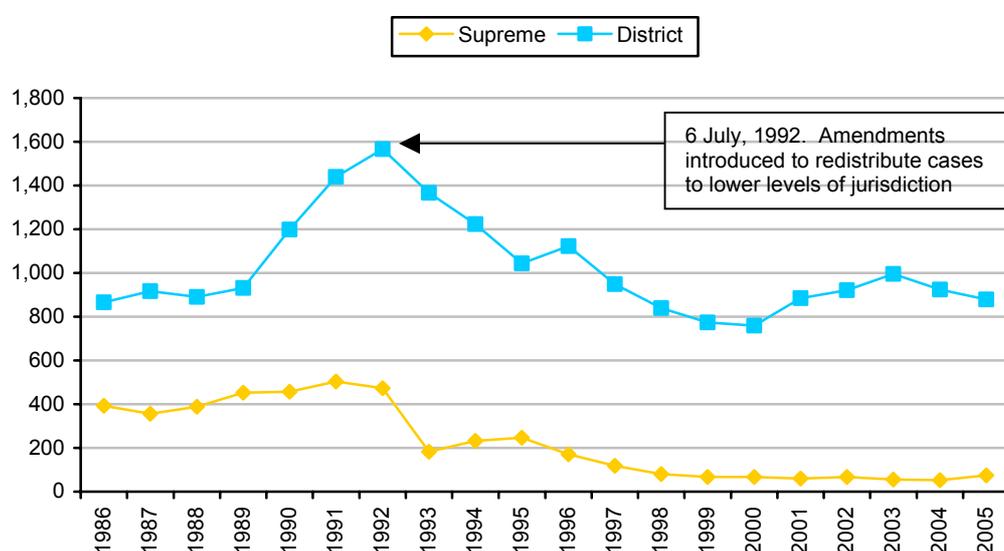
⁷ See Appendix A for the rules employed for determining when a case is finalised and whether it is eligible for counting.

Table 1 Trends in the number of cases finalised by the Supreme and District Courts, 1986 to 2005 calendar years.

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Supreme	392	356	389	453	457	504	473	182	232	247
District	866	917	891	932	1,199	1,439	1,566	1,366	1,224	1,044
	1996	1997*	1998	1999	2000	2001	2002	2003	2004	2005
Supreme	171	118	81	67	67	60	67	56	52	74
District	1,122	949	840	774	759	884	921	996	924	879

* 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.

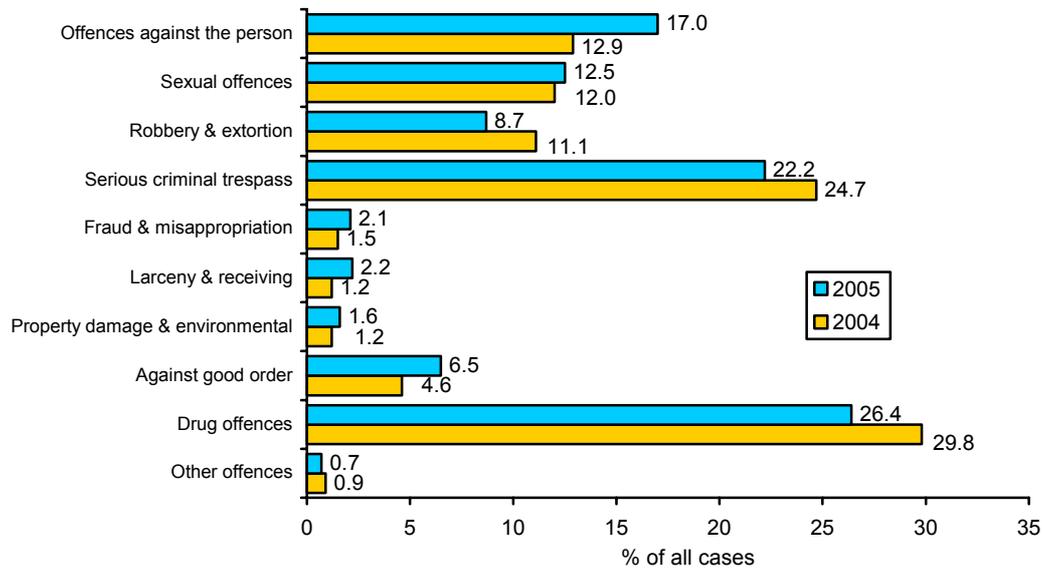
Figure 19 Trends in the number of cases finalised by the Supreme and District Courts by calendar year, 1983 to 2005.



Major charge per finalised case

- As Figure 20 indicates, in 2005 *drug offences* were the most prominent, being listed as the major charge in more than one quarter of cases. These were followed by *serious criminal trespass* (listed as the major charge in 22.2% of cases) and *offence against the person* (17.0% of cases).
- This profile was generally similar to that recorded in 2004, although there were some slight changes. In particular, the number of cases involving *offences against the person* increased from 12.9% in 2004 to 17.0% in 2005.
- Cases involving *property damage and environmental offences* (1.2% in 2004 and 1.6% in 2005) and *other offences* (0.9% in 2004 and 0.7% in 2005) 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, 2004 and 2005.



Outcomes

- The main outcomes for cases finalised in 2005 are summarised in Table 2. As in previous years, in six out of ten cases (60.4%) the defendant pleaded *guilty* to either the major or a lesser charge without the matter going to trial. In a further 15.0% of cases, a trial was held which resulted in either a guilty plea or finding of guilt. While not detailed in Table 2, in 0.8% 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 15.1% 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 1.4% of cases the defendant was found not guilty due to mental incompetence, while 1.0% of cases had some other outcome.
- Outcome types vary according to the type of major charge. For example, 72.6% of defendants involved in cases with a major charge of *against good order* entered a guilty plea while 14.7% were found guilty at trial. In comparison, in cases where the major charge was a *sexual offence*, a lower proportion resulted in a plea or finding of guilt. In 32.8% of these cases the defendant entered a guilty plea without the matter proceeding to trial, while in a further 12.6% the defendant was found guilty or admitted guilt at trial.

Table 2 Principal outcome type by major charge, Supreme and District Courts, 2005.

Offence group	Guilty plea – no trial* %	Guilty at trial** %	Acquitted %	All charges dropped*** %
Offences against the person (exc. sexual)	52.5	18.5	7.4	14.8
Sexual offences	32.8	12.6	18.5	31.9
Robbery and extortion	61.4	13.3	6.0	13.3
Serious criminal trespass	62.7	16.0	5.2	12.3
Offences against good order	72.6	6.5	3.2	17.7
Drug offences	71.8	14.7	2.4	10.7
Total	60.4	15.0	6.2	15.1

* 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:

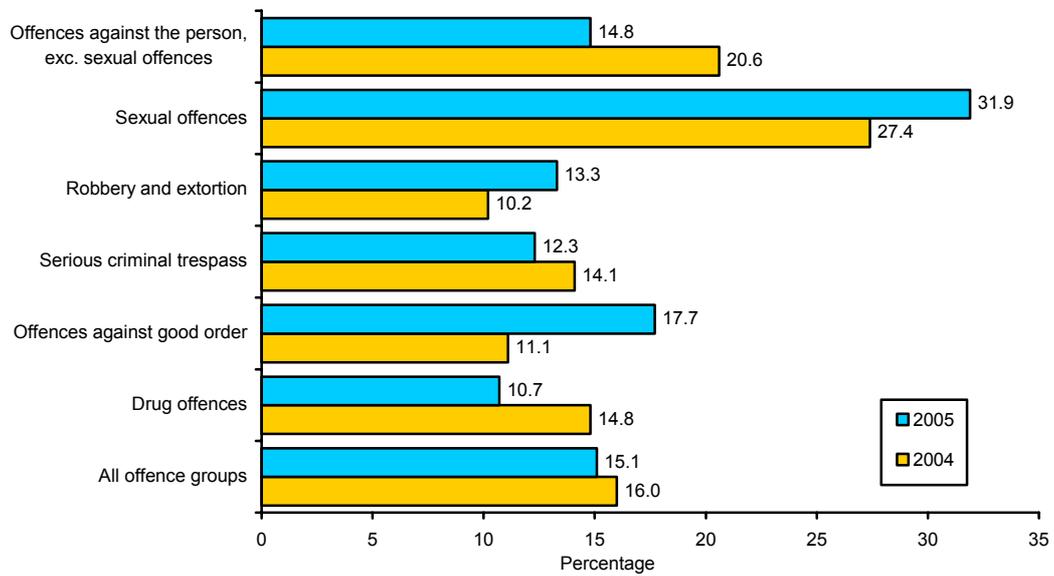
- ‘other outcome’ (e.g. defendant died, case struck out, permanently stayed etc),
- not guilty on the grounds of mental incompetence and
- major charge was dropped and a plea of *guilty* to another charge was accepted in satisfaction of the dropped charge (‘Major charge dropped – Guilty of other offence’).

