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Crime
and Justice in
AUSTRALIA

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Australian Institute of Criminology
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Foreword

THIS PUBLICATION follows in the footsteps of the United States Bureau of Justice Statistics' publication entitled *Report to the Nation on Crime and Statistics* (October 1983). The format and content of that report were so widely acclaimed for their graphic excellence and non-technical clarity that similar reports have since been produced by numerous state and national bureaux of crime and justice statistics.

In Australia, most of the relevant information and statistics at the national level are produced either by the Australian Institute of Criminology or by the Australian Bureau of Statistics. The authors call upon other sources of information as well, however, including publications of the various state and territory criminal justice agencies throughout Australia, and the report brings together much of the material which the Institute has previously presented in its very popular Trends and Issues series.

Crime and Justice in Australia presents a comprehensive picture of crime and justice in Australia without ever becoming too technical, and, consequently, it should interest the general public as well as criminal justice

practitioners, researchers, educators and students. It should also provide a useful and easy reference for the media, because although the statistics in the report will inevitably become dated with the passage of time, the text is designed to address the fundamental issues of crime and justice, not just those of momentary interest.

The report contains the most up-to-date national figures available on crime and the criminal justice system, or the most representative state figures where national figures are not available. It tries to answer such questions as: How much crime is there? Who does it affect? When and where does it happen? Who are the major offenders? How does the criminal justice system—the police, the courts and corrective services—react to crime? What happens to convicted offenders? What does it all cost?

These are important questions indeed, and I am sure that readers will find many of the answers in the pages of this publication.

Duncan Chappell
DIRECTOR

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The Criminal Event

This chapter offers an overview of crimes in Australia, with data answering such questions as:

- How are crimes defined?
- What are the most common serious crimes?
- How do people rank the seriousness of different crimes?
- How much agreement is there among the public about the seriousness of various crimes?
- What are the main sources of national crime statistics?
 - What do national crime statistics measure?
 - How and why do they differ?
 - How much crime is there?
 - Have crime rates gone up or down?
 - What are trends in various crimes?
 - Where do crimes occur?
- What kinds of weapons are used in various types of crimes?

Australian system of justice

The colonisation of Australia by the British, which began in the late eighteenth century, was completed in the mid-nineteenth century with the formation of six separate colonies, each with its own constitution and parliament and each with power to make its own laws. Not surprisingly, the English law formed the basis for much of the legislation in the colonies. In 1901 Australia became a Federation, the six colonies became states and an elaborate scheme for the sharing of legislative powers between the states and the Commonwealth was devised. In 1911, the Northern Territory was carved out of South Australia and the Australian Capital Territory came into existence.

The six states and the Northern Territory have elected parliaments with the powers of law making; until 1989, laws pertaining to the Australian Capital Territory were enacted by the Federal Parliament, but the new ACT Government now has the powers of law making. As legislative powers with respect to criminal law and the administration of criminal justice rest with the six states and the two territories, there is no single criminal justice system in this country. There are several systems that, while similar, are individually unique. Thus, the states and the Northern Territory have their own criminal laws, police forces, courts, prisons and juvenile institutions, and other corrective and treatment services. In the Australian Capital Territory, the Australian Federal Police look after policing and there are no prisons.

What is crime?

Crime can be defined as conduct prohibited by law and accompanied by punishment

In most countries today crime is a legal phenomenon: whatever the legislators of the country, state or territory define as crime is crime. Laws are binding on all who live within the jurisdiction of the various governments, and are enforced by a number of instrumentalities. Criminal law defines various crimes and is aimed at maintaining public order, protecting the citizens from harm, and safeguarding the interests of the young and the disadvantaged.

The list of acts defined as crime changes constantly, for a variety of reasons. For instance, legislative changes in several Australian jurisdictions have broadened the definition of rape to include forms of sexual assault not previously regarded as rape. In some states, a husband can now be charged with the rape of his wife. Appearing nude in a public place was once a crime all over Australia; now however, nude bathing is considered acceptable conduct in a number of areas.

Certain acts defined as crimes are, in some instances, laws which are not strictly enforced. Violence in the family — wife or child-bashing — can legally be classified as criminal assault, but the prevailing morality, with regard to the status of women and children in society, inhibits the reporting of offences and prosecution of the offenders. Finally, it was only recently that the pollution of rivers, which may cause untold harm to those using the water, was incorporated in the criminal laws.

Infrequent prosecutions also occur in cases of environmental pollution and violation of occupational health and safety regulations.

Other acts, which were defined as crimes have been either partly or totally decriminalised; for example, attempted suicide and homosexual behaviour between consenting adult males. In most Australian jurisdictions these two acts have been deleted from criminal law and are now considered matters of private morality. There is a distinction between what some people see as a sin, and what the law describes as a crime.

Not all immoral acts or conducts are criminal and therefore are not punishable as offences in the courts. There are forms of business or commercial activity which are essentially dishonest and cause enormous social harm, which are not considered as criminal acts. Some scholars began writing about such acts in the 1930s; others discouraged criminologists from considering behaviour not legally defined as crime. Since the late 1960s, however, economic offences involving consumer fraud, price-fixing, experimentation with drugs on prisoners, or on individuals in Third World countries by multinational pharmaceutical companies, and violations of health and safety regulation in the work place have come under increasing scrutiny.

How do violent crimes differ from property crime?

Violent crimes (also known as crimes against the person) refer to murder, manslaughter, assault, rape and sexual assault, and kidnapping and abduction, which may result in injury to a person. Armed hold-ups, robbery and extortion are also considered violent crimes because they involve use or threat of force against a person.

Arson, burglary (break, enter and steal), larceny, motor vehicle theft, fraud, forgery, and vandalism are examples of property crimes. These unlawful acts, with the intent of gaining property, do not involve the use or threat of force against a person.

Other common crimes

Drug offences relate to cultivation, manufacture, importation, trafficking, sale, possession and use of narcotic and dangerous drugs. Well over 95 per cent of drug crimes known to the police are possession or use of drugs.

Sex offences are offences other than rape (and serious sexual assaults in New South Wales) and prostitution. Included are indecent assaults on males or females, indecent behaviour and sexual assaults on children.

Vandalism relates to damage or injury to property (including animals).

White collar crime can technically be classified under property offences but because of its enormous impact on society it needs to be distinguished. White collar crime originally covered acts committed by businessmen and professionals, but today it includes theft by employees, corruption, cheating on taxes, social security fraud, medi-fraud (billing by physicians for services not performed), as well as stock market swindles, consumer fraud, and price-fixing. It may appear from this

Table 1.1 Characteristics of common serious crimes

Crime	Definition	Facts
Homicide	Unlawfully causing the death of another person.	<ul style="list-style-type: none"> • Homicide is the least frequently committed violent crime. • A majority of the killers are relatives, friends or acquaintances of the victim. • About 23 per cent of homicides occur between husbands and wives.
Rape/serious sexual assault	Unlawful sexual intercourse with another person by force or without the consent of the victim.	<ul style="list-style-type: none"> • Rapes constitute almost 10 per cent of serious violent crimes. • Most rapes involve lone offenders and lone victims.
Serious assault	Unlawfully and intentionally inflicting serious bodily injury, or unlawful threat or attempt to inflict bodily injury. This includes: grievous bodily harm; malicious wounding; assault occasioning actual bodily harm and aggravated assault.	<ul style="list-style-type: none"> • Serious assault is the most frequent serious violent crime. • Serious assaults have tripled during the last ten years. • The victims of a large majority of serious assault incidents do not require hospitalisation.
Robbery	Unlawful removal or taking of property or attempted removal or taking of property without consent, by force or threat of force immediately before or after the event.	<ul style="list-style-type: none"> • Robberies account for 33 per cent of all serious violent crimes. • About 32 per cent of robberies involve the use of weapons.
Burglary	Unlawful entry of a dwelling/house or any other premises such as business, school, shop, etc., with or without force, with the intent to steal.	<ul style="list-style-type: none"> • 25 per cent of all residential burglaries occurred without forced entry. • In 92 per cent of burglaries of dwellings the offenders entered through a door or window. • Private dwellings were targets of burglary in 60 per cent of reported incidents of burglaries. • About 50 per cent of residential burglaries occur during daylight hours, when homes are generally empty.
Larceny	Unlawful taking of property other than motor vehicle and without force and without deceit.	<ul style="list-style-type: none"> • Larceny is the most frequent property crime, representing 40 per cent of all property crimes. • About 50 per cent of larcenies involve shop lifting.
Motor vehicle theft	Unlawful using or attempted using of a motor vehicle without the consent of the owner.	<ul style="list-style-type: none"> • 1.3 per cent of motor vehicles registered were targets of theft. • Most motor vehicle thefts are reported to the police; reporting is required for insurance claims. • Well over 80 per cent of stolen vehicles are recovered although many are damaged.
Fraud, forgery, etc	Unlawful acts committed or attempted involving deception, misappropriation, forgery, uttering, counterfeiting, etc.	<ul style="list-style-type: none"> • Fraud and forgery offences have increased sharply in recent years. • Credit card fraud has become common.

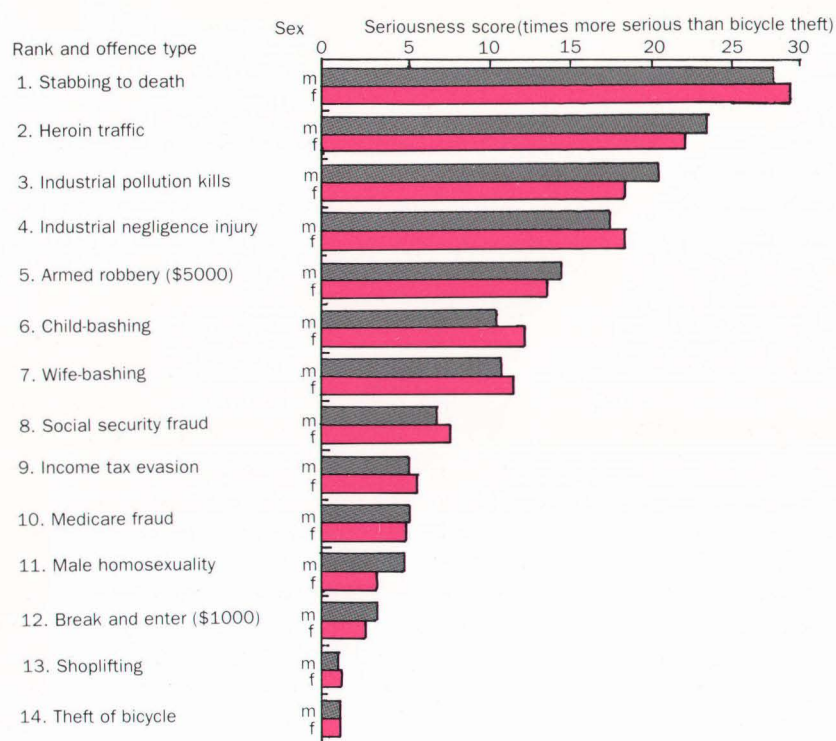
Source: Compiled from Police Department *Annual Reports*, various states

list that white collar crime is non-violent in nature but this is not necessarily so. For example, pharmaceutical companies have been found responsible by the courts for many deaths and serious birth defects; physicians practising in hospitals have been convicted of acts which maim and kill patients through unnecessary surgery and errors in prescribing drugs.

Organised crime involves provision of illegal goods and services by groups of people acting with a common purpose. It includes large-scale activities in gambling, SP (starting price) bookmaking, prostitution, illegal dealings in drugs, loan-sharking (money lending at

extremely high interest), and “laundering” of illegal money through a legitimate business and by computer manipulation. Organised criminal activity may use illegally obtained capital to expand into other activities — legal and illegal — and may seek to corrupt government officials with the aim of gaining protection. Some organised crimes are victimless because the buyer and the seller willingly participate. Economic gain is the primary goal of organised crime and it is often achieved by a complete or near-complete control over illegal goods and services. Organised crime employs blackmail, violence, intimidation and conspiracy.

Figure 1.1 Seriousness of selected offences as perceived by Australians, by sex of respondent, 1986



Source: Wilson, P., Walker, J., & Mukherjee, S.K. 1986, *How the public sees crime: an Australian survey*, Trends and Issues No. 2, Australian Institute of Criminology, Canberra.

How serious are various types of crime?

A national survey of public attitudes to crime and sentencing was conducted in 1986 (Wilson et al.). It described 13 illegal events from shoplifting \$5 worth of goods to stabbing a person to death. This survey — the most comprehensive and systematic ever undertaken in this country of how the public ranks the seriousness of specific kinds of offences and the punishments for these offences — was conducted on a representative cross-section of 2,555 Australians aged 14 years and over.

Of 13 offences presented to the public the stabbing to death of a victim was considered the most serious. When asked to compare the seriousness of this offence with a theft of a bicycle (the standard offence with which all crimes were compared), Australians consider this crime to be about 27 times more serious. The second most serious offence was the smuggling of heroin into the country, judged 23 times more serious than stealing a bicycle.

