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Crime and Justice in South Australia, 2007

Adult Courts and
Corrections

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PREFACE

Crime and Justice in South Australia, Adult Courts and Corrections is published annually by the Office of Crime Statistics and Research as a three volume set. Statistics in this report deal exclusively with information on 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 for the period 1 January to 31 December 2007.

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 2007;
- The daily average number of prisoners during 2007;
- Persons in custody at 31 December 2007;
- Prisoners discharged during 2007;
- Community based correction orders commenced during 2007; and
- Community based correction orders completed during 2007.

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

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INTRODUCTION

This report, covering the period 1 January 2007 to 31 December 2007, contains statistics that cover three main areas:

- selected criminal matters finalised in the Magistrates Courts of South Australia;
- 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.

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 9.9% of *serious criminal trespass* offences reported to police in 2007 were cleared by way of an apprehension, as were 10.6% of *vehicle thefts*. Apprehension levels for *drug* and *driving offences* were considerably higher (98.5% and 99.7% 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, all regulations and 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 decisions 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, 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 2007 may not have had their court cases finalised by the end of the year and so would not appear in the court statistics for 2007.

Conversely, the court data will count persons who, although sentenced in 2007, were apprehended in 2006 or earlier. This is particularly true for the Supreme and District Courts, where cases may take several years to finalise, especially if 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, an incident in which an offender broke into a dwelling, and robbed and raped the victim would generate one count of *break and enter*, one *rape* and one *robbery* in the statistics on offences 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. This is particularly important when comparing these statistics with those from other published reports such as the Productivity Commission’s *Report on Government Services*, the Australian Bureau of Statistics’ *Criminal Courts, Australia* report or the South Australian Courts Administration Authority’s *Annual Report*, all of which use differing counting rules and definitions.

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.

Summary of 2007 Statistics

Magistrates Courts

- During 2007, 33,679 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries were finalised in the Magistrates Court, which is 3.3% higher than the 32,617 finalised cases in 2006.
- *Driving offences* were listed as the major charge in three in ten (31.2%) of these cases, while *offences against good order* accounted for a further 22.6% and *larceny and receiving* offences for 12.3%. At the other end of the scale, very few cases involved either *robbery and extortion* (0.6%) or *other offences* (0.7%). In addition, 3.3% of cases involved *non-offence* matters. These consisted almost entirely of restraining orders.
- Of the cases dealt with in the Magistrates Court in 2007, 1,045 (3.1%) were committed to the District or Supreme Court for trial or sentence. This number is 7.8% lower than the 1,134 cases committed in 2006, but 41.7% lower than the 1,791 committals recorded in 1992 when legislative changes were introduced to ensure that matters were heard at the lowest, most appropriate jurisdictional level.
- In 2007, 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 12.3% of cases, the defendant was found guilty of the major charge but was not convicted.
- In one fifth of cases (20.8%) the major charge was either withdrawn by the prosecution or dismissed.
- However, in 15.0% of the 7,129 cases where the major charge resulted in an acquittal, dismissal or withdrawal, finding of 'not guilty: mentally incompetent' 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 32,634 cases that were finalised in the Magistrates Court (excluding those committed to a higher court) in 2007, 25,630 (78.5%) resulted in a finding of guilt to at least one charge.
- Of the 1,108 applications for *restraining, domestic violence¹ or paedophile restraining orders* finalised in 2007, 677 (61.1%) resulted in the issuance of that order, 222 (20.0%) were varied, while 195 (17.6%) were either revoked or cancelled, withdrawn, dismissed or refused.
- Of the 25,630 cases finalised in 2007 by way of a conviction or a finding of guilt to at least one charge, almost three in ten (28.3%) received a fine as the most serious penalty, while 28.2% resulted in a driver's licence suspension. Only 3.9% of cases resulted in direct imprisonment while 10.6% 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 84 weeks).
- Although females featured in only a small proportion (18.6%) of cases finalised in 2007, their level of involvement varied depending on the type of offence. For example, females accounted for only 1.9% of those cases in which a *sexual offence* was listed as the major charge, but 39.5% 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 (7.9%) were aged 50 years and over.

¹ In South Australia the *Intervention Orders (Prevention of Abuse) Bill 2009* has been assented to but yet to be proclaimed. This Act will broaden the definition of abuse and the relationships that are covered by the term 'domestic abuse'.

- The rate of appearance for Aboriginal² defendants was considerably higher than that of non-Aboriginal defendants (273.36 per 1,000 adult Aboriginal population compared with 25.23 per 1,000 adult non-Aboriginal population respectively).
- Seven out of ten defendants (73.0%) in the Magistrates Court had at least one prior conviction, with an average of 15.3 previous convictions per defendant. One in six cases (18.1%) involved defendants who had previously been sentenced to imprisonment.
- Of the 10,351 cases finalised at the first court hearing, no defendants were remanded in custody at the time. In contrast, 23.1% 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 33.0% had a lawyer. This rose to over three quarters (78.2%) of those cases that required more than one hearing to finalise and 95.9% of those that were committed to a higher court for trial or sentence.

Higher Courts

- In 2007, there were 60 cases finalised in the Supreme Court and 1,190 finalised in the District Court, giving a total of 1,250. This was 9.1% higher than the number of cases disposed of in 2006.
- Cases involving a *drug offence* as the major charge accounted for the highest proportion of matters finalised (22.8% of the total), followed by *serious criminal trespass* (19.3%) and *offences against the person (excluding sexual offences)* (17.2%).
- The majority of defendants (73.8%) pleaded or were found guilty of at least one charge. In 62.2% of cases the defendant pleaded guilty to either the major or a lesser charge without the matter going to trial. In a further 11.6% of cases, a trial was held which resulted in either a plea or finding of guilt.
- The two most frequently imposed penalties in 2007 were imprisonment (imposed in 44.3% of cases where one or more charges had an outcome of *guilt*) and suspended imprisonment (imposed in 45.3% of such cases).
- The average length of imprisonment was just under four years (or 46.5 months, excluding sentences of life imprisonment). The average non-parole period set was just over 2.5 years (31.7 months).
- The offence group with the highest percentage imprisoned was *robbery and extortion*, with 63.9% of defendants found guilty receiving this penalty, followed by *sexual offences* (61.7%).
- Almost nine out of ten defendants (89.6%) were males, whose average age was 31.6 years. Females had an average age of 32.0 years.
- Persons of Aboriginal appearance made up 12.2% of defendants for whom information on Aboriginal appearance was available. This gave a rate of appearance of 10.35 per 1,000 adult Aboriginal population. This was much higher than non-Aboriginal defendants, whose appearance rate was 0.97 per 1,000 adult non-Aboriginal population.
- Over three quarters (82.2%) of defendants had at least one prior conviction, while 14.7% had 50 or more previous convictions. Almost one third (32.3%) had been imprisoned before.
- Just over one quarter of defendants (27.0%) were being held in custody at the commencement of proceedings in the higher courts.

²The term “Aboriginal” refers to both Aboriginal and Torres Strait Islander people.

Correctional Services

Imprisonment

Prison receptions

- In 2007, there were 3,893 prison receptions. Of those from whom information on legal status was available, 13.3% were sentenced prisoners, 0.3% were fine defaulters and 86.4% were on remand. The number of receptions in 2007 was 10.4% higher than recorded in 2006, and well below the peak of 7,618 recorded in 1992.
- In 2007, the proportion of prison receptions that involved sentenced prisoners was similar to that recorded in 2006 (13.3% compared with 11.5% respectively). The proportion of admissions involving remanded prisoners was similar in both years (86.4% in 2007 compared with 88.2% in 2006).
- The overwhelming majority of receptions in 2007 involved males (87.6%). This figure was consistent for both remand and sentenced prison receptions.
- For those 3,892 receptions where age was known, nearly four out of ten (39.8%) involved persons aged 20 to 29 years, while those in the older age groups (50 years and over) accounted for only 5.1%.
- Persons identified as Aboriginal accounted for 26.5% of the 3,510 prison receptions where information on Aboriginal identity was recorded. This figure was similar to that recorded for remand receptions (27.8% identified as Aboriginal), but higher than the proportion of sentenced receptions (18.7%).

Daily averages

- Daily average prison numbers increased in 2007 from 1,595 per day in 2006 to 1,780.
- The majority of the 1,780 prisoners were serving a prison sentence (1,157 or 65.2%), while 618 (34.8%) were on remand.
- In 2007, males accounted for 93.3% of the daily average prison population, with a rate of 2.75 per 1,000 adult male population, compared with only 0.19 per 1,000 adult female population.
- On average, 383 Aboriginal persons were held in custody each day in 2007, which represents 21.5% of those for whom Aboriginal identity was recorded.

Census figures

- At midnight on 31 December 2007 there were 1,825 prisoners in custody. Remandees accounted for 33.0% of those for whom information on legal status was recorded while two thirds (67.0%) were sentenced prisoners.
- Males again dominated. For every 1,000 adult males in the South Australian population, 2.82 were in custody on that particular day compared with only 0.20 females per 1,000 adult female population.
- Aboriginal males accounted for 21.9% of all males in custody on 31 December 2007 where Aboriginal identity was known (compared with 19.0% in 2006), while Aboriginal females accounted for 24.6% of all females in custody (compared with 20.0% in 2006).

Escapes from custody

- In 2007, five prisoners escaped from a custodial institution, while there was one escape while the prisoner was on leave.

Prison discharges

- In 2007, there were 3,707 discharges from custody. Where legal status was known, 35.1% were, at the time of discharge, serving a prison sentence. A further 64.6% were discharged from remand and 0.2% were discharged after having 'cut out' a fine.
- A higher proportion of females were on remand at the time of discharge (72.4% compared with 63.5% of males), while a lower proportion were classified as sentenced prisoners (27.4% compared with 36.3% of males).
- Of the 1,297 sentenced prisoners who were discharged in 2007, 17.8% spent less than one month in prison, while 39.2% were in prison for three months or less. At the other end of the scale, only 3.1% 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 165 discharges involving a *licence/registration* offence, over one third (35.8%) were for periods of less than one month. However, of the 140 discharges involving a *serious criminal trespass* offence, only 3.6% had served less than three months, while 52.1% involved terms of more than one year.
- Overall, Aboriginal sentenced prisoners were more likely to serve short periods of between one and six months (43.2% compared with 39.4%), but less likely to serve longer terms of over one year than were their non-Aboriginal counterparts (17.9% compared with 27.2%).
- 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 34.6% of all discharges where the type of offence was recorded, followed by *licence/registration offences* (12.8%) and *serious criminal trespass* (10.8%).

Community-based Corrections

Orders commenced during 2007

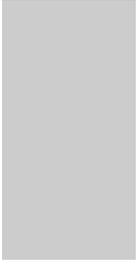
- In 2007, there were 8,901 community-based correction orders commenced, which was 2.5% higher than the 8,687 recorded in 2006.
- Just over one quarter (28.2%) of the community-based correction orders commenced in 2007 involved some form of community work. This included stand-alone community service orders (19.4%) as well as instances where a financial penalty was expiated through community service (8.8%).
- Only 11.4% of supervisions involved home detention, generally as part of a bail agreement (9.3%) or for sentenced prisoners released from gaol (2.0%). There were only four orders involving a home detention bond.
- The 8,901 orders commenced in 2007 involved 6,852 discrete individuals, giving an average of 1.30 orders per person. The total number of individuals who commenced an order in 2007 was 1.7% higher than that recorded in 2006 (6,740) but 56.5% lower than the 15,738 persons recorded in 1999. This decrease is largely due to the continuing affect of the abolition in 2000 of community service orders (expiation notice) and community service orders as fine option orders.
- Males accounted for 81.1% of all individuals and 81.7% of all orders commenced where relevant data were available.

Persons supervised at 31 December 2007

- On 31 December 2007, the Department for Correctional Services was supervising 5,772 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 2,825 discrete individuals registered. This equates to 48.9% of all discrete persons under Correctional Services community-based supervision on that day.
- The total number of persons supervised was 9.4% higher than the 5,275 individuals under supervision twelve months earlier, on 31 December 2006.

Orders completed during 2007

- The number of community-based correction orders completed (either successfully or otherwise) increased marginally in 2007 (by 4.9% from 8,416 in 2006 to 8,826).
- The majority of these orders (69.5%) were completed successfully.
- The extent to which orders were revoked or estreated in 2007 varied depending on the type of order involved. The highest level of estreatment/revocation was recorded for community service orders (44.2%), followed by orders where a financial penalty was expiated through community service (40.3%) and bail orders (36.4%). In contrast, only 16.7% of home detentions completed by sentenced prisoners in 2007 were estreated or revoked.



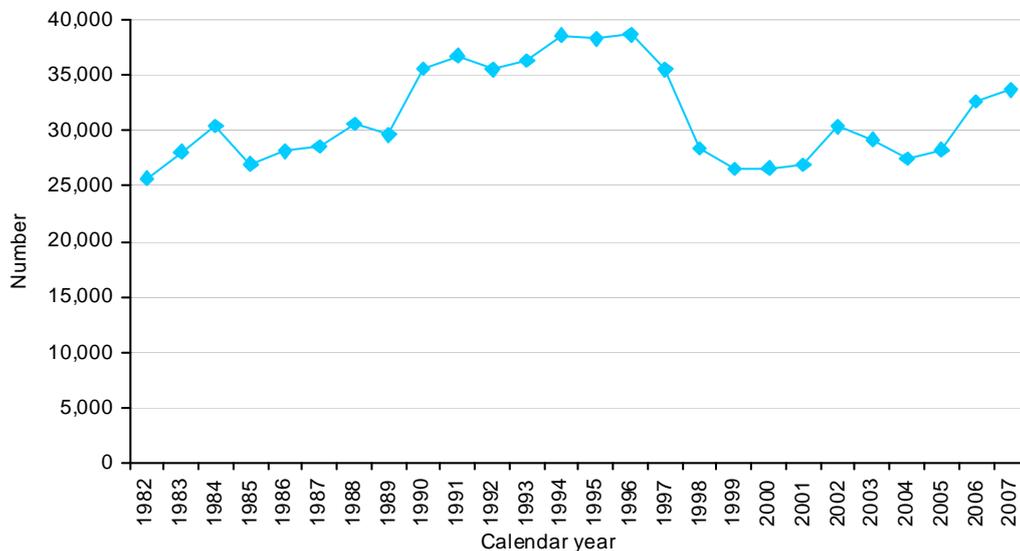
OVERVIEW

1.1 Magistrates Courts of South Australia

Overview

- During 2007, 33,679 cases involving offences that fall within the Office of Crime Statistics and Research collection boundaries³ were finalised in the Magistrates Court. This figure is 3.3% higher than the 32,617 finalised cases in 2006.
- As indicated in Figure 1, the number of matters disposed of in the Magistrates Court generally increased between 1982 and 1996. Between 1996 and 1999 there was a sharp downward trend, after which time numbers generally stabilised with slight increases in 2006 and 2007. Hence, while the number of matters finalised in 2007 was higher than in the previous year, it was lower than the peak recorded in 1996 (n=38,652).

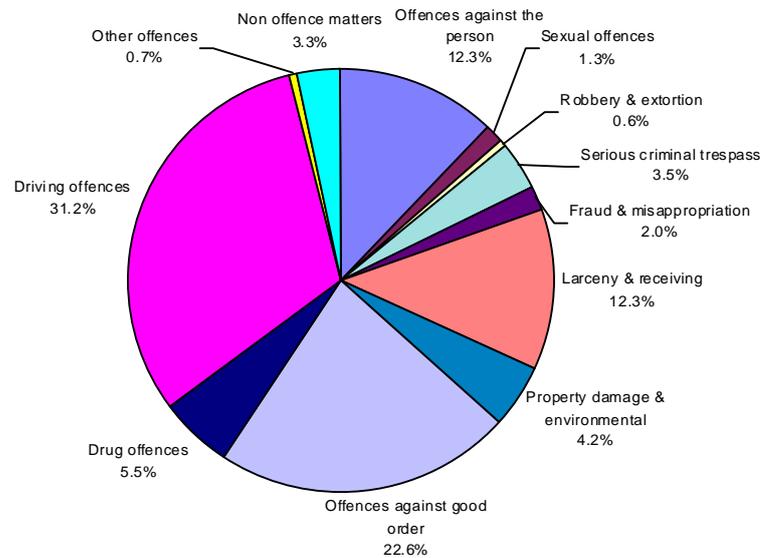
Figure 1 Number of cases finalised by the Magistrates Court, 1982 to 2007



- As indicated in Figure 2, *driving offences* constituted the major charge in three in ten (31.2%) cases finalised in 2007, while *offences against good order* featured in a further 22.6% of cases, *larceny and receiving* in 12.3% and *offences against the person* in 12.3%. At the other end of the scale, there were relatively few cases in which *robbery and extortion* or *other offences* constituted the major offence charged (0.6% and 0.7% respectively). In addition, 3.3% of cases involved *non-offence* matters. As in previous years, these consisted almost entirely of restraining orders.