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.*

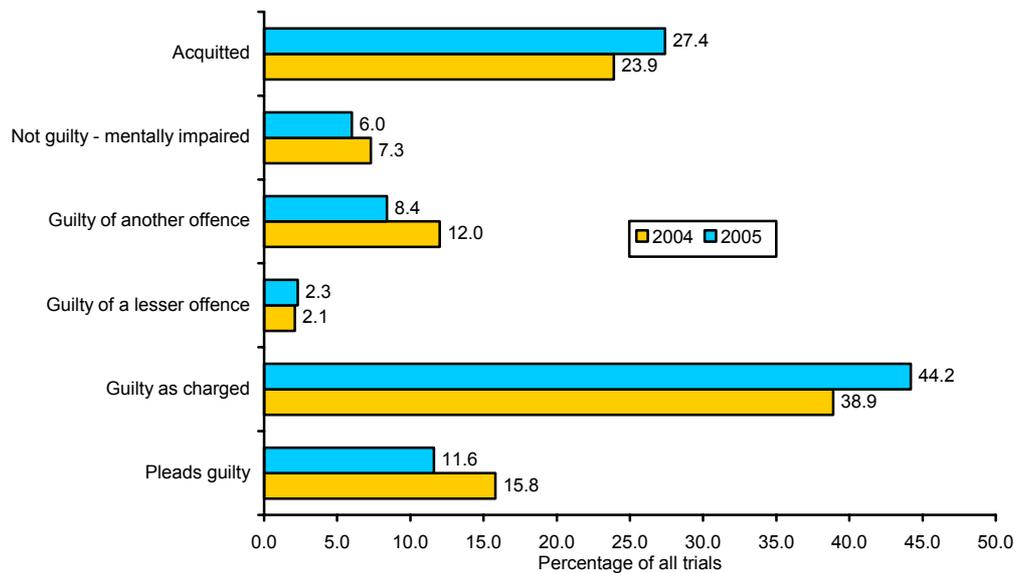
- Figure 21 shows the percentage of cases in 2004 and 2005 where all charges were dropped by the DPP. Overall, a slightly smaller proportion of cases were dropped in 2005 than in 2004 (15.1% compared with 16.0% respectively).
- However, there were considerable differences between offence categories in the percentage of cases with this outcome. In 2005, 31.9% of *sexual offence* cases were dropped compared with 10.7% of cases where the major charge was a *drug offence*. The comparable figures for 2004 were 27.4% and 14.8% respectively.
- There were 215 cases that went to trial in 2005 (22.6% of all finalised cases) compared with 234 in 2004 (24.0%).
- Figure 22 provides a breakdown of the outcomes for cases that went to trial in these two years. In comparison to 2004, in 2005 a lower proportion of defendants entered a guilty plea at trial (11.6% in 2005 compared with 15.8% in 2004), while proportionally more defendants were either acquitted (27.4% in 2005 compared with 23.9% in 2004). In both years, the majority of cases going to trial resulted in the defendant being found guilty as charged, although the proportion was higher in 2005 than in the previous year (44.2% compared with 38.9% respectively).

Figure 21 Percentage of cases within each offence group where the major charge was either not proceeded with or a *nolle prosequi* was entered, and no other charge was found guilty, Supreme and District Courts, 2004 and 2005.



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.*

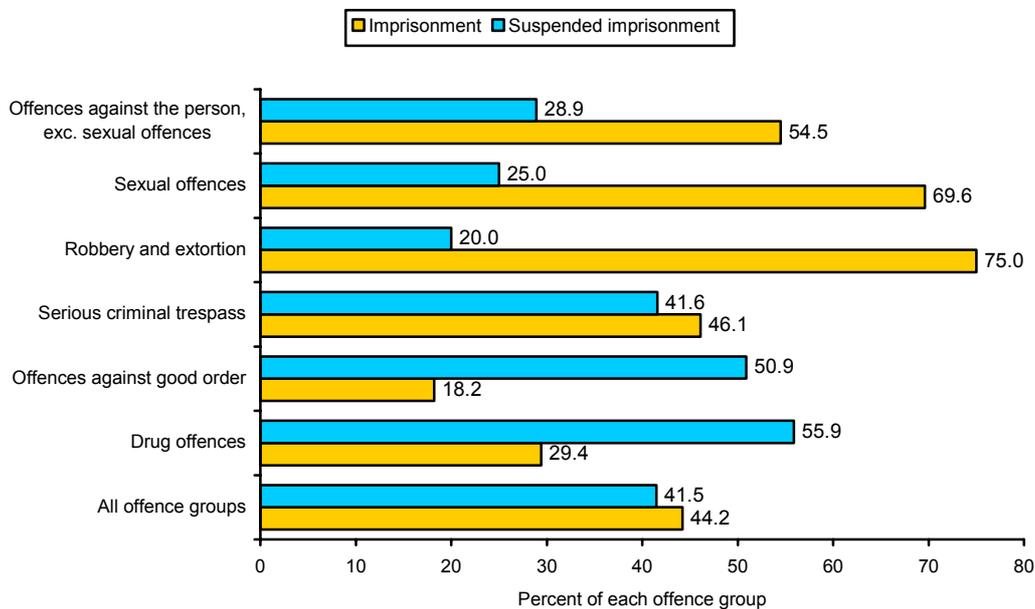
Figure 22 Outcome for the major charge for cases in which there was a trial, Supreme and District Courts, 2004 and 2005.



Penalties

- Overall, 727 cases (76.3% of all cases) resulted in at least one guilty outcome during 2005. For these cases, the most common penalty was immediate imprisonment, which was imposed in 44.2% of the cases that had an outcome of guilty.
- This was followed by suspended imprisonment (41.5%). Non-custodial penalties (such as fines, driving licence suspensions, bonds, community service orders, etc.) accounted for the remaining 14.3%.
- The average length of imprisonment imposed was just over four years (49.1 months, excluding sentences of life imprisonment). The average non-parole period set was just over three years (38.0 months)⁸.
- Life imprisonment was imposed in 13 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 eight sentences of 15 years or more, given in two cases involving *offences against the person*, four for *sexual offences* and two for *robbery and extortion*. In an additional 16 cases the defendants received imprisonments of between ten and fifteen years.
- The proportion of cases resulting in immediate imprisonment varied depending upon the major charge found guilty. Figure 23 shows that the offence group with the highest percentage of defendants imprisoned was *robbery and extortion* at 75.0%, followed by *sexual offences* at 69.6%. In comparison, only 29.4% of persons with a *drug offence* and 18.2% of those with an *offence against good order* received immediate imprisonment.

Figure 23 Percentage of cases within each offence group receiving suspended imprisonment or imprisonment, Supreme and District Courts, 2005.



Note: The above graph excludes those offence categories where the number of cases in 2005 was less than 40, namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences*.

⁸ The average non-parole period includes those given sentences of life imprisonment and instances in which a serving prisoner has an existing non-parole period extended because of a conviction for fresh offences. In the latter instance, the non-parole period shown in this report is the total effective non-parole period after sentencing, not the amount by which the non-parole period was extended.

- Table 3 and Figure 24 indicate the trend in non-parole periods handed down for *murder* since 1986. As all murders have a mandatory term of life imprisonment, the non-parole period provides a more accurate indication of effective sentence length.
- After peaking in 1991 at 303.3 months, the average non-parole period showed an overall downward trend until 2002, when it reached 155.3 months. However this particularly low figure could be due to the fact that there were three cases where the non-parole periods had not be set at the time of data extraction. In 2003 and 2004, this downward trend was reversed, with the 2004 figure of 286.7 months the highest recorded since 1991. The 2005 average of 220.8 months was lower than that recorded during the previous two years but similar to the value recorded during the period 1994-99. 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, 1986 to 2005

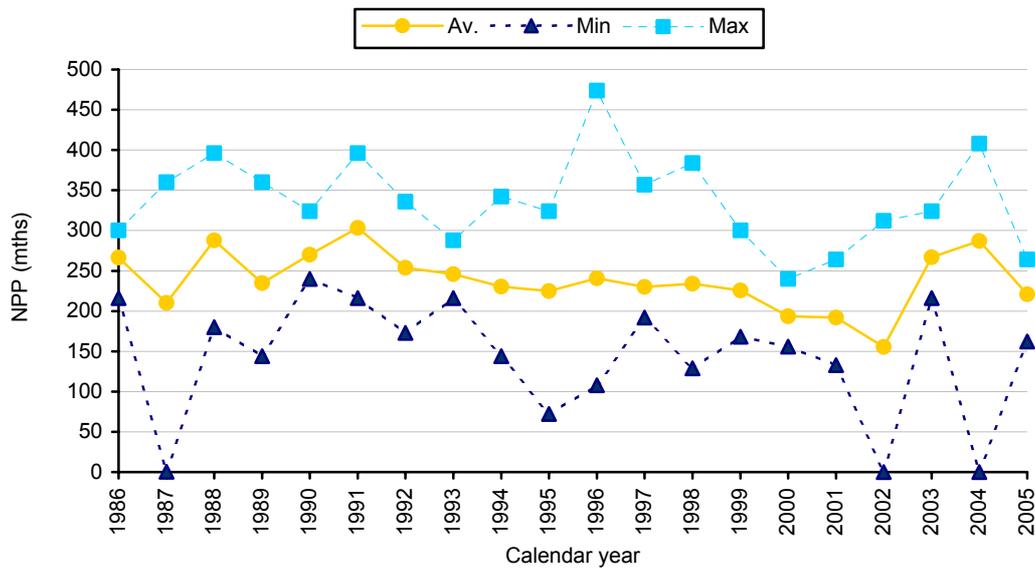


Table 3 Trend in non-parole period (in months) for life sentences for murder, 1986 to 2005.