The offence considered least serious was shoplifting goods worth \$5, closely followed by a burglary where a person breaks into a home and steals \$1,000 worth of household goods. These two crimes were rated, respectively, as roughly equivalent to the stealing of a bicycle, and three times more serious than the bicycle theft.

Of some surprise was the fact that the majority of respondents believed that homosexual relations between two adult males in private was more serious than either stealing a bike, breaking into a house or shoplifting. Considering that this behaviour is not considered

criminal in many states, its perceived seriousness, relative to other offences, is significant.

How people rank the seriousness of crime

1. A person stabs a victim to death.
2. A person smuggles heroin into the country for resale.
3. A factory knowingly gets rid of its poisonous waste in a way that pollutes the city water supply. As a result one person dies.
4. A worker had his leg caught in an unguarded piece of machinery because the employer knowingly failed to provide safety measures. As a result the worker lost his leg.
5. A person armed with a gun robs a bank of \$5,000 during business hours. No-one is physically hurt.
6. A parent beats his child with his fists. The child is hurt and spends a few days in hospital.
7. A man beats his wife with his fists. As a result she spends a few days in hospital.
8. A person illegally receives social security cheques worth \$1,000.
9. A person cheats on their income tax return and avoids paying \$5,000 in taxes.
10. A doctor cheats on claims he makes to a Commonwealth health insurance plan for patient services for an amount of \$5,000.
11. Two adult males willingly engage in a homosexual act in private.
12. A person breaks into a home and steals \$1,000 worth of household goods.
13. A person steals \$5 worth of goods from a shop.
14. A person steals a bicycle.

Diverse groups of people generally agree about the relative seriousness of specific crimes and the national survey found that female and male respondents did not differ greatly in their rankings

There were some differences, however, among different groups of people.

- The seriousness scores assigned by females were slightly higher than those assigned by males for child and wife bashing, industrial negligence, and social security fraud.
- Males found homosexuality considerably more serious than females.
- Persons under 20 ranked most crimes much lower in seriousness than people of older age groups.
- Persons with higher education tend to rank most crimes as lower in seriousness than those with low education.

Almost everyone agrees that violent crime is more serious than property crime

The crime seriousness survey showed people make distinctions about seriousness depending on the circumstances of the crime. For example, injury as a result of industrial negligence was ranked higher in seriousness than armed robbery. Also, heroin trafficking, which possibly was perceived to be an offence with potential violence, was ranked second only to “stabbing to death”, and more serious than death by industrial pollution.

Interestingly, only persons under 20 years of age rated the potentially life-threatening offence of armed robbery as less serious than domestic violence—wife and child bashing.

Burglary was rated less serious than white collar crime, even though it receives far more media attention. The media and the extensive literature on the subject of burglary claim that residential burglary has devastating effects on women. Surprisingly, female respondents rated burglary in private dwellings and stealing \$1,000 worth of goods only 75 per cent as serious as did males in the sample.

Main sources of national crime statistics

The Selected Crime Statistics (SCS) show trends in seven major reported crimes

In 1961 the Australasian Conference of Police Commissioners appointed a sub-committee to examine the gathering and dissemination of crime statistics. The sub-committee suggested that the most practical method would be to adopt selected headings for the most serious types of crimes. In selecting the crimes, besides seriousness, the sub-committee also took into account the frequency of occurrence and the likelihood of being reported to the police. It was agreed that the statistics should be extracted from official crime reports and be based, as far as possible, on definitions and procedural arrangements uniformly determined for the eight jurisdictions. In 1985, the Police Commissioners' Australian Crime Statistics Sub-Committee enlarged the list of selected crimes. The Selected Crime Statistics de-

scribes the number of incidents reported/becoming known to police - these incidents relate to homicide, serious assault, robbery, rape (including serious sexual assault), burglary (break, enter and steal), motor vehicle theft, and fraudulent offences.

The Crime Victims Survey (CVS) adds information about victims and crimes not reported to police

Crime victims surveys are essential because an accurate measurement of the total volume of crime and of crime trends over time is impossible using the existing Australian data bases. While it is recognised that the quality of crime statistics published in the annual reports of the police departments has improved, measurement of crime on the basis of these statistics is confounded by the varying diligence of citizens in reporting crimes to the police and, in some instances, of police districts in reporting crimes to headquarters.

Crime victims surveys can provide additional information on the nature and consequences of victimisation which is necessary in framing legislation and providing services for victims of crime. Victim surveys are useful in the monitoring and evaluation of law enforcement resource deployment and are a cost-effective means of measuring the effectiveness of law enforcement performance. Besides measuring the extent of victimisation, crime victim surveys offer valuable information on attitudes toward reporting/not reporting a criminal incident to the police.

The first Crime Victims Survey was carried out in Australia in 1975 with a second survey in 1983.

Some of the more important similarities and differences in statistics produced under Selected Crime Statistics (SCS) and Crime Victims Surveys (CVS) are:

- Both the SCS and the CVS focus on a few major crimes and use broad, commonly understood, definitions.
- Both the SCS and the CVS count attempted as well as completed crimes.
- The SCS counts only crimes coming to the attention of the police. The CVS obtains information on both reported and unreported crimes.
- The SCS counts crimes committed against all people, businesses and government agencies (including schools). The CVS counts only crimes against individuals age 15 years and older and against their households.
- Under the two schemes crimes may be counted differently. For example, a criminal steals a motor vehicle and breaks into someone else's house and steals. SCS counts only the motor vehicle theft (or the more serious of the two crimes). CVS will count both, one as a personal crime and one as a household crime.
- CVS does not give an account of all incidents—only the last incident and multiple victimisations are recorded.

Table 1.2 A comparison of Selected Crime Statistics and Crime Victims Survey Statistics

Selected Crime Statistics	Crime Victims Survey
Crimes	
Homicide	
Rape (Sexual Assault)	Sexual Assault (includes rape)
Robbery (Personal and Commercial)	Robbery (Personal)
Assault (Serious)	Assault (Serious and Common)
Break & Enter (Household and Commercial)	Break & Enter (Household)
Motor Vehicle Theft	Motor Vehicle Theft
Fraud and Forgery	Theft (Household Property) Other Theft
Scope	
<ul style="list-style-type: none"> Crimes reported to the police in all states. There is no flexibility for developing small-area data although the crime incident forms record information on place of occurrence of offence and addresses of offenders and victims. 	<ul style="list-style-type: none"> Reported by population aged 15 years and over. Crimes both reported and not reported to police. All data are for the six states and territories. Some data can be available for capital cities and other areas.
Collection method	
<ul style="list-style-type: none"> Police department reports to the Crime Statistics Sub-Committee 	<ul style="list-style-type: none"> Interviews of a representative sample of persons in selected households; a sample of 18,000 households which cover one-third of 1 per cent of the population of Australia, aged 15 years and over.
Kinds of information	
<ul style="list-style-type: none"> In addition to crimes reported, provides information on crimes cleared and persons arrested 	<ul style="list-style-type: none"> Provides details about victims (such as: age; sex; education; income and victim offender relationship) and about crimes (such as: time and place of occurrence, whether or not reported to police; use of weapons and occurrence of injury).
Sponsor	
<ul style="list-style-type: none"> Police Commissioners' Australian Crime Statistics Sub-Committee. 	<ul style="list-style-type: none"> Australian Bureau of Statistics

Source: Australian Institute of Criminology, Canberra.

How much crime is there?

In 1983 a large number of households were affected by crimes of violence or by property offences. Nearly 0.5 million households out of approximately 4.5 million were victimised either by break and enter or by household theft. Of these, one in five were victimised at least twice or more.

In addition, 1,121,000 individuals (10 per cent of the population age 15 years and over) were the victims of at least one of the personal offences of motor vehicle theft, robbery, other theft, sexual assault and assault.

Over 1.5 million victimisations occurred in 1983

Table 1.3 Victimisations, 1983

Personal crimes	
Assault	390,900
Sexual assault	26,700
Robbery	65,300
Motor vehicle theft	95,200
Other theft	673,300
Household crimes	
Break and enter	315,400
Household property theft	166,500
Total	1,733,300

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

Over 1.1 million selected crimes were reported to police in 1987

Table 1.4 Selected crimes reported to police, 1987

Violent crimes	
Homicide	366
Aggravated Assault	2,701
Common Assault	51,942
Sexual Assault (Includes rape)	7,760
Robbery and Extortion	8,703
	71,472
Property crimes	
Break and Enter	249,863
Motor Vehicle Theft	125,427
Other Theft	441,396
Fraud	136,588
Property Damage	133,898
	1,087,172
Total	1,158,644

Source: Australian Police Commissioners' Crime Statistics Sub-committee 1987, *Report*.

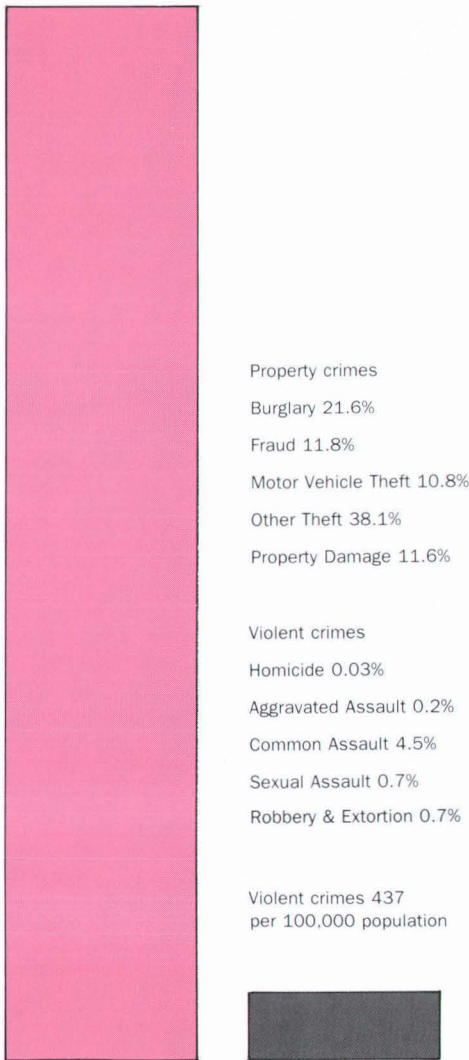
What are the trends in crime?

To understand present levels of crime it is necessary to compare with the past

In day-to-day debate on crime it is common to talk in terms of x per cent increase/decrease vis-a-vis the

Figure 1.2 Property crime outnumbered violent crimes by 21 to 1

Property crimes
6,685 per 100,000 population



Source: Australian Police Commissioners Crime Statistics Subcommittee 1987, Report.

previous year or the year before. However, an examination of data over a long period provides a better understanding of crime trends. This analysis of crime trends uses statistics published by the police departments over a period of 13 years (1973-74 to 1986-87); and statistics on homicides reported to the police over seven decades. The sources measure only specific types of crimes and the data have been standardised to allow for population growth.

Short-term trends (1973-74 to 1986-87) indicate that:

- Total numbers of crimes have increased.
- Per capita rates of crimes reported to police generally show increases.
- Only the crime of murder shows no measurable change in rates during the last 13 years.
- Among the violent crimes, serious assaults increased by 236 per cent, rape by 132 per cent and robbery by 78 per cent.

