

ABORIGINAL PEOPLE and the CRIMINAL JUSTICE SYSTEM

Report 2 Comparison of Aboriginal and Non- Aboriginal contact with the South Australia juvenile justice system, 1997

by

Justine Doherty

**A report prepared in association with the South Australian
Aboriginal Justice Advocacy Committee**

April 1999

Cover: ‘*Blue Lagoon*’ by Kevin

The painting depicts the scrub-land around Kevin’s homeland, Pt Pearce. Meandering creeks cut through the red, dry sands, weaving their way towards the central collecting pool that brings life, revitalising the surrounding environment.

About the artist

Kevin painted this picture while attending the Magill Education Centre in Magill Training Centre. While Kevin’s family now lives in Adelaide, Kevin is keen to return to his ‘home’, Pt Pearce. Kevin is a talented footballer working towards his dream ‘to play for the Port Power’. He has a strong passion for his culture which he freely expresses in the form of traditional painting. Kevin is a determined young man certain of reaching his goals and living his dreams ... “He will make his family proud”.

First published April 1999 by:

Office of Crime Statistics
South Australian Attorney-General’s Department
GPO Box 464
Adelaide, South Australia 5001

Copyright 1999 South Australian Attorney-General’s Department
All rights reserved

ISBN: 0-7308-6221-6

Acknowledgements

This report would not have been completed without the assistance of a number of people. In relation to the provision of statistical data and advice, thanks are extended to:

- Theo Sarantaugas and Ty Cheng, Statistical Services Section, South Australian Police
- Joe Walker, Division of Family and Youth Services of the Department of Human Services
- Computing staff of the Courts Administration Authority

In relation to the provision of information about the operation of the juvenile justice system, thanks are extended to:

- Geoff Gray, Courts Administration Authority ;
- The Family Conference Team, particularly Graeme Kerkin and Rodney Welch ;
- David Wardrop of the South Australian Police Department ; and
- Jeremy Gaynor and Patricia Wang of Family and Youth Services Division of the Human Services Department.

Thanks are also extended to Joy Wundersitz, Director of the Office of Crime Statistics, for her guidance throughout, and to Coral Holden for desk top publishing.

This report was jointly funded by the Attorney-General's Department and the Aboriginal Justice Advocacy Committee.

The author particularly wishes to thank the young person, Kevin, who created the artwork on the cover. His willingness to allow the use of his painting, *Blue Lagoon*, as the cover for this report is much appreciated. The efforts of Danuta Earle, teacher at Magill Education Centre at Magill Training Centre, in facilitating the reproduction of the artwork are particularly appreciated. In addition, thanks are extended to Kumangka Aboriginal Youth Service, who had already used this art in their 1999 calendar.

Contents

LIST OF FIGURES	iii
LIST OF TABLES	v
EXECUTIVE SUMMARY	ix
CHAPTER 1 – INTRODUCTION	1
The new Juvenile Justice System	2
CHAPTER 2 – POLICE APPREHENSIONS	5
Demographic profiles	5
Offence profiles	9
Method of Apprehension	21
Summary of Police Apprehensions	25
CHAPTER 3 – TYPE OF ACTION TAKEN FOLLOWING APPREHENSION	26
Overview	27
Summary of type of action taken.....	34
CHAPTER 4 – FORMAL POLICE CAUTIONS	35
Demographic profiles	35
Undertakings as part of a formal caution.....	37
Summary of formal police cautions.....	41
CHAPTER 5 – FAMILY CONFERENCES	42
SECTION 1: CASES REFERRED TO A FAMILY CONFERENCE	42
SECTION 2: CASES DEALT WITH AT A FAMILY CONFERENCE	45
Demographic profiles	45
Offence profiles	47
Undertakings entered into at conferences	51
Overall level of positive resolution for family conference referrals	60
SECTION 3: DISCRETE CONFERENCES HELD	61
Participant details	62
Summary of family conferences	67
CHAPTER 6 – YOUTH COURT	69
Total cases finalised by the Youth Court in 1997	69
Demographic profiles	70
Offence profiles	73
Youth Court outcomes.....	77
Summary of Youth Court cases finalised in 1997	84
CHAPTER 7 – JUVENILES ADMITTED INTO CUSTODY AT THE MAGILL AND CAVAN TRAINING CENTRES	86
Admissions	86
Number of young people in custody on 30 June 1997	92
Average daily occupancy.....	94
Summary of Secure Care.....	98
CHAPTER 8 – CONCLUSION.....	100

APPENDIX	102
REFERENCES	103

List of Figures

Figure 1	Police apprehensions, 1997: Aboriginality by sex	6
Figure 2	Police apprehensions, 1997: Aboriginality by age	6
Figure 3a	Male apprehensions, 1997: Aboriginality by age	7
Figure 3b	Female apprehensions, 1997: Aboriginality by age	7
Figure 4	Police apprehensions, 1997: Aboriginality by most serious allegation	9
Figure 5	Police apprehensions, 1997: Aboriginality by major offence alleged	10
Figure 6	Offences against the person (excluding sexual offences) Police apprehensions, 1997: Aboriginality by major offence alleged	12
Figure 7	Property offences Police apprehensions, 1997: Aboriginality by major offence alleged	13
Figure 8	Offences against good order Police apprehensions, 1997: Aboriginality by method of apprehension	22
Figure 9a	Male apprehensions, 1997: Aboriginality by method of apprehension	23
Figure 9b	Female apprehensions, 1997: Aboriginality by method of apprehension	23
Figure 10	Major offence alleged per apprehension, 1997: Aboriginality by proportion arrested	24
Figure 11	Police apprehensions, 1997: Aboriginality by type of action taken	27
Figure 12a	Male apprehensions, 1997: Aboriginality by type of action taken	28
Figure 12b	Female apprehensions, 1997: Aboriginality by type of action taken	28
Figure 13	Police apprehensions, 1997: Aboriginality by proportion within each major offence grouping referred to court	32
Figure 14	Formal cautions, 1997: Aboriginality by sex	35
Figure 15	Formal cautions, 1997: Aboriginality by age	36
Figure 16	Formal cautions, 1997: Aboriginality by proportion of formal cautions involving an undertaking	38
Figure 17	Cases dealt with at a family conference, 1997: Aboriginality by sex	45
Figure 18	Cases dealt with at a family conference, 1997: Aboriginality by age	46
Figure 19	Youth Court cases finalised, 1997: Aboriginality by sex	70
Figure 20	Youth Court cases finalised, 1997: Aboriginality by age	72
Figure 21a	Youth Court cases finalised in 1997 involving males: Aboriginality by age	72
Figure 21b	Youth Court cases finalised in 1997 involving females: Aboriginality by age	72
Figure 22	Major penalty for Youth Court cases finalised: Aboriginal proportion of each penalty type	81
Figure 23a	Secure care admissions by Aboriginality, 1994 – 1997	87
Figure 23b	Aboriginal admissions as percentage of total admissions, 1994 - 1997	87
Figure 24	Secure care admissions, 1997: Aboriginality by sex	87
Figure 25a	Aboriginal admissions, 1994 – 1997: percentage accounted for by each sex	88
Figure 25b	Non-Aboriginal admissions, 1994 – 1997: percentage accounted for by each sex	88
Figure 26	Aboriginal youths as a percentage of all male and all female admissions, 1994 - 1997	89
Figure 27	Secure care admission, 1997: Aboriginality by age group	89
Figure 28a	Aboriginal admissions by age, 1994 - 1997	90
Figure 28b	Non-Aboriginal admissions by age, 1994 - 1997	90
Figure 29	Aboriginal youths as a percentage of admissions within each age group 1994 - 1997	91
Figure 30a	Aboriginal admissions, 1997: sex by age group	91
Figure 30b	Non-Aboriginal admissions, 1997: sex by age group	91
Figure 31a	Male admissions, 1997: Aboriginality by age group	92
Figure 31b	Female admissions, 1997: Aboriginality by age group	92
Figure 32a	Number of juveniles in custody on 30 June 1994 - 1997	93
Figure 32b	Aboriginals as percentage of total young persons in custody on	

	30 June 1994-1997	93
Figure 33a	Average daily occupancy by Aboriginality, 1994 – 1997	94
Figure 33b	Aboriginals as a percentage of total average daily occupancy, 1994 – 1997	94
Figure 34a	Average daily occupancy of males by Aboriginality, 1994 – 1997	95
Figure 34b	Aboriginal males as a percentage of all male average daily occupancies, 1994 - 1997	95
Figure 35a	Average daily occupancy of females by Aboriginality, 1994 – 1997	96
Figure 35b	Aboriginal females as a percentage of all female average daily occupancies, 1994 - 1997	96
Figure 36	Aboriginal youth as a percentage of average daily occupancy for those aged 15 years and under and those aged 16 years and over: 1994 – 1997	97
Figure 37a	Average daily occupancy of youths on detention orders by Aboriginality, 1994-1997	98
Figure 37b	Aboriginal youths as percentage of average daily occupancy on detention orders, 1994 - 1997	98
Figure 38a	Average daily occupancy of youths on remand by Aboriginality, 1994 - 1997	98
Figure 38b	Aboriginal youths as percentage of average daily occupancy on remand, 1994-1997	98

List of Tables

Table 1	Police apprehensions, 1997: mean and median ages by Aboriginality	7
Table 2	Police apprehensions, 1997: Aboriginality by police division in which youths were living at time of offence	8
Table 3	Police apprehensions, 1997: Aboriginality by major offence alleged Sexual offences	11
Table 4	Police apprehensions, 1997: Aboriginality by major offence alleged Robbery and extortion	11
Table 5	Police apprehensions, 1997: Aboriginality by major offence alleged Larceny and receiving	12
Table 6	Police apprehensions, 1997: Aboriginality by major offence alleged Drug offences	14
Table 7	Police apprehensions, 1997: Aboriginality by major offence alleged Driving offences	14
Table 8	Police apprehensions involving Aboriginal youth, 1997: sex by major offence alleged	15
Table 9	Number of offence counts per apprehension report, 1997	16
Table 10	Police apprehensions, 1997: Aboriginality by number of offence types	17
Table 11	Police apprehensions involving one offence type only, 1997: Aboriginality by offence type	17
Table 12	Police apprehensions involving two offence types, 1997: Aboriginality by offence combination	18
Table 13	Police apprehensions involving two offence types where one offence type was against good order, 1997: Aboriginality by offence combination	19
Table 14	Police apprehensions involving three offence types where one offence type is against good order, 1997: Aboriginality by offence combination	20
Table 15	Police apprehensions involving an offence against good order, 1997: Aboriginality by number of offence types per report	21
Table 16	Arrest-based apprehensions, 1997: age by Aboriginality	23
Table 17a	Male apprehensions, 1997: proportion of Aboriginals within each referral category	29
Table 17b	Female apprehensions, 1997: proportion of Aboriginals within each referral category	29
Table 18	Police apprehensions, 1997: Aboriginality by age by type of action taken	30
Table 19	Guidelines for type of action to be taken	31
Table 20	Method of Apprehension, 1997: Aboriginality by type of action taken	34
Table 21a	Formal cautions of males, 1997: Aboriginality by age	37
Table 21b	Formal cautions of females, 1997: Aboriginality by age	37
Table 22a	Formal cautions of Aboriginal youth, 1997: proportion of cautions involving apology/compensation/community work/other condition	38
Table 22b	Formal cautions of Non-Aboriginal youth, 1997: proportion of cautions involving apology/compensation/community work/other condition	38
Table 23	Formal cautions involving undertakings, 1997: combination of conditions per undertaking	39
Table 24	Formal cautions where compensation was agreed to, 1997: Aboriginality by amount of compensation per case	40
Table 25	Formal cautions where community work was agreed to, 1997: Aboriginality by number of hours of community work per case	40
Table 26	Referrals to a family conference, 1997: outcome by Aboriginality	43
Table 27	Referrals to a family conference, 1997: outcome by Aboriginality and sex	44
Table 28	Cases dealt with at a family conference, 1997: Aboriginality by sex and age	46
Table 29	Cases dealt with at a family conference, 1997: Aboriginality by major offence alleged	47
Table 30	Cases dealt with at a family conference, 1997: Aboriginality by major	

	offence alleged: a more detailed analysis	49
Table 31	Cases dealt with at a family conference, 1997: sex by major offence alleged for Aboriginal cases only	51
Table 32	Cases dealt with at a family conference, 1997: Aboriginality by outcomes of 'successful' conferences	51
Table 33a	Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: proportion agreeing to an apology/compensation/community work/other undertaking	52
Table 33b	Non-Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: proportion agreeing to an apology/compensation/community work/other	52
Table 34	Cases dealt with at a family conference in 1997 where an undertaking was agreed to: Aboriginality by combination of conditions	53
Table 35	Cases dealt with at a family conference in 1997 where compensation was agreed to: Aboriginality by amount of compensation per case	54
Table 36	Cases dealt with at a family conference in 1997 where community work was agreed to: Aboriginality by number of hours per case	54
Table 37	Cases dealt with at a family conference in 1997 where an undertaking was agreed to: Aboriginality by undertaking compliance status	55
Table 38	Cases dealt with at a family conference in 1996 where an undertaking was agreed to: Aboriginality by undertaking compliance status	56
Table 39a	Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: condition compliance status	57
Table 39b	Non-Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: condition compliance status	58
Table 40a	Aboriginal cases dealt with at a family conference in 1997 where the undertaking was waived: condition compliance status	58
Table 40b	Non-Aboriginal cases dealt with at a family conference in 1997 where the undertaking was waived: condition compliance status	59
Table 41a	Aboriginal cases dealt with at a family conference in 1997 where the undertaking was referred back to police: condition compliance status	60
Table 41b	Non-Aboriginal cases dealt with at a family conference in 1997 where the undertaking was referred back to police: condition compliance status	60
Table 42	Case referrals received by the Family Conference Team, 1997: Aboriginality by finalised outcome, taking into account levels of undertaking compliance	61
Table 43	Family conferences involving at least one Aboriginal and one non-Aboriginal young offender, 1997: participants involved	62
Table 44	Family conferences held, 1997: total number of participants	63
Table 45	Family conferences held, 1997: number of offenders present	63
Table 46	Family conferences held, 1997: number of parents present	64
Table 47	Family conferences held, 1997: number of youth supporters present	64
Table 48	Family conferences held, 1997: number of parents and youth supporters present	65
Table 49	Family conferences held, 1997: number of victims present	65
Table 50	Family conferences held, 1997: number of victim supporters present	66
Table 51	Family conferences held, 1997: number of victims and victim supporters present	66
Table 52	Level of Aboriginal involvement at each tier of the juvenile justice system, 1997	70
Table 53	Level of Aboriginal involvement at each tier of the juvenile justice system, 1997: a comparison between males and females	71
Table 54	Youth Court cases finalised, 1997: Aboriginality by most serious charge per case	73
Table 55	Youth Court cases finalised in 1997: Aboriginality by major charge (sub-categories)	75

Table 56	Youth Court cases finalised in 1997 involving Aboriginal young people only: sex by most serious offence charged per case	77
Table 57	Youth Court cases finalised, 1997: Aboriginality by court outcome	78
Table 58	Youth Court cases finalised, 1997: major offence charged compared with major offence proved	79
Table 59	Youth Court cases finalised in 1997 involving Aboriginal youth: a comparison between the major offence charged and major offence proved against males and females	79
Table 60	Youth Court cases finalised in 1997 where at least one offence was proved: Aboriginality by most serious penalty	81
Table 61	Youth Court cases finalised in 1997 where a secure detention order was imposed: Aboriginality by length of longest secure detention order	82
Table 62	Youth Court cases finalised in 1997 involving home detention orders: Aboriginality by length of home detention orders	84
Table 63	Number of juveniles in custody on 30 June 1994 – 1997 by Aboriginality	93
Table 64	Average daily occupancy, 1997: Aboriginality by sex	95
Table 65	Average daily occupancy, 1997: Aboriginality by age group	96
Table 66	Average daily occupancy, 1997: Aboriginality by most serious authority	97

Executive Summary

Introduction

In 1997, the Office of Crime Statistics, with the support of the Aboriginal Justice Advocacy Committee, commenced a long term project to monitor the extent, nature and outcomes of Aboriginal involvement in the South Australian criminal justice system, using official crime statistics. The intention is to produce a series of publications, each dealing with one specific aspect of the criminal justice system.

This report is the second in the series. It compares Aboriginal and non-Aboriginal contact with the South Australian juvenile justice system in 1997 in five main areas:

- Police apprehensions and actions taken following apprehension (source of data: South Australia Police);
- Formal cautions administered by police (source of data: South Australia Police);
- Family conference referrals and conferences held (source of data: Courts Administration Authority);
- Finalised appearances before the Youth Court (source of data: Courts Administration Authority);
- Juveniles held in custody in Youth Training Centres (source of data: Family and Youth Services).

The report identifies areas of difference between Aboriginal and non-Aboriginal young people processed at each of these levels of the juvenile justice system, in relation to such factors as the sex, age and residential location of the young people, the type of offence alleged or charged and the outcome or penalty.

The main findings of this statistical overview are outlined below.

Police apprehensions

Extent of Aboriginal involvement in police apprehensions

- In 1997, 8,810 apprehension reports involving juveniles aged 10 to 17 years inclusive were processed by the South Australian Police Department. Of the 7,238 reports for which information on Aboriginality was available, 13.8% involved young persons identified by police as Aboriginal.
- Given that Aboriginal people account for only 2.3% of the State's population of 10 -17 year olds, this means that their level of contact with the juvenile justice system was 6.0 times greater than would be expected on a per capita basis.
- Although males accounted for the majority of both Aboriginal and non-Aboriginal apprehensions, females featured more prominently in Aboriginal apprehensions, accounting for 20.4% compared with 16.5% of the non-Aboriginal reports.
- Apprehended Aboriginal youths tended to be younger than their non-Aboriginal counterparts, with 60.9% under 16 years of age compared with only 46.4% of non-Aboriginal youth. The average age for Aboriginal youth was 15.1 years compared with 15.9 years for apprehended non-Aboriginal youths.
- The residential profiles for Aboriginal youths was very different from that of the non-Aboriginal young people who were apprehended. The majority of Aboriginal youths were from country locations (57.4%), with the Far North police division accounting for nearly one-quarter (23.6%) and the West Coast division for a further 11.6%. In contrast, country locations constituted less than one-quarter (23.2%) of non-Aboriginal apprehensions.

-
- In broad terms, the offence profiles for Aboriginal and non-Aboriginal young people apprehended by police were relatively similar, with *property offences* featuring as the major offence in over half the cases of both groups (60.8% of Aboriginal and 52.8% of non-Aboriginal apprehensions). *Larceny and receiving* was the most dominant property offence sub-grouping and accounted for similar proportions of both Aboriginal and non-Aboriginal apprehensions (30.5% and 29.3% respectively). *Burglary, break and enter* was the second most dominant *property offence* for both groups, but was more prominent for Aboriginal than non-Aboriginal youth (17.4% compared with 11.5% respectively).
 - For both groups, *good order offences* constituted the major allegation in one in six apprehensions (16.1% of Aboriginal and non-Aboriginal) while *offences against the person (excluding sexual offences)* accounted for approximately one in ten apprehension reports (12.5% of Aboriginal and 10.3% of non-Aboriginal). *Drug offences* provided the one clear difference between the two groups, constituting the major allegation in a substantially lower proportion of Aboriginal than non-Aboriginal apprehensions (5.4% compared with 15.1% respectively).
 - The general dominance of *property offences* held true for both Aboriginal males and females, although less so for females (52.5% compared with 62.9% for males). However, *offences against the person (excluding sexual offences)* were more prominent for Aboriginal females than males (22.5% compared with 9.9% respectively).
 - There were no substantial differences in the proportion of apprehensions that involved a *good order* offence. In total, a *good order* offence was recorded, either as the major or secondary charge in over one-quarter of apprehension reports for both Aboriginal and non-Aboriginal young people (28.9% and 26.6% respectively).
 - Aboriginal young people who were apprehended by the police were substantially more likely than their non-Aboriginal counterparts to be brought into the system by way of an arrest, rather than a report. Overall, 47.1% of Aboriginal apprehensions were arrest-based compared with 27.3% of non-Aboriginal apprehensions.

Type of Action Taken

- Aboriginal young people were substantially more likely than their non-Aboriginal counterparts to be referred to the Youth Court (66.4% compared with 43.2% respectively). At the pre-court diversion level, the proportions referred to a family conference were relatively similar (17.5% of Aboriginal and 18.3% of non-Aboriginal) but a much lower proportion of Aboriginal than non-Aboriginal apprehensions resulted in a formal caution (13.4% compared with 35.9% respectively). It seems then that Aboriginal youth have a greater likelihood of being directed straight to court rather than being given the option of a police caution.
- The level of referral to the Youth Court was high for both Aboriginal males and females (67.8% and 60.8% respectively). Further, a high proportion of Aboriginal youth in each age group were referred to the Youth Court. For Aboriginal youth, 48.5% of 10-12 year olds, 62.0% of 13-15 year olds and 78.0% of those aged 16 years and over were referred to the Youth Court. In contrast, for non-Aboriginal youth, the proportions referred to court were 25.9% of 10-12 year olds, 38.2% of 13-15 year olds and 48.9% of youths aged 16 years and over.
- A higher level of court referral for Aboriginal youths was also evident within each offence category. For example, for *robbery and extortion*, 89.7% of Aboriginal compared with 82.2% of non-Aboriginal matters received a court referral while, for *burglary, break and enter*, the proportions were 70.1% compared with 54.5% respectively.
- Differences in the level of court referral also applied irrespective of the method of apprehension. For both arrest and report based apprehensions, greater proportions of Aboriginal than non-Aboriginal

youths were referred to the Youth Court. For arrest-based cases, 83.3% of Aboriginal youth were referred to court compared with 72.7% of non-Aboriginal youth. Where apprehensions were report-based, the figures were 51.7% and 31.9% respectively.

Formal Cautions

- Aboriginal young people accounted for 5.4% of formal cautions issued by police in 1997. Given that they accounted for 13.8% of all apprehensions, their representation at this level was only two-fifths of that expected.
- Females accounted for a higher proportion of Aboriginal than non-Aboriginal apprehensions resulting in a formal caution (28.5% compared with 18.4% respectively).
- The youngest age group of 10-12 year olds accounted for a higher proportion of Aboriginal than non-Aboriginal youths who received a formal caution (22.0% compared with 6.0% respectively). Similar proportions of both groups fell in the middle age group (49.6% and 45.8% respectively), while the 16 years and over group was more prominent for non-Aboriginal than Aboriginal youths (28.5% compared with 48.3% respectively).
- A lower proportion of Aboriginal than non-Aboriginal formal cautions involved undertakings (48.0% compared with 57.2% respectively).
- For both Aboriginal and non-Aboriginal youth, the most common undertaking condition attached to a formal caution was that of 'other'. This was followed by apologies, compensation and community work. Over half of all undertakings for both groups involved a single condition, while just over one-third involved two conditions.
- Only 14 Aboriginal cautions involved the payment of compensation, and all these cases involved amounts of \$200 or less, with the great majority involving \$100 or less. For non-Aboriginal youth, amounts of \$100 or less also accounted for the majority of cautions involving compensation.
- Community work was a condition of only eight Aboriginal formal cautions, and nearly all of these were of 10 hours or less.

Family Conferences

Referrals

- In 1997, there were 1,792 case referrals received by the Family Conference Team. Aboriginal young people accounted for approximately one in six (15.4%) of those for which information on Aboriginality was available.
- For a higher proportion of Aboriginal than non-Aboriginal conference referrals, the matter did not result in a conference being held (19.2% compared with 8.3% respectively). The main reason for this was the youth failing to appear (13.1% of Aboriginal compared with 3.7% of non-Aboriginal cases).

Cases dealt with

-
- Over half of both Aboriginal and non-Aboriginal cases dealt with at a conference involved young people in the middle age group of 13-15 years (58.1% and 54.4% respectively). However, the very young age group of 10-12 year olds was more prominent in Aboriginal than non-Aboriginal cases (24.7% compared with 7.5% respectively), while those aged 16 years and over were less prominent (17.2% of Aboriginal compared with 38.2% of non-Aboriginal cases).
 - *Property offences* were the most dominant offence type in both Aboriginal and non-Aboriginal cases dealt with at a conference, accounting for over six in ten cases for both groups (64.8% and 66.0% respectively). A slightly higher proportion of Aboriginal than non-Aboriginal cases involved *offences against the person (excluding sexual offences)* (13.3% compared with 10.3% respectively) and *offences against good order* (13.8% and 9.7% respectively). Conversely, in a lower proportion of Aboriginal cases, a *drug offence* was identified as the major allegation (3.3% compared with 10.6% of non-Aboriginal cases).
 - The offending profiles for Aboriginal males dealt with at a conference were quite different from those of their female counterparts. While *property offences* were dominant for both, this offence group accounted for a much higher proportion of Aboriginal male than female cases (71.3% compared with 45.3% respectively). In turn, Aboriginal females were substantially more likely than Aboriginal males to be conferenced for *offences against the person (excluding sexual offences)* (35.8% compared with 5.7% respectively).
 - In the great majority of Aboriginal and non-Aboriginal cases dealt with at a conference, the conference participants reached an agreed outcome. Of those conferences where agreement was reached, 92.5% of Aboriginal and 91.0% of non-Aboriginal youths entered into an undertaking. Similar proportions of undertakings agreed to by both groups involved community work (37.8% of Aboriginal and 36.1% of non-Aboriginal cases) and ‘other’ conditions (72.4% of Aboriginal and 74.0% of non-Aboriginal cases). However, undertakings entered into by non-Aboriginal youth were more likely than Aboriginal undertakings to involve an apology (63.9% compared with 54.6% respectively) or compensation (24.3% compared with 14.6% respectively).
 - For those Aboriginal and non-Aboriginal cases involving an undertaking, the great majority were successfully completed. However, in a higher proportion of Aboriginal than non-Aboriginal cases the undertaking was not complied with (26.7% compared with 11.9% respectively) and the matter was referred back to police.
 - Most Aboriginal and non-Aboriginal conferences involved only one offender (96.3% and 88.8% respectively), although conferences involving two or more offenders accounted for a higher proportion of non-Aboriginal than Aboriginal conferences. Nearly all conferences of both groups had at least one parent or youth supporter in attendance (95.2% and 95.4% respectively). However, for approximately half of both the Aboriginal and non-Aboriginal conferences there was neither a victim nor victim supporter present (53.5% and 46.3% respectively).
 - Processing of family conference cases starts with the referral to the Family Conference Team and involves both the conference itself and the completion of any undertakings entered into at the conference. When this whole sequence is considered, Aboriginal cases exhibited a lower level of positive resolution than non-Aboriginal cases. Nearly four in ten Aboriginal cases (39.2%) were not positively finalised, either because the conference had not gone ahead or, if held had not been able to reach finalisation, or the resultant undertaking had not been complied with. In contrast, just less than one in five non-Aboriginal cases (18.4%) were not positively finalised.

Youth Court

- In 1997, there were 3,273 cases finalised in the Youth Court. Aboriginal young people accounted for 18.4% of those cases for which details of Aboriginality were known.

-
- Females constituted 21.7% of Aboriginal cases that were finalised compared with only 12.4% of non-Aboriginal cases. This means that Aboriginal young women accounted for 28.3% of all female cases while Aboriginal young men accounted for 16.8% of cases involving all males.
 - As at the earlier levels of the juvenile justice system, Aboriginal young people dealt with by the Youth Court tended to be younger than their non-Aboriginal counterparts, with just over half (57.1%) involving youth who were under 16 years of age compared with only one-third (33.7%) of non-Aboriginal cases.
 - Aboriginal and non-Aboriginal profiles for the major offence charged were fairly similar, with *property offences* the most dominant offence for both groups, accounting for over half of the Aboriginal and nearly half of the non-Aboriginal cases (55.0% compared with 48.4% respectively). However, within this offence group, both *motor vehicle related larceny* and *burglary, break and enter* were more prominent for Aboriginal than non-Aboriginal cases (11.2% compared with 6.8% respectively, and 17.4% compared with 13.8% respectively). Conversely, as for earlier levels of the juvenile justice system, *drug offences* accounted for a higher proportion of non-Aboriginal than Aboriginal cases (7.1% compared with 4.3% respectively).
 - While *property offences* dominated as the major offence charged against both Aboriginal males and females, these offences were substantially more dominant for males (59.7% compared with 37.9% for Aboriginal females). *Burglary, break and enter* accounted for the large part of this difference, constituting the major offence in one-fifth (20.8%) of male cases compared with only 5.2% of Aboriginal female cases. As at the earlier levels of the juvenile justice system, *offences against the person (excluding sexual offences)* were more prominent for Aboriginal females than males (19.8% compared with 10.7% respectively), as was *robbery and extortion* (15.5% compared with 6.0% of male cases).
 - The majority of both Aboriginal and non-Aboriginal cases resulted in at least one charge being found proved (72.7% compared with 78.9% respectively).
 - The Aboriginal profile for major offence proved was somewhat different from the one for major offence charged. *Robbery and extortion* featured less prominently as the major offence proved than the major offence charged (2.8% compared with 8.0% respectively). In contrast, *good order offences* were more prominent (20.3 % for major offence proved compared with 15.3% for major offence charged). These shifts held true for both Aboriginal males and females.
 - For cases where at least one charge was proved, fines were listed as the major penalty in approximately equal proportions of both Aboriginal and non-Aboriginal cases (22.1% and 26.4% respectively). However, Aboriginal young people were over-represented at the most serious end of the penalty spectrum. Detention orders were imposed in 8.2% of Aboriginal cases compared with 7.0% of non-Aboriginal cases and suspended detention orders in 14.4% of Aboriginal compared with 10.3% of non-Aboriginal cases. In addition, a community service order was the most serious penalty in a substantially higher proportion of Aboriginal than non-Aboriginal cases (18.8% compared with 9.4% of non-Aboriginal cases). At the other end of the spectrum, proportionately more Aboriginal young people had the matter dismissed without penalty than their non-Aboriginal counterparts (14.1% compared with 12.9% respectively).
 - Only 15 cases received a home detention order in 1997, and Aboriginal young people accounted for five of these.

Secure care

- Aboriginal young people were substantially over-represented in secure care admissions in each of the years 1994 – 1997, accounting for over one-fifth of admissions annually.

-
- In 1997, Aboriginal young women constituted just over one-quarter of all female admissions (26.3%) while Aboriginal young men represented 22.0% of all male admissions.
 - Youths aged 16 years and over dominated admissions for both Aboriginal and non-Aboriginal young people. However, the mid-range of 13-15 year olds was more prominent for Aboriginal than non-Aboriginal admissions.
 - The average daily occupancy figure for Aboriginal youths was relatively stable in the period 1994 to 1997, with Aboriginal young people accounting for at least one-quarter of those incarcerated in secure care on a daily basis in each of those four years.
 - For each of the years in the period 1994-1997, Aboriginal young men constituted between 22% and 25% of the male average daily occupancy. In contrast, Aboriginal young women accounted for a much higher proportion of the total female average daily occupancy, although this figure has declined, from 72.1% in 1994 to 39.6% in 1997.
 - The oldest age group dominated the average daily occupancy figures for both groups, but youths aged 15 years and under featured more prominently in the Aboriginal than non-Aboriginal average daily numbers.
 - There was little variation between 1994 and 1997 in the average daily occupancy figures for Aboriginal young people serving a detention order. In contrast, for non-Aboriginal youth, there was a steady rise in numbers between 1994 and 1996, before dropping somewhat in 1997. However, in each year Aboriginal young people accounted for over one-quarter of the average daily occupancy of those held on a detention order.
 - For both Aboriginal and non-Aboriginal youths, the remand population fluctuated over the four years, but peaked in 1997. Aboriginal youths accounted for fluctuating proportions of the average daily remand population in the four years, but always constituted at least one-fifth of those on remand.

1

INTRODUCTION

The final National Report of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) was tabled in Federal Parliament on the 9th May 1991, over seven years ago. That enquiry was the most comprehensive review of its kind and put forward 339 recommendations pertaining to the way in which the criminal justice system itself operated and strategies designed to prevent Aboriginal people from coming into contact with that system in the first place. Wide-ranging social justice and crime prevention strategies were recommended. In addition, the Commission recognised that the position of young Aboriginal people warranted special consideration and the final report included a number of recommendations that were specifically directed at the situation of Aboriginal juveniles, addressing issues such as:

- the need for Aboriginal people and organisations to be the main source of advice to government agencies dealing with Aboriginal juveniles;
- the need to minimise the use of arrest when dealing with young people; and
- the need to use police cautions rather than more formal mechanisms in processing young people who had offended.

In the same year that the Commission released its report, the South Australian House of Assembly established a Select Committee to review all aspects of the operation of the State's juvenile justice system. The Committee took submissions and oral evidence from a wide range of organisations and individuals, including those concerned about the position of Aboriginal youth in both the wider society and in the justice system. These submissions confirmed the finding of RCIADIC that Aboriginal young people were disproportionately represented in the juvenile justice system. The Committee's Interim Report (1992:79) noted:

'A considerable amount of evidence was presented to the Select Committee indicating that the juvenile justice system in its current form has failed to respond effectively to Aboriginal young offenders. As evidence of this, numerous submissions pointed to the substantial over-representation of Aboriginal youth at every level of the system and the consistently high numbers of such youth in the State's detention centres.'

In formulating strategies to redress the disadvantaged position of Aboriginal young people, the Committee recognised the broader context of offending by Aboriginal youth and the importance of achieving change in areas such as Aboriginal education, housing, health and employment. In addition, the Committee recommended the development of specific crime prevention strategies such as programs to respond to Aboriginal children with mental health and substance abuse problems.

With respect to the operation of the juvenile justice system itself, the Committee identified the following key issues:

- the need to improve relations between Aboriginal youth and the police;
- the need for juvenile justice personnel to receive training in Aboriginal culture;
- the need for participation and empowerment of Aboriginal people generally and, more specifically, families of young offenders as decision makers in the processes of the juvenile justice system; and
- the need to achieve full implementation the recommendations of RCIADIC.

In addition to the specific needs of Aboriginal youth, the Committee identified a number of general issues. These included:

- the need to give the victim a more central role in the process;
- the need to make the young person aware of the consequences of his/her behaviour and to take responsibility for that behaviour;
- the need to streamline the system and to introduce new ways of processing which would provide an immediate response to offending behaviour;

-
- the need to develop a broader range of sanctions or penalties relevant to the offender and the offending behaviour;
 - the need to involve the family in the process and to make them more directly responsible for their offending children;
 - the need to give the police a greater role in the juvenile justice area; and
 - the need to provide greater protection for the community.

In response to the issues presented to it, the Committee in its interim report recommended a complete restructuring of the existing juvenile justice system. The suggested changes included giving police a more central role and families a greater involvement in the process. In addition, it was thought that offenders should be required to confront the victim in appropriate cases. The Committee recommended that the existing system of Children's Aid Panels and Screening Panels be abolished and that in their place, a new system including both formal police cautioning and family conferences be established.

The new Juvenile Justice System

The recommendations of the Select Committee formed the basis for the three new pieces of legislation that restructured the juvenile justice system. The most important of these was the *Young Offenders Act* 1993. Under this Act, any youth aged 10 to 17 years inclusive at the time of the alleged offence are now subject to one of four processing options, with the police assuming most of the gatekeeping responsibility for determining which of these is applicable. These options are as follows.

- If the youth commits an offence that is considered to be trivial then operational police may administer an *informal caution*.
- Alternatively, if police consider that the offence warrants a more formal response, and if the youth admits to the offence, the youth may be formally cautioned. *Formal cautions* are given by a more senior police officer – either a cautioning officer or a specially appointed Police Youth Officer. These cautions should be delivered in the presence of either a parent or guardian, or an adult closely associated with the young person. In addition, the young person may be required to enter into an undertaking which may involve apologising to the victim, completing community work (up to 75 hours), paying compensation or performing any other task considered appropriate.
- Offences considered too serious for a caution may be referred to a *family conference*. As is the case with a police caution, family conferences occur only if the youth admits to the commission of the offence. Each conference is convened by a specialist Youth Justice Coordinator and involves the young offender, a police representative and other participants such as the offender's parents, family or friends and the victim and/or the victim's supporters and any other person whom it is considered could contribute to the conference. The Coordinator's task during the conference is to ensure that all participants are involved in a discussion of the offending behaviour, the harm that has been caused and the decision regarding an appropriate outcome. In most cases, the young person agrees to enter into an undertaking which involves various conditions such as apologising to the victim, paying compensation, performing community work or any other task the conference participants consider appropriate. If the conference cannot reach an agreement, the matter is referred to the Youth Court where a Judge or magistrate will convene a second conference.
- If a youth commits a serious offence, is a repeat offender, fails to comply with a family conference undertaking or does not admit the allegations in the first place, then (s)he may be formally charged and sent to the Youth Court. If the allegations are proved, the Youth Court may convict the youth and impose a range of penalties including fines, community service and obligations. It may also impose a period of detention in a secure care facility for up to three years. In addition, under the *Young Offenders Act* 1993 the court may order a period of home detention, to be served as a stand-alone option or as a joint secure care/home detention order.

While police have a central role in determining which of these options is most appropriate for a young person, the Youth Court does have some gate-keeping powers. It can overturn any court referral decision made by a Police Youth Officer and send the matter back for either a caution or conference.

In addition to restructuring the juvenile justice system, the *Young Offenders Act* (1993) increased the severity and range of penalties available to the Youth Court. The maximum period of detention was raised to three years while the previous two month minimum was abolished to allow for 'short sharp shock' incarceration. Community service orders of up to 500 hours were allowed and home detention was introduced as an alternative form of incarceration.

The *Young Offenders Act* (1993) and other associated legislation were proclaimed on 1 January 1994. Recognition of the need for on-going monitoring and evaluation of the system was incorporated into the legislation, and a major review of the system was undertaken within the first two years of its implementation. That study (Wundersitz, 1996), which relied on empirical data relating primarily to the 1994/95 financial year, identified a number of positive features in the new system. However, some problems were evident. Of particular concern was the fact that the position of Aboriginal youth had not improved under the new system. The Review reported that:

'Aboriginal youths are still substantially over-represented at the point of entry into the system and are still more likely to receive the "harsher" outcomes of those available. In particular, they are less likely to be diverted to a caution or conference and more likely to appear in court. They are also substantially over-represented in terms of the numbers held in the state's two training centres' (Wundersitz, 1996:xviii).

