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# APPENDIX





# YOUNG PEOPLE AND CRIMINAL JUSTICE IN SOUTH AUSTRALIA

## INTRODUCTION

This report provides a statistical overview of all major areas of the South Australian juvenile justice system for the period 1 January 2004 to 31 December 2004. The tables are divided into four key sections: namely, Police Apprehensions, Family Conferences, Youth Court and Juveniles in Custody.

It is important to note that the data presented relate only to those youths apprehended by police and processed by the official criminal justice system. They do not provide an insight into the actual nature or level of youth offending in the community. It is well documented that many offences are never reported to police and of those that are, many are never cleared by way of an apprehension.

It should also be stressed that to interpret these statistical data appropriately, it is necessary to understand the counting rules and definitions used in each section, and to recognise how these vary from one set of tables to another. For example, the counting unit used in the police section is the *apprehension report*, while at the family conference level it is the *case*. Moreover, while the term *case* is also the counting unit used for Youth Court data, the way in which it is defined is different from the way in which the term *case* is defined at the conference level. There are also differences in other areas – such as the method used to determine the major offence and to classify racial identity.

The aim of this Appendix is to clarify and explain the counting rules and definitions used in the statistical tables. It is therefore of critical importance in enabling the reader to interpret and use the data appropriately.

## DEFINITION OF OFFENCE GROUPS

Most serious criminal offences in this State are defined in the *Criminal Law Consolidation Act*, the *Summary Offences Act* and the *Controlled Substances Act*. However, reported crime and offender data in this and other *Crime and Justice* reports are not confined to this legislation. Serious breaches of Commonwealth or State Acts (eg drink-driving contraventions of the *Road Traffic Act*) are also included. Readers requiring detailed information on specific Acts covered by the *Crime and Justice* report are advised to contact the Office of Crime Statistics and Research.

To simplify the presentation of data in the tables included in this report, offences have been grouped into eleven major types (see, for example, Table 2.1). These groups correspond to the JANCO classifications system implemented on the Justice Information System and administered by the Office of Crime Statistics. JANCO is an adaptation of the Australian Bureau of Statistics' ANCO (*Australian National Classification of Offences, 1985*. Catalogue No. 1234.0) classification system. JANCO adheres to the most detailed level of ANCO and extends this to even more detailed levels to highlight items of interest obscured by the generality of ANCO. Tables 2.10 – 2.20 of the Police Statistics section present a very detailed breakdown of these offence categories.

However, space limitations mean that it is not possible to present this degree of specificity in all of the tables. Instead, in a number of the tables (see, for example, Table 2.2) the offence types considered to be of particular relevance to youth offending (*offences against the person (excluding sexual offences), robbery and extortion, larceny and receiving, offences against good order and driving offences*) have been broken down into sub-categories. An explanation of how these sub-categories differ from those of the very detailed Tables 2.10 to 2.20 is as follows.

### ***Offences against the person, excluding sexual offences***

- *Homicide* covers *murder, attempted murder, conspiracy to murder, manslaughter, drive causing death and other homicide.*
- *Serious assault* covers *assault occasioning grievous bodily harm, assault occasioning actual bodily harm, assault with intent, other major assault.*
- *Other assault* covers *common assault, common assault of a family member, other minor assault and assault police.*
- *Offences against the person - miscellaneous* covers *kidnapping and abduction, hijacking, defamation, libel and stalking* together with all remaining offences usually covered under 'other'.

### ***Robbery and extortion***

- *Armed robbery* includes *robbery with a firearm, robbery with other weapon, and robbery – weapon type unknown.*
- *Unarmed robbery and extortion* covers *unarmed robbery with violence, unarmed robbery with no violence and extortion.*

### ***Larceny and receiving***

All the offences usually covered by *other larceny* are here covered by *larceny – miscellaneous* which, in addition, includes the categories of *larceny from the person* and *larceny of livestock*.

### ***Offences against good order***

- *Unlawful possession and/or use of weapons* covers *unlawful possession/use of firearms, unlawful possession/use of bombs and unlawful possession/use of other weapons.*
- *Public order offences - miscellaneous* covers *conspiracy, offences against justice procedures, other weapon offences, pornography and censorship offences, liquor licensing offences, betting and gambling offences, trespassing, consorting, prostitution, found with intent to commit a crime, loitering, urinating/defecating in public and other offences against good order.*

### ***Driving offences***

*Drink driving offences* cover *driving under the influence of alcohol or drugs, exceed prescribed concentration of alcohol, refuse to supply blood sample and refuse breath/alcotest.*

## **POLICE STATISTICS**

The tables in this section cover three separate components:

- police apprehensions of young people in 2004;
- number of discrete individuals apprehended at least once in 2004; and
- formal police cautions.

As noted earlier, in addition to formal cautions, police also have the option to issue an on-the-spot warning to young people. While the *Young Offender's Act* 1993 [S6(3)] specifies that “no official record is to be kept on an informal caution,” police do enter these as ancillary reports for the purpose of intelligence gathering. These ancillary reports can be used to extract information on the number of informal cautions administered, as well as the age and sex of the young people involved. These statistics have, in the past, been published in the Annual Reports of the South Australian Juvenile Justice Advisory Committee. However, they are not included in this report because of some concerns about the accuracy of the data.

### **Police apprehensions Tables 2.1 to 2.23**

These tables provide details on police apprehensions of juveniles, including the major offence alleged, the method of apprehension and the type of action taken.