- Property crimes, of which stealing accounts for half, increased by 89 per cent.
- Increases in rape and serious assaults appear to have followed major changes in laws. Effective 1 July 1981, New South Wales abolished the offence of rape, and created instead four categories of sexual assaults. Categories I to III are roughly comparable with rape as it existed before this date, and category IV includes indecent assault. In the year 1981-82 the number of rapes (sexual assault categories I, II and III) increased by about 55 per cent over 1980-81. Similarly, changes in the *Crimes Act* with regard to the offence of domestic violence introduced in late 1983, appear to have affected the reported number of serious assaults. In the last two years the number of serious assaults reported/becoming known to police in the state increased by about 75 per cent over 1984-

Figure 1.3 Selected crime statistics show increases in most crimes - 1

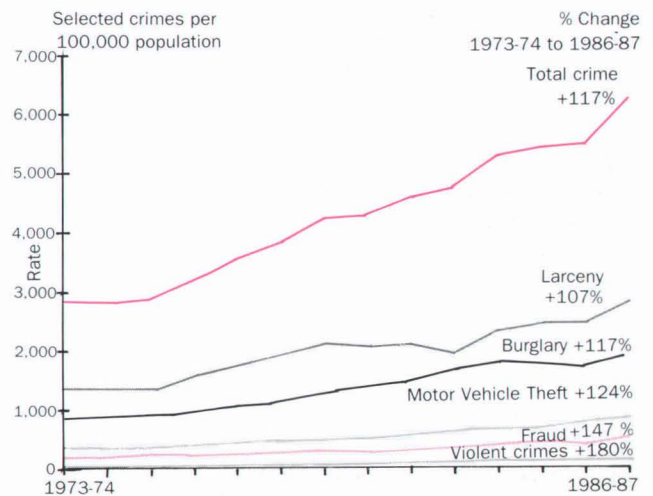
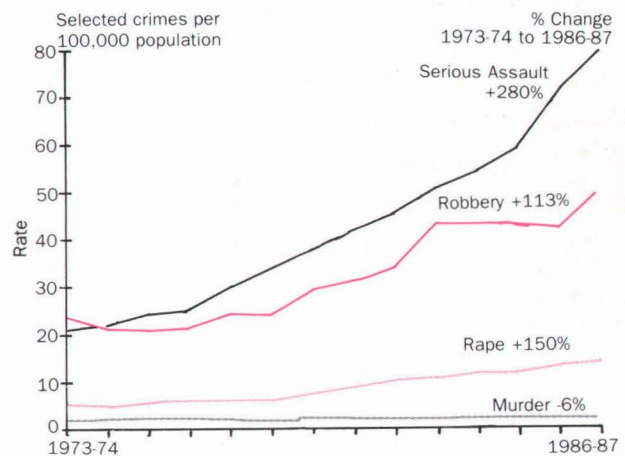
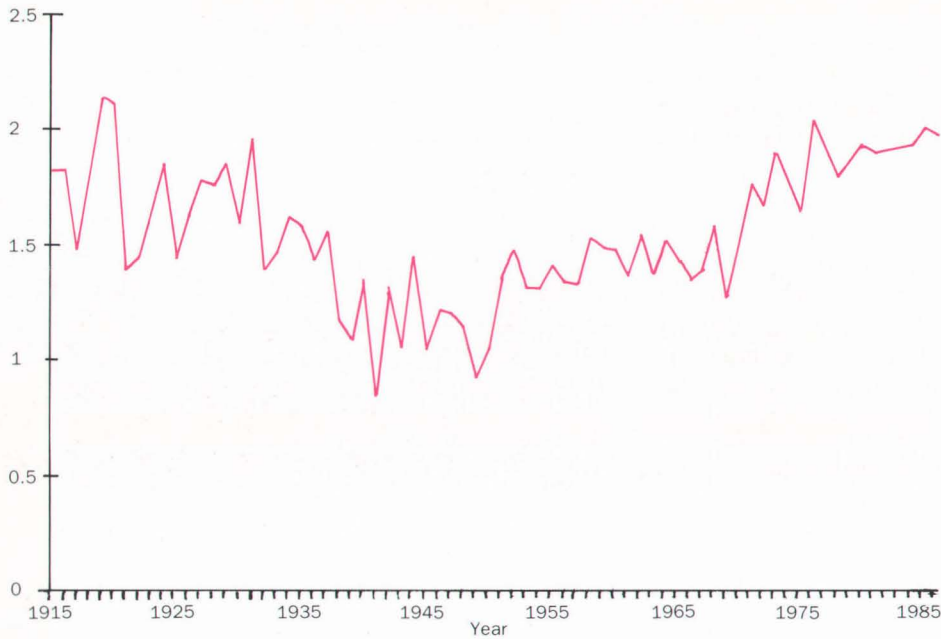


Figure 1.4 Selected crime statistics show increases in most crimes - 2



Source: Police Departments, Annual Reports, 1973-74 to 1986-87.

Figure 1.5 Homicide rates per 100,000 population



Source: Mukherjee, S.K. et al. 1987, *The Size of the Crime Problem in Australia*, Australian Institute of Criminology, Canberra.

85. South Australia amended its criminal law to include rape in marriage in 1975 and the number of rapes reported to police in 1975-76 increased by about 50 per cent.

Homicide data provides added perspective to crime trends

Homicide data have been compiled from the series on causes of death in Australia for the period 1915-86. This long-term data set makes it possible to view changes in homicide rates against a backdrop of major events and developments: the two world wars, the depression, the post-war economic and baby booms, and the major oil crisis of 1973.

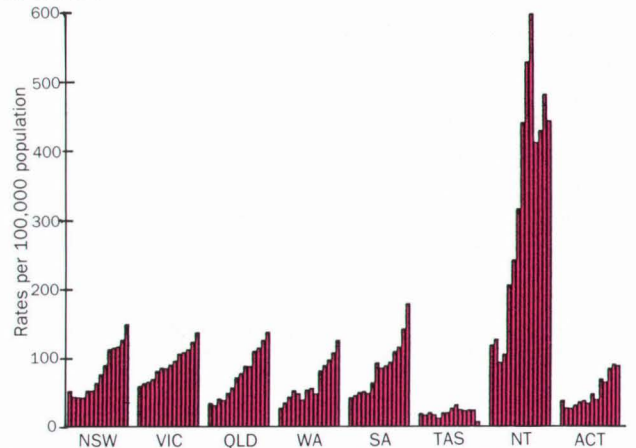
The data reveal several major and minor trends. From 1919 to 1949 the rate declined from 2.1 to 0.9 homicides per 100,000 people; between 1950 and 1986 it rose to 2.0. A minor short-term trend during the second World War stands out. The war clearly affected the homicide rate, and there was a sharp decline during the years when a significant proportion of young adults were overseas, followed by a brief rise immediately after the war when most of the soldiers returned home. The gradually increasing trend since 1950 coincides with the beginning of post-war economic development and the baby boom.

Where do most crimes occur?

Rates of reported crimes vary by states and in the five largest states and the Northern Territory the rates of reported property crime were substantially higher in 1986-87 than before. The 1986-87 rates were highest in the Northern Territory and South Australia. The reported rate of violent crimes show a similar pattern with the same two jurisdictions showing the highest rates.

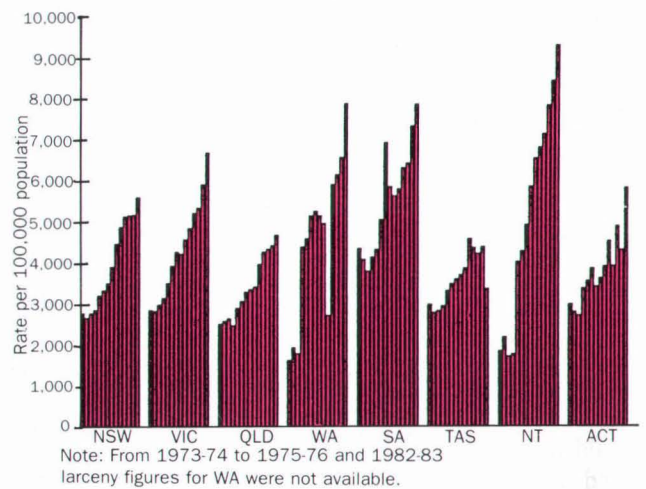
A high proportion of crimes occur in urban areas;

Figure 1.6 Crime rates for violent offences 1973-74 to 1986-87



Source: Police Departments, *Annual Reports*, 1973-74 to 1986-87.

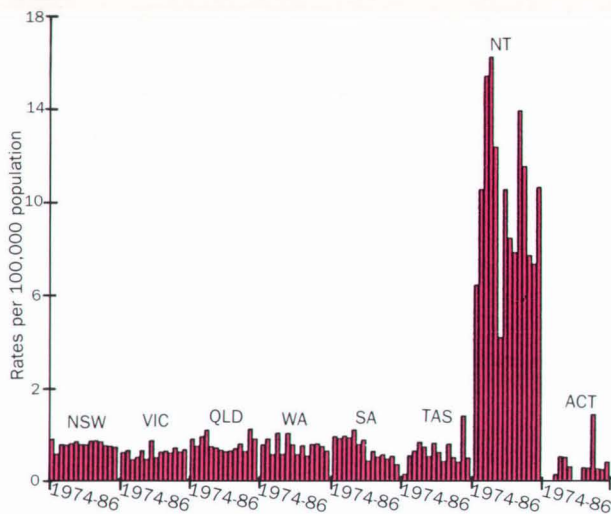
Figure 1.7 Crime rates for property offences 1973-74 to 1986-87



Note: From 1973-74 to 1975-76 and 1982-83 larceny figures for WA were not available.

Source: Police Departments, *Annual Reports*, 1973-74 to 1986-87.

Figure 1.8 Homicide rates 1974-86



Source: Police Departments, *Annual Reports*, 1973-74 to 1986-87.

indeed, the majority of crimes reported to police occur in metropolitan and urban centres. However, the level of urban crime varies from state to state. Also, a higher proportion of crimes — such as robbery, serious assault and motor vehicle thefts — than other serious crimes occur in urban centres as opposed to non-metropolitan areas.

The Crime Victims Survey confirms these findings and shows that rates of personal crime were much higher in metropolitan areas than in other areas. Sexual assault rates in metropolitan areas were more than two and one-half times that of non-metropolitan areas; household crimes also occurred at a much higher rate in metropolitan than non-metropolitan areas.

Crimes are high in metropolitan areas

Table 1.5 Crimes and crime rates 1983

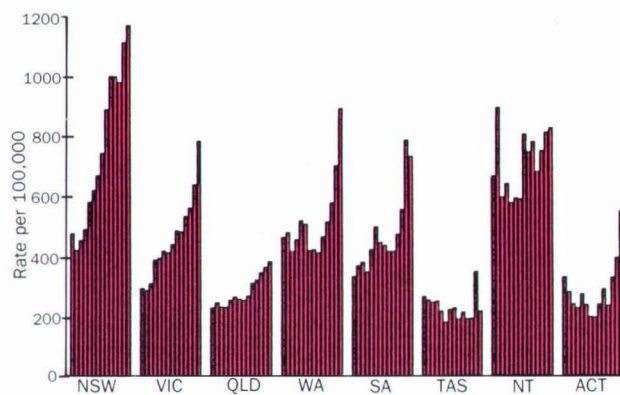
Crimes	Metropolitan Area	Non-Metropolitan Area
Personal Crimes Rates Per 100,000 Persons aged 15 and over		
Robbery	678	382
Assault	3,761	2,812
Sexual assault	632	237
Motor vehicle theft	1,032	477
Other theft	6,476	4,850
Household Crimes Rates Per 100,000 Households		
Break/enter & steal	7,119	4,227
Household property	3,401	2,880

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

Most personal crimes occurred away from victims' homes and crime victims survey data indicate that:

- Only 28 per cent of the personal crimes occurred in and around the victim's home.
- 26 per cent of all sexual assaults and 31 per cent of all robberies occurred in and around the victim's home; 28 per cent of personal larcenies also occurred in and around the victim's home.

Figure 1.9 Motor vehicle theft rates 1973-74 to 1986-87



Source: Police Departments, *Annual Reports*, 1973-74 to 1986-87.

What is the involvement of weapons in crime?

Most violent crimes do not involve the use of weapons.

Table 1.6 Locations and types of crime, 1983

Place of Occurrence	Crimes of Violence (Robbery and Sexual Assault)	Personal Larceny
	%	%
Inside own home	23	10
Around own home	7	18
Place of work/study	17	20
In a motor vehicle	4	21
Street, park, playground, parking lot, etc.	31	7
Other	18	24
Total %	100	100

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*

The Crime Victims Survey indicates that only in less than 2 per cent of assaults, sexual assaults, robberies and attempts of these offences, either a knife or a gun was used, and in another 3 per cent a weapon other than a gun or knife was used.

Firearms are used more often in less frequent but most serious violent offences than in other offences. Of

Table 1.7 Incidents by weapon used and whether or not incident became known to police, 1987

Weapon used	Incident became known to the police	Incident did not become known to the police	Percentage of total incidents
	%	%	%
Knife or gun	3	1	2
Other weapon	3	3	3
Physical attack	14	21	19
Verbal	11	21	17
None used	69	54	59
Total	100	100	100

Source: Unpublished Statistics, NSW Police Department.

the murders reported to the police, firearms were the most commonly used weapon.

Table 1.8 Number and percentage of murders reported to the police by weapon, 1987

Weapons used	Number	Per cent
Firearm	41	37
Knives	36	32
Bashings	23	21
Strangling	7	6
Other	4	4
Total	111	100

Sources: Unpublished Statistics, NSW Police Department

Firearms were used in one in four robberies reported to the police.

Table 1.9 Number of robberies reported to the police by weapon used, 1986-87

Weapons used	Number	Per cent
Firearm	1697	25
Other weapon	1472	22
No weapon	3543	53
Total	6712	100

Source: Police Departments of New South Wales, Victoria and South Australia, *Annual Reports*, 1986-87.

The Victim

This chapter presents a profile of the victims of crime with data which answers questions such as:

- Which groups of people are the most likely to be victims of crime, and which are the least likely?
- What is the risk of becoming a victim of robbery, assault or sexual assault?
- What kinds of households are most likely to be broken into or have property stolen?
 - How do crime rates compare with the rates for other serious life events?
- Is a person more likely to be victimised by a stranger or by a relative or acquaintance?
 - What are the financial and physical effects of crime on its victims?
 - What crimes are not reported to the police, and why?
 - What are the main reasons why people do report crimes to the police?
 - What compensation is available to the victims of crime?

Identifying the victims - Crime Victims Survey

Who are the victims of crime?

The second Australian Crime Victims Survey was conducted by the Australian Bureau of Statistics throughout Australia between February 1983 and January 1984 and collected data on whether households and persons had been the victims of certain types of offences during the 12 months prior to interview. The survey was based on the respondents' perception of their having been a victim, which may not necessarily correspond with the legal or police definitions.