The Review made a number of recommendations regarding both the position of Aboriginal youth and the general operation of the new system. Those specifically related to Aboriginal juveniles included:

- the need for the development of broad social justice strategies and programs for 'at risk' Aboriginal youths;
- the need for a reassessment of both the use of arrest and the disproportionate level of Aboriginal young people being directed straight to court;
- the need for a range of culturally appropriate programs to be developed in the areas of:
 - education and training;
 - alternatives to detention; and
 - support for Aboriginal youths when they attend court;
- the need for an Aboriginal bail hostel; and
- the need for the Family Conference Team to develop strategies to meet the differing requirements of Aboriginal youth from urban, rural and traditional communities.

It is now over two years since the Review was completed, which is sufficient time for initial teething problems to have been resolved. Given that the Review found no real improvement in the position of Aboriginal youth under the new legislation, it is essential that there be continual monitoring of Aboriginal contact with the juvenile justice system. This report is part of that on-going monitoring. It has been produced by the Office of Crime Statistics with the support of the Aboriginal Justice Advocacy Committee and is one component of a long term project to monitor the extent, nature and outcomes of Aboriginal involvement within the South Australian criminal justice system. It provides a detailed study of the position of Aboriginal young people in the South Australian juvenile justice system in 1997 in six main areas:

- Police apprehensions;
- Actions taken once a youth is apprehended;
- Formal cautions administered by police;
- Family conference referrals and cases dealt with;
- Appearances before the Youth Court; and
- Juveniles held in custody in Youth Training Centres.

The information presented in this Report provides details of the 8,810 apprehension reports processed by the South Australian Police Department in 1997 which involved juveniles. This included 2,826 cautions administered by the police, 1,792 case referrals received by the Family Conference Team and 3,273 cases finalised in the Youth Court in 1997. In addition, information is provided on the 1,398 admissions into and the daily average number of young people held in the South Australian Youth Training Centres in 1997.

Readers need to be aware that the counting rules and definitions used in each section vary. For example, the counting unit used in the police section is the apprehension report, while at the family conference level it is the case. Further, while the term 'case' is also applied to the counting unit used for the 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. The relevant chapter provides details of the various definitions, while further information on the central counting units applied at each of the various levels is provided in Appendix.

2

POLICE APPREHENSIONS

If an offence committed by a juvenile is trivial in nature the police officer has the discretion to deliver an informal caution. When this is done, no official record is kept. However, some details of the caution – namely the age and sex of the cautioned youth – are recorded as an ancillary report and can be accessed by police if the youth has any subsequent contacts with police. Aboriginality of the young person is not recorded. Hence, these matters are not included in this report and the following discussion considers only those matters that resulted in the lodgement by police of a formal apprehension report.

In 1997, young people accounted for 8,810 apprehension reports. Information relating to Aboriginality was available for 7,238 of these. That is, information detailing whether or not the alleged offender was Aboriginal was missing on 1,572 (17.8%) reports. All analysis in this chapter is based on the 7,238 “known” reports, while the remainder have been excluded.

Of these 7,238 reports, 999 (13.8%) involved young persons identified by police as Aboriginal. Given that Aboriginal people make up only 2.3% of the State’s 10 – 17 year olds (Australian Bureau of Statistics 1996), this means that in 1997 their rate of formal contact with the juvenile justice system was 6.0 times greater than would be expected on a per capita basis. This figure is similar to that recorded at the time of the major review of the juvenile justice system, which reported on data for the 94/95 financial year. At that time the level of Aboriginal contact with the juvenile justice system was 6.1 times greater than would have been expected on a per capita basis¹ (Wundersitz, 1996).

Demographic profiles

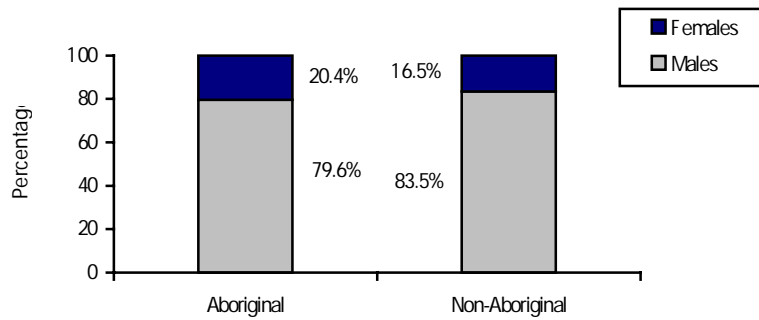
Sex of apprehended young people

In 1997, for both Aboriginal and non-Aboriginal apprehensions, males dominated, accounting for over three-quarters (79.6%) of the Aboriginal apprehensions and 83.5% of the non-Aboriginal apprehension reports (see Figure 1). Yet these figures also indicate that females accounted for a higher proportion of the Aboriginal reports: 20.4% compared with 16.5% of the non-Aboriginal reports. Stated differently, Aboriginal young women accounted for 16.5% of all female apprehensions, while Aboriginal young men accounted for 13.2% of the male apprehensions.

Given that Aboriginal males constitute 2.3% of the State’s male 10-17 year olds, their contact with the juvenile justice system was 5.7 times greater than would be expected on a per capita basis. Aboriginal females account for 2.4% of the State’s female 10-17 year olds, which means that their level of contact was 6.9 times greater than would be expected on a per capita basis.

Figure 1 Police apprehensions, 1997: Aboriginality by sex

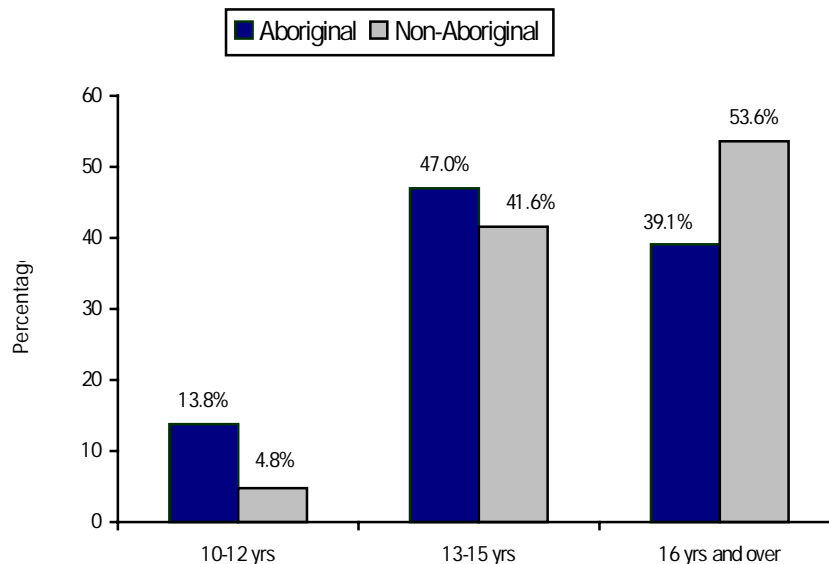
¹The Review itself determined that the rate of representation was 8.2 times greater than expected. This was based on estimates of population derived from the 1991 Census. However, when estimates of the Indigenous population as recorded by the 1996 Census of Population and Housing are used, the figure changes to 6.1. In that later census, substantially more people identified as Indigenous.



Age of apprehended young people

An age breakdown of Aboriginal and non-Aboriginal apprehensions is presented in Figure 2. As shown, a higher proportion of the Aboriginal reports involved younger people, with 60.8% of youths under 16 years of age compared with 46.4% of the non-Aboriginal apprehensions. Over one-tenth (13.8%) of the Aboriginal reports involved the very young age group of 10-12 year olds compared with only 4.8% of the non-Aboriginal reports. This means that as age decreases, the proportion of Aboriginal youth in each age group increases. Aboriginal young people accounted for 10.5% of reports involving youth aged 16 years and over, 15.3% of 13-15 year olds and 31.6% of 10-12 year olds.

Figure 2 Police apprehensions, 1997: Aboriginality by age



Information on age was unavailable for 2 Aboriginal and 10 non-Aboriginal apprehensions

Table 1, which presents the age data in a different way, also indicates that Aboriginal youth are generally younger than their non-Aboriginal counterparts. As shown, the average age of apprehended Aboriginal youth was 15.1 years compared with 15.9 years for non-Aboriginal youth. Half of the Aboriginal youth were 15.3 years or less while the median age for non-Aboriginal youths was 16.1 years.

Table 1 Police apprehensions, 1997: mean and median ages by Aboriginality

Age in years	Aboriginal	Non-Aboriginal
--------------	------------	----------------

Mean	15.1	15.9
Median	15.3	16.1

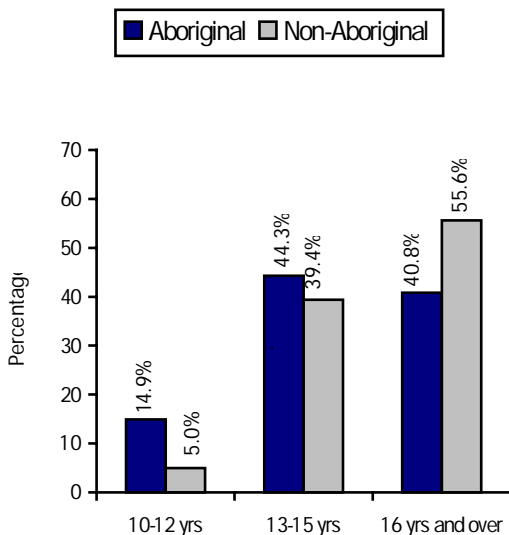
Information on age was unavailable for 2 Aboriginal and 10 non-Aboriginal apprehensions

Sex and age of apprehended young people

The finding that a higher proportion of Aboriginal than non-Aboriginal apprehension reports involved younger people held true for both males and females. Of all Aboriginal male apprehensions, 59.2% were under 16 years of age compared with 44.4% of non-Aboriginal male reports. While there were some differences in the 13-15 year age group, the most pronounced variation was in the 10-12 year age group, which accounted for 14.9% of Aboriginal males compared with only 5.0% of non-Aboriginal males (see Figure 3a).

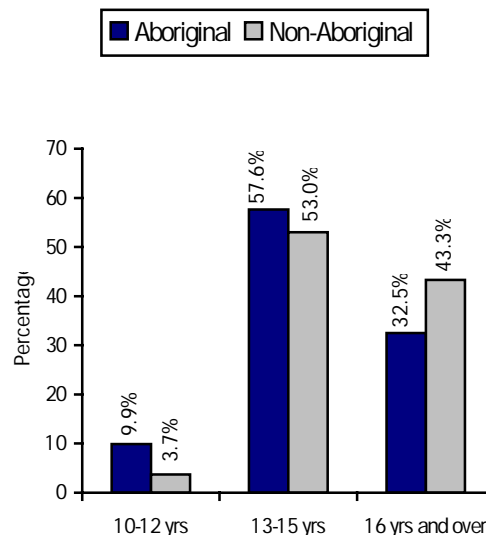
Aboriginal females apprehended by police in 1997 were also younger than their non-Aboriginal counterparts (see Figure 3b). Just over two-thirds of the Aboriginal female reports (67.5%) involved persons under 16 years of age, compared with 56.7% of non-Aboriginal female apprehensions. As was the case for males, there was a marked variation in the 10-12 year age group, which accounted for 9.9% of the Aboriginal females compared with only 3.7% of non-Aboriginal females. However, despite these differences, there was one point of similarity; for both Aboriginal and non-Aboriginal females, the mid range of 13-15 years accounted for over half of all apprehensions (57.6% and 53.0% respectively).

**Figure 3a Male apprehensions, 1997:
Aboriginality by age**



Information on age was unavailable for 1 Aboriginal and 8 non-Aboriginal males

**Figure 3b Female apprehensions, 1997:
Aboriginality by age**



Information on age was unavailable for 1 Aboriginal and 2 non-Aboriginal females

Residential location of apprehended young people

Table 2 details the residential location of youths apprehended by police in 1997. This information is presented according to the police division in which the young person was living at the time (s)he was apprehended. It shows

that the majority of apprehended Aboriginal youths (nearly six in ten or 57.4%) were from country locations. Within the country area, the Far North division was the most prominent, accounting for nearly one-quarter of all Aboriginal apprehensions (23.6%). This was followed by the West Coast division which accounted for a further one in ten apprehensions (11.6%). Within the city, the Metro North West (8.2%), Port Adelaide (7.7%) and Para divisions (7.3%) were the most prominent.

The residential profile of non-Aboriginal youths was very different. Country locations accounted for less than one-quarter (23.2%) of non-Aboriginal apprehensions, compared with nearly six in ten (57.4%) Aboriginal apprehensions and whereas Aboriginal country apprehensions tended to be concentrated in the Far North and the West Coast divisions, for non-Aboriginal youth in country areas, the South East division was the most prominent, followed by the Mid West, Riverland and Barossa divisions (5.0%, 3.2%, 3.1% and 3.0% respectively). The metropolitan area accounted for three-quarters of non-Aboriginal apprehensions (76.8%) compared with only 42.6% for Aboriginal youth. For non-Aboriginal urban youth, the Elizabeth division was the most prominent (11.6%), followed by the South Coast (9.4%) and Para and Sturt divisions (9.2% each).

Table 2 Police apprehensions, 1997: Aboriginality by police division in which youths were living at time of offence

Police division	Aboriginal		Non-Aboriginal	
	n	%	n	%
Country divisions				
Barossa	2	0.2	187	3.0
Far North (inc. Pt Augusta)	233	23.6	95	1.5
Mid West (Whyalla)	69	7.0	196	3.2
Murray (Bridge)	65	6.6	163	2.7
North East (inc. Pt Pirie)	18	1.8	145	2.4
Riverland	31	3.1	188	3.1
South East	20	2.0	305	5.0
West Coast	115	11.6	70	1.1
Yorke Peninsula	14	1.4	79	1.3
Sub-total	567	57.4	1,428	23.2
Metropolitan divisions				
Adelaide	3	0.3	106	1.7
Adelaide Hills	6	0.6	143	2.3
Elizabeth	52	5.3	713	11.6
Holden Hill	47	4.8	360	5.9
Metro North East	2	0.2	268	4.4
Metro North West	81	8.2	504	8.2
Metro South East	11	1.1	340	5.5
Metro South West	39	3.9	355	5.8
Para	72	7.3	565	9.2
Port Adelaide	76	7.7	228	3.7
South Coast	9	0.9	576	9.4
Sturt	23	2.3	564	9.2
Sub-total	421	42.6	4,722	76.8
Total	988	100.0	6,150	100.0

Division of home addresses was unknown for 11 Aboriginal and 89 non-Aboriginal young people

In summary then, the residential profiles for Aboriginal and non-Aboriginal youth were vastly different. The majority of Aboriginal youth were from country areas while the reverse was true for non-Aboriginal youth. Over one-third of Aboriginal apprehensions were concentrated in just two divisions (Far North and West Coast), while non-Aboriginal youth showed a more even geographic distribution. However, there were some small points of similarity. Two metropolitan divisions accounted for relatively substantial proportions of both groups (Metro North West: 8.2% of both groups; and Para, 9.2% of non-Aboriginal and 7.3% of Aboriginal apprehensions).

Offence profiles

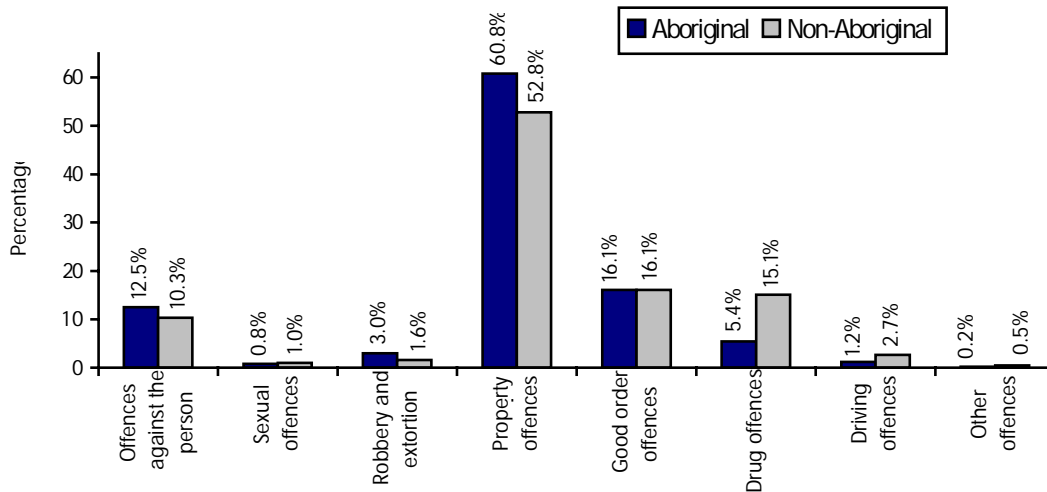
Major offence alleged per apprehension report

Figure 4 presents a breakdown of Aboriginal and non-Aboriginal apprehensions according to the major offence alleged². In broad terms, the offence profiles were relatively similar, with *property offences* clearly the most prominent. This offence group featured as the most serious allegation in over one-half of all Aboriginal and non-Aboriginal apprehensions (60.8% and 52.8% respectively).

Following *property offences*, but accounting for a substantially reduced proportion of reports, were *offences against good order*, which constituted the major allegation in 16.1% of both Aboriginal and non-Aboriginal apprehensions. *Offences against the person (excluding sexual offences)* featured almost equally for both groups (12.5% of Aboriginal and 10.3% of non-Aboriginal apprehensions) and there were further similarities in the offence groups at the low end of the scale. For example, for both Aboriginal and non-Aboriginal youth, there were relatively few reports in which *sexual offences, robbery and extortion, driving* or *other offences* constituted the major allegation.

Drug offences provided the one clear difference between the two groups. This offence category was rated as the major allegation in a substantially higher proportion of non-Aboriginal than Aboriginal apprehension reports (15.1% and 5.4% respectively).

Figure 4 Police apprehensions, 1997: Aboriginality by most serious allegation



Information on major allegation was available for all 999 Aboriginal apprehensions and for 6,239 non-Aboriginal apprehensions

The above discussion has focused on broad offence groupings, combining offences such as *larceny, damage property* and *break and enter* under *property offences*. To provide a more fine-grained analysis of the similarities and differences in the offence profiles for apprehended Aboriginal and non-Aboriginal youth, some of these broad groupings have been broken down into sub-categories, as described below.

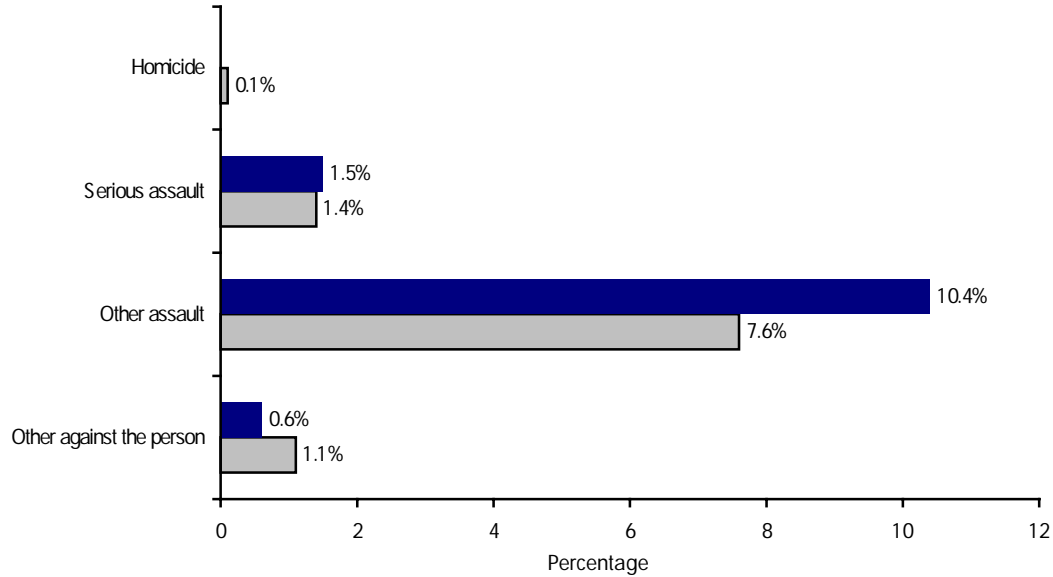
Offences against the person (excluding sexual offences)

A more detailed breakdown of *offences against the person (excluding sexual offence)* (see Figure 5) shows that *other (or minor) assault* accounted for the majority of allegations in this offence group. Nevertheless, this sub-category accounted for a higher proportion of Aboriginal than non-Aboriginal apprehensions (10.4% and 7.6% respectively). Relatively few reports involved *serious assault* or *other offences against the person*. While there were no Aboriginal

² The major offence alleged is determined by comparing the Maximum Statutory Penalty for each offence and selecting the highest of these.

apprehensions involving *homicide* there were nine non-Aboriginal reports where this was the major allegation. These nine reports involved four *murder* and five *attempted murder* allegations.

Figure 5 Police apprehensions, 1997: Aboriginality by major offence alleged
Offences against the person (excluding sexual offences)



There were 125 Aboriginal and 640 non-Aboriginal apprehensions where the major allegation was an offence against the person (excluding sexual offences)

Sexual offences

Sexual offences featured in only very small proportions of Aboriginal and non-Aboriginal apprehensions. In fact, the number of Aboriginal reports was too low to allow any meaningful comparison with non-Aboriginal apprehensions. However, the following table, giving a breakdown of the various sub-categories, is presented as background information.

Table 3 Police apprehensions, 1997: Aboriginality by major offence alleged
Sexual offences

Sexual offences	Aboriginal		Non-Aboriginal	
	n	%	n	%
Rape	6	0.6	13	0.2
Indecent assault	1	0.1	32	0.5
Unlawful sexual intercourse	0	0	9	0.1
Indecent behaviour/exposure	0	0	8	0.1
Gross indecency	0	0	1	0.0

Other sexual offences	1	0.1	1	0.0
Total	8	0.8	64	1.0

Robbery and extortion

As indicated earlier, *robbery and extortion* accounted for only very small proportions of both Aboriginal and non-Aboriginal reports. A further breakdown of this category (Table 4) shows that *unarmed robbery* was the most dominant allegation for both groups, although this sub-category did account for a slightly higher proportion of Aboriginal than non-Aboriginal apprehensions (2.5% and 1.2% respectively). *Armed robbery* featured in relatively few reports (0.5% of Aboriginal and 0.4% of non-Aboriginal) while there were no cases where *extortion* was listed as the major allegation.

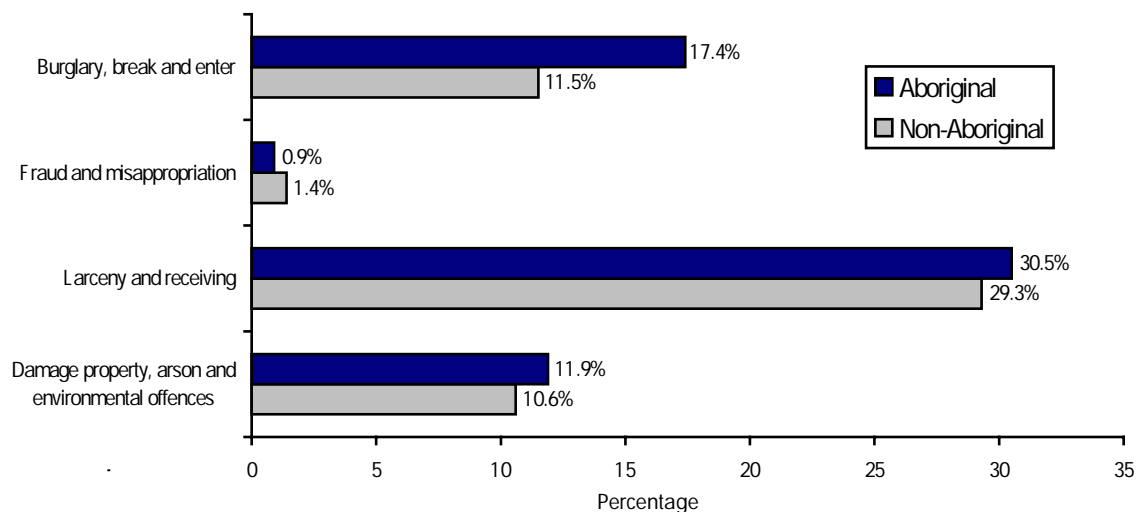
Table 4 Police apprehensions, 1997: Aboriginality by major offence alleged
Robbery and extortion

Robbery and extortion	Aboriginal		Non-Aboriginal	
	n	%	n	%
Armed robbery	5	0.5	27	0.4
Unarmed robbery				
<i>Unarmed robbery - violence</i>	13	1.3	32	0.5
<i>Unarmed robbery - no violence</i>	12	1.2	43	0.7
Sub-total	25	2.5	75	1.2
Extortion	0	0	0	0
Total	30	3.0	102	1.6

Offences against property

A breakdown of this offence group shows that for both Aboriginal and non-Aboriginal youth, *larceny and receiving* was the most prominent sub-category and accounted for approximately three-tenths of all apprehensions (30.5% and 29.3% respectively). For both groups, *burglary, break and enter* was the second most dominant sub-category. However, this relatively serious offence featured more prominently in Aboriginal than non-Aboriginal apprehensions (17.4% compared with 11.5% respectively). *Damage property, arson and environmental offences* accounted for similar proportions of both Aboriginal and non-Aboriginal apprehensions (11.9% and 10.6% respectively), while *fraud and misappropriation* featured in only a very small percentage of reports (0.9% and 1.4% respectively).

Figure 6 Police apprehensions, 1997: Aboriginality by major offence alleged
Property offences



There were 607 Aboriginal and 3,292 non-Aboriginal apprehensions where the major allegation was a property offence

While *arson* has not been separately depicted in Figure 6, in 1997 there were two Aboriginal and 63 non-Aboriginal reports involving this offence.

As larceny-related offences accounted for a high proportion of both Aboriginal and non-Aboriginal apprehensions, a more detailed breakdown is presented in Table 5. This shows that for Aboriginal youth, *larceny related to a motor vehicle* was the most prominent sub-category (10.3%), followed by *larceny from shops* (7.7%) and *larceny – miscellaneous* (7.1%). *Illegal use of a motor vehicle* accounted for the majority of *motor vehicle related larceny* (6.2% of all Aboriginal apprehensions).

For non-Aboriginal youth, the profile was somewhat different. The relatively minor offence of *larceny from shops* was the most dominant sub-category and accounted for a higher proportion of non-Aboriginal than Aboriginal apprehensions (10.8% compared with 7.7% respectively). Conversely, *motor vehicle related larceny* featured in a lower proportion of non-Aboriginal than Aboriginal reports (5.8% compared with 10.3% respectively).

Table 5 Police apprehensions, 1997: Aboriginality by major offence alleged Larceny and receiving

Larceny and receiving	Aboriginal		Non-Aboriginal	
	n	%	n	%
Receiving/unlawful possession	44	4.4	199	3.2
Larceny related to a motor vehicle				
<i>Larceny of a motor vehicle</i>	2	0.2	16	0.3
<i>Illegal use of a motor vehicle</i>	62	6.2	242	3.9
<i>Illegal interference to motor vehicle</i>	22	2.2	48	0.8
<i>Larceny from a motor vehicle</i>	17	1.7	56	0.9
Sub-total	103	10.3	362	5.8
Larceny/illegal use of other vehicle	10	1.0	77	1.2
Larceny from shops	77	7.7	676	10.8
Larceny -miscellaneous	71	7.1	511	8.2
Total	305	30.5	1,825	29.3

Offences against good order

As discussed earlier, *offences against good order* constituted the major allegation in one in six apprehensions for both Aboriginal and non-Aboriginal young people (16.1% for both). Figure 7 breaks *good order offences* into eight sub-categories and shows that for Aboriginal young people, no single sub-category dominated. However, the most

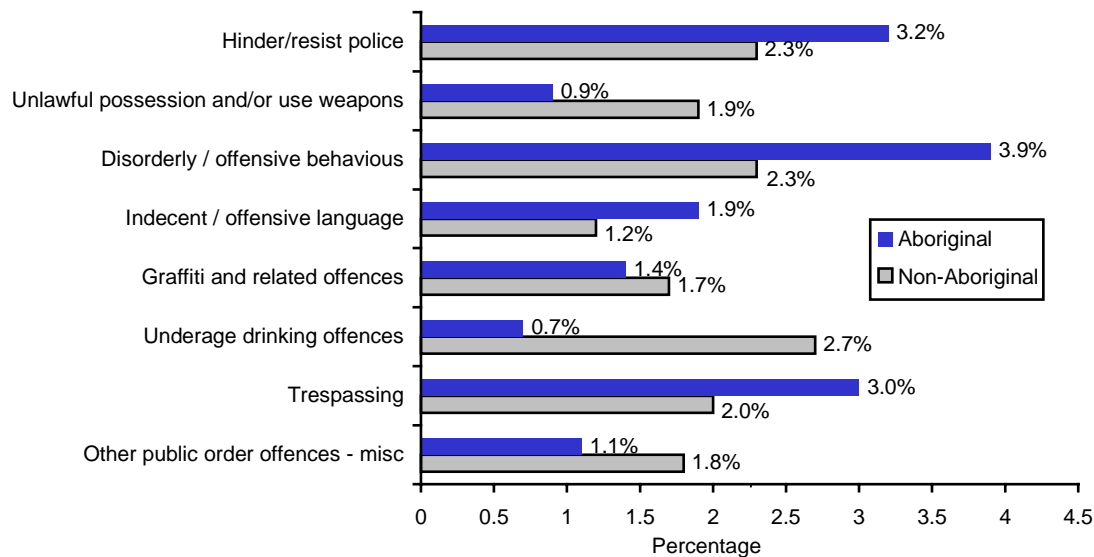
prominent sub-groups were *disorderly/offensive behaviour* (3.9%), *hinder/resist arrest* (3.2%) and *trespassing* (3.0%). Together these three groups accounted for one in ten Aboriginal apprehensions.

The non-Aboriginal profile was similar to that of Aboriginal young people to the extent that no single sub-category was prominent. However, there were some small differences. While *underage drinking offences* constituted the major allegation in few Aboriginal apprehensions, this sub-category was the most prominent *good order offence* for non-Aboriginal youth (2.7%). Conversely, each of the following offences was slightly less prominent for non-Aboriginal than Aboriginal youth:

- *disorderly/offensive behaviour* (2.3% compared with 3.9% respectively);
- *hinder/resist police* (2.3% compared with 3.2%);
- *trespassing* (2.0% compared with 3.0%);

Whereas these three sub-categories together accounted for 10.1% of all Aboriginal apprehensions, they accounted for only 6.7% of non-Aboriginal reports.

Figure 7 Police apprehensions, 1997: Aboriginality by major offence alleged
Offences against good order



There were 161 Aboriginal and 1,004 non-Aboriginal apprehensions where the major allegation was an offence against good order

Drug offences

As discussed earlier, *drug offences* accounted for a substantially higher proportion of non-Aboriginal than Aboriginal apprehensions. As Table 6 shows, there were 942 non-Aboriginal apprehensions (15.1%) for which a drug offence was the major allegation compared with 54 Aboriginal apprehensions (5.4%). For both groups of young people, *possess/use cannabis* and *possess implements for drug use* featured in the majority of drug-related apprehensions. However, *possess/use cannabis* accounted for only 2.4% of Aboriginal apprehensions compared with 7.2% of non-Aboriginal apprehensions, while *possess implements for drug use* was listed in only 2.6% of Aboriginal apprehensions compared with 4.4% of non-Aboriginal apprehensions.

Table 6 Police apprehensions, 1997: Aboriginality by major offence alleged
Drug offences

Drug offences	Aboriginal		Non-Aboriginal	
	n	%	n	%
Possess/use cannabis	24	2.4	452	7.2
Possess/use other drug	2	0.2	32	0.5
Possess/use drug - type unknown	1	0.1	61	1.0
Sell/possess for sale cannabis	0	0	47	0.8
Sell/possess other drug	0	0	9	0.1
Sell/possess drug - type unknown	0	0	5	0.1
Produce/manufacture cannabis	1	0.1	39	0.6
Produce/manufacture other drug	0	0	3	0.0
Produce/manufacture drug - type unknown	0	0	11	0.2
Fraudulent prescription offences	0	0	6	0.1
Possess implements for drug use	26	2.6	275	4.4
Other drug offences	0	0	2	0.0
Total	54	5.4	942	15.1

Driving offences

Driving offences were listed as the major offence in only 12 Aboriginal and 166 non-Aboriginal apprehensions. Table 7 provides a breakdown of the different types of driving offences involved.

**Table 7 Police apprehensions, 1997: Aboriginality by major offence alleged
Driving offences**

Driving offences	Aboriginal		Non-Aboriginal	
	n	%	n	%
Drink driving offences	2	0.2	86	1.4
Dangerous, reckless or negligent driving	3	0.3	65	1.0
Driving while licence suspended or cancelled	7	0.7	15	0.2
Total	12	1.2	166	2.7

Major offence alleged: a comparison between Aboriginal males and Aboriginal females

The above discussion compared the major offence profiles of Aboriginal and non-Aboriginal apprehensions. The following section focuses exclusively on Aboriginal apprehensions and compares the major offence profiles for males and females.

Table 8 Police apprehensions involving Aboriginal youth, 1997: sex by major offence alleged

Offence group	Males		Females	
	n	%	n	%
Offences against the person (excl. sexual offences)	79	9.9	46	22.5
Sexual offences	7	0.9	1	0.5
Robbery and extortion	20	2.5	10	4.9
Offences against property				
<i>Burglary and break and enter</i>	154	19.4	20	9.8
<i>Fraud and misappropriation</i>	7	0.9	2	1.0

<i>Larceny and receiving</i>	235	29.6	70	34.3
<i>Damage property and environmental offences</i>	104	13.1	15	7.4
Sub-total	500	62.9	107	52.5
Offences against good order	127	16.0	34	16.7
Drug offences	50	6.3	4	2.0
Driving offences	11	1.4	1	0.5
Other offences	1	0.1	1	0.5
Total	795	100.0	204	100.0

As shown in Table 8, the offence profiles of Aboriginal males and females exhibited both similarities and differences. Equal proportions of both male and female reports involved *offences against good order* (16.0% and 16.7% respectively). Moreover, within both groups, *property offences* accounted for over half of all apprehensions, with *larceny and receiving* featuring as the most prominent *property offence*. Nevertheless, the percentage of females apprehended for a *property offence* was lower than that of males (52.5% compared with 62.9% respectively) due largely to the smaller proportion of young women involved in *burglary, break and enter* (9.8% compared with 19.4% of males respectively) and *damage property, arson and environmental offences* (13.1% compared with 7.4% respectively). In contrast to this though, a greater proportion of females than males was apprehended for *larceny and receiving* (34.3% compared with 29.6% respectively).

For Aboriginal females, *offences against the person (excluding sexual offences)* accounted for a higher proportion of reports (22.5% compared with 9.9% for Aboriginal males) as did *robbery and extortion* (4.9% compared with 2.5% for Aboriginal males). Conversely, *drug offences* featured in a higher proportion of Aboriginal male reports (6.3% compared with 2.0% respectively).

Sexual offences, fraud and misappropriation, driving offences and *other offences* accounted for only small proportions of both male and female Aboriginal reports.

Number of offence counts per apprehension report

The discussion so far has focussed on only the major allegation. However, apprehension reports may involve more than one offence and Table 9 details the number of separate offences alleged per report. As shown, the profiles for the two groups were similar. For both Aboriginal and non-Aboriginal youth, approximately six in ten reports involved only one offence count (62.7% and 61.2% respectively) and just over one in five involved two offence counts (22.2% and 23.9% respectively).

Table 9 Number of offence counts per apprehension report, 1997

No. of offence counts	Aboriginal		Non-Aboriginal	
	n	%	n	%
1	626	62.7	3,821	61.2
2	222	22.2	1,490	23.9
3-5	132	13.2	780	12.5
6-10	19	1.9	107	1.7
11 and over	0	0	41	0.7
Total	999	100.0	6,239	100.0

Combination of offences per apprehension report

As detailed in Table 9, nearly four in ten apprehensions involved more than one offence count. Sometimes, that might mean that the apprehension involved two counts of the one offence type. For example, if a young person shoplifted one item from a supermarket and another from a newsagency, this would be recorded as two counts of

larceny from a shop. However, in other cases, the one apprehension report could involve offences that were quite different from each other. For example, an apprehension report could involve one count of *common assault* and one of *disorderly/offensive behaviour*.

The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) identified *good order offences* as an important factor contributing to the over-representation of Aboriginal people in the criminal justice system. While earlier discussion in this chapter noted that in 1997, *good order offences* constituted the major offence in equal proportions of Aboriginal and non-Aboriginal apprehensions (16.1%), it may be that Aboriginal young people were more likely than non-Aboriginal youth to be apprehended for a *good order offence* that was not listed as the major charge. For example, if a *good order offence* was combined with another, technically more serious type of offence, it would not be listed in the major offence statistics. To investigate further whether or not *good order offences* featured more prominently for Aboriginal than non-Aboriginal youth, the following discussion details the combination of offences recorded on individual apprehension reports. The following eleven major offence groups have been used:

- *Offences against the person (excluding sexual offences)*
- *Sexual offences*
- *Robbery and extortion*
- *Burglary, break and enter*
- *Fraud and misappropriation*
- *Larceny and receiving*
- *Damage property, arson and environmental offences*
- *Offences against good order*
- *Drug offences*
- *Driving offences*
- *Other offences*

Apprehensions are listed according to the combination of offence types recorded on the report. For example, an apprehension where the offences were *larceny from a shop* and *larceny from a motor vehicle* is recorded as having one type of offence only (the offence group being *larceny and receiving*). A report for which the offences were *larceny of a motor vehicle* and *damage property* is listed as involving two types of offences (the offence groups being *larceny and receiving* and *damage property, arson and environmental offences*).

Table 10 details, for both Aboriginal and non-Aboriginal youth, the number of different offence types recorded on apprehension reports. This shows that for both Aboriginal and non-Aboriginal apprehensions, the great majority involved only one offence group (75.0% and 79.3% respectively), while approximately one in five involved two types of offences (20.3% for Aboriginal and 17.3% for non-Aboriginal). In contrast, only a small proportion of reports recorded more than two offence types.