	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Av.	266.4	210.1	288.0	234.6	270.0	303.3	253.7	246.0	230.2	224.7
Median	264.0	240.0	288.0	204.0	258.0	300.0	246.0	240.0	222.0	234.0
Min	216.0	10 days	180.0	144.0	240.0	216.0	173.0	216.0	144.0	72.0
Max	300.0	360.0	396.0	360.0	324.0	396.0	336.0	288.0	342.0	324.0
No.	5(1)	4(2)	2	7	4	11	12(2)	4	11	11
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Av.	240.5	230.1	233.8	225.6	193.3	191.9	155.3	267.0	286.7	220.8
Median	228.0	210.0	240.0	216.0	192.0	216.0	180.0	264.0	300.0	216.0
Min	108.0	192.0	129.0	168	156	133.0	0	216.0	0	162
Max	474.0	357.0	384.0	300	240	264.0	312.0	324.0	408.0	264
No.	13	10	12	5	9	7	11	4	9	13

Notes:

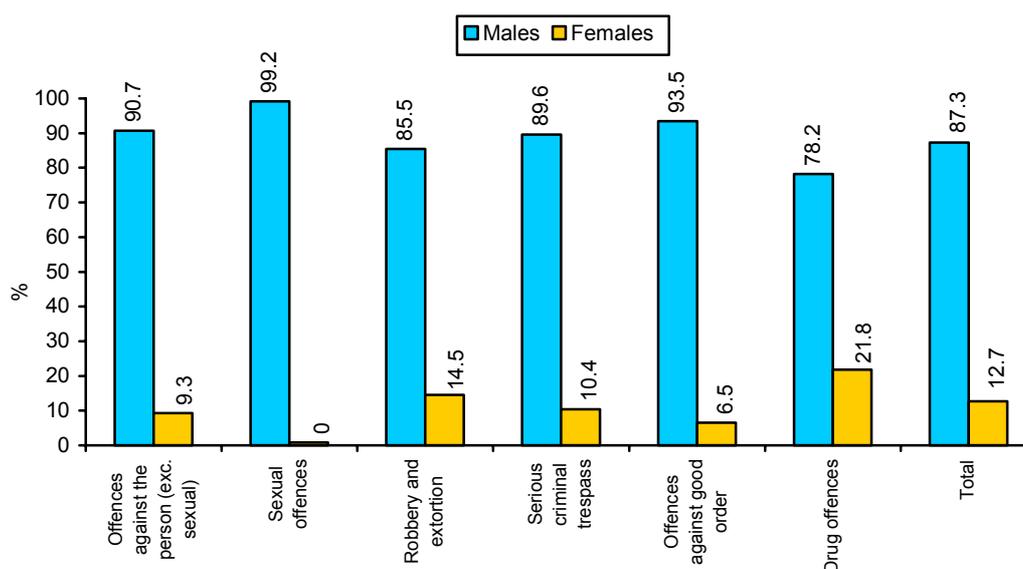
- 1 The non-parole period can apply to sentences additional to the charge in question where other sentences are made cumulative on it or when an existing sentence has been extended by the sentence imposed for the current charge.
- 2 Non-parole period only is shown since murder carries a mandatory term 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 321 head sentences, 63.6% were for periods of less than five years, 8.4% were for ten years or more but less than life, whilst 4.0% were for life. The vast majority (83.7%) of non-parole periods (excluding 15 cases⁹ where a non-parole period was not set) were for periods of less than five years, whilst 9.8% were for periods between five and ten years, and 6.5% were for more than ten years.

Background of defendants

- Where the sex of the defendants was known, the majority of cases finalised in the higher courts in 2005 involved males (87.3%). The average age of male and female defendants was very similar, at 31.3 years and 31.8 years respectively. Eight defendants (all of whom were males) 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 118 males and only one female defendant. The offence category with the highest proportion of females was *drug offences* (21.8%).

Figure 25 Percentages of males and females per major offence charged, Supreme and District Courts, 2005.



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 96 defendants whose appearance was assessed by police at the time of apprehension to be Aboriginal. They made up 10.4% of those for whom information on racial appearance was available. The number of defendants of Aboriginal appearance represented a rate of 7.4 per 1,000 Aboriginal population, whilst the corresponding figure for those of non-Aboriginal appearance was 0.7 (based on the 2001 Census figures).

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.

- There were differences in the offence profiles of the two racial appearance groups. For example, *serious criminal trespass* was listed as the major charge in 43.8% of Aboriginal appearances compared to 20.4% 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 (3.1% versus 29.6% respectively).
- In 2005, 17.9% of higher court defendants had no prior convictions, which was slightly lower than the 20.4% recorded in the previous year. At the other end of the spectrum, 13.2% had 50 or more prior convictions.
- On average, defendants had 21.1 prior convictions. The average varied depending upon the offence group, with defendants charged with *fraud and misappropriation* having the lowest average number of priors (8.9). In comparison, persons with a major charge of *robbery and extortion* had an average of 28.9 prior convictions.
- One third of defendants (33.6%) had been imprisoned at some point in their past. Again, the proportion varied depending upon the major offence charged, with only one quarter of persons with a major charge of *fraud and misappropriation* having been imprisoned before compared with 44.6% of persons with a major charge of *robbery and extortion*.
- For those cases where relevant information was available, over two thirds of the defendants (71.7%) 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 offence* were on bail (91.2%), only 43.4% of defendants charged with *robbery and extortion* were on bail.
- Overall, 50.8% of final pleas to the major charge were *guilty*, but there were wide variations between the offence groups. A relatively high proportion of those with a major charge of a *drug offence* pleaded guilty (64.7%). The groups with the lowest percentage of *guilty* pleas were those involving *sexual offences* (25.2%) and *offences against the person* (37.0%).
- Overall, 25.8% of defendants with a major charge of an *offence against good order* did not enter a plea. Most of the 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 terms of the number of cases finalised per month, the Supreme Court ranged from three in April, May and August to a peak of 13 cases in December 2005, with an average of 6.2 per month. In contrast, the District Court completed an average of 73.3 cases per month, with the lowest number of finalisations occurring in January (24 cases) and the highest number in March (102 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 2005;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 2005.

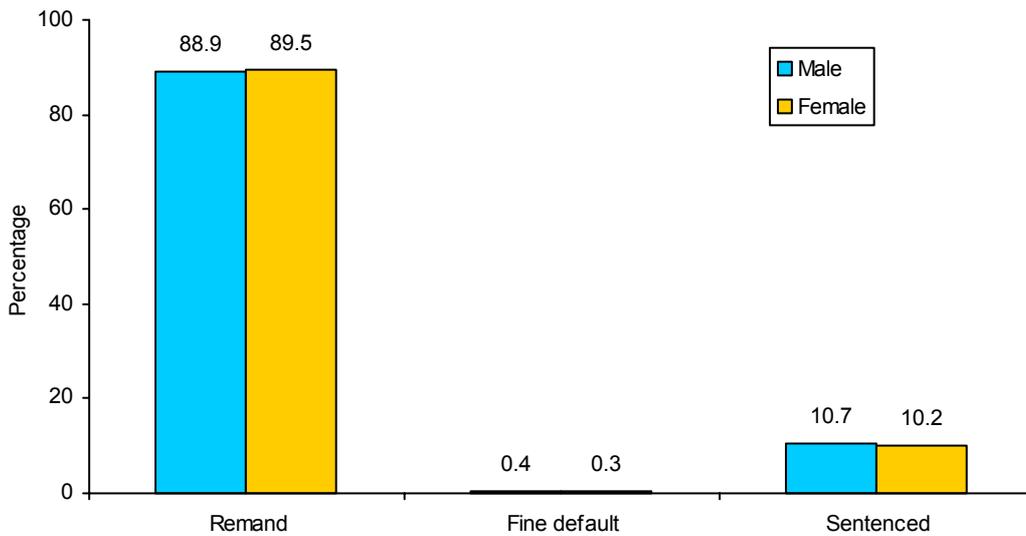
The number of tables relating to prisons and community correction orders administered by the Department for Correctional Services was increased and their content enhanced in the 1996 and again in the 1997 *Crime and Justice* reports. The changes made in those years and incorporated in all subsequent reports mean that caution must be exercised when comparing the 2005 data with that contained in reports produced prior to 1996.

Imprisonment

Prison receptions

- In 2005, there were 3,234 prison receptions. This figure was lower (by 6.0%) than the 3,440 recorded in 2004, and well below the peak of 7,618 recorded in 1992.
- Where legal status was known, 10.7% of receptions involved sentenced prisoners, 0.4% were fine defaulters and 89.0% were on remand. When compared with the previous year, a comparable proportion of prison receptions involved remandees (89.0% in 2005 compared with 88.6% in 2004) and sentenced prisoners (10.7% compared with 10.9% in 2004).
- 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 continued to decline, reaching a low of 12 in 2005. These reductions are due to the introduction of the *Statutes Amendment (Fine Enforcement) Act* that came into effect in March 2000. Under that Act 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 was also removed. However, for those persons who cannot pay their fine, 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 2005.
- The overwhelming majority of receptions in 2005 involved males (89.8%), and there was little variation in this percentage across the three categories of receptions (89.8% for remandees, 90.3% for sentenced prisoners and eleven of the twelve fine defaulters).
- Yet despite this predominance of males, as shown in Figure 26 the reasons for incarceration were similar for both sexes, with the overwhelming majority of both males and females being held on remand (88.9% and 89.5% respectively).