#### **Counting unit**

The basic counting unit used in these tables is the apprehension report. There could be more than one offence involved in an apprehension report, but not more than one offender. If more than one offender is involved in the criminal incident, each co-offender is counted separately. An apprehension report is a report submitted by a police officer each time a person is arrested or reported for criminal behaviour. It relates to those alleged offences that come to the notice of the apprehending officer at the time of report or arrest. If the apprehending officer is aware that a young person has committed several offences on the same day, ordinarily one apprehension report that incorporates all detected offences will be submitted. Similarly, if a youth has allegedly committed several offences of a like nature over several months and the apprehending officer becomes aware of all of these offences as part of a single investigation, they will all be included in the one report. In contrast, if the same youth is reported or arrested for ‘fresh’ offences after the initial apprehension report has been submitted, another report is lodged, addressing these ‘new’ matters. The two reports would be counted separately in these apprehension-based tables.

#### **Major offence**

The major (or most serious) offence is used to classify the apprehension report. For example, if a youth were apprehended for two assaults and a larceny, in these tables the report would be counted only once, and would be classified as an assault (the major offence).

The major offence alleged is determined by comparing the Maximum Statutory Penalties for each offence and selecting the highest of these. This is the same method used for preparing the juvenile data in the *Crime and Justice* reports for the years since 1996 but is different from that used in 1995 when the major offence alleged was determined, in general, from the offence which has the highest level JANCO code. For more details on the method used for the 1995 data refer to *Crime and Justice in South Australia 1995* or contact the Office of Crime Statistics and Research.

### Larceny offences

In recent years, there has been an improvement in the level of coding for larceny offences. Many matters that previously would have been recorded under *larceny – other* or *larceny-unknown* were, since 2000, correctly listed under *larceny from a motor vehicle*.

### Driving offences

Another aspect which needs to be noted is that, commencing in July 1999, a work practice change within SAPOL affected the recording of apprehensions for selected *driving offences*. Prior to this date, for a range of driving offences (including selected *traffic, motor registration and driving licence* matters) where an arrest was not considered necessary, a Traffic Breach Report was submitted to the Traffic Adjudication Unit within SAPOL. These were entered onto the BEAMS system but not on the Police Apprehensions data base which provides the apprehension data contained in this *Crime and Justice* report. The only offences which were recorded at that stage were those where the alleged perpetrator had been arrested by police and therefore required the completion of an apprehension report.

From July 1999, the Traffic Breach Report documents were discontinued. Henceforth, each incident (whether arrest based or report based) had to go on an Apprehension Report and so was captured on the apprehensions data base.

Because this Juvenile Justice report excludes most of the *traffic, motor registration and driving licence* offences affected by this work practice change, the apprehension data presented for these offence categories are still considered to be generally comparable with that of earlier reports.

The recording practice change also affected the number of *dangerous, reckless and negligent driving offences* entered. These are counted in this Juvenile Justice report. However, advice provided by SAPOL indicates that the resultant impact on these categories was not pronounced because in many instances, these offences occur in association with other offences which have always required an apprehension report and so have always been entered onto the apprehension file. Again, then, comparability between the data since 1999 and that of previous years is expected to be high.

### Criminal Trespass offences (formerly burglary, break and enter offences)

Readers need to note that there have been recent legislative changes which have impacted on the offences previously listed under the category *burglary, break and enter*. The *Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act*, which came into effect on 25<sup>th</sup> December, 1999, replaced *break and enter offences* with *criminal trespass offences*. More specifically, it introduced three new offence categories: *serious criminal trespass – non-residential building* and *serious criminal trespass – places of residence*. The two *serious criminal trespass* offences are further sub-divided into aggravated and non-aggravated, depending on whether an offensive weapon is used or whether there are multiple offenders. A third aggravating factor applies to *serious criminal trespass – place of residence*: namely whether another person is lawfully present in the dwelling at the time of the trespass, and the offender either knows of the other's presence or is reckless about whether another person is in the place (*Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act*; s170 (2)(c)). This criterion was specifically included to 'capture' incidents of home invasion. The legislation also extends the definition of "place of residence" to include not only houses and flats, but any structure in which police consider the victim to be living at the time of the incident, such as a car or caravan.

In 2000, these *criminal trespass offences* and any *break and enter offences* that occurred prior to 25<sup>th</sup> December 1999 were included under the one broad category of *burglary, break and enter*. However, in 2001, to reflect the change in the legislation the category heading has been changed to '*criminal trespass*'. Due to space limitations, most tables do not provide specific information on the various sub-categories of *criminal trespass* offences. Rather, they are included within the broad category of *criminal trespass offences*. However, Table 2.13 provides a detailed breakdown and gives information on the different types of *criminal trespass offences*.

### Drug offences

The Police Illicit Drug Diversion Initiative was implemented in September 2001. The aim of this program was to provide people with the opportunity to address their drug use problems and to bring about a reduction in both the number of illicit drug users in South Australia and the health, criminal and social harms associated with illicit drug use. The Initiative targets illicit drug users early in their involvement in the criminal justice system and diverts eligible offenders into compulsory drug education, assessment and treatment programs. Instead of being formally apprehended, offenders are diverted into one of these options. This means that juveniles who in previous years may have appeared in the apprehension statistics for *drug offences* might now be diverted. Hence, it would be expected that the number of drug related apprehensions for 2002 and onwards would be somewhat lower than in previous years.

### **Matters included/excluded**

A small group of *driving* matters that were included in the data for the first time in 1996 – namely *driving while licence suspended or cancelled* - has been included again this year. Offences relating to traffic matters have been omitted unless they occur in association with other non-traffic offences. Traffic matters involving youths aged 16 years and over by-pass the normal police screening process (i.e. the decision to caution or refer to a conference or the Youth Court) and are directed straight to court. As was the case in 1996, the small group of *offences against a court or court order* has also been excluded from the data as many of these are associated with breaches of court orders such as breach of obligation for an offence that has already been heard in court. These offences were included in the 1994 and 1995 data. The small group of offences covered by the broad category *other offences* have been included since 1996.

The collection period is based on the date of the apprehension report. All apprehension reports with a date of 1 January 2004 to 31 December 2004 (inclusive) are counted in these tables.