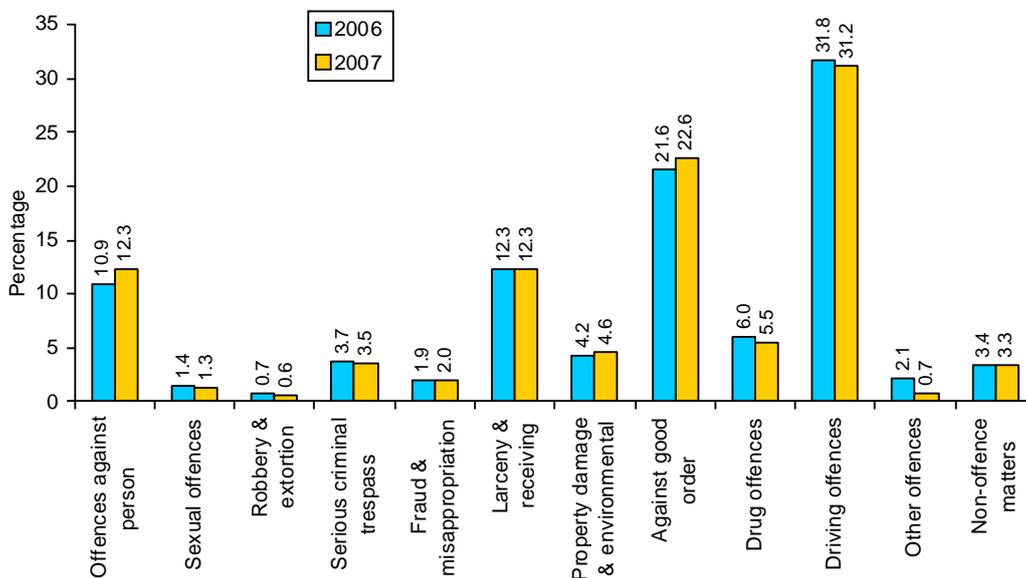
³ This report does not deal with all offences heard by the Magistrates Court. Many driving and traffic offences (except those of a more serious nature such as *drive in a manner dangerous* or *drink driving*), most council matters (by-law breaches) and regulations are not included.

Figure 2 Cases finalised in the Magistrates Court by the major charge per case: 2007



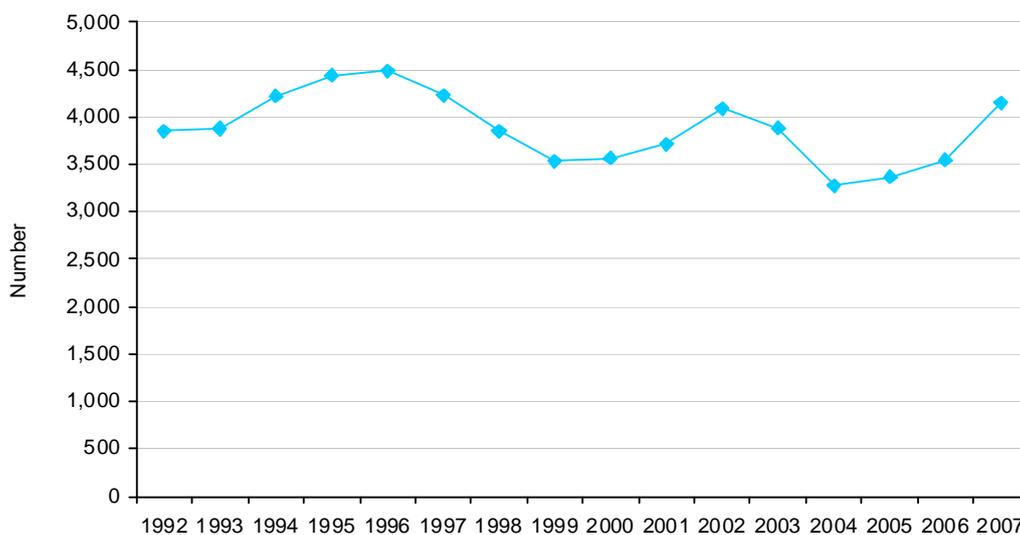
- Overall, the offence profile in 2007 is similar to that observed in 2006. As shown in Figure 3, in both 2006 and 2007, four offence categories dominated: namely *driving offences*, *offences against good order*, *larceny/receiving* and *offences against the person*. Conversely, the proportion of cases involving *sexual offences*, *other offences* and *robbery and extortion* have remained consistently low.

Figure 3 Cases finalised in the Magistrates Court by major charge: 2006 and 2007



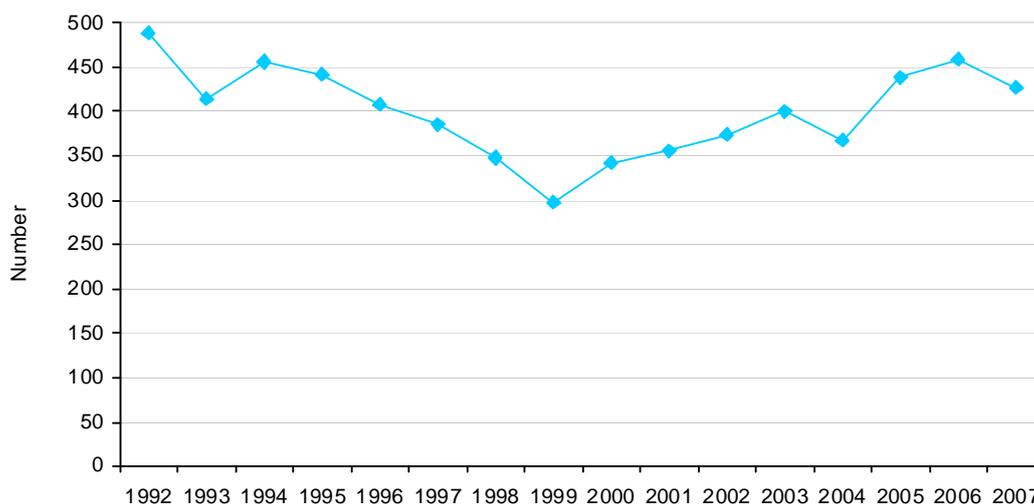
- Longitudinal trends in the actual number of cases per offence category are detailed in Figure 4 to 13, which plot the major charge recorded per case from 1992 (when data relevant to all twelve categories listed above were first published) to 2007.
- As indicated in Figure 4, despite an upward trend since 2004 in the number of cases involving an *offence against the person*, the 2007 figure was still marginally lower than ten years earlier.

Figure 4 Cases finalised in the Magistrates Court where the major charge was an offence against the person, excluding sexual offences: 1992 to 2007



- 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 and 2006, followed by a decline in 2007. The increases in recent years may reflect the impact of the removal of time limits for prosecution of certain sexual offences which occurred in June 2003⁴.

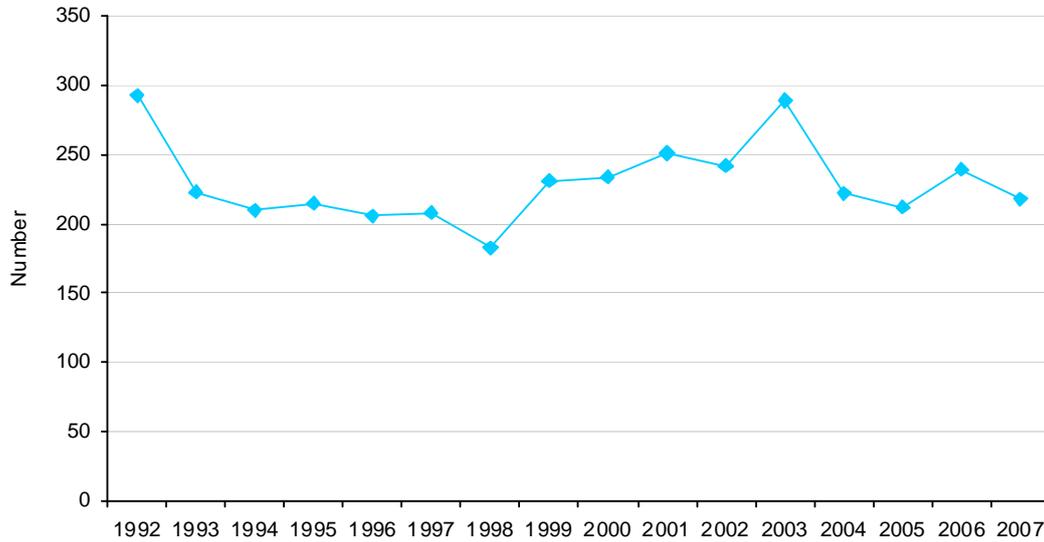
Figure 5 Cases finalised in the Magistrates Court where the major charge was a sexual offence: 1992 to 2007



⁴ On 17 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.

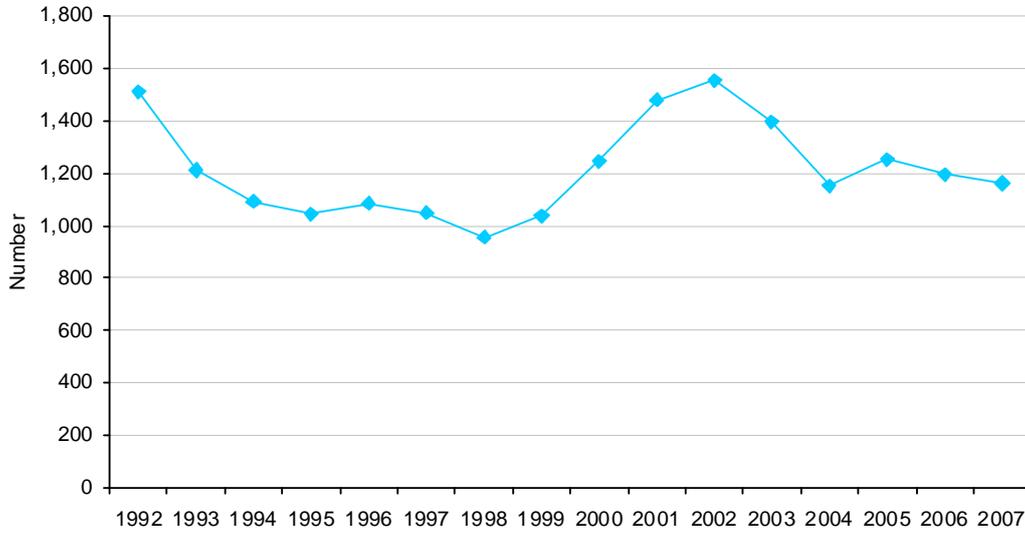
- After increasing from 1998 to 2003, the number of *robbery and extortion* cases declined substantially in 2004 and 2005, with a slight increase recorded in 2006. The most recent figure is similar to those recorded during 2004 and 2005.

Figure 6 Cases finalised in the Magistrates Court where the major charge was robbery and extortion: 1992 to 2007



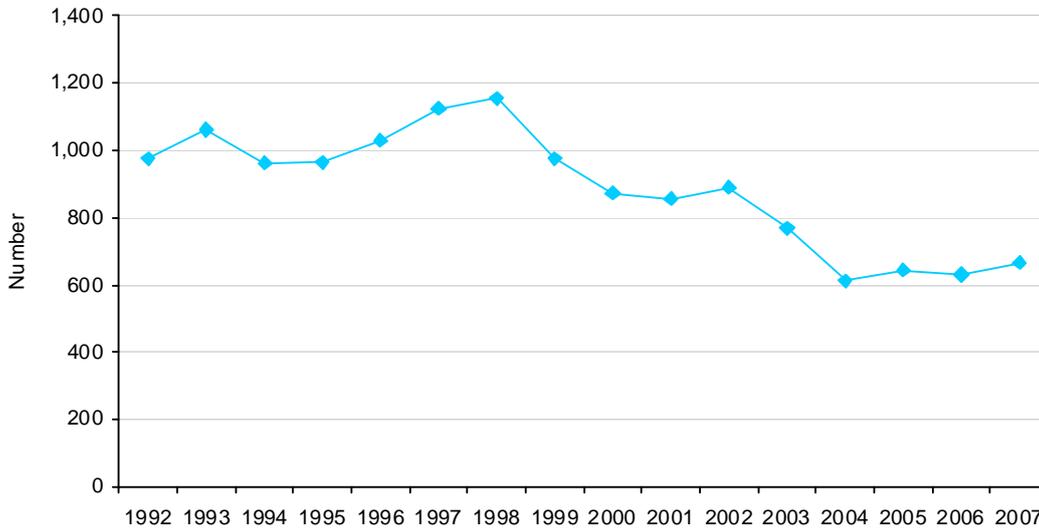
- Determining longitudinal trends for *burglary, break and enter/serious criminal trespass* offences is somewhat problematic due to the passage of the Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act. This piece of legislation, which came into effect on 25 December 1999, replaced *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 to 2004. The 2007 figure is slightly lower than those recorded in 2006 and considerably lower than the peak of 2002.

Figure 7 Cases finalised in the Magistrates Court where the major charge was serious criminal trespass: 1992 to 2007



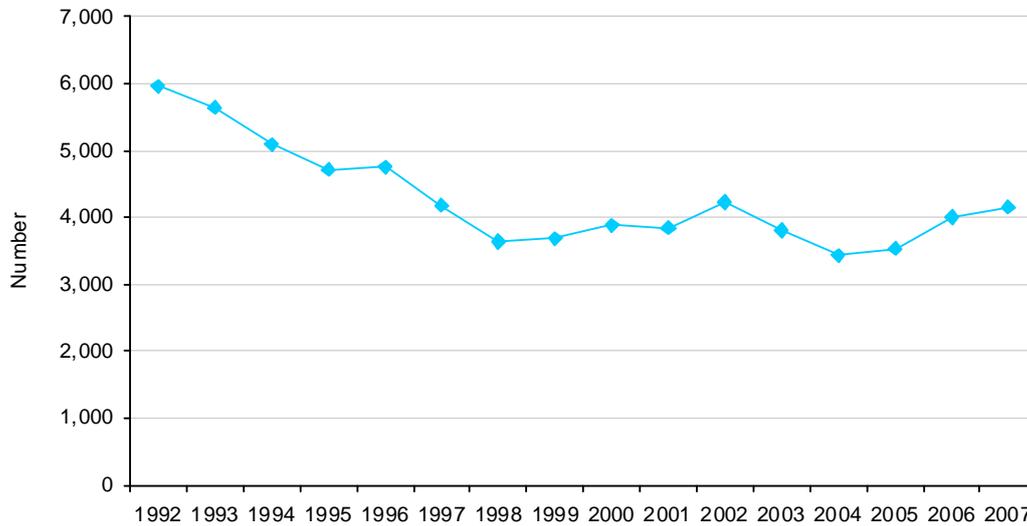
- Figure 8 indicates that the number of cases where the major charge was *fraud and misappropriation* has continued the downward trend that commenced in 1999. Although the 2007 figure of 665 was slightly higher than the lowest number recorded in 2004 (612), it is still well below the 1998 peak of 1,154 cases.

Figure 8 Cases finalised in the Magistrates Court where the major charge was fraud and misappropriation: 1992 to 2007



- As indicated in Figure 9, the number of cases involving *larceny and receiving*⁵ declined substantially between 1992 and 1998. There was a slight increase in numbers between 1998 and 2002, followed by decreases to 2004. However, despite recent increases, the 2007 figure of 4,158 is still substantially lower than the levels recorded in the early 1990s.

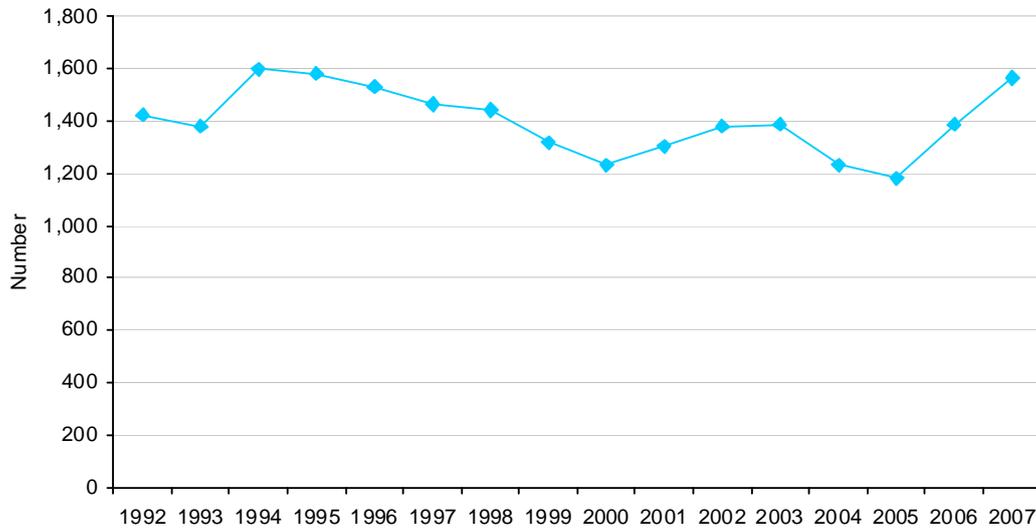
Figure 9 Cases finalised in the Magistrates Court where the major charge was larceny and receiving: 1992 to 2007



- *Property damage 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, gradually increased between 2001 and 2003 and then decreased again in 2004 and 2005, with the 2005 figure falling to the lowest level recorded over the 16 years depicted. The number of cases has increased sharply in 2006 and 2007, although the figure of 1,565 is still below the peak of 1,598 recorded in 1994.