Table 10 Police apprehensions, 1997: Aboriginality by number of offence types

Number of offence types	Aboriginal		Non-Aboriginal	
	n	%	n	%
One	749	75.0	4,948	79.3
Two	203	20.3	1,077	17.3
Three	38	3.8	188	3.0
Four	9	0.9	24	0.4
Five	0	0	2	0.0
Total	999	100.0	6,239	100.0

One offence type only

Table 11 subsets out those reports that listed only one offence type and details, for both Aboriginal and non-Aboriginal apprehensions, the different offences involved in those reports. As might be expected given the earlier discussion on major offence, *property offences* dominated both profiles. Again, as for the major offence profiles, reports involving only *larceny and receiving* were prominent, accounting for approximately one-fifth of all

Aboriginal (22.9%) and non-Aboriginal (22.6%) apprehensions. For both groups, similar proportions of reports involved only *offences against good order* (15.2% for Aboriginal and 14.9% for non-Aboriginal youth).

The only major area of difference related to those reports for which *drug offences* were the only type of offence with this category accounting for a substantially higher proportion of non-Aboriginal than Aboriginal reports (12.5% and 4.0% respectively).

Table 11 Police apprehensions involving one offence type only, 1997: Aboriginality by offence type

Offence category	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual)	92	9.2	498	8.0
Sexual offences	6	0.6	53	0.8
Robbery and extortion	23	2.3	72	1.2
Property offences				
<i>Burglary, break and enter</i>	113	11.3	507	8.1
<i>Fraud and misappropriation</i>	3	0.3	75	1.2
<i>Larceny and receiving</i>	229	22.9	1,409	22.6
<i>Damage property, arson and environ.</i>	79	7.9	449	7.2
Sub-total	424	42.4	2,440	39.1
Offences against good order	152	15.2	930	14.9
Drug offences	40	4.0	779	12.5
Driving offences	10	1.0	147	2.4
Other offences	2	0.2	29	0.5
Total	749	75.0	4,948	79.3

Two types of offences

Table 12 details those reports that involved two types of offences. As would be expected, there were many combinations of offence types and no single combination accounted for a substantial proportion of either Aboriginal or non-Aboriginal apprehensions. However, for both groups the combination of *larceny and receiving* and *offences against good order* was the

Table 12 Police apprehensions involving two offence types, 1997: Aboriginality by offence combination

Offence combination	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual)				
+ Sexual	1	0.1	8	0.1
+ Robbery	3	0.3	8	0.1
+ Burglary	0	0	6	0.1
+ Larceny and receiving	5	0.5	22	0.4
+ Damage property, arson and environ.	7	0.7	49	0.8
+ Good order	27	2.7	105	1.7
+ Drug	2	0.2	5	0.1
+ Drive	0	0	1	0.0
+ Other	0	0	1	0.0
Sexual				
+ Larceny and receiving	0	0	1	0.0
+ Good order	2	0.2	2	0.0
Robbery				
+ Burglary	0	0	2	0.0
+ Fraud	0	0	1	0.0
+ Larceny	2	0.2	9	0.1
+ Property	0	0	4	0.1

+ Good order	1	0.1	3	0.0
+ Drug	0	0	2	0.0
Burglary, break and enter				
+ Fraud	0	0	6	0.1
+ Larceny	32	3.2	79	1.3
+ Damage property, arson and environmental offences	13	1.3	30	0.5
+ Good order	9	0.9	33	0.5
+ Drug	4	0.4	19	0.3
Fraud				
+ Larceny	8	0.8	39	0.6
+ Good order	0	0	2	0.0
+ Drug	0	0	1	0.0
Larceny and receiving				
+ Damage property	7	0.7	63	1.0
+ Good order	42	4.2	156	2.5
+ Drug offences	8	0.8	91	1.5
+ Driving	6	0.6	29	0.5
+ Other	0	0	6	0.1
Damage property, arson and environ				
+ Offences against good order	11	1.1	99	1.6
+ Drug	1	0.1	5	0.1
+ Driving	0	0	2	0.0
+ Other	0	0	2	0.0
Offences against good order				
+ Drug offences	9	0.9	136	2.2
+ Drive	2	0.2	25	0.4
+ Other	1	0.1	18	0.3
Drug				
+ Driving	0	0	5	0.1
+ Other	0	0	2	0.1
Sub-total	203	20.3	1,077	17.3

most prominent (4.2% of Aboriginal and 2.5% of non-Aboriginal reports). For Aboriginal young people, this was followed by *burglary, break and enter* combined with *larceny and receiving* (3.2%). However, for non-Aboriginal youth, *offences against good order* combined with *drug offences* accounted for the second highest proportion of reports (2.2%). For both Aboriginal and non-Aboriginal apprehensions, the third most prominent combination was *offences against the person (excluding sexual offences)* in association with *offences against good order* (2.7% of Aboriginal and 1.7% of non-Aboriginal).

As suggested by the above discussion, *offences against good order* were at times recorded in combination with one other type of offence. Table 13 has subset out from Table 10 those combinations that involved an *offence against good order*. This shows that for both groups of youth, reports involving the combination of an *offence against good order* and one other offence type accounted for approximately one in ten reports. This combination was only slightly more prominent amongst Aboriginal than non-Aboriginal youth (10.4% and 9.3% of all apprehensions respectively).

Table 13 Police apprehensions involving two offence types where one offence type was against good order, 1997: Aboriginality by offence combination

Offence combination	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual)				
+ Good order	27	2.7	105	1.7
Sexual				
+ Good order	2	0.2	2	0.0
Robbery				
+ Good order	1	0.1	3	0.0
Burglary, break and enter				
+ Good order	9	0.9	33	0.5
Fraud				
+ Good order	0	0	2	0.0

Larceny				
+ Good order	42	4.2	156	2.5
Damage property , arson and environ				
+ Good order	11	1.1	99	1.6
Offences against good order				
+ Drug offences	9	0.9	136	2.2
+ Drive	2	0.2	25	0.4
+ Other	1	0.1	18	0.3
Sub-total	104	10.4	579	9.3

Three types of offences

A similar pattern emerges when those reports involving three types of offences are examined. In earlier discussion it was noted that such reports accounted for 3.8% of Aboriginal and 3.0% of non-Aboriginal apprehensions. Table 14 shows that for both Aboriginal and non-Aboriginal young people, over half of all those ‘three offence type’ apprehensions involved a *good order offence* (25 out of 38 for Aboriginal and 127 out of 188 for non-Aboriginal).

Table 14 Police apprehensions involving three offence types where one offence type was against good order, 1997: Aboriginality by offence combination

Offence combination	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual)				
+ Burglary	2	0.2	1	0.0
+ Larceny	1	0.1	9	0.1
+ Damage property	2	0.2	12	0.2
+ Good order	0	0	10	0.2
+ Good order	0	0	3	0.0
+ Good order	1	0.1	2	0.0
Robbery				
+ Larceny	0	0	1	0.0
Burglary, break and enter				
+ Fraud	0	0	1	0.0
+ Larceny	7	0.7	20	0.3
+ Damage property	1	0.1	8	0.1
+ Good order	0	0	3	0.0
Fraud				
+ Larceny	0	0	1	0.0
+ Good order	1	0.1	0	0
Larceny				
+ Damage property	3	0.3	9	0.1
+ Good order	2	0.2	24	0.4
+ Good order	3	0.3	14	0.2
+ Good order	1	0.1	1	0.0
Damage property , arson and environ				
+ Good order	1	0.1	3	0.0
+ Good order	0	0	1	0.0
+ Good order	0	0	1	0.0
Offences against good order				
+ Drug	0	0	2	0.0
+ Drug	0	0	1	0.0
Sub-total	25	2.5	127	2.0

All reports involving good order offences

The process of identifying reports that involved at least one *good order offence* was continued for apprehensions involving four and five types of offences. The results were then combined with the information presented in Tables 11 to 14 to provide an overview of all reports containing an *offence against good order*. As shown in Table 15, *good order offences* featured in over one-quarter of reports for both Aboriginal and non-Aboriginal youth, which is a substantially higher proportion than the 16.1% of apprehensions where *good order offences* constituted the major offence. Nevertheless, the differences between the two groups were not pronounced, with only a slightly higher proportion of Aboriginal than non-Aboriginal apprehensions involving this type of offence (28.9% compared with 26.6% respectively). However, it should be noted that this analysis has not investigated either the actual number of *good order offences* per report or the specific types of *good order offences* involved.

**Table 15 Police apprehensions involving an offence against good order, 1997:
Aboriginality by number of offence types per report**

Number of offence types	Aboriginal		Non-Aboriginal	
	n	%	n.	%
Good order offence(s) only	152	15.2	930	14.9
Good order offence(s) + one other type of offence	104	10.4	579	9.3
Good order offence(s) + two other types of offences	25	2.5	127	2.0
Good order offence(s) + three other types of offences	8	0.8	21	0.3
Good order offence(s) + four other types of offences	0	0	2	0.0
Total	289	28.9	1,659	26.6

Method of Apprehension

The RCIADIC identified arrest processing as an important issue for both adults and juveniles. The Commission stressed that arrest should be used as a last resort, and recommended that both legislation and police instructions be reviewed to ensure that Aboriginal young people are not proceeded against by way of arrest unless such action is necessary. The Commission stated:

‘The general rule should be that if the offence alleged to have been committed is not grave and if the indications are that the juvenile is unlikely to repeat the offence or commit other offences at that time then arrest should not be effected.’

What then are the criteria for arresting juveniles in South Australia? Police guidelines (3065 Arrest) specify that police officers

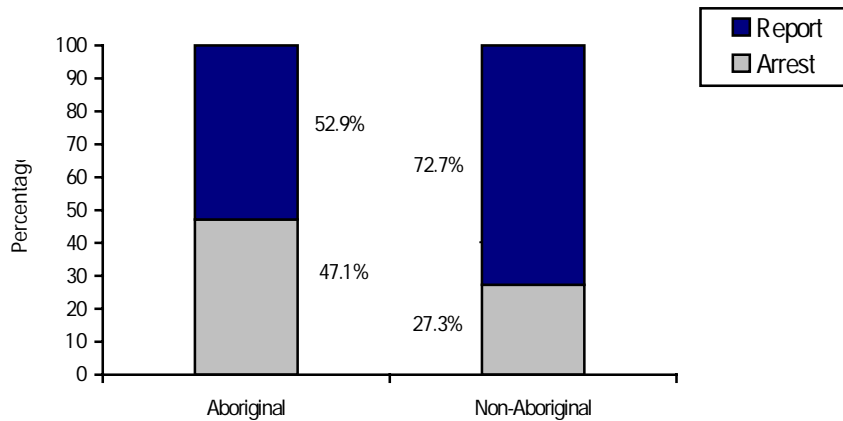
‘should not exercise their power of arrest unless one or more of the following criteria exist, namely, there are reasonable grounds for belief that the apprehension is necessary to:

- ensure appearance before a court;
- prevent the loss or destruction of evidence;
- prevent the continuation or repetition of the offence;
- prevent the commission of other offences.’

For the arrest of children, there are additional guidelines which state that ‘the child’s age and antecedents must be taken into account and particular regard given to the child’s welfare’. The directions do not, however, detail how these factors are to be taken into consideration. A further guideline for those cases involving a young person states that before arresting a child, police officers are expected to obtain authorisation from an officer of the rank of sergeant or above (Police Guidelines: 3065 Arrest). However, an exception is made for situations of street offences such as *disorderly behaviour* or *hinder/resist police* where arrest is used to prevent continuation of the behaviour. In such cases, if authorisation for arrest cannot be obtained prior to arrest, the arresting officer must advise the appropriate authorising officer as soon as practicable thereafter.

The first major review of South Australia’s new juvenile justice system (Wundersitz, 1996) indicated that Aboriginal youths were more likely to be arrested than were non-Aboriginal young people. The data for 1997 confirm that finding. As Figure 8 shows, the use of arrest remains high and Aboriginal young people are still substantially more likely to be arrested than their non-Aboriginal counterparts. Overall, 47.1% of Aboriginal apprehensions were by way of arrest compared with 27.3% of non-Aboriginal apprehensions. Disturbingly, these proportions are higher than those reported in the review (41.4% for Aboriginal apprehensions and 25.1% for non-Aboriginal apprehensions).

Figure 8 Police apprehensions, 1997: Aboriginality by method of apprehension



Information of method of apprehension was available for all 999 Aboriginal and 6,239 non-Aboriginal apprehensions

Aboriginal young people accounted for just over one in five (21.7%) of all arrests but only one in ten (10.4%) of report-based apprehensions. Given that Aboriginal young people accounted for 13.8% of all apprehensions, they were arrested 1.6 times more often than would be expected.

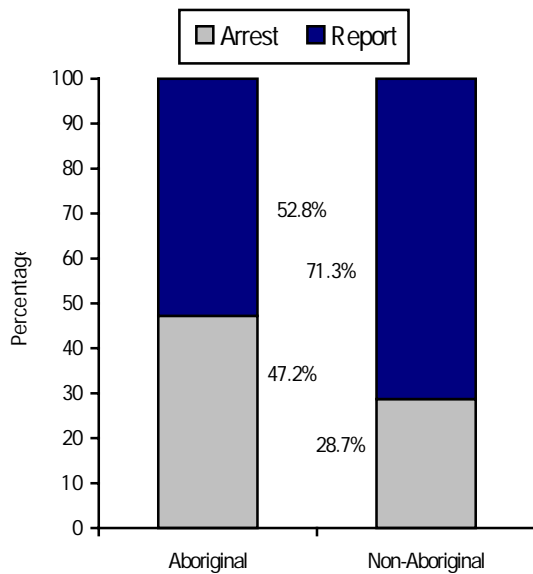
Sex by method of apprehension

As illustrated in Figures 9a and 9b, the disproportionate arrest of Aboriginal young people applied to both males and females alike. More specifically:

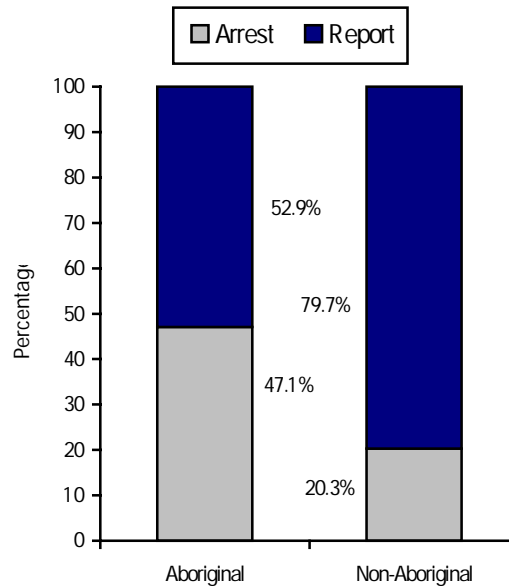
- 47.2% of Aboriginal male apprehensions were by way of arrest, compared with only 28.7% of non-Aboriginal male apprehensions; and
- 47.1% of Aboriginal female apprehensions were by way of arrest, compared with only 20.3% of non-Aboriginal female apprehensions.

Aboriginal males accounted for one in five male arrests (20.1%). Given that they constituted 13.2% of all male apprehensions, this means that their level of representation in the arrest figures was 1.5 times greater than expected. The situation for Aboriginal females was worse than that of their male counterparts. Aboriginal females accounted for three in ten female arrests (31.4%). Given that they accounted for 16.5% of all female apprehensions, this means that their degree of representation in the arrests figures was 1.9 times greater than expected.

**Figure 9a Male apprehensions, 1997:
Aboriginality by method of
apprehension**



**Figure 9b Female apprehensions, 1997:
Aboriginality by method of
apprehension**



Age of youths who were arrested

The disproportionate use of arrest for Aboriginal young people applied to each age group. However, as illustrated in Table 16, Aboriginals accounted for substantially higher proportions of arrests in the younger age groups. More specifically, they constituted 45.3% of all arrests involving 10 – 12 year old youths and 27.7% of arrested 13 – 15 year olds but only 17.0% of arrested youths aged 16 years and older.

Table 16 Arrest-based apprehensions, 1997: age by Aboriginality

Racial Identity	Age in years					
	10-12		13-15		16 and over	
	n	%	n	%	n	%
Aboriginal	29	45.3	215	27.7	226	17.0
Non-Aboriginal	35	54.7	562	72.3	1,104	83.0
Total	64	100.0	777	100.0	1,330	100.0

Information on method of apprehension was available for 997 Aboriginal and 6,229 non-Aboriginal apprehended youth for whom age was known

One explanation for this may simply be that Aboriginal youth account for a higher proportion of initial apprehensions in each age group. However, even when controlling for the level of apprehension, Aboriginal youths are still over-represented in the arrest figures, irrespective of age. To illustrate:

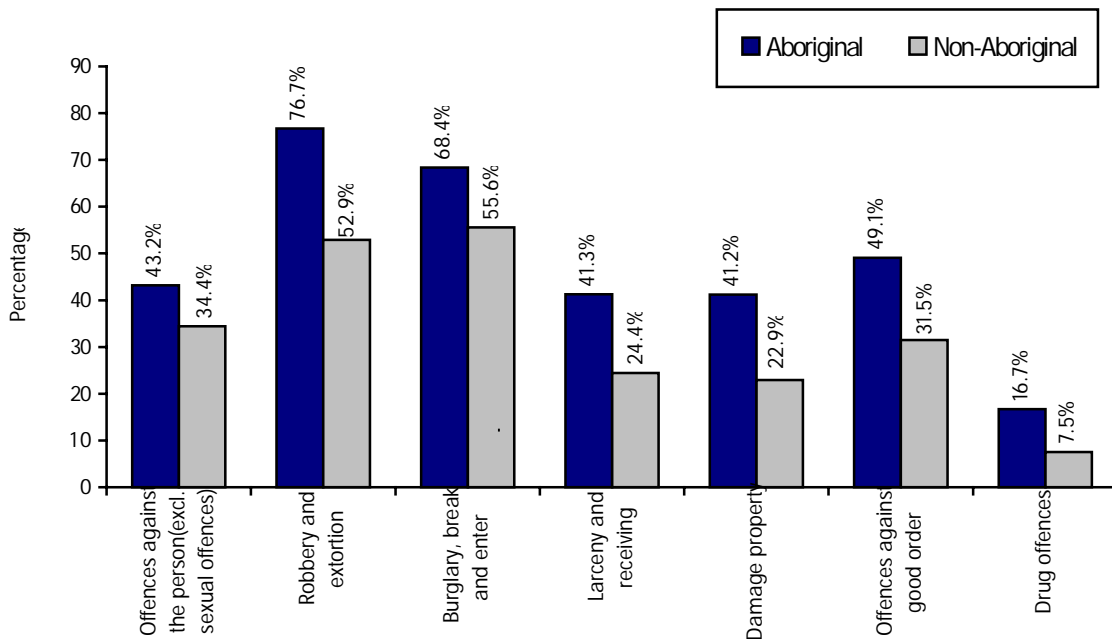
- Aboriginal young people accounted for 31.6% of all 10-12 year old apprehensions but 45.3% of those 10-12 year olds who were brought into the system by way of arrest. This means that their level of representation in the arrest figures for 10-12 year olds was 1.4 times greater than expected.

- Aboriginal youth accounted for 15.3% of 13-15 year olds apprehended but 27.7% of those in this age group who were arrested. Their level of representation in arrests of 13-15 year olds was therefore 1.8 times greater than expected.
- Aboriginal young people accounted for 10.5% of all apprehensions of youths aged 16 and over, but 17.0% of all arrested youths in this group. Their level of representation in arrests for this age group was 1.6 times greater than expected.

Major offence alleged by proportion arrested

Figure 10 compares the proportion of Aboriginal and non-Aboriginal apprehensions within each offence category that were brought about by way of arrest. As expected, the extent to which police used arrest as the method of apprehension varied according to the nature or seriousness of the offence. Thus, for both Aboriginal and non-Aboriginal young people, apprehensions where the major allegation was either *robbery and extortion* or *burglary, break and enter* had high arrest rates while *drug offences* had relatively low arrest rates.

Figure 10 Major offence alleged per apprehension, 1997: Aboriginality by proportion arrested



Sexual offences, fraud and misappropriation, driving offences and other offences have been omitted because of the Aboriginal apprehensions

However, within each offence group, a higher proportion of Aboriginal than non-Aboriginal apprehensions was by way of arrest. The offence categories that recorded the highest level of arrest for Aboriginal young people were *robbery and extortion* and *burglary, break and enter*. More specifically, 76.7% of Aboriginal compared with only 52.9% of non-Aboriginal apprehensions where *robbery and extortion* was the major allegation were based on arrest. For *burglary, break and enter* the proportion arrested was 68.4% of Aboriginal compared with only 55.6% of non-Aboriginal apprehensions.

For both Aboriginal and non-Aboriginal youth, the category of *drug offences* had the lowest proportion of arrest based apprehensions. However, again, the Aboriginal level of arrest was higher than for non-Aboriginal youth (16.7% compared with 7.5% respectively).

For the remaining offences (*offences against the person, excluding sexual offences, larceny and receiving, damage property, arson and environmental offences* and *good order offences*), the Aboriginal arrest rates varied from 41.2%

to 49.1%, while the arrest rates for non-Aboriginal youth in these same offence categories were in the much lower range of 22.9% to 34.4%.

Summary of Police Apprehensions

This chapter provided an overview of Aboriginal and non-Aboriginal apprehensions in 1997. As well as describing the sex, age and residential location of the young people, this section detailed both the major offence and combination of offences recorded per apprehension report, with particular attention given to those reports listing at least one *good order* offence. Finally, the method of apprehension used by police was documented.

The findings included:

- In 1997, Aboriginal young people were substantially over-represented in juvenile apprehension figures. While males dominated both Aboriginal and non-Aboriginal apprehensions, females accounted for a higher proportion of the Aboriginal reports. Aboriginal juveniles tended to be younger than their non-Aboriginal counterparts, with this being true for both males and females. A further difference was evident in the residential profiles of the two groups. While the majority of Aboriginal youths were from country locations, most of the apprehended non-Aboriginal young people were from Adelaide.
- In broad terms, the offence profiles for Aboriginal and non-Aboriginal young people apprehended by police were relatively similar, with *property offences* featuring as the major offence in over half the cases of both groups. *Larceny and receiving* was the most dominant property offence and accounted for similar proportions of both Aboriginal and non-Aboriginal apprehensions. However, within this offence group, the sub-category of *larceny related to a motor vehicle* was more prominent for Aboriginal than non-Aboriginal young people. *Burglary, break and enter* was the second most dominant *property offence* for both groups, but was more prominent for Aboriginal than non-Aboriginal youth. For both groups, *good order offences* constituted the major allegation in one in six apprehensions while *offences against the person (excluding sexual offences)* accounted for approximately one in ten apprehension reports. *Drug offences* provided the one clear difference between the two groups, constituting the major allegation in a substantially lower proportion of Aboriginal than non-Aboriginal apprehensions.
- The dominance of *property offences* held true for both Aboriginal males and females, although less so for females. However, *offences against the person (excluding sexual offences)* were more prominent for Aboriginal females than males.
- While *good order offences* constituted the most serious offence in one in six apprehensions for both groups, they were listed as a non-major allegation in a more substantial proportion of cases. In total, this offence type was included in over one-quarter of apprehension reports for both Aboriginal and non-Aboriginal young people. While *good order offences* were listed on a higher proportion of Aboriginal than non-Aboriginal reports, the difference between the two groups was not pronounced.
- Aboriginal young people who were apprehended by police were substantially more likely than their non-Aboriginal counterparts to be brought into the system by way of an arrest, rather than a report. This applied irrespective of sex, age and the major offence alleged.

3

TYPE OF ACTION TAKEN FOLLOWING APPREHENSION

As indicated in the Introduction, once a young person has been apprehended a decision needs to be made as to how the young person should be processed. Is he/she to be given an informal caution or a formal caution? Or is the young person to be referred to a family conference or the Youth Court? Under the new juvenile justice system, there are several points at which this decision can be made.

First, it needs to be noted that if a young person does not admit the allegations, (s)he must be referred to court. However, where the young person does admit to committing the offence, (s)he may be cautioned or referred to a family conference. It is in such situations that the police have a pivotal role and within the South Australian Police Department, there are three distinct levels of authority for making these decisions: the patrol officer, the cautioning sergeant and the Police Youth Officer. In the metropolitan area, this last position is a specialist one, while in rural areas the role is performed by the Officer in Charge of the police station.

The **patrol officer** has the discretion to informally caution a young person. If (s)he decides that the matter warrants more than an informal caution, the young person will be reported or arrested.

The **cautioning sergeant** represents the next level of authority. All reported matters and cases where there has been an arrest and the young person has been bailed are referred to the cautioning sergeant, who has the authority to formally caution a young person or if (s)he decides that the matter is too serious for a caution, to transfer the file to a Police Youth Officer (or the Officer in Charge of the station).

Police Youth Officers occupy the third authority level. They have the option to refer the young person to either a family conference or the Youth Court, or they can decide that, in spite of the view of the cautioning sergeant, a formal caution is adequate to resolve the matter. Alternatively, they can decide to withdraw the allegations and take no further action.

Arrested youths who have not been granted bail are treated differently. In the metropolitan area, these young people are held in custody at one of the youth training centres until brought before the Youth Court. However, if a Police Youth Officer checks the file prior to the court appearance, he/she may decide that a caution or conference is the more appropriate way to deal with the matter and in such situations, the young person would not be required to appear in court.

While the majority of referral decisions are made by police, there are three situations in which the Youth Court can assume responsibility. First, when a young person who has been arrested, not granted bail and not had their file reviewed by a Police Youth Officer comes before the Youth Court, the court itself can take on a screening role, deciding either to send the matter back to a caution or conference or deal with it itself. Second, for report-based matters that are referred to court by the Police Youth Officer, the Youth Court can again refer back to a caution or conference. Third, if a youth comes before the court because of an initial refusal to admit the allegation but once in court changes his/her plea, the court can also refer the case back to a caution or conference.

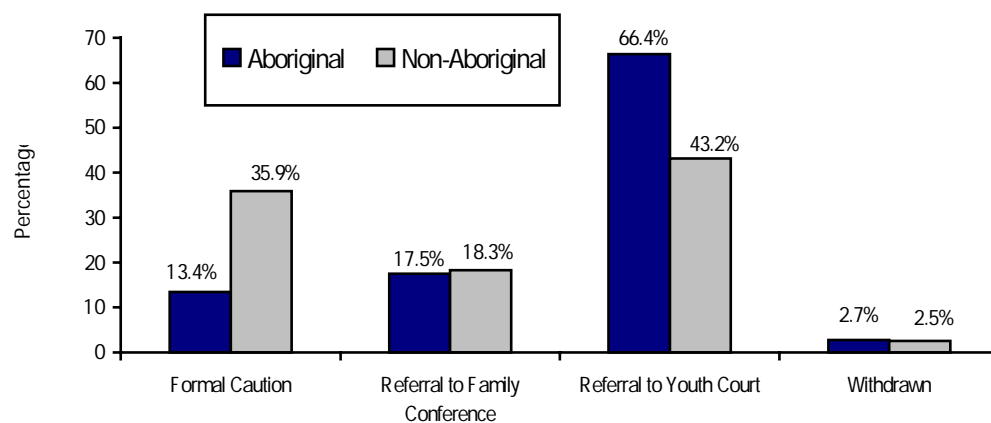
The first major review of the new juvenile justice system (Wundersitz, 1996) found pronounced differences in the type of action or referral profiles for Aboriginal and non-Aboriginal young people. It found that Aboriginal young people were substantially less likely to receive a formal caution and substantially more likely to be referred to court. However, similar proportions of both Aboriginal and non-Aboriginal apprehensions were referred to a family conference. The data for 1997 show a continuation of these Aboriginal/non-Aboriginal differences in action and referral patterns.

Overview

As indicated in the first chapter, in 1997 there were 7,238 apprehensions for which details of the youth's indigenous status were recorded. For 337 of these, information on the police action/referral was not available. All analysis in this chapter is based on the 6,901 apprehensions for which the police action/referral was recorded.

In 1997 the great majority of Aboriginal apprehensions resulted in a referral to the Youth Court. This was in strong contrast to the action/referral profile for non-Aboriginal apprehensions. As shown in Figure 11, over six in ten Aboriginal apprehensions (66.4%) were directed to court compared with less than half (43.2%) of non-Aboriginal apprehensions. While similar proportions of Aboriginal and non-Aboriginal apprehensions were referred to a family conference (17.5% compared with 18.3% respectively), a far smaller proportion of apprehensions involving Aboriginal young people resulted in a formal caution (13.4% compared with 35.9% of non-Aboriginal apprehensions). In total then, less than one third (30.9%) of Aboriginal apprehensions were given the option of pre-court diversion, compared with over half (54.2%) of non-Aboriginal matters.

Figure 11 Police apprehensions, 1997: Aboriginality by type of action taken



There were 80 Aboriginal and 257 non-Aboriginal apprehensions where police action/referral was unknown

Type of action taken for males and females

This high level of Aboriginal referral to the Youth Court held true for both males and females. Figure 12a presents the action/referral pattern for males. This shows that while similar proportions of both Aboriginal and non-Aboriginal male apprehensions were referred to a family conference (16.8% compared with 17.3% respectively), a substantially higher proportion of Aboriginal male apprehensions were directed to court (67.8% compared with 45.2%), while a substantially lower proportion received a formal caution (12.1% compared with 35.2%).

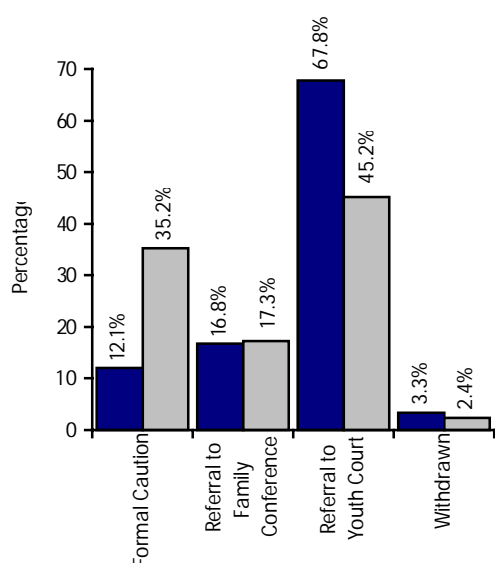
As Figure 12b indicates, Aboriginal females also had a much higher likelihood than their non-Aboriginal counterparts of being referred to court (60.8% compared with 33.5% respectively) and a lower likelihood of a formal caution (18.5% compared with 39.5%). However, as for the males, relatively similar proportions of Aboriginal and non-Aboriginal females were referred to a family conference (20.1% compared to 23.6% respectively).

A second issue to consider is whether there are differences between males and females *within* each racial group. A comparison between Aboriginal male and female referral patterns reveals both similarities and differences. For both groups, six in ten apprehensions were referred to court while less than one in five resulted in a formal caution. However, Aboriginal males were proportionately more likely than Aboriginal females to be directed to court (67.8% compared with 60.8% respectively).

Conversely, Aboriginal males were proportionately less likely than Aboriginal females to receive a formal caution (12.1% compared with 18.5%) or a conference referral (16.8% compared with 20.1%).

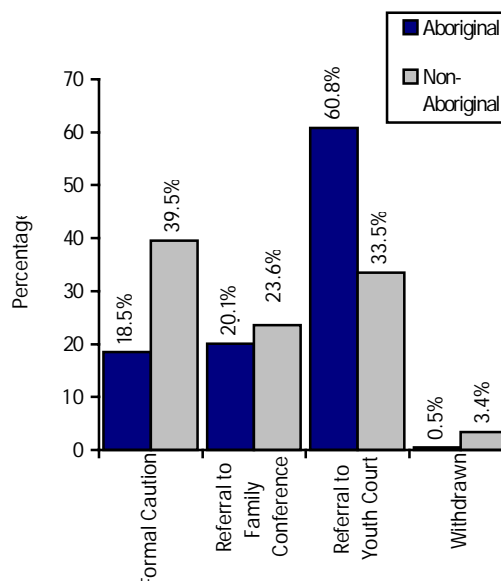
These male/female differences held true for non-Aboriginal youth. A higher proportion of non-Aboriginal male than female apprehensions were referred to court (45.2% compared with 33.5%) and smaller proportions received a formal caution (35.2% compared with 39.2% for non-Aboriginal females) or a referral to a family conference (17.3% compared with 23.6% for non-Aboriginal females).

**Figure 12a Male apprehensions, 1997:
Aboriginality by type of action
taken**



There were 65 Aboriginal male and 226 non-Aboriginal male apprehensions where action/referral was unknown

**Figure 12b Female apprehensions, 1997:
Aboriginality by type of action
taken**



There were 15 Aboriginal female and 29 non-Aboriginal female apprehensions where action/referral was unknown

Table 17 presents this information in a different way. It shows that for both males and females, the “deeper” the tier in the system, the greater the proportion of referrals accounted for by Aboriginal youth. Aboriginal males represented 4.8% of all males formally cautioned, 12.5% of those referred to a family conference and 18.0% referred to the Youth Court. Aboriginal females, too, accounted for increasing proportions of female referrals as the level of processing seriousness increased.

Table 17a Male apprehensions, 1997: proportion of Aboriginals within each referral category

Racial identity	Formal caution		Referral to a family conference		Referral to the Youth Court	
	n	%	n	%	n	%
Aboriginal	88	4.8	123	12.5	495	18.0
Non-Aboriginal	1,752	95.2	860	87.5	2,249	82.0
Total	1,840	100.0	983	100.0	2,744	100.0

For 24 Aboriginal and 118 non-Aboriginal male apprehensions the matter was withdrawn.

Table 17b Female apprehensions, 1997: proportion of Aboriginals within each referral category

Racial identity	Formal caution		Referral to a family conference		Referral to the Youth Court	
	n	%	n	%	n	%
Aboriginal	35	8.1	38	13.8	115	25.5
Non-Aboriginal	396	91.9	237	86.2	336	74.5
Total	431	100.0	275	100.0	451	100.0

For 1 Aboriginal and 34 non-Aboriginal female apprehensions the matter was withdrawn.

Type of action taken by age

Not surprisingly, the action/referral outcome varied according to the age of the young person involved and this held true irrespective of the youth's racial identity.

As shown in Table 18, for both Aboriginal and non-Aboriginal apprehensions, the younger the offender the more likely it was that (s)he would receive either a formal caution or a referral to a family conference. For Aboriginal young people the proportions dealt with in this way ranged from 18.6% for the oldest group (16 years and over) to 35.4% for the 13-15 year olds, to 50.0% for the youngest (10-12 years). For non-Aboriginal youth, the proportions varied from 48.1% for those aged 16 and over to 59.9% for the mid range to 71.3% for the youngest age group.

However, the figures still reveal stark differences in the referral profiles between Aboriginal and non-Aboriginal matters. In each age group a substantially higher proportion of Aboriginal than non-Aboriginal apprehensions resulted in a referral to court. This disparity was so great that Aboriginal youth in the youngest age group were proportionately as likely to be referred to court as non-Aboriginal youth in the oldest age group (48.5% and 48.9% respectively). Conversely, the oldest age group of non-Aboriginal youth were proportionately more likely to be formally cautioned than the youngest Aboriginal youth (33.0% and 20.8% respectively). The only point of similarity was the fact that, in the two younger age groups, almost equal proportions of Aboriginal and non-Aboriginal apprehensions were referred to a family conference. However, for the oldest age group (the 16 year olds and over), the proportion of non-Aboriginal apprehensions referred to a conference was almost double that of the Aboriginal group (15.1% compared with 8.7% respectively).

Table 18 Police apprehensions, 1997: Aboriginality by age by type of action taken

Type of action taken	Aboriginal			Non-Aboriginal		
	10-12 years	13-15 years	16 years and over	10-12 years	13-15 years	16 years and over
	%	%	%	%	%	%
Formal caution	20.8	14.1	9.9	44.1	38.6	33.0
Referral to family conference	29.2	21.3	8.7	27.2	21.3	15.1
Referral to Youth Court	48.5	62.0	78.0	25.9	38.2	48.9
Withdrawn	1.5	2.5	3.4	2.8	1.9	3.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
	(n=130)	(n=432)	(n=355)	(n=290)	(n=2,545)	(n=3,137)

Age known, type of action not known

8 37 35 8 49 200

Major offence alleged by proportion referred to court

The *Young Offenders Act* (s.4) specifies that police cautioning and family conferences are restricted to dealing with “minor offences”. In determining that an offence is minor, the legislation stipulates that the following factors must be considered:

- the limited extent of the harm caused;
- the character and antecedents of the alleged offender;
- the improbability of the youth re-offending; and
- where relevant, the attitude of the youth’s parents or guardians.

The Act does not make specific reference to the actual type or seriousness of the offence and does not define what is meant by ‘limited’ harm. Nor does the legislation distinguish between those “minor” offences that should be dealt with by a caution and those that should go to a conference. Because of the vagueness of s4, SAPOL developed its own set of guidelines to more clearly define “minor” offences and to differentiate between those offences suitable for an informal caution, a formal caution and a conference. At the time of the apprehensions discussed in this report, those guidelines were contained in Police Commissioner’s Office Circular 509. The following categories of offences were defined as “minor”, and therefore eligible for diversion from court:

- Any summary offence, as defined by section 5 of the *Summary Procedures Act 1921*
- Any of the following minor indictable offences, as defined by section 5 of the *Summary Procedures Act 1921*
 - offences for which the maximum term of imprisonment does not exceed five years
 - offences for which the maximum term of imprisonment exceeds five years and which are:
 - a 3rd or 4th schedule offence (as defined and listed in the *Summary Procedures Act*) involving \$25,000 or less;
 - an offence against Sections 170 and 171 of the *Criminal Law Consolidation Act*, where the intended felony is an offence of dishonesty involving property not exceeding \$25,000.

However, the guidelines directed that not all the offences falling into those categories were to be considered “minor” in every instance. Each case was to be considered on its merits and additional factors could mean that it was inappropriate to treat a matter as minor. Over ten such additional factors were listed and these included the nature and gravity of the offence, the degree of involvement by the particular youth, the attitude of the youth’s parents and the nature and extent of the youth’s previous offending.