The household offences covered were break and enter and household property theft (that is, the theft of property belonging to more than one member of a household, other than a motor vehicle or property stolen in a break and enter).

The personal offences were motor vehicle theft, robbery (that is, theft or attempted theft involving violence or attempted violence), assault (including attempts) and sexual assault (including attempts). The sexual assault questions were only asked of females aged 18 and over.

The findings of this survey revealed that

- More men are victims of crime than women.
- People in the age group 15-24 years are much more likely to be victims than are people over 24 years. The likelihood of a person being a victim starts to decrease significantly from the age of 25 years. This may be because older people tend to organise their lives in ways that reduce their chances of being victimised.
- The never married, separated and divorced are more likely to be victims than the married or widowed. These differences may be partly due to the age and sex differences in the various marital status groups. For example, most of the never married are aged under 25 years. Most of the widowed are aged 55 years or more and are predominantly women.
- The rate of victimisation is significantly higher for people born in New Zealand, and lower for those born in Italy, Greece or Yugoslavia. These differences in rates are in part a result of differences in the demographic characteristics of these groups. For example, migrants from New Zealand tend to be younger and not married.
- The chance of being the victim of a crime of theft or a violent offence is greatest for those in the middle to higher income groups.
- An unemployed person is twice as likely to be a victim of crime than the average person. People not in the labour force have the lowest rate of victimisation; however, this may be a result of the age/sex distribution of this group (about 70 per cent are women, and nearly 50 per cent are aged 55 or more).
- The rate of victimisation is lowest for people who live in separate houses and generally highest for those in shared accommodation such as institutions, boarding houses, hotels, caravan parks etc.
- The highest reported crime rate (in 1983) for both violent crime and theft offences is not in the largest

cities (Sydney, Melbourne, Brisbane), but in those cities of 500,000 to 1,000,000 people (Perth, Adelaide).

Table 2.1 Victimization rates for crimes of violence*, 1983

	Rates per 1,000 persons
Total Australia	40
Sex	
Male	54
Female	26
Age	
15-24	77
25-34	49
35-44	34
45-54	26
55-64	14
65 and over	** 5
Marital status by sex	
Male	
Never married	94
Married	35
Separated	92
Divorced	90
Widowed	**22
Female	
Never married	48
Married	15
Separated	131
Divorced	69
Widowed	** 9
Country of birth	
Australia	42
New Zealand	82
Italy/Greece/Yugoslavia	14
Other	36
Income	
Less than \$4,000	37
\$4,000 - \$9,999	44
\$10,000 - \$14,999	41
\$15,000 - \$24,999	49
\$25,000 and over	44
Education - Highest Qualification	
Still at school	55
No post-school qualification	36
College/TAFE course, cert./diploma, trade/apprentice.	43
Degree/post-graduate diploma	51
Higher qualification	**72
City size+	
Over 1 million	42
500,000 - 1 million	54
100,000 - 499,999	37
50,000 - 99,999	34
Less than 50,000	31

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey* 1983

*Personal crimes of violence include assault, sexual assault and robbery

**The estimate should be treated with caution as it is subject to a high sampling error.

Table 2.2 Victimization rates for crimes of violence by type of crime, 1983

	Rates per 1,000 persons		
	Robbery	Assault	Sexual assault
Total Australia	6	34	5
Sex			
Male	7	49	-
Female	4	20	5
Age			
15-24	11	67	12
25-34	5	43	8
35-44	6	29	*2
45 and over	3	12	*2
Marital status by sex			
Male			
Never married	15	85	
Married	3	32	
Separated/divorced	*10	83	
Female			
Never married	8	38	12
Married	2	10	3
Separated	*22	103	*21
Divorced	*15	54	*12
Income			
Less than \$4,000	6	31	5
\$4,000 - \$9,999	8	35	6
\$10,000 - \$14,999	5	35	6
\$25,000 and over	*4	38	**
Employment status			
Employed	6	39	5
Unemployed	19	91	*20
Not in the labour force	4	19	4

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

*The estimate should be treated with caution as it is subject to a high sampling error.

**There were too few cases in the survey sample to provide statistically reliable data.

N.B. These rates were calculated using the number of individuals who were victims of one or more of the crimes included in each category. The rates therefore represent the likelihood that a person is a victim of at least one crime of violence. They do not indicate the chance that someone was the victim of more than one such crime. Note, the rates for robbery and assault were calculated using the number of persons aged 15 and over, however, the questions on sexual assault were only asked of females aged 18 and over.

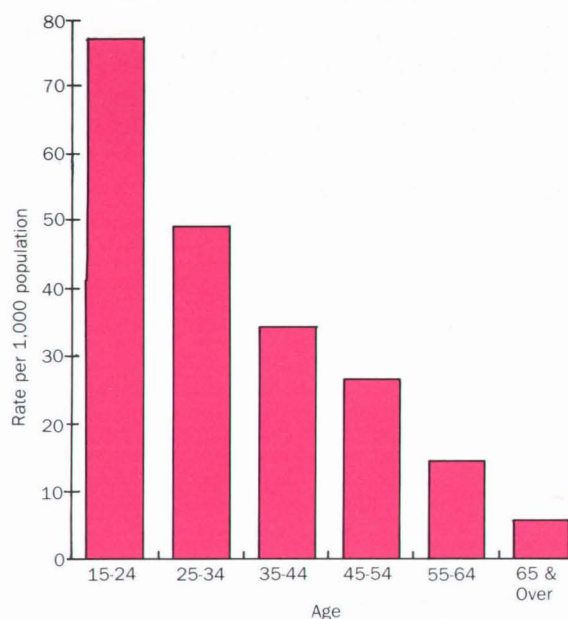
Who are the victims of violent crime?

- Assault is the most common violent crime.
- Men are more often the victims of assault and robbery, but women are more affected by sexual assault and domestic violence.
- The likelihood of being assaulted is closely related to age, decreasing significantly as age increases.
- Women whose marital status is "separated" have a higher violent crime victimisation rate than any other population group.

How often are people victimised?

A person may be a multiple victim of crime if he/she is a victim of more than one type of crime, or suffers more than one incident of the same crime. Whilst the Crime Victims Survey data only describe the last incident of

Figure 2.1 Victimization rates for crimes of violence by age



Source: Bonney, Roseanne 1987, *Homicide II*, NSW Bureau of Crime Statistics and Research.

each type of crime experienced by an individual; details on the number of times a person was a victim of each crime were also collected.

- In general, those population groups described above which were most vulnerable to victimisation also had the highest rate of multiple victimisation. Conversely, those with low victimisation rates had a low incidence of multiple victimisation and, if they were victimised, were less likely to suffer multiple victimisations.
- Four in 10 victims of personal crime suffered more than once in the last year, either from repeated incidents of the same offence or from different types of offences.
- One in 10 personal crime victims were the victim of more than one type of crime, and three in 10 were multiple victims of the one offence.
- Nearly one in 10 victims of motor vehicle-theft had a car stolen more than once in the year, but one in four victims of other personal thefts experienced more than one such incident.
- More than a quarter of all victims of violent crimes recorded three or more incidents of the particular offence suffered.
- One in five households which were broken into or which had household property stolen experienced more than one occurrence of such incidents.

What kinds of households are the victims of crime?

The Crime Victims Survey found that nearly 9 per cent of households had been the targets of a break and enter or household property theft in the previous 12 months. Two-thirds of these offences were break and enter.

The rate of victimisation is higher for certain types of households (as at 1983):

- Households in the Northern Territory are at the greatest risk of being broken into or having house-

- hold property stolen, whilst those in Tasmania are least likely to be broken into. Households in New South Wales have a high rate for break and enter offences, but the lowest rate of household property theft.
- Households in capital cities have a higher rate of victimisation than those in other urban and rural areas, especially for break and enter.
- Separate houses are the least likely to be broken into. Low-rise flats and units have a high break and enter rate, but the lowest incidence of household property theft.

Table 2.3 Victimisation rates for household crimes, 1983

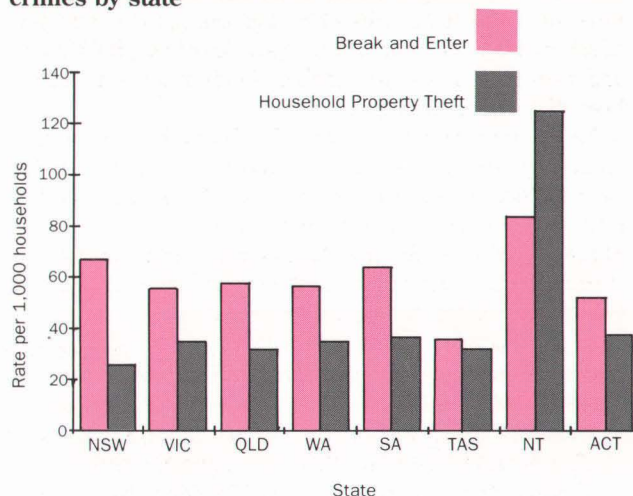
	Rates per 1,000 households*	
	Break and enter	Household property theft
Total Australia	61	32
Type of dwelling		
Separate house	55	33
Low rise flat/unit	92	25
Semi-detached/townhouse/villa	82	33
High rise flat/unit	**83	-
State		
New South Wales	67	26
Victoria	56	35
Queensland	58	32
Western Australia	57	35
South Australia	64	37
Tasmania	36	32
Northern Territory	85	125
Australian Capital Territory	53	38
Residence		
Capital city	71	34
Rest of State	42	29
City Size +		
Over 1 million	74	31
500,000 - 1 million	65	40
100,000 - 499,999	48	39
50,000 - 99,999	66	49
Less than 50,000	38	25
Country of birth (of first person interviewed)		
Australia	59	33
New Zealand	101	**57
Italy/Greece/Yugoslavia	79	23
Other	60	31
Income (of first person interviewed)		
Less than \$4,000	47	33
\$4,000 - \$9,999	57	19
\$10,000 - \$14,999	77	35
\$15,000 - \$24,999	70	39
\$25,000 and over	76	33

Source: Australian Bureau of Statistics, *Crime Victims Survey* 1983.

*The rates were calculated using the number of victim households in each population group and the total number of households in that group.

**The estimate should be treated with caution as it is subject to a high sampling error.

Figure 2.2 Victimisation rates for household crimes by state



Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey* 1983.

How do crime rates compare with the rates of other life events?

Table 2.4 Incidence rates for various life events, 1981-83

Events	Rates per 1,000 adults - per year
Break and enter	134.2
Suffer from a disability 1)	132.4
Discharged from hospital 2)	93.1
Household property theft	71.0
Unemployed 3)	59.9
Other (personal) theft	58.9
Accidental injury 4)	38.4
Assault	34.2
Death, all causes	9.5
Motor vehicle theft	8.3
Robbery	5.7
Sexual assault	4.9
Death of spouse	4.6
Divorce	3.9
Heart disease death	3.2
Injury in road traffic accident (hospitalised)	2.4
Cancer death	2.2
Accidental death, all circumstances	0.47
Road traffic accident death	0.24
Pneumonia/influenza death	0.16
Suicide	0.15
Homicide	0.03

These figures are only an approximate assessment of the chance of becoming a victim of the events listed. More precise estimates could be derived by taking account of such factors as age, sex, place of residence and lifestyle.

1) based on the number of persons who had an impairment (eg loss of physical ability, mental disability resulting in the need for assistance, long-term treatment for an emotional condition) which had lasted, or was likely to last, at least 6 months.

2) based on New South Wales data only. It refers to the number of discharges during 1983, including transfers to other hospitals and deaths. The rate relates to the number of separations following unique episodes of hospitalisation and does not indicate the number of individuals who have been discharged during the year,

3) based on data for June 1983. This is not the same as the unemployment rate as it includes all persons aged 15 and over, including those who are not regarded as being in the labour force (eg students and pensioners).

4) refers to the likelihood of having an accident some time in the previous year which resulted in an illness or injury being experienced in the past two weeks.

Sources: Data relating to the years 1981-83 from the following publications issued by the Australian Bureau of Statistics were used to calculate the given rates.

- *Estimated Resident Population by Sex and Age: States and Territories of Australia*, 1983 (Catalogue No.3201.0)
- *Causes of Death, Australia* 1983 (Catalogue No.3303.0)
- *Deaths, Australia* 1983 (Catalogue No.3302.0)
- *Road Traffic Accidents Involving Casualties* (Admissions to Hospitals), Australia December Quarter 1983 (Catalogue No.3302.0)
- *Divorces, Australia* 1983 (Catalogue No.3307.0)
- *Australian Health Survey* 1983 (Catalogue No.4311.0)
- *Handicapped Persons, Australia* 1981 (Catalogue No.4343.0)
- *Victims of Crime, Australia* 1983 (Catalogue No.4506.0)
- *The Labour Force, Australia* (Catalogue No.6203.0)
- *Hospital and Nursing Home In-Patients, New South Wales, 1983* (Catalogue No.430601)

The likelihood of being a victim of certain violent crimes is less than that of experiencing some other serious life situations such as being hospitalised or having a disability

However, a person is more likely to be assaulted or robbed than to receive serious injuries (requiring hospitalisation) from a road traffic accident. Nevertheless, the likelihood of being murdered is very low, being only one-fifth the rate of death by suicide.