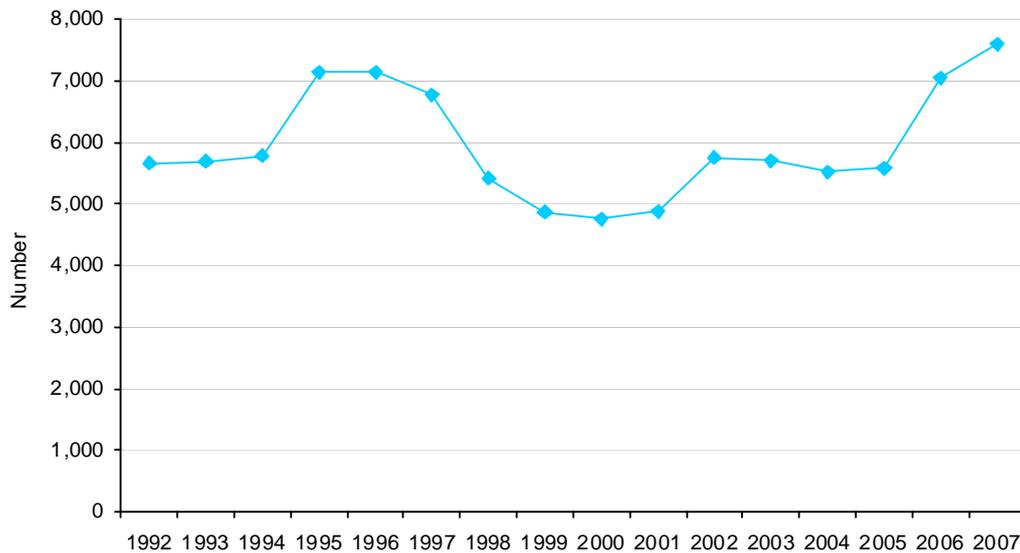
⁵ Due to problems in coding the offence categories of *larceny from shops* and *other larceny* in 1998 care should be taken when comparing *larceny and receiving* figures from that year with those of other years.

Figure 10 Cases finalised in the Magistrates Court where the major charge was a property damage and environmental offence: 1992 to 2007



- As Figure 11 indicates, after a period of relative stability between 2002 and 2005, the number of *offence against good order* cases increased sharply in 2006 and 2007 to 7,602. This is the highest figure recorded in the 16 years depicted.

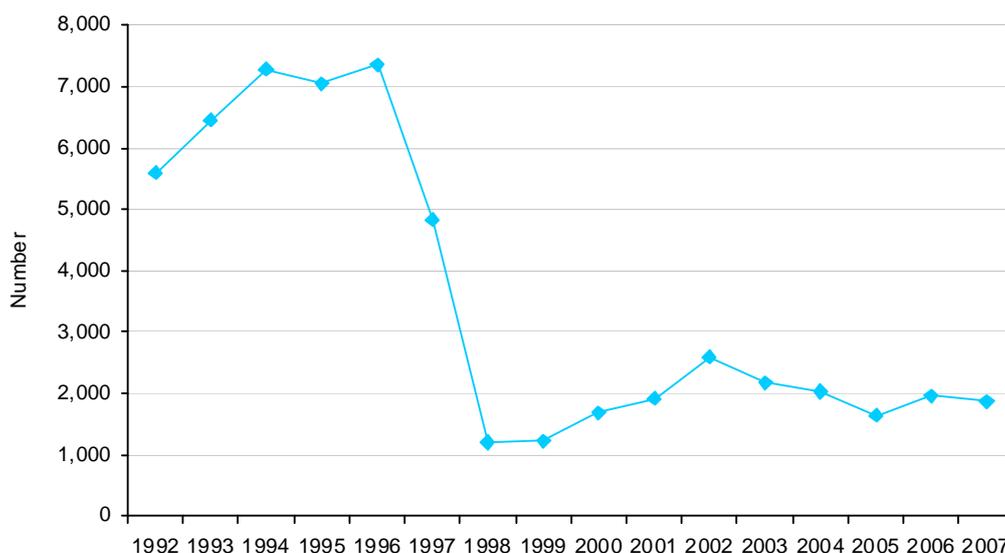
Figure 11 Cases finalised in the Magistrates Court where the major charge was an offence against good order: 1992 to 2007



- 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.

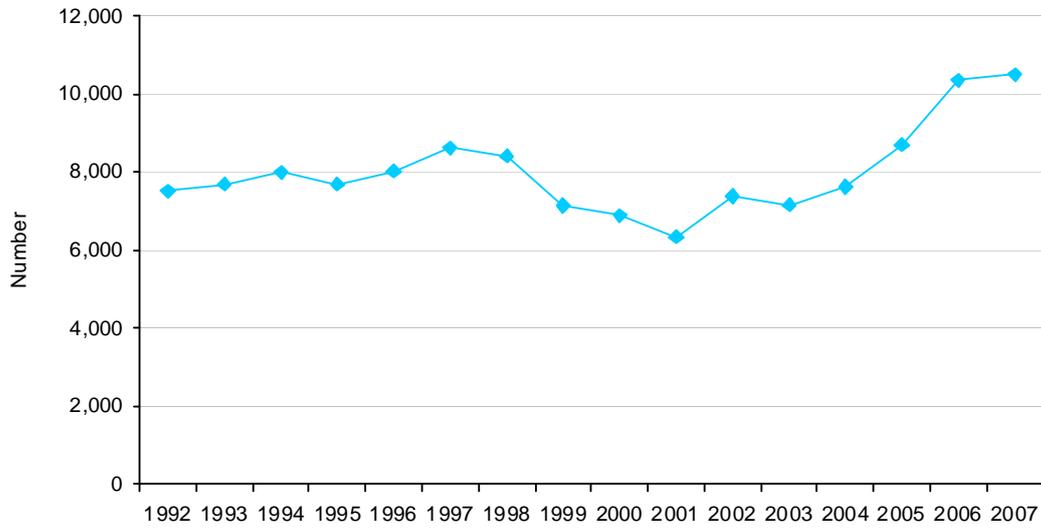
- Following that marked decrease, numbers then increased slightly between 1998 and 2002. In part, this increase could be the result of further changes to the Cannabis Expiation Notice (CEN) scheme. In recent years the number of cannabis plants that a person could possess and still be eligible for a CEN 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.
- Between 2002 and 2005, the number of cases with a major charge of a *drug offence* declined each year with the 2005 total of 1,632 being 36.9% lower than in 2002. This decline may reflect the impact 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.
- The recent downward trend was reversed in 2006, followed by a slight decrease in 2007. This figure is still considerably lower than that recorded in 2002.

Figure 12 Cases finalised in the Magistrates Court where the major charge was a drug offence: 1992 to 2007



- As shown in Figure 13, cases where *driving offences* were listed as the major charge reached their lowest point in 2001 (n=6,355). Since then, numbers have increased steadily, with the 2007 figure of 10,512 the highest recorded during the period depicted.

Figure 13 Cases finalised in the Magistrates Court where the major charge was a driving offence: 1992 to 2007



Outcomes

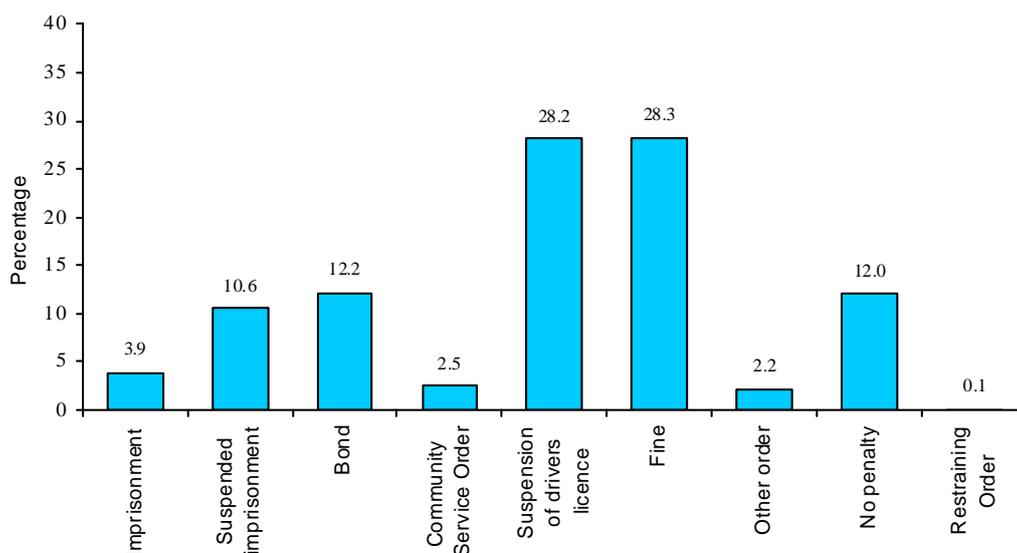
- Of the 33,679 cases heard in the Magistrates Court in 2007, 1,045 were committed to the District or Supreme Court for trial or sentence. This was 7.8% lower than the 1,134 cases committed in 2006, but 41.7% lower than the 1,791 committals recorded in 1992 when legislative changes were introduced to ensure that matters were heard at the lowest, most appropriate jurisdictional level.
- The proportion of cases finalised during the year that were committed for trial or sentence was 3.1% which was comparable to the 3.5% recorded in 2006.
- As expected, the percentage of cases committed to a higher court for trial or sentence in 2007 varied considerably according to the seriousness of the major charge. For example, 47.7% of all *robbery and extortion* cases had this outcome (compared with 45.6% in 2006), as did 33.7% of cases involving *sexual offences* (compared with 40.1% in 2006). In contrast, only 0.3% of *larceny and receiving* and 0.8% of cases involving *property damage* resulted in a committal to the District or Supreme Court, as did 1.1% of *offences against good order* cases.
- It should also be noted that in 37 of the 1,045 cases which, in 2007, 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 very similar to the figure of 60.7% recorded in 2006. As in previous years, however, the likelihood of conviction varied depending on the nature of the major charge - from 12.4% of cases involving *sexual offences* to 89.0% 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 offences *against good order* (65.5%), *fraud and misappropriation* (65.3%), *other offences* (61.9%) and *property damage and environmental* (50.4%) as the major charge.
- In 4,140 cases (12.3% of the total), there was a finding of guilt for the major charge but no conviction was recorded. Thirteen cases resulted in an acquittal for the major charge while in 103 cases an outcome of 'not guilty: mentally incompetent' was recorded. In one fifth of cases (20.8%) the major charge was either withdrawn (3,980) or dismissed (3,027). In a further 6 cases, the major charge was withdrawn after completion of the mental health diversion program. As with 37 of the 1,044 cases referred to the higher court for trial or sentence, in 1,071 (15.0%) of the 7,129 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', there was a finding of guilt to a lesser or other charge.
- In total then, of the 32,634 cases that were finalised in the Magistrates Court (excluding those committed to a higher court) in 2007, 25,630 (78.5%) resulted in a finding of guilt to at least one charge. In a further 34 cases some other outcome (such as the death of the defendant) was recorded, while in 949 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* (51.4% of all cases within this category), *offences against the person, excluding sexual offences* (45.6%), *sexual offences* (44.7%) and *serious criminal trespass* (42.3%), but was comparatively low for *driving offences* (10.2%), and *offences against good order* (11.4%).
- In relation to those cases where the major charge was dismissed or withdrawn, the proportion that resulted in a finding of guilt to a lesser or other charge also varied depending on the nature of the major charge. For example, of the 492 cases where the major charge dismissed or

- Of the 1,108 applications for *restraining, domestic violence*⁶ or *paedophile restraining orders* finalised in 2007, 677 (61.1%) resulted in the issuance of that order, 222 (20.0%) were varied, while 195 (17.6%) were either revoked or cancelled, withdrawn, dismissed or refused (see Table 2.13a in Section 2 of this report).

Penalties

- Tables 2.14 to 2.25 in Section 2 of this report detail the major penalty imposed for the most serious charge per case for which there was a finding of guilt. It should be stressed that these tables do not include all penalties imposed per case. For example, in cases where several charges are proved, each charge may receive a different penalty. One charge may receive a fine, while another in that same case may result in imprisonment. Only the most serious (in this example, the imprisonment) is counted here. The same applies to cases in which there is a finding of guilt to only one charge but that charge attracts multiple penalties (such as a community service order and a driver's licence disqualification). Again, for the purposes of these tables, only the most serious penalty (in this case, a community service order) is counted. In effect then, the data detail the single, most serious penalty imposed in those cases where there was a finding of guilt to at least one charge.
- In 2007, there were 25,630 cases finalised in the Magistrates Court that resulted in a finding of guilt to at least one charge. As shown in Figure 14, a fine was listed as the most serious penalty in 28.3% of these cases, followed by a driver's licence suspension (28.2% of cases). Only 3.9% of cases resulted in direct imprisonment, while 10.6% received suspended imprisonment. In a further 2.5% of cases, the major penalty imposed was a community service order, while 12.2% received a good behaviour bond. In 12.0% of cases, no penalty was imposed. In 2007, there were only 23 cases (0.1% of the total) where a restraining order constituted the major penalty.

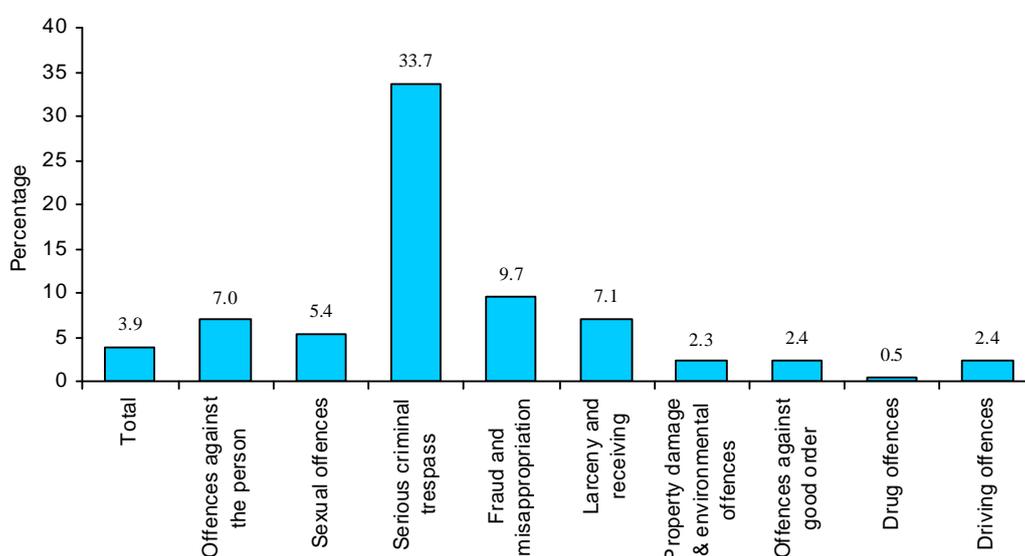
Figure 14 Major penalty imposed for the most serious charge proved per case: 2007



⁶ In South Australia the *Intervention Orders (Prevention of Abuse) Bill 2009* has been assented to but yet to be proclaimed. This Act will broaden the definition of abuse and the relationships that are covered by the term 'domestic abuse'.