### **Age**

Information on age is presented in Tables 2.2, 2.4, 2.5, 2.6 and 2.8. In these tables, age is at the date of the apprehension report.

### **Racial appearance**

In Tables 2.3, 2.4, 2.5, 2.7 and 2.22 the classification of a youth as ‘Aboriginal’ or ‘non-Aboriginal’ is determined by police and records the opinion of the apprehending police officer as to the appearance of the apprehended person. However, it should be noted that for reports since 1999, a procedure not previously applied in this context, but used in other OCSAR reports, was adopted in an attempt to ‘patch’ missing data or to reconcile inconsistencies. More specifically, if an individual was apprehended on more than one occasion during the year 2004, and the racial appearance recorded by police for that individual varied from one apprehension report to another, the racial appearance listed on each apprehension report for that individual during 2004 was extracted and the ‘majority’ opinion regarding that person’s racial background was identified. This value was then assigned to all apprehension reports recorded for that person in 2004.

The same process was used where racial appearance was missing from an apprehension report. If that same person had multiple apprehension reports within the one year, the ‘majority’ opinion regarding racial appearance was ascertained from those apprehensions and assigned to any report where information was missing.

Because of this new process, police apprehensions data since 1999 relating to racial identity are not directly comparable with those of earlier years.

## **Method of apprehension**

Details on the method of apprehension are presented in Tables 2.6, 2.7 and 2.23. Once police officers decide to initiate formal proceedings against an alleged offender they may do so either by effecting an arrest or by filing a report that may later result in a summons. An arrest generally implies that a person is detained by a law enforcement officer and that he or she is taken to a police station. A summons involves the alleged offender being sent a legal document at a date subsequent to the apprehension, detailing the charges and requiring attendance at court at a specified time.

## **Type of action**

Tables 2.8 to 2.23 provide information on the type of action taken once a young person has been apprehended. The options include a formal police caution, referral to a family conference or re-direction to the Youth Court. In a small number of situations, the allegations may be withdrawn.

In the majority of cases the decision regarding the type of action taken is a police decision. In a small number of cases the referral decision is made by the court. This may occur in relation to:

- those youths who are referred to court for not admitting the offence(s) alleged against them and who subsequently plead guilty in court; and
- those youths who, when arrested, are refused police bail because of the circumstances of the offence or the youth.

In both situations, the court may decide to refer the matter back to either a formal police caution or family conference.

In this report, data relating to the type of action taken has not been differentiated according to whether the referring agent was the police or the Youth Court.

In some situations, the matter may end up needing a second or third referral. For example, as outlined in the section on Family Conferences, some young people who are referred to a conference may not actually appear at the scheduled time or if they do attend, may not comply with the undertaking entered into at the conference. In both such situations, the matter would then be referred back to the police, who might refer it to court. In these cases, the apprehension report would first have a referral to a family conference recorded against it and then later a Youth Court referral. The statistics presented in this report detail the final action that has been recorded at the time of the data extract – in the example given here, the action would be ‘referral to the Youth Court’.

When comparing the data for 2001 onwards with that of earlier years, readers should note that during 1999, major organisational changes were introduced into South Australia Police. Prior to this period, the department had 12 to 14 specialist Police Youth Officers whose responsibilities included supervising police decisions regarding diversionary referrals. In addition, these specialist officers participated in family conferences. In 1999, there was a broad rationalisation of South Australia Police, which involved re-organisation into Local Service Areas (LSAs), and combining community policing with juvenile justice. Community Programs Units became responsible for administering and overseeing juvenile justice systems and youth and community programs. The re-organisation meant that in some cases, staff were undertaking specifically juvenile justice tasks for the first time and additional training programs needed to be organised. As might be expected with a new system, it took some time for the new structure to be firmly established and it was not until the end of 2000 that the re-organisation was considered to be working smoothly.



## **Number of individuals apprehended**

### **Table 2.24**

This table details the number of apprehension reports submitted per youth during the report period. The counting unit is therefore the individual young person, not the apprehension report. Thus, a young person who is apprehended on multiple occasions during the report period is counted once only in this table.

## **Formal police cautions**

### **Tables 2.25 to 2.29**

As noted earlier, in dealing with minor offences committed by young people, police may choose to administer a formal police caution. This may entail a verbal warning only, administered in the presence of an appropriate adult. It may also include an undertaking, whereby the youth agrees to fulfil certain conditions such as apologising to the victim, doing community work, paying compensation or any 'other' action considered appropriate.

In the following section, more detailed explanatory notes are provided for specific tables.

#### ***Tables 2.25 and 2.26***

##### ***Proportion of cautions involving an apology/compensation/community work/other condition***

While Tables 2.8 to 2.23 contain statistical information on referrals to formal cautions, Tables 2.25 to 2.26 provide details on the number of cautions actually administered and the type of conditions involved. It should be noted that the number of referrals does not always equate to the number of cautions given. Although most formal cautions deal only with the allegations listed on one apprehension report, in a handful of instances, matters on two or more apprehension reports are finalised by the one formal caution. In 2004, for example, there were 1,802 referrals to a caution which resulted in 1,793 actual cautions. Hence, the number of cautions detailed in Tables 2.25 and 2.26 is slightly lower than that in the earlier tables (Tables 2.8 – 2.23) which reported by apprehension report. Readers should note that this distinction between referrals and actual cautions has been incorporated into each of the reports since 1998. However, this was not the case with the 1997 *Crime and Justice* report. Instead, it was assumed that each referral equated to a distinct caution. As a result, the 2001 data detailed in Tables 2.25 and 2.26 are not directly comparable with those of 1997.

