

Trends & issues

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Foreword | *An overview of key trends in juvenile detention in Australia since 1981 is provided in this paper, based on data contained in the Australian Institute of Criminology's Juveniles in Detention in Australia Monitoring Program database. In addition, two key trends in juvenile detention in Australia are discussed.*

First, the substantial increase in the proportion of juvenile detainees that is remanded, rather than sentenced, is identified as a concerning trend. A number of potential drivers for the increased use of remand are outlined in this paper. It is argued that the apparent increase in the use of remand should be a key focus of future juvenile justice research.

Second, the over-representation of Indigenous juveniles continues to be an important issue to be addressed. Although rates of Indigenous over-representation have increased steadily, this appears to be due to decreases in rates of non-Indigenous juveniles in detention rather than increases in rates of Indigenous juveniles in detention. It is argued that rather than attempting to determine how juvenile justice policies have failed to keep Indigenous juveniles out of detention, consideration might be given to what has worked in reducing rates of non-Indigenous juveniles in detention.

Adam Tomison
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Trends in juvenile detention in Australia

Kelly Richards

Although prior to the mid-nineteenth century, there was no separate category of 'juvenile offender' in Western legal systems (Cunneen & White 2007), it is widely acknowledged today that juveniles should be subject to a system of criminal justice that is separate from the adult system and that recognises their inexperience and immaturity. As such, juveniles are typically dealt with separately from adults and treated less harshly than their adult counterparts.

In all Australian jurisdictions, detention is considered a last resort for juvenile offenders. Juvenile justice legislation in each state and territory provides for the diversion of juveniles from the criminal justice system via measures such as police cautioning, restorative justice conferencing, specialty courts (such as youth drug and alcohol courts) and other diversionary programs.

This paper provides an overview of key trends in juvenile detention in Australia, based on data contained in the Australian Institute of Criminology's (AIC's) *Juveniles in Detention in Australia Monitoring Program* database and then provides a discussion of two key trends in juvenile detention—the national increase in the proportion of juvenile detainees that is remanded (rather than sentenced) and the increase in the over-representation of Indigenous juveniles in detention.

Methodology

The AIC has monitored juveniles in detention in Australia since 1981 (see AIC 2000; Bareja & Charlton 2003; Cahill & Marshall 2002; Carcach & Muscat 1998; Charlton & McCall 2004; Richards & Lyneham 2010; Taylor 2006, 2007, 2009; Veld & Taylor 2005). The AIC reports annually on all juveniles in detention in Australia, including information on juveniles' age, sex, Indigenous status, legal status (remanded or sentenced) and jurisdiction.

Data for the monitoring program are provided by the relevant juvenile justice authority in each jurisdiction. A census count is undertaken in each juvenile correctional facility on the last day of each quarter of the year; that is, 31 March, 30 June, 30 September and 31 December. The population estimates used to calculate the rate of people aged 10 to 17 years in detention per 100,000 population aged 10 to 17 years, are taken from *Population by Age and Sex* (ABS 2009) for 30 June of each year. More detailed information about the methodology of the AIC's *Juveniles in Detention in Australia Monitoring Program*, including its limitations, can be found in Richards and Lyneham (2010).

Trends in juvenile detention

Since 1981, there has been an overall decline in both the number and rate of persons aged 10 to 17 years in juvenile detention in Australia. At 30 June 1981, there were 1,352 juveniles

in detention in Australia, or 64.9 juvenile detainees per 100,000 population. At 30 June 2008, there were 841 juveniles in detention, or 37 juvenile detainees per 100,000 population (see Figure 1).

This decline in the number and rate of juveniles in detention was most evident between 1981 and 2002; a 61 percent decline in rates occurred during this period. A small but steady increase in both numbers and rates of juveniles in detention is, however, evident since 2004 (see Figure 1). This national trend has not been mirrored in every jurisdiction. A range of factors, including legislative, policy and demographic changes have shaped trends in juvenile detention across Australia's jurisdictions (see Figures 2 and 3).

It is important to note that in Queensland, unlike all other jurisdictions, a 'juvenile' is defined as being aged between 10 and 16 years inclusive. In all other states and territories, a 'juvenile' is defined as being aged between 10 and 17 years inclusive. In Queensland, 17 year olds are therefore dealt with as adults in the criminal justice system. Although there are young people aged 17 years and above in juvenile detention in Queensland (due to juveniles who commit their offence prior to the age of 17 years completing their sentences in juvenile detention rather than being transferred to an adult facility), it is important to note this difference when interpreting trends and making comparisons among jurisdictions.

As would be expected due to its large population, trends in New South Wales closely reflect national trends. Rates of juveniles in detention in New South Wales have, however, been fairly consistently higher over time than the national average (see Figure 2).

As Figure 2 shows, the decline in the rate of juveniles in detention in Victoria has been very pronounced. Although rates of juveniles in detention were relatively close to the national average during the first decade of data collection (1981 to 1991), Victoria has had a consistently lower rate of juveniles in detention, compared with the national average, since the early 1990s. Victoria has maintained a strong emphasis on diverting juveniles from the criminal justice system during this time.