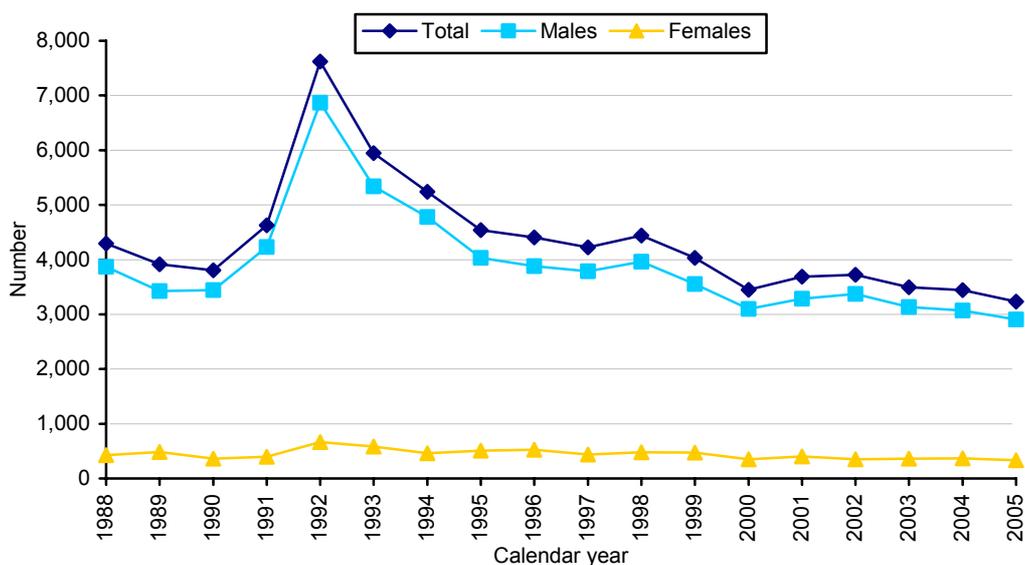
Figure 26 Prison receptions: legal status of prisoner by sex, 2005



Note: Those receptions for which legal status was unknown have been excluded from this figure.

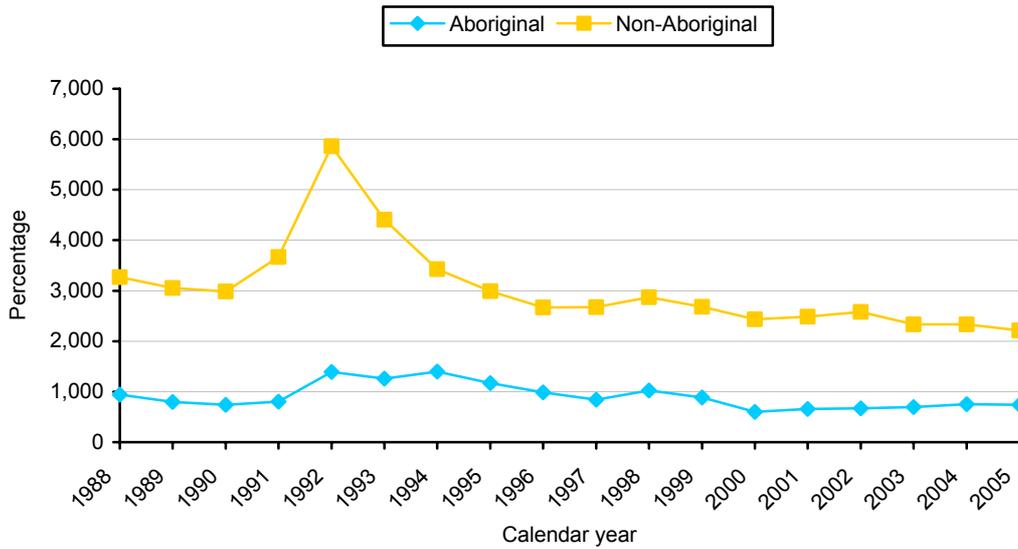
- As shown in Figure 27, there was a strong upward trend in the total number of receptions from 1990 to 1992, followed by a general decrease. This downward trend continued in 2005, with the 2005 total being 6.0% lower than that recorded in 2004, 7.4% lower than in 2003 and 57.5% lower than the 1992 peak.
- The trend in male receptions mirrors that observed for total receptions, decreasing by 2.0% in 2004 and a further 5.4% in 2005. The 2,904 male admissions recorded in 2005 was 57.7% lower than the 6,866 recorded in 1992.
- Although female admissions have annually accounted for only a small proportion of all admissions throughout this period, like males, they have also trended downwards over the past 14 years, with the 2005 figure of 330 being 10.8% lower than in 2004 (n=370) and approximately half that recorded in 1992 (n=664).
- The decrease in male receptions in 2005 was evident in all legal status categories, with the number of remandees dropping by 4.9% (from 2,677 in 2004 to 2,547 in 2005), sentenced prisoners declining by 6.1% (from 327 in 2004 to 307 in 2005) and fine defaulters declining from 17 in 2004 to 11 in 2005.
- The decrease in female receptions in 2005 was also due to decreases in both the number of remand receptions (down by 8.8%, from 317 in 2004 to 289 in 2005) and sentenced prisoners (down by 19.5%, from 41 in 2004 to 33 in 2005).

Figure 27 Trends in the number of male and female prison receptions, 1988 to 2005.



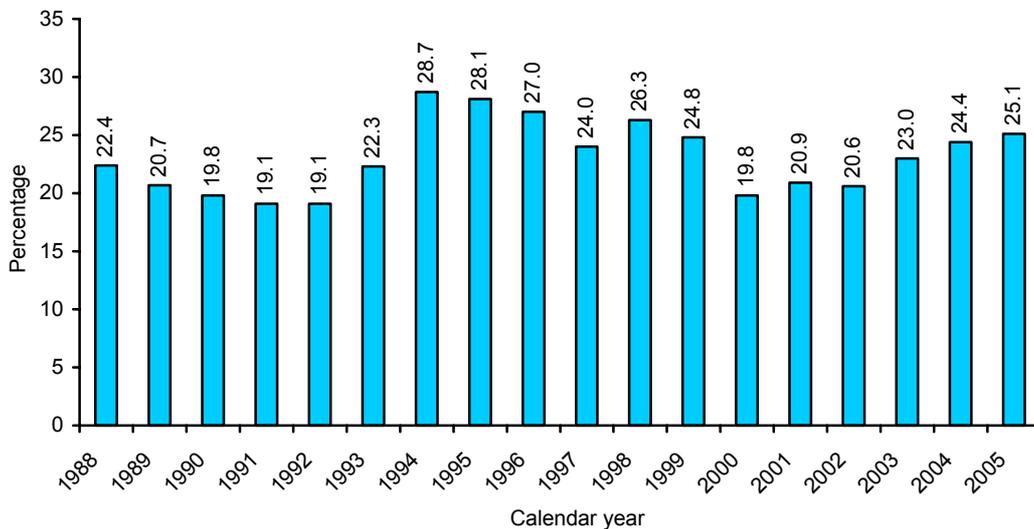
- For those 3,233 receptions where age was known, six out of ten were aged between 20 to 34 years. This included 20.1% aged 20 to 24, 18.7% aged 25 to 29 and 22.0% aged between 30 to 34 years. Those in the older age groups (50 years and over) accounted for only 4.0% of all receptions, including 4.1% of male receptions compared with 3.6% of female receptions.
- In 2005, persons identified as Aboriginal constituted 25.1% of the 2,953 prison receptions where information on racial identity was recorded. This figure varied slightly, however, depending on the person's legal status. Persons identified as Aboriginal constituted 25.7% of the 2,605 remandees for whom racial identity was recorded, compared to 21.0% of sentenced prisoners.
- As indicated in Figure 28, the number of Aboriginal admissions was relatively high in the 1992 to 1994 period, but thereafter, showed a general downward trend until 2000. Between 2000 and 2004 there was a steady annual increase in the number of Aboriginal admissions but in 2005, a slight decrease of 1.6% was recorded. Nevertheless, the number of Aboriginal admissions recorded in 2005 was still 46.9% lower than the high of 1,395 recorded in 1994.
- Longitudinal trends for non-Aboriginal receptions closely parallel those observed for all receptions, generally decreasing since 1992. The number of non-Aboriginal receptions decreased again in 2005 (by 5.1% from 2,331 in 2004 to 2,212), with the most recent figure the lowest recorded over the 18 years depicted.

Figure 28 Trends in the number of Aboriginal and non-Aboriginal prison receptions, 1988 to 2005.



- Figure 29 shows that the number of Aboriginal receptions as a percentage of all receptions where racial identity was known has increased over the last five years, rising from 19.8% in 2000 to 25.1% in 2005. Nevertheless, 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 2005.