Public opinion polls show that crime is regarded as one of the issues of most concern to the public

A survey (published in the Commonwealth Department of Health report *Attitudes Towards Drugs and Drug Use in Australia*) conducted in 1981 found that, apart from use of illegal drugs, high unemployment and road deaths, people regarded burglary/robbery, organised crime and sexual assault as the next three most serious problems facing the community. Results of another poll (Australian Public Opinion Polls, *The Gallup Method*, Poll No. 03/2/85 - AGB: McNair) held in the same year showed that crimes of violence were rated as second only to unemployment as the problem people were most concerned about.

Fear of crime is not necessarily related to the risk of victimisation

Surveys such as the Australian Bureau of Statistics' survey on *Crime and Prevention of Crime in the Community* (Adelaide Statistical Division, October 1985) and the *General Social Survey 1975* show that women and the elderly usually have lower victimisation rates, but

tend to have a greater fear of victimisation than those who are more at risk. Women generally feel less safe than men even in their own homes, as well as when out alone at night.

People who have been the victim of a crime, or who have friends or acquaintances who have been victimised also naturally tend to be more concerned about crime.

The extent to which this fear affects the individual's quality of life is difficult to measure. For example, whilst for some people it may cause them to restrict their activities or install security devices in their homes, these may also be responses to other factors. Each individual's response to the fear of victimisation is different, and is a consequence of their own personality as well as their experiences with crime and various social and economic variables.

The relationship between victims and offenders

Victims of violent crime often know their attacker

In about one half of all incidents reported in the *Crime Victims Survey* involving actual or threatened attacks, victims knew their attacker at least by sight. Of these cases, about one-fifth were actually relatives of the victim.

Less than 10 per cent of victims of "non-contact" theft offences had seen the offender before. When they did know the offender, however, it was less likely that the person was a relative than was the case for violent crimes.

Table 2.5 Relationship between victims and offenders, 1983

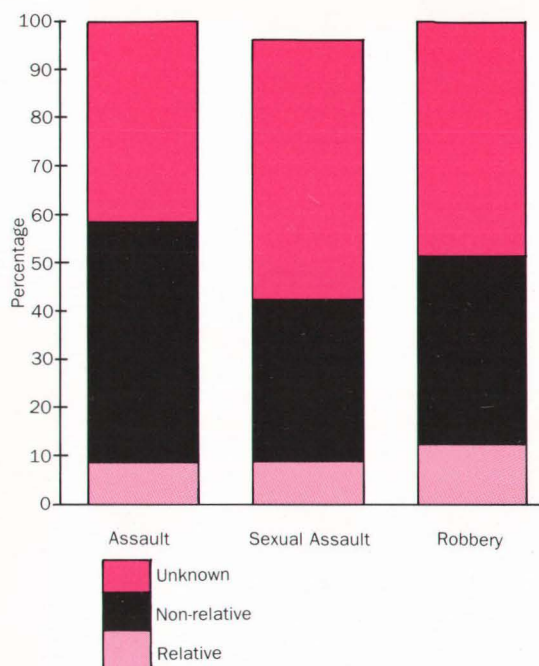
	Offender seen before			Offender not seen before	Total
	Non-relative	Relative	Total		
	%	%	%	%	%
Assault	49.6	8.7	58.3	41.7	100.0
Sexual assault	33.5	8.7	42.2	54.0	*96.2
Robbery	38.8	12.3	51.1	48.9	100.0
Break and enter	**	**	8.0	91.2	100.0
Household property theft	**	**	7.7	92.3	100.0
Motor vehicle theft	**	**	5.0	95.0	100.0
Other theft	**	**	9.8	90.2	100.0

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

*Some sexual assault victims chose not to provide information on their relationship to the offender, and these cases have been omitted.

** There were too few cases in the survey sample to provide statistically reliable data.

Figure 2.3 Relationship between victims and offenders



Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

Women are at greater risk of being murdered by a relative than are men

Studies in New South Wales and South Australia show that both women and men are more likely to be killed by a member of their family than by a stranger or acquaintance. But the risk of intra-family homicide is far greater for women, despite the fact that there are overall fewer female homicide victims. These studies further indicate that in such cases the offender is most likely to be the partner (spouse, de-facto, lover) or ex-partner of the victim.

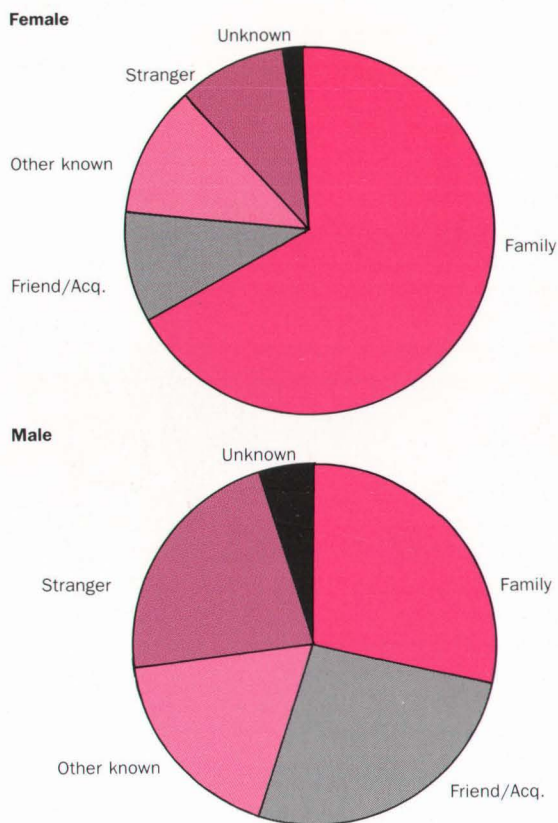
Men are much more likely than women to die at the hands of a stranger, though the risk is considerably less than that of being killed by someone they know. Even if all the homicides where the offender/victim relationship is not known were committed by strangers, stranger killings would still only account for about 20 per cent of all homicides.

Table 2.6 Homicide victims, New South Wales

Victim/offender relationship	1968 to 1986	
	No.	%
Family	743	42.9
Friend/acquaintance	353	20.4
Other known to	277	16.0
Victim Stranger	298	17.2
Relationship not known	61	3.5
Total	1732	100.0

Source: Bonney, Roseanne 1987, *Homicide II*, NSW Bureau of Crime Statistics and Research.

Figure 2.4 Offender victim relationship in homicide by sex of victim, New South Wales 1968-86



Source: Bonney, Roseanne 1987, *Homicide II*, NSW Bureau of Crime Statistics and Research.

How does crime affect its victims?

The effects of a crime upon its victim naturally vary according to the type of crime. Property losses and physical injuries can be readily identified. Other effects such as psychological trauma and inconvenience are undoubtedly common but not readily measured.

Much financial loss is suffered as a result of personal and household thefts.

Crime Victims Survey data indicated that in 1983 nearly 0.5 million households were the victim of a break and enter and/or household property theft. In addition, over 0.75 million people lost cash or property from personal theft offences including robberies and motor vehicle thefts. Although many people had at least some insurance covering their losses from break and enter and motor vehicle thefts (58 per cent and 53 per cent respectively), in about 75 per cent of other thefts the items stolen were not insured.

In 1985-86 motor vehicle thefts cost the community over \$325m

The Selected Crime Statistics data show that there were 120,900 motor vehicle thefts reported to police in 1985-86. About 50 per cent of these thefts took place in New South Wales, 22 per cent in Victoria and 8 per cent in Western Australia. The NRMA estimated that the total cost to the New South Wales community of damage resulting from car thefts in the 1986 calendar year was

\$140m (NRMA 1987). The Victorian and Western Australia police estimated the value of cars stolen in 1985-86 to be \$80.4m (Victoria Police 1985-86) and \$42m (Western Australia Police 1986) respectively. On the basis of these figures an approximate estimate of the total value of cars stolen in Australia in 1985-86 would be \$328m.

The rate of recovery of stolen vehicles (Police *Annual Reports* 1985-86) is very high (between 83.5 per cent and 93 per cent for New South Wales, Victoria, South Australia and Western Australia), however victims may then have the cost of repairing damage done as a result of the theft. The New South Wales police estimated that 55 per cent of stolen vehicles were returned undamaged (NSW Police *Annual Report* 1985-86) but respondents in the Crime Victims Survey reported that only about 30 per cent of the stolen vehicles were returned in their original condition.

Households suffer greater losses in break-ins than in other crimes of theft

In approximately 25 per cent of break and enter offences the aggregate value of cash and property stolen was over \$500. Only about 8 per cent of all other crimes of theft (except motor vehicle theft) involved losses of more than \$500.

There are no detailed national data on the financial losses which individuals suffer because of such incidents. However, the following estimates from the New South Wales and Victorian police reports mentioned above provide some measure of the costs to the community:

- the average value of property stolen in break-ins of private dwellings in 1985-86 was \$1,100 in New South Wales and \$985 in Victoria,
- the estimated losses from break-ins of commercial and private premises in 1985-86 were \$95-100m in New South Wales and \$70.6m in Victoria. On the basis of these figures and the Selected Crime Statistics data an estimate for Australia would be about \$270-280m.

These figures understate the total losses from break-ins as they do not take into account the value of property stolen in incidents not reported to the police. They also do not include the costs incurred because of damage done during break-ins (estimated to occur in nearly 50 per cent of all incidents).

The economic impact of crime varies with income

Data from the 1983 Crime Victims Survey show that the value of property and/or cash stolen was greater for victims with higher incomes. Persons with an income of \$15,000 or more were also more likely to have had something stolen. However, the relative impact of any financial losses will be greater for those in the lower income groups.

The total economic impact of crime is extensive

In addition to the losses suffered in personal and household offences, the crimes of fraud, arson, shoplifting and wilful damage all cause substantial economic loss for their victims. In Victoria alone the police estimated

Table 2.7 Income group and victimisation for theft, 1983

	Rate of thefts per 1,000 persons	Percentage of thefts with losses greater than about \$500
\$1-\$3,999	77	14
\$4,000-\$9,999	85	12
\$10,000-\$14,999	88	15
\$15,000-\$24,999	109	15
\$25,000 or more	103	20

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey* 1983

that the total value of property stolen or damaged in these offences was close to \$50 million in 1985-86.

There are also many crimes for which it is impossible to estimate the economic impact for example, computer-related fraud, false insurance claims, embezzlement and other underground economic activities.

But the overall consequences of crime are more than just the direct economic losses suffered. There are the costs resulting from: lost productivity due to victims' absences from work; medical care for victims; and employment of security measures to protect individuals and their property. The social costs which must be borne by the whole community include higher insurance premiums, lost taxation revenue, increased prices of goods to cover losses from shoplifting, treatment programs for drug abusers, law enforcement efforts to prevent or deter criminal activity and the entire cost of operating the criminal justice system.

Injury or death is the result of much violent crime

The Selected Crime Statistics data shows that nearly 700 people were killed in 1985-86. A rise of approximately 100 over 1982-83.

The Crime Victims Survey data for 1983 estimated that

- at least 125,400 injuries resulted from violent crimes other than homicide
- 26 per cent of assaults, sexual assaults and robberies resulted in the victims being injured
- in 12.5 per cent of these incidents involving injuries the victim required medical treatment, and in over one quarter of these cases the victim was hospitalised.

The likelihood of injury was the same for males and females and was greatest for victims of assault. Where the victim was injured, the crime was much more likely to be reported to the police (45 per cent reported where injury was sustained, 31 per cent where no injury was sustained).

The relationship of the victim to the offender influences the likelihood of injury

More than 40 per cent of the victims who had been assaulted or threatened by a relative had been injured, but only 25 per cent of the persons assaulted or threatened by a friend, acquaintance, or unknown person were injured. However, these findings may be affected by a tendency for victims to under-report crimes by

relations which were less serious and did not involve injury.

Non-reporting of crimes to police

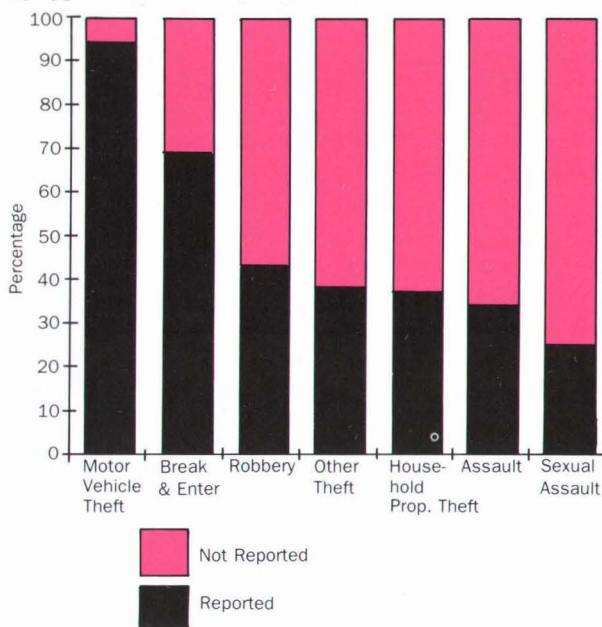
The Crime Victims Survey conducted by the Australian Bureau of Statistics in 1983 investigated the so-called "dark figure" of crime, and provided information on the extent to which certain crimes were reported, the reasons why victims did or did not tell the police, and the characteristics of crimes which were not reported. The survey results showed that almost six out of 10 victims had suffered at least one offence which was not reported to the police. This finding was similar to that of the first national victims survey in Australia, undertaken in 1975.