Rates per 100,000 juveniles in detention in Queensland have been relatively stable compared with the national trend (see Figure 2). In 1981, the rate of juveniles in detention in Queensland was about half of the national rate (at 32.9 juveniles in detention per 100,000 population). Although at 30 June

Figure 1 Rates of juvenile detention per 100,000 population at 30 June 1981–2008, for males, females and total juveniles

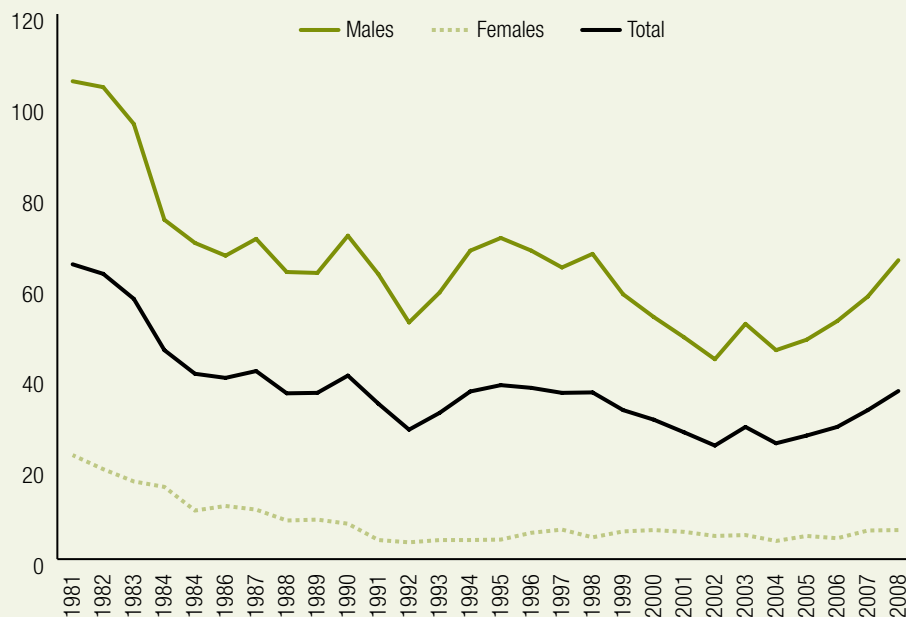
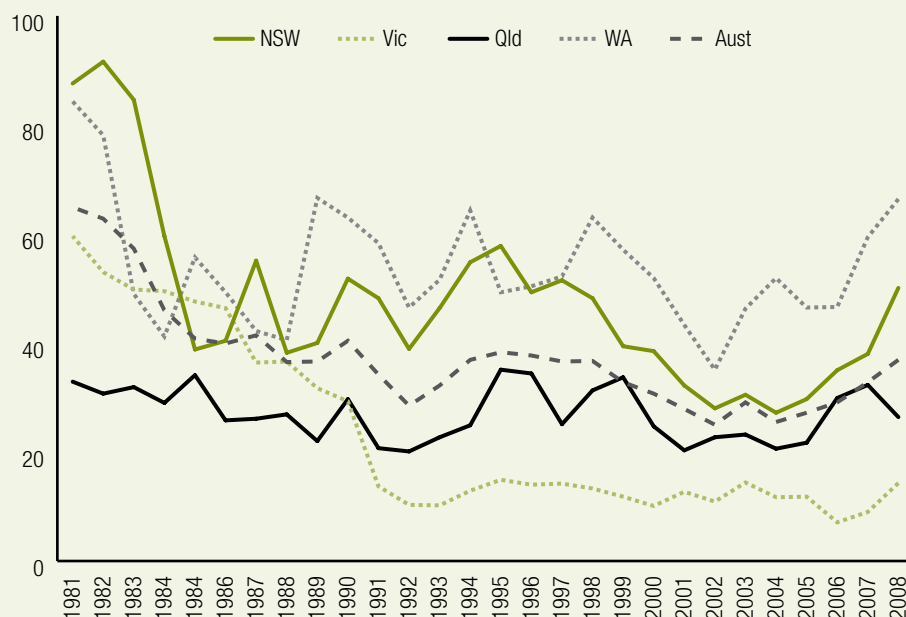


Figure 2 Rates of juvenile detention per 100,000 population at 30 June 1981–2008, New South Wales, Victoria, Queensland, Western Australia and Australia



2008, Queensland's rate remained lower than the national average, the difference between the two is not nearly as pronounced and has not been as pronounced since about 1995.

Rates of juveniles in detention in Western Australia have been consistently higher than the national average since the early 1990s, although they have broadly reflected national trends since this time (see Figure 2). In South Australia, rates of juveniles in detention mirrored national trends over time until about 1990. Since then, they have fluctuated much more than the national average (see Figure 3). This is to be expected

in a jurisdiction with a relatively small population of juvenile detainees.

As Figure 3 shows, rates of juveniles in detention in Tasmania, the Northern Territory and the Australian Capital Territory have not closely reflected the national picture, and have fluctuated considerably since 1981. This is to be expected in jurisdictions with very small numbers of juvenile detainees.