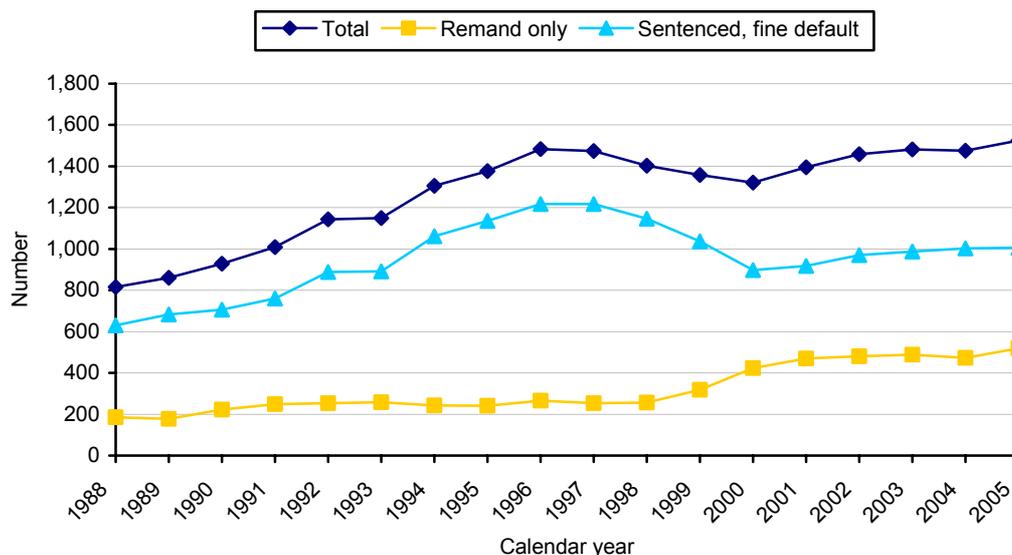


- Overall, the age profiles of the two racial groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (38.6% and 37.9% respectively) involving persons aged between 20 and 29 years, and relatively few (1.3% and 4.8% respectively) aged 50 years and over.

Daily averages

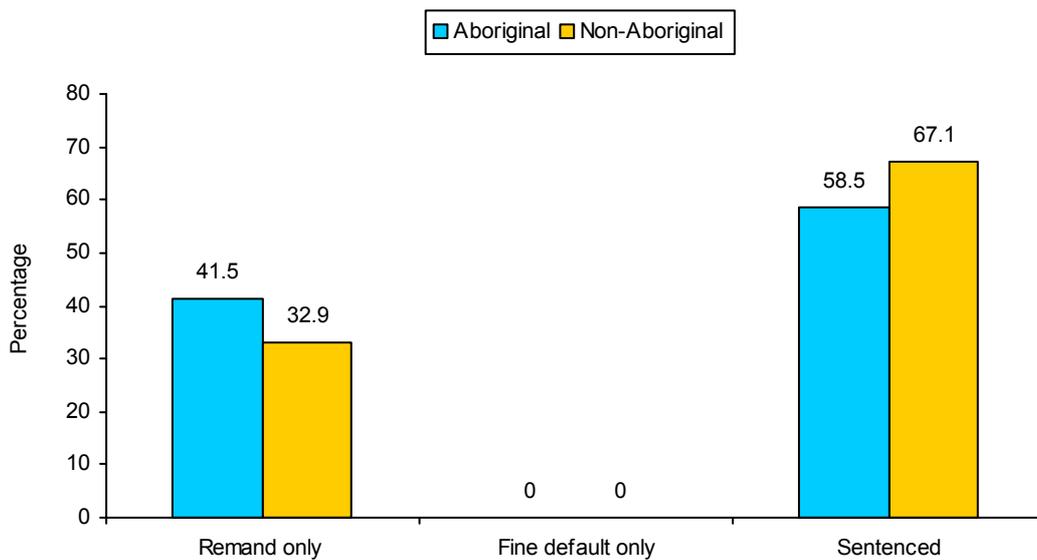
- While reception-based information provides a useful insight into new custodial admissions, it tells us little about the number and profile of people actually held in prison at any given time. Two measures can be used for this purpose: daily averages (ie. the average number of persons held in prison 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 2005 are detailed in Tables 4.10 to 4.15.
- On average, on each day in 2005, there were 1,525 prisoners held in the State's prisons and adult remand centres. Of those for whom information on legal status was recorded, the majority (999 or 65.8%) were serving a prison sentence imposed by the courts, while 519 (34.2%) were on remand.
- Longitudinal trends in average daily occupancies are depicted in Figure 30. As shown, these increased steadily from 1988 to 1996, followed by a downward shift between 1996 and 2000. However, since then, numbers have again trended upwards, with the 2005 average daily occupancy slightly higher than that recorded in 2004 (increasing by 3.4% to 1,525) and 15.4% higher than in 2000. In fact, the 2005 figure is the highest recorded over the 18 years depicted.
- 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, before increasing again. In contrast, after remaining relatively stable between 1991 and 1998, daily averages for remandees increased after 1998. The daily average number of remandees recorded in 2005 was 9.7% higher than that recorded in 2004 (up to 519), and is the highest for the period.
- Because of these different trends for remand and sentenced prisoners, remandees now account for a much higher proportion of all prisoners than was the case in the mid to late 1990s. In fact, in 2005, remandees constituted 34.0% of the total daily average compared with 17.2% in 1997.

Figure 30 Daily averages by legal status: 1988 to 2005



- In 2005 males accounted for 93.8% of the daily average, with a rate of 2.44 per 1,000 adult male population compared with only 0.15 per 1,000 adult female population.
- On average, 295 Aboriginal persons were held in custody each day in 2005, which represents 19.9% of the 1,486 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 2005 a lower proportion of Aboriginal persons were serving a custodial sentence (58.5% compared with 67.1% of non-Aboriginals) while a higher proportion were on remand (41.5% compared with 32.9%). As a result, for those cases where legal status and racial identity were recorded, Aboriginals accounted for 23.8% of the daily average number of remand prisoners but a lower 17.8% of sentenced prisoners.

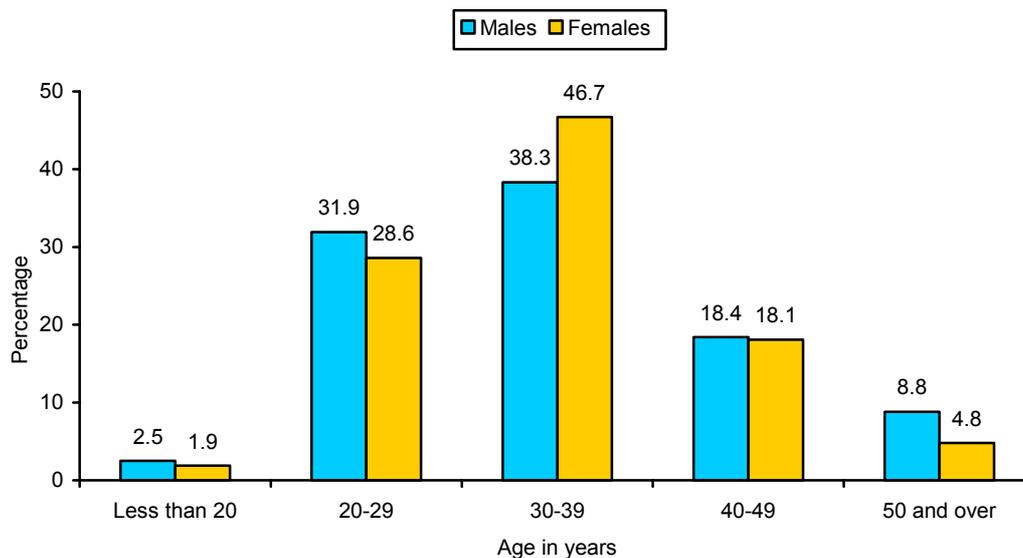
Figure 31 Daily averages: legal status by racial identity, 2005



Census figures

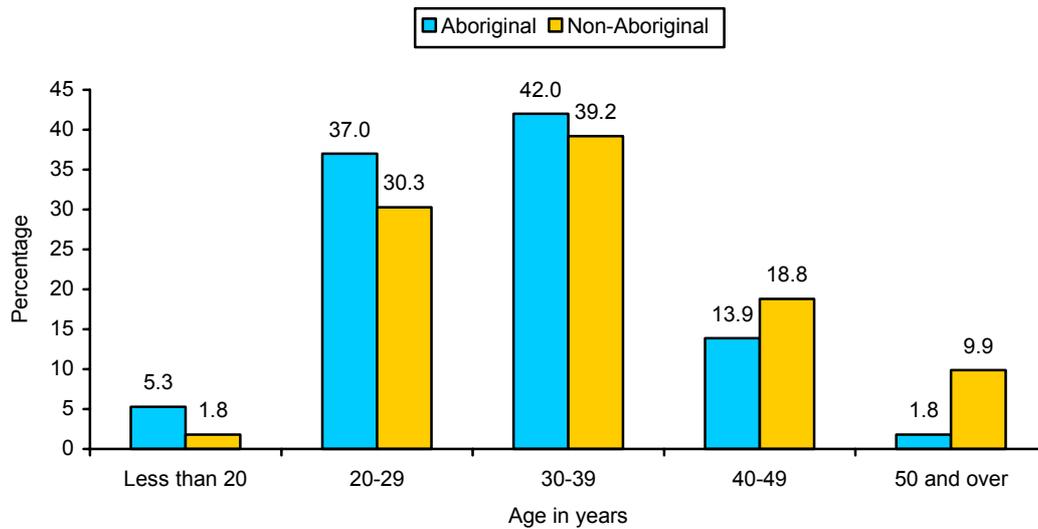
- At midnight on 31 December 2005, there were 1,502 prisoners in custody. This figure was slightly lower than the daily average recorded for 2005 (n=1,525) which illustrates the variability in prisoner numbers from one day to another and, in turn, points to the fact that daily averages rather than a census figure pertaining to a single day provide a more accurate measure of prison numbers.
- On 31 December 2005 remandees accounted for 32.4% of those for whom information on legal status was recorded, while two-thirds (67.6%) were sentenced prisoners.
- The majority of persons held in custody on 31 December 2005 were male (93.0%). For every 1,000 adult males in the South Australian population, 2.38 were in custody on that particular day compared with only 0.17 females per 1,000 adult female population.
- As was the case for prison receptions, persons aged 20 to 29 years accounted for just under one third (31.7%) of those held in custody on 31 December 2005 for whom age was recorded. A further 38.9% were aged 30 to 39 years. Only a very small proportion (8.5%) were 50 years of age and over. This age profile was generally similar for both males and females although, as Figure 32 indicates, a slightly higher proportion of females were in the 30 – 39 years age group, while a lower proportion were aged under 30 or 40 years or more.