Table 19 Guidelines for type of action to be taken

Type of guideline	Degree of seriousness of offence or other factor to be considered	Type of action recommended
No specific victim involved	Any trivial offence which does not involve a specific victim and which is behavioural in nature (such as disorderly behaviour or minor in possession of alcohol).	Informal caution
	Any offence which does not involve a specific victim and is behavioural in nature.	Formal caution
	None specified.	Family conference
Victim involved	Any trivial offence which involves a victim but which does not result in an injury or permanent loss or damage to that person or to their property.	Informal caution
	Any offence where there is a victim involved, where there has been some injury, loss or damage to that person or that person’s property and where that loss or damage does not exceed \$5,000.	Formal caution
	Any minor indictable offence for which the maximum term of imprisonment allowed by statute does not exceed five years or, if five years is exceeded, where the amount of property loss or damage resulting from	Family conference

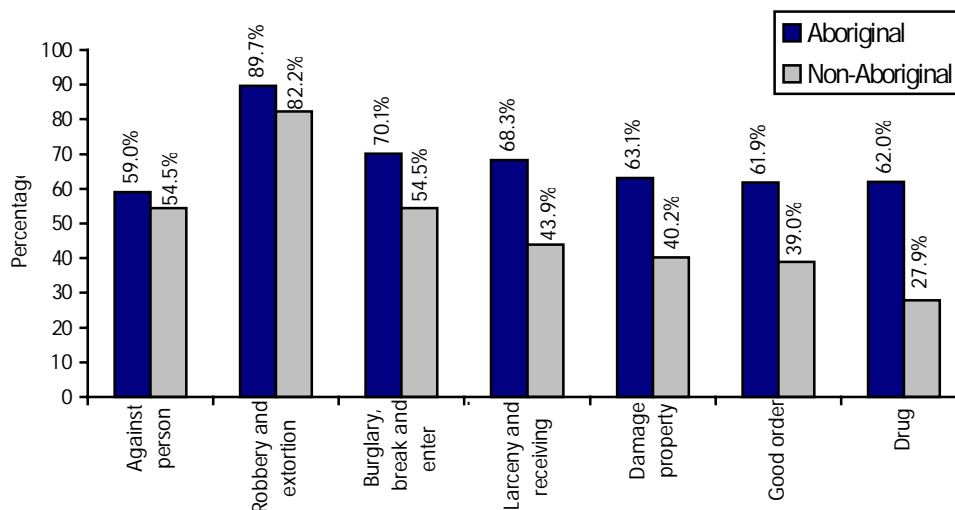
	the offence is more than \$5,000 but less than \$25,000. Any offence when it is considered desirable for a victim to participate in a family conference outcome.	
Traffic offence	Trivial traffic offences which do not involve the driving of a motor vehicle.	Informal caution
	Traffic offences considered to be of a minor nature and which involve youths under the age of 16.	Formal caution
	None specified.	Family conference
Drug related	None specified.	Informal caution
	Any offence against s.31 of the <i>Controlled Substances Act</i> involving simple possession, smoking, consumption or administration of cannabis or possession of equipment for use with cannabis or cannabis resin.	Formal caution
	Any drug related offence classified as a summary or minor indictable offence.	Family conference
Previous contact with the youth	None specified.	Informal caution
	Any minor offence when the youth has previously been given an informal police caution for the same or similar offence.	Formal caution
	Any offence when the youth has previously been given a formal caution for the same or previous offence.	Family conference

The guidelines also broke down these “minor” offences into those suitable for an informal caution, formal caution and family conference. As summarised in Table 19, generally the more serious the offence, the more serious the recommended level of response. For example, for those offences involving a victim, an informal caution was seen as appropriate only if there was no injury or permanent loss or damage involved. Where there was some loss or damage but the damage to property was less than \$5,000, the young person could be formally cautioned. Where the damage to property was greater than \$5,000 but less than \$25,000, a family conference referral was recommended.

That the type of offence does influence the referral decision is indicated by Figure 13, which details the court referral levels for broad offence groupings. This does show variation across offence categories, albeit less variation for Aboriginal youths. For both Aboriginal and non-Aboriginal apprehensions, court referrals were most prominent for the offence categories of *robbery and extortion* and *burglary, break and enter* while *drug offences* and *good order offences* exhibited the lowest levels of court referrals.

Nevertheless, within each offence category, a higher proportion of Aboriginal than non-Aboriginal apprehensions was referred to court. For the more serious offence category of *robbery and extortion* 89.7% of Aboriginal compared with 82.2% of non-Aboriginal matters were referred to court while for *burglary, break and enter*, the proportions were 70.1% compared with 54.5% respectively. The same pattern held true for the less serious offences. For example, where the major allegation was *larceny and receiving*, Aboriginal young people were substantially more likely than non-Aboriginal youth to be referred to court (68.3% compared with 43.9%). The disparity between the two groups was most pronounced for *drug offences* where 62.0% of Aboriginal compared with only 27.9% of non-Aboriginal young people received a court referral.

Figure 13 Police apprehensions, 1997: Aboriginality by proportion within each major offence grouping referred to court



Sexual offences, fraud and misappropriation, driving offences and other offences are not included because of the of Aboriginal apprehensions in these categories

The above discussion relates to the guidelines current in 1997. However, early in 1998 new police guidelines were released and, while very similar to the guidelines in use during 1997, these did include some changes on the issue of diverting young people from court. There were two main alterations. The first aimed to clarify that failure to elaborate on the full details of an incident or to identify others involved in that incident does not constitute denial of an offence. Implementation of this guideline

should mean that cases that previously would have been automatically referred to court because the youth was perceived as not admitting the allegation could now be referred to one of the lower level options.

The second change was the addition of a procedure for handling matters that fell outside the definition of a ‘minor’ offence, but for which the police officer believed that diversion from court was appropriate. In the earlier guidelines, all major indictable offences and all other minor indictable offences that fell outside the definition of ‘minor’ had to be referred to the Youth Court. The new guidelines indicate that when an officer considers that because of ‘either the circumstances of the offence, the level of involvement of the youth, or the personal situation of the youth’, an offence outside of the guidelines should be dealt with by diversion from court, (s)he should consult a Police Youth Officer. If the Police Youth Officer is in agreement that the young person should not be referred to court, the young person will be directed to one of the diversionary options.

It is anticipated that these changes will result in fewer matters being referred to the Youth Court. However, whether or not this will have substantial impact on the level of court referrals for Aboriginal youth remains to be seen.

Type of action taken for arrested and reported youths

As shown in Table 20, the type of action taken also varied according to the method of apprehension, with arrest-based cases more likely to be directed straight to court. This applied to both Aboriginal and non-Aboriginal young people. Under the previous juvenile justice system, arrest proved to be a key determinant of the decision to refer to court (Gale, Bailey-Harris and Wundersitz, 1990). Since, in 1997, high proportions of arrested youth were still being referred to court, the causative link between arrest and court appearance may still operate under the new system. This means that at least a partial explanation for the high level of Aboriginal court referrals may be due to the disproportionately high number of Aboriginal apprehensions that are arrest based.

However, the figures in Table 20 indicate that the method of apprehension alone cannot explain the high level of court referrals experienced by Aboriginal youth. As shown, in 1997 Aboriginal youth were still more likely to be referred to court, irrespective of the method of apprehension. For arrest-based cases, 83.3% of Aboriginal youth were referred to court compared with 72.7% of non-Aboriginal youth. Even where apprehensions were report-based, a far higher proportion of Aboriginal than non-Aboriginal cases was still directed to court (51.7% compared with 31.9% respectively). Conversely, although a slightly higher proportion of report-based Aboriginal than non-Aboriginal cases were referred to a family conference (22.5% compared with 20.4%), a much smaller proportion of reported Aboriginal than non-Aboriginal youth were given a formal caution (21.5% compared with 44.7%).

Table 20 Method of Apprehension, 1997: Aboriginality by type of action taken

Type of action	Arrest				Report			
	Aboriginal		Non-Aboriginal		Aboriginal		Non-Aboriginal	
	n	%	n	%	n	%	n	%
Formal caution	17	4.0	213	12.9	106	21.5	1,935	44.7
Referral to family conference	50	11.7	214	12.9	111	22.5	883	20.4
Referral to Youth Court	355	83.3	1,204	72.7	255	51.7	1,381	31.9
Withdrawn	4	0.9	25	1.5	21	4.3	127	2.9
Total	426	100.0	1,656	100.0	493	100.0	4,326	100.0

Type of action was unknown for 45 Aboriginal and 48 non-Aboriginal apprehensions by arrest and for 35 Aboriginal and 209 non-Aboriginal apprehensions by report

Summary of type of action taken

This chapter discussed the type of action taken for Aboriginal and non-Aboriginal young people apprehended in 1997. In addition to an overview for both groups, detail was provided of the action/referral profiles for males and females and for the different age groups. There was discussion of both the legislation and police guidelines relating to how different offences should be processed. Information on the actual variation in court referrals for different types of offences was provided, and finally, the action/referral profiles for both arrested and reported youths were presented.

The findings included:

- Aboriginal young people were substantially more likely than their non-Aboriginal counterparts to be referred to the Youth Court. At the pre-court diversion level, relatively similar proportions of Aboriginal and non-Aboriginal youths were referred to a family conference. However, a much lower proportion of Aboriginal than non-Aboriginal apprehensions resulted in a formal caution.
- The general pattern of a disproportionately high level of Aboriginal referrals to the Youth Court and a low level of formal cautions held true for both males and females.
- For both Aboriginal and non-Aboriginal apprehensions, the younger the offender the more likely it was that (s)he would receive either a formal caution or a referral to a family conference. However, in each age group, a substantially higher proportion of Aboriginal than non-Aboriginal apprehensions resulted in a referral to court.
- While youths involved in more serious offending had a much greater likelihood of being referred to court, within each offence category a higher proportion of Aboriginal than non-Aboriginal apprehensions still received this harsher referral option.
- The method of apprehension alone cannot explain the high level of court referrals experienced by Aboriginal youth. For both arrest and report based apprehensions, greater proportions of Aboriginal than non-Aboriginal youths were referred to the Youth Court.

4

FORMAL POLICE CAUTIONS

As outlined in the previous chapter, formal police cautions represent the second diversionary level of the South Australian juvenile justice system. Police guidelines specify that formal cautions, which are administered either by a cautioning Sergeant or Police Youth Officer, should be given in the presence of the youth's guardian or, if the guardian is absent, in the presence of an adult person who has had a close association with the youth. The guidelines suggest that when cautioning an Aboriginal youth or a young person from a non-English speaking background, consideration should be given to inviting another person from the young person's community or a support group who is acceptable to both the youth and the guardians.

In South Australia, while a formal caution may involve only a verbal admonishment, it may also entail the young person entering into an undertaking to apologise to the victim, pay compensation, perform community work or any other action determined to be appropriate in the circumstances. The *Young Offenders Act, 1993* specifies that the maximum duration of such undertakings is three months.

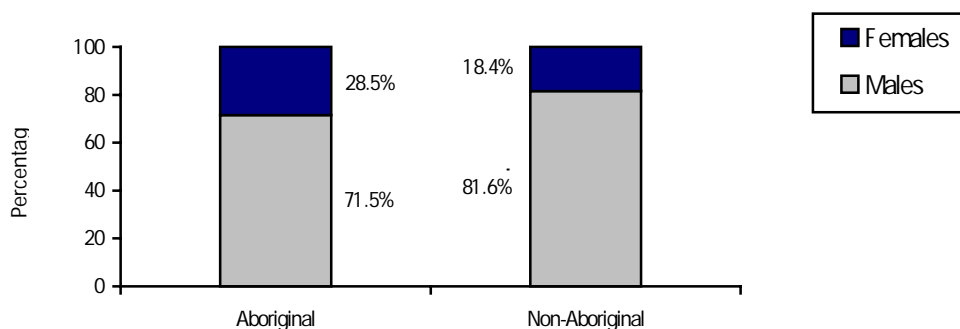
In 1997, police issued 2,826 formal cautions. However, all analysis in this chapter is based on the 2,271 formal cautions (80.4% of the total) for which information relating to Aboriginality was recorded. Aboriginal young people accounted for only 123 (5.4%) of these formal cautions. Given that Aboriginal young people constituted 13.8% of all apprehensions, their representation in formal cautions was only two-fifths of that expected.

Demographic profiles

Sex of youths formally cautioned

As shown in Figure 14, females accounted for 35 of the 123 formal cautions given to Aboriginal young people. This means that males accounted for just over seven in ten of all Aboriginal formal cautions (71.5%). Of the formal cautions administered to non-Aboriginal youth, males accounted for an even higher proportion (81.6%). Stated differently, Aboriginal youth accounted for 8.1% of cautions given to females but only 4.8% of cautions involving males.

Figure 14 Formal cautions, 1997: Aboriginality by sex

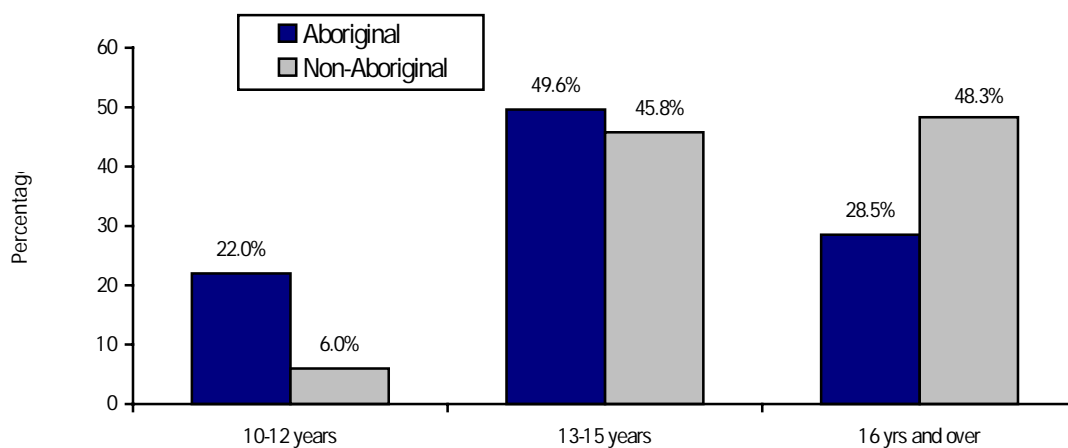


Age of youths formally cautioned

An age breakdown for Aboriginal and non-Aboriginal young people receiving formal cautions is shown in Figure 15. This indicates some similarity between the two groups, with the 13-15 year olds accounting for almost equal proportions of both Aboriginal and non-Aboriginal cautions (49.6% and 45.8% respectively). However, the age profiles also reveal some clear differences. Over one in five

Aboriginal young people receiving a formal caution in 1997 (22.0%) were in the very young age group of 10-12 years compared with only 6.0% of the non-Aboriginal youth. At the other end of the scale, a substantially lower proportion of Aboriginal than non-Aboriginal cautions involved youths aged 16 years and over (28.5% compared with 48.3% respectively).

Figure 15 Formal cautions, 1997: Aboriginality by age



There were 3 non-Aboriginal formal cautions for which age was unknown

Sex and age of youths formally cautioned

Table 21 presents an age breakdown for both males and females receiving formal cautions. As was the case for the general profiles, there were similar proportions of both Aboriginal and non-Aboriginal males in the middle age group while differences were evident for the very young and older age groups. The 13-15 years age group accounted for 46.6% of Aboriginal male cautions and 43.3% of the cautions administered to non-Aboriginal males. The very young 10-12 years age group accounted for one-quarter of Aboriginal male cautions (26.1%) compared with only 6.5% of those for non-Aboriginal males. Conversely, the 16 years and over age group accounted for a far smaller proportion of Aboriginal than non-Aboriginal cautions (27.3% and 50.3% respectively).

The age profiles of cautioned Aboriginal and non-Aboriginal females exhibited less pronounced differences than those observed for males. For both groups, the 13-15 year olds accounted for over half of all cautions (57.1% of Aboriginal and 56.7% of non-Aboriginal cautions) while those aged 16 years and over constituted over three in ten cautions (31.4% and 39.2% respectively). The youngest age group accounted for only small numbers for both Aboriginal and non-Aboriginal females (n=4 and n=16 respectively).

Not only did the age profiles vary across the racial groups, but within each group, there were also male/female variations. A comparison of the age profiles of Aboriginal males and females indicates that while the oldest age group accounted for almost equal proportions of cautions of both sexes (27.3% of males and 31.4% of females), the mid range age group was more prominent for females than males (57.1% compared with 46.6% respectively). In turn, the youngest age group accounted for a higher proportion of male than female cautions (26.1% compared with 11.4% respectively).

For non-Aboriginal males and females the situation was different again. The oldest age group was more prominent for males than females, accounting for 50.3% of the male cautions compared with only 39.2% of the female cautions. In contrast, the middle age group of 13-15 year olds was more prominent for the females than males (56.7% compared with 43.3% respectively). However, for both groups, the 10-12 year olds accounted for very few cautions (6.4% of male and 4.1% of female).

Table 21a Formal cautions of males, 1997: Aboriginality by age

Age in years	Aboriginal		Non-Aboriginal	
	n	%	n	%
10 to 12	23	26.1	112	6.4
13 to 15	41	46.6	758	43.3
16 and over	24	27.3	880	50.3
Total	88	100.0	1,750	100.0

There were 3 non-Aboriginal (2 male and 1 female) formal cautions where age was unknown.

Table 21b Formal cautions of females, 1997: Aboriginality by age

Age in years	Aboriginal		Non-Aboriginal	
	n	%	n	%
10 to 12	4	11.4	16	4.1
13 to 15	20	57.1	224	56.7
16 and over	11	31.4	155	39.2
Total	35	100.0	395	100.0

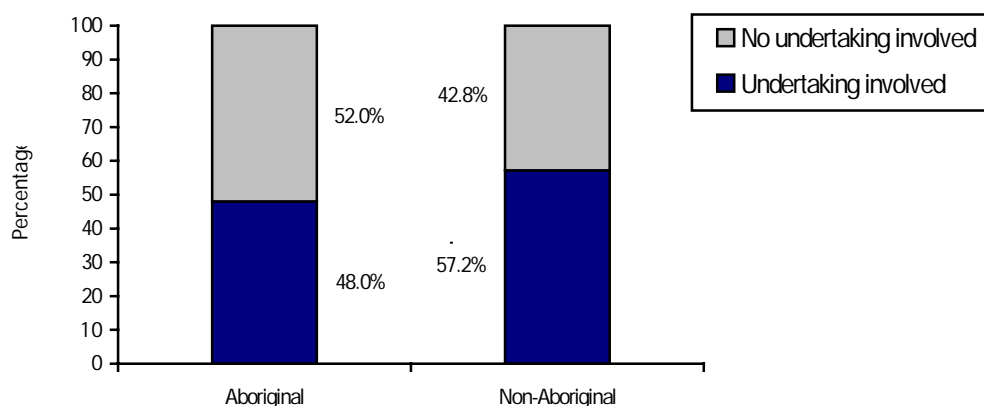
There were 3 non-Aboriginal (2 male and 1 female) formal cautions where age was unknown.

Undertakings as part of a formal caution

As noted earlier, in addition to a verbal admonishment administered in the presence of the young person's parents or guardians, a caution may additionally require an undertaking from the young person. Before requiring such an undertaking, the police officer "must take all reasonable steps to give the guardians of the youth an opportunity to make representation with respect to the matter" (*Young Offenders Act*, s8(3)). If a youth fails to agree to, or does not complete the requirements of the undertaking the matter may be referred to either a family conference or, if the youth requests, to the Youth Court.

In 1997, a lower proportion of Aboriginal than non-Aboriginal formal cautions involved undertakings. Of the 123 formal cautions given to Aboriginal young people, only 59 included an undertaking. As shown in Figure 16, this means that just less than one-half of Aboriginal formal cautions (48.0%) had an associated undertaking compared with 57.2% of non-Aboriginal cautions.

Figure 16 Formal cautions, 1997: Aboriginality by proportion of formal cautions involving an undertaking



Types of conditions imposed

As part of an undertaking, the young person may be required to apologise to and/or pay compensation to the victim, carry out community work or agree to anything else that “may be appropriate in the circumstances of the case” (*Young Offenders Act*, Section 8(1)). Police guidelines set an upper limit of \$5,000 on the amount of compensation that can be agreed to, while the *Young Offenders Act* specifies a maximum of 75 hours of community work.

The extent to which each of these various options was used in 1997 is outlined in Tables 22a and 22b. It should be noted that an undertaking may involve more than one type of condition. For example, one undertaking could involve both an apology and compensation. In this table, each condition has been counted separately.

Table 22a Formal cautions of Aboriginal youth, 1997: proportion of cautions involving apology/compensation/community work/other condition

Undertaking as part of a caution	Apology		Compensation		Community work		Other undertaking	
	n	%	n	%	n	%	n	%
Yes	25	20.3	14	11.4	8	6.5	45	36.6
No	98	79.7	109	88.6	115	93.5	78	63.4
Total	123	100.0	123	100.0	123	100.0	123	100.0

Table 22b Formal cautions of Non-Aboriginal youth, 1997: proportion of cautions involving apology/compensation/community work/other condition

Undertaking as part of a caution	Apology		Compensation		Community work		Other undertaking	
	n	%	n	%	n	%	n	%
Yes	499	23.2	297	13.8	143	6.7	933	43.4
No	1,649	76.8	1,851	86.2	2,005	93.3	1,215	56.6
Total	2,148	100.0	2,148	100.0	2,148	100.0	2,148	100.0

For Aboriginal youth, the most common undertaking condition attached to a caution was that of ‘other’. As shown, over one third (36.6%) of all Aboriginal cautions given in 1997 required the youth to agree to such conditions. This was followed by apologies which were included in 20.3% of Aboriginal cautions, compensation (11.4%) and community work (6.5%). This same pattern was observed for non-Aboriginal youth with ‘other’ conditions featuring in 43.4% of all cautions, followed

by apologies (23.2%), compensation (13.8%) and community work (6.7%). As indicated, very low proportions of both Aboriginal and non-Aboriginal formal cautions involved community work.

However, in presenting these figures, it should be stressed that, because only a small number (59) of undertakings involved Aboriginal youth, any differences between Aboriginal and non-Aboriginal young people should not be exaggerated.

Combination of conditions per undertaking

The data described above do not give information on the combination of conditions attached to any one caution. These details are provided in Table 23.

Table 23 Formal cautions involving undertakings, 1997: combination of conditions per undertaking

Conditions	Aboriginal		Non-Aboriginal	
	n	%	n	%
One condition				
Apology only	5	8.5	94	7.7
Compensation only	4	6.8	80	6.5
Community work only	1	1.7	25	2.0
Other only	22	37.3	503	40.9
Sub-total	32	54.2	702	57.1
Two conditions				
Apology and compensation	3	5.1	52	4.2
Apology and community work	1	1.7	29	2.4
Apology and other	11	18.6	223	18.1
Compensation and community work	0	0	14	1.1
Compensation and other	3	5.1	66	5.4
Community work and other	4	6.8	34	2.8
Sub-total	22	37.3	418	34.0
Three conditions				
Apology, compensation and community work	0	0	2	0.2
Apology, compensation and other	3	5.1	68	5.5
Apology, community work and other	1	1.7	24	2.0
Compensation, community work and other	0	0	8	0.7
Sub-total	4	6.8	102	8.3
Four conditions				
Apology, compensation, community work and other	1	1.7	7	0.6
Total	59	100.0	1,229	100.0

As shown, over half of all undertakings for both groups involved a single condition (54.2% of Aboriginal and 57.1% of non-Aboriginal) while just over one-third involved two conditions (37.3% and 34.0% respectively). There were relatively few agreements which involved three or four conditions (8.5% of Aboriginal and 8.9% of non-Aboriginal undertakings). For both Aboriginal and non-Aboriginal youth, the highest proportion of undertakings involved the single condition of 'other'. This category accounted for over one-third of all Aboriginal and non-Aboriginal caution undertakings (37.3% and 40.9% respectively). This was followed by the combination of apology and 'other' (18.6% and 18.1% respectively).

Amount of compensation agreed to

Table 24 presents the amount of compensation per case for those cautions involving this particular condition. As shown, there were only 14 formal cautions in which Aboriginal youth agreed to pay compensation and all involved amounts of \$200 or less, with 12 of the 14 cases involving amounts of \$100 or less. For non-Aboriginal youths who entered into a formal caution involving the payment of compensation, the great majority (80.1%) were for \$200 or less. Amounts of \$100 or less accounted for 62.6% of the 297 non-Aboriginal cautions involving compensation.

Table 24 **Formal cautions where compensation was agreed to, 1997: Aboriginality by amount of compensation per case**

Amount in dollars	Aboriginal		Non-Aboriginal	
	n	%	n	%
1-25	5	35.7	66	22.2
26-50	2	14.3	61	20.5
51-100	5	35.7	59	19.9
101-150	1	7.1	23	7.7
151-200	1	7.1	29	9.8
201-250	0	0	16	5.4
251-500	0	0	26	8.8
Over 500	0	0	17	5.7
Total	14	100.0	297	100.0

Amount of community work agreed to

As shown earlier, only eight Aboriginal formal cautions involved community work and as Table 25 shows, most of these were of 10 hours or less and all were of 20 hours or less. For non-Aboriginal youth, the great majority (90.2%) involved community work of 20 hours or less. However, for 14 of the non-Aboriginal cautions, the community work involved more than 20 hours.

Table 25 **Formal cautions where community work was agreed to, 1997: Aboriginality by number of hours of community work per case**

Number of hours	Aboriginal		Non-Aboriginal	
	n	%	n	%
1-10	6	75.0	96	67.1
11-20	2	25.0	33	23.1
21-30	0	0	8	5.6
31-40	0	0	3	2.1
41-50	0	0	2	1.4
51-75	0	0	1	0.7
Total	8	100.0	143	100.0

Summary of formal police cautions

This section presented information on formal cautions administered by police, and provided sex and age profiles for formally cautioned Aboriginal and non-Aboriginal youths. Information was also provided on those cautions that had an associated undertaking and the types of conditions involved in those undertakings.

The findings included:

- Given the proportion of apprehensions accounted for by Aboriginal youths, this group was substantially under-represented in terms of the number of young people who were formally cautioned.
- Females accounted for a higher proportion of those Aboriginal than non-Aboriginal youths who were formally cautioned.
- Aboriginal cautions were more likely than non-Aboriginal cautions to involve very young individuals aged 10-12 years. Similar proportions of cautioned groups fell in the middle age group, while youths aged 16 years and over were more prominent in non-Aboriginal than Aboriginal cautions.
- Aboriginal formal cautions were less likely than non-Aboriginal cautions to involve undertakings.
- For both Aboriginal and non-Aboriginal youth, the most common undertaking condition attached to a formal caution was that of 'other'. This was followed by apologies, compensation and community work. Over half of all undertakings for both groups involved a single condition, while just over one-third involved two conditions.
- Only 14 Aboriginal cautions involved the payment of compensation. All of these cases involved amounts of \$200 or less with the great majority involving \$100 or less. For non-Aboriginal youth, amounts of \$100 or less also accounted for the majority of cautions involving compensation.
- Community work was a condition in only eight Aboriginal formal cautions, and nearly all of these were of 10 hours or less.

5

FAMILY CONFERENCES

The next diversionary level in the South Australian juvenile justice system is the family conference. As described in Chapter 1, family conferences are intended to bring together the people most directly affected by the young person's behaviour. The young offender, the Coordinator and a police representative are statutorily required to be present. Other participants may include the offender's parents, family or friends, the victim and his/her supporters and any other person whom it is considered could make a contribution to the conference.

An important aspect of family conferences is that they are based on the notion of restorative justice. Conferences give the victim the opportunity to confront the young person and play a significant role in deciding what outcomes are appropriate. This represents a significant change in the treatment of offending youth. Another important feature of family conferences is the involvement of the young person's extended family and other support people. It was this inclusion of extended kin that was expected to make conferences more appropriate and more adaptable to Aboriginal needs than more conventional criminal justice processes. To determine if this has in fact occurred, an in-depth qualitative study of conferences would need to be undertaken. While a large research project currently underway is looking at the conference process and the satisfaction of participants (Daly, 1999), it does not have a specific Aboriginal focus. A similar project focused on Aboriginal young people and their families is therefore still required. The ensuing discussion provides a statistical overview only and does not attempt to provide qualitative insights.

The ensuing discussion is divided into three sections. The first deals with cases referred to the Family Conference Team. Not all of these actually resulted in a conference. The second section provides details on those cases for which a conference was actually held. Finally, the third section focuses on the actual number of conferences run in 1997, irrespective of how many youths (or cases) were dealt with at each.

SECTION 1: CASES REFERRED TO A FAMILY CONFERENCE

In 1997, there were 1,792 case referrals³ received by the Family Conference Team. As noted earlier, referrals come from two sources. While police are the primary source, the Youth Court also has the power to direct cases to a family conference. That is, police may initially refer a case to the Youth Court but the Judge or magistrate may then decide that the matter would be more appropriately dealt with by a conference.

Of these 1,792 cases received by the Family Conference Team, data relating to Aboriginality were available for 1,689 (94.3%)⁴. Aboriginal young people accounted for 260 or approximately one in six

³ 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 this chapter. Finally, the figures discussed here do not relate to 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 the following discussion. For example, if three young offenders attended the same family conference in relation to a particular incident this would be counted as three cases. However, in the last section of the chapter, the discussion will focus on discrete family conferences, giving information on the number of offenders and other participants involved.

⁴ This information is derived primarily from police apprehension reports which record the opinion of the apprehending police officer as to the racial appearance of the apprehended person. However, if this information is missing from the police file sent to them, the Family Conference Team will add this where possible. In addition, the Team may also amend any police entries considered to be incorrect. This additional input helps to explain why the proportion of family conference referrals with an 'unknown' value for Aboriginality is lower than for police apprehension reports (5.7% and 17.8% respectively).

(15.4%) of these 1,689 referrals where relevant data were available. As shown in Table 26, just over three-quarters of Aboriginal young people referred to a family conference experienced a 'successful' conference (76.9%), with 'success' being defined very narrowly as a conference where the participants reached agreement regarding an appropriate outcome.⁵ A further 3.1% actually attended a scheduled conference but that conference was classified as 'not successful'. In these cases, the youth either did not admit the allegation, disagreed with the proposed outcome, or elected to have the matter referred to court. In two cases (0.8%), a conference was held but a decision was made to not proceed any further with the matter. Finally, and most significantly, almost one in five Aboriginal cases (19.2%) never reached a conference. The main reason for this was the non-appearance of the youth (13.1%). In an additional 2.7% of cases, the Family Conference Team was not able to locate the young person.

The non-Aboriginal profile for conference referral outcomes was somewhat different from that observed for Aboriginal referrals, with a higher proportion resulting in a 'successful' conference and a lower proportion failing to get to a conference. As shown, for non-Aboriginal young people, nearly nine in ten referrals resulted in a 'successful' conference (89.8% compared with 76.9% for Aboriginal youth). Further, only 8.3% of non-Aboriginal cases did not proceed to a conference (compared with 19.2% for Aboriginal youth), with 3.7% of youths failing to appear (compared with 13.1% for Aboriginal youth). Stated differently, in 1997, Aboriginal youths made up 13.8% of those referrals for which a conference was actually held, but a much higher 29.8% of those referrals that did not get to a conference.

Table 26 Referrals to a family conference, 1997: outcome by Aboriginality

Outcome	Aboriginal		Non-Aboriginal	
	n	%	n	%
'Successful' conference				
Undertaking	185	71.2	1,167	81.7
Formal caution	9	3.5	105	7.3
No action	6	2.3	11	0.8
Sub-total	200	76.9	1,283	89.8
Conference held, not 'successful'				
Youth disagrees	1	0.4	0	0
Youth elects court	3	1.2	7	0.5
No admission	4	1.5	16	1.1
Sub-total	8	3.1	23	1.6
Conference not held				
Case not proceeded with	7	2.7	28	2.0
No admission/elects court	2	0.8	5	0.3
Non-appearance of youth	34	13.1	53	3.7
Not able to locate youth	7	2.7	32	2.2
Sub-total	50	19.2	118	8.3
	2	0.8	5	0.3
Conference held, case not proceeded with				
Total	260	100.0	1,429	100.0

Sex of youths referred to a family conference

Of the 260 Aboriginal referrals, 192 involved males (73.8%) and 68 were female (26.2%). For Aboriginal youth, the outcome profiles of conference referrals for males and females were generally similar, with just over three-quarters of both male and female cases being 'successfully' resolved (76.6% and 77.9% respectively). While eight male cases were designated as 'conference held, not successful', as shown in Table 27 there were no female cases that fell in this category. Conversely, a slightly higher proportion of female than male cases did not result in a conference (22.1% compared with 18.2% respectively), with 16.2% of females compared with 12.0% of males failing to appear.

⁵ Note that the term 'successful conference' does not relate in any way to whether any undertakings agreed to by the youth were subsequently complied with. A later section of this chapter details undertaking compliance information and combines this with the data presented here to give a broader insight into positive conference outcomes. Nor does the term 'success' take account of the attitudes of the participants as to their level of satisfaction with the process itself. It is therefore a very crude, preliminary measure of success.

Table 27 Referrals to a family conference, 1997: outcome by Aboriginality and sex

Outcome	Aboriginal				Non-Aboriginal			
	Males		Females		Males		Females	
	n	%	n	%	n	%	n	%
‘Successful’ conference								
Undertaking	139	72.4	46	67.6	939	82.8	228	77.3
Formal caution	5	2.6	4	5.9	84	7.4	21	7.1
No action	3	1.6	3	4.4	3	0.3	8	2.7
Sub-total	147	76.6	53	77.9	1,026	90.5	257	87.1
Conference held, not ‘successful’								
Youth disagrees	1	0.5	0	0	0	0	0	0
Youth elects court	3	1.6	0	0	6	0.5	1	0.3
No admission	4	2.1	0	0	10	0.9	6	2.0
Sub-total	8	4.2	0	0	16	1.4	7	2.4
Conference not held								
Case not proceeded with	6	3.1	1	1.5	24	2.1	4	1.4
No admission/elects court	1	0.5	1	1.5	2	0.2	3	1.0
Non-appearance of youth	23	12.0	11	16.2	43	3.8	10	3.4
Not able to locate youth	5	2.6	2	2.9	21	1.9	11	3.7
Sub-total	35	18.2	15	22.1	90	7.9	28	9.5
Conference held, case not proceeded with	2	1.0	0	0	2	0.2	3	1.0
Total	192	100.0	68	100.0	1,134	100.0	295	100.0

Whereas one in four Aboriginal referrals were female, only one in five non-Aboriginal cases involved young women (20.6%). However, for non-Aboriginal as for Aboriginal youth, there were only small differences in male/female outcome profiles. For both male and female non-Aboriginal cases, approximately nine in ten resulted in a ‘successful’ conference (90.5% of male and 87.1% of female). Similarly, for both groups, there were few referrals that resulted in an ‘unsuccessful’ conference (1.4% for males and 2.4% for females) while in less than one in ten cases, no conference was held (7.9% for males and 9.5% for females).

Clear differences did emerge when the outcome profiles for Aboriginal and non-Aboriginal females were compared. These differences parallel those observed when comparing all Aboriginal and non-Aboriginal referral outcomes. A lower proportion of Aboriginal than non-Aboriginal female referrals resulted in a ‘successful’ conference (77.9% compared with 87.1% respectively) while conversely, a higher proportion of Aboriginal than non-Aboriginal females failed to appear (16.2% compared with 3.4% respectively). Thus, while Aboriginal young women constituted 18.7% of all female referrals, they accounted for 16.6% of the female cases that resulted in a conference being held, but a substantial 52.4% of referrals that did not get to conference.

Differences were apparent for the males, too. Aboriginal young men were less likely than their non-Aboriginal counterparts to experience a ‘successful’ conference, with just over three-quarters (76.6%) recording this outcome compared with nine in ten (90.5%) non-Aboriginal cases. Non-appearance at the scheduled conference accounted for a higher proportion of Aboriginal than non-Aboriginal male referrals (12.0% compared with 3.8% respectively). Stated differently, these variations mean that while Aboriginal youth accounted for 14.8% of all male referrals, they constituted only 13.1% of those male cases where a conference was actually held but one-third of males who failed to appear (34.8%).

SECTION 2: CASES DEALT WITH AT A FAMILY CONFERENCE

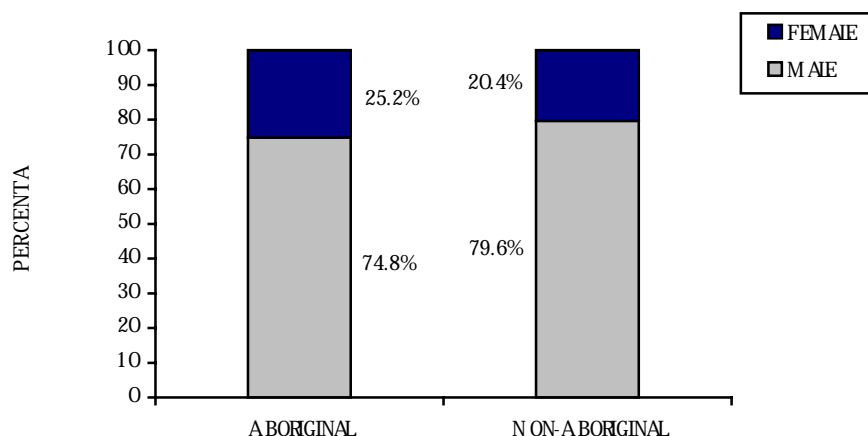
The discussion in the remainder of this chapter considers only those referrals for which a family conference was actually held. Those cases detailed in Tables 26 and 27 as 'Conference not held' are omitted from consideration. As shown in Table 26, there were 210 Aboriginal and 1,311 non-Aboriginal referrals that resulted in a conference. As noted earlier, this means that Aboriginal young people accounted for 13.8% of all referrals where a conference actually took place.

Demographic profiles

Sex of youths dealt with at a family conference

As shown in Figure 17, males accounted for the great majority of both Aboriginal and non-Aboriginal cases dealt with by way of a conference (74.8% and 79.6% respectively). Nevertheless, a higher proportion of Aboriginal cases involved females (25.2% compared with 20.4% of non-Aboriginal cases). As noted earlier, this means that while Aboriginal youth accounted for 13.1% of all conferenced male referrals, this group constituted 16.6% of female referrals conferenced.