Sex of juveniles in detention

Male juveniles have been detained in juvenile correctional facilities at consistently higher rates than female juveniles since 1981 (see Figure 4).

As Figure 4 indicates, rates of both males and females in juvenile detention have decreased substantially since 1981. There has been a 31 percent decline in the number of male juveniles detained since 1981 and a 70 percent decline in the number of female juveniles detained since 1981. At 30 June 1981, females comprised 17 percent of all juveniles in detention. The proportion of female juveniles in detention has decreased each year since 1981. At 30 June 2008, females comprised eight percent of all juveniles in detention in Australia.

Age of juveniles in detention

Juveniles in detention in Australia are not evenly distributed throughout the age range

of 10 to 17 years. Since 1994, when data on juveniles' ages began to be collected, those aged 10 to 14 years have comprised a minority of all juveniles in detention in Australia (see Figure 5). More detail on the sex and age of juveniles in detention in Australia is available in Richards and Lyneham (2010).

Indigenous status of juveniles in detention

Indigenous juveniles have been substantially over-represented among the juvenile detention population in Australia since 1994, when data on Indigenous over-representation began to be collected. Although Indigenous people are also over-represented among

adult prisoners, over-representation appears more pronounced among juvenile detainees. A higher proportion of juvenile than adult detainees is Indigenous—at 30 June 2008, 54.7 percent of juvenile detainees were Indigenous, compared with 24.3 percent of adult prisoners in Australia (ABS 2008).

The rate of over-representation of Indigenous juveniles has steadily increased since 1994 (see Figure 6). The rate ratio of over-representation, which is calculated by dividing the rate per 100,000 Indigenous juveniles in detention by the rate per 100,000 non-Indigenous juveniles in detention, has increased from 17 in 1994 to 23.9 in 2008. The over-representation of Indigenous juveniles in detention was highest in 2006–07, when Indigenous juveniles were 28 times as likely as non-Indigenous to be detained in a correctional facility.

Rates of over-representation of Indigenous juveniles in detention vary across Australia's jurisdictions, as the result of a range of factors including jurisdictions' varied legislative, policy and demographic contexts. As is to be expected given the large population of New South Wales, and its concomitant large juvenile justice population in comparison with the other jurisdictions, trends in over-representation in New South Wales closely reflect national trends.

Trends in over-representation of Indigenous juveniles in detention in Victoria, South Australia, the Northern Territory and the Australian Capital Territory have fluctuated to a greater extent than national trends. This is to be expected in jurisdictions with small populations of Indigenous juvenile detainees.

Over-representation of Indigenous juveniles in Western Australia has been consistently higher than the national average. Aside from two peaks in Indigenous over-representation in juvenile detention in Western Australia (1 in 2001, when Indigenous juveniles in Western Australia were 69 times as likely than non-Indigenous juveniles to be detained, and another in 2004 when they were 52 times as likely), trends over time in Western Australia have broadly reflected national trends.

Between 1994 and 2002, trends in over-representation of Indigenous juveniles in detention in Queensland broadly reflected national trends, although rates in Queensland were consistently slightly higher. While nationally, there had been a steady increase in over-representation across

Figure 3 Rates of juvenile detention per 100,000 population at 30 June 1981–2008, South Australia, Tasmania, Northern Territory, Australian Capital Territory and Australia

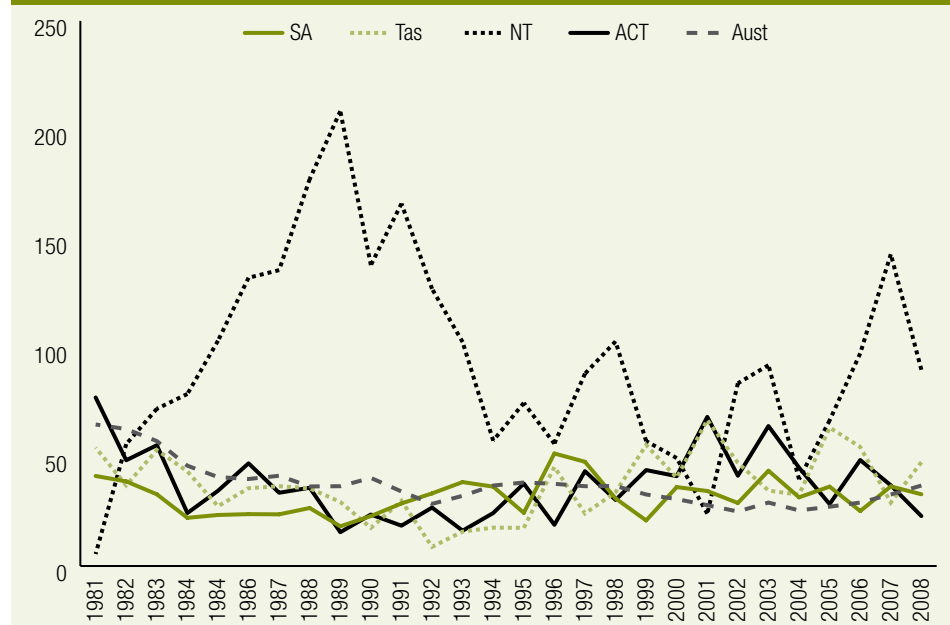


Figure 4 Juveniles in detention in Australia, 1981–2008, by sex (rate per 100,000)