- The number of cases resulting in imprisonment was higher in 2007 than 2006 (1,006 compared with 823 respectively), but the average length of the prison term was slightly lower in 2007 than in the previous year (30 weeks compared with 33 respectively).
- The likelihood of a prison term varied depending on the nature of the major charge for which a finding of guilt was recorded. As Figure 15 indicates, persons found guilty of the major charge of *serious criminal trespass* were proportionately more likely to receive imprisonment than those charged with other offences. Of the 463 cases finalised in 2007 in which the major charge proved was *serious criminal trespass*, 33.7% resulted in imprisonment. This was followed by cases involving *fraud and misappropriation* as the most serious charge proved (with 9.7% of cases resulting in prison), *larceny and receiving* (7.1%), *offences against the person, excluding sexual offences* (7.0%), and *sexual offences* (with 5.4% ending in imprisonment). In contrast, only 2.4% of cases involving *property damage and environmental offences* and 0.5% 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, 2007: proportion of cases within each major charge category resulting in imprisonment

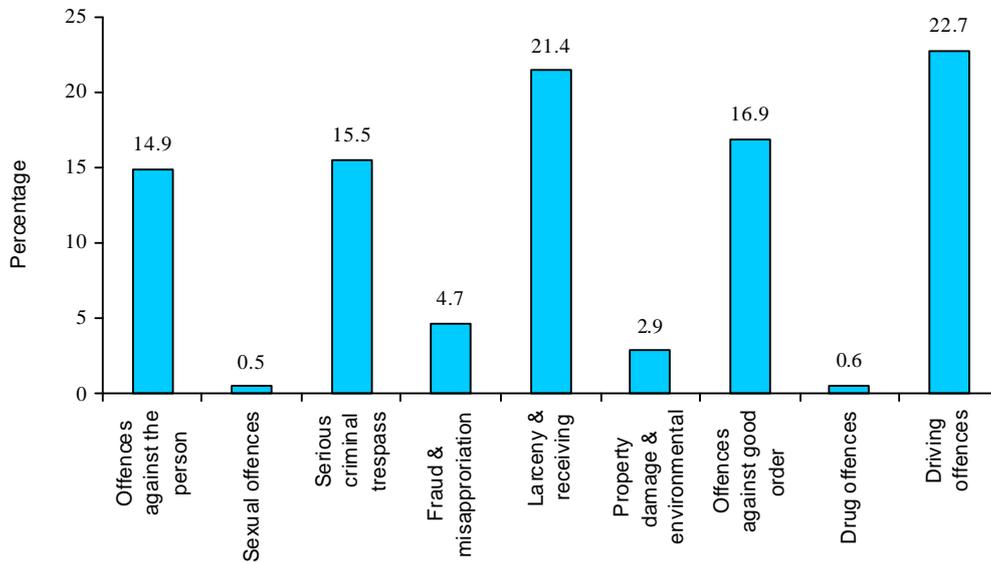


The *robbery and extortion* and *other offences* categories have been omitted because there were no cases finalised in the Magistrates Court in 2007 where this was the major charge found guilty. Most robbery cases were committed to the higher court for trial or sentencing.

- 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 1,006 cases that actually resulted in imprisonment, and identifies the proportion of all imprisonments accounted for by the different offence types. As shown, *driving offences* and *larceny and receiving* accounted for the largest proportion of imprisonments (22.7% and 21.4% respectively). This was followed by *offences against good order* (16.9%), *serious criminal trespass offences* (15.5%), and *offences against the person, excluding sexual offences* (14.9%). In contrast, *drug offences* and *sexual 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 (104 out of 218 in 2007 compared with none of the 10,512 *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 convicted, 2007



The *robbery and extortion* and *other offences* categories have been omitted because there were no cases finalised in the Magistrates Court in 2007 where this was the major charge found guilty. Most robbery cases were committed to the higher court for trial or sentencing.

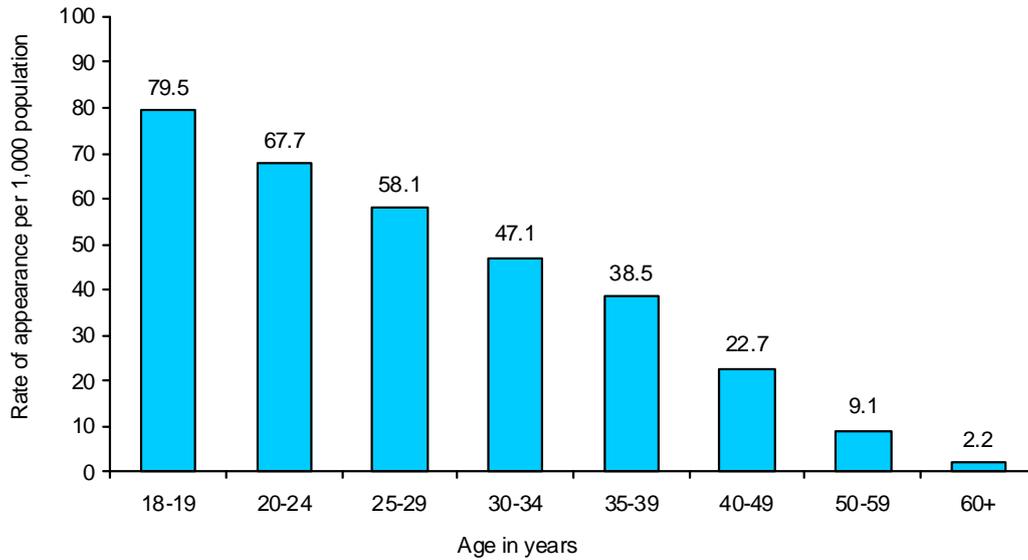
- The average length of imprisonment was highest for those cases where the major charge proved was a *serious criminal trespass* offence (average imprisonment of 84 weeks compared with 93 weeks in 2006) followed by *sexual offences* (72 weeks in 2007). Even though the number of *fraud and misappropriation* cases that resulted in imprisonment was small (47), the average length of imprisonment in these situations was relatively high (35 weeks), with a maximum of 156 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 81.8% of all such cases. Over three quarters (76.4%) of cases involving an *other offence* also resulted in a fine. At the other end of the scale, fines were the major penalty imposed in only 8.8% of *fraud and misappropriation* matters and 1.5% of *serious criminal trespass* cases. Overall, the average amount of fine imposed was \$291 while the maximum was \$20,000 (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 2007, a total of 4,899 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 4.6% lower than the 5,136 convictions recorded in 2006.
- For offenders who had at least one previous drink driving conviction in the last five years the figure was 9.2% higher, with 936 convictions in 2007 compared with 857 convictions in 2006.
- 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 (98.8%) but also to those with a prior PCA conviction (97.0%). However, for those with a prior record, the average fine was higher than for those with no priors (\$863 compared with \$623 respectively).
- As was the case in 2006, a high proportion in both groups also received a licence disqualification (98.1% of those with no priors and 96.3% 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 7.0 months licence disqualification compared with 16.0 months for those with a prior PCA conviction.

Background of defendants

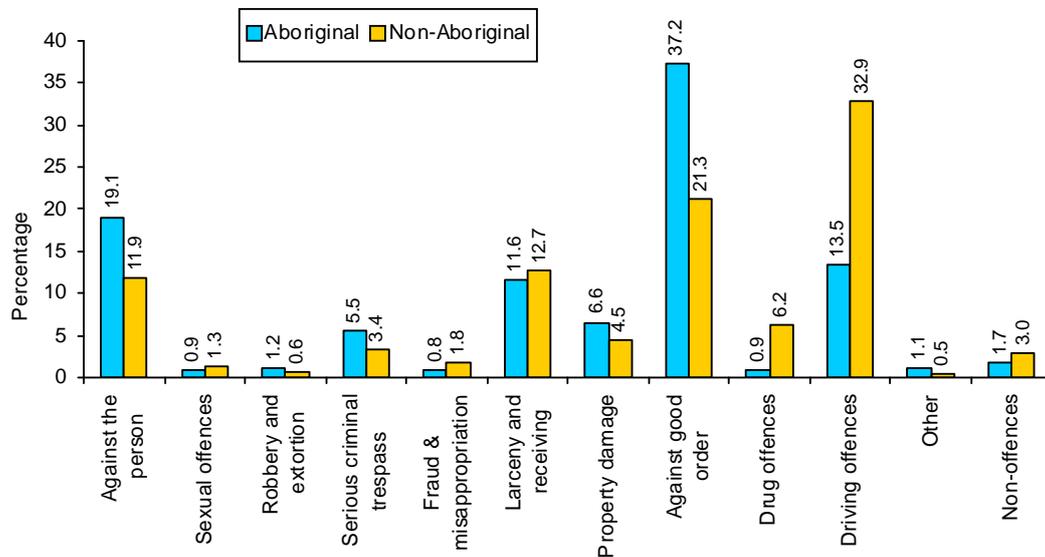
- Males accounted for the overwhelming majority (81.4%) of defendants in the 33,618 cases finalised in 2007 where information on the sex of the defendant was available. As in previous years, the level of female participation varied depending on the major charge involved. Of those cases where relevant information was recorded, female defendants accounted for only 1.9% in which *sexual offences* constituted the most serious charge, while at the other end of the scale, this group accounted for 39.5% and 32.3% 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 2007 where information on age was available. Another 10.2% were 18 or 19 years of age, while a further 27.1% fell within the 30 to 39 year age bracket. Very few cases (7.9%) involved older defendants aged 50 years and over.
- The actual rate of appearance per age group is depicted in Figure 17. This shows that as age increased, so the likelihood of coming before the Magistrates Court decreased. To illustrate, the rate of appearance for those aged 18 and 19 was 79.5 per 1,000 age specific population, but this dropped to 2.2 per 1,000 for those aged 60 years and over. The average age of all defendants was 32.0 years, although this varied from 37.8 years for cases involving *sexual offences* to 26.0 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 32.4 years compared with 31.8 years respectively.

Figure 17 Cases finalised in the Magistrates Court, 2007: rate per 1,000 age specific adult population.



- Table 2.29 in Section 2 of this report details the Aboriginal appearance of defendants involved in cases finalised in 2007. In interpreting the information presented here, it should be stressed that Aboriginal 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 2007, Aboriginal defendants appeared before the Magistrates Court at a rate of 273.36 per 1,000 adult Aboriginal persons in the population. This is more than 10 times greater than the rate of 25.23 per 1,000 adult population recorded for persons of non-Aboriginal appearance.
- The absolute number of Aboriginal cases dealt with in 2007 was higher than that recorded in 2006 (3,961 compared with 3,703 respectively). Similarly, the rate of appearance per 1,000 Aboriginal adult population increased (273.36 per 1,000 adult population in 2007 compared with 255.6 in 2006).
- 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, 2007: Aboriginal 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 2007. As was the case in 2006, seven out of 10 defendants (73.0%) for whom such information was available had at least one previous conviction, with an average of 15.3 prior convictions per defendant⁷. The proportion of defendants with prior convictions was highest amongst those charged with *driving offences* (with 90.3% having at least one prior conviction), followed by *fraud and misappropriation* (87.8% with priors). Those charged with *serious criminal trespass* or *robbery and extortion* had the highest average number of prior convictions (32.9 and 25.3 per defendant, respectively).
- Even for those offence categories at the other end of the spectrum, the proportion of defendants with prior convictions was still relatively high. The proportion with a prior conviction was lowest for cases involving *serious criminal trespass* (58.7%), *robbery and extortion* (68.3%) and *larceny and receiving* (76.6%). Those charged with *driving offences* and *sexual offences* had the lowest average number of prior convictions (8.8 and 9.9 per defendant, respectively).
- One in six cases (18.1%) finalised in the Magistrates Court in 2007 involved defendants who had previously been sentenced to a period of imprisonment. This figure varied, however, from 41.3% of defendants involved in cases where *serious criminal trespass* was the major charge to 9.7% of cases involving *driving offences*.
- Table 2.31 in Section 2 of this report details the bail status of the defendant at the time of his/her final court appearance. In the majority of cases (58.0%), bail was not required. In other words, the defendant was not subject to any conditions imposed by the court. In a further 33.3% of cases, the defendant was on bail at the time of the final appearance, while in 8.8% of cases the defendant was in custody. However, the proportion in custody varied depending on the number of court hearings required to finalise the case. Of the 10,351 cases where the matter was dealt with at the first hearing, no defendants were held in custody at the time. This

⁷ 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 2,700 (or 12.2%) of the 22,176 defendants whose cases took two or more hearings to finalise, and 241 (or 23.1%) of the 1,043 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 (33.0%) had legal representation. This rose to over three quarters (78.2%) of those whose cases took more than one hearing to finalise and 95.9% of those who were committed to a higher court for trial or sentence. However, some caution should be exercised when using these figures because of the relatively high proportion of cases (23.1%) where information relating to legal representation was missing.
- As indicated in Table 2.33 in Section 2 of this report, relatively few defendants (693 or 2.1%) in the 33,679 cases actually finalised in the Magistrates Court pleaded 'not guilty' to the major charge at their final appearance. By contrast, of the 1,045 cases committed for trial or sentence to a higher court, over three quarters (79.6%) were pleading 'not guilty' at the time of their committal.

1.2 Supreme and District Courts

This section includes all finalised criminal cases before the Supreme and District Courts. In most instances a magistrate or other justice will have committed the defendant for trial or sentence after a committal hearing, although in a few cases the Director of Public Prosecutions⁸ will have committed the defendant *ex-officio*⁹.

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'¹⁰. 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 finalised¹¹ 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 2007, there were 1,250 cases finalised in the Supreme and District Courts. This was 104 (9.1%) higher than the 1,146 cases finalised in 2006. The number of cases finalised in the District Court increased by 134, while the number finalised in the Supreme Court decreased by 30.
- Table 1 and Figure 19 show trends in the number of cases handled by the two jurisdictions since 1988 and 1986 respectively. 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, despite decreases in 2004 and 2005, numbers in the District Court have generally increased since 2001. The 2007 figure of 1,190 was 12.7% higher than that recorded in 2006.
- 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 and 2006, when 74 cases and 90 cases respectively - the highest since 1998 - were recorded. A decrease to 60 cases was recorded in 2007.

⁸ 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.

⁹ 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.

¹⁰ The classifications of offences as felonies or misdemeanours were abolished in 1994.

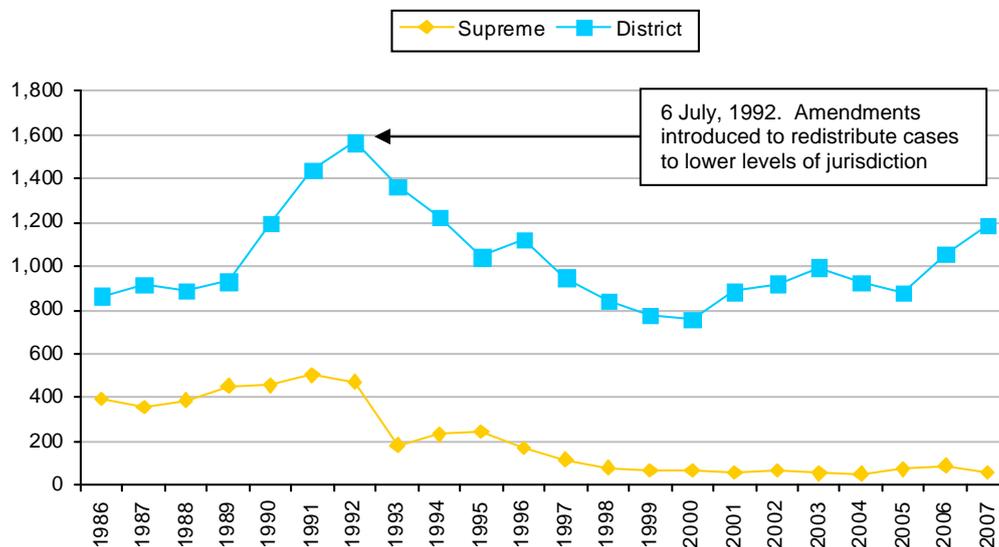
¹¹ See Appendix A for the rules employed for determining when a case is finalised and whether it is eligible for counting.

Table 1 Trends in the number of cases finalised by the Supreme and District Courts, 1988 to 2007 calendar years.

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997*
Supreme	389	453	457	504	473	182	232	247	171	118
District	891	932	1,199	1,439	1,566	1,366	1,224	1,044	1,122	949
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Supreme	81	67	67	60	67	56	52	74	90	60
District	840	774	759	884	921	996	924	879	1,056	1,190

* 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.