Figure 32 Persons in custody on 31 December 2005: age by sex



- Aboriginal persons accounted for 19.7% of the 1,428 persons in custody on 31 December 2005 for whom racial identity was recorded. This was slightly lower than the previous year, when they represented 21.8% of all persons incarcerated on 31 December 2004.
- However, this proportion varied depending on the sex of the prisoner. Excluding those cases where racial identity was not recorded, Aboriginal males accounted for 19.0% of all males in custody on that day (compared with 21.2% in 2004), whereas Aboriginal females accounted for 29.3% of all females in custody (compared with 31.7% in 2004).
- 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 24.6 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 16.1 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 89.7% of all Aboriginal prisoners and 93.9% of all non-Aboriginal prisoners in custody on 31 December 2005.
- 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 2005, 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 (84.3% compared with 71.3% respectively) and a lower proportion aged 40 years and over (15.7% compared with 28.7% respectively).

Figure 33 Persons in custody on 31 December 2005: age by racial identity



Escapes from custody

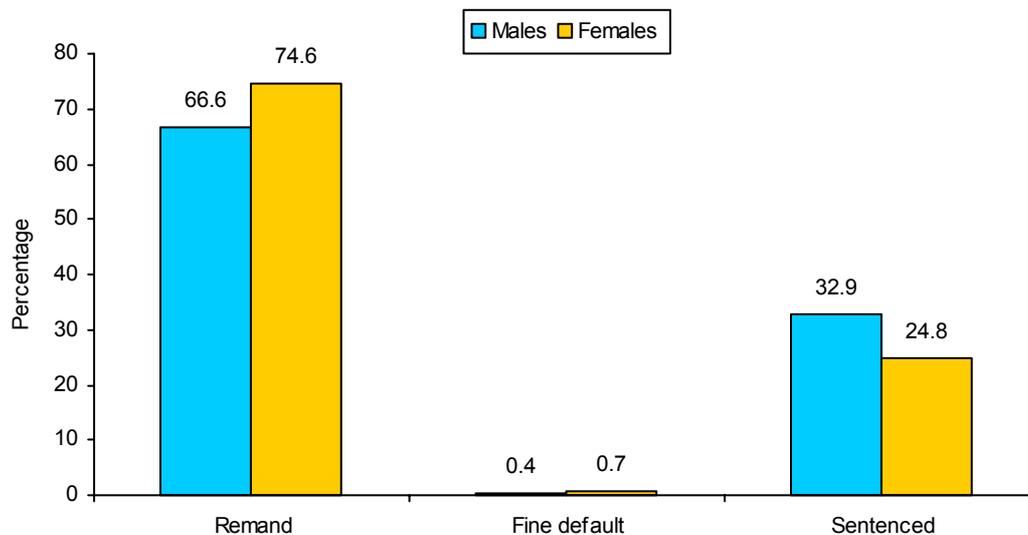
- In 2005, four prisoners escaped from a custodial institution, and there was one escape while the prisoner was on leave. This compares with four in 2004 and two in 2003. All of the institutional escapes in 2005 were from the Cadell Training Centre.
- The overall escape rate recorded in 2005 was 0.3 per 100 prisoners which was the same as that recorded in 2004.

Prison discharges

- In 2005, there were 3,228 persons¹¹ discharged from custody, the majority of whom were males (90.3% of the total).
- Of the 3,213 persons discharged in 2005 where legal status was recorded, just under one third (1,033 or 32.2%) were serving a prison sentence at the time of their release. A further 2,165 (67.4%) were discharged from remand and 15 (0.5%) were discharged after having 'cut out' a fine.
- As shown in Figure 34, there were some 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 was identified as sentenced prisoners.

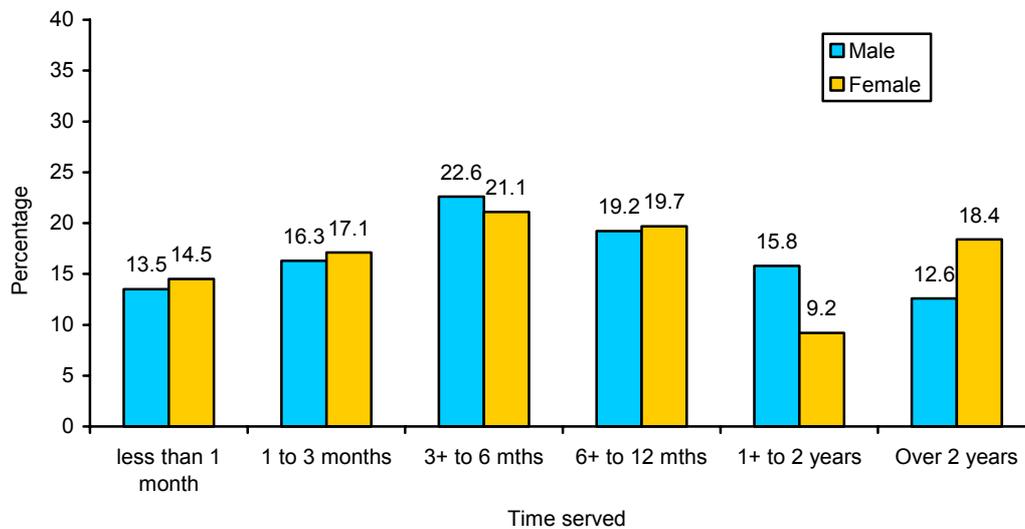
¹¹ This does not refer to discrete individuals. During the twelve month period, the same person may have entered prison and then been discharged on more than one occasion. Each discharge is counted separately in these tables.

Figure 34 Prison discharges: legal status by sex, 2005



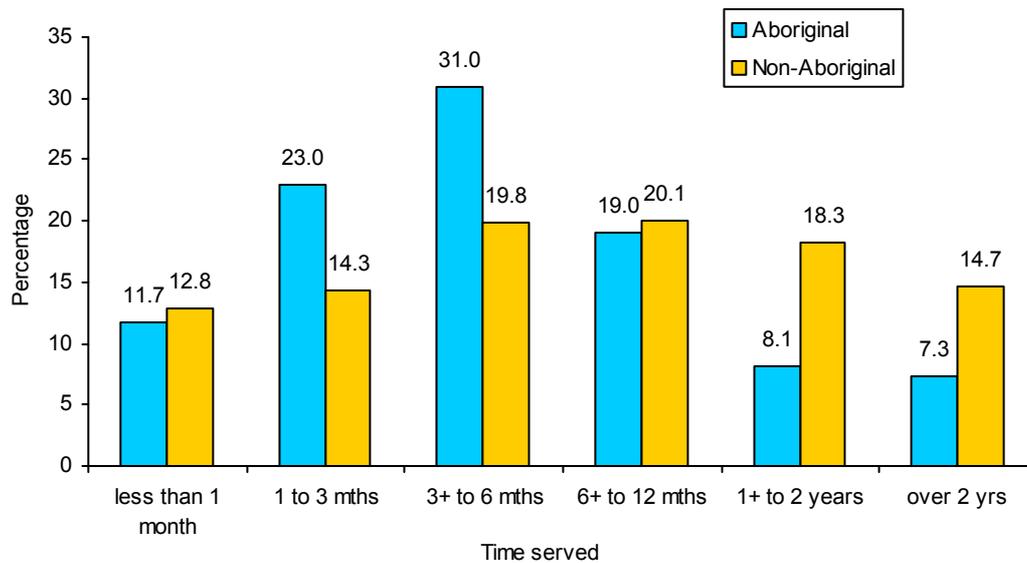
- As would be expected given the earlier data presented on prison receptions and census figures, of those persons discharged from custody for whom age was recorded, almost one in four (38.3%) were aged 20 to 29 years while only 4.5% were aged 50 years and over.
- Of the 2,966 discharges where racial identity was recorded, one quarter (25.8%) were identified as Aboriginal. More specifically, for those cases where relevant information was available, this racial group accounted for 25.7% of all discharges from remand and 26.1% of all sentenced prisoners discharged.
- Tables 4.22 and 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 15 discharges in 2005), these tables have been deleted.
- Of the 1,033 sentenced prisoners discharged in 2005, the majority were imprisoned for relatively short periods of time. More specifically, 13.6% spent less than one month in prison, while 29.9% were in prison for three months or less and 52.4% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 2.4% incarcerated for more than five years.
- As shown in Figure 35, compared with females, a slightly lower proportion of males served more than two years, while more had served between one and two years at the time of their discharge.