Tables 2.25 and 2.26 provide data on the proportion of all cautions which resulted in an apology, compensation, community work and 'other' conditions. It should be noted that these conditions are not mutually exclusive. For example, the one cautionary undertaking may involve both an apology and a compensation agreement. In these tables, this would result in one entry under 'apology' and one under 'community work'. However, if a caution involved two separate apologies (which may occur if two victims are involved), only one entry would be listed under the 'apology' column. In other words, the focus is on the number of cautions which resulted in an apology, not the total number of apologies agreed to.

#### ***Tables 2.27 and 2.28***

##### ***Formal police cautions where compensation (2.27) or community work (2.28) was agreed to: amount/number of hours agreed to per caution***

These tables focus on those cautions which resulted in agreement to pay compensation or undertake community work, and detail the total amount of compensation and the total number of community work hours agreed to. If a youth, as part of the one caution, agreed to pay one victim \$100 and a second victim \$80, the total amount (\$180) would be recorded in Table 2.27. Similarly, Table 2.28 reports on the total hours agreed to at one caution.

**Table 2.29**

***Formal police cautions where an undertaking was agreed to: undertaking conditions by major offence admitted***

This table uses the same counting rules for conditions as Tables 2.27 and 2.28. The definition used for the major offence is that offence per caution which had the maximum statutory penalty. The classification of a youth as 'Aboriginal' or 'non-Aboriginal' is determined by police and records the opinion of the apprehending police officer as to the appearance of the apprehended person. As outlined earlier, a procedure not previously applied in this context, but used in other OCS reports, was applied in an attempt to 'patch' missing data or to reconcile inconsistencies (see earlier discussion). Again, because of this new process, the 2004 police data relating to racial identify are not directly comparable with those contained in reports prior to 1999.

## **FAMILY CONFERENCES**

The tables in this section cover three separate components:

- case referrals finalised by the Family Conference Team – ie those referrals for which a final outcome was recorded in 2004;
- cases dealt with at a conference in the 2004 reporting period; and
- the actual number of conferences held in 2004.

### **Case referrals finalised by the Family Conference Team Tables 3.1 to 3.3**

These tables detail all case referrals finalised by the Family Conference Team in 2004, irrespective of whether a conference was subsequently held or not. Reasons for a case referral not going to a conference could include a decision not to proceed with the allegation(s), the non-attendance or inability to locate a youth, a refusal to admit the allegations or a request by the youth that the matter be referred to the Youth Court. Such cases are reported under the sub-heading 'Conference not held'. Since 1997 *Crime and Justice* report has included these cases. However, the 1995 and 1996 reports detailed only those cases actually dealt with at a conference.

In addition, these earlier reports did not include cases where a conference was held but the young person did not admit to the allegation. Previously, there was insufficient information to determine if this outcome occurred prior to a conference being held or during the conference itself. However, with improvements in the data available since 1997, it has been possible to differentiate between those non-admissions which occurred prior to, and those which took place at, the conference. Cases which resulted in non-admission at the conference are included under the general heading 'Conference held, not successful'.

Similarly, it has again been possible to identify a small number of cases where a decision not to proceed with the case was made at the conference itself, rather than prior to a conference being scheduled. These cases, which were not included in the 1995 and 1996 reports, are included under the category 'Conference held, case not proceeded with'.

### **Counting unit**

The counting unit used here is not the same as a police apprehension report. If the Family Conference Team receives more than one apprehension report for the same young person at approximately the same time, it may consolidate these into the one case. Nor does the counting unit equate with discrete individuals. A young person may be requested to attend more than one family conference in the reporting period, each relating to a different incident. If so, each will be counted

as a separate case in these tables. Finally, the figures in these tables do not equate with discrete family conferences. If more than one young offender is involved in the same conference, each offender is considered to be a separate case in these tables. For example, if three young offenders attended the same family conference in relation to a particular incident this would be counted as three cases.

### **Major offence**

As with the police-based data, the major offence was defined as that offence per case that had the highest Maximum Statutory Penalty. This is the same method as used in the years since 1996 but, as with the police-based data, differs from the method used in 1995 when the highest level JANCO code was used.

For information on the Police Illicit Drug Diversion Initiative or legislative changes relating to *criminal trespass offences* (in 2000 included under *burglary, break and enter offences*), see the previous notes under 'Major offence' in the Police Statistics section.

### **Matters included/excluded**

Unlike police apprehension data where certain offences were excluded, all allegations in each case referral finalised by the Family Conference Team are included for the purpose of calculating the major charge. Traffic offences involving youths aged 16 years and over are, in most instances, automatically sent to court. However, a small number may find their way to a conference if they are part of a broader list of offences alleged against a particular youth and if those other offences are deemed appropriate for a conference. Rather than splitting the allegations, all are referred to a conference.

### **Outcome of cases referred to the Family Conference Team**

The order of severity used for determining the most serious outcome for those cases where a conference was actually held is:

- undertaking;
- formal caution;
- no action taken;
- police disagrees;
- youth disagrees;
- youth elects to have the matter dealt with by a court;
- no admission; and
- case not proceeded with.

These outcomes have been sub-divided into “successful” conference’, ‘conference held, not “successful”’, and ‘conference not held, case not proceeded with’. Here the term “successful” is defined as those conferences where the participants reached agreement regarding an appropriate outcome – either an undertaking, a caution or no further action. The term does not relate in any way to whether any undertakings agreed to by the youth were subsequently complied with.

For those cases where a conference was not held, the order of selection for the outcomes recorded were as follows:

- case not proceeded with;
- no admission/youth elects court;
- non-appearance of youth; and
- unable to locate youth.

In recent years, there was a change in the practice of recording some cases where the young person attends a conference and the matter is resolved but the conference does not see the need for an undertaking to be entered into. Previously, an outcome of ‘no action’ was recorded for such

conferences. However, for data since 2000, a decision was made that such cases should be recorded as a 'formal caution'.