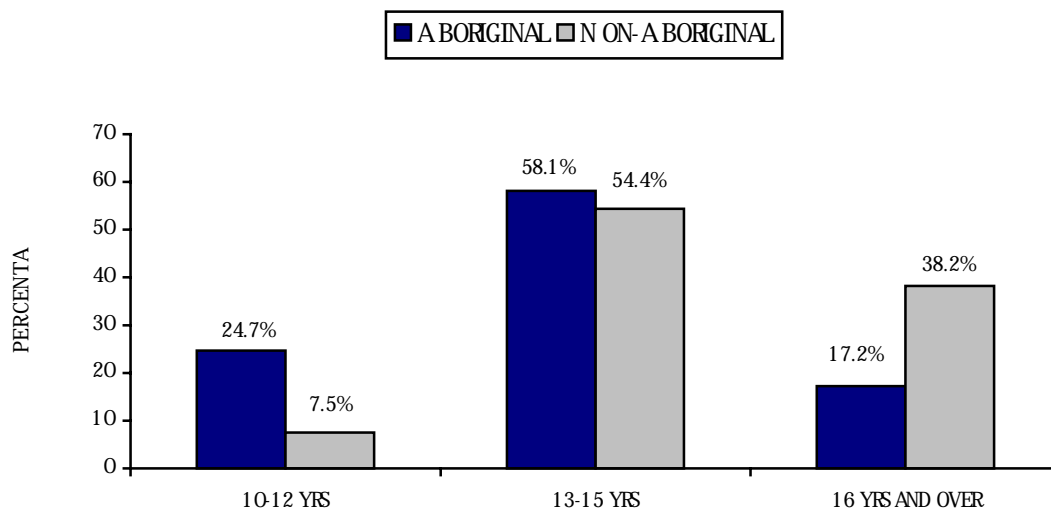
Figure 17 Cases dealt with at a family conference, 1997: Aboriginality by sex



Age of youths dealt with at a family conference

As shown in Figure 18, over half of both Aboriginal and non-Aboriginal cases dealt with at a conference involved youths in the mid-range of 13-15 years (58.1% and 54.4% respectively). However, as for police apprehensions, a much higher proportion of Aboriginal than non-Aboriginal cases involved the very young 10 – 12 year age group (24.7% compared with 7.5% respectively) while a lower proportion were in the oldest age group of 16 years and over (17.2% compared with 38.2% respectively). These differences applied to males and females alike.

Figure 18 Cases dealt with at a family conference, 1997: Aboriginality by age



Age was unknown for 12 Aboriginal and 25 non-Aboriginal cases

Age and sex of youths dealt with at a family conference

As might be expected, the 13-15 year age group dominated both Aboriginal male and female cases (56.5% and 62.7% respectively). However, Table 28 indicates that the very young 10–12 year olds were far more prominent for Aboriginal males than females, accounting for nearly three in ten males cases (29.3%) compared with only one in ten females (11.8%).

For non-Aboriginal youth there were no major age differences between males and females, with the majority of both male and female cases dealt with at a conference involving the mid-range of 13 to 15 years (53.4% and 58.2% respectively), followed by those aged 16 and over (39.1% and 34.5% respectively). Relatively few non-Aboriginal males or females were aged 12 years and under (7.5% and 7.3% respectively).

Table 28 Cases dealt with at a family conference, 1997: Aboriginality by sex and age

Age in years	Aboriginal				Non-Aboriginal			
	Male		Female		Male		Female	
	n	%	n	%	n	%	n	%
10-12	43	29.3	6	11.8	77	7.5	19	7.3
13-15	83	56.5	32	62.7	547	53.4	152	58.2
16 and over	21	14.3	13	25.5	401	39.1	90	34.5
Total	147	100.0	51	100.0	1,025	100.0	261	100.0
<i>Age unknown</i>	<i>10</i>		<i>2</i>		<i>19</i>		<i>6</i>	

Offence Profiles

Major offence per case

Table 29 details the most serious offence alleged in those cases dealt with at a family conference.⁶ Overall, the offence profiles of Aboriginal and non-Aboriginal cases were relatively similar, with *property offences* accounting for over six in ten cases for both groups (64.8% and 66.0% respectively),

⁶ As with the police-based data, the major offence was defined as that offence per case which had the highest Maximum Statutory Penalty.

while *sexual offences, robbery and extortion, driving and other offences* accounted for the lowest proportions. Despite the small numbers, the fact that 19 *sexual offences* and 15 *robbery* cases were dealt with by way of a conference is worth noting because police guidelines originally recommended that all major indictable matters should be referred to the Youth Court⁷. Because of the relatively serious nature of these offences, more detail is provided on those cases.

There were four Aboriginal and fifteen non-Aboriginal cases where the major allegation was a *sexual offence*. For Aboriginal youth, these cases were comprised of one *indecent assault*, one *unlawful sexual intercourse* and two *indecent behaviour/exposure*. For non-Aboriginal youth, the breakdown was two offences of *rape*, ten *indecent assaults*, one *unlawful sexual intercourse*, one *indecent behaviour/exposure* and one *gross indecency*. *Robbery and extortion* constituted the major allegation in three Aboriginal and twelve non-Aboriginal cases. Two *unarmed robbery with violence* and one *unarmed robbery without violence* accounted for the three Aboriginal cases while for non-Aboriginal youth the *robbery and extortion* cases consisted of one *robbery with a weapon other than a firearm*, ten *unarmed robbery without violence* matters and one *extortion and blackmail*.

While the overall offence profiles for Aboriginal and non-Aboriginal youths were generally similar, there were some differences. A slightly higher proportion of Aboriginal than non-Aboriginal cases involved *offences against the person* (13.3% compared with 10.3% respectively) and *offences against good order* (13.8% and 9.7% respectively). Conversely, in a lower proportion of Aboriginal cases a *drug offence* was identified as the major allegation (3.3% compared with 10.6% of non-Aboriginal cases).

Table 29 Cases dealt with at a family conference, 1997: Aboriginality by major offence alleged

Major offence alleged	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual offences)	28	13.3	135	10.3
Sexual offences	4	1.9	15	1.1
Robbery and extortion	3	1.4	12	0.9
Property offences	136	64.8	865	66.0
Offences against good order	29	13.8	127	9.7
Drug offences	7	3.3	139	10.6
Driving offences	1	0.5	13	1.0
Other offences	2	1.0	5	0.4
Total	210	100.0	1,311	100.0

Table 30 again compares offence profiles of Aboriginal and non-Aboriginal cases, but this time with a more detailed breakdown of those broad offence categories that accounted for 10% or more of Aboriginal cases. Other offence categories are not broken down because the associated numbers of Aboriginal cases are so small that any comparison with non-Aboriginal profiles would not be meaningful.

Offences against the person (excluding sexual offences)

The more detailed breakdown of *offences against the person (excluding sexual offences)* reveals one main difference: *other (i.e. minor) assault* was listed as the major allegation in a higher proportion of Aboriginal than non-Aboriginal cases conferenced (12.4% for Aboriginal compared with 7.6% respectively).

⁷ As described in the earlier chapter on police referrals, these guidelines have been modified to reflect the fact that some major indictables can be dealt with appropriately by conferences.

Property offences

As noted above, *property offences* accounted for approximately two-thirds of both Aboriginal and non-Aboriginal cases dealt with by conferences. However, a comparison of the sub-groupings reveals some differences. While *larceny and receiving* was the dominant property offence for both groups, this category was more prominent in non-Aboriginal than Aboriginal cases (36.3% compared with 25.7% respectively). Conversely, both *burglary, break and enter* (21.0% of Aboriginal compared with 15.3% of non-Aboriginal cases) and *damage property, arson and environmental offences* (15.2% compared with 12.0% respectively) were more prominent for Aboriginal than non-Aboriginal youth.

The following provides a more detailed breakdown of the three main property offences.

Burglary and break and enter

For both groups, there were few cases where *burglary* or *offences related to break and enter* featured as the major offence. The *break and enter* sub-categories accounted for the great majority of cases. For Aboriginal youth, those *break and enter offences* were fairly evenly spread across the different property types (dwelling = 4.3%; shops = 4.8%; schools = 5.7%; other = 5.2%). In contrast, for non-Aboriginal youth, *break and enter dwelling* was clearly prominent, accounting for 7.2% of all cases, while the other sub-categories each accounted for less than 3.5%. This means that *break and enter dwelling* accounted for a slightly higher proportion of non-Aboriginal than Aboriginal cases (7.2% compared with 4.3%) while the other sub-categories were more dominant in Aboriginal cases.

Larceny and receiving

As noted earlier, *larceny and receiving* was substantially more prominent in non-Aboriginal than Aboriginal conference cases. A further breakdown of this broad grouping reveals that this pattern held true for most of the sub-categories. *Larceny from shops* accounted for the highest proportion of cases for both groups, but featured in a higher proportion of non-Aboriginal than Aboriginal cases (15.0% compared with 10.5% respectively). For non-Aboriginal youth this was followed by *larceny – miscellaneous* (8.6%) and *motor vehicle related larceny* (8.3%). Again, each of these offences featured more prominently in non-Aboriginal than Aboriginal cases.

Damage property and environmental offences

While there were no Aboriginal cases where *arson* was the major offence alleged, this category accounted for 1.9% of non-Aboriginal cases. For Aboriginal youth, *damage property – other/unknown* was the most prominent sub-category (6.2%), followed by *damage property – shops* (2.4%) and *damage property – schools* (3.3%). In contrast, for non-Aboriginal youth, *damage property – dwellings* accounted for the highest proportion of cases (3.4%) while *damage property – other/unknown* was the major offence in only 2.6% of cases.

Offences against good order

For Aboriginal youth, *graffiti and related offences* (4.8%) and *trespassing* (3.3%) were the dominant *good order* offences. In contrast, for non-Aboriginal youth, there was a fairly even spread across all the sub-categories.

Table 30 Cases dealt with at a family conference, 1997: Aboriginality by major offence alleged: a more detailed analysis

Major offence alleged	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual offences)				

<i>Homicide</i>	0	0	0	0
<i>Serious assault</i>	2	1.0	25	1.9
<i>Other assault</i>	26	12.4	99	7.6
<i>Other offences against the person</i>	0	0	11	0.8
Sub-total – against person	28	13.3	135	10.3
Offences against property				
<i>Burglary and break and enter</i>				
<i>Burglary</i>	1	0.5	1	0.1
<i>Break and enter dwelling</i>	9	4.3	94	7.2
<i>Break and enter shops</i>	10	4.8	42	3.2
<i>Break and enter schools</i>	12	5.7	23	1.8
<i>Break and enter other property type</i>	11	5.2	32	2.4
<i>Offences related to break and enter</i>	1	0.5	8	0.6
Sub-total – burglary, break and enter	44	21.0	200	15.3
<i>Fraud and misappropriation</i>	6	2.9	32	2.4
<i>Larceny and receiving</i>				
<i>Receiving/unlawful possession</i>	8	3.8	33	2.5
<i>Motor vehicle related</i>				
<i>Larceny of motor vehicle</i>	0	0	2	0.2
<i>Illegal use of motor vehicle</i>	5	2.4	61	4.7
<i>Interference to a motor vehicle</i>	3	1.4	15	1.1
<i>Larceny from a motor vehicle</i>	3	1.4	31	2.4
Sub-total – motor vehicle related	11	5.2	109	8.3
<i>Other larceny</i>				
<i>Larceny/illegal use of other vehicle</i>	3	1.4	24	1.8
<i>Larceny from shops</i>	22	10.5	197	15.0
<i>Larceny - miscellaneous</i>	10	4.8	113	8.6
Sub-total – larceny and receiving	54	25.7	476	36.3
Damage property and environmental offences				
<i>Arson</i>	0	0	25	1.9
<i>Damage property (not arson or explosives)</i>				
<i>Dwellings</i>	4	1.9	44	3.4
<i>Shops</i>	5	2.4	13	1.0
<i>Schools</i>	7	3.3	16	1.2
<i>Factory/warehouse</i>	0	-	2	0.2
<i>Motor vehicle</i>	3	1.4	23	1.8
<i>Other/unknown</i>	13	6.2	34	2.6
Sub-total – damage property, excl.arson	32	15.2	157	12.0
Offences against good order				
<i>Hinder/resist police</i>	3	1.4	17	1.3
<i>Unlawful possession and/or use weapons</i>	0	-	15	1.1
<i>Disorderly/offensive behaviour</i>	3	1.4	19	1.4
<i>Indecent/offensive language</i>	1	0.5	6	0.5
<i>Graffiti and related offences</i>	10	4.8	18	1.4
<i>Underage drinking offences</i>	0	0	10	0.8
<i>Trespassing</i>	7	3.3	19	1.4
<i>Other offences against good order – misc.</i>	5	2.3	23	1.8
Sub-total – against good order	29	13.8	127	9.7
Robbery and extortion	3	1.4	12	0.9
Sexual offences	4	1.9	15	1.1
Drug offences	7	3.3	139	10.6
Driving offences	1	0.5	13	1.0
Other offences	2	1.0	5	0.4

	210	100.0	1,311	100.0
Total				

Major offence alleged: a comparison between Aboriginal males and Aboriginal females

As detailed in Table 31, of the 53 Aboriginal female cases conferenced, *property offences* and *offences against the person (excluding sexual offences)* were the most prominent (45.3% and 35.8% respectively). Within the broad grouping of *property offences*, *larceny and receiving* dominated (32.1%). *Offences against good order* was the only other offence group to account for more than one-tenth of cases (13.2%).

For Aboriginal males, the offence profile was somewhat different, with *property offences* accounting for over seven in ten cases (71.3%). Within this broad category, the two sub-categories of *burglary, break and enter* and *larceny and receiving* each accounted for approximately one quarter of Aboriginal male cases (26.8% and 23.6% respectively), while *damage property, arson and environmental offences* constituted the major allegation in less than one in five cases (17.8%). *Offences against good order* followed these three property offences, accounting for 14.0% of cases.

Overall then, the offending profiles for Aboriginal males and females dealt with by a conference were quite different. Aboriginal females were substantially more likely than males to be conferenced for *offences against the person (excluding sexual offences)* (35.8% compared with 5.7% respectively) and were less likely to face a *property offence* (45.3% compared with 71.3% respectively). Within the broad category of *property offences*, females were less likely to be dealt with for *burglary, break and enter* (3.8% compared with 26.8% for males) or *damage property, arson and environmental offences* (7.5% compared with 17.8% for males), but were more likely than males to be dealt with for *larceny and receiving* (32.1% compared with 23.6% respectively).

Table 31 Cases dealt with at a family conference, 1997: sex by major offence alleged for Aboriginal cases only

Major offence alleged	Aboriginal			
	Male		Female	
	n	%	n	%
Offences against the person (excl. sexual offences)	9	5.7	19	35.8
Sexual offences	4	2.5	0	0
Robbery and extortion	2	1.3	1	1.9
Property offences				
<i>Burglary, break and enter</i>	42	26.8	2	3.8
<i>Fraud and misappropriation</i>	5	3.2	1	1.9
<i>Larceny and receiving</i>	37	23.6	17	32.1
<i>Damage property, arson and environmental offences</i>	28	17.8	4	7.5
<i>Sub-total</i>	112	71.3	24	45.3
Offences against good order	22	14.0	7	13.2
Drug offences	5	3.2	2	3.8
Driving offences	1	0.6	0	0
Other offences	2	1.3	0	0
Total	157	100.0	53	100.0

Undertakings entered into at conferences

Table 32 presents conference outcomes only for those 200 Aboriginal and 1,283 non-Aboriginal cases where the conference was deemed 'successful' on the basis that the participants reached an agreed outcome. As shown, a small number of these cases resulted in either a formal caution or no action (15 Aboriginal and 116 non-Aboriginal cases). However, in the majority of cases (185 Aboriginal and 1,167 non-Aboriginal cases) the young person agreed to enter into an undertaking. The remainder of this section provides details of the conditions included in those undertakings.

Table 32 Cases dealt with at a family conference, 1997: Aboriginality by outcomes of 'successful' conferences

Outcome	Aboriginal		Non-Aboriginal	
	n	%	n	%
'Successful' conference				
Undertaking	185	92.5	1,167	91.0
Formal caution	9	4.5	105	8.2
No action	6	3.0	11	0.9
Total	200	100.0	1,283	100.0

As for police formal cautions, family conference undertakings may involve an apology, paying compensation to the victim, performing community work and/or fulfilling any other condition thought appropriate by the conference participants. Tables 33a and 33b detail the conditions included in the undertakings agreed to in 1997. The categories listed are not mutually exclusive. For example, a young person required to apologise to the victim and perform community work would be counted in both the apology and community work columns. An undertaking may also involve more than one instance of a condition type. For example, a young person may agree to make two separate apologies if there are two victims involved. In this table, such a case would be counted only 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 condition) rather than the total number of apologies (or compensations etc) included in each case.

For Aboriginal cases which resulted in an undertaking, the condition most frequently agreed to was 'other'. This was included in over seven in ten cases (72.4%). The second most frequently invoked condition was that of an apology, which featured in over half of Aboriginal cases involving an undertaking (54.6%). Community work was agreed to in just over one-third of cases (37.8%) while compensation was part of only 14.6% of cases.

A comparison of the condition profiles for Aboriginal and non-Aboriginal cases reveals both similarities and differences. Similar proportions of undertakings for both groups involved 'other' conditions and community work. However, undertakings entered into by non-Aboriginal youth were more likely than Aboriginal undertakings to involve an apology (63.9% compared with 54.6% respectively) or compensation (24.3% compared with 14.6%).

Table 33a Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: proportion agreeing to an apology/compensation/community work/other undertaking

Condition included in conference undertaking	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Yes	101	54.6	27	14.6	70	37.8	134	72.4
No	84	45.4	158	85.4	115	62.2	51	27.6
Total	185	100.0	185	100.0	185	100.0	185	100.0

Table 33b Non-Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: proportion agreeing to an apology/compensation/community work/other

Condition included in conference undertaking	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Yes	746	63.9	284	24.3	421	36.1	864	74.0
No	421	36.1	883	75.7	746	63.9	303	26.0
Total	1,167	100.0	1,167	100.0	1,167	100.0	1,167	100.0

The above discussion does not detail the combination of condition types that may be incorporated within the same undertaking. Such information is contained in Table 34.

As shown, over four in ten Aboriginal cases (44.3%) involved only one type of condition⁸ while a further one-third (33.0%) included two conditions. In another one-fifth of Aboriginal cases (21.6%), three types of conditions were involved. Only two cases (1.1%) included all four conditions specified in the *Young Offenders Act*. When this profile is compared with that for non-Aboriginal youth, some differences are apparent. Undertakings entered into by non-Aboriginal young people were more likely than Aboriginal cases to include two conditions (43.0% compared with 33.0% respectively) and less likely to involve only one condition (30.8% compared with 44.3% respectively). However, approximately equal proportions of undertakings of both groups incorporated three conditions (23.3% of non-Aboriginal and 21.6% of Aboriginal) or four conditions (2.9% of non-Aboriginal and 1.1% of Aboriginal cases).

At a more detailed level, just over one-quarter of Aboriginal undertakings involved the single condition of 'other' (27.0%). A further 15.7% involved 'apology and other' while 14.6% entailed an 'apology and community work and other'. The same three combination types dominated non-Aboriginal undertakings, but the proportions were somewhat different from those recorded for Aboriginal youth. For example, in non-Aboriginal undertakings, the combination of 'apology and other' was more prominent than for Aboriginal youth (22.4% compared with 15.7% respectively). In contrast, the

⁸ AS NOTED EARLIER, ONE UNDERTAKING MAY INVOLVE NOT ONLY DIFFERENCE TYPES OF CONDITIONS BUT ALSO MORE THAN ONE INSTANCE OF PARTICULAR CONDITION TYPE. IN THIS TABLE, THE EMPHASIS IS ON THE RANGE OF CONDITIONS TYPES, RATHER THAN THE TOTAL NUMBER WITHIN A PARTICULAR CONDITION CATEGORY. FOR example, if an undertaking involved two apologies and no other condition, the case would be detailed as 'apology only' under 'one condition'.

single condition of 'other only' was not as prominent as it was for Aboriginal youth (18.8% compared with 27.0% respectively). However, approximately equal proportions of both groups agreed to the three condition combination of 'apology and community work and other' (14.6% of Aboriginal and 12.9% of non-Aboriginal undertakings).

Table 34 Cases dealt with at a family conference in 1997 where an undertaking was agreed to: Aboriginality by combination of conditions

<i>Conditions</i>	Aboriginal		Non-Aboriginal	
	n	%	n	%
One condition				
Apology only	15	8.1	66	5.7
Compensation only	2	1.1	35	3.0
Community work only	15	8.1	39	3.3
Other only	50	27.0	219	18.8
Sub-total	82	44.3	359	30.8
Two conditions				
Apology and compensation	2	1.1	52	4.5
Apology and community work	14	7.6	81	6.9
Apology and other	29	15.7	261	22.4
Compensation and community work	1	0.5	7	0.6
Compensation and other	7	3.8	34	2.9
Community work and other	8	4.3	67	5.7
Sub-total	61	33.0	502	43.0
Three conditions				
Apology, compensation and community work	2	1.1	23	2.0
Apology, compensation and other	10	5.4	79	6.8
Apology, community work and other	27	14.6	150	12.9
Compensation, community work and other	1	0.5	20	1.7
Sub-total	40	21.6	272	23.3
Four conditions				
Apology, compensation, community work and other	2	1.1	34	2.9
Total	185	100.0	1,167	100.0

Amount of compensation agreed to

Table 35 outlines the amount of compensation agreed to by individuals at a family conference⁹. In 1997, there were only 27 Aboriginal conference undertakings in which the young person agreed to pay compensation. Of these, half involved small amounts of \$1 – \$25, while only one case involved the payment of more than \$200.

The situation for non-Aboriginal cases was somewhat different. Less than one-fifth of non-Aboriginal compensation agreements involved very small amounts of \$1-\$25 (19.0%). At the other end of the scale, nearly one-fifth of non-Aboriginal agreements involved amounts of more than \$200 (19.4%).

Table 35 Cases dealt with at a family conference in 1997 where compensation was agreed to: Aboriginality by amount of compensation per case

Amount	Aboriginal	Non-Aboriginal
--------	------------	----------------

⁹ One undertaking may require a young person to pay more than one amount of compensation. Table 35 details the total sum involved, rather than the individual amounts. For example, if a conference 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 table would record one compensation amount of \$120.

in dollars	n	%	n	%
1-25	14	51.9	54	19.0
26-50	5	18.5	71	25.0
51-100	4	14.8	53	18.7
101-150	2	7.4	29	10.2
151-200	1	3.7	22	7.7
201-400	1	3.7	31	10.9
401-600	0	0	15	5.3
601-800	0	0	2	0.7
801-1000	0	0	3	1.1
1001-1,500	0	0	3	1.1
Over 1,500	0	0	1	0.4
Total	27	100.0	284	100.0

Amount of community work agreed to

Table 36 details the total amount of community work¹⁰ agreed to per case. As detailed earlier, in 1997 there were 70 Aboriginal and 421 non-Aboriginal cases in which the young person agreed to perform community work. For both groups, just over half of the community work agreements involved 20 hours or less (54.3% of Aboriginal and 53.2% of non-Aboriginal agreements). However, a lower proportion of Aboriginal than non-Aboriginal cases involved the mid-range of 21-50 hours (25.7% compared with 34.9% respectively) while conversely, Aboriginal cases were more likely than non-Aboriginal cases to involve longer periods of 51-100 hours (18.6% compared with 9.7% respectively).

Table 36 Cases dealt with at a family conference in 1997 where community work was agreed to: Aboriginality by number of hours per case

Number of hours	Aboriginal		Non-Aboriginal	
	n	%	n	%
1-10	13	18.6	106	25.2
11-20	25	35.7	118	28.0
21-30	7	10.0	60	14.3
31-50	11	15.7	87	20.7
51-100	13	18.6	41	9.7
101-200	1	1.4	9	2.1
Total	70	100.0	421	100.0

Extent of compliance with undertakings and conditions

Extent of compliance with undertakings

When a young person enters into a conference undertaking, they are given a date by which the undertaking must be complied with. It could mean that a young person who agreed to an undertaking in May 1997 could have until December 1997 to complete it. At the end of the period stipulated, the conference coordinator 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 such instances, the co-ordinator, in consultation with the police youth officer, may either decide that the unfulfilled conditions are so minor that they can be waived or the matter may be referred back to the police who subsequently decide whether to withdraw the allegations or to formally charge the young person and refer the matter to court.

Because different undertakings may have different compliance dates, there may be a considerable time lag before all compliance data are available. The following discussion is based on undertaking

¹⁰ The same principle that applied in Table 33 applies here. That is, 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.

compliance information recorded on the computer system at the end of April, 1998. In 1997 there were 185 Aboriginal cases dealt with by a conference which resulted in an undertaking and by the end of April 1998, 165 of these cases (89.1%) had undertaking compliance data recorded. Similarly, in 1997 there were 1,167 non-Aboriginal conference cases in which an undertaking was entered into and by April 1998, 1,023 of these (87.7%) had undertaking compliance data entered on the system. The following discussion is based on these 165 Aboriginal and 1,023 non-Aboriginal cases. A later section will look in detail at the level of compliance with the individual conditions involved in those undertakings.

For the great majority of cases finalised by way of a conference, the conditions agreed to by a young person are grouped under the one undertaking. In only two cases (both of which involved non-Aboriginal youths), did the young person agree to more than one undertaking. The undertaking compliance profile for Aboriginal and non-Aboriginal cases are detailed in Table 37. As shown, of the 165 Aboriginal cases involving an undertaking, almost three-quarters were complied with (72.1%). Although a compliance level of 72% could be considered good, it is lower than that recorded for non-Aboriginal cases, where 85.3% of undertakings were successfully completed. A further 1.2% of Aboriginal and 2.7% of non-Aboriginal cases were judged to have been sufficiently complied with to have the outstanding conditions waived. These figures mean that over one-quarter of Aboriginal cases (26.7%) were referred back to police for non-compliance compared with only 11.9% of non-Aboriginal cases.

Table 37 Cases dealt with at a family conference in 1997 where an undertaking was agreed to: Aboriginality by undertaking compliance status

Undertaking compliance status	Aboriginal		Non-Aboriginal	
	n	%	n	%
Cases with only one undertaking				
Complied	119	72.1	871	85.1
Waived	2	1.2	28	2.7
Referred back to police	44	26.7	122	11.9
Sub-total	165	100.0	1,021	99.8
Cases with more than one undertaking				
All complied with	0	0	2	0.2
All waived	0	0	0	0
All referred back to police	0	0	0	0
Total	165	100.0	1,023	100.0

However, the 1997 level of undertaking compliance of Aboriginal youths was a vast improvement on that for 1996.¹¹ As shown in Table 38, in 1996, only 51.1% of Aboriginal undertakings were complied with, while four in ten cases (42.7%) were referred back to police. This increase in the level of Aboriginal compliance probably reflects the initiatives taken by the Family Conference Team to improve the situation. Efforts were made by the Team to monitor how realistic Aboriginal young people were being when they agreed to particular conditions. Further, where community work was one of the conditions, the required placements were made through Aboriginal organisations. Aboriginal groups that provided services to youth were also encouraged to take a more active role in the support of individual young people who had attended conferences. In addition, through the appointment of an Aboriginal person to the Port Augusta co-ordinator position that covers the north and north-west of the State it has been possible to maintain good links with the local Aboriginal community.

Table 38 Cases dealt with at a family conference in 1996 where an undertaking was agreed to: Aboriginality by undertaking compliance status

Undertaking compliance status	Aboriginal		Non-Aboriginal	
	n	%	n	%
Cases with only one undertaking				

¹¹ The discussion on the level of undertaking compliance in 1996 is based on information recorded on the computer system by early 1997. In 1996, there were 192 Aboriginal where undertaking was entered into. By early 1997, 143 of these (74.5%) had undertaking compliance data recorded on the computer system. Similarly, in 1996, there were 1,093 non-Aboriginal cases in which an undertaking was entered into and by early 1997, 713 of these (65.3%) had undertaking compliance data recorded. The 1996 discussion is limited to these 143 Aboriginal and 713 non-Aboriginal cases.

Complied	73	51.1	601	84.3
Waived	9	6.3	19	2.7
Referred back to police	61	42.7	93	13.0
Sub-total	143	100.0	713	100.0
Cases with more than one undertaking				
All complied with	0	0	0	0
All waived	0	0	0	0
All referred back to police	0	0	0	0
Total	143	100.0	713	100.0

Extent of compliance with individual conditions

When a young person agrees to an undertaking which has multiple conditions, each condition has a given date by which that particular condition must be completed. Dates set for individual conditions within the one undertaking may not be the same. 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. 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; or
- not complied with.

The category 'not complied with' is used when the young person fails to complete the requirements of the condition, even if part of the particular requirement has been met. For example, if a young person agreed to undertake twenty hours of community work, but completed only ten hours by the due date and there was no indication that the remainder would be finished, this would be recorded as 'not complied with'.

As noted earlier, in 1997 there were 165 Aboriginal and 1,023 non-Aboriginal cases where undertakings had been entered into and for which compliance data were recorded on the system by April 1998. In some of these cases, although data relating to undertaking compliance were recorded, compliance information for one or more conditions in that undertaking was 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. Those conditions for which compliance data were not recorded have been dropped from consideration in the following discussion. For the 1997 data this meant that 18 of the 366 conditions associated with Aboriginal cases were omitted from consideration, as were 51 of the 2,487 conditions associated with non-Aboriginal cases. In summary, those 165 Aboriginal cases where undertaking compliance data were recorded involved 348 individual conditions for which condition compliance information was available. The 1,023 non-Aboriginal cases involved 2,436 separate conditions for which condition compliance data were available¹².

As shown in Table 39a, in those cases involving Aboriginal youths, there were pronounced differences in the level of compliance from one type of condition to another. While 89.4% of apologies and 80.1% of 'other' conditions were complied with on or after the due date, only 73.4% of community work conditions and 14 of the 24 compensation conditions (58.3%) were complied with.

For non-Aboriginal youth, while the level of compliance was generally high across all categories, there was still some variation depending on the type of condition involved. As for Aboriginal youth, the greatest level of compliance was recorded for apologies (96.7%). This was followed by 'other' conditions (89.9%), community work (87.0%) and compensation (85.1%).

¹² In the following tables and associated discussion, if a young person agreed to an undertaking with two separate conditions of apology and one condition of compensation this would appear as two counts of apology and one count of compensation. This is a different counting rule from that applied in Tables 33 - 36 where, for each type of condition, only one count was recorded.

A comparison between the condition compliance profiles for Aboriginal and non-Aboriginal youth reveals substantial differences. For each type of condition, Aboriginal youth had a lower level of compliance than non-Aboriginal youth, with the biggest discrepancies occurring for community work (73.4% compared with 87.0% respectively) and compensation (58.3% and 85.1% respectively). However, in relation to compensation, it should be noted that the actual number of such conditions involving Aboriginal youth was relatively small (n= 24) which means that minor changes in the absolute number of conditions complied with would produce relatively large percentage shifts. Hence, this comparison needs to be treated with caution.

Table 39a Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: condition compliance status

Condition compliance status	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Complied by due date	86	82.7	13	54.2	43	67.2	122	78.2
Complied after due date	7	6.7	1	4.2	4	6.3	3	1.9
Not complied with	11	10.6	10	41.7	17	26.6	31	19.9
Total	104	100.0	24	100.0	64	100.0	156	100.0

Table 39b Non-Aboriginal cases dealt with at a family conference in 1997 where an undertaking was agreed to: condition compliance status

Condition compliance status	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Complied by due date	610	86.4	204	82.3	267	77.2	963	84.8
Complied after due date	73	10.3	7	2.8	34	9.8	58	5.1
Not complied with	23	3.3	37	14.9	45	13.0	115	10.1
Total	706	100.0	248	100.0	346	100.0	1,136	100.0

Extent of compliance with individual conditions attached to undertakings that were waived

It was noted earlier that in some cases, the young person complies with some conditions of the undertaking but not with others. The Youth Justice Co-ordinator may decide that the unfulfilled conditions are so minor that they can be waived and the matter is closed. For example, a young person at a conference may agree to pay \$200 compensation and undertake 20 hours of community work. By the due date (s)he may have paid the full amount of compensation but completed only 15 hours of work. In such a case, the co-ordinator in consultation with the Police Youth Officer may decide that, given their knowledge of the particular situation and any difficulties involved, this was sufficient. As discussed in the earlier section on undertaking compliance, there were two Aboriginal and 28 non-Aboriginal cases where the undertaking was waived. The following details the level of compliance with all the conditions that were attached to these 'waived' undertakings.

As would be expected, given that there were only two Aboriginal cases where this occurred, there were only a handful of conditions attached to these 'waived' undertakings. In fact, as shown in Table 40a, there were two apologies, one community work and one 'other' condition. The two apologies were complied with by the due date, but the community work and 'other' condition were not fully completed.

The 28 non-Aboriginal cases involved 15 apologies, six compensation, 13 community work and 50 'other' conditions. Of these, three apologies, one compensation, nine community work and 19 'other' conditions were not fully complied with. While the actual numbers are small, it can be seen that community work and 'other' conditions accounted for the great majority of conditions that were not fully completed.

Table 40a Aboriginal cases dealt with at a family conference in 1997 where the undertaking was waived: condition compliance status

Condition compliance status	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Complied by due date	2	100.0	0	0	0	0	0	0

date									
Complied after due date	0	0	0	0	0	0	0	0	0
Not complied with	0	0	0	0	1	100.0	1	100.0	
Total	2	100.0	0	0	1	100.0	1	100.0	

Table 40b Non-Aboriginal cases dealt with at a family conference in 1997 where the undertaking was waived: condition compliance status

Condition compliance status	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Complied by due date	10	66.7	5	83.3	3	23.1	30	60.0
Complied after due date	2	13.3	0	0	1	7.7	1	2.0
Not complied with	3	20.0	1	16.7	9	69.2	19	38.0
Total	15	100.0	6	100.0	13	100.0	50	100.0

Extent of compliance with individual conditions attached to undertakings that were referred back to police

As detailed earlier in Table 37, in 1997 there were 44 Aboriginal and 122 non-Aboriginal conference cases referred back to police because the young person failed to meet the requirements of the undertaking. While this may suggest a total failure on the part of the youth to complete any part of the undertaking, in many instances at least some of the requirements were met. Table 41 presents, for those cases referred back to police, details of compliance with the individual conditions involved. The 44 Aboriginal cases involved 96 individual conditions while the 122 non-Aboriginal cases comprised 298 conditions.

This table shows that for both Aboriginal and non-Aboriginal young people, even in these cases referred back to the police, a proportion of the associated conditions had been complied with on or after the due date. For Aboriginal youth, there had been compliance with over half (56.0%) of the apologies and over one-quarter (28.6%) of the 'other' conditions. However, substantially less of the associated compensation (16.7%) and community work (5.9%) requirements had been fully met.

For non-Aboriginal youth, over seven in ten apologies (73.0%) and nearly three in ten 'other' conditions (29.4%) were complied with. As for Aboriginal youth, compensation and community work had lower compliance levels, with only 16.3% of compensation and 20.0% of community work conditions being fully met.

If the focus is now changed to non-compliance, it can be seen that for both Aboriginal and non-Aboriginal cases referred back to police, there was a failure to complete over eight in ten compensation conditions (83.3% of Aboriginal and 83.7% of non-Aboriginal conditions). Similar proportions of both groups also failed to comply with 'other' conditions (71.4% and 70.6% respectively). However, for the conditions of apology and community work, Aboriginal/non-Aboriginal differences were apparent. Aboriginal youth failed to comply with 44.0% of the associated apologies compared with 27.0% for non-Aboriginal youth. For community work conditions, Aboriginal youth failed to comply with 94.1% compared with a somewhat lower 80.0% for non-Aboriginal youth.

Table 41a Aboriginal cases dealt with at a family conference in 1997 where the undertaking was referred back to police: condition compliance status

Condition compliance status	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Complied by due date	14	56.0	1	8.3	1	5.9	11	26.2
Complied after due date	0	0	1	8.3	0	0	1	2.4
Not complied with	11	44.0	10	83.3	16	94.1	30	71.4
Total	25	100.0	12	100.0	17	100.0	42	100.0

Table 41b Non-Aboriginal cases dealt with at a family conference in 1997 where the undertaking was referred back to police: condition compliance status

Condition compliance status	Apology		Compensation		Community work		Other	
	n	%	n	%	n	%	n	%
Complied by due date	46	62.2	5	11.6	9	20.0	32	23.5
Complied after due date	8	10.8	2	4.7	0	0	8	5.9
Not complied with	20	27.0	36	83.7	36	80.0	96	70.6
Total	74	100.0	43	100.0	45	100.0	136	100.0

Overall level of positive resolution for family conference referrals

Early in this chapter, information was represented on the proportion of cases referred to a conference which were 'successfully' resolved. However, the term 'successful' was used in a very limited sense. It applied to those conferences where an agreement on an appropriate outcome was reached. It did not take account of whether the youth subsequently fulfilled his/her undertaking. What are the results if a more rigorous definition of success, incorporating both agreement at the conference and subsequent compliance with that agreement, is used?

In Table 42 statistics detailing information on the number of conferences that were scheduled but not held and the outcome of those conferences that were held (see Table 26) are combined with statistics with information on undertaking compliance. Taken together, these data provide an insight into the degree of positive resolution achieved.

As shown, for Aboriginal youths 45.8% of cases referred to a conference in 1997 resulted in an undertaking which, by the end of April 1998, had been completed. In a small proportion of cases (0.8%) the undertaking had been waived, while an additional 5.8% had been finalised by way of either a caution or no further action. In total then, of the 260 Aboriginal cases referred, 52.3% were finalised positively. In a further 7.7% of cases, the period for completing the undertaking had not expired at the time the database was closed off, and so these matters still had the potential to be appropriately resolved. In contrast, 39.2% of referrals were not positively finalised at the conference level, either because the conference had not gone ahead or, if held, had not reached finalisation, or the resultant undertaking had not been complied with.

In contrast, non-Aboriginal cases exhibited a substantially higher level of positive resolution, with 71.2% of cases referred to a conference in 1997 having been satisfactorily resolved by the time the database was closed off, compared with only 52.3% of Aboriginal matters. A further 10.1% of non-Aboriginal cases did not yet have compliance information recorded, and so still had the potential to be positively finalised. At the other end of the scale, in only 18.4% of non-Aboriginal cases was the matter not successfully resolved, with undertaking non-compliance accounting for 8.5% of these matters and the conference not being held a further 8.3%.