Figure 35 Prison discharges: time served by sex of sentenced prisoners, 2005.



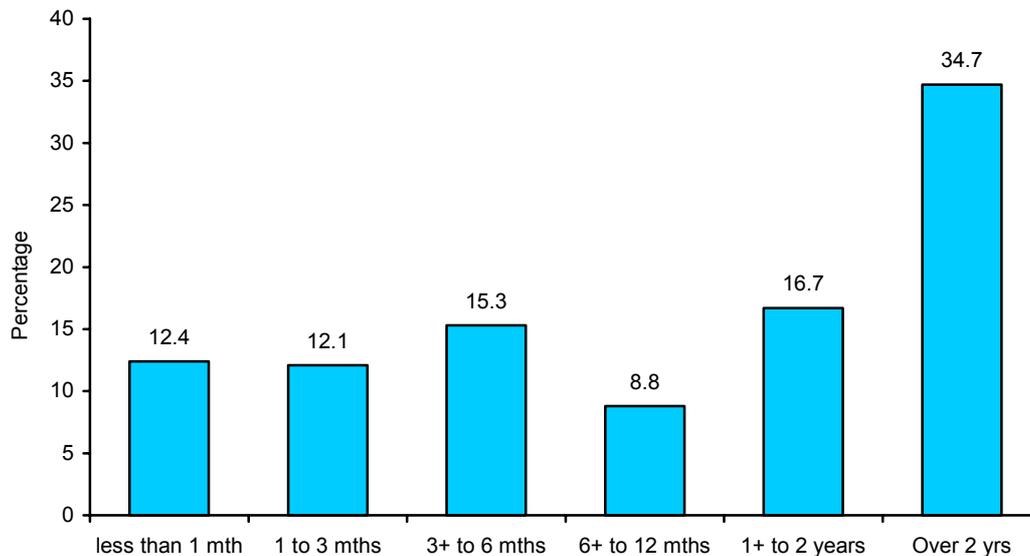
- The most serious offence types for which sentenced prisoners were being held at the time of their discharge were *offences against justice procedures*, which were listed as the major offence in 34.4% of all discharges where the type of offence was recorded. This category was followed by *serious criminal trespass* (13.2%), *assault* (10.5%), *licence/registration offences* (9.1%), and *fraud* (6.9%).
- As expected, there was a strong association between the nature of the offence and the time served. To illustrate, of the 93 discharges involving a *licence/registration* offence, just under one third (31.2%) involved periods of less than one month while only 3.2% served one year or more. At the other end of the scale, of the 135 discharges involving a *serious criminal trespass* offence, only 3.0% had served less than one month, while 47.4% 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* (47 or 4.6% of those discharged where the type of offence was recorded), almost two thirds of these (63.8%) involved terms of more than two years while only one 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* (19.7% compared with 6.0% of male discharges where this information was recorded) while a lower proportion involved *assault* (5.6% compared with 10.8%) and *serious criminal trespass* (15.5% compared with 13.0%).
- Figure 36 compares the time served by Aboriginal and non-Aboriginal sentenced prisoners at the point of discharge. As shown, a higher percentage of Aboriginal prisoners than non-Aboriginal prisoners served short orders of one to six months (54.0% compared with 34.1% respectively), while a lower proportion served longer orders of over one year (15.3% compared with 33.0% respectively).

Figure 36 Prison discharges: time served by racial identity of sentenced prisoners, 2005.



- 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* (37.7% and 35.1% of Aboriginal and non-Aboriginal discharges respectively), a higher proportion of Aboriginal sentenced prisoners were being held for *assault* 21.5% compared with 6.6% of non-Aboriginal sentenced prisoners), while a lower proportion were held for *serious criminal trespass* (10.1% compared with 15.1% respectively), and *deal/traffic drugs* (none compared with 5.2% respectively).
- 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 2005. 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, almost half (48.6%) of prisoners discharged in 2005 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 16.7% received a head sentence of over one year to two years, while a further 34.7% received a head sentence of more than two years. A small number (9 of the 1,033 discharges recorded in 2005) 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, 2005



Community-based Corrections

Orders¹² commenced during 2005

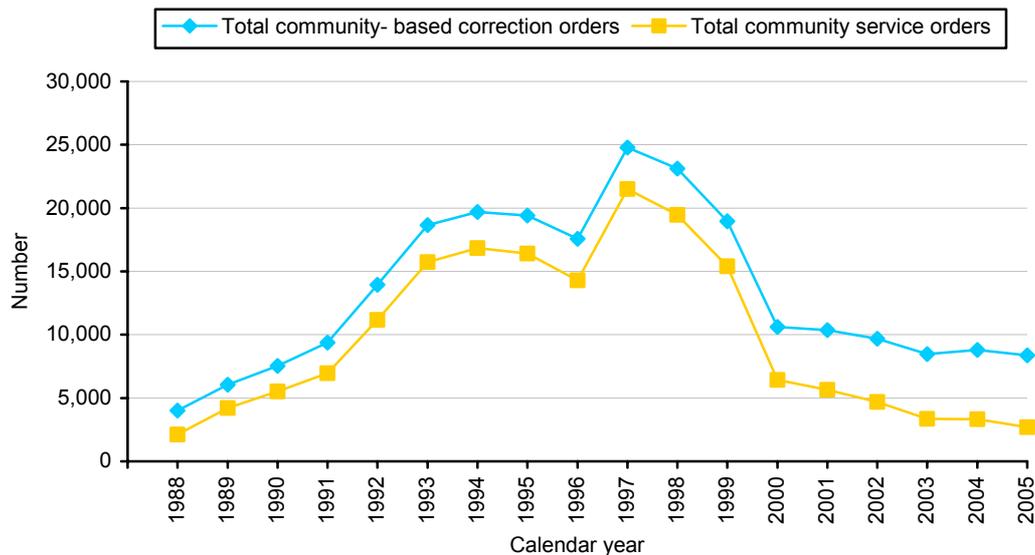
- Tables 4.26 to 4.32 in Section 4 of this report contain data on community correction orders supervised by the Department for Correctional Services.
- During 2005, a total of 8,379 community-based correction orders were commenced. Almost one third (32.0%) of these orders involved some form of community work. This included stand-alone community service orders (22.1%), as well as instances where a financial penalty was expiated through community service (9.9%). At the other end of the scale, only 11.1% of orders involved home detention, generally as part of a bail agreement (8.7%) or for sentenced prisoners released from gaol (2.3%). There were also six orders involving a home detention bond¹³.
- The 8,379 community-based correction orders commenced in 2005 involved 6,462 discrete individuals, giving an average of 1.30 orders per individual. The total number of individuals who commenced a community-based correction order in 2005 was slightly lower than that recorded in 2004 (6,662), and 58.9% lower than the 15,738 persons recorded in 1999. This decrease is largely due to the abolition in 2000 of CSO (expiation notice) and CSO as fine option orders
- Males accounted for 82.0% of those discrete individuals for whom sex was recorded and 82.6% 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 (22.9% of all orders commenced and 24.1% of all individuals) is too high to permit any meaningful analysis.

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 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.

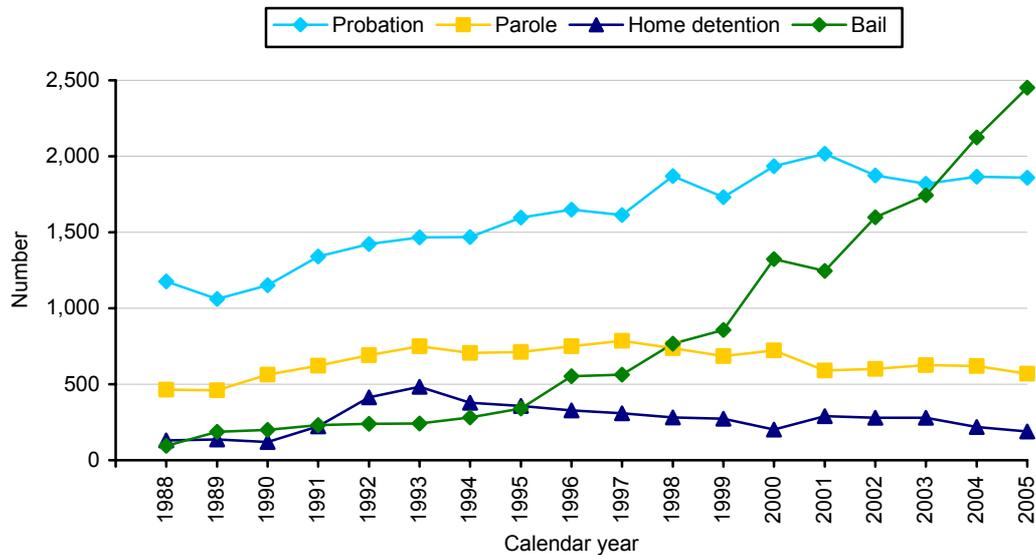
- The longitudinal trend in the total number of community-based correction orders is outlined in Figure 38. As shown, the number of orders commenced in a given year increased substantially between 1988 and 1997 before a substantial decline in the 1998 to 2000 period. This decrease has continued since 2000 although at a more moderate rate. Overall, the 8,379 orders commenced in 2005 was 66.2% lower than the peak recorded in 1997, with numbers now comparable with those recorded in 1991.