In addition, a different recording system was used for a handful of cases which fall into the category of 'Conference not held' because the Family Conference Team is unable to locate the youth. These matters are referred back to the police. However, in a proportion of these cases, the police are subsequently able to locate the young person and re-refer the matter to a family conference. Prior to 2000, when the Family Conference Team received the re-referral they modified the initial file to reflect the subsequent conference outcomes. However, in 2000, a decision was made to leave the existing file closed and to create a new file to record the outcomes relating to the re-referral and this practice has been followed since.

### **Racial identity**

Racial identity, as outlined in Table 3.2, is in the first instance derived from police apprehension reports, which record the opinion of the apprehending police officer as to the appearance of the apprehended person. This information is electronically transferred to the Family Conference Team. If racial identity is missing from the police file sent to them, the Team will add this information where possible. They may also amend police entries that they consider to be incorrect.

## **Cases dealt with at a family conference**

### **Tables 3.4 to 3.17**

As noted above, Tables 3.4 to 3.17 relate only to those cases where a conference was actually held. These tables therefore omit from consideration those cases presented in Tables 3.1 – 3.3 under the heading 'Conference not held'.

### **Counting unit**

The counting unit is the same as that used for Tables 3.1 to 3.3 (see previous note under 'Case referrals received by the Family Conference Team').

### **Major offence**

As was the case with Table 3.3, the major offence was defined as that offence per case that had the highest Maximum Statutory Penalty. This definition was the same as that used since 1996.

In 1999 and 2000, it was not possible to provide full details on sub categories of *larceny and receiving*, and the two categories of *larceny from shops* and *larceny – miscellaneous* were combined under the heading '*larceny from shops and larceny-miscellaneous*'. However, this year it has been possible to distinguish between these two larceny offences.

For information on the Police Illicit Drug Diversion Initiative or legislative changes relating to *criminal trespass offences* (which has replaced the category *burglary, break and enter offences*), see the previous notes under 'Major Offence' in the Police Statistics section.

### **Matters included/excluded**

These were the same as for Tables 3.1 to 3.3 (see previous note under 'Case referrals finalised by the Family Conference Team').

## **Outcome of cases dealt with**

For a ranking of the most serious outcome for cases dealt with, see previous note under 'Case referrals finalised by the Family Conference Team'.

## **Age**

Details on age are presented in Tables 3.4, 3.5 and 3.6. Here, age is at the date of the offence. This corresponds with the definition used for the family conference data contained in *Crime and Justice* reports since 1996. However, for the 1995 report, age was at the date of the actual conference.

## **Racial identity**

Tables 3.5, 3.6, 3.8, 3.10, 3.15 and 3.17 provide details on the racial identity of youths involved in cases dealt with at a conference. The definition of racial identity used here is the same as that applied in Table 3.2 above (see previous note under 'Case referrals finalised by the Family Conference Team').

In the ensuing section, more detailed explanatory notes are provided for specific tables.

### ***Tables 3.9 and 3.10***

#### ***Cases dealt with at a family conference where an undertaking was agreed to: proportion of cases involving an apology/ compensation/ community work/ other condition***

These tables focus on those cases dealt with at a conference where an undertaking was agreed to, and detail the proportion that resulted in an apology, compensation, community work and 'other' conditions. It should be noted that these conditions are not mutually exclusive. Thus one case could involve both an apology and compensation. Each would be counted separately in these tables.

However, one undertaking may involve more than one instance of any condition type. For example, a young person may agree to make two separate apologies (if there are two victims involved). In these tables, such a case would be counted once under the condition of apology. In other words, the emphasis is on the proportion of cases involving at least one apology (or compensation, or community work or other) rather than the total number of apologies (or compensations etc) included in the one case.

Prior to 2002, apologies included both verbal and written apologies. However, following a review of the Young Offenders Act (1993) by the Chief Justice, this was changed. A 'letter of regret' was introduced which was deemed to be the same as a written apology for processing purposes. Verbal apologies can still occur, but are now regarded as different from the 'letters of regret'. Because this change was not introduced until mid 2002, the 2002 report combined 'letters of regret' with verbal apologies. Commencing with the 2003 report they have been separately identified.

### ***Tables 3.11 and 3.12***

#### ***Cases dealt with at a family conference where compensation (3.11) or community work (3.12) was agreed to: amount/number of hours agreed.***

These tables report on the total amount of compensation or community work agreed to per case. For example, if one case resulted in the young person agreeing to pay two lots of compensation – one of \$50 to victim A and another of \$70 to victim B - this would be recorded as one compensation agreement of \$120. Similarly, if a young person agreed to perform 10 hours of community work for one victim and 15 hours for another victim, this would be recorded as one count of 25 hours of community work.

**Table 3.13**

***Cases dealt with at a family conference where an undertaking was agreed to: undertaking conditions by major offence admitted***

This table uses the same counting rules for conditions as Tables 3.9 and 3.10. The conditions are reported according to the major offence alleged in the case. In most cases where an undertaking was agreed to, that undertaking was attached to the most serious offence alleged. However, there was a small number of cases where the undertaking was attached to an offence other than the major allegation.

This table reports on the total amount of compensation or community work agreed to per case. For further details, see notes for Tables 3.11 and 3.12.

**Tables 3.14 and 3.15**

***Cases dealt with at a family conference where an undertaking was agreed to: undertaking compliance status***

These tables relate to undertakings in those cases for which compliance data had been recorded at the time that the data were extracted for analysis. When a young person enters into an undertaking, they are given a date by which the undertaking must be complied with. It could mean that a young person who entered into an undertaking in May 2004 might have until December 2004 to complete that undertaking. At the end of the period stipulated, the conference co-ordinator determines if the undertaking has been complied with. If this is the situation, then the matter is closed. Alternatively, some conditions may have been complied with, but not others. In these situations the co-ordinator, in consultation with the police youth officer, may decide that the unfulfilled conditions are so minor that they can be waived. The final option is to refer the matter back to the police because of non-compliance. Because different undertakings may have different compliance dates, there can be a considerable time lag before all compliance data are available. These tables report only on those cases for which all undertaking compliance data were available at the time of preparation of the tables.