**Table 42 Case referrals received by the Family Conference Team, 1997:
Aboriginality by finalised outcome, taking into account levels of
undertaking compliance**

Case outcome	Aboriginal		Non-Aboriginal	
	n	%	n	%
<i>Cases positively finalised</i>				
Conference held, undertaking completed	119	45.8	873	61.1
Conference held, undertaking waived	2	0.8	28	2.0
Conference held, formal caution	9	3.5	105	7.3
Conference held, no further action	6	2.3	11	0.8
Sub-total	136	52.3	1,017	71.2
	20	7.7	144	10.1
<i>Not yet classifiable</i>				
<i>Conference not positively finalised</i>				
Conference held, undertaking not complied with	44	16.9	122	8.5
Conference held, no agreement reached	8	3.1	23	1.6
Conference not held	50	19.2	118	8.3
Sub-total	102	39.2	263	18.4
Conference held, case not proceeded with	2	0.8	5	0.3
Total	260	100.0	1,429	100.0

SECTION 3: DISCRETE CONFERENCES HELD

While the above discussion relates to individual cases dealt with by way of a conference, this section details the number of discrete conferences held, irrespective of the number of young offenders dealt with at each conference. In 1997, there were 1,409 conferences held. Of these, 1,119 involved only non-Aboriginal offenders and 187 comprised only Aboriginal offenders. Of the remaining 103 conferences, 89 had only one offender present but information on Aboriginality was not recorded. A further eight conferences consisted of two offenders but there were no details of Aboriginality for at least one of these young people. This leaves six conferences involving a mixture of Aboriginal and non-Aboriginal offenders. The number and type of participants attending this small group of conferences is discussed first¹³.

Table 43 details each of these conferences, with the information presented in case study form – i.e. as conferences A to F. As shown, four of these conferences involved only two offenders. Of the other two conferences, one involved three offenders and the other, four. In both these conferences, there were more non-Aboriginal than Aboriginal youth, with Conference E involving one Aboriginal and three non-Aboriginal youths and Conference F comprising one Aboriginal and two non-Aboriginal young offenders. For one of the non-Aboriginal youths who participated in Conference F, the conference was adjourned to another date, at which time the matters were withdrawn. At least one parent was in attendance at each of the conferences, with five parents present at the conference involving four offenders. Victims attended only three of the six conferences, while three involved youth supporters.

¹³ Both the Youth Justice Coordinator and the police representative are statutorily required to attend each conference. In the following discussion regarding participants they are not counted.

A victim supporter attended one conference. The total number of participants ranged from four to 11 for the conference involving four offenders.

Table 43 Family conferences involving at least one Aboriginal and one non-Aboriginal young offender, 1997: participants involved

Conference	Offenders	Parents	Victims	Victim supporters	Youth supporters	Total
A	2	1	1	0	0	4
B	2	2	0	0	0	4
C	2	1	4	0	0	7
D	2	2	1	0	1	6
E	4	5	0	1	1	11
F	3	3	0	0	3	9

The remaining discussion in this section is based on the 1,306 conferences for which the offender(s) involved were either all Aboriginal or all non-Aboriginal. (As in the discussion above, neither the Youth Justice Coordinator nor the police representative are counted as participants.)

Participant details

Total number of participants

Only a very small proportion of Aboriginal and non-Aboriginal conferences involved one participant only (3.7% and 3.6% respectively). By definition, this person would be the young offender. For both groups, just over half the conferences had two or three participants (55.6% of Aboriginal and 52.2% of non-Aboriginal). This means that 59.4% of 'Aboriginal only' conferences and 55.8% of 'non-Aboriginal only' conferences had three or fewer participants. Conversely, for both groups, just over four in ten conferences involved more than three participants (40.6% of Aboriginal and 44.2% of non-Aboriginal conferences).

There were some Aboriginal/non-Aboriginal differences in the size of those conferences involving multiple participants. While a conference with four participants was more likely for Aboriginal than non-Aboriginal youth (23.5% compared with 18.9% respectively), the reverse was true for conferences of more than four participants (25.3% for non-Aboriginal compared with 17.1% of Aboriginal). The fact remains, however, that the majority of conferences, irrespective of whether they involved Aboriginal or non-Aboriginal youths, had relatively few people attending.

This low level of participation is contrary to the situation anticipated when conferences were first introduced. It was intended that conferences would involve a wide range of people drawn from both the offender's and the victim's families and their respective social networks, so that all aspects of the impact of the offending could be addressed and adequate support provided for both the young person and the victim. It was also anticipated that, because of the extensive kin networks within Aboriginal communities, the number of participants attending a conference involving an Aboriginal youth would be relatively high. Again, this has not eventuated.

Table 44 Family conferences held, 1997: total number of participants

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
1	7	3.7	40	3.6
2	45	24.1	260	23.2
3	59	31.6	324	29.0
4	44	23.5	212	18.9
5-9	27	14.4	258	23.1

10 and over	5	2.7	25	2.2
Total	187	100.0	1,119	100.0

Number of offenders present

When more than one offender is apprehended for the same incident, the police officer may refer all the co-offenders to the Family Conference Team. In such situations, the Team may require co-offenders to attend the same conference, as it is more convenient for the victims and makes it more difficult for any one offender to absolve him/herself of responsibility by shifting the blame to others. Table 45 shows that, for both Aboriginal and non-Aboriginal conferences, the vast majority involved only one offender. However, 'single offender' conferences accounted for a higher proportion of Aboriginal than non-Aboriginal conferences (96.3% and 88.8% respectively). Only three Aboriginal and 88 non-Aboriginal conferences involved two offenders (1.6% compared with 7.9%) while for both groups, relatively small numbers of conferences were attended by more than two offenders (namely four Aboriginal and 37 non-Aboriginal).

Table 45 Family conferences held, 1997: number of offenders present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
1	180	96.3	994	88.8
2	3	1.6	88	7.9
3	1	0.5	25	2.2
4	0	0	10	0.9
5-9	3	1.6	2	0.2
Total	187	100.0	1,119	100.0

Number of parents and youth supporters present

As shown in Table 46, for both groups, the great majority of conferences had at least one parent present (82.9% of Aboriginal and 88.8% of non-Aboriginal). However, a higher proportion of Aboriginal than non-Aboriginal conferences had no parents present (17.1% compared with 11.2% respectively) or only one parent present (64.2% compared with 56.7% respectively).

Table 46 Family conferences held, 1997: number of parents present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
0	32	17.1	125	11.2
1	120	64.2	635	56.7
2	33	17.6	285	25.5
3	0	0	47	4.2
4	2	1.1	17	1.5
5-9	0	0	10	0.9
Total	187	100.0	1,119	100.0

The slightly lower level of involvement by Aboriginal parents may be a matter of concern. However, it should be noted that the most significant adult in the life of an Aboriginal young person may not be the

parent but an auntie, grandmother or other relative who has some responsibility for disciplining and caring for the youth. When a person other than a parent or guardian attends the conference, s/he is recorded under the category of youth supporter rather than parent, and the following discussion details the number of youth supporters present at conferences.

Table 47 shows that 'Aboriginal offender only' conferences were substantially more likely than 'non-Aboriginal offender only' conferences to have one or more youth supporters present (49.7% compared with 32.4% respectively). While this lends some support to the suggestion that, for Aboriginal youths, it may be a person other than the parent who is the 'significant adult', nevertheless Table 47 also indicates that for half of Aboriginal conferences there were no supporters present at all.

Table 47 Family conferences held, 1997: number of youth supporters present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
0	94	50.3	757	67.6
1	69	36.9	261	23.3
2	14	7.5	73	6.5
3	4	2.1	22	2.0
4	3	1.6	3	0.3
5	3	1.6	2	0.2
10 and over	0	0	1	0.1
Total	187	100.0	1,119	100.0

When the number of parents and youth supporters present at a conference are combined (see Table 48), there is little discrepancy between Aboriginal and non-Aboriginal conferences. For both groups, only a very small proportion had neither a parent nor a youth supporter present (4.8% of Aboriginal and 4.6% of non-Aboriginal conferences).

There were, however, some small differences between the two groups. Non-Aboriginal conferences were more likely than Aboriginal conferences to have only one parent/youth supporter present (45.7% compared with 40.6% respectively), but less likely to have two parents/youth supporters present (32.1% compared with 40.1% respectively). At the other end of the scale, a slightly higher proportion of non-Aboriginal than Aboriginal conferences involved three or more parents/youth supporters (17.7% compared with 14.4% respectively).

Table 48 Family conferences held, 1997: number of parents and youth supporters present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
0	9	4.8	51	4.6
1	76	40.6	511	45.7
2	75	40.1	359	32.1
3	18	9.6	113	10.1
4	1	0.5	53	4.7
5-9	8	4.3	30	2.7
10 and over	0	0	2	0.2
Total	187	100.0	1,119	100.0

Number of victims and victim supporters present

One of the key innovative features of family conferencing is the fact that victims are not only given the opportunity but are actively encouraged to attend. The central concept of the restorative justice approach is to allow the victim to confront the young offender and to participate in deciding appropriate outcomes. Victims are also encouraged to bring supporters or, if they do not want to be

present themselves, to have others attend on their behalf. However, as shown in Table 49, over half of both Aboriginal and non-Aboriginal conferences did not have any victim present (56.7% and 52.3% respectively). The most frequent situation for both groups was to have one victim in attendance (as was the case in 39.6% of Aboriginal and 41.9% of non-Aboriginal conferences). Only 3.7% of Aboriginal and 5.8% of non-Aboriginal conferences involved more than one victim.

Table 49 Family conferences held, 1997: number of victims present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
0	106	56.7	585	52.3
1	74	39.6	469	41.9
2	5	2.7	53	4.7
3	1	0.5	8	0.7
4	0	0	1	0.1
5-9	1	0.5	2	0.2
10 and over	0	0	1	0.1
Total	187	100.0	1,119	100.0

As shown in Table 50, one-fifth of both Aboriginal and non-Aboriginal conferences had a victim supporter present (19.3% and 21.4% respectively). However, there were some Aboriginal/non-Aboriginal differences in the level of involvement of victim supporters. Aboriginal conferences were less likely than non-Aboriginal conferences to involve only one victim supporter (12.3% compared with 17.0% respectively) but were slightly more likely to involve more than one supporter (7.0% compared with 4.5% respectively).

Table 50 Family conferences held, 1997: number of victim supporters present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%
0	151	80.7	879	78.6
1	23	12.3	190	17.0
2	8	4.3	35	3.1
3	3	1.6	8	0.7
4	1	0.5	3	0.3
5-9	1	0.5	4	0.4
10 and over	0	0	0	0
Total	187	100.0	1,119	100.0

To ascertain the total level of victim representation, in Table 51 the number of victims and the number of victim supporters are combined.

This again shows that a greater proportion of Aboriginal than non-Aboriginal conferences had neither a victim nor victim supporter present (53.5% compared with 46.3% respectively). However, for both groups, approximately equal proportions of conferences involved two or more victims/victim supporters (18.7% of Aboriginal and 19.4% of non-Aboriginal).

Table 51 Family conferences held, 1997: number of victims and victim supporters present

Number	Aboriginal offender(s) only		Non-Aboriginal offender(s) only	
	n	%	n	%

0	100	53.5	518	46.3
1	52	27.8	384	34.3
2	22	11.8	149	13.3
3	7	3.7	44	3.9
4	4	2.1	12	1.1
5-9	1	0.5	11	1.0
10 and over	1	0.5	1	0.1
Total	187	100.0	1,119	100.0

On the basis of these findings, it would appear that there is low victim involvement in family conferences. However, it needs to be noted that there may be under-enumeration of the number of victim representatives actually present at conferences. When the victim is an organisation such as a department store, two representatives of the store may attend the conference. However, this is still recorded as one victim. Further, it needs to be remembered that some matters dealt with at conferences, such as drug offences, do not involve victims. It should also be stressed that, while the level of victim attendance is lower than expected, it is much higher than under the previous juvenile justice system when victims were completely excluded from the diversionary Children's Aid Panel system then in place. Thus, rather than arguing that victim participation only stands at about 50%, we perhaps should be applauding the fact that half of the conferences are actually attended by victims.

However, the Family Conference Team has a commitment to increasing victim participation in family conferences, and to this end has implemented some special measures. There has been a change in the personnel responsible for contacting victims to invite them to conferences. Now, co-ordinators, rather than administrative staff, contact victims. In addition, meetings have been held with corporate bodies such as the Retail Traders Association to encourage the participation of retail bodies in cases where the offence has been against a shop or department store. General public education on family conferences has been provided to schools and community groups such as Neighbourhood Watch. Finally, a questionnaire requesting victim feedback from victims are distributed at the end of each conference with the aim of monitoring victims' views of the conference so that further improvements can be made.

Summary of family conferences

This chapter presented information on case referrals received by the Family Conference Team in 1997. For both Aboriginal and non-Aboriginal cases, details were provided on whether or not the referral resulted in a conference actually being held, and if so, the outcome of the conference. The personal characteristics of the young people were identified, and for those cases that were dealt with at a conference, information on the major allegation was provided. Where young people entered into undertakings, the various conditions involved and the extent to which the young people complied with the undertakings were outlined. Finally, information was provided on the range of participants who attended individual conferences.

The findings included:

- Aboriginal young people constituted approximately one in six family conference referrals, with females being more prominent in Aboriginal than non-Aboriginal referrals.
- A higher proportion of Aboriginal than non-Aboriginal referrals did not result in a conference being held, mainly due to the young person failing to appear at the scheduled time.
- Over half of both Aboriginal and non-Aboriginal cases dealt with at a conference involved young people in the middle age group of 13-15 year olds. However, the very young age group of 10-12 year olds was more prominent in Aboriginal than non-Aboriginal cases, while those aged 16 years and over were less prominent.
- *Property offences* were the most dominant offence type in both Aboriginal and non-Aboriginal cases dealt with at a conference, accounting for over six in ten of cases for both groups. A slightly

higher proportion of Aboriginal than non-Aboriginal cases involved *offences against the person (excluding sexual offences)* and *offences against good order*. Conversely, in a lower proportion of Aboriginal cases, a *drug offence* was identified as the major allegation.

- The offending profiles for Aboriginal males dealt with at a conference were quite different from those of their female counterparts. While *property offences* were dominant for both, this offence group accounted for a much higher proportion of Aboriginal male than female cases. In turn, Aboriginal females were substantially more likely than males to be conferenced for *offences against the person (excluding sexual offences)*.
- The great majority of both Aboriginal and non-Aboriginal cases dealt with at a conference resulted in the young person agreeing to enter into an undertaking. Similar proportions of undertakings for both groups involved community work and 'other' conditions, while undertakings entered into by non-Aboriginal youth were more likely than Aboriginal undertakings to involve an apology or compensation.
- While the majority of both Aboriginal and non-Aboriginal undertakings were complied with, the Aboriginal level of compliance was lower than that for non-Aboriginal cases. Over one-quarter of Aboriginal cases involving undertakings were referred back to police for non-compliance compared with approximately one in ten non-Aboriginal cases.
- Overall, Aboriginal cases exhibited a lower level of positive resolution than non-Aboriginal cases. Nearly four in ten Aboriginal referrals were not positively finalised, either because the conference did not go ahead or, if held, had not been able to reach finalisation, or the resultant undertaking had not been complied with. In contrast, just less than one in five non-Aboriginal cases were not positively finalised.
- The great majority of both Aboriginal and non-Aboriginal conferences involved only one offender, although conferences involving two or more offenders accounted for a higher proportion of non-Aboriginal than Aboriginal conferences. Nearly all conferences of both groups had at least one parent or youth supporter in attendance. However, for approximately half of both Aboriginal and non-Aboriginal conferences there was neither a victim nor victim supporter present.

6

YOUTH COURT

The third and final level of processing within the South Australian juvenile justice system is the Youth Court. Young people who appear before the court are formally charged and if they admit guilt or the matters are found proved they will have a criminal record which carries over into their adult lives. The Youth Court is presided over by a Judge of District Court status and, although it functions as a court of summary jurisdiction, it has the authority to hear all but a few major indictable offences. In addition to the Senior Judge, there is another Youth Court Judge and two specialist magistrates. Most matters in the city are therefore heard by a specialised judiciary. In contrast, in country areas, summary offences and minor indictable matters are generally dealt with by magistrates who spend most of their time hearing adult matters, but exercise jurisdiction in juvenile justice as required. It is only the major indictable offences that, in rural areas, are heard by a Youth Court judge while on circuit.

The *Young Offenders Act*, 1993 details the principles that the judiciary should follow in sentencing young people. Section 3(2) focuses on justice elements of accountability, sanction severity and community protection, stating that:

- (a) a youth should be made aware of his or her obligations under the law and of the consequences of breach of the law;
- (b) the sanctions imposed against illegal conduct must be sufficiently severe to provide an appropriate level of deterrence;
- (c) the community, and individual members of it, must be adequately protected against violent or wrongful acts.'

This is followed by Section 3(3) (a), which focuses on victims. It states that:

'compensation and restitution should be provided, where appropriate, for victims of offences committed by youths.'

The remaining elements of Section 3(3) incorporate 'welfare' considerations: namely,

- (a) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened;
- (b) a youth should not be withdrawn unnecessarily from the youth's family environment;
- (c) there should be no unnecessary interruption of a youth's education or employment;
- (d) a youth's sense of racial, ethnic or cultural identity should not be impaired.'

Total cases finalised by the Youth Court in 1997

In 1997, there were 3,273 cases¹⁴ finalised in the Youth Court with information relating to Aboriginality being available for 2,904 (88.7%). Of these, 535 (18.4%) involved young people identified by police as Aboriginal and 2,369 were classified as non-Aboriginal youths.¹⁵

When the level of Aboriginal involvement at this level of the system is compared with that observed at the earlier, diversionary levels, it can be seen that the 'deeper' the level within the juvenile justice system the greater the degree of Aboriginal over-representation.

¹⁴ The counting unit used here, namely the 'case', is not the apprehension report. Instead, a Youth Court case is a group of matters that were finalised before the same Judge or magistrate in the same court on the same day. Co-defendants are counted separately in the following discussion.

¹⁵ Details on racial identity are not recorded by the court. Instead, the information used is that of 'racial appearance' derived from police apprehension reports. This records the opinion of the apprehending police officer as to the appearance of the apprehended person.

As indicated in Table 52, given that Aboriginal young people accounted for only 2.3% of the State's population of 10-17 year olds, their level of representation in formal police cautions was 2.3 times greater than would be expected. Their level of representation at the second tier of the formal system - namely at the family conference level - was six times greater than would be expected on a per capita basis. Finally, Aboriginal youth accounted for a substantial 18.4% of cases finalised in the Youth Court in 1997, which means that they were over-represented by a factor of eight.

Table 52 Level of Aboriginal involvement at each tier of the juvenile justice system, 1997

<i>Level in system</i>	Percentage accounted for by Aboriginal youth	Extent of over-representation given proportion of State population
Population aged 10-17 years	2.3%	
Cautions	5.4%	2.3
Cases where conference held *	13.8%	6.0
Cases finalised in Youth Court	18.4%	8.0

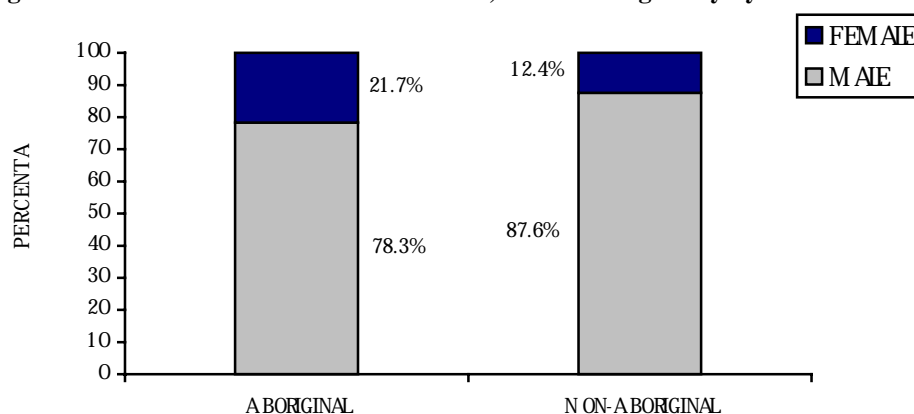
* This does not include cases that were referred to the Conference Team but ended up not being held either because the young person did not appear, the case was not proceeded with, the youth elected that the matter be dealt with in court, there was no admission or the Team was not able to locate the youth.

Demographic profiles

Sex of youths involved in finalised cases

The overwhelming majority of both Aboriginal and non-Aboriginal cases finalised in the Youth Court involved males (78.3% and 87.6% respectively). However, as indicated in Figure 19, females accounted for a substantially higher proportion of Aboriginal cases (21.7% compared with 12.4% of non-Aboriginal cases).

Figure 19 Youth Court cases finalised, 1997: Aboriginality by sex



Stated differently, Aboriginal youth accounted for 16.8% of all male cases finalised in the Youth Court, but 28.3% of all female cases. This means that the degree of over-representation of Aboriginal females at the court level is greater than that of their male counterparts. Further, as shown in Table 53, at this 'deeper' level, their degree of over-representation

is greater than at the earlier levels. It can be seen that at the front end of the system, Aboriginal females accounted for 8.1% of females formally cautioned, a level 3.4 times greater than expected given their representation in the State's population of female juveniles. However, at the 'deep' end of the system, they constituted 28.3% of female cases finalised in the Youth Court, which is 11.8 times greater than the level expected. For Aboriginal males, the level of over-representation in formal cautions was 2.1 while for cases finalised in the Youth Court, it was 7.3.

Table 53 Level of Aboriginal involvement at each tier of the juvenile justice system, 1997: a comparison between males and females

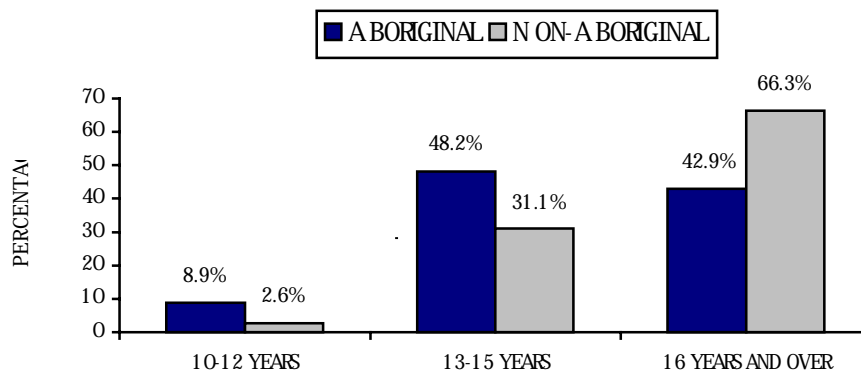
Level in system	Percentage accounted for by Aboriginal youth	Extent of over representation given proportion of state population
<i>Females</i>		
Population aged 10-17 years	2.4%	
Caution	8.1%	3.4
Conferences held*	16.6%	6.9
Cases finalised in Youth Court	28.3%	11.8
<i>Males</i>		
Population aged 10-17 years	2.3%	
Caution	4.8%	2.1
Conferences held*	13.1%	5.7
Cases finalised in Youth Court	16.8%	7.3

* This does not include cases that were referred to the Conference Team but ended up not being held either because the young person did not appear, the case was not proceeded with, the youth elected that the matter be dealt with in court, there was no admission or the Team was not able to locate the youth.

Age of youths involved in finalised cases

As for the earlier levels of the juvenile justice system, Aboriginal young people dealt with by the Youth Court tended to be younger than their non-Aboriginal counterparts. As Figure 20 indicates, just over half of the Aboriginal cases (57.1%) involved youths who were under 16 years of age at the time of the offence compared with only one-third (33.7%) of non-Aboriginal cases. Moreover, a higher proportion of Aboriginal cases involved youths in the very young 10-12 year age group (8.9% compared with 2.6% of non-Aboriginal young people).

Figure 20 Youth Court cases finalised, 1997: Aboriginality by age



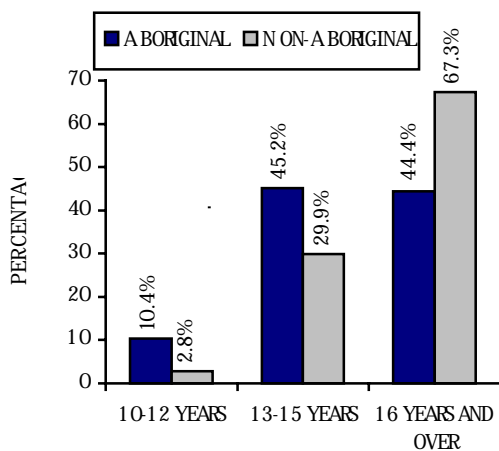
Age was unknown for 6 Aboriginal and 21 non-Aboriginal cases

Sex and age of youths involved in finalised cases

These age differences held for both males and females. As shown in Figure 21a, a substantially higher proportion of Aboriginal than non-Aboriginal male cases involved younger people. Of Aboriginal males dealt with by the Youth Court, 55.6% were under 16 years of age, compared with only 32.7% of their non-Aboriginal counterparts. A higher proportion of the Aboriginal male cases also involved youths in the very young age group of 10-12 years (10.4% compared with 2.8% of non-Aboriginal cases).

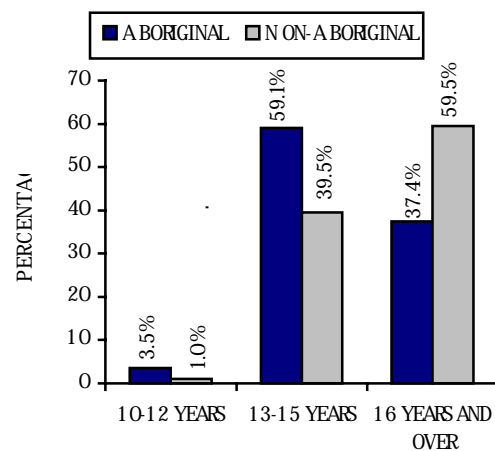
The pattern for females was similar, although the Aboriginal/non-Aboriginal differences were not as great as that observed for males (see Figure 21b). For Aboriginal females, 62.6% were under 16 years of age compared with 40.5% of non-Aboriginal female cases. However, for both groups, only a small proportion of cases involved the 10-12 years age group (3.5% for Aboriginal and 1.0% for non-Aboriginal females).

Figure 21a Youth Court cases finalised in 1997 involving males: Aboriginality by age



Age was unknown for 5 Aboriginal and 21 non-Aboriginal males

Figure 21b Youth Court cases finalised in 1997 involving females: Aboriginality by age



Age was unknown for 1 Aboriginal female

When the age profiles of Aboriginal males and Aboriginal females are compared, it can be seen that the females tended to be younger, with 62.6% of females under 16 years of age compared with 55.6% of males. However, a higher proportion of the male cases involved the very young age group of 10-12 year olds (10.4% compared with 3.5% for females). The non-Aboriginal females too, tended to be younger than their male counterparts, with 40.5% aged under 16 years of age compared with 32.7% of males. However, in contrast to the situation for Aboriginal 10-12 year olds, this age group accounted for only small proportions of both non-Aboriginal male and non-Aboriginal female cases (2.8% and 1.0% respectively).

Offence Profiles

Major offence charged per case

Table 54 presents the most serious charge¹⁶ listed in both Aboriginal and non-Aboriginal cases. As shown, *property offences* accounted for over half (55.0%) of the Aboriginal cases, followed by *offences against good order* (15.3%), *offences against the person (excluding sexual offences)* (12.7%) and *robbery and extortion* (8.0%). The other offence categories accounted for only small proportions of Aboriginal cases.

Non-Aboriginal profiles exhibited a somewhat similar rank ordering of offences, with *property offences* being by far the most dominant (accounting for 48.4% of all major charges), followed by *offences against the person (excluding sexual offences)* (12.7%), *offences against good order* (12.0%), *driving offences* (12.0%) and *drug offences* (7.1%). At the other end of the spectrum, *sexual offences* and *other offences* accounted for less than 5% of cases.

However, there were also some differences in the charge profiles of the two groups. Most notably, a higher proportion of Aboriginal than non-Aboriginal cases involved *property offences* (55.0% compared with 48.4% respectively), *offences against good order* (15.3% compared with 12.0% respectively) and *robbery and extortion* featured as the major charge in a higher proportion of Aboriginal than non-Aboriginal cases (8.0% compared with 4.1% respectively). A lower proportion involved *drug offences* (4.3% compared with 7.1%) or driving offences (1.9% compared with 12.0%).

Table 54 Youth Court cases finalised, 1997: Aboriginality by most serious charge per case

Most serious charge	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual offences)	68	12.7	302	12.7
Sexual offences	4	0.7	31	1.3
Robbery and extortion	43	8.0	98	4.1
Property offences	294	55.0	1,146	48.4
Offences against good order	82	15.3	284	12.0
Drug offences	23	4.3	168	7.1
Driving offences	10	1.9	284	12.0
Other offences	11	2.1	56	2.4
Total	535	100.0	2,369	100.0

Because the broad offence categories outlined above may obscure significant differences between the two groups, Table 55 presents a more detailed breakdown for those categories which accounted for 5% or more of all Aboriginal cases.

¹⁶ Whereas the major offence for both police and family conference data is defined according to the Maximum Statutory Penalty, the major offence for Youth Court data is defined according to a combination of the actual penalty imposed and the Maximum Statutory Penalty.

Offences against the person (excluding sexual offences)

As indicated in Table 55, for both groups, *serious assault* and *common assault* together account for over half of the offences in this grouping. Although *common assault of a female* accounted for a slightly higher proportion of Aboriginal cases (3.6% compared with 2.2% of non-Aboriginal cases), *serious assault* was somewhat more prominent for non-Aboriginal than Aboriginal cases (3.3% compared with 1.7% respectively). However, these differences were relatively small.

Robbery and extortion

As noted earlier, *robbery and extortion* constituted a substantially higher proportion of Aboriginal than non-Aboriginal cases. As indicated in Table 55, *unarmed robbery with violence* accounted for 4.3% of Aboriginal cases compared with 2.0% of non-Aboriginal cases while *unarmed robbery with no violence* constituted 3.2% compared with 1.0% of non-Aboriginal cases.

Property offences

In Table 55 *property offences* are broken down into four broad groupings (*burglary, break and enter, fraud and misappropriation, larceny and receiving, and damage property, arson and environmental offences*). Aboriginal and non-Aboriginal cases exhibited the same rank ordering of these four broad categories. For both groups, *larceny and receiving* dominated, accounting for approximately one-quarter of cases. However, this category was slightly more prominent in Aboriginal than non-Aboriginal cases (28.4% compared with 24.9% respectively). *Burglary, break and enter* was the second most prominent *property offence* and it, too, accounted for a slightly higher proportion of Aboriginal than non-Aboriginal cases (17.4% and 13.8% respectively). *Damage property, arson and environmental offences* featured equally for both groups (8.4%), while *fraud and misappropriation* constituted the major charge in only 0.7% of Aboriginal and 1.3% of non-Aboriginal cases.

Burglary, break and enter

Of the *burglary, break and enter offences*, the ones most frequently charged against Aboriginal youths were *break and enter – dwelling* (6.5%), *break and enter – shops* (4.9%) and *break and enter – other property type* (2.8%). For non-Aboriginal youth these three sub-categories were also the most prominent, although for this group, the ordering was slightly different. Although *break and enter – shops* featured in a slightly higher proportion of Aboriginal than non-Aboriginal cases (4.9% compared with 2.2% respectively), these differences were relatively minor.

Larceny and receiving

The *larceny and receiving* profiles of the two groups were relatively similar, with a number of sub-categories accounting for approximately equal proportions of both Aboriginal and non-Aboriginal cases: *receiving/unlawful possession* (4.5% and 3.8% respectively), *larceny from shops* (5.4% and 5.8% respectively) and *larceny – miscellaneous* (6.7% and 7.4% respectively). However, there was one main area of difference. *Motor vehicle related larceny* was more prominent for Aboriginal than non-Aboriginal youth (11.2% compared with 6.8%). *Illegal use of a motor vehicle* accounted for most of this difference, being listed as the major charge in 8.4% of Aboriginal cases compared with only 4.6% of non-Aboriginal cases.

Damage property, arson and environmental offences

This category accounted for equal proportions of both Aboriginal and non-Aboriginal cases, and the sub-category profiles were also very much alike.

Offences against good order

The Aboriginal/non-Aboriginal profiles for this grouping were generally similar. However, the offences of *disorderly/offensive behaviour* (3.4% of Aboriginal cases compared with 1.6% of non-Aboriginal cases), *indecent/offensive language* (2.6% compared with 0.9% respectively) and *trespassing* (3.0% compared with 1.6% respectively) were slightly more prominent for Aboriginal than non-Aboriginal youth, while the opposite was true for *grafitti and related offences*.

Table 55 Youth Court cases finalised in 1997: Aboriginality by major charge (sub-categories)

Most serious charge	Aboriginal		Non-Aboriginal	
	n	%	n	%
Offences against the person (excl. sexual offences)				
<i>Homicide</i>	1	0.2	8	0.3
<i>Serious assault</i>	9	1.7	77	3.3
<i>Common assault – male</i>	20	3.7	79	3.3
<i>Common assault – female</i>	19	3.6	51	2.2
<i>Assault police</i>	11	2.1	36	1.5
<i>Other assault – misc.</i>	5	0.9	10	0.4
<i>Other offences against the person</i>	3	0.6	41	1.7
Sub-total – against person	68	12.7	302	12.7
Robbery and extortion				
<i>Armed robbery</i>	2	0.4	23	0.9
<i>Unarmed robbery</i>				
<i>Violence</i>	23	4.3	48	2.0
<i>No violence</i>	17	3.2	24	1.0
<i>Extortion</i>	1	0.2	3	0.1
Sub-total – robbery and extortion	43	8.0	98	4.1
Offences against property				
<i>Burglary and break and enter</i>				
<i>Burglary</i>	4	0.7	13	0.5
<i>Break and enter dwelling</i>	35	6.5	121	5.1
<i>Break and enter shops</i>	26	4.9	52	2.2
<i>Break and enter schools</i>	9	1.7	42	1.8
<i>Break and enter other property type</i>	15	2.8	91	3.8
<i>Offences related to break and enter</i>	4	0.7	8	0.3
Sub-total – burglary, break and enter	93	17.4	327	13.8
<i>Fraud and misappropriation</i>	4	0.7	30	1.3
<i>Larceny and receiving</i>				
<i>Receiving/unlawful possession</i>	24	4.5	90	3.8
<i>Motor vehicle related</i>				
Larceny of a motor vehicle	0	0	9	0.4
Illegal use of a motor vehicle	45	8.4	109	4.6
Illegal interference to a motor vehicle	15	2.8	36	1.5
Larceny from a motor vehicle	0	0	8	0.3
Sub-total – motor vehicle related	60	11.2	162	6.8
<i>Other Larceny</i>				
<i>Larceny/illegal use of other vehicle</i>	3	0.6	25	1.1
<i>Larceny from shops</i>	29	5.4	138	5.8
<i>Larceny - miscellaneous</i>	36	6.7	176	7.4
Sub-total – larceny and receiving	152	28.4	591	24.9
Damage property and environmental offences				
<i>Arson</i>	2	0.4	22	0.9
<i>Damage property (not arson or explosives)</i>				
<i>dwelling</i>	11	2.1	45	1.9
<i>shops</i>	1	0.2	11	0.5
<i>schools</i>	5	0.9	16	0.7
<i>factory/warehouse</i>	0	0	0	0

<i>motor vehicle</i>	9	1.7	20	0.8
<i>other/unknown</i>	16	3.0	79	3.3
<i>Other offences related to property damage</i>	1	0.2	5	0.2
<i>Sub-total – damage property, excl. arson</i>	45	8.4	198	8.4
Offences against good order				
<i>Hinder/resist police</i>	11	2.1	64	2.7
<i>Unlawful possession and/or use weapons</i>	6	1.1	28	1.2
<i>Disorderly/offensive behaviour</i>	18	3.4	38	1.6
<i>Indecent/offensive language</i>	14	2.6	21	0.9
<i>Graffiti and related offences</i>	4	0.7	46	1.9
<i>Underage drinking offences</i>	7	1.3	27	1.1
<i>Trespassing</i>	16	3.0	38	1.6
<i>Other offences against good order – misc.</i>	6	1.1	22	0.9
Sub-total	82	15.3	284	12.0
	4	0.7	31	1.3
Sexual offences				
Drug offences	23	4.3	168	7.1
Driving offences	10	1.9	284	12.0
Other offences	11	2.1	56	2.4
	535	100.0	2,369	100.0
Total				

Major offence charged: a comparison between Aboriginal males and Aboriginal females

Given the differences in charge profiles between Aboriginal and non-Aboriginal youths, another issue to consider is whether there are also differences between Aboriginal males and Aboriginal females. As indicated in Table 56, for Aboriginal females, *property offences* were the most prominent, accounting for over one-third of all cases (37.9%). Within this broad grouping, *larceny and receiving* dominated, accounting for over one-quarter of cases (27.6%). These were followed by *offences against the person (excluding sexual offences)* which constituted the major charge in nearly one-fifth of cases, *good order offences* (18.1%) and *robbery and extortion* (15.5%).

The major charge patterns recorded for Aboriginal males differed in some respects from that of their female counterparts. In particular, *property offences* were far more prominent, accounting for over half of the male cases (59.7% compared with 37.9% of the females). The sub-category of *burglary, break and enter* accounted for most of this difference, constituting the major offence in one-fifth (20.8%) of male cases compared with only 5.2% of Aboriginal female cases. In contrast, *offences against the person (excluding sexual offences)* were less prominent for males than females (10.7% compared with 19.8% respectively), as was *robbery and extortion* (6.0% compared with 15.5% respectively).

However, there were some similarities in the male/female profiles. *Larceny and receiving* featured as the major allegation in just over one-quarter of cases for both groups (28.6% of male and 27.6% of female cases), while *sexual offences, fraud and misappropriation, drug, driving and other offences* constituted the major offence in very few male or female cases.