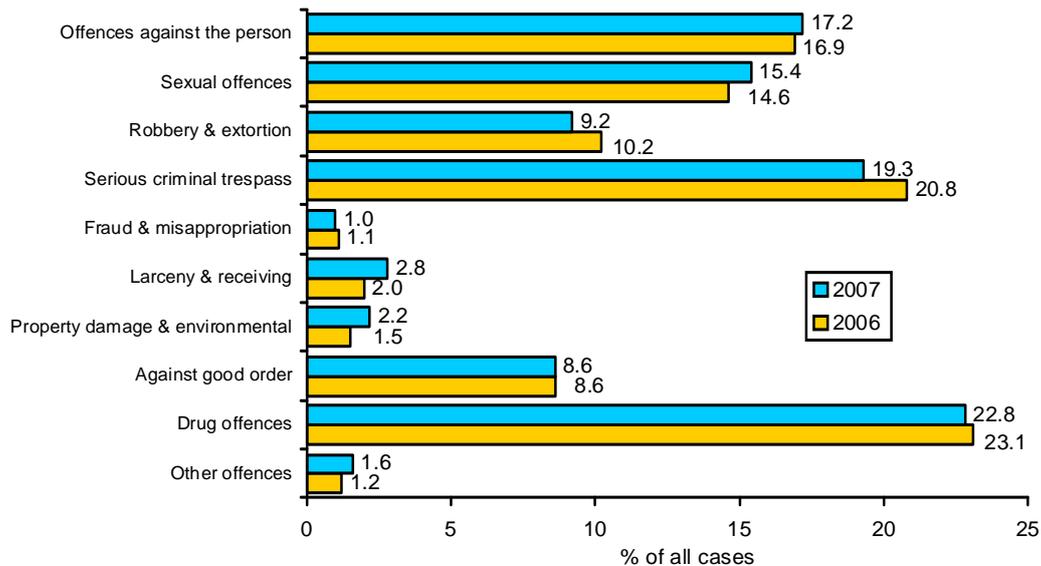
Figure 19 Trends in the number of cases finalised by the Supreme and District Courts by calendar year, 1986 to 2007.



Major charge per finalised case

- As Figure 20 indicates, in 2007 *drug offences* were the most prominent, being listed as the major charge in almost one quarter of cases. These were followed by *serious criminal trespass* (listed as the major charge in 19.3% of cases) and *offences against the person* (17.2% of cases). This profile was generally similar to that recorded in 2006.

Figure 20 Type of offence listed as the major charge for cases finalised in the Supreme and District Courts, 2006 and 2007



Outcomes

- The main outcomes for cases finalised in 2007 are summarised in Table 2. As in previous years, in more than six out of ten cases (62.2%) the defendant pleaded *guilty* to either the major or a lesser charge without the matter going to trial. In a further 11.6% of cases, a trial was held which resulted in either a guilty plea or finding of guilt. Overall then, 73.8% of all cases resulted in one or more of the charges within the case having an outcome of *guilty*.
- In 17.2% of cases the Office of the Director of Public Prosecutions dropped the major charge and no other charge had an outcome of *guilty*.
- Although not included in Table 2, in 1.0% of cases the defendant was found not guilty due to mental incompetence, while 0.6% of cases had some other outcome.
- Outcome types vary according to the type of major charge. For example, 76.8% of defendants involved in cases with a major charge of *drug offences* entered a guilty plea while 8.4% 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 41.7% of these cases the defendant entered a guilty plea without the matter proceeding to trial, while in a further 16.7% the defendant was found guilty or admitted guilt at trial.

Table 2 Principal outcome type by major charge, Supreme and District Courts, 2007.

Offence group	Guilty plea – no trial* %	Guilty at trial** %	Acquitted %	All charges dropped*** %
Offences against the person (exc. sexual)	52.6	19.5	4.7	19.5
Sexual offences	41.7	16.7	15.6	21.4
Robbery and extortion	64.3	13.0	1.7	13.9
Serious criminal trespass	63.5	11.2	6.2	15.8
Offences against good order	74.8	0.9	0.9	21.5
Drug offences	76.8	8.4	1.8	11.2
Total	62.2	11.6	5.3	17.2

* 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:

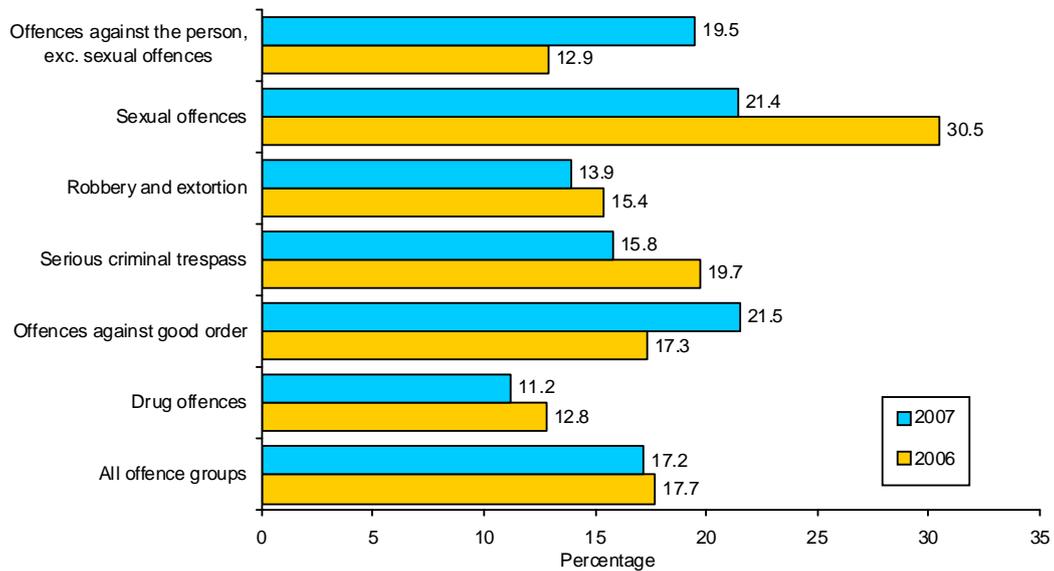
- ‘other outcome’ (e.g. defendant died, case struck out, permanently stayed etc),
- not guilty on the grounds of mental incompetence and
- major charge was dropped and a plea of *guilty* to another charge was accepted in satisfaction of the dropped charge (‘Major charge dropped – Guilty of other offence’).

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.*

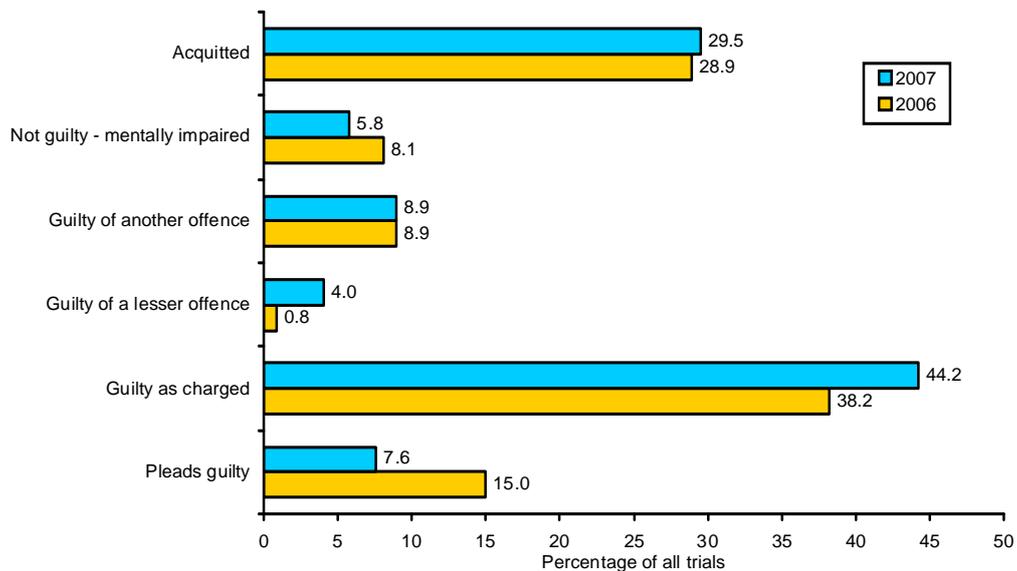
- Figure 21 shows the percentage of cases in 2006 and 2007 where all charges were dropped by the DPP. Overall, a slightly lower proportion of cases were dropped in 2007 than in 2006 (17.2% compared with 17.7% respectively).
- However, there were considerable differences between offence categories in the percentage of cases with this outcome. In 2007, 21.4% of *sexual offence* cases were dropped, compared with 11.2% of cases where the major charge was a *drug offence*. The comparable figures for 2006 were 30.5% and 12.8% respectively.
- There were 224 cases that went to trial in 2007 (17.9% of all finalised cases) compared with 246 in 2006 (21.5%).
- Figure 22 provides a breakdown of the outcomes for cases that went to trial in these two years. In comparison to 2006, in 2007 a higher proportion of defendants were found guilty as charged (44.2% in 2007 compared with 38.2% in 2006), or were acquitted (29.5% compared with 28.9% in 2006). There was a significant decrease in the amount of defendants who entered a guilty plea at trial in 2007 (7.6%) compared with 2006 (15.0%).

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, 2006 and 2007.



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.*

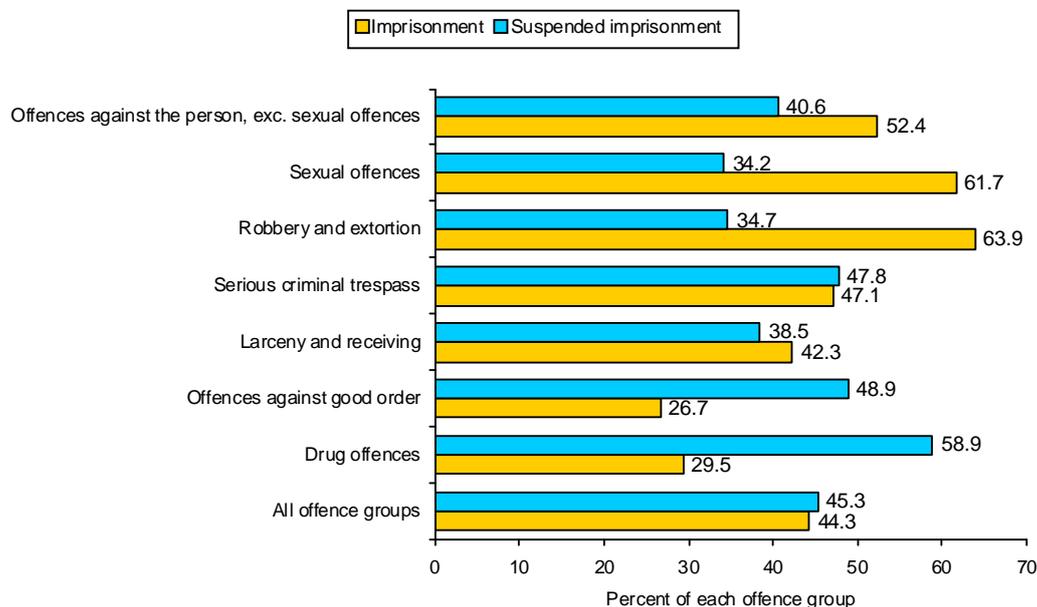
Figure 22 Outcome for the major charge for cases in which there was a trial, Supreme and District Courts, 2006 and 2007.



Penalties

- Overall, 948 cases (75.8% of all cases) resulted in at least one guilty outcome during 2007. For these cases, the most common penalties were suspended imprisonment and immediate imprisonment which were imposed in 45.3% and 44.3% respectively of the cases that had an outcome of guilty.
- Non-custodial penalties (such as fines, driving licence suspensions, bonds, community service orders, etc.) accounted for the remaining 10.4%.
- The average length of imprisonment imposed was just under four years (46.5 months, excluding sentences of life imprisonment). The average non-parole period set was just over 2.5 years (31.7 months)¹².
- Life imprisonment was imposed in 10 cases, all for murder. Apart from sentences of life imprisonment, the longest sentences imposed for the major charge (as distinct from the aggregate or head sentence, which may be made up of sentences for a range of other offences) were nine sentences of 15 years or more, given in three cases involving a *sexual offence*, five for *robbery and extortion* and one for *serious criminal trespass*. In an additional 12 cases the defendants received imprisonments of between ten and fifteen years.
- The proportion of cases resulting in immediate imprisonment varied depending upon the major charge found guilty. Figure 23 shows that the offence group with the highest percentage of defendants imprisoned was *robbery and extortion* at 63.9%, followed by *sexual offences* at 61.7%. In comparison, only 26.7% of those with an *offence against good order* and 29.5% of persons with a *drug offence* received immediate imprisonment.

Figure 23 Percentage of cases within each offence group receiving suspended imprisonment or imprisonment, Supreme and District Courts, 2007



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

¹² 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 1988. 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. This particularly low figure could be due to the fact that there were three cases where the non-parole periods had not been set at the time of data extraction. This downward trend was reversed in 2003 and 2004, with the 2004 figure of 286.7 months the highest recorded since 1991. However, the trend was not sustained, with decreases in 2005, 2006 and 2007. The 2007 average of 173.3 months was the lowest recorded in this time period. 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, 1988 to 2007

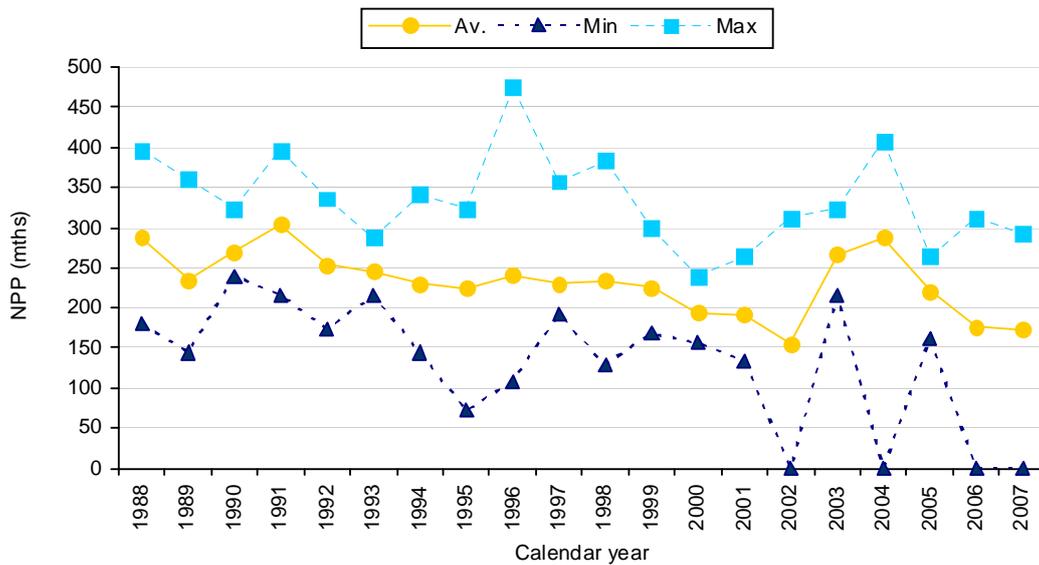


Table 3 Trend in non-parole period (in months) for life sentences for murder, 1988 to 2007.

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Av.	288.0	234.6	270.0	303.3	253.7	246.0	230.2	224.7	240.5	230.1
Median	288.0	204.0	258.0	300.0	246.0	240.0	222.0	234.0	228.0	210.0
Min	180.0	144.0	240.0	216.0	173.0	216.0	144.0	72.0	108.0	192.0
Max	396.0	360.0	324.0	396.0	336.0	288.0	342.0	324.0	474.0	357.0
No.	2	7	4	11	12(2)	4	11	11	13	10

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Av.	233.8	225.6	193.3	191.9	155.3	267.0	286.7	220.8	176.6	173.3
Median	240.0	216.0	192.0	216.0	180.0	264.0	300.0	216.0	169.0	210.0
Min	129.0	168.0	156.0	133.0	0	216.0	0	162.0	0	0
Max	384.0	300.0	240.0	264.0	312.0	324.0	408.0	264.0	312.0	292.0
No.	12	5	9	7	11	4	9	13	16	10

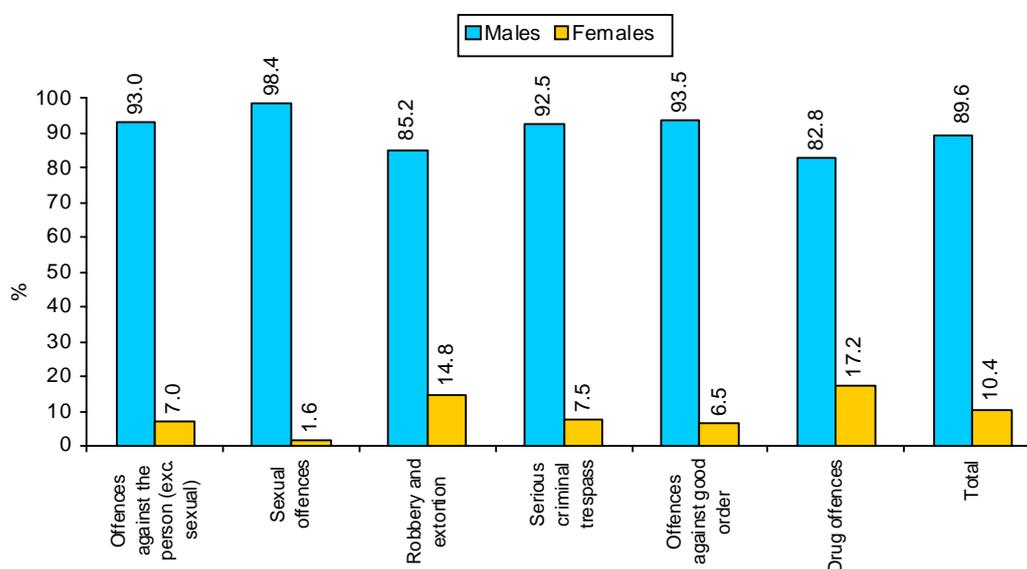
Notes:

- 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.