For the great majority of cases, the conditions agreed to by a young person are grouped under the one undertaking. However, for a small number of cases, the young person may agree to more than one undertaking, each with one or more condition. Cases with multiple undertakings are separately identified in these tables.

**Tables 3.16 and 3.17**

***Cases dealt with at a family conference where an undertaking was agreed to: condition compliance status***

Tables 3.16 and 3.17 report on the conditions attached to those undertakings counted in Tables 3.14 and 3.15 and detail only those conditions involved in cases where all the undertakings were considered to have been finalised and where the conference co-ordinator had recorded the status of the undertaking compliance.

As noted above, when a young person agrees to an undertaking, they are given a date by which the undertaking must be complied with. Similarly, for each condition attached to an undertaking the young person is given a date by which that particular condition must be completed. For example, a young person agreeing to an undertaking with one condition of apology and another of community work may have one week to make the apology and three months to complete the work component. These tables report on the youth's compliance with the individual conditions attached to undertakings. With regard to condition compliance, the youth justice co-ordinator records one of the following:

- Complied with by due date;
- Complied with after due date;

- Not complied with.

All instances of these conditions are counted in these two tables. That is, if a young person agreed to an undertaking with one condition of apology and two separate conditions of compensation this would appear as one count of apology and two counts of compensation in these tables. Readers need to be aware that this is a different counting rule from that applied in Tables 3.9, 3.10 and 3.13, where for each type of condition only one case is counted.

In some cases, although data relating to undertaking compliance have been recorded, compliance information associated with one or more conditions in that undertaking is missing. This situation usually occurs when the youth justice co-ordinator makes a judgement that, given non-compliance with one condition, the young person has failed to comply with the undertaking as a whole, even though the compliance date for a second condition has not yet been reached. Conditions for which compliance data are not recorded are not included in these tables.

## **Family conferences**

### **Tables 3.18 and 3.19**

Tables 3.18 and 3.19 contain information on the actual conference itself. Here, the counting unit is the number of discrete conferences held. One conference could involve more than one offender and more than one offence allegation.

The number of participants listed in Table 3.19 does not include the Youth Justice Co-ordinator or the police representative, both of whom are statutorily required to be present at all conferences.

For the 2002 data onwards, it has been possible to provide information on a broader range of participant types than was possible prior to 2001. Readers should be aware of changes in the way participants have been categorised:

- Whereas previously the term ‘parent’ covered both parents and guardians, this year it is possible to distinguish between these two participant categories;
- Similarly, in previous years the term ‘victim supporter’ covered both victim supporters and victim representatives. This year these two groups can be differentiated.
- Finally, the 2002 and more recent data provides information on ‘other’ participants. These are people such as the school principal when an offence has occurred at a school or the Metropolitan Fire Service when arson has been involved. In previous years, no information was provided on these participants.

## **YOUTH COURT**

The Youth Court statistics contained in this report incorporate three sets of tables. The first set – Tables 4.1 to 4.4– relate to all cases finalised by the Youth Court in 2004, including cases where all charges were dismissed or not proceeded with. The second set – Tables 4.5 to 4.14 – relate only to those cases finalised where at least one charge was proved.

### **Finalised appearances before the Youth Court**

#### **Tables 4.1 to 4.4**

Tables 4.1 to 4.4 relate to all cases finalised by the Youth Court, even if there was no finding of guilt to any charge.

## Counting Unit

The counting unit used here is not the apprehension report but the case. Youth Court cases are counted in a similar way to adult court cases; that is, a case is regarded as a group of matters involving the one defendant which were finalised before the same Judge or magistrate in the same court on the same day. Moreover, a case is not considered finalised until all criminal charges involved in that case have been dealt with. For example, if a case involves five offences, and two are finalised at one hearing while the remaining three are finalised at a subsequent hearing, the case is considered finalised on that second hearing date.

The decision to use the case as the basic counting unit leads to a smaller count than would result from using the number of matters assigned a distinctive file number by the court. For example, a youth may have several outstanding court files relating to different offending matters. However, the court may choose to consolidate these into the one case and have them dealt with in the same court on the same day.

Co-defendants are counted separately in these tables.

## Major offence

Within a given case, the major offence for which a defendant was charged is determined by the procedure described below. Readers should note that this is the same method used in identifying the major charge for the Youth Court tables contained in 1996 and subsequent *Crime and Justice* reports. However, it is different from that used for the 1995 data when the major offence charged was determined by comparing the Maximum Statutory Penalties for each offence and selecting the highest.

The following explains the procedure used since 1996 to select the major charge:

- (a) Out of the charges, if any, that were found proved, select the one that received the highest penalty. If two charges received the same (highest) penalty and the defendant was convicted for one and not the other, select the charge for which the defendant was convicted. If a tie-break is still required to select only one charge, select the one for which the highest maximum penalty is prescribed in the statutes. The charge selected by this method is the 'major offence proved'. The ranking of severity for penalties for this process is set out below under the comments for Table 4.9.
- (b) Out of the charges, if any, which were not found proved, select the one with the highest maximum statutory penalty. If two or more charges not proved have the same maximum statutory penalty, select the first. The charge selected by this method is the 'major charge not proved'.
- (c) From the 'major charge proved' and the 'major charge not proved', select the charge that has the higher maximum statutory penalty. If the 'major charge proved' and the 'major charge not proved' have the same maximum statutory penalty select the major charge proved. The charge selected by these rules becomes the 'major offence charged'.