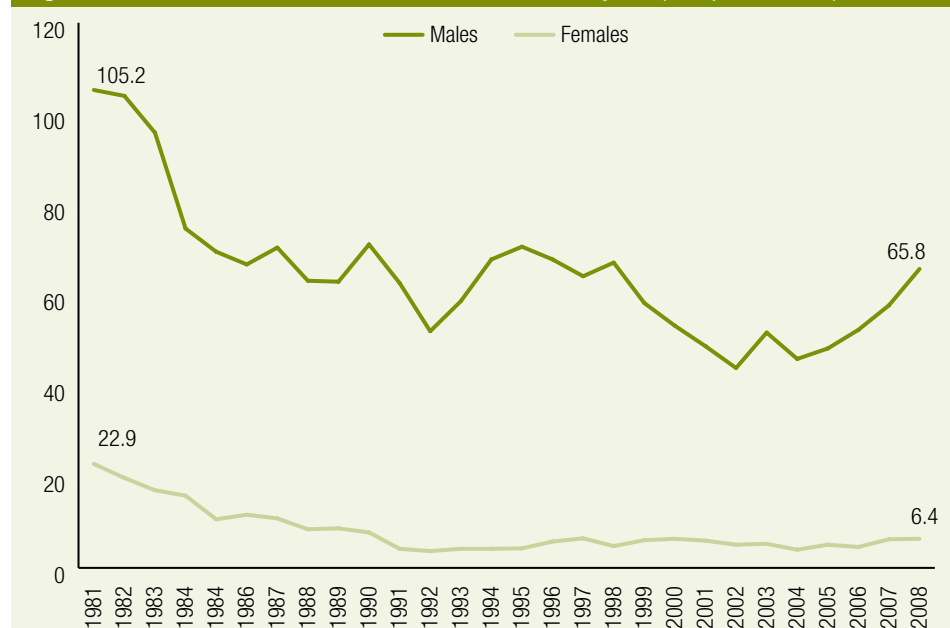


Figure 5 Juveniles in detention in Australia aged 10 to 14 years and 15 to 17 years, from 1994 to 2008, as a proportion of all juveniles in detention (%)

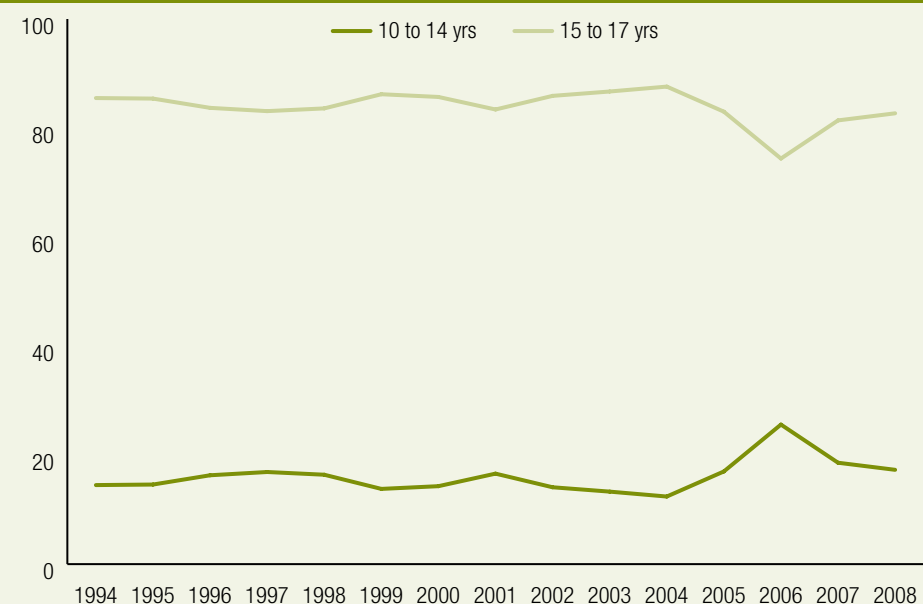
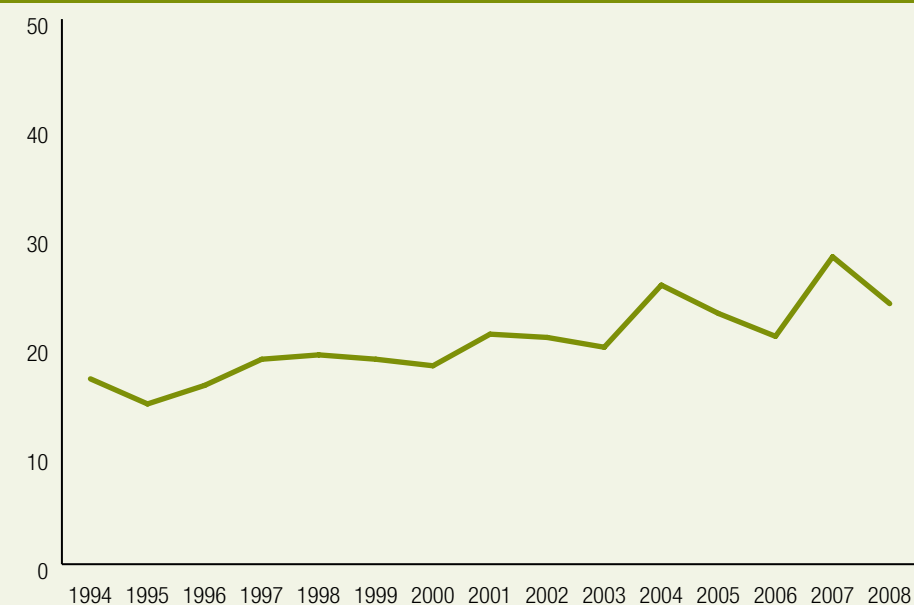