Background of defendants

- Where the sex of the defendants was known, the majority of cases finalised in the higher courts in 2007 involved males (89.6%). The average age of male and female defendants was 31.6 years for males and 32.0 years for females. Twelve defendants (10 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 189 males and only three female defendants. The offence category with the highest proportion of females was *drug offences* (17.2%).

Figure 25 Percentages of males and females per major offence charged, Supreme and District Courts, 2007



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 150 defendants whose appearance was assessed by police at the time of apprehension to be Aboriginal. They made up 12.2% of those for whom information on Aboriginal appearance was available. The number of defendants of Aboriginal appearance represented a rate of 10.35 per 1,000 adult Aboriginal population, whilst the corresponding figure for those of non-Aboriginal appearance was 0.97 (based on the 2006 Census figures).
- There were differences in the offence profiles of the two groups. For example, *serious criminal trespass* was listed as the major charge in 32.0% of Aboriginal appearances compared to 17.8% of non-Aboriginal appearances. In contrast, *drug offences* featured as the major charge in a much smaller proportion of Aboriginal cases than non-Aboriginal cases (4.0% versus 25.8% respectively).
- In 2007, 17.8% of higher court defendants had no prior convictions, which was slightly lower than the 19.5% recorded in the previous year. At the other end of the spectrum, 14.7% had 50 or more prior convictions.

- On average, defendants had 22.4 prior convictions. The average varied depending upon the offence group, with defendants charged with *fraud and misappropriation* having the lowest average number of priors (4.7). In comparison, persons with a major charge of *larceny and receiving* had an average of 37.2 prior convictions.
- Almost one third of defendants (32.3%) had been imprisoned at some point in their past. Again, the proportion varied depending upon the major offence charged, with only 15.4% of persons with a major charge of *fraud and misappropriation* having been imprisoned before compared with 45.7% of persons with a major charge of *larceny and receiving*.
- For those cases where relevant information was available, over two thirds of the defendants (73.0%) 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 (88.7%), only 50.4% of defendants charged with *robbery and extortion* were on bail.
- Overall, 50.4% 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 (71.9%). The groups with the lowest percentage of *guilty* pleas were those involving *fraud and misappropriation* (23.1%) and *property damages* (29.6%).
- Overall, 28.0% 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 one in January to a peak of 10 cases in March 2007, with an average of five per month. In contrast, the District Court completed an average of 99 cases per month, with the lowest number of finalisations occurring in January (51 cases) and the highest number in August (130 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 2007;
- prison discharges; and
- community corrections, including the types of supervision orders commenced and the types completed during 2007.

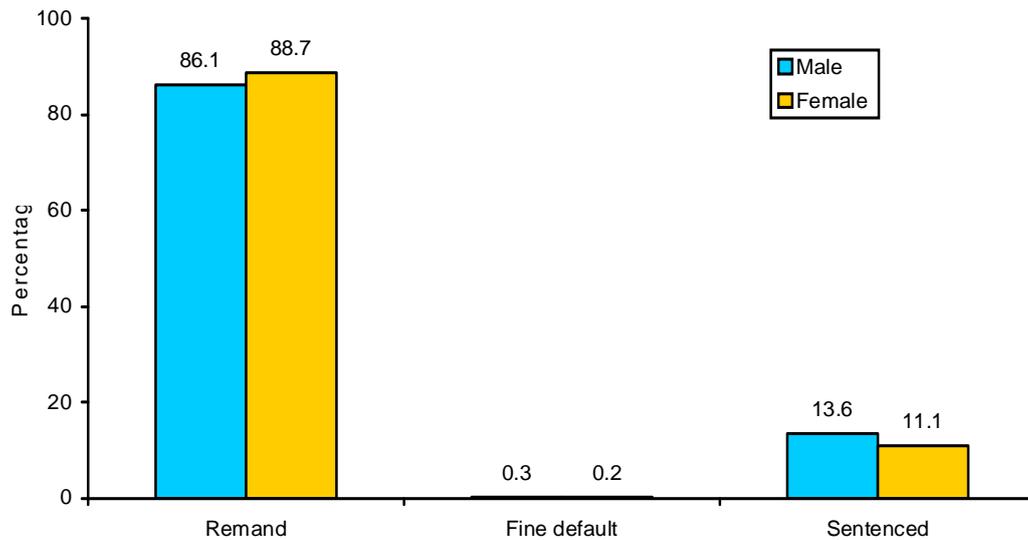
The number of tables relating to prisons and community correction orders administered by the Department for Correctional Services was increased and their content enhanced in the 1996 and again in the 1997 *Crime and Justice* reports. The changes made in those years and incorporated in all subsequent reports mean that caution must be exercised when comparing the 2007 data with that contained in reports produced prior to 1996.

Imprisonment

Prison receptions

- In 2007, there were 3,893 prison receptions. This figure was higher (by 10.4%) than the 3,525 recorded in 2006, but well below the peak of 7,618 recorded in 1992.
- Where legal status was known, 13.3% of receptions involved sentenced prisoners, 0.3% were fine defaulters and 86.4% were on remand. When compared with the previous year, a comparable proportion of prison receptions involved remandees (86.4% in 2007 compared with 88.2% in 2006) and sentenced prisoners (13.3% compared with 11.5% in 2006).
- 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 11 in 2006 and 2007. 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 2007.
- The overwhelming majority of receptions in 2007 involved males (87.6%), and there was little variation in this percentage across the three categories of receptions (87.1% for remandees, 89.6% for sentenced prisoners and 10 of the 11 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 (86.1% and 88.7% respectively).

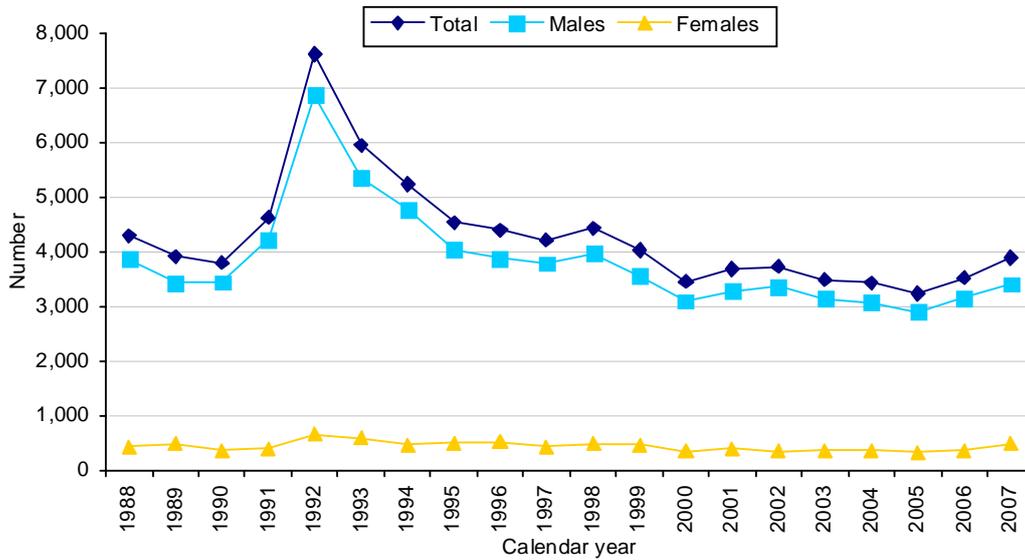
Figure 26 Prison receptions: legal status of prisoner by sex, 2007



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

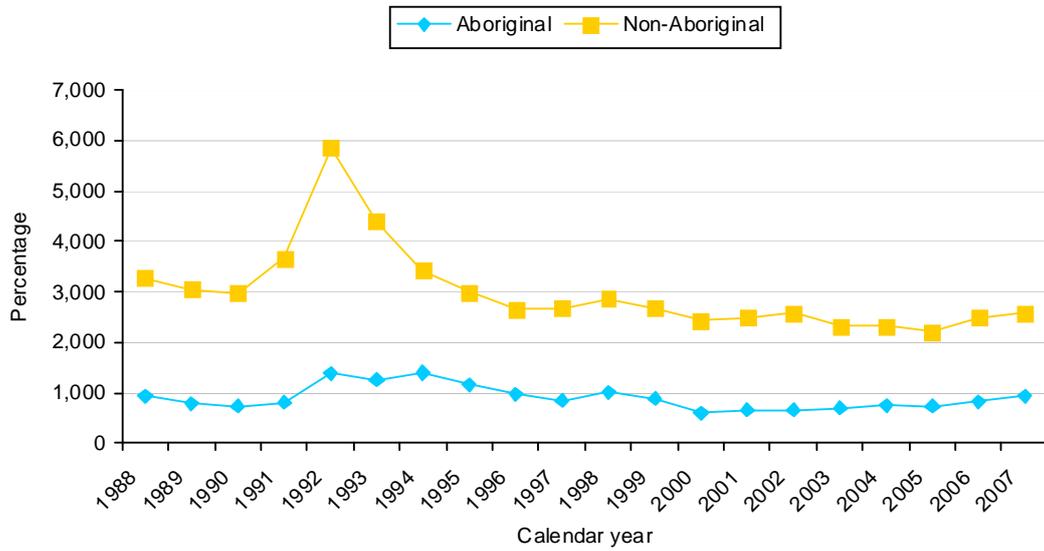
- As shown in Figure 27, there was a strong upward trend in the total number of receptions from 1990 to 1992, followed by a general decrease. Despite a 10.4% increase in 2007, the number of receptions in 2007 was still 48.9% lower than the 1992 peak of 7,618.
- The trend in male receptions mirrors that observed for total receptions, increasing by 7.9% in 2007 after an 8.7% increase in 2006. However the 3,408 male admissions recorded in 2007 was 50.4% lower than the peak of 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. Although the 2007 figure of 484 is 32.2% higher than in 2006 (n=366) it is still 27.1% lower than that recorded in 1992 (664).
- The increase in male receptions in 2007 was evident for both sentenced prisoners and remandees, with the number of sentenced prisoners rising by 23.3% (from 369 in 2006 to 455 in 2007) and remandees rising by 4.4% (from 2,754 in 2006 to 2,876 in 2007). In contrast, the number of male fine defaulter receptions remained stable at 10 in 2006 and 2007.
- The increase in female receptions in 2007 was due to increases in the number of remand receptions (up by 33.3% from 318 in 2006 to 424 in 2007). The number of sentenced female receptions increased by 20 (from 33 in 2006 to 53 in 2007).

Figure 27 Trends in the number of male and female prison receptions, 1988 to 2007



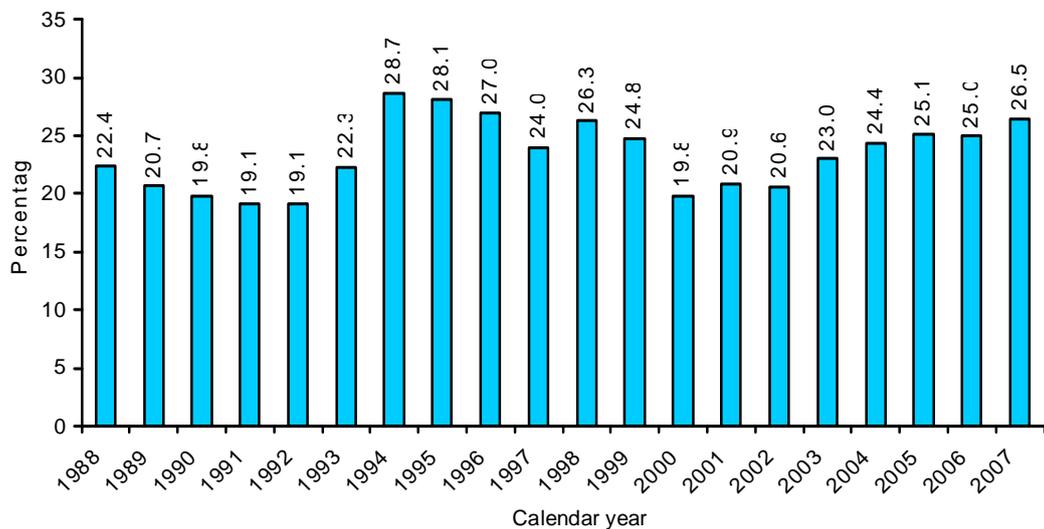
- For those 3,892 receptions where age was known, just under six out of ten (58.1%) were aged between 20 and 34 years. This included 20.4% aged 20 to 24, 19.4% aged 25 to 29 and 18.3% aged between 30 to 34 years. Those in the older age groups (50 years and over) accounted for only 5.1% of all receptions, including 5.2% of male receptions compared with 4.3% of female receptions.
- In 2007, persons identified as Aboriginal constituted 26.5% of the 3,510 prison receptions where information on Aboriginal identity was recorded. This figure varied slightly, however, depending on the person's legal status. Persons identified as Aboriginal constituted 27.8% of the 2,963 remandees for whom Aboriginal identity was recorded, compared to 18.7% 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. Since 2000 the number of Aboriginal admissions has steadily increased (with the exception of a 1.6% decrease in 2005). Despite this general increase, the number of Aboriginal admissions recorded in 2007 was 33.3% 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, but with a slight increase recorded in 2007 (by 3.0% from 2,504 in 2006 to 2,579 in 2007).

Figure 28 Trends in the number of Aboriginal and non-Aboriginal prison receptions, 1988 to 2007.



- Figure 29 shows that the number of Aboriginal receptions as a percentage of all receptions where Aboriginal identity was known has increased over the last seven years, rising from 19.8% in 2000 to 26.5% in 2007. 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 2007

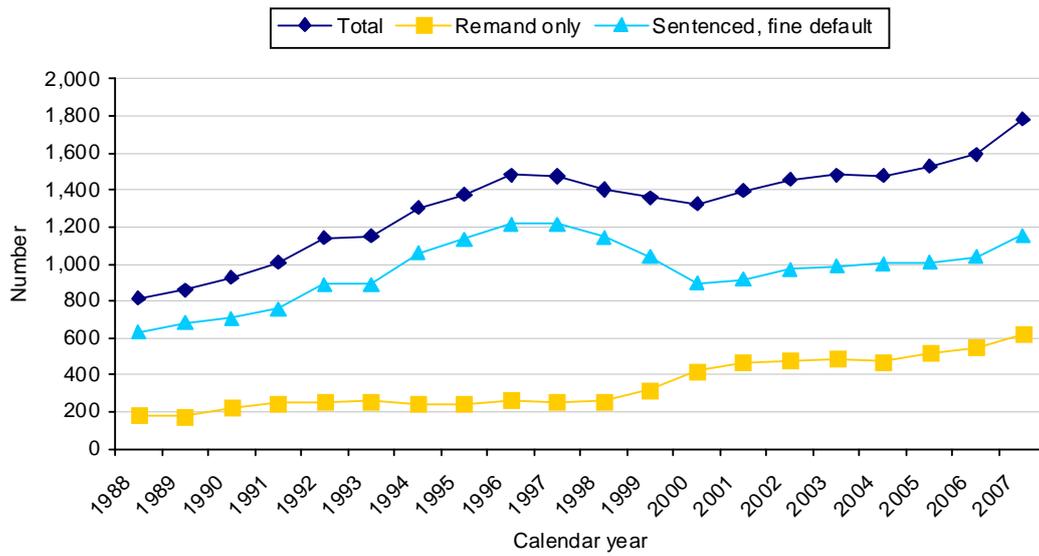


- Overall, the age profiles of the two groups were relatively similar, with a large percentage of both Aboriginal and non-Aboriginal receptions (41.2% and 38.4% respectively) involving persons aged between 20 and 29 years, and relatively few (1.7% and 6.3% respectively) aged 50 years and over.