Reporting rates varied by type of crime, being highest for motor vehicle theft and lowest for sexual assault

The proportion of incidents reported to the police either by the victim or someone else was generally higher for crimes of theft than crimes involving violence. They were:

- 94 per cent for motor vehicle theft
- 69 per cent for break and enter
- 43 per cent for robbery
- 38 per cent for other thefts
- 37 per cent for household property theft
- 34 per cent for assault
- 25 per cent for sexual assault

Figure 2.5 Percentage of crimes reported to police by type of crime



Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

Reporting rates varied with the characteristics of the victims

The rate of reporting to police varied with some characteristics of the victims, although there was no difference

between males and females (both reporting 44 per cent of incidents). For personal crimes of violence and theft the reporting rate:

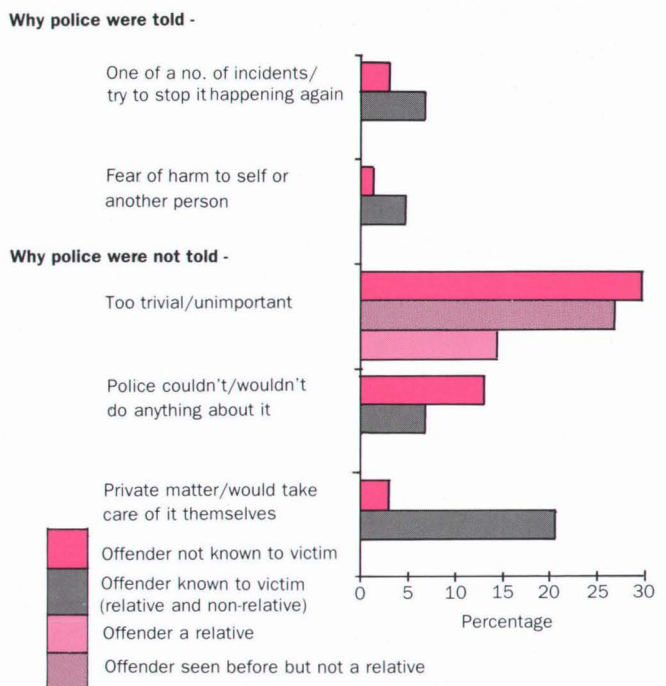
- increased with the victims' age up to 55-59 years, but dropped down again for victims aged 60 and over
- increased as the victims' income increased (41 per cent for persons with an income of less than \$4,000, 50 per cent for persons with an income of \$25,000 or more in 1983).
- was highest in Tasmania (54 per cent) and lowest in Queensland (33 per cent). It was also lower than average in Western Australia (37 per cent) and South Australia (42 per cent), and between 46 per cent and 48 per cent in all other states.

These variations are in part influenced by factors such as differences in the types of crimes mainly experienced by the different groups.

Victims are less likely to report crimes if they know the offender. The Crime Victims Survey found that victims were less likely to report incidents if they knew the offender (33 per cent vs 46 per cent), especially if the offender was a relative (29 per cent). The true difference in the reporting rates may be even greater as victims also tend to under-report in surveys those incidents which involved relatives or friends, particularly if the matter had not already been brought to the attention of the police.

The relationship between the victim and offender also influenced the reasons given for reporting or not reporting to the police.

Figure 2.6 Whether offender known to victim. Main reason for reporting/not reporting to police



Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

Victims are less likely to report crimes if they are not injured

If a victim of an actual or threatened attack was injured then he/she was more likely to report the incident to the police than if there had been no injury (45 per cent as against 31 per cent). The main reason given by victims for not reporting incidents not involving injury was that they felt that they were too trivial or unimportant (32 per cent), whilst only 13 per cent of victims gave this as a reason if they were injured.

The rate of reporting also varied considerably with the method of attack— being 76 per cent if a knife or gun was used, 49 per cent for other weapons, 34 per cent for physical attacks without weapons and 28 per cent for verbal attacks. However, the method of attack is also a major factor influencing whether the victim was likely to have been injured.

Table 2.8 Main reasons for not reporting as a percentage of all incidents, 1983

Crime	Too trivial/ unimportant	Police wouldn't/ couldn't do anything about it	Private matter/ would take care of it themselves
	%	%	%
Break & Enter Household prop. theft	11	9	*1
Car theft	42	11	*2
Robbery	32	15	3
Assault	17	*8	15
Sexual Assault	28	7	16
	*18	28	*7

*The estimate should be treated with caution as it is subject to a high sampling error.

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

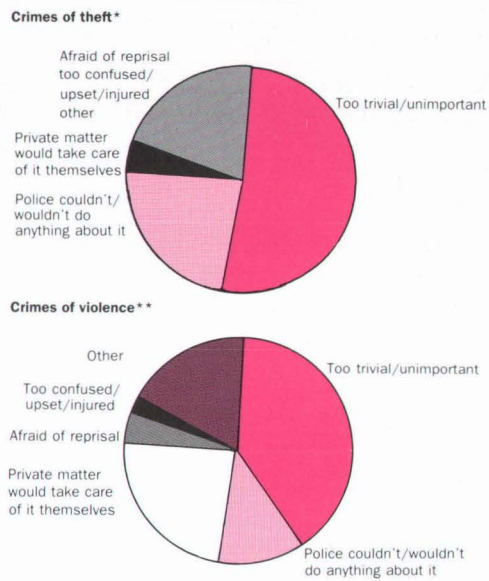
Most crimes were not reported because the victim thought they were too trivial or unimportant

Of the violent crimes which were not reported almost 40 per cent were not reported because the victim thought they were too trivial or unimportant. A further 24 per cent were regarded as a private matter. Over half of all unreported property crimes were regarded as too trivial to report to police, with a further 28 per cent unreported on the grounds that the police could not/would not do anything about it.

People mainly report thefts to try and get their property back

Victims were more likely to have reported a theft if the property stolen was insured than when there was no insurance on the stolen items (89 per cent vs 65 per cent). Also, the greater value of the stolen property the more likely people were to have reported the theft. For example, for all incidents involving the theft of cash, 53 per cent were reported when the value was less than \$100, 74 per cent when it was between \$100 and \$500, and 90 per cent when it was more than \$500.

Figure 2.7 Percentage not reported to police, by reason for not reporting



Other (Includes afraid of reprisal and too confused/upset/injured for crimes of theft as well as did not want offender punished, offender thought/know to be a child and told someone else instead).

*Includes break and enter, household property theft, motor vehicle theft, other theft

**Includes robbery, assault, sexual assault

Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*

Table 2.9 Main reasons for reporting thefts, 1983

Reason for reporting	Break and enter %	Household Property Theft %	Motor Vehicle Theft %	Other Theft %
To try/hoped to get property back	14	15	61	16
Crime committed/moral obligation	25	8	15	6
One of a number of incidents/try to stop it happening again	9	5	*2	3
Insurance compensation	8	4	*4	2

*The estimate should be treated with caution as it is subject to a high sampling error.

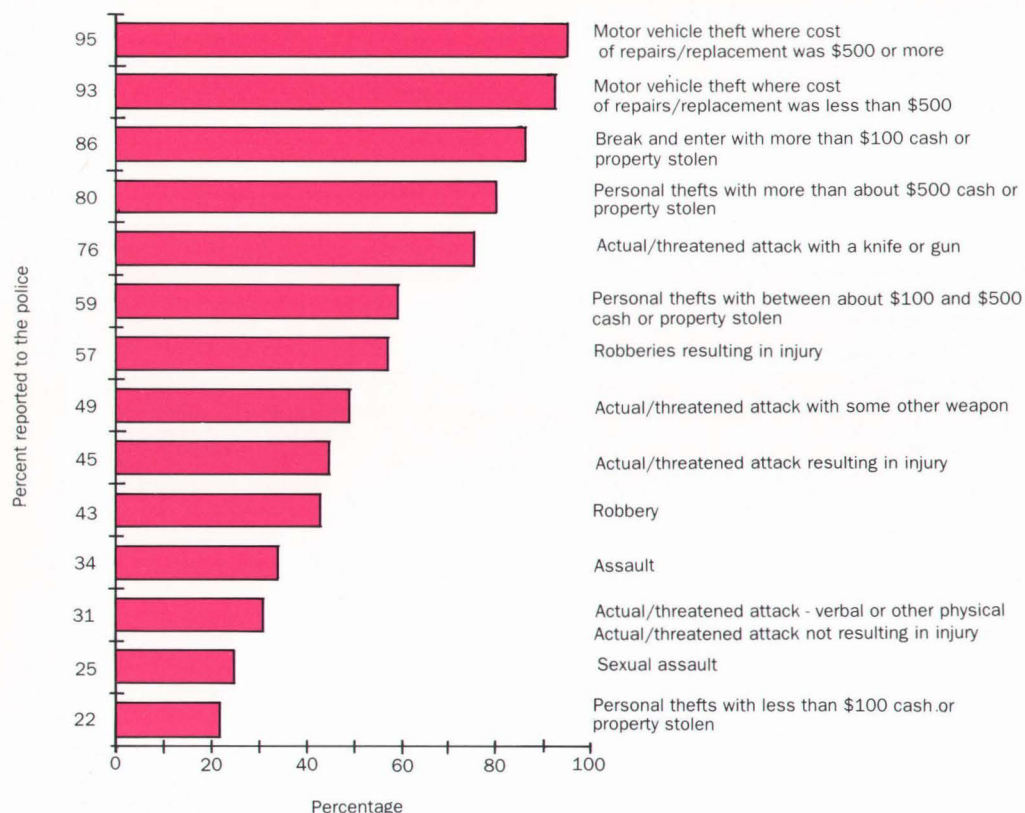
Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey, 1983*.

Compensation available for the victims of crime

Victims of crime who are injured may receive financial compensation

Victim compensation schemes have been established in all states and territories throughout Australia over the past 20 years. They are a recognition of the needs of citizens who suffer injury and trauma as a result of criminal activity, and an acknowledgement of governments' responsibility to these victims. The main function of these schemes is to provide monetary compensation for both the financial and emotional consequences of victimisation.

Figure 2.8 Percentage of crimes most likely to be reported to the police



Source: Australian Bureau of Statistics, *The Second Australian Crime Victims Survey 1983*.

In most states victims are eligible for compensation for injuries resulting from any criminal acts occurring in that state, regardless of where the victim may reside. However, in Victoria, compensation is limited to only those injuries caused by crimes which are punishable by imprisonment, and the Queensland scheme only covers injuries from indictable offences. In some states compensation can also be claimed for injuries received whilst trying to prevent the commission of a crime, or when rendering assistance to another victim.

The government compensation programs are only one part of a range of services which exist to help the victims of crime. These schemes are complemented by the efforts of volunteer groups such as rape crisis centres and organisations which provide advice and counselling to victims.

Programs provide for recovery of medical expenses and some loss of earnings

Victims may be compensated for personal injury which includes physical bodily harm, pregnancy, mental illness or disorder and nervous shock. They may receive an award to cover medical expenses and some loss of earnings, as well as any pain and suffering or loss of enjoyment of life which are caused by the criminal act. If the injuries result in the death of the victim, then in most states dependants can claim for funeral expenses and loss of support and, in some cases, compensation for any emotional suffering caused by the death.

These programs do not compensate victims for any property loss or damage, with the exception of clothing worn at the time of the offence. There is also no allow-

ance to pay legal fees in New South Wales, Queensland or Western Australia.

Claims which can be made under other schemes (for example, workers compensation, motor vehicle insurance), or expenses recoverable from other sources are taken into consideration when determining the amount of an award.

The victims' behaviour and relationship to the offender may be taken into account

If the victims' behaviour in some way contributed to the crime, or injuries received, then this may be taken into account when determining compensation, possibly causing an award to be reduced or refused.

In all states except South Australia and Tasmania the relationship of the victim to the offender may also be taken into account, and in Victoria a victim is ineligible to receive compensation if he/she was a member of the same household as the offender at the time of the crime.

About \$20m was paid in compensation to victims in 1985-86

In the main, victim compensation payments are funded from the governments' general revenue. Whilst most states have a provision allowing them to seek reimbursement from offenders, only a small proportion of the total costs are actually recovered by governments.