Figure 38 Community-based correction orders and community service orders commenced 1988 to 2005



- Also shown in Figure 38 is the total number of community service orders commenced between 1988 and 2005. 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, until 2000 community service orders consistently made up the majority of community-based correction orders, with trends paralleling those of total orders. However, since 2000 there has been some divergence, with CSOs falling at a faster rate than total community-based orders. As a result, in 2005 CSOs accounted for a lower percentage of total orders than at any time over the 18 years 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 82.6% from 15,401 in 1999 to 2,687 in 2005.
- Figure 39 shows trends in the number of other types of community-based correction orders commenced between 1988 and 2005. 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 2005



- The number of parole orders showed a general upward trend from 1988 to 1997. Between 1997 and 2005, despite some fluctuation in 2000, they generally declined. The number of parole orders decreased again by 8.2% to 569 in 2005 and this figure was 27.5% below the peak recorded in 1997.
- Probation orders generally increased between 1988 and 2001, with the 2,017 such orders recorded in 2001 being the highest in the 18 years depicted in Figure 39. However, in 2002 the number of probation orders declined by 7.1% to 1,874 and have since remained around that level, with a total of 1,860 orders commenced in 2005.
- The number of sentenced prisoners placed on home detention (excluding home detention bail and bond) has remained relatively low, with a period of increase up to 1993 followed by a period of decline until 2000. Despite a decrease to 190 in 2005 the numbers have remained relatively stable in recent years. However, they were still below the peak of 484 recorded in 1993.
- Bail orders (including home detention bail) 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 rapidly, including a further 15.5% rise to 2,452 during 2005.

Persons supervised at 31 December 2005

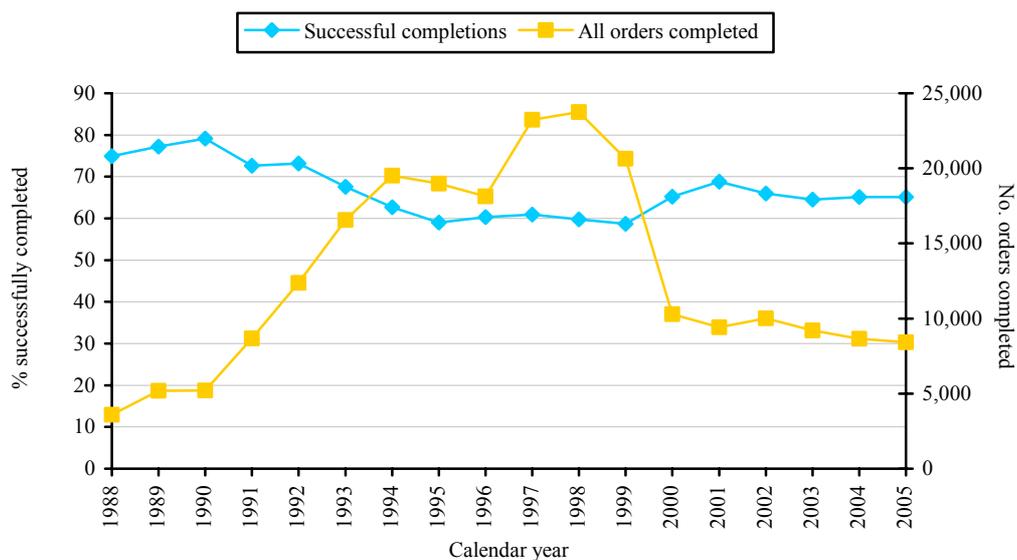
- On the 31st December 2005, the Department for Correctional Services was supervising 6,350 distinct individuals, some of whom were serving more than one type of community-based corrections order.
- The order that recorded the highest caseload on 31 December 2005 was that of probation, with 2,500 individuals registered on that day. This equates to 39.4% of all discrete persons under Department for Correctional Services community-based supervision on that particular day.
- There were also 779 individuals (12.3% of all discrete individuals) recorded in the category of *Financial penalty expiated through Community Service* and 1,136 (17.9%) serving a ‘stand alone’ community service order.

- At the other end of the scale, only 81 persons (1.3% of all discrete individuals) were sentenced prisoners on home detention while 1,142 (18.0%) were on bail, either with or without a home detention component.
- The total number of persons under supervision on 31 December 2005 (n=6,350) was 1.5% lower than the 6,447 individuals being supervised on 31 December 2004. When the number of individuals serving each type of order are summed, total orders supervised in 2005 was 2.4% lower than in 2004 (6,763 compared with 6,932 respectively).
- In 2005 differences were observed in several categories in comparison with 2004. The number of persons on bail at 31 December 2005 (including home detention bail) was 18.6% higher than in 2004, while the number of sentenced prisoners on home detention (excluding home detention bail and bond) increased from 69 in 2004 to 81 in 2005.
- Males accounted for 82.6% of all discrete individuals supervised on 31 December 2005 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* (45.9% compared with 38.0% respectively) and *financial penalty expiated through community service* (17.5% compared with 11.2% respectively) while a higher proportion of males than females were on *parole* (15.6% of all male individuals supervised on 31 December 2005 compared with 5.4% of all female individuals).
- Because information on racial identity was not available for 18.0% 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 2005

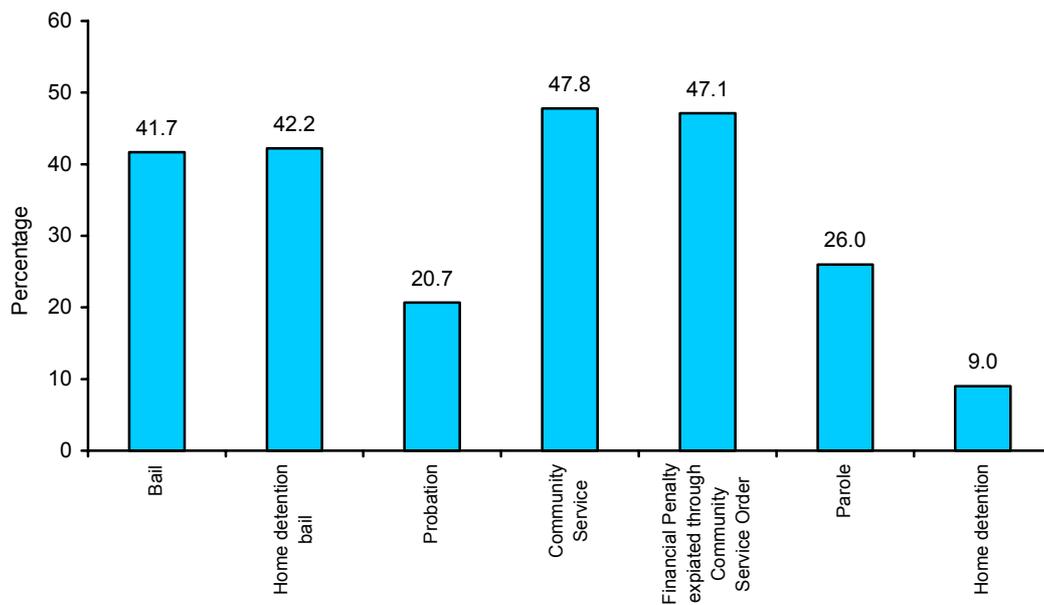
- The number of community-based correction orders completed (either successfully or otherwise) decreased in 2005 (from 8,651 in 2004 to 8,427). Of these 8,427 orders, the majority (65.1%) were completed successfully, while one third (34.8%) were revoked, estreated or breached.

Figure 40 Community-based correction orders completed and the percentage completed successfully, 1988 to 2005



- Figure 40 shows that, until 1999, despite some annual fluctuations, as the number of completed community-based correction orders escalated, so the proportion of such orders successfully completed diminished. In 1988, for example, when there were only 3,603 orders completed, 74.9% were successfully finalised. A decade later, in 1998, the number of orders completed had increased more than five-fold, but the proportion of successful completions had dropped to about 60%. However, in 2000, the number of orders completed decreased substantially, while the proportion successfully completed rose to 65.2%. This trend continued in 2001, when the number of orders completed decreased by 8.5%, but the proportion that were completed successfully rose to 68.8%. Since then, however, 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 2005 varied depending on the type of order involved. As indicated in Figure 41, the highest level of estreatment or revocation was recorded for community service orders (47.8%), followed by orders where a financial penalty was expiated through community service (47.1%) and home detention bail orders (42.2%). In contrast, only 9.0% of the home detentions completed by sentenced prisoners were estreated in 2005.

Figure 41 Community correction orders completed in 2005: 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 2005, 34.7% of orders involving males were estreated or revoked, as were 35.5% of orders involving females.