Daily averages

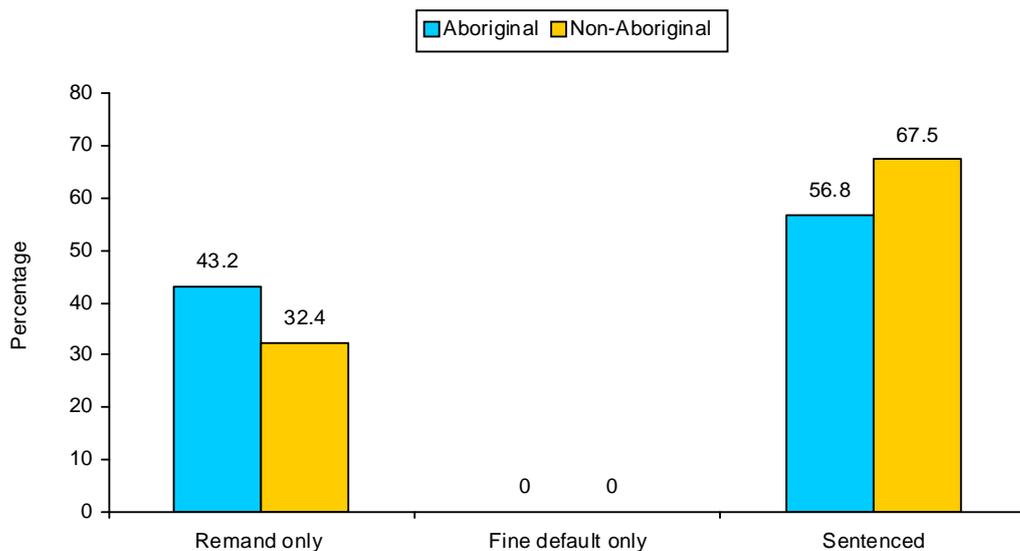
- While reception-based information provides a useful insight into new custodial admissions, it tells us little about the number and profile of people actually held in prison at any given time. Two measures can be used for this purpose: daily averages (ie. the average number of persons held in prison 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 2007 are detailed in Tables 4.10 to 4.15.
- On average, on each day in 2007, there were 1,780 prisoners held in the State's prisons and adult remand centres. Of those for whom information on legal status was recorded, the majority (1,157 or 65.2%) were serving a prison sentence imposed by the courts, while 618 (34.8%) 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 2007 average daily occupancy higher than that recorded in 2006 (increasing by 11.6% to 1,780) and 34.7% higher than in 2000. In fact, the 2007 figure is the highest recorded over the 20 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 2007 (618) was 12.6% higher than that recorded in 2006, 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 2007, remandees constituted 34.8% of the total daily average compared with 17.2% in 1997.

Figure 30 Daily averages by legal status: 1988 to 2007



- In 2007 males accounted for 93.3% of the daily average, with a rate of 2.75 per 1,000 adult male population compared with only 0.19 per 1,000 adult female population.
- On average, 383 Aboriginal persons were held in custody each day in 2007, which represents 21.5% of the 1,778 for whom Aboriginal identity was recorded. As shown in Figure 31, sentenced prisoners accounted for the majority of both Aboriginal and non-Aboriginal persons, although on average during 2007 a lower proportion of Aboriginal persons were serving a custodial sentence (56.8% compared with 67.5% of non-Aboriginal persons) while a higher proportion were on remand (43.2% compared with 32.4%). As a result, for those cases where legal status and Aboriginal identity were recorded, Aboriginal persons accounted for 26.8% of the daily average number of remand prisoners but a slightly lower 18.8% of sentenced prisoners.

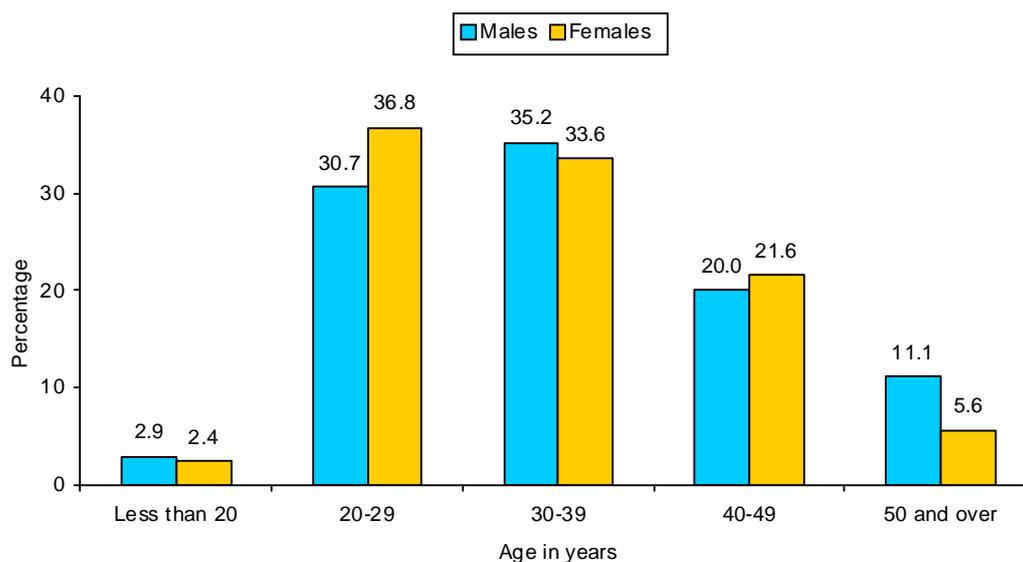
Figure 31 Daily averages: legal status by Aboriginal identity, 2007



Census figures

- At midnight on 31 December 2007, there were 1,825 prisoners in custody. This figure was 11.6% higher than the daily average recorded for 2006 (n=1,635) 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 2007 remandees accounted for 33.0% of those for whom information on legal status was recorded, while two-thirds (67.0%) were sentenced prisoners.
- The majority of persons held in custody on 31 December 2007 were male (93.2%). For every 1,000 adult males in the South Australian population, 2.82 were in custody on that particular day compared with only 0.20 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 (31.2%) of those held in custody on 31 December 2007 for whom age was recorded. A further 35.1% were aged 30 to 39 years. Only a small proportion (10.8%) were 50 years of age and over. This age profile was generally similar for both males and females although, as Figure 32 indicates, a higher proportion of females were in the 20 – 29 years and 40 - 49 years age group, while a lower proportion were aged 50 years or more.

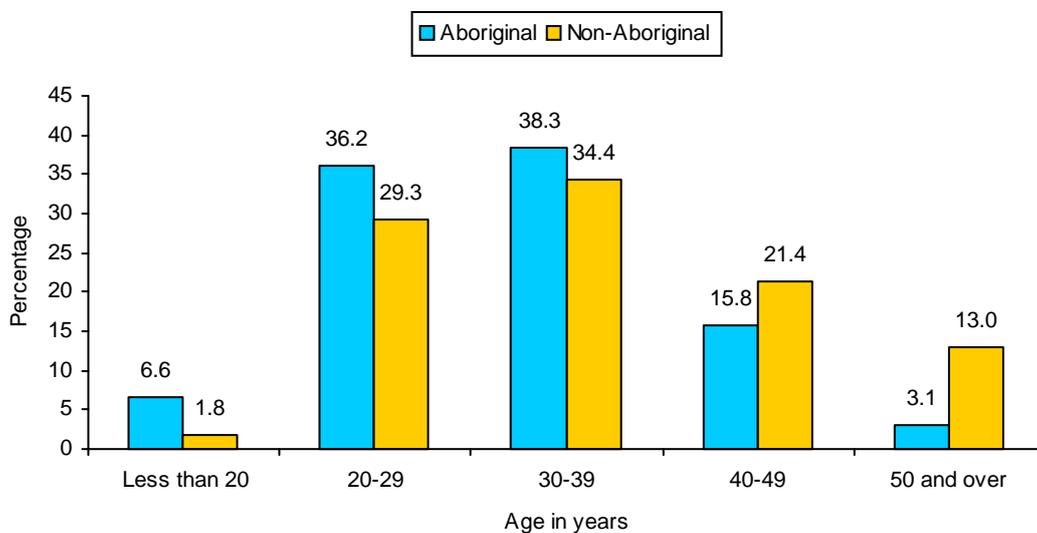
Figure 32 Persons in custody on 31 December 2007: age by sex



- Aboriginal persons accounted for 22.1% of the 1,774 persons in custody on 31 December 2007 for whom Aboriginal identity was recorded. This was slightly higher than the previous year, when they represented 19.1% of all persons incarcerated on 31 December 2006.
- There were similar proportions of Aboriginal males and females in custody on 31 December 2007 (excluding those cases where Aboriginal identity was not recorded, 21.9% and 24.6% respectively). This is similar to 2006, where Aboriginal males accounted for 19.0% of all males in custody on that day and Aboriginal females accounted for 20.0%. Despite the similar figures, males still dominated both groups, accounting for 92.6% of all Aboriginal prisoners and 93.6% of all non-Aboriginal prisoners in custody on 31 December 2007.

- Given that, at the time of the 2006 census Aboriginal and Torres Strait Islander males and females represented only 1.27% and 1.41% of the State's adult male and female populations respectively (where Aboriginality was known), then the extent of imprisonment of Aboriginal women was 17.4 times greater than expected given their population size, while the extent of imprisonment of Aboriginal males was 17.2 times higher than expected.
- The age profiles of the two 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 2007, 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 (81.1% compared with 65.5% respectively) and a lower proportion aged 40 years and over (18.9% compared with 34.5% respectively).

Figure 33 Persons in custody on 31 December 2007: age by Aboriginal identity



Escapes from custody

- In 2007, five prisoners escaped from a custodial institution, and there was one escape while the prisoner was on leave. The institutional escapes in 2007 were from the Cadell Training Centre (3) and Port Lincoln Prison (2).
- The overall escape rate recorded in 2007 was 0.6 per 100 prisoners, the same as 2006.

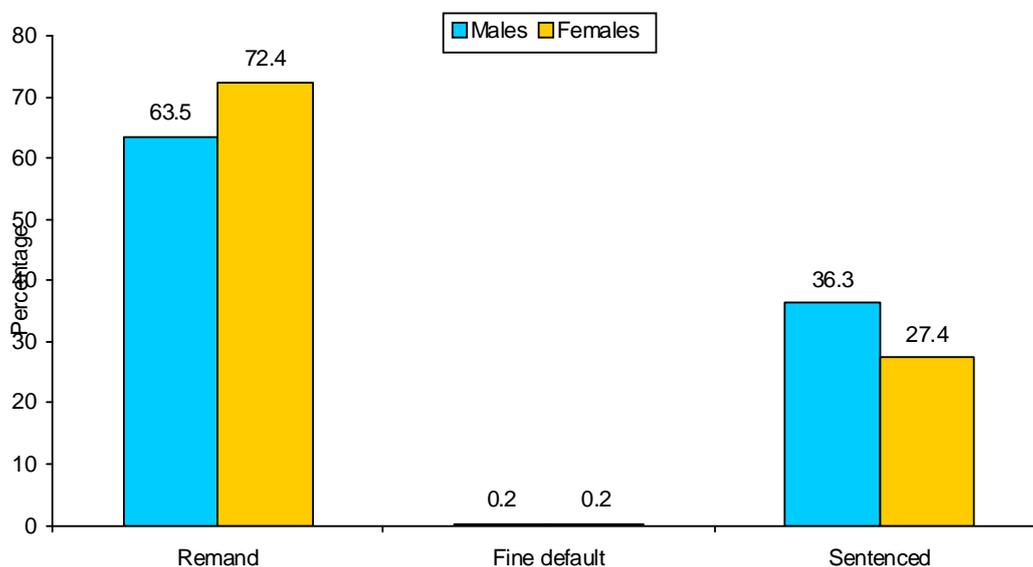
Prison discharges

- In 2007, there were 3,707 persons¹³ discharged from custody, the majority of whom were males (87.3% of the total).
- Of the 3,692 persons discharged in 2007 where legal status was recorded, just over one third (1,297 or 35.1%) were serving a prison sentence at the time of their release. A further 2,386 (64.6%) were discharged from remand and nine (0.2%) were discharged after having 'cut out' a fine.

¹³ 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.

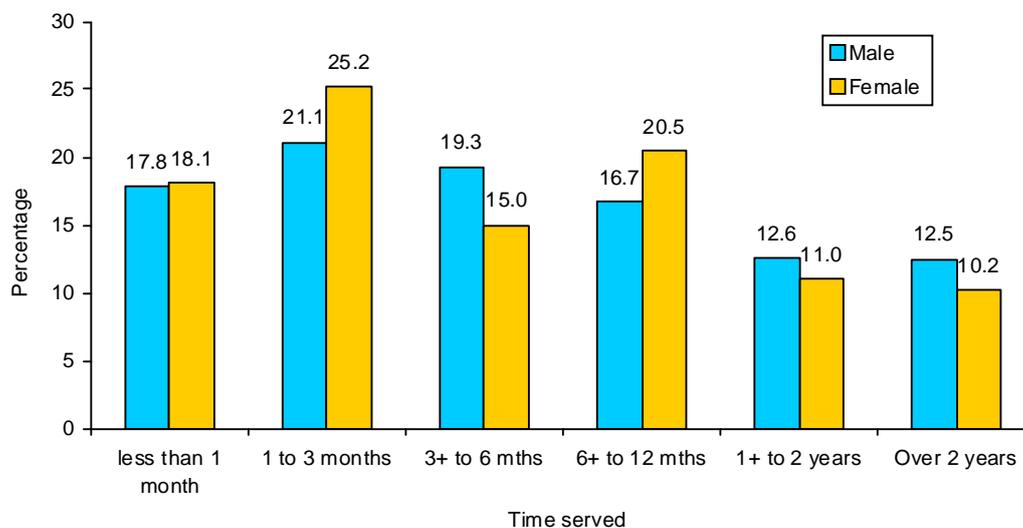
- As shown in Figure 34, there were some differences between males and females in the person's legal status at the time of discharge. The proportion discharged from remand was higher for females than males, while a lower proportion were identified as sentenced prisoners.

Figure 34 Prison discharges: legal status by sex, 2007



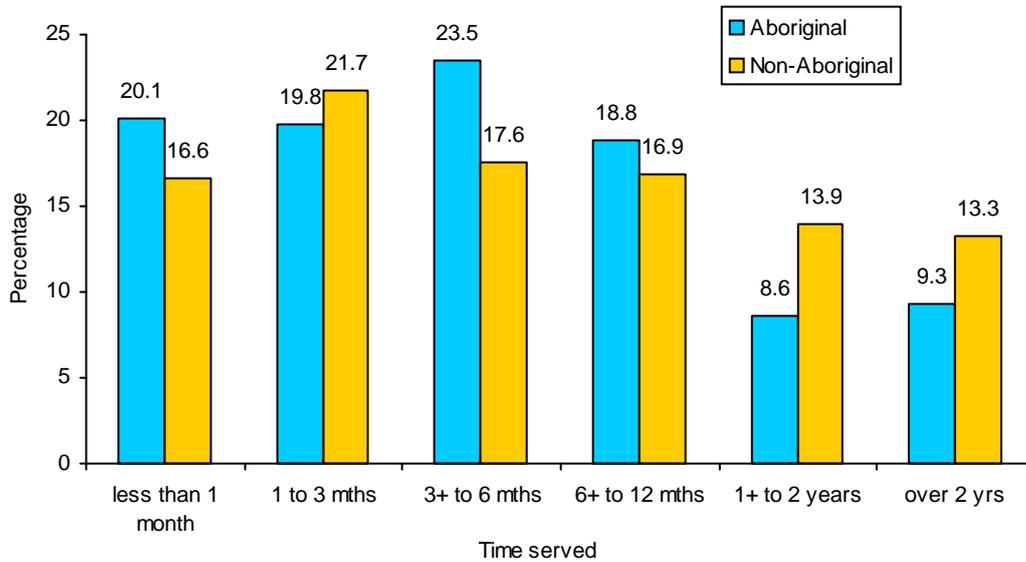
- As would be expected given the earlier data presented on prison receptions and census figures, of those persons discharged from custody for whom age was recorded, almost two in five (39.1%) were aged 20 to 29 years while only 5.3% were aged 50 years and over.
- Of the 3,454 discharges where Aboriginal identity was recorded, one quarter (25.3%) were identified as Aboriginal. More specifically, for those cases where relevant information was available, this group accounted for 25.1% of all discharges from remand and 25.8% 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, these tables have been deleted.
- Of the 1,297 sentenced prisoners discharged in 2007, the majority were imprisoned for relatively short periods of time. More specifically, 17.8% spent less than one month in prison, while 39.2% were in prison for three months or less and 58.1% were there for six months or less. At the other end of the scale, relatively few spent long terms in prison, with only 3.1% incarcerated for more than five years.
- As shown in Figure 35, compared with females, a higher proportion of males served more than two years, while a lower proportion had served between six months and one year at the time of their discharge.

Figure 35 Prison discharges: time served by sex of sentenced prisoners, 2007.