For example, of the \$7m paid to victims in New South Wales in 1984-85 only \$89,583 (1 per cent) was recovered from convicted persons. In South Australia in 1985-86, \$86,596 of the \$1,231,966 paid was recovered from offenders. In order to increase offenders' financial contributions for victim compensation, the 1987 amend-

Table 2.10 Victim compensation

Year of enactment/ state	Financial award	Total amount paid (1985-86)	Number of awards	Conditions
1967 <i>New South Wales</i>	\$100 to \$50,000	ACT \$5,580,000	843	Must report to police. No time limit for claim. Compensation can be prior to trial. Ex-gratia payments can be made if offender can't be dealt with by a court, or court can't make an award.
		Ex-gratia \$3,060,000	513	
1972 <i>Victoria</i>	\$200 to \$26,204 (pain and suffering- \$7,500 Expenses - \$3,000 Loss of income - \$15,704)	\$7,749,709	3274	Must report to police in reasonable time period, and apply for compensation within 1 year of injury.
1969 <i>Queensland</i>	\$100 to \$48,080 (Mental shock- \$20,000)	\$237,500	37	Must report to police "without delay". No time limit for claim.
1970 <i>Western Australia</i>	Up to \$15,000	\$978,967*	n/a	Must report to police. 3 year time limit for claim. If offender prosecuted then usually must be convicted.
1969 <i>South Australia</i>	\$100 to \$20,000	\$1,231,966	282	Must report to police. 1 year time limit for claim.
1976 <i>Tasmania</i>	Up to \$20,000	\$350,158**	41	No requirement to report to police. No time limit for claim.
1976 <i>Northern Territory</i>	\$100 to \$15,000	\$109,734	n/a	No requirement to report to police. 1 year time limit for claim.
1983 <i>Australian Capital Territory</i>	\$100 to \$20,000	\$526,495	68	Should report to police. 1 year time limit for claim.

*This amount was the total paid out in 1985-86 under all the *Western Australia Criminal Injuries Compensation Act* (1970, 1982 and 1985). In the 1986 calendar year a total of \$941,242 was paid under the 1985 Act only, with respect to 171 claims.

**Figure refers to 1986 calendar year.

Source: Various victim compensation tribunals, all jurisdictions.

ments to the South Australian Act established a fund using money recouped from offenders and a levy on fines, from which payments can be made to victims

The Offender

This chapter describes offenders with data that address such questions as:

- How do we know who commits crime?
- What do we know about offenders?
 - Who is the typical offender?
- What crimes are committed by offenders?
- What are the characteristics of career criminals?
 - How much crime do they account for?
 - How much crime is attributable to youths?
- Are women becoming more involved in crime?
- What are some of the characteristics of offenders?

Who commits crime and why?

There are no definitive answers as to why individuals commit crimes

It appears that offenders are typically young males, often from poorer sections of the community, have a poor standard of education, are unemployed or have poor employment records, and are frequently products of unstable homes. Yet, none of these characteristics can truly be considered as causes of crime; a large majority of individuals from such backgrounds are law-abiding citizens.

There are a number of explanations for why people commit crime

Crimes occur because of numerous factors, and as such have been explained from a number of points of view. It is, therefore, not important to describe which point of view is superior to others. For example, an individual may steal something because he/she may not be able to obtain the item by legitimate means; one person may steal to maintain a drug habit, another may steal as a result of an irresistible impulse, and yet another may steal just for the thrill of it. No two examples are exactly similar. The explanations as to why people commit crime can be grouped into three general categories:

Biological and psychological explanations seek to explain crime by examining physical and personality differences between the criminal and the non-criminal. The assumptions underlying biological theories are that an offender is abnormal and defective, and inferior to a non-offender. Such biological inferiority, it is assumed, results in observable physical features which characterise an offender. Although primarily of historical interest, a biological explanation of criminality has received significant support in recent times. Psychological theories tend to view the criminal as an individual with some disorder resulting from adverse experiences during childhood and later. Psychological explanations make several specific formulations, for example, that frustration always leads to aggression. The basic assumption is that a blockage of, or interference with, aspirations and expectations leads to frustration which results in a violent response. Another psychological construct proposes that criminal behaviour, like most human behaviour, is learned. Social learning and behaviour theories suggest that the existence of unfulfilled needs, opportunities to learn criminal behaviour, and rewards for criminal behaviour, will result in criminality.

Sociological and economic approaches seek to explain crime by focussing on the effect of the social environment and hold the society responsible. These approaches draw support from findings that crime is most frequent in poor neighbourhoods, which are characterised by dilapidated housing, a high proportion of broken homes, under equipped and poorly staffed schools, inadequate health and recreation facilities, and high unemployment particularly among the youth. Within this framework, there are a number of approaches which attempt to explain crime; for example, one theory

proposes that delinquency occurs as a result of reduced opportunities within legitimate as well as in organised illegitimate industry. Another approach suggests that certain social reaction to crime produces crime.

During the 1960s economists developed models to explain criminal behaviour. These models are based generally on the assumption that individuals behave rationally in making choices. In deciding to commit a crime the individual takes into consideration the expected gains and the expected cost or risk, and he/she chooses that crime, which appears more gainful, than any other in the opportunity structure. This economic theory has expanded the explanations of crime.

The *demographic approach* suggests that the demographic structure of a society can explain patterns of criminal behaviour. Such an approach draws support from research findings which indicate that different age groups, different ethnic groups, and the two sexes have different rates of criminal behaviour. Combined with such societal elements as urbanisation, social class, population density, public housing, and degree of disadvantage, this approach is potentially valuable.

How do we know who commits crime?

Two major sources provide information about offenders:

- Interviews with victims of crime
- Records of persons who come in contact with the criminal justice system.

A limited amount of information can be obtained from the *Crime Victims Survey 1983* (Australian Bureau of Statistics). For example, victims of assault, robbery, and sexual assault are often able to describe the offender in interviews conducted for the survey.

Official records of contact with the criminal justice system through arrest, court hearings and trials, detention and imprisonment provide much information about offenders. However, we know more about those imprisoned than those arrested and dealt with by other means than prison.

What we know about criminals refers mainly to street criminals and to repeat offenders

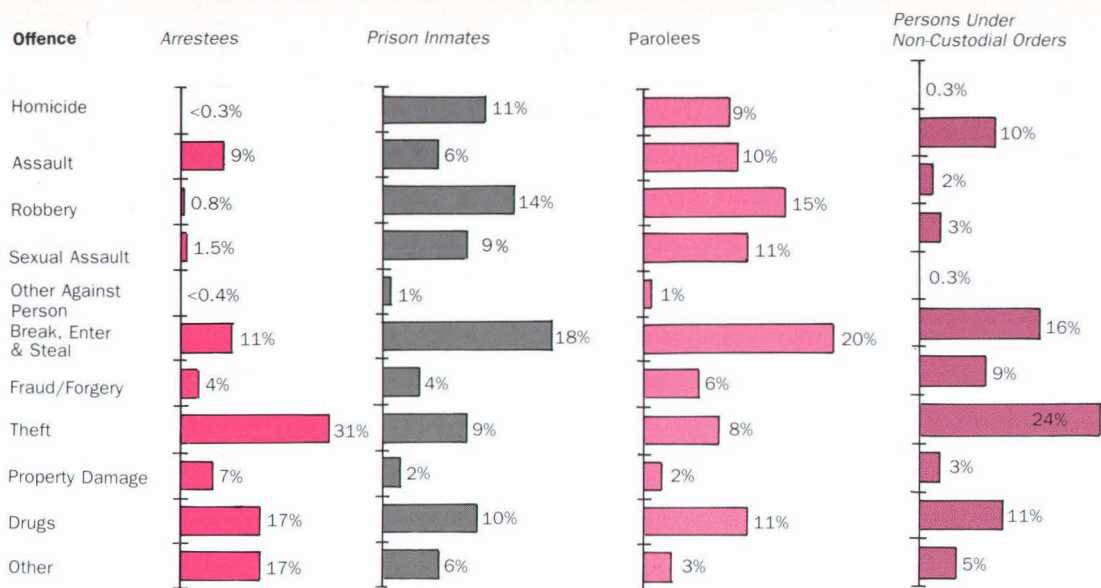
A very large number of persons who come into contact with the police do so for crimes that are readily detectable and for which suspects are highly likely to be arrested, convicted and sentenced. Relatively few who commit white collar crimes come in contact with the criminal justice system. It is probable, therefore, that the proportion of street criminals is over-represented in the arrest statistics.

Data on arrests, produced by the police, are complicated by several factors. They do not indicate the number of individuals arrested as a person may be arrested several times for a number of offences within a reference period. They do not actually reflect the number of crimes for which arrests were made as several persons may be arrested for one crime.

Who is the typical offender?

Most crimes are committed by young men. Over one-third of all persons arrested for serious crimes were

Figure 3.1 Mix of offences for which persons are arrested, convicted and imprisoned



Source: Walker, J. & Biles, D. 1986, *Australian Prisoners 1985*, Australian Institute of Criminology, Canberra; Walker, J. & Biles, D. (eds) 1987, *Australia Community-based Corrections*; Police Departments, *Annual Reports 1985-86*.

young persons under the age of 17 years and 4/5 of the total were males. By far the highest rate of offending occurs among young males age 17 to 19 years, a fact shown by arrest data. This does not mean that persons commit crime because they are young males, but this factor may be linked with other aspects in crime. Persons under the age of 17 years tend to commit crimes in groups of two or more, much more frequently than older offenders.

Table 3.2 The characteristics of arrestees, 1985-86

	Serious Crime Arrestees			
	Male		Female	
	Under 17	17+	Under 17	17+
Violent Offences	1062	7893	130	634
Homicide	2.2%	5.2%	1.0%	11.0%
Serious Assault	55.9%	66.6%	63.8%	66.4%
Rape/Sexual Assault	11.6%	9.8%	-	0.3%
Robbery	30.3%	18.4%	35.4%	22.4%
Property Offences	39365	55516	10475	21152
Break, Enter & Steal	33.7%	22.4%	9.9%	5.0%
Motor Vehicle Theft	13.8%	12.0%	4.0%	1.5%
Fraud/Forgery	2.3%	13.4%	4.4%	15.3%
Larceny	50.2%	52.2%	81.7%	78.2%

Source: Police Departments, *Annual Reports, 1985-86*.

Table 3.1 The characteristics of offenders, 1986

	Australian Population 15 yrs +	Non-Custodial	Prison Inmates
	12,318,832	25,911	11,497
Sex			
Male	50%	82%	95%
Female	50%	18%	5%
Race			
Aboriginal	1%	8%	11%
Other	99%	92%	89%
Place of Birth			
Overseas	22%*	15%	21%
Australian	78%*	85%	79%
Prior Prison Record	-	15%	62%
Age			
15-19	11%	23%	9%
20-24	11%	34%	27%
25-29	11%	19%	24%
30-35	10%	10%	16%
35-39	10%	6%	10%
40+	47%	8%	14%

Source: Walker, J. & Biles, D. 1987, *Australian Prisoners 1986*, Australian Institute of Criminology, Canberra.

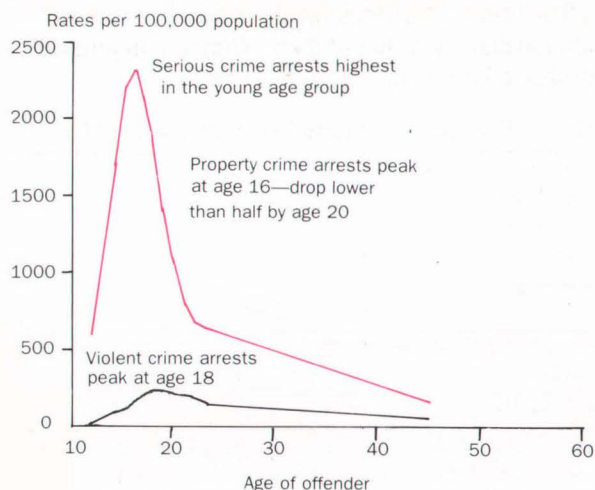
*1985 Figures used.

What is the role of youth in crime?

Participation in crime declines with age

Arrest records show that the intensity of criminal activity slackens, perhaps beginning after the early 20s. Such a decline is often referred to as the "burning out process" or "growing out of crime". Another reason for this decline is that repeat offenders, when caught, receive longer sentences and are thereby removed from criminal activity for long periods. Except for a minority of offenders, prisoners sentenced to longer terms usually have a long criminal history.

Figure 3.2 Rate of arrest by age of offender

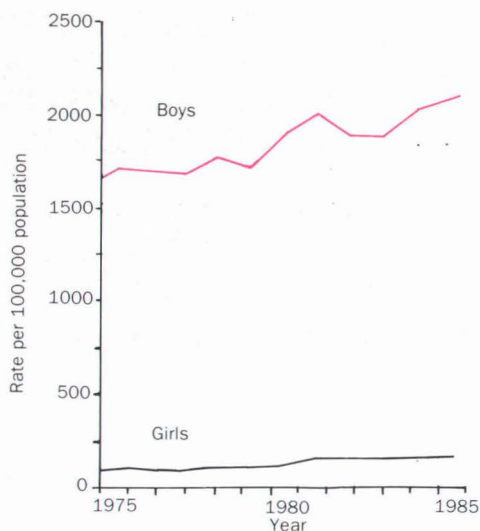


Source: NSW and WA Police Departments, *Annual Reports*, 1984-85.