Table 56 Youth Court cases finalised in 1997 involving Aboriginal young people only: sex by most serious offence charged per case

<i>Most serious charge</i>	Male		Female	
	n	%	n	%
Offences against the person (excl. sexual offences)	45	10.7	23	19.8
Sexual offences	4	1.0	0	0
Robbery and extortion	25	6.0	18	15.5
Property offences				
<i>Burglary, break and enter</i>	87	20.8	6	5.2
<i>Fraud and misappropriation</i>	2	0.5	2	1.7

<i>Larceny and receiving</i>	120	28.6	32	27.6
<i>Damage property, arson and environmental</i>	41	9.8	4	3.4
Sub-total – property offences	250	59.7	44	37.9
Offences against good order	61	14.6	21	18.1
Drug offences	20	4.8	3	2.6
Driving offences	8	1.9	2	1.7
Other offences	6	1.4	5	4.3
Total	419	100.0	116	100.0

Youth Court outcomes

When a case is finalised in the Youth Court, the key outcomes possible are as follows:

- first, the major charge is proved;
- second, the major charge is not proved but there is a finding of guilt to a lesser or other charge; or
- third, the young person is not found guilty of either the major charge or any other charge.

Table 57 details the court outcomes for both Aboriginal and non-Aboriginal cases. This shows that in the majority of Aboriginal cases the major charge was proved (65.0%). In an additional 7.7% of cases, while the major charge was not found proved, another charge resulted in a guilty outcome. This means that in 72.7% of Aboriginal cases at least one charge was proved while in just over one-quarter of cases no charge was found proved (27.3%). Non-Aboriginal cases were more likely than Aboriginal cases to have at least one charge proved (78.9% compared with 72.7% respectively). This was due to a higher proportion of non-Aboriginal cases where there was a guilty outcome for the major charge (71.1% compared with 65.0% respectively).

In total then, of the 2,904 cases where information on racial identity was known, there were 2,259 where at least one charge was proved (389 Aboriginal and 1,870 non-Aboriginal cases). Aboriginal youths accounted for 17.2% of these cases. The remainder of this chapter will focus on the 2,259 'proved' cases.

Table 57 Youth Court cases finalised, 1997: Aboriginality by court outcome

Court outcome	Aboriginal		Non-Aboriginal	
	n	%	n	%
Guilty of at least one offence				
Major charge proved	348	65.0	1,684	71.1
Major charge not proved, but other charge proved	41	7.7	186	7.9
Sub-total	389	72.7	1,870	78.9
	146	27.3	499	21.1
No charge proved				
Total	535	100.0	2,369	100.0

Major offence proved per case

Earlier discussion in this chapter described finalised cases in terms of the major offence charged. However, as shown above, there were a number of cases where the major charge was either withdrawn or dismissed but a secondary charge proved. There were also cases where no charge resulted in a finding of guilt. This section considers only those cases where at least one charge was proved, with the analysis now focusing on the most serious offence per case for which a guilty outcome was recorded (namely, 389 Aboriginal and 1,870 non-Aboriginal cases). In this context, the penalty actually imposed by the court is used to determine the major or most serious offence proved.

A comparison between the most serious offence charged and the most serious offence proved for Aboriginal youth (see Table 58) shows both similarities and differences. *Property offences*, particularly *larceny and receiving* and *burglary, break and enter*, were prominent in both profiles, although it is interesting to note that there were slightly more *burglary, break and enter* offences listed as the major charge rather than the major offence proved (17.4% compared with 15.4% respectively). Conversely, *larceny/receiving* accounted for slightly fewer major charges than major proven offences. This suggests a slight 'slippage' from the more serious to the less serious *property offences*. There was also a substantial difference evident in the proportion of *robbery and extortion offences*. This category accounted for 8.0% of major charges laid against Aboriginal youth but only 2.8% of the most serious charges proved. In contrast, there was an increase in the proportion of *good order offences* from the 'offence charged' to the 'offence proved' situation (15.3% compared with 20.3% respectively).

For non-Aboriginal youth, the 'major offence proved' profile was very similar to the profile for the major offence charged (see Table 59). *Property offences* were prominent in both profiles, as were *offences against the person (excluding sexual offences)*, *good order offences* and *driving offences*. While there were some differences in the two profiles, these were relatively small and spread across a number of categories. There were proportionately fewer *offences against the person (excluding sexual offences)* or *robbery and extortion* charges proved than were originally charged, while conversely, there were more *offences against good order* and *driving offences* proved than charged. These differences, though, were small.

In summary, this means that the shift for Aboriginal cases was concentrated in the categories of *robbery and extortion* and *offences against good order*, whereas the shift for non-Aboriginal cases was more evenly spread across a greater number of offence categories. In the 'major offence charged' profile, *robbery and extortion* was more prominent for Aboriginal than non-Aboriginal cases (8.0% compared with 4.1% respectively). However, in the 'major offence proved' profiles, *robbery and extortion* accounted for approximately equal proportions for both groups (2.8% of Aboriginal and 2.1% of non-Aboriginal). With respect to the category of *good order offences*, the opposite change occurred. This offence assumed even greater prominence in Aboriginal than non-Aboriginal cases when the 'major offence proved' profile is compared with the 'major offence charged' profile.

Table 58 Youth Court cases finalised, 1997: major offence charged compared with major offence proved

Offence group	Aboriginal		Non-Aboriginal	
	Major offence charged %	Major offence proved %	Major offence charged %	Major offence proved %
Offences against the person (excl. sexual offences)	12.7	12.3	12.7	10.6
Sexual offences	0.7	0.3	1.3	0.9
Robbery and extortion	8.0	2.8	4.1	2.1
Property offences				
<i>Burglary, break and enter</i>	17.4	15.4	13.8	12.8
<i>Fraud and misappropriation</i>	0.7	0	1.3	1.4
<i>Larceny and receiving</i>	28.4	30.6	24.9	25.4
<i>Damage property, arson and environmental</i>	8.4	6.9	8.4	6.4
Sub-total – property offences	54.9	52.9	48.4	46.0
Offences against good order	15.3	20.3	12.0	15.0
Drug offences	4.3	5.9	7.1	8.7
Driving offences	1.9	2.8	12.0	14.8

Other offences	2.1	2.6	2.4	1.8
Total	100.0 n=535	100.0 n=389	100.0 n=2,369	100.0 n=1,870

Table 59 Youth Court cases finalised in 1997 involving Aboriginal youth: a comparison between the major offence charged and major offence proved against males and females

Offence group	Males		Females	
	Major offence charged %	Major offence proved %	Major offence charged %	Major offence proved %
Offences against the person (excl. sexual offences)	10.7	9.7	19.8	21.3
Sexual offences	1.0	0.3	0	0
Robbery and extortion	6.0	1.7	15.5	6.7
Property offences				
<i>Burglary, break and enter</i>	20.8	18.0	5.2	6.7
<i>Fraud and misappropriation</i>	0.5	0	1.7	0
<i>Larceny and receiving</i>	28.6	30.7	27.6	30.3
<i>Damage property, arson and environmental</i>	9.8	8.3	3.4	2.2
Sub-total – property offences	59.7	57.0	37.9	39.3
Offences against good order	14.6	20.0	18.1	21.3
Drug offences	4.8	6.7	2.6	3.4
Driving offences	1.9	3.0	1.7	2.2
Other offences	1.4	1.7	4.3	5.6
Total	100.0 n=419	100.0 n=300	100.0 n=116	100.0 n=89

The lower prominence of *robbery and extortion* in combination with a higher prominence of *good order offences* in the ‘major offence proved’ profile (compared with the ‘major offence charged’ profile) held true for both Aboriginal males and females. For Aboriginal males, *robbery and extortion* accounted for 6.0% of the major offence charged but only 1.7% of the major offence proved. For females, the difference was even more pronounced, with *robbery and extortion* dropping from 15.5% for the major offence charged to only 6.7% for the major offence proved. The reverse applied to *good order offences*. These accounted for 14.6% of male and 18.1% of female major offences charged but this increased to 20.0% and 21.3% respectively for the major offence proved.

Major penalty

Once there has been an admission or a finding of guilt, the Youth Court may impose a range of penalties including fines, community service and obligations. It may also impose a period of detention in a secure care facility for up to three years.

The *Young Offenders Act*, 1993 made some significant changes in the area of detention. The Act increased the maximum length of detention which could be imposed (from two years to three years) and also removed the previous minimum of two months. With the passage of this legislation, there was an expectation that the judiciary might make frequent use of these short orders to give the young person a “short sharp shock”. In particular, there was concern that these two extra options of both shorter and longer periods of detention might impact disproportionately on Aboriginal youth who, as a group, were already over-represented in custody.

In addition, a new sentencing option under the *Young Offenders Act*, 1993 allows the court to order a period of home detention, to be served either as a stand-alone option or in association with a period in secure care. When initially introduced, some workers expressed concern that, if home detention was to be predicated on the availability of a stable household with supportive parents, access to a telephone etc., then it would be less readily available to Aboriginal youth who tended to be more mobile and to move between large, relatively unstructured households that did not necessarily possess the characteristics normally judged appropriate for home detention placement. Thus, there was a concern that a home detention program may not be appropriate for this group of youths.

Given these extensions to sentencing options, what then is the current situation regarding penalties imposed by the Youth Court? The following discussion details only the most serious penalty imposed for the major offence proved. 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.

Table 60 presents the most serious penalty for both Aboriginal and non-Aboriginal cases. This shows that for Aboriginal youth, the most frequently imposed penalty was that of a fine, which featured in over one-fifth of cases (22.1%). A further 18.8% had a community service order as the most serious penalty while 16.7% resulted in an obligation. In 14.1% of cases, despite the matter being proved, the charge was dismissed without penalty. The most serious penalty option available to the Youth Court – detention - was imposed in 8.2% of Aboriginal cases with a further 14.4% receiving a suspended detention order.

A fine was also the penalty most frequently imposed on non-Aboriginal youth, accounting for just over one-quarter (26.4%) of these cases. However, non-Aboriginal cases were more likely than Aboriginal cases to result in an obligation (19.9% compared with 16.7% respectively) but were substantially less likely to entail a community service order (9.4% compared with 18.8% respectively). While the proportion of cases involving a detention order was fairly similar for both groups (8.2% of Aboriginal and 7.0% of non-Aboriginal), non-Aboriginal cases were less likely to result in a suspended detention order (10.3% compared with 14.1% respectively). At the other end of the scale, approximately equal proportions of both groups were dismissed without penalty (12.9% of non-Aboriginal and 14.1% of Aboriginal cases).

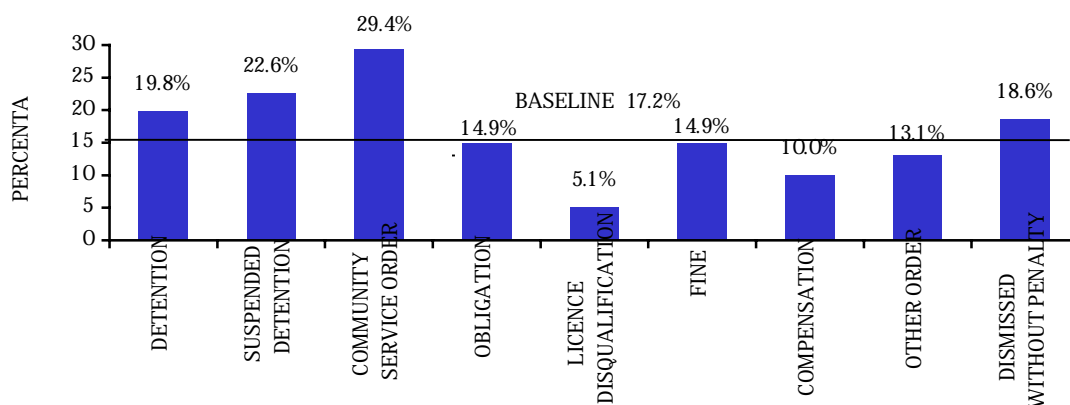
Table 60 Youth Court cases finalised in 1997 where at least one offence was proved: Aboriginality by most serious penalty

Most serious penalty imposed	Aboriginal		Non-Aboriginal	
	n	%	n	%
Detention*	32	8.2	130	7.0
Suspended detention	56	14.4	192	10.3
Community service order	73	18.8	175	9.4
Obligation	65	16.7	372	19.9
Licence disqualification	9	2.3	169	9.0
Fine	86	22.1	493	26.4
Compensation	5	1.3	45	2.4
Other order	8	2.1	53	2.8
Dismissed without penalty	55	14.1	241	12.9
Total	389	100.0	1,870	100.0

Detention orders include both secure and home detention orders. Where a combined secure/home detention order was imposed, the case is counted only once.

Another way of comparing penalty profiles for Aboriginal and non-Aboriginal youth is to look at the proportion of Aboriginal cases within each penalty type. Figure 22 presents this information. It was noted earlier that Aboriginal youth accounted for 17.2% of all cases where at least one charge was proved. If this is taken as the baseline, it can be seen that Aboriginal cases were over-represented in the penalties of detention, suspended detention and particularly community service orders. They were also slightly over-represented in those cases that were dismissed without penalty. In contrast, they were under-represented in terms of obligations, licence disqualification, fines, compensations and other orders.

Figure 22 Major penalty for Youth Court cases finalised: Aboriginal proportion of each penalty type



Detention orders include both secure and home detention orders. Where a combined secure/home detention order was imposed, the case is counted only once

In summary, Aboriginal young people were over-represented at both the most serious and least serious ends of the penalty spectrum. It is of on-going concern that Aboriginal youth still account for a disproportionate number of both detention and suspended detention orders. This over-representation in detention orders, combined with their general over-representation in Youth Court cases, means that Aboriginal youth will inevitably be markedly over-represented at the most serious end of the juvenile justice system – i.e. in the proportion of young people held on detention orders in the State’s secure care centres.

Another issue to consider though, is the possibility that the detention orders placed on Aboriginal youth may be shorter than those imposed on their non-Aboriginal counterparts. If that is the case, then their over-representation may not be as extreme as these figures suggest. The next section examines the length of detention orders.

Length of longest secure detention order imposed

Table 61 presents information on the longest secure detention orders imposed. While the previous tables included stand-alone home detention orders, these are excluded here. However, where there is a combined secure care and home detention order, it includes the secure component of those two orders. As noted earlier, although the previous legislation did not allow the imposition of detention orders of less than two months, the *Young Offenders Act 1993* removed this lower limit. To highlight the range of orders that would not previously have been available to the Youth Court, detention orders of less than two months are detailed separately.

Table 61 Youth Court cases finalised in 1997 where a secure detention order was imposed: Aboriginality by length of longest secure detention order

Length of longest detention order	Aboriginal		Non-Aboriginal	
	n	%	n	%
Less than 2 weeks	3	11.1	5	4.2
2 weeks – less than 4 weeks	2	7.4	10	8.3

4 weeks – less than 6 weeks	1	3.7	14	11.7
6 weeks – less than 8 weeks	1	3.7	6	5.0
Sub total	7	25.9	35	29.2
2 months – less than 3 months	1	3.7	11	9.2
3 months – less than 4 months	5	18.5	15	12.5
4 months – less than 5 months	3	11.1	11	9.2
5 months – less than 6 months	2	7.4	8	6.7
6 months – less than 12 months	8	29.6	28	23.3
12 months – less than 18 months	1	3.7	10	8.3
18 months – less than 24 months	0	0	2	1.7
24 months or longer	0	0	0	0
Sub-total	20	74.1	85	70.8
Total	27	100.0	120	100.0

Note that this table does not include cases that involved home detention orders only (5 Aboriginal and 10 non-Aboriginal cases)

As shown in Table 61, of the 27 Aboriginal cases that resulted in a secure detention order, one-quarter involved a period of less than eight weeks (25.9% or n=7), with most of these being very short orders of less than four weeks (18.5% or n=5). For those orders which involved secure detention of two months or more, the majority were in the three months to less than six months range (37.0% or n= 10). However, orders of six months to less than 12 months were also frequently imposed (29.6% or n = 8). This means that two in three detention orders imposed on Aboriginal youth were in the range of three months to less than 12 months. There was one additional case where secure detention of 12 months was ordered but there were no cases where an order longer than one year was imposed.

A slightly higher proportion of non-Aboriginal than Aboriginal orders involved secure detention periods of less than two months (29.2% compared with 25.9% respectively). However, whereas most of the Aboriginal short orders were of less than four weeks in duration, the equivalent non-Aboriginal orders tended to be longer, with four weeks to less than six weeks being the most frequently imposed period. This category accounted for one in ten (11.7%) of all non-Aboriginal detention orders. The longer orders of two months or more imposed on non-Aboriginal youth showed a greater variation than for Aboriginal youth. A higher proportion fell within both the lower end of the range - namely two months to less than three months (9.2% compared with 3.7% of Aboriginal cases) - as well as within the higher end of the range – namely over 12 months (10.0% compared with 3.7% of Aboriginal cases). However, non-Aboriginal youth were less likely than Aboriginal youth to receive a mid-range detention order of three months to less than 12 months (51.7% compared with 66.7% respectively).

This means then, that Aboriginal young people were more likely than their non-Aboriginal counterparts to receive very short detention orders of less than two weeks. For both groups the greatest concentration was in the mid range of three months to less than twelve months, with Aboriginal young people still being disproportionately represented in this range. Finally, non-Aboriginal youth were more likely to receive an order in the very long range of one year to two years, although this range involved relatively few youth. These figures do not suggest that Aboriginal orders tend to be shorter than those imposed on their non-Aboriginal counterparts.

Home detention

An alternative to secure detention is home detention. South Australia is the only state in Australia to have legislated for home detention as a sentencing option for young offenders. While home detention orders can also be used as a condition of bail, only those home detention orders imposed as a penalty by the Youth Court are detailed in this section. Home detention can be imposed as a direct order, with no time spent in a secure care facility. Alternatively, it can be imposed in combination with a secure care detention order. In both situations, the court determines the period of home detention.

The Division of Family and Youth Services within the Department of Human Services has responsibility for the provision of the home detention program which has been available only since late October, 1996. At this stage, the program is limited to young people living in the city and at any one time, a maximum of fifteen placements are available either as a condition of bail or as a penalty.

Before ordering home detention, the court requests an assessment report, which provides information on the young person's residence, family support and program involvement. While home detention provides control over those young people involved in the scheme and limits their liberty, the program also aims to enhance their educational, vocational, recreational, family and community involvement. Through their commitments to such activities, youths on this scheme undertake a fairly tightly structured daily schedule.

In 1997, 15 cases received a home detention order, while two resulted in a secure detention order combined with a home detention order. Aboriginal young people accounted for five (i.e one-third) of the orders involving home detention only. As Table 62 shows, these five cases involved three orders of three months, one of four months and another of five months. Two of the Aboriginal youth were female. No Aboriginal young person received a combined order.

Non-Aboriginal youth accounted for ten 'home detention only' orders and the two combined orders of secure and home detention. In contrast to the situation for Aboriginal youth, all the non-Aboriginal young people on home detention were male. The non-Aboriginal orders included some relatively short periods: one of one week, another of seven weeks and one of two months. At the other end of the scale, half of all the orders imposed on non-Aboriginal youth were of six months duration which is the maximum period allowed under the legislation. In addition, there was one order of three months and another of four months. The combined orders involved one of 15 weeks secure detention and six months home detention and another of three months secure detention and six months home detention.

Table 62 Youth Court cases finalised in 1997 involving home detention orders: Aboriginality by length of home detention orders *

Length of home detention order *	Aboriginal	Non-Aboriginal
	n	n
Less than 2 weeks	0	1
2 weeks – less than 4 weeks	0	0
4 weeks – less than 6 weeks	0	0
6 weeks – less than 8 weeks	0	2
2 months – less than 3 months	0	0
3 months – less than 4 months	3	1
4 months – less than 5 months	1	1
5 months – less than 6 months	1	0
6 months	0	5
Total	5	10

* There were two cases where there was a combined secure/home detention order. These are not included in this table.

Summary of Youth Court cases finalised in 1997

This chapter provided details of Aboriginal and non-Aboriginal cases finalised in the Youth Court in 1997. Information was presented on the sex and age of the young people involved in these cases and the major offence charged. For those cases where the young person was found guilty of at least one offence, information was provided on the major offence found proved. Finally, details were presented on the major penalty profiles for Aboriginal and non-Aboriginal cases, with particular attention given to the length of secure and home detention orders.

The findings included:

- Aboriginal young people were substantially over-represented in cases finalised in the Youth Court and this over-representation was more pronounced for Aboriginal young women than men.
- As at the earlier levels of the juvenile justice system, Aboriginal young people dealt with by the Youth Court tended to be younger than their non-Aboriginal counterparts.

-
- Aboriginal and non-Aboriginal profiles for the major offence charged were fairly similar, with *property offences* the most dominant offence for both groups, accounting for over half of the Aboriginal and nearly half of the non-Aboriginal cases. However, within this offence group, both *motor vehicle related larceny* and *burglary, break and enter* were more prominent for Aboriginal than non-Aboriginal cases. While *robbery and extortion* did not account for a substantial proportion of Aboriginal cases, this offence, too, was more prominent for Aboriginal than non-Aboriginal youths. In turn, as for earlier levels of the juvenile justice system, *drug offences* accounted for a slightly higher proportion of non-Aboriginal than Aboriginal cases.
 - Although *property offences* dominated as the major offence charged against both Aboriginal males and females, they were substantially more dominant for males, with *burglary, break and enter* accounting for the large part of this difference. As observed for earlier levels of the juvenile justice system, *offences against the person (excluding sexual offences)* were more prominent for Aboriginal females than males, as were *robbery and extortion* offences.
 - The majority of both Aboriginal and non-Aboriginal cases resulted in at least one charge being found proved. However, for a higher proportion of Aboriginal than non-Aboriginal cases, no charge was found proved.
 - The Aboriginal profile for major offence proved was somewhat different from the one for major offence charged. *Robbery and extortion* were less prominent as the major offence proved than the major offence charged, while *good order offences* were more prominent. These shifts held true for both Aboriginal males and females.
 - Aboriginal young people were over-represented at both the most serious and least serious ends of the penalty spectrum. Detention orders, suspended detention orders and particularly community service orders were more prominent in Aboriginal than non-Aboriginal cases. At the opposite end of the spectrum, proportionately more Aboriginal young people tended to have the matter dismissed without penalty than their non-Aboriginal counterparts.
 - Aboriginal young people were more likely than non-Aboriginal youth to receive very short detention orders of less than two weeks. For both groups the greatest concentration was in the mid range of three months to less than twelve months, with Aboriginal young people disproportionately represented in this range.
 - Only 15 cases received a home detention order in 1997, with Aboriginal young people accounting for five of these cases.

7

JUVENILES ADMITTED INTO CUSTODY AT THE MAGILL AND CAVAN TRAINING CENTRES

In South Australia there are two training centres for the detention of young offenders. These are administered by the Division of Family and Youth Services (FAYS) within the Department of Human Services. The older of these centres is the Magill Training Centre which provides secure care for young people admitted as a result of police custody, warrants, remand or detention. The centre can cater for up to 75 young people and is made up of five units:

- one for young women;
- another for young men in the 10 -14 years age group; and
- three units for young men in the 15 -18 years age group, each catering for different lengths of stay.

Cavan Training Centre is a modern, purpose-built detention facility that opened its doors to young offenders in September, 1993. This training centre consists of three twelve-bed units and caters for males aged 15 to 18 year who are serving longer periods of detention or remand orders.

In the ensuing discussion, secure care statistics are presented in three ways: admissions, census figures and daily averages.

Admissions

In 1997, there were 1,398 admissions¹⁷ into custody. Information regarding Aboriginality was recorded for 1,337, with 303 of these being identified as Aboriginal and 1,034 as non-Aboriginal. This means that Aboriginal young people accounted for 22.7% of all admissions into secure care over the 12 month period.

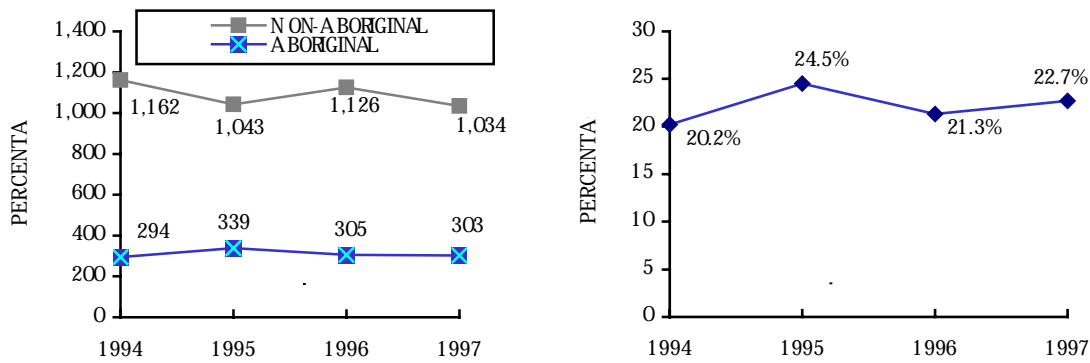
As Aboriginal young people make up only 2.3% of the State's 10-17 year olds, their rate of secure care admission was 9.9 times greater than would be expected on a per capita basis.

As shown in Figure 23a, the number of Aboriginal admissions in 1997 was virtually the same as for 1996. However, in the preceding two years there was some fluctuation, with 294 admissions recorded in 1994, increasing to 339 in 1995. For non-Aboriginal youth, the 1,034 admissions recorded in 1997 was the lowest for the period 1994 to 1997, with the peak occurring in 1994 (n = 1,162). Figure 23b shows that Aboriginal young people accounted for over one-fifth of all admissions in each of the years 1994 to 1997, with the proportion ranging from 20.2% in 1994 to 24.5% in 1995.

Figure 23a Secure care admissions by Aboriginality, 1994 – 1997

Figure 23b Aboriginal admissions as percentage of total admissions, 1994 - 1997

¹⁷ An admission refers to each discrete entry into secure care over a given time period. A youth may, during the course of a year, offend several times and be held in custody on each occasion. These would be counted as separate admissions. Similarly, in the course of finalising a single matter, the same youth could be admitted to secure care on multiple occasions. For example, an arrested youth who is not granted police bail would be admitted on over-night police custody. However, if brought before the court the next day and granted bail, (s)he may be released. If that bail was subsequently breached, the youth would be returned to custody. This would count as a second admission. If the youth was again granted bail, but later sentenced to detention, this would constitute a third admission. By contrast, a youth who was arrested, was not given police bail, was subsequently refused court bail and later sentenced to detention would have only one admission. It should also be noted that transfers between centres are not counted as admissions. Nor are youths returning from unsupervised leave included in the admission figures.

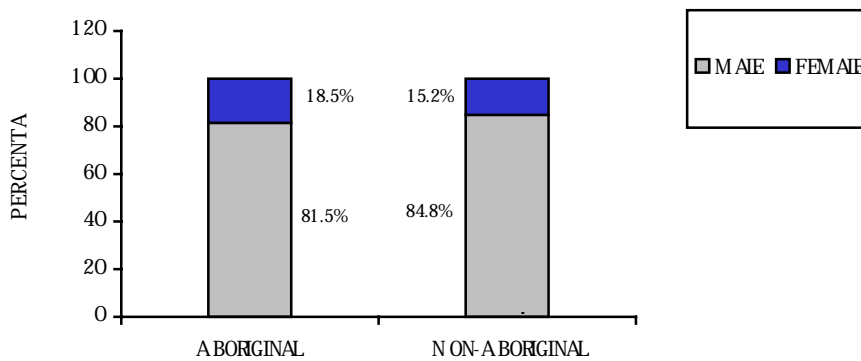


Admissions where details of Aboriginality unknown: 1994 = 36 1995 = 98 1996 = 75 1997 = 61

Sex of youths admitted to secure care

Figure 24 presents the sex profile for Aboriginal and non-Aboriginal admissions to secure care in 1997. Males accounted for the great majority of the 303 Aboriginal and 1,034 non-Aboriginal admissions (81.5% and 84.8% respectively). However, a slightly higher proportion of Aboriginal than non-Aboriginal admissions involved females (18.5% for Aboriginal compared with 15.2% for non-Aboriginal).

Figure 24 Secure care admissions, 1997: Aboriginality by sex



As shown in Figures 25a and b, this pattern of male predominance but with higher female involvement within the Aboriginal group applied throughout the four year period since the inception of the new legislation. However, some interesting shifts are evident. In particular, within the Aboriginal group, although the proportion of male admissions initially decreased, in the past two years it has increased from 65.5% in 1995 to 72.1% in 1996 to 81.5% in 1997 while the proportion of Aboriginal female admissions has decreased (34.5% in 1995 to 18.5% in 1997). In contrast, for non-Aboriginal admissions, the reverse has applied, with the proportion of males decreasing steadily from 90.3% in 1994 to 84.8% in 1997. Conversely, the percentage of non-Aboriginal female admissions has increased (from 9.7% in 1994 to 15.2% in 1997).

Figure 25a Aboriginal admissions, 1994 –1997: percentage accounted for by each sex

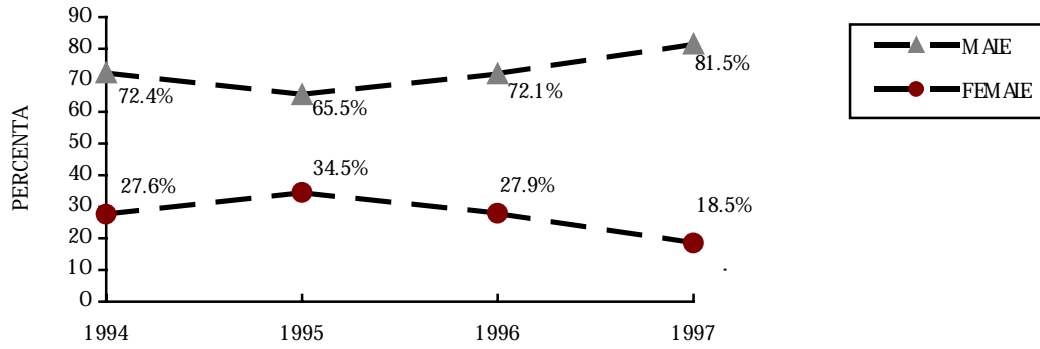
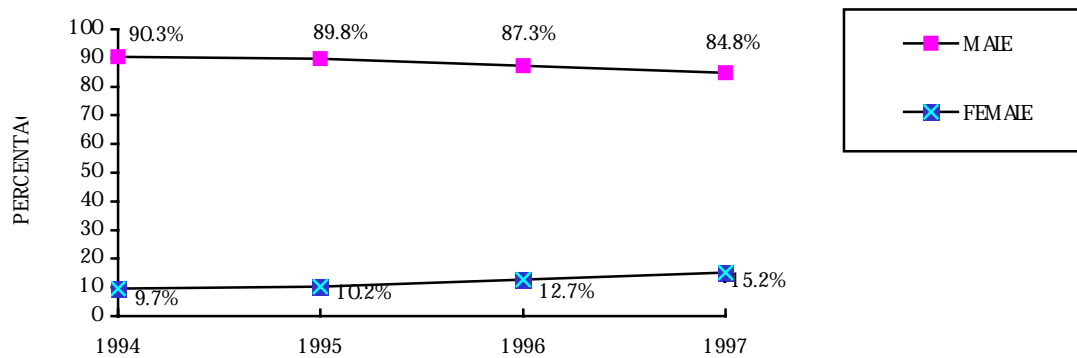


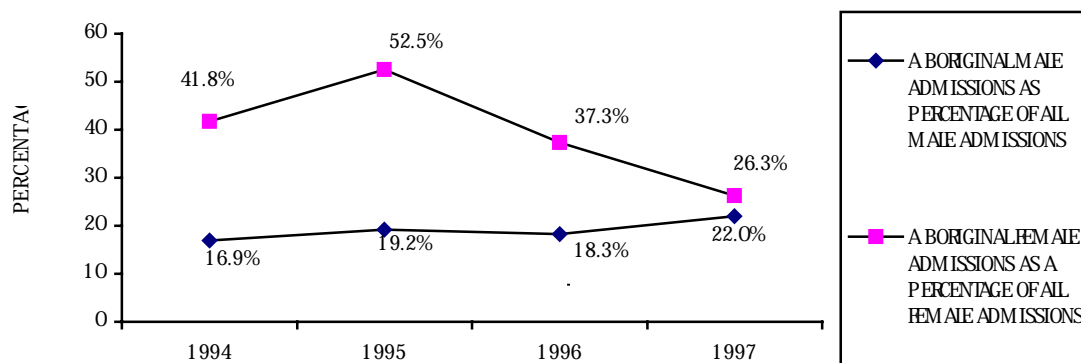
Figure 25b Non-Aboriginal admissions, 1994 – 1997: percentage accounted for by each sex



As a result of these differing trends, Aboriginal males now account for a higher proportion of all male admissions, compared with the preceding three years, while Aboriginal females account for a lower proportion of all female admissions. As shown in Figure 26, over one-fifth (22.0%) of all males admitted into secure care in 1997 were Aboriginal compared with 16.9% in 1994. For females, the pattern was very different. In 1997, just over one-quarter (26.3%) of all females admitted into secure care were Aboriginal compared with earlier years, when this group accounted for between 37.3% (1996) and 52.5% (1995) of all female admissions.

Because of these different trends, Aboriginal males and Aboriginal females now account for relatively similar proportions of all male and all female admissions respectively. In fact, in 1997, Aboriginal young women constituted just over one-quarter of female admission (26.3%) while Aboriginal young men represented 22.0% of male admissions. This is very different from the situation in 1995, when Aboriginal young people accounted for 52.5% of all female admissions, but only 19.2% of all male admissions.

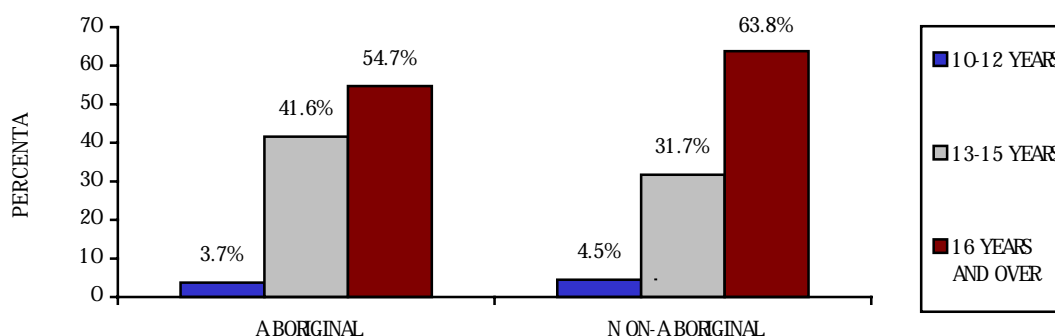
Figure 26 Aboriginal youths as a percentage of all male and all female admissions, 1994 - 1997



Age of youths admitted to secure care

The age profiles of Aboriginal and non-Aboriginal youths admitted to secure care possess both similarities and differences (see Figure 27). As would be expected, the oldest age group dominated admissions in both groups, while the 10-12 year olds accounted for only very small proportions. Nevertheless, Aboriginal youths admitted to secure care tended to be younger than their non-Aboriginal counterparts. Those aged 16 years and over were more prominent amongst non-Aboriginal admissions, while the 13-15 year age group were more prevalent for Aboriginal admissions. In 1997, the 16 years and over age group accounted for nearly two-thirds (63.8%) of all non-Aboriginal youth admitted into secure care compared with only 54.7% of Aboriginal admissions while the 13-15 year olds constituted 41.6% of Aboriginal compared with 31.7% of non-Aboriginal admissions.

Figure 27 Secure care admission, 1997: Aboriginality by age group



Age unknown for Aboriginal admissions = 5 Age unknown for non-Aboriginal admissions = 14

As shown in Figure 28, this pattern held true for the earlier years of 1994 to 1996, with the contrast being most pronounced in 1995, when the oldest age group accounted for only 45.8% of Aboriginal admissions compared with 67.1% of non-Aboriginal admissions, and 13-15 year olds constituted 48.8% of Aboriginal admissions compared with 31.3% of those involving non-Aboriginal youths.

While the absolute number of 10-12 year olds admitted to secure care was low for both groups, Aboriginal trends over the past four years have differed slightly from non-Aboriginal trends. During the four year period depicted, the proportion of non-Aboriginal admissions involving this age group has increased slightly but steadily, from 1.0% in 1994 to 4.5% in 1997. However, since 1995 10-12 year olds have accounted for a decreasing proportion of Aboriginal admissions. As a result, in 1997, for the first time in the four years depicted, this age group accounted for a higher percentage of non-Aboriginal than Aboriginal admissions (4.5% compared with 3.7% respectively).

Figure 28a Aboriginal admissions by age, 1994 - 1997

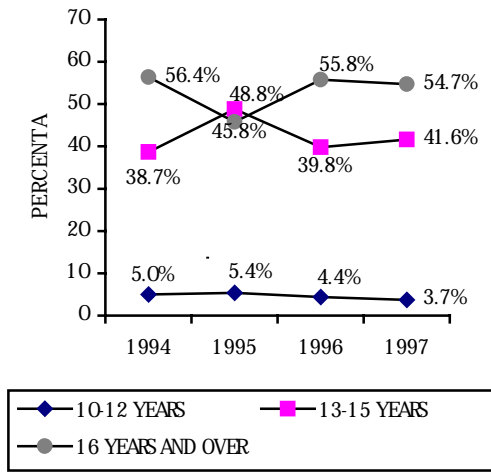
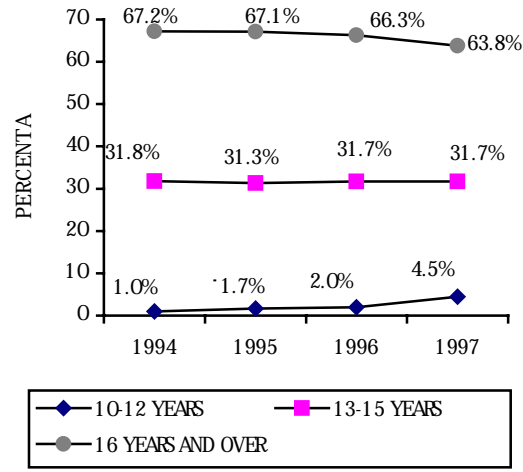


Figure 28b Non-Aboriginal admissions by age, 1994 - 1997



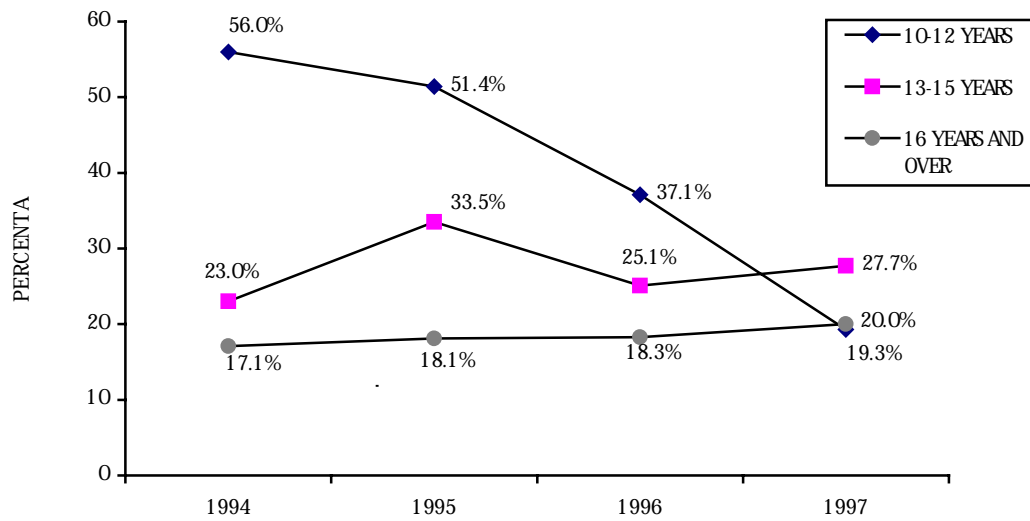
Age unknown for Aboriginal admissions: 1994 = 12 1995 = 7 1996 = 11 1997 = 5
 Age unknown for non-Aboriginal admissions: 1994 = 17 1995 = 17 1996 = 22 1997 = 14

Figure 29 presents the percentage of all admissions within each age group which involved Aboriginal youth. This shows that in 1997, Aboriginal young people accounted for over one-quarter (27.7%) of all admissions involving youth aged 13-15 years. Earlier years showed some fluctuations, with the Aboriginal proportion of 13-15 year old admissions varying from 23.0% in 1994 to a peak of 33.5% in 1995 before declining to 25.1% in 1996. However, despite this variation, Aboriginal youth annually accounted for at least one fifth, and usually over one-quarter, of all admissions within this age group.