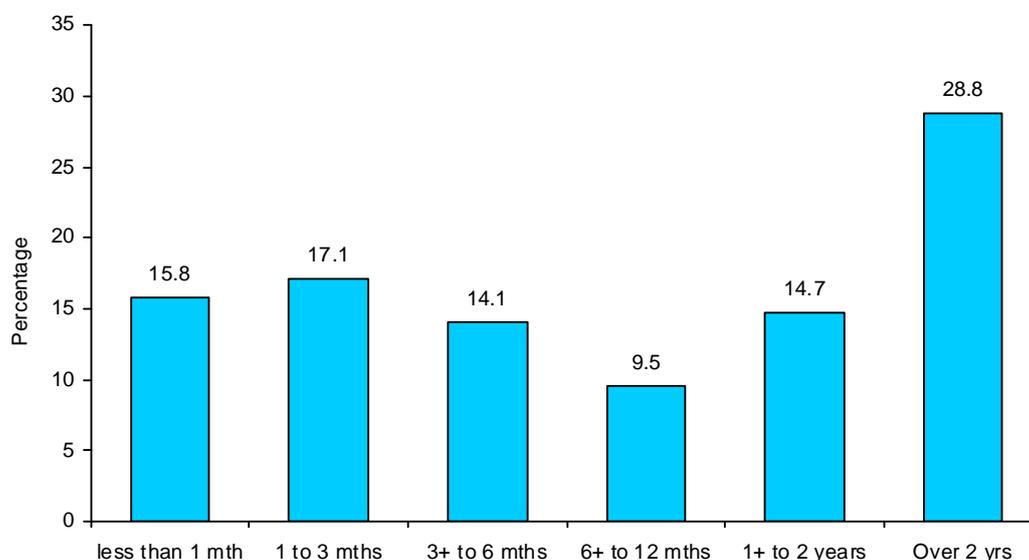
- The most common offence types for which sentenced prisoners were being held at the time of their discharge were *offences against justice procedures*, which were listed as the major offence in 34.6% of all discharges where the type of offence was recorded. This category was followed by *licence/registration offences* (12.8%), *serious criminal trespass* (10.8%), *assault* (7.9%) 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 165 discharges involving a *licence/registration* offence, over one third (35.8%) involved periods of less than one month while only 1.2% served one year or more. At the other end of the scale, of the 140 discharges involving a *serious criminal trespass* offence, only 3.6% had served less than three months, while 52.1% 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* (46 or 3.6% of those discharged where the type of offence was recorded), almost two thirds of these (n=31) involved terms of more than two years while none involved a period of less than three months.
- There were also some differences between male and female sentenced prisoners in relation to the major offence for which they were being held at the time of discharge. Most notably, a much higher proportion of female discharges involved *fraud* (18.4% compared with 5.7% of male discharges where this information was recorded).
- Figure 36 compares the time served by Aboriginal and non-Aboriginal sentenced prisoners at the point of discharge. In general, a higher percentage of Aboriginal prisoners than non-Aboriginal prisoners served short orders of one to six months (43.2% compared with 39.4% respectively), while a lower proportion served longer orders of over one year (17.9% compared with 27.2% respectively).

Figure 36 Prison discharges: time served by Aboriginal identity of sentenced prisoners, 2007



- There were also some differences between the two 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* (43.0% and 31.6% of Aboriginal and non-Aboriginal discharges respectively), a higher proportion of Aboriginal sentenced prisoners were being held for *assault* (12.1% compared with 6.6% of non-Aboriginal sentenced prisoners), while a lower proportion were held for *fraud* (3.1% compared with 8.2% respectively) and *deal/traffic drugs* (none compared with 3.8% 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 2007. 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, more than half (56.5%) of prisoners discharged in 2007 received an aggregate or head sentence of 12 months or less, and so were not eligible for parole. In contrast, 14.7% received a head sentence of over one year to two years, while a further 28.8% received a head sentence of more than two years. A small number (20 of the 1,295 discharges recorded in 2007 where this information was known) had a head sentence of over 10 years, including three sentenced to life imprisonment.

Figure 37 Prison discharges: length of aggregate (or head) sentence for sentenced prisoners, 2007



Community-based Corrections

Orders¹⁴ commenced during 2007

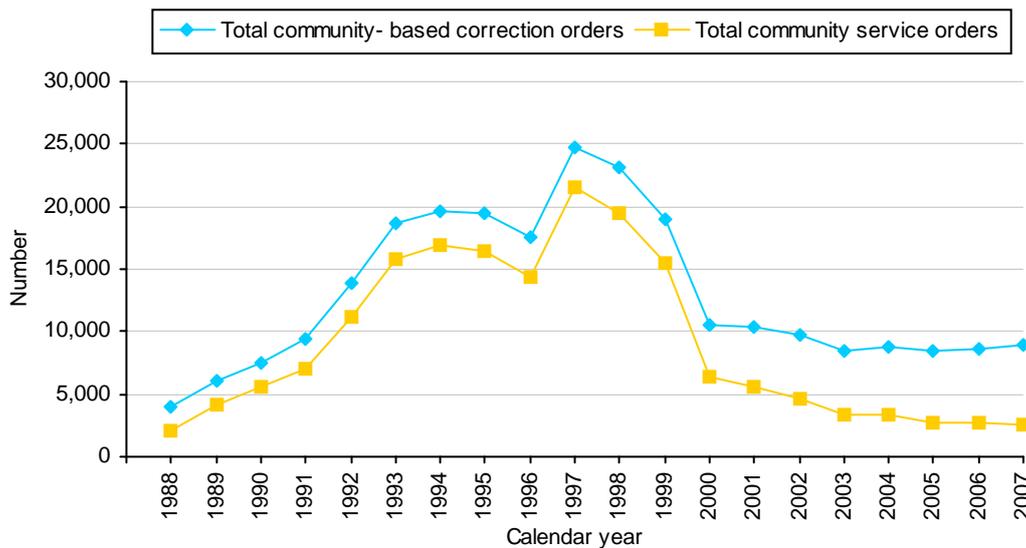
- Tables 4.26 to 4.32 in Section 4 of this report contain data on community correction orders supervised by the Department for Correctional Services.
- During 2007, a total of 8,901 community-based correction orders were commenced. Just over one quarter (28.2%) of these orders involved some form of community work. This included stand-alone community service orders (19.4%), as well as instances where a financial penalty was expiated through community service (8.8%). At the other end of the scale, only 11.4% of orders involved home detention, generally as part of a bail agreement (9.3%) or for sentenced prisoners released from gaol (2.0%). There were only four orders involving a home detention bond in 2007¹⁵.
- The 8,901 community-based correction orders commenced in 2007 involved 6,852 discrete individuals, giving an average of 1.30 orders per individual. The total number of individuals who commenced a community-based correction order in 2007 was 1.7% higher than that recorded in 2006 (6,740), but still 56.5% lower than the 15,738 persons recorded in 1999. This decrease is largely due to the abolition in 2000 of community service orders (expiation notice) and community service orders as fine option orders.
- Males accounted for 81.1% of those discrete individuals for whom sex was recorded and 81.7% of all orders commenced where relevant data were available. Aboriginal offenders accounted for 19.1% of orders and 18.3% of discrete individuals where Aboriginality was recorded.

¹⁴ For convenience, the term 'order' is applied to post-prison home detention supervision, even though this is not an order of the court.

¹⁵ 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 defendants ill health, disability or frailty, it would be unduly harsh for the offender to serve time in prison. In suspending that sentence, the defendant is required to enter into a good behaviour bond, which, in these circumstances, may include a home detention condition.

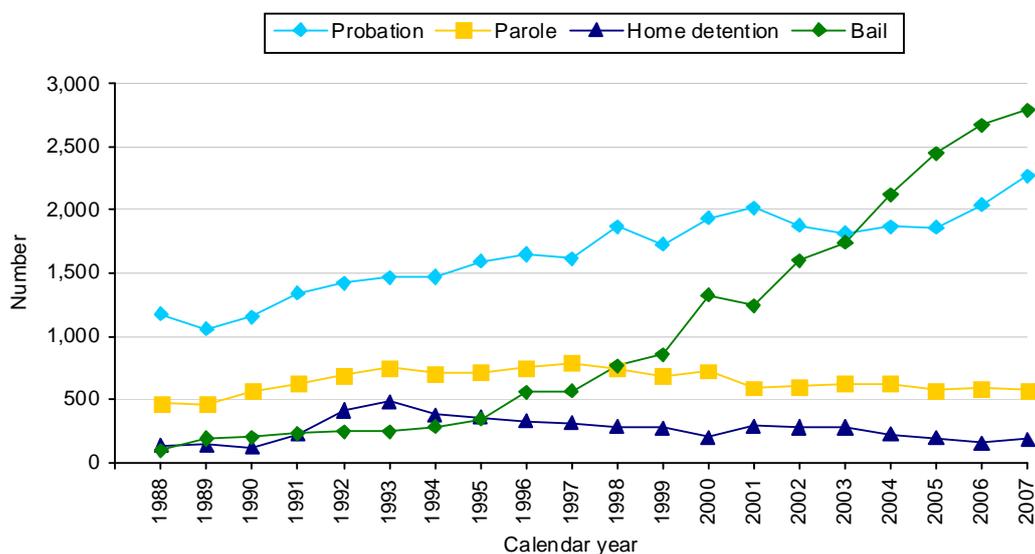
- The longitudinal trend in the total number of community-based correction orders is outlined in Figure 38. As shown, the number of orders commenced in a given year increased substantially between 1988 and 1997 before a substantial decline in the 1998 to 2000 period. This decrease continued to 2003, although at a more moderate rate, before stabilising in 2004. Overall, the 8,901 orders commenced in 2007 was 64.1% 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 2007



- Also shown in Figure 38 is the total number of community service orders commenced between 1988 and 2007. This includes ‘stand alone’ community service orders, community service orders (fine option) and community service orders 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 community service orders falling at a faster rate than total community-based orders. As a result, in 2007 community service orders 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 83.7% from 15,401 in 1999 to 2,506 in 2007.
- Figure 39 shows trends in the number of other types of community-based correction orders commenced between 1988 and 2007. 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 2007



- The number of parole orders showed a general upward trend from 1988 to 1997. Between 1997 and 2001, despite some fluctuation in 2000, they generally declined. The number of parole orders has generally been stable since 2001, with the 2007 figure of 569 being 27.5% below the peak recorded in 1997.
- Probation orders generally increased between 1988 and 2001, declined in 2002 and remained stable to 2005 before increasing in 2006. In 2007, the number of probation orders increased to 2,270 - the highest figure recorded in the period depicted.
- 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. Numbers remained stable between 2001 and 2003 followed by a decline to 2006. The figures reported in 2007 are comparable with those recorded in 2005.
- 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 4.4% rise to 2,789 during 2007.

Persons supervised at 31 December 2007

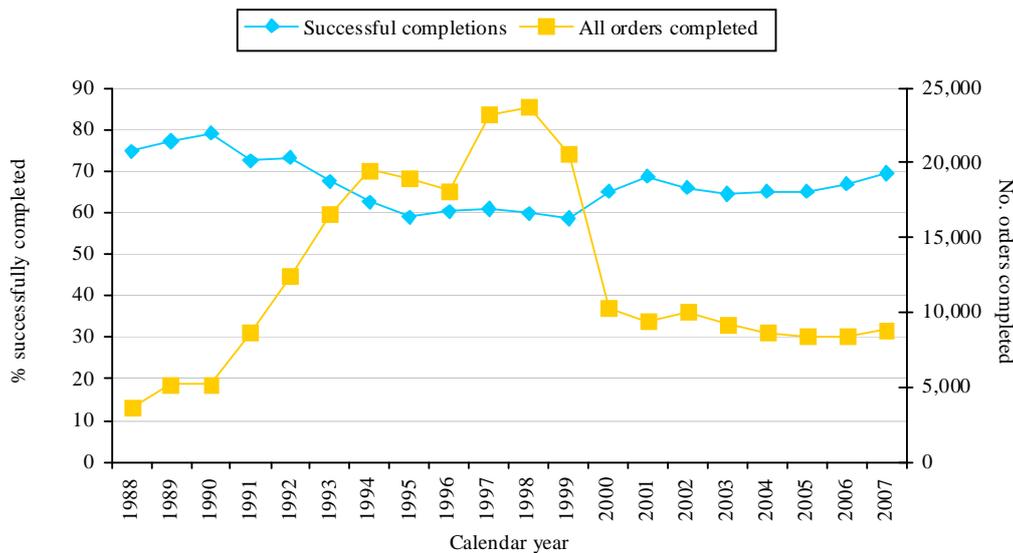
- On the 31 December 2007, the Department for Correctional Services was supervising 5,772 distinct individuals, some of whom were serving more than one type of community-based corrections order.
- The order that recorded the highest caseload on 31 December 2007 was that of probation, with 2,825 probation orders on that day. This equates to 48.9% of all discrete persons under Department for Correctional Services community-based supervision on that particular day.
- There were also 656 individuals (11.4% of all discrete individuals) recorded in the category of *Financial penalty expiated through Community Service* and 878 (15.2%) serving a 'stand alone' community service order.

- At the other end of the scale, only 56 persons (1.0% of all discrete individuals) were sentenced prisoners on home detention while 1,086 (18.8%) were on bail, either with or without a home detention component.
- The total number of persons under supervision on 31 December 2007 (n=5,772) was 9.4% higher than the 5,275 individuals being supervised on 31 December 2006. When the number of individuals serving each type of order are summed, total orders supervised in 2007 was 0.2% lower than in 2006 (6,513 compared with 6,529 respectively).
- In 2007, differences were observed in several categories in comparison with 2006. The number of persons on a community service order at 31 December 2007 was 7.4% lower than in 2006, while the number of sentenced prisoners on home detention (excluding home detention bail and bond) decreased from 61 in 2006 to 56 in 2007.
- Males accounted for 81.0% of all discrete individuals supervised on 31 December 2007 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* (48.8% compared with 42.1% respectively) and *financial penalty expiated through community service* (14.2% compared with 9.1% respectively) while a higher proportion of males than females were on *parole* (14.4% of all male individuals supervised on 31 December 2006 compared with 6.8% of all female individuals).

Orders completed during 2007

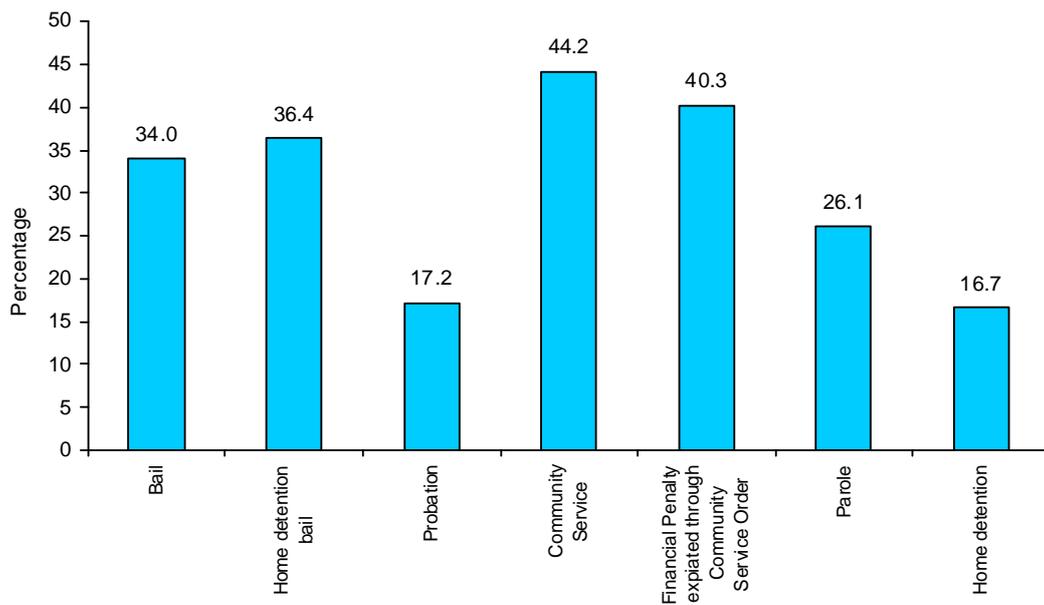
- The number of community-based correction orders completed (either successfully or otherwise) increased by 4.9% in 2007 (from 8,416 in 2006 to 8,826 in 2007). Of these 8,826 orders, the majority (69.5%) were completed successfully, while almost one third (30.4%) were revoked, estreated or breached.

Figure 40 Community-based correction orders completed and the percentage completed successfully, 1988 to 2007



- 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%. Between 2001 and 2005, the number of orders completed declined slightly while the percentage successfully completed remained stable. This trend changed in 2006 and 2007, with the number of orders completed remaining stable, and the percentage successfully completed increasing slightly.
- The extent to which orders were estreated or revoked in 2007 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 (44.2%), followed by orders where a financial penalty was expiated through community service (40.3%) and home detention bail orders (36.4% estreated in 2007).

Figure 41 Community correction orders completed in 2007: 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 2007, 30.0% of orders involving males were estreated or revoked, as were 32.2% of orders involving females.