Figure 6 Over-representation of Indigenous juveniles in detention, 1994 to 2008 (rate ratios)



Australia since 2002, a steady decline in over-representation occurred in Queensland until 2006. Following this, slight increases in Indigenous over-representation have occurred.

Reliable data on the Indigenous status of juveniles in detention in Tasmania were not available between 1997 and 2002. It is therefore difficult to assess trends in over-representation. For periods of time when data have been available, Tasmania has had lower rates of over-representation of Indigenous juveniles.

Legal status of juveniles in detention (remanded or sentenced)

Juveniles in detention in Australia have either been sentenced by the court to a period in detention or are in detention on remand (ie

awaiting a court hearing, outcome or penalty).

Since 1981, the proportion of juveniles in detention in Australia that is remanded, rather than sentenced, has increased substantially. At 30 June 1981, 21 percent of all detained juveniles were on remand, compared with 59.6 percent of all detained juveniles at 30 June 2008 (see Figure 7).

Since 1981, a consistently higher proportion of female than male juveniles in detention has been remanded (see Figure 7). This proportion has fluctuated over time more so than the proportion of male detainees, as is to be expected given the smaller number of female juveniles in detention. There has, however, been a greater increase in the proportion of male than female juveniles

on remand during this time. At 30 June 1981, 33.1 percent of female juveniles in detention were remanded. By 30 June 2008, this had nearly doubled to 64.8 percent. For male juveniles, the proportion has almost trebled, from 20 percent of male juvenile detainees being remanded at 30 June 1981, to 59.2 percent at 30 June 2008.

Statistical techniques were applied to test this difference between trends over time for males and females. Two sub-samples of equal length were created (1981–1994 and 1995–2008) for each sex. The mean proportion of juveniles on remand for both males ($t=-7.38$; $p<0.001$) and females ($t=-5.31$; $p<0.001$) was significantly higher in period two than in period one. Differences between males and females in period one ($t=-6.14$; $p<0.001$) and period two ($t=-4.55$; $p<0.001$) were also significantly different.

Although it must be noted that there has been consistently fewer females than males in detention, this suggests that trends for males and females are genuinely different; that is, the proportion of male juveniles on remand has increased more substantially than the proportion of females.

Overall, similar increases in the proportion of juvenile detainees that is remanded, have occurred for both Indigenous and non-Indigenous juveniles. The proportion of Indigenous juveniles in detention that is remanded has increased from 32.8 percent at 30 June 1994 to 55.1 percent at 30 June 2008. The proportion of non-Indigenous juveniles in detention that is remanded has increased slightly more, from 37 percent at 30 June 1994 to 65.1 percent at 30 June 2008.

Statistical techniques were applied to test this difference between trends over time for Indigenous and non-Indigenous juveniles. Two sub-samples of similar lengths were created (1994–2000 and 2001–08) for each. The mean proportion of Indigenous ($t=-3.74$; $p<0.005$) and non-Indigenous ($t=-4.28$; $p<0.001$) juveniles on remand was significantly higher in period two than in period one. Differences between Indigenous and non-Indigenous juveniles in period one ($t=-0.49$; NS) and period two ($t=-1.63$; NS) were not, however, significantly different.

This suggests that although Indigenous juveniles are over-represented on remand (and in the justice system more broadly), the proportion of Indigenous juveniles on remand has increased at approximately the same rate as the proportion of non-Indigenous juveniles.

Figure 7 Proportion of all juveniles in detention that is on remand (unsentenced), 1981–2008 (%)