As was the situation in the previous four years, the 2004 data do not contain quite the level of detail available in 1997 or 1998. Due to a coding problem with the category of *larceny and receiving*, it has not been possible to distinguish between *larceny from shops* and *larceny – miscellaneous*. The data relating to these two sub-categories have been combined under the heading '*larceny from shops and larceny-miscellaneous*'.

For information on the Police Illicit Drug Diversion Initiative or legislative changes effective from December 25<sup>th</sup>, 1999 relating to *criminal trespass offences* (previously listed under the heading of *burglary, break and enter offences*), see the previous notes under 'Major offence' in the Police Statistics section.



### **Matters included/excluded**

As for the data since 1995 (but not for the 1994 data), this report includes *dangerous and reckless driving offences*. Like most traffic matters, cases involving this offence usually bypass the normal police screening process outlined earlier and are referred direct to court. All non-serious traffic charges are heard by a justice of the peace and are not counted in this report. However, because of their more serious nature, *dangerous and reckless driving offences* go before a Youth Court magistrate and therefore are considered part of that court's criminal workload. Hence, the decision was made to include them. In addition, and for similar reasons, *driving while licence suspended or cancelled offences* are included (as since 1996).

It was noted last year that it had been possible to identify some cases that would not have been included in the Youth Court collection prior to 1999. These were cases that were recorded as occurring in the adult Magistrates Court, but details of the person's age at the date of the offence indicated that the person involved was a juvenile. As a result of investigations conducted in 1998 (which revealed that, for approximately 100 cases, there had been an error in the recording of the court), these cases are now included in the Youth Court collection. It is anticipated that, with improvements in the recording of court details and refinements of the processing of the data, extra cases may be included in the Youth Court collection.

### **Age**

Details of age are contained in Tables 4.3 and 4.4. Here, age is at the date of the offence.

### **Racial appearance**

Details on racial identity (contained in Tables 4.3 and 4.4) are not recorded by the court. Instead, the information used here is that of 'racial appearance' derived from background data collected by police since 1991. The following process is used to assign racial appearance. The racial appearance listed on each apprehension report lodged for a particular individual since July 1991 is extracted and the 'majority' opinion regarding that person's racial background is identified. This value is then assigned to all court cases recorded for that person in 2004. Using records which span such a long period of time help to reconcile inconsistencies between one observation and another. However, it should be stressed that the data still reflect the opinion of the apprehending police officers as to the appearance of the apprehended person rather than the person's self-identity.

### **Outcomes for the major offence charged**

In Table 4.1, for each court appearance that was finalised during the twelve month period covered by this report, only the outcome for the major charge is recorded. Outcome categories have been determined in consultation with the Youth Court.

- Acquitted: includes the outcomes of 'acquitted', 'dismissed under the *Summary Procedures Act*' and 'no case to answer'.
- Withdrawn: includes matters that were withdrawn by prosecution, or where prosecution decided to take no action or did not proceed with the case.
- Proved - not convicted: includes a very small number of situations in which the young person was released on licence, after the matter was proved.

Numbers in brackets in Table 4.1 denote cases where the major charge was not proved, but where a lesser or other charge was proved.

## **Finalised appearances before the Youth Court where at least one charge was proved**

### **Tables 4.5 to 4.14**

Tables 4.5 to 4.14 count only those finalised appearances where at least one charge was proved. They therefore include finalised appearances where, although the major charge was either acquitted, dismissed or withdrawn, there was a finding of guilt to at least one other charge. The tables do not include finalised appearances where all charges resulted in either an acquittal, or were dismissed or withdrawn.

### **Counting unit**

The counting unit used is the same as for Tables 4.1 to 4.4 (see previous note under 'Finalised appearances before the Youth Court').

### **Major offence**

The 'major offence proved' is defined as that offence which attracted the most serious penalty. The method used to determine the 'major offence proved' differs from that outlined earlier for determining the 'major offence charged'. Whereas the task of calculating the 'major offence charged' involved three distinctive steps (see earlier discussion), determination of the 'major charge proved' involved only the first of these steps. More specifically;

- (a) Out of the charges, if any, that were found proved, select the one that received the highest penalty. If two charges received the same (highest) penalty and the defendant was convicted for one and not the other, select the charge for which the defendant was convicted. If a tie-break is still required to select only one charge, select the one for which the highest maximum penalty is prescribed in the statutes. The charge selected by this method is the 'major offence proved'.

The ranking used to identify the most serious penalty is detailed in the notes for Table 4.9.

As for the 'major offence charged', the 2004 data for 'major offence proved' do not contain quite the level of detail available in 1997 and 1998. Due to a coding problem with the category of *larceny and receiving*, it has not been possible to distinguish between *larceny from shops* and *larceny – miscellaneous*. The data relating to these two sub-categories have been combined under the heading *larceny from shops and larceny-miscellaneous*.

For information on the Police Illicit Drug Diversion Initiative or legislative changes effective since December 25<sup>th</sup>, 1999 relating to *burglary, break and enter offences*, see the previous notes under 'Major Offence' in the Police Statistics section.

### **Matters included/excluded**

The offence categories selected for inclusion are the same as those used for Tables 4.1 to 4.4 (see previous note under 'Finalised appearances before the Youth Court').

### **Age**

Details of age are outlined in Tables 4.6, 4.7, 4.8, 4.10 and 4.11. Here, age is at the date of the offence.

## **Racial appearance**

Racial appearance (see Tables 4.7, 4.8 and 4.11) is derived from police apprehension reports and records the opinion of the apprehending police officer as to the appearance of the apprehended person. The same method outlined earlier, which uses background data collected by SAPOL since 1991 to ‘smooth’ out inconsistencies, was applied.

## **Major penalty for major offence proved**

In Tables 4.9, 4.10 and 4.11, the order of severity used to determine the most serious penalty is as follows:

- detention (including home detention);
- suspended detention;
- community service order;
- obligation;
- suspension of driver’s licence;
- monetary fine;
- other order (e.g. compensation, forfeiture order); and
- dismiss without penalty.