In 1997, Aboriginal youth accounted for one-fifth of all admissions involving the oldest age group (20.0%). The Aboriginal proportion of admissions in this age group has increased slightly over the four years from 17.1% in 1994 to the peak of 20.0% in 1997.

Overall then, Aboriginal youth were consistently more prominent in admissions of 13-15 year olds than they were in admissions of the older age group of youth aged 16 years and over.

Figure 29 Aboriginal youths as a percentage of admissions within each age group, 1994 - 1997



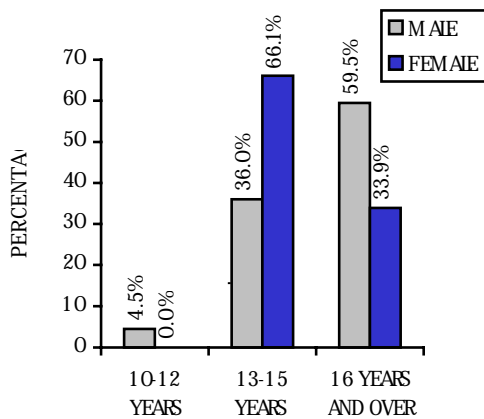
Age unknown for Aboriginal admissions: 1994 = 12 1995 = 7 1996 = 11 1997 = 5
 Age unknown for non-Aboriginal admissions: 1994 = 17 1995 = 17 1996 = 22 1997 = 14

Sex and age of youths admitted to secure care

A comparison of the age profiles for male and female admissions reveals that females tended to be younger than their male counterparts. This applied to both Aboriginal and non-Aboriginal youths alike. As shown in Figure 30a, of all Aboriginal admissions to secure care in 1997, only 36.0% of the males were aged 13 to 15 years compared with 66.1% of the females. Conversely, 59.5% of Aboriginal males compared with only 33.9% of Aboriginal females were aged 16 years and over.

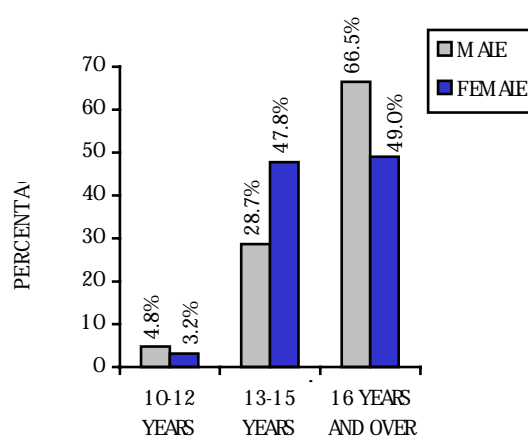
Similarly, for non-Aboriginal admissions (see Figure 30b), only 28.7% of males compared with 47.8% of females were aged 13 to 15 years while 66.5% were aged 16 years and over compared with a lower 49.0% of females.

Figure 30a Aboriginal admissions, 1997: sex by age group



Age unknown for Aboriginal males : 5
 Age unknown for non-Aboriginal males: 14

Figure 30b Non-Aboriginal admissions, 1997: sex by age group



Despite these differences within each group, the earlier observation that Aboriginal youth were generally younger than their non-Aboriginal counterparts at the point of admission held true for both sexes. As shown in Figure 31a, a higher proportion of Aboriginal than non-Aboriginal males were aged 15 years and under (40.5% compared with 33.5% respectively), as was the case for Aboriginal compared with non-Aboriginal females (with 66.1% compared with 51.0% respectively aged 15 years and under).

Figure 31a Male admissions, 1997: Aboriginality by age group

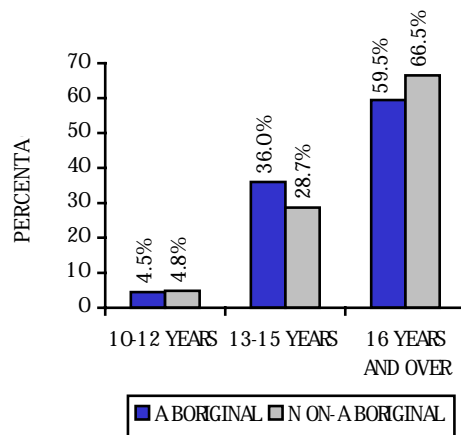
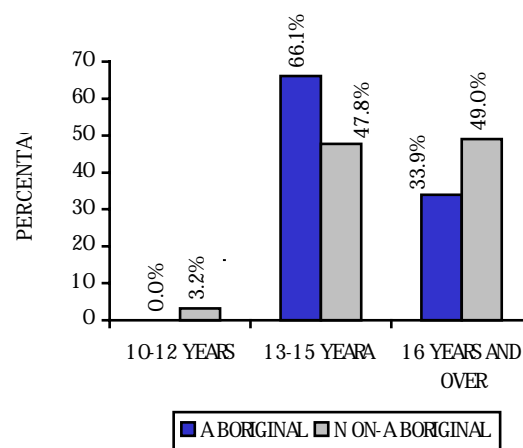


Figure 31b Female admissions, 1997: Aboriginality by age group



Age unknown for Aboriginal males : 5
Age unknown for non-Aboriginal males: 14

Number of young people in custody on 30 June 1997

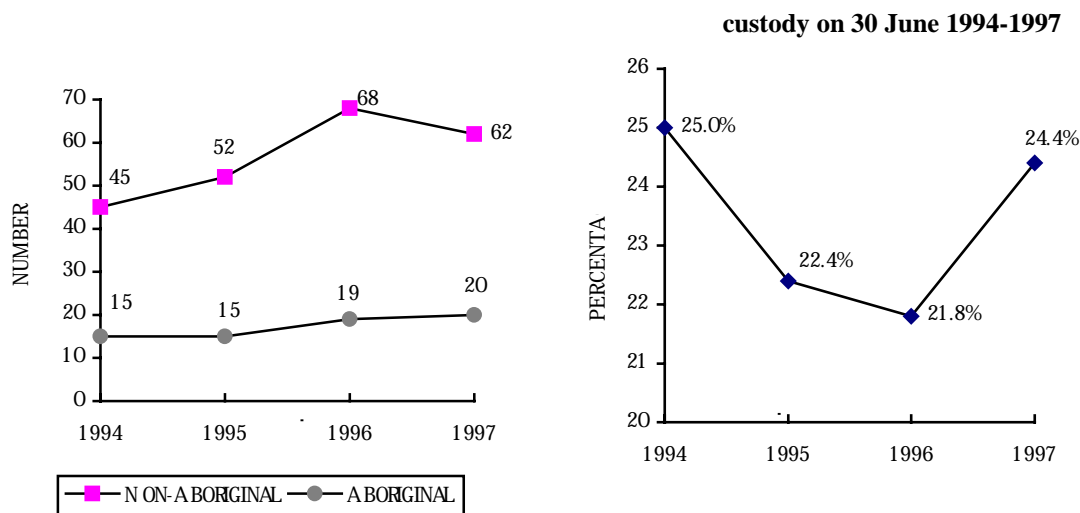
Admissions, while showing instances of young people entering secure care in any given period, do not give information on the number of young people detained at any one time or the reason for the young person's presence in secure care. For example, a young person could be admitted to a centre on remand and then after three weeks, be sentenced to detention for three months. In this instance, reporting by reason for admission would represent this as a remand case. Yet, in such a situation, the young person would spend far longer in detention than on remand. Information on the reason for being in secure care can, however, be derived from either a census count taken on a specified day or from daily averages. Hence, statistics relating to young people in custody on 30 June 1997 are discussed in this section, while in the following section, daily averages for 1997 are detailed.

On 30 June 1997 there were 84 young people in custody. Of these, 20 were identified as Aboriginal, 62 as non-Aboriginal and two did not have this information recorded. This means that Aboriginal young people accounted for 24.4% of all persons in custody on 30 June 1997 for whom details on Aboriginality were available. As shown in Figure 32a, the number of Aboriginal young people in custody on 30 June 1997 was higher than in earlier years, with 15 being recorded on 30 June 1994 and 19 on 30 June 1996. For non-Aboriginal youth the figures increased from 45 in 1994 to 68 in 1996, before a dropping back to 62 in 1997.

As shown in Figure 32b, from 1994 to 1996, the proportion of persons in custody who were identified as Aboriginal decreased from 25.0% to 21.8%, but increased to 24.4% in 1997. The main factor contributing to these percentage shifts was the change in the absolute numbers of non-Aboriginal youths in custody, rather than a shift in Aboriginal numbers.

Figure 32a Number of juveniles in custody on 30 June 1994 - 1997

Figure 32b Aboriginals as percentage of total young persons in



As can be seen from Table 63, the great majority of young people in custody on 30 June 1997 were either on detention or remand. Warrants in default, first instance warrants and invoked suspended sentences accounted for very small numbers. On 30 June 1997 only two young people were under police custody, which usually applies to those young people who have been arrested by police but refused police bail and are waiting to be brought before the court.

In terms of longitudinal trends from 1994 to 1997, the highest numbers of youths serving a detention order was recorded on 30 June, 1996 when 15 Aboriginal and 47 non-Aboriginal young people were serving a custodial sentence. For non-Aboriginal youth, the number on remand increased over the four year period, from 12 in 1994 to 14 for both 1995 and 1996, to 21 in 1997. The number of Aboriginal youth on remand fluctuated, with the highest number (n = 6) being recorded in both 1995 and 1997.

Table 63 Number of juveniles in custody on 30 June 1994 – 1997 by Aboriginality

Most serious authority	Aboriginal				Non-Aboriginal			
	1994	1995	1996	1997	1994	1995	1996	1997
Detention	11	7	15	14	30	30	47	36
Invoked suspended sentence	0	1	0	0	0	1	0	0
Review Board Warrant	0	0	0	0	0	1	0	0
Warrant in default	2	0	0	0	2	1	3	2
Remand	2	6	4	6	12	14	14	21
First instance warrant	0	0	0	0	0	0	2	1
Police custody	0	1	0	0	1	5	2	2
Total	15	15	19	20	45	52	68	62

No. of youth for whom details of Aboriginality unknown: 1994:3 1995:3 1996:5 1997:2

Average Daily Occupancy

Data relating to a single day's occupancy of the training centres (as outlined above) have some limitations because daily numbers are likely to fluctuate. An alternative is to consider daily occupancies averaged out over a twelve month period. In 1997, the average daily occupancy was 91.85

people. That is, on average on any given day in that year, there were 91.85 young people held in a secure care facility. Of these, details on Aboriginality were recorded for 90.54. Aboriginal young people accounted for 22.79 of those young people in custody for whom relevant information was available while non-Aboriginal young people accounted for 67.75. This means that on average, in 1997 one-quarter (25.2%) of the secure care population was Aboriginal. Given the earlier finding that Aboriginal young people accounted for a slightly lower proportion of admissions into secure care (22.7%), this suggests that this group tended to spend longer in custody than their non-Aboriginal counterparts.

As shown in Figure 33a, the Aboriginal average daily occupancy was relatively stable in the period 1994 to 1997, with numbers varying only slightly from 21.3 in 1995 to 22.79 in 1997. In contrast, for non-Aboriginal youth, the average daily occupancy increased substantially, with most of that increase occurring in 1996 when numbers rose by 18.8% from 54.75 in the preceding year to 65.04.

In each of the four years, 1994 to 1997, Aboriginal youth accounted for at least one-quarter of those incarcerated in secure care. However, as Figure 33b indicates, the proportion of the average daily occupancy accounted for by Aboriginal youth declined slightly over this period, from 28.7% in 1994 to 25.2% in 1997. Again, this can be explained by the noticeable upswing in non-Aboriginal numbers in 1996.

Figure 33a Average daily occupancy by Aboriginality, 1994 – 1997

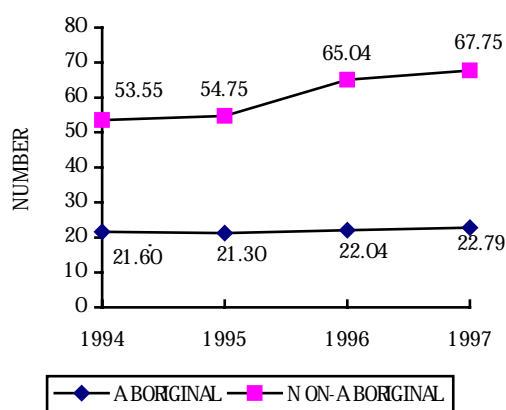
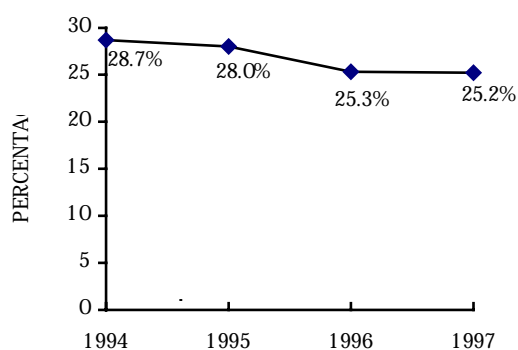


Figure 33b Aboriginals as a percentage of total average daily occupancy, 1994 – 1997



Average daily occupancy with Aboriginality unknown: 1994 = 1.30 1995 = 1.21 1996 = 2.82 1997 = 1.31

Sex of youths, average daily occupancy

As was the case for admissions, males accounted for the overwhelming majority of average daily occupancies but, as was observed before, females were more prominent within the Aboriginal group. In 1997, young women accounted for 16.5% of Aboriginal average daily occupancies compared with 8.4% of non-Aboriginal average daily occupancies (see Table 64).

Table 64 Average daily occupancy, 1997: Aboriginality by sex

Sex	Aboriginal		Non-Aboriginal	
	n	%	n	%
Male	19.04	83.5	62.03	91.6
Female	3.76	16.5	5.72	8.4

Total	22.80	100.0	67.75	100.0
-------	-------	-------	-------	-------

Figure 34a compares the average daily occupancy for Aboriginal and non-Aboriginal males from 1994 to 1997. It shows that, on any one day, there were between 17 and 19 Aboriginal males in secure care during this four year period. The Aboriginal occupancy rate remained stable in the first three years but increased by 8.8% in the last year. For non-Aboriginal males, the average daily occupancy rate also increased over these four years. However, for this group, the increase was more substantial and was limited primarily to 1996, when numbers rose from 53.19 in 1995 to 61.18.

As a result of these inter-group variations over time, in the last two years, 1996 and 1997, Aboriginal youths accounted for a slightly lower proportion of male daily occupancies than in the first two years depicted (22.2% and 23.5% for 1996 and 1997 respectively) compared with 24.9% and 24.6% for 1994 and 1995 respectively).

Figure 34a Average daily occupancy of males by Aboriginality, 1994 – 1997

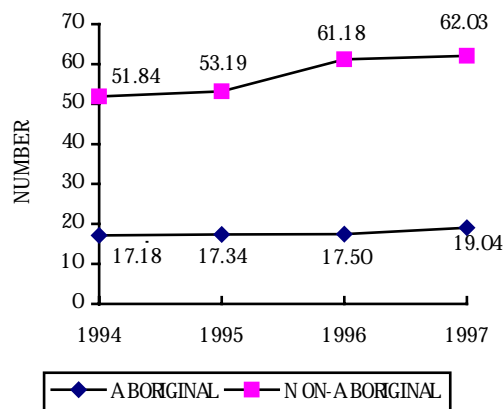
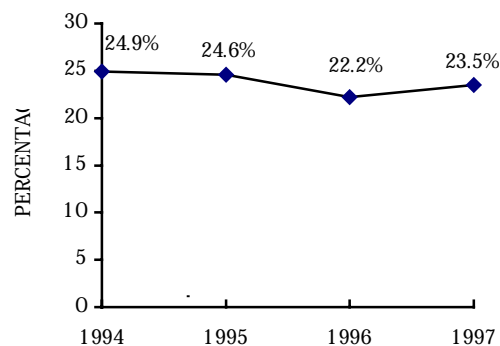


Figure 34b Aboriginal males as a percentage of all male average daily occupancies, 1994 - 1997

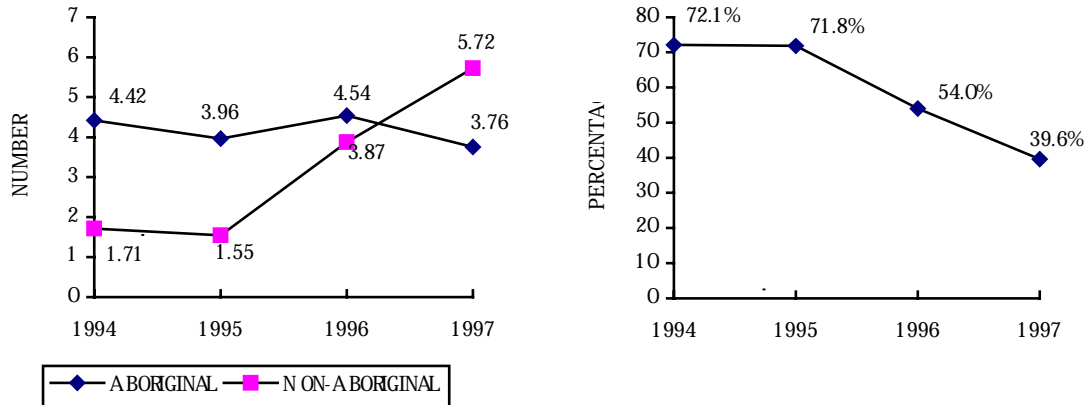


Average daily occupancy for males with Aboriginality unknown: 1994 = 1.27 1995 = 1.18 1996 = 1.99 1997 = 1.28

For females the situation was very different. Not only was the average daily occupancy for females substantially lower than for males, but longitudinal profiles also varied. For Aboriginal females, although average daily occupancies have fluctuated over this four year period, 1997 figures were lower than in 1994. In contrast, non-Aboriginal females recorded increases in both 1996 and 1997 with the 1997 figure of 5.72 being considerably higher than that of 1.71 recorded in 1995 (see Figure 35a). Because of these differing trends, whereas in the first three years (1994 to 1996), the average daily occupancy for Aboriginal females was higher than for non-Aboriginal females, in 1997 it was lower. As a result, Aboriginal females accounted for a declining proportion of the female average occupancy, from over seven-tenths (72.1%) in 1994 to just under four-tenths (39.6%) in 1997 (see Figure 35b).

Figure 35a Average daily occupancy of females by Aboriginality, 1994 – 1997

Figure 35b Aboriginal females as a percentage of all female average daily occupancies, 1994 - 1997



Average daily occupancy for females with Aboriginality unknown: 1994 = 0.03 1995 = 0.27 1996 = 0.18 1997 = 0.06

Age of youths, average daily occupancy

As was the case for admissions, the oldest age¹⁸ group dominated the average daily occupancies for both Aboriginal and non-Aboriginal youths but, as was also observed before, the 13 - 15 year olds were more prominent within the Aboriginal than non-Aboriginal group. In 1997, this middle age group accounted for 41.2% of Aboriginal average daily occupancies compared with 24.1% of non-Aboriginal average daily occupancies.

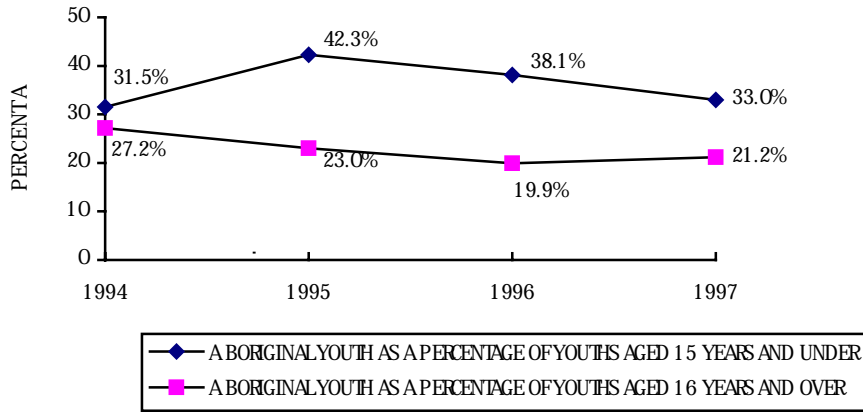
Table 65 Average daily occupancy, 1997: Aboriginality by age group

Age in years	Aboriginal		Non-Aboriginal	
	n	%	n	%
10-12	0.18	0.8	2.04	3.0
13-15	9.36	41.2	16.30	24.1
16 and over	13.19	58.0	49.16	72.8
Total	22.73	100.0	67.51	100.0
Age unknown	0.06		0.24	

The above figures mean that in 1997, Aboriginal youth accounted for one-third of the average daily occupancy by the 15 years and under age group. As shown in Figure 36, this 1997 figure was somewhat lower than for the two preceding years (38.1% for 1996 and 42.3% for 1995) while approximately the same as the 1995 proportion (31.5%). As might be expected given earlier discussion, Aboriginal youth were not so prominent in the average daily occupancy figures for those aged 16 years and over. The Aboriginal percentage of the total average occupancy for this oldest age group decreased from 27.2% in 1994 to 19.9% in 1996 before stabilising at 21.2% in 1997.

Figure 36 Aboriginal youth as a percentage of average daily occupancy for those aged 15 years and under and those aged 16 years and over: 1994 – 1997

¹⁸ In this discussion age is at the date of admission into secure care. Because some young people may spend many months and even more than a year in custody, this definition of age may lead to some distortion in the statistics.



Average daily occupancy for Aboriginal youth with age unknown: 1994 = 0.08 1995 = 0.27 1996 = 0.18 1997 = 0.06
 Average daily occupancy for non-Aboriginal youth with age unknown: 1994 = 0.10 1995 = 0.19 1996 = 0.28 1997 = 0.24

Most serious authority under which young people in secure care were being detained

The average daily occupancy rates for the different types of authorities under which young people were being held in 1997 are outlined in Table 66. As was the case for the number of juveniles in custody on 30th June, detention orders were the most prominent, accounting for 60.3% and 55.7% Aboriginal and non-Aboriginal daily occupancies, respectively. Remandees accounted for a further 34.3% and 37.0% respectively.

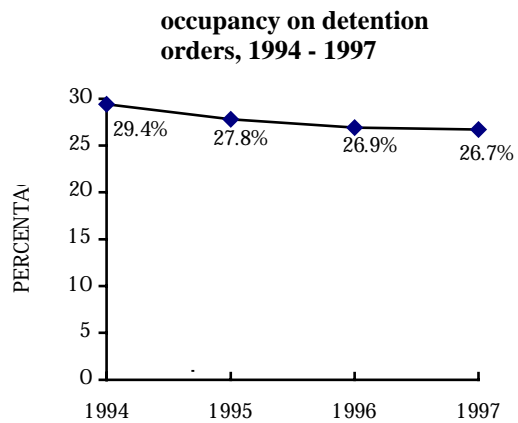
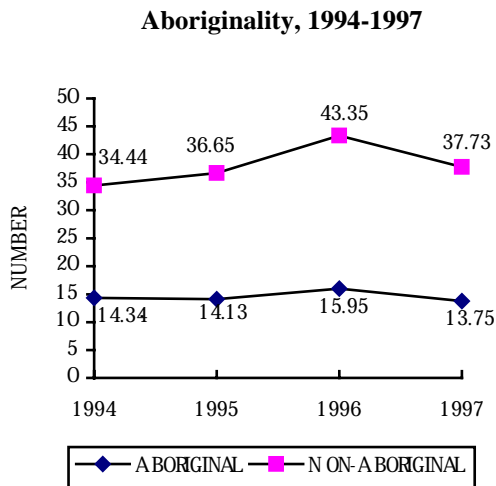
Table 66 Average daily occupancy, 1997: Aboriginality by most serious authority

Most serious authority	Aboriginal	Non-Aboriginal
Detention	13.75	37.73
Invoked suspended sentence	0	0
Review Board Warrant	0	0.17
Return to centre	0	0
Warrant in default	0.60	2.31
Sub-total	7.82	25.10
First instance warrant	0.23	0.72
Police custody	0.40	1.72
Safe keeping	0	0
Total	22.79	67.75

As shown in Figure 37a, there was little variation between 1994 and 1997 in the average daily occupancy figures for Aboriginal young people serving a detention order. The 1997 average was the lowest (13.75) while the highest occurred in 1996 (15.95). In contrast, for non-Aboriginal youth there had been a steady rise in numbers from 34.44 in 1994 to a peak of 43.35 in 1996, before dropping to 37.73 in 1997. As a result, Figure 37b shows that the Aboriginal proportion of the average number held on detention orders declined slightly over the four years (from 29.4% in 1994 to 26.7% in 1997).

Figure 37a Average daily occupancy of youths on detention orders by

Figure 37b Aboriginal youths as percentage of average daily



The situation for remand was different. As Figure 38b shows, over the four years under study, Aboriginal youth accounted for fluctuating proportions of the average daily remand population: from over one-quarter in 1994 (26.6%) to a peak of nearly one-third in 1995 (31.3%) to less than one-quarter in both 1996 (22.8%) and 1997 (23.8%).

Figure 38a Average daily occupancy of youths on remand by Aboriginality, 1994 - 1997

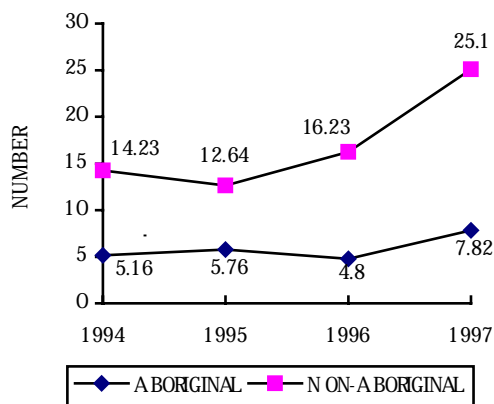
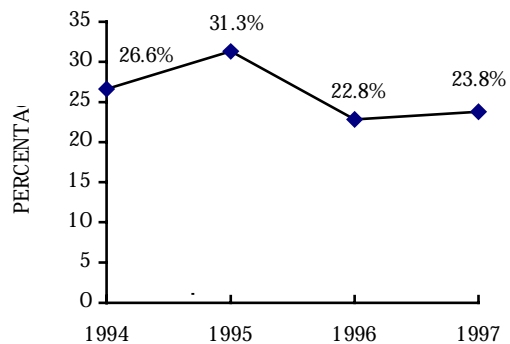


Figure 38b Aboriginal youths as percentage of average daily occupancy on remand, 1994-1997



Summary of Secure Care

This chapter presented information on Aboriginal and non-Aboriginal young people held in South Australia's two secure care facilities for the period 1994 – 1997. Details of admissions, numbers in custody on 30 June and daily average occupancies for these years were provided. As well as the sex and age of the young people, information was provided on the most serious authority applying to those held in secure care.

The findings included:

-
- Aboriginal young people were substantially over-represented in secure care admissions in each of the years 1994 – 1997, accounting for over one-fifth of admissions annually.
 - In each year, Aboriginal young women featured more prominently in female admissions than did their male counterparts in male admissions. However, at the end of the four years, this difference was not pronounced.
 - Youths aged 16 years and over dominated admissions for both Aboriginal and non-Aboriginal young people. However, the mid-range of 13-15 year olds was more prominent for Aboriginal than non-Aboriginal admissions.
 - In each of the years 1994-1997, average daily occupancy figures reveal that Aboriginal young people accounted for at least one-quarter of those held in secure care. However, the proportion involving Aboriginal youths declined slightly over this period.
 - As was the situation for admissions, males dominated the average daily occupancy figures, but females were more prominent within the Aboriginal than non-Aboriginal group.
 - The oldest age group dominated average daily occupancy figures for both groups. However, the 15 years and under age group was more prominent for Aboriginal than non-Aboriginal youth.
 - There was little variation between 1994 and 1997 in the average daily occupancy figures for Aboriginal young people serving a detention order. In contrast, for non-Aboriginal youth, there was a steady rise in numbers between 1994 and 1996, before dropping somewhat in 1997. However, in each year Aboriginal young people accounted for over one-quarter of the average daily occupancy of those held on a detention order.
 - For both Aboriginal and non-Aboriginal youths, the remand population fluctuated over the four years, but peaked in 1997. Aboriginal youths accounted for fluctuating proportions of the average daily remand population in the four years.

8

CONCLUSION

This report has provided a comparison of Aboriginal and non-Aboriginal contact with the juvenile justice system in South Australia in 1997. Detailed information was presented on police apprehensions and action/referral patterns, formal cautions, family conferences, cases finalised in the Youth Court and young people held in the State's Youth Training Centres.

As discussed in the Introduction, there has long been concern that the juvenile justice system has failed to respond effectively to Aboriginal young people. When the new system was introduced in 1994, it was anticipated that, because of its greater emphasis on diversion and restorative justice, it would be able offer more appropriate and more effective options for Aboriginal young offenders. However, this study has shown that a number of negative patterns identified by earlier reports still persist. In 1997, Aboriginal young people were still over-represented at the point of entry into the system. Moreover, they were still proportionately more likely to be brought into the system by way of arrest rather than a report; were more likely to be referred to court rather than diverted to a caution or a conference, and were more likely to be placed in detention. These results mirror findings from the 1970s and 1980s when Children's Aid Panels offered the only diversionary option and when the philosophical basis of the system was firmly embedded within the more traditional justice/welfare dichotomy (Gale, Bailey-Harris and Wundersitz, 1990).

The reasons for the continuing high level of Aboriginal contact with the juvenile justice system are inevitably complex. On the one hand, the fact that Aboriginal youths apprehended by police tend to be charged with more serious offences suggests different and possibly more frequent Aboriginal involvement in offending behaviour. Attention therefore needs to be paid to the underlying causes of offending. This means there must be continued efforts in implementing broad social justice strategies. As the Select Committee Inquiry into the South Australian Juvenile Justice System (1993) recognised, far-reaching changes and improvement in areas such as Aboriginal education, housing, health and employment are urgently required.

The juvenile justice system itself does not have the capacity to redress the major structural inequalities facing the Aboriginal community which give rise to offending behaviour. However, it can influence and encourage the on-going development of appropriate remedial and treatment programs for 'at risk' Aboriginal youths, including those with drug and mental health problems. Most importantly, though, the justice system has a responsibility to ensure that, once a young person, whether Aboriginal or non-Aboriginal, comes into contact with the police for suspected offending, that young person is dealt with effectively and equitably.

There is some (albeit limited) cause for optimism in the new system, such as the introduction of conferencing as a mechanism for diverting young Aboriginal people from the court system. This option was expected to be particularly suited to Aboriginal needs because it provides an avenue for the involvement of the extended families of Aboriginal young people and potentially offers these families a much greater 'say' in what should happen to their young people. Both the South Australian Select Committee and RCIADIC identified such empowerment of Aboriginal families as a key step in making the system more culturally appropriate for this group.

This study has shown that in 1997, approximately equal proportions of Aboriginal and non-Aboriginal youth were referred to family conferences. Moreover, for those Aboriginal young people diverted to a conference, at least half achieved a positive resolution – that is, the young person attended at the scheduled time and successfully carried out all undertakings entered into at the conference. Also positive is the fact that, largely through the initiatives of the Family Conference Team, the situation in 1997 was an improvement on 1996, with a substantially higher proportion of Aboriginal youths in 1997 successfully completing their conference undertakings.

However, on the negative side, the proportion of Aboriginal cases positively resolved at the conference level was noticeably lower than that of Aboriginal cases. Moreover, while it had been anticipated that,

due to the more extensive kin networks, Aboriginal conferences would involve more participants than non-Aboriginal conferences, this has not proved to be the case. In fact, the majority of conferences, both Aboriginal or non-Aboriginal, had fewer people attending than initially anticipated. The reasons for this require further investigation. Is it that different strategies are required to identify, encourage and where appropriate, assist extended family members to attend conferences? Or is it that, particularly for urban-dwelling Aboriginal families, the extended kin networks are less influential than in the past?

Other areas of concern have also been identified in this report. Of particular note is the fact that, even though the RCIADIC strongly recommended that arrest be used as a last resort for juveniles, Aboriginal young people were still substantially over-represented in the 1997 arrest figures. In addition, the overall level of arrest for both Aboriginal and non-Aboriginal youths under the new juvenile justice system is higher than under the previous system (Wundersitz, 1996:23). In this regard it is recognised that under the old system, trivial matters that were dealt with by apprehension reports may now result in informal cautions which are not recorded on formal police reports. This means that care needs to be taken in directly comparing arrest levels across the two systems. Nevertheless, the findings point to the need for a re-assessment of the use of arrest in processing Aboriginal young people.

The fact that, once apprehended, relatively few Aboriginal young people are diverted to a formal police caution also requires further investigation. It was intended that this option would provide a quick and effective method of dealing with minor offending. Through the use of undertakings, cautions were also intended to offer an opportunity for some form of restorative justice in those cases where that was thought appropriate. While it may be that Aboriginal offending is generally more serious in nature and therefore not appropriate for police diversion, the fact that under the previous system Aboriginal youths were less likely to be diverted irrespective of their offending behaviour (Gale, Bailey-Harris and Wundersitz, 1990) raises the possibility that a such a situation still exists under this new system.

Given the lower proportion of Aboriginal youth referred to formal cautions, it is inevitable that Aboriginal young people are still disproportionately represented at the most serious level in the system, namely the Youth Court. And although the differences were not large, analysis of the most serious penalty imposed per case showed that Aboriginal youth accounted for a disproportionate number of both detention and suspended detention orders.

Because of differences in outcomes at each decision making level in the system, a process of accumulating disadvantage operates, with the degree of Aboriginal over-representation actually increasing as they move deeper into the system. This compounding disadvantage through the various levels of the system results in Aboriginal young people being substantially over-represented in the State's two training centres. Further, while some fluctuations were evident, analysis indicated that in the four years since the introduction of the new system, 1994 to 1997, there has been no decline in the number of Aboriginal young people held in secure care. It is also of concern that for both Aboriginal and non-Aboriginal youth, the remand numbers in 1997 were the highest recorded in the four years surveyed.

In summary then, this report has painted a picture of a system which has still not come to grips with problems associated with Aboriginal young offenders. While the criminal justice system has little capacity to redress underlying social and economic inequalities and so bring about major reductions in offending behaviour, its ability to respond in an effective, equitable and appropriate manner towards Aboriginal young people who do have contact with "the law" still poses a challenge to those with both direct and indirect responsibility for administering the system.

APPENDIX

The counting unit used for both **police apprehensions** and **formal cautions** is the apprehension report. There could be more than one offence listed 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 attention 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 the sections on police apprehensions and formal cautions.

The counting unit for **family conferences** 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 one case. The counting unit does not equate with discrete individuals. A young person may be requested to attend more than one family conference in the year, each relating to a different incident. If so, each will be counted separately. While a conference may involve more than one offender, each offender is considered separately in the discussion of cases referred to the Family Conference Team. For example, if three young offenders attended the same family conference in relation to a particular incident and would be counted as three cases. However, the last section of the chapter on family conferences provides information on the actual conference itself.

For the **Youth Court**, the counting unit is the case. 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. Co-defendants are counted separately.

There are also differences in the method used to classify cultural identity in terms of 'Aboriginal' or 'Non-Aboriginal'. In the sections on police apprehensions and formal cautions, the classification of the 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. For the family conference data, the situation is a little different. In the first instance, this classification is derived from police apprehension reports and this information is electronically transferred to the Family Conference Team. If 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. The computerised data associated with Youth Court files do not contain any information on the racial identity of the defendant. The only way to obtain this information is to link each court file with its corresponding police apprehension report using the AP number listed on the court file. This means that for the Youth Court data the information on 'racial appearance' records the opinion of the apprehending police officer as to the appearance of the apprehended person.

REFERENCES

Australian Bureau of Statistics. 1996 Census of Population and Housing Indigenous Thematic Profile Service – Table I03

Daly, K., Venables, M., Mckenna, M., Mumford, L., Christie-Johnston, J. (1998) *South Australia Juvenile Justice Research on Conferencing, Technical Report No 1: Project Overview and Research Instruments*. School of Criminology and Criminal Justice, Griffith University, Queensland.

Gale, F., Bailey-Harris, R. and Wundersitz, J. (1990) *Aboriginal youth and the criminal justice system: the injustice of justice?* Cambridge University Press, Cambridge

Johnston, E. (1991) *National Report, Vol. 4*, Royal Commission into Aboriginal Deaths in Custody, AGPS, Canberra

South Australia (1992) *Interim Report of the Select Committee on the Juvenile Justice System*, Government Printers, South Australia

Wundersitz, J. (1996) *The South Australian Juvenile Justice System: A Review of its Operation*, Office of Crime Statistics, Attorney General's Department, Adelaide