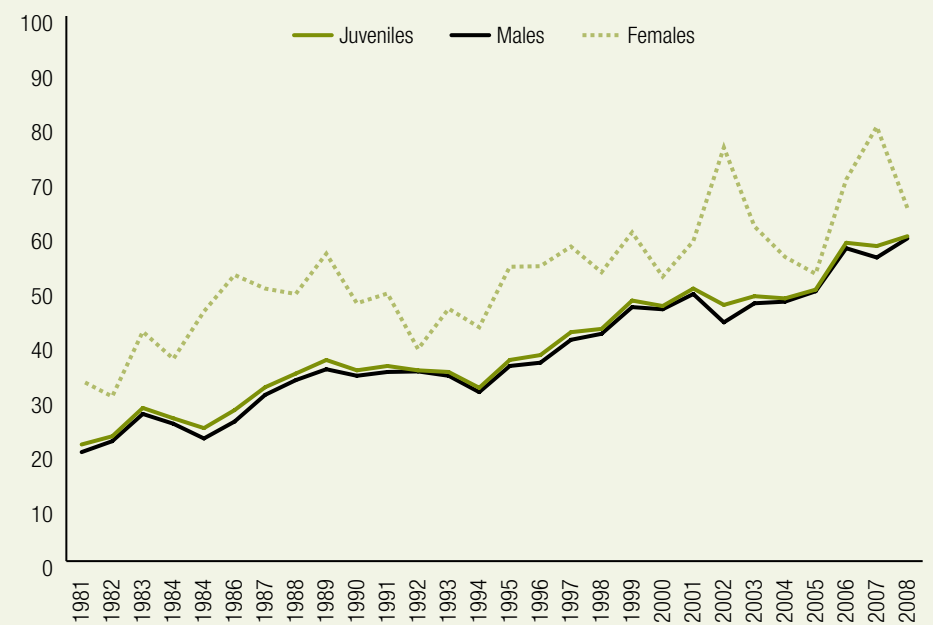
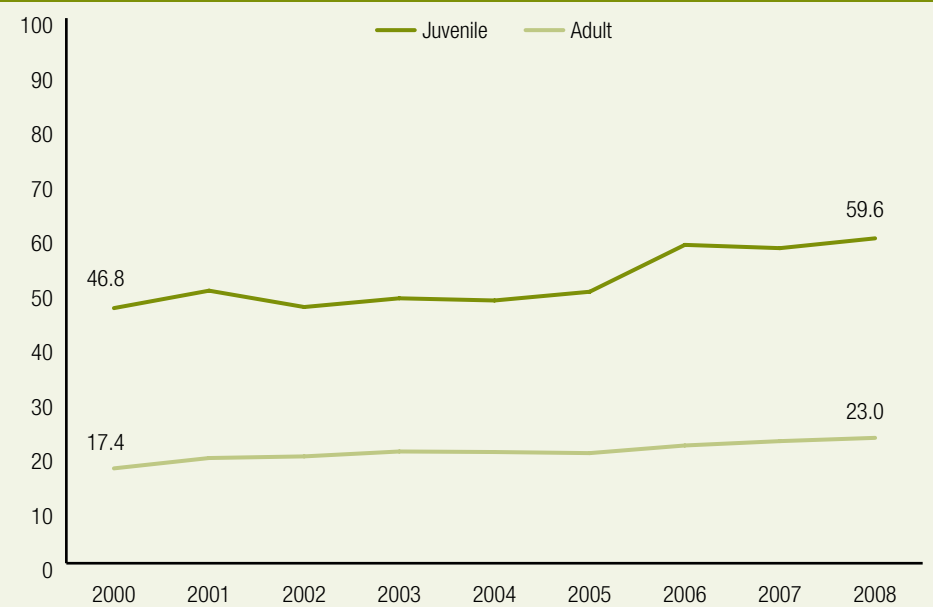


Figure 8 Proportion of juvenile detainees and adult prisoners that is on remand (unsentenced), 2000–08 (%)



Source: ABS 2008, 2007, 2006, 2005, 2004, 2003, 2002, 2001, 2000

A far higher proportion of juvenile than adult detainees in Australia is remanded. At 30 June 2008, 23 percent of adult prisoners were on remand (ABS 2008), compared with 59.6 percent of juvenile detainees. Data on adult remand, which have only been published since 2000, demonstrate that the sharp increase in the proportion of juvenile detainees that is remanded has also occurred in relation to adult prisoners. As Figure 8 shows, since 2000, the proportion of adult prisoners that is remanded has increased from 17.4 percent to 23 percent (an increase of 32%), compared with an increase from 46.8 percent to 59.6 percent (an increase of 27%) for juvenile detainees.

Key issues in juvenile detention trends

The trends described above suggest two key issues in juvenile detention in Australia that would benefit from consideration by legislators, policymakers, practitioners and researchers in the juvenile justice area.

Increase in the proportion of remanded juveniles

The substantial national increase in the proportion of juvenile detainees that is remanded has been identified as a key area of concern. The increasing proportion of

remanded detainees is problematic for a number of reasons.

First, the widespread use of remand is inconsistent with the principle of detention as a last resort for juveniles (Boyle 2009; Wong, Bailey & Kenny 2010). This principle underpins each jurisdiction's juvenile justice legislation and is a feature of UN instruments that seek to protect young people who come into contact with the criminal justice system (see United Nations 1990). Second, only a small proportion of remand episodes result in the juvenile being convicted and sentenced to a custodial order (Mazerolle & Sanderson 2008). It should be noted, however, that this varies by jurisdiction (AIHW 2008) and increases with the age of juveniles (Mazerolle & Sanderson 2008). Third, periods of remand represent missed opportunities to intervene in juveniles' lives with constructive and appropriate treatment

because of their remand status, it is difficult to plan and provide appropriate programs for these individuals, as detention centre staff do not know how long they will be detained or what the outcome of their charge will be (Mazerolle & Sanderson 2008: 10).