In the ensuing section, more detailed explanatory notes are provided for specific tables.

Readers should note that two cases included in Tables 4.1 – 4.4 and ‘found proved’ have not been included in Tables 4.5 – 4.11. For these cases, while the matter was found proved, the young person involved was released on licence, an outcome that has not been considered a penalty.

### ***Table 4.9***

***Youth Court appearances where at least one charge is proved: major penalty for major offence proved***

This table reports only on the major penalty applying to the major offence proved. Readers should note that this table is the same as the equivalent table for the 1996 to 1999 data, but for the 1995 data all penalties which were imposed for the major charge proved were detailed. Further, the definition of major penalty charge as used for the 1995 data is not equivalent to that used from 1996 onwards.

### ***Table 4.12***

***Youth Court appearances where at least one charge is proved: major penalty for major offence proved where major penalty is a fine, community service order or compensation.***

This table provides more details on those major penalties that involved some form of monetary payment or work, notably a fine, community service order, or a compensation order. For this table, the amounts shown relate only to the penalty imposed for the most serious charge proved. For example, if the one case involved two offences, with one resulting in a compensation payment of \$150 and the other resulting in \$100 compensation, only the \$150 one would be recorded here. This differs from the data presented in similarly structured tables in the Police and Family Conference section (Table 2.29 and Table 3.13). For those tables, the amount of compensation (or community work) recorded is the total amount for the entire case. In the above example, this would be \$250.

### ***Table 4.13***

***Youth Court appearances where at least one charge is proved: major penalty for major offence proved where major penalty is detention***

This table details the length of the detention order imposed for that offence which received the maximum penalty. It includes both secure care orders and home detention orders.

**Table 4.14**

***Finalised appearance before the Youth Court where at least one charge is proved: length of the longest detention order imposed per case per month.***

This table details the longest detention order imposed per case according to the length of each order and the month in which the order was imposed. Juvenile detention orders are usually served concurrently rather than cumulatively. Hence, it is the longest order which in general determines the length of time a particular youth will spend in a training centre.

## **JUVENILES IN CUSTODY**

This section of the report details the number of youths held in custody in the state's two Youth Training Centres at Magill and Cavan. All youths sentenced to secure detention or placed on remand by the court are held in these two training centres. In addition, at least in the metropolitan area, all youths in police custody are also transferred directly to Cavan or Magill. However, in some country and remote locations, there may be occasions when youths in police custody are held overnight in a police cell pending a court hearing or transfer to Adelaide. Although these tables do not count these events, the numbers involved would be very low.

Three sets of tables are presented:

- Tables 5.1 and 5.2 detail the total number of admissions into the Cavan and Magill Youth Training Centres in 2004;
- Tables 5.3 to 5.5 count the number of juveniles in secure care at any time on the 30 June 2004; and
- Tables 5.6 and 5.7 detail average daily occupancy figures for 2004.

### **Juveniles admitted into custody**

#### **Tables 5.1 and 5.2**

Tables 5.1 and 5.2 detail all admissions into secure care during the twelve month period covered by this report. All initial admissions into a Youth Training Centre during the year are counted. However, if a youth is transferred from one centre to another, only the initial admission is counted. Youths who are released on unsupervised leave and then return to the detention centre are not counted on re-admission. An individual can be counted more than once for the same case if they have been formally released from custody then later re-admitted. This is best illustrated by the following example: a youth is arrested and held overnight in secure care on police custody. He then appears in court and is given court bail. Several days later, however, he breaches the bail conditions and is rearrested and returned to secure care. For the purposes of these tables, this would be counted as two separate admissions.

In these tables, age is at date of admission to the Training Centre. Racial identity is assigned by a social worker.

## **Juveniles in custody on 30 June 2004**

### **Tables 5.3 to 5.5**

Tables 5.3 to 5.5 provide details on the number of juveniles who spent any part of 30 June 2004 in custody. This number will be slightly higher than the number present at a specified time (for example, midday) because various youths could be admitted and/or released during the 24 hour period. If a youth is under the authority of the training centre, but is not physically on the premises on this date (ie on unsupervised leave) they are not counted in these tables.

These tables also show the authority under which the youth is being held. If there is more than one authority involved, only the most serious is counted. The order of seriousness is as follows:

- detention;
- Review Board warrant;
- return to centre;
- warrant in default;
- remanded for assessment;
- remand;
- first instance warrant; and
- police custody.

In previous reports, a distinction was made between detention and invocation of a suspended detention order. However, subsequent investigations have revealed that this latter category is no longer used by FAYS when entering data. It has therefore been omitted from consideration in this report.

Age is at date of admission to the Training Centre. Racial identity is as assigned by social workers.

## **Average daily occupancy**

### **Tables 5.6 and 5.7**

In Tables 5.6 and 5.7, average daily occupancy is derived by adding the total number of youths present in the two training centres each day and then averaging for the whole year.

Age is at date of admission to the training centre. Racial identity is assigned by the social worker.

The most serious authority under which they are being held is the same as described above for Tables 5.3 to 5.5.



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- No. 4 *Motor vehicle Theft in South Australia, 1998.* September 1999 (\$25)
- No. 5 *Motor vehicle Theft in South Australia, 1999/2000.* (CD) October 2000
- No. 6 *Motor vehicle Theft in South Australia, 2000/2001.* (CD) October 2001
- No. 7 *Motor vehicle Theft in South Australia, 2001/2002.* (CD) October 2002
- No. 8 *Motor vehicle Theft in South Australia, 2002/2003.* (CD) October 2003
- No. 9 *Motor Vehicle Theft in South Australia, 2003/2004: A statistical report from the CARS database.* (CD) December 2004