This is particularly important for juveniles, whose youth can make them uniquely receptive to criminal justice interventions (see Richards 2011). Finally, increases in the juvenile remand population place substantial resource demands on juvenile justice departments (Mazerolle & Sanderson 2008; Vignaendra et al. 2009).

The median length of a juvenile remand episode during 2007–08 was 11 days (AIHW 2009). Most juvenile remandees completed only one period of remand during this period, but nearly one-fifth completed three or more remand episodes; the average number of days juveniles spent on remand during 2007–08 was 46 (AIHW 2009).

Two factors underpin the increase in juvenile remand described above—increased numbers of juveniles remanded and increased length of remand periods (Vignaendra et al. 2009). A number of explanations for these increases have been suggested, including:

- changes to bail legislation in New South Wales. This appears to have increased both the number of juveniles remanded and the length of juveniles' remand periods (Stubbs 2009);
- higher numbers of bail conditions being placed on juveniles than adults (Stubbs 2009; Wong, Bailey & Kenny 2010). Many of these conditions appear to reflect

'welfare' concerns about juveniles that do not usually apply to adults. Juveniles are often unable to meet bail conditions and/or may be more robustly monitored by police while on bail than adults (Stubbs 2009; UnitingCare Burnside 2009; Vignaendra et al. 2009);

- a lack of appropriate accommodation options for juveniles due to homelessness (Boyle 2009) or housing instability (UnitingCare Burnside 2009);

- that some juveniles do not apply for bail (20% in one NSW study (Wong, Bailey & Kenny 2010)). One reason for this may be that

where there is a perception that a sentence will be one of detention, the child or young person may choose to serve time on remand knowing [or at least believing] that the sentence will be backdated (Commissioner for Children Tasmania 2006: 8); and

- a range of administrative delays, such as the time required for pre-sentence reports for juveniles to be prepared (Commissioner for Children Tasmania 2006; Tresidder & Putt 2005).

Further research on the high proportion of juvenile detainees on remand in Australia should be considered a priority area for juvenile justice research.

Indigenous juveniles in detention

Another area of concern is the continued over-representation of Indigenous juveniles in detention in Australia. The AIC's *Juveniles in Detention in Australia Monitoring Program* emerged following the Royal Commission into Aboriginal Deaths in Custody (RCIADIC 1991), which recommended the ongoing monitoring of rates of Indigenous juveniles in detention.

As described above, however, the over-representation of Indigenous juveniles has increased steadily since data began to be collected. It is important to note that over-representation ratios, used to demonstrate Indigenous over-representation, reflect rates of Indigenous juveniles in detention relative to rates of non-Indigenous juveniles in detention. This means that a high over-representation rate ratio may be due to an unusually high number of Indigenous juveniles in detention relative to non-Indigenous juveniles, or an unusually low number of non-Indigenous juveniles in detention relative to Indigenous juveniles (Taylor 2009).

Figure 9 shows the rate of Indigenous and non-Indigenous juveniles in detention per 100,000 population, from 1994 to 2008. It demonstrates that Indigenous juveniles have been substantially over-represented in juvenile detention over this period. Importantly, however, it also demonstrates that although Indigenous over-representation has increased since 1994 (see Figure 6), rates of Indigenous juveniles in detention have not increased substantially over this period. At 30 June 1994, there were 413.9 Indigenous juveniles in detention per 100,000, compared with 420.4 Indigenous juveniles in detention per 100,000 at 30 June 2008 (see Figure 10). There has been some fluctuation in the rate over this time.

By comparison, there were 24.3 non-Indigenous juveniles per 100,000 population in detention at 30 June 1994, and 17.6 non-Indigenous juveniles per 100,000 in detention at 30 June 2008. The rate of detention of non-Indigenous juveniles has decreased 27.6 percent since 2004, while the rate of detention of Indigenous juveniles has increased 1.6 percent.

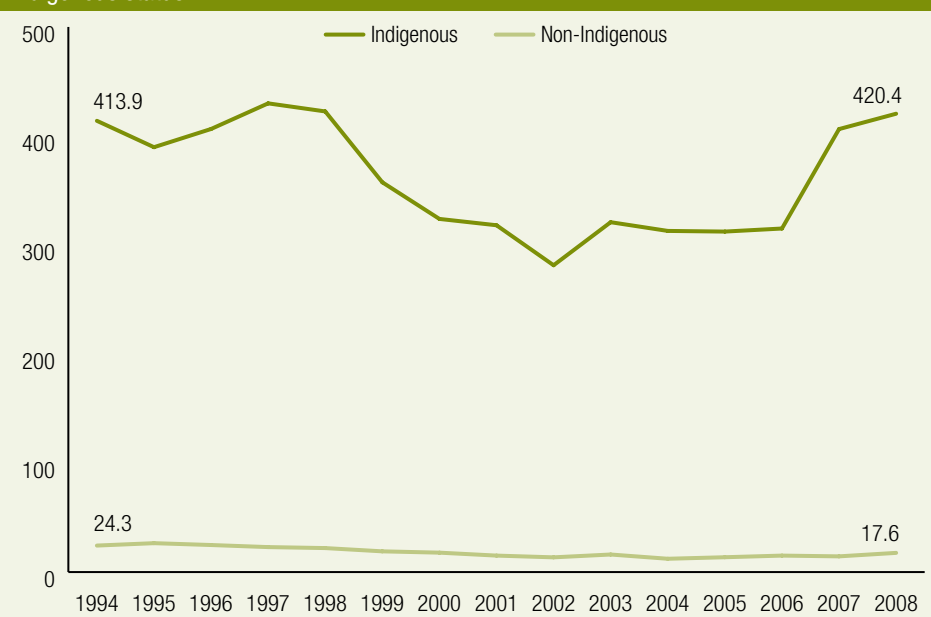
By contrast with rates of Indigenous over-representation, which show a steady increase since 1994, rates of Indigenous juveniles in detention per 100,000 have neither increased substantially nor shown any definitive trend during this period (see Figure 9). This suggests that rather than attempting to determine how juvenile justice policies have failed to keep Indigenous juveniles out of detention, consideration might be given to what has worked in reducing rates of non-Indigenous juveniles in detention. Given the substantial decrease

since 1981, it appears that changes to legislation and policy, and the introduction of diversionary programs for juvenile offenders may have played a role in reducing the number of juveniles in detention in Australia. This appears to have been the case for non-Indigenous juveniles more so than Indigenous juveniles.

A key issue to address, therefore, may be why juvenile justice initiatives have not been able to lower rates of detention of Indigenous juveniles to the same extent as rates of detention of non-Indigenous juveniles and how this might be addressed. There is evidence to suggest, for example, that while police cautioning and restorative justice measures have had some success in diverting juveniles from the formal criminal justice system, Indigenous juveniles are often not afforded the benefits of these or other diversionary measures (Allard et al. 2010; Snowball 2008). This is the case even where other factors (including offence type and offending history) have been controlled for (Allard et al. 2010; Snowball 2008). Research into reasons for this discrepancy and what can be done to address it should therefore be considered a priority for the future.

As Snowball (2008: 6) argues, it is important to remember that 'diversionary policies are more likely to achieve their objective of reducing contact with the criminal justice system if they are effective in reducing reoffending'. Research into effective strategies for reducing offending by Indigenous juveniles is therefore also a priority (see Richards, Rosevear & Gilbert 2011).

Figure 9 Rate of juveniles in detention per 100,000 population at 30 June, 1994–2008, by Indigenous status



Conclusion

This paper has identified a number of key trends in juvenile detention in Australia, including that:

- overall, the number and rate per 100,000 juveniles in detention in Australia has decreased substantially since 1981;
- there has, however, been an upward trend in recent years (since about 2004);
- the proportion of detained juveniles that is remanded has increased substantially since 1981;
- a far higher proportion of juvenile than adult detainees in Australia is remanded; and
- Indigenous juveniles remain substantially over-represented in detention. While rates of non-Indigenous juveniles in detention have declined, rates of Indigenous juveniles in detention have remained at very high levels.

Key areas for future consideration therefore include:

- what initiatives have worked in reducing rates of detention for non-Indigenous juveniles and how these or other initiatives might be used to reduce rates of Indigenous juveniles in detention;

- reasons for the increased proportion of juvenile detainees that is unsentenced and how this might be addressed; and
- reasons for variations in rates of juveniles in detention among jurisdictions. For example, the consistently lower rate of juveniles in detention in Victoria could be explored.

It is not possible, based on existing data, to determine conclusively the reasons for the substantial reduction in the number and rate per 100,000 of juveniles in detention between 1981 to 2002, or the more recent small but steady increase in this number and rate per 100,000. It may be the case that policies aimed at reducing the number of juveniles in detention in Australia have been somewhat successful, although the evidence about the efficacy of diversionary measures in reducing juveniles' future contact with the criminal justice system is inconclusive (eg Vignaendra & Fitzgerald 2006). It is nonetheless important for legislators, policymakers and practitioners to consider how the reduction in the use of juvenile detention might be continued and how the recent increase in rates of juveniles in detention might be addressed.

Acknowledgements

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Table 1 Comparison of male and female mean rates of detention, T values and significance

Group	Means		T value	P value
	1981–1994	1995–2008		
Males	29.26	46.91	-7.38	<0.001
Females	44.34	60.74	-5.31	<0.001

Table 2 Comparison of time periods between male and female juvenile detainees and mean rates of detention, T values and significance

Group	Means		T value	P value
	Male	Female		
1981–1994	29.26	44.34	-6.14	<0.001
1995–2008	46.91	60.74	-4.55	<0.001

Table 3 Comparison of Indigenous and non-Indigenous mean rates of detention, T values and significance

Group	Means		T value	P value
	1994–2000	2001–2008		
Indigenous	40.10	50.26	-3.74	<0.005
Non-Indigenous	41.56	54.88	-4.28	<0.001

Table 4 Comparison of time periods between Indigenous and non-Indigenous juvenile detainees and mean rates of detention, T values and significance

Group	Means		T value	P value
	Indigenous	Non-indigenous		
1994–2000	40.10	41.56	-0.49	0.64
2001–2008	50.26	54.88	-1.63	0.12

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