Between 1973-74 and 1984-85, arrests increased for serious crimes

The increase for youngsters under 17 years and those 17 years and older was similar for violent crimes, 162 per cent versus 164 per cent; but for property crimes the increase was smaller for persons under age 17 years than for those 17 years and older, 51 per cent versus 63 per cent.

Figure 3.3 The gradual increase of youth arrest rates



Source: Mukherjee, S.K. et al. 1987, *The Size of the Crime Problem in Australia*, Australian Institute of Criminology, Canberra.

Property crimes are more typical of youth than of older offenders

Arrest data for 1984-85 show that juveniles under the age of 17 years were more likely than older persons to be picked up for property crimes (98 per cent versus 90 per cent). Juvenile involvement in property crime arrest accounts for 39 per cent whereas persons age 10-16 years constitute only 16 per cent of the total population. In arrests for violent offences youths under age 17 years account for only 12 per cent, less than their proportion in the general population. Arrests, however, cannot be

considered as an indicator of criminal activity. Since not all crimes reported to the police are cleared, and only 20 per cent of property crimes are cleared by arrest, those arrested for crimes are in no way representative of all those who commit crimes. The greater likelihood of arrests for young people may be due partly to their lack of experience in offending and in avoiding arrest, and also to their involvement in the types of crimes for which arrest is more likely. Moreover, since juveniles generally commit crime in groups, one crime may be solved by several arrests.

Juveniles tend to commit crime in groups

A major difference between juvenile and adult offenders is the tendency of youth to engage in group criminal activity. Two research studies (Mukherjee 1985; Mukherjee 1986) in New South Wales found that in arrests for burglary 80 per cent of the offenders aged 18 years and older acted alone whereas only 43 per cent of persons under age 18 years committed burglaries alone. Similarly, among adult arrestees for serious assault only 12 per cent acted in groups of two or more as against well over 60 per cent of juveniles who acted in groups.

Figure 3.4 Detention status - girls 1981-86

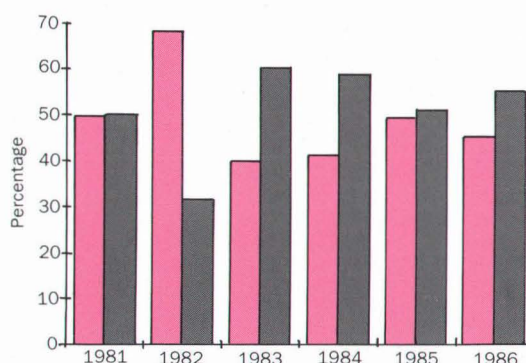
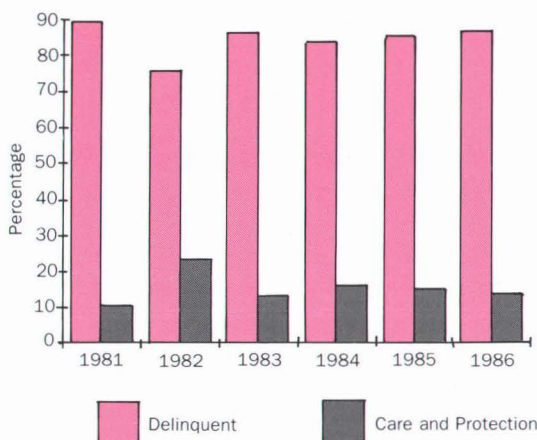


Figure 3.5 Detention status - boys 1981-86



Source: 'Juveniles under Detention', *Reporter*, 1981-86, Australian Institute of Criminology, Canberra.

Juvenile delinquents are predominantly male

Of the juveniles under age 17 arrested for property crimes, 21 per cent were girls; for violent crimes the corresponding proportion is 12 per cent. Among adult arrestees 26 per cent were women. Yet women make up only 5 per cent of prison inmates, which is a much smaller proportion than girls in juvenile institutions (14 per cent).

Girls are more likely than boys to be held for non-criminal conduct

The number of boys and girls held in juvenile corrective institutions has steadily declined in the 1980s. On an average about 1,100 boys and 200 girls are in such institutions on any given day.

Boys are more likely to be detained for delinquency than girls. About 85 per cent of the boys and only 50 per cent of the girls are held as offenders. Only 15 per cent of the boys but 50 per cent of the girls are held as care and protection cases.

Career criminals

The probability of arrest increases with each subsequent arrest

Research shows that once a person is arrested, the likelihood of further arrest increases with each subsequent arrest. The Victorian study (Coventry et al. 1984) of a group of juveniles revealed the following probabilities for rearrest for young boys and girls:

- 8 per cent of the entire group had one arrest
- 36 per cent of those with one arrest went on to a second arrest
- 56 per cent of those with two arrests went on to a third and more.

A few offenders are responsible for a large number of arrests

This finding gains strong support from cross-sectional data. The longitudinal study shows the number of arrests in the entire juvenile years, age 10 to 17. The study of burglary arrests in New South Wales shows that a very high proportion of offenders were arrested more than once for burglary alone in one year, and the study also shows that 0.9 per cent of all offenders were responsible for 13 per cent of all arrests for burglary in one year. This study reveals the following probabilities of rearrest:

- 35 per cent of those with one arrest went on to a second arrest
- 49 per cent of those with two arrests went on to a third arrest
- 59 per cent of those with three arrests went on to a fourth arrest
- 63 per cent of those with four arrests went on to a fifth or more arrest.

How many offenders are female?

Relatively few offenders are female

The number of women in prison increased at a rapid rate in the 1980s. A record number of women were in prisons in 1986. Between 1982 and 1986 women in

prisons as a proportion of total prison inmates grew by 65 per cent. Yet, because their number was so much smaller than that of men, women constituted only about 5 per cent of prison inmates.

Table 3.3 Percentage of females in arrests, 1986

Serious crime arrest	24%
Violent crime arrest	8%
Property crime arrest	25%
Larceny	34%
Non larceny	13%
Under correctional treatment	
Juveniles	14%
Prison inmates	5%

Source: Police Departments, *Annual Reports*, 1985-86; 'Juveniles under Detention', *Reporter*, 1981-86, Australian Institute of Criminology, Canberra; Walker, J. & Biles, D. 1987, *Australian Prisoners 1986*, Australian Institute of Criminology, Canberra.

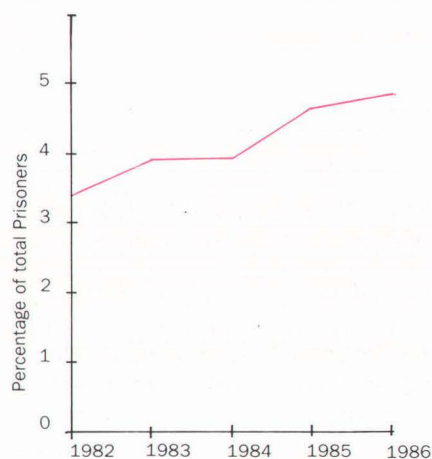
Figure 3.6 Percentage of male and female arrestees by type of crime

While most arrests are of males, the share of arrests that are of females is largest for theft



Source: Police Departments, *Annual Reports*, 1985-86; 'Juveniles under Detention', *Reporter*, 1981-86, Australian Institute of Criminology, Canberra; Walker, J. & Biles, D. 1987, *Australian Prisoners 1986*, Australian Institute of Criminology, Canberra.

Figure 3.7 Women as proportion of total prisoners



Source: Walker, J. & Biles, D. 1983-87, *Australian Prisoners*, 1982-86, Australian Institute of Criminology, Canberra,

Offence patterns differ for males and females

Males commit more crimes and are arrested for more serious crimes than females. Data pertaining to arrest, non-custodial treatment, and imprisonment all indicate that women come in contact with the criminal justice system primarily for such property offences as larceny, fraud, forgery and embezzlement. Men are involved more often in offences such as assault, robbery, burglary and larceny.

Men convicted of burglary accounted for 18 per cent of men in prisons and 18 per cent on non-custodial treatment; only 15 per cent and 9 per cent of women respectively were convicted of burglary. These proportions were reversed in the case of fraud and forgery offences.

For serious crime, the rate of arrest of females is much lower than that of males, but has risen faster.

Figure 3.8 Arrest rate per 100,000 population - males

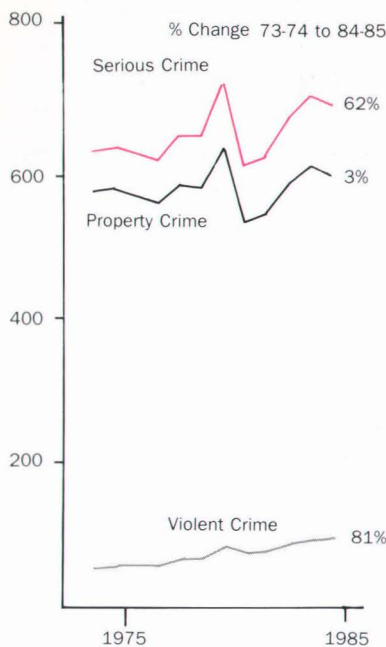
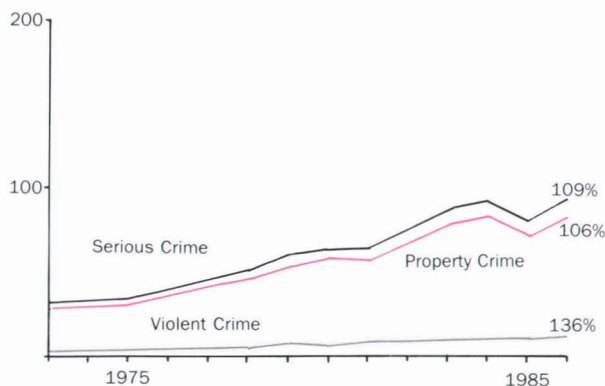


Figure 3.9 Arrest rate per 100,000 population - females



Source: Mukherjee, S. K. et al. 1987, *The Size of the Crime Problem*, Australian Institute of Criminology, Canberra.

Characteristics of proven offenders

The proportion of Aborigines in corrective treatment is greater than in the total Australian population

The Aborigines who constituted approximately 1 per cent of the total Australian population, accounted for:

- 11 per cent of the prison inmates
- 12 per cent of the parolees
- 8 per cent of those under non-custodial orders.

Aborigines are eight to twelve times over-represented among individuals under corrective treatment, but they are much more likely to be in such programs for good order and other minor offences than for violent and property offences.

Most offenders are Australian born

About 22 per cent of the total Australian population are overseas born but their representation among those under various corrective treatment is less than their proportion in the population. They constitute:

- 20 per cent of the prison inmates
- 17 per cent of the parolees
- 15 per cent of those under non-custodial orders.

The level of education reached by offenders was far below the national average

Only 4 per cent of the prison inmates had post school education (versus 42 per cent of persons age 20 to 64 years in the Australian population). Also, the proportion of those who did not complete school education was very high among the offender group, they accounted for:

- 84 per cent of the prison inmates
- 80 per cent of the parolees
- 78 per cent of those under non-custodial orders.

Most offenders were not married

Among prison inmates:

- Almost twice as many men (58 per cent) and twice as many women (46 per cent) as in the general population were never married, and 10 per cent of the male and 15 per cent of the female inmates were either divorced or separated.
- Only 27 per cent of the male inmates (versus 61 per cent males in the general population) and 30 per cent of the female inmates (versus 59 per cent females in the general population) were married.
- Among those under non-custodial treatment and the parolees a proportion similar to that among prison inmates were found to be never married.

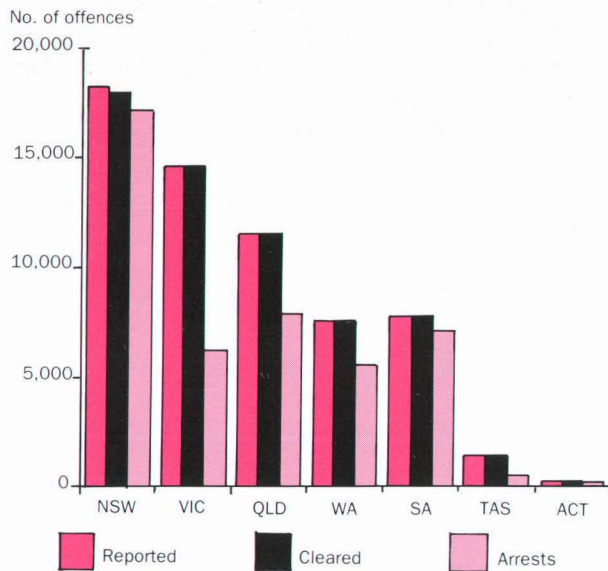
Many offenders experienced unemployment

Among prison inmates about 66 per cent were unemployed at the time of arrest (versus an unemployment rate of 8 per cent in the community). Only 21 per cent of the male and 8 per cent of the female inmates were employed. Among those under non-custodial orders and parolees about 40 per cent were unemployed.

Many prison inmates have prior prison experience

Among prison inmates, 63 per cent of the male and 55 per cent of the female inmates have had prison experience. Among those under non-custodial orders 15 per cent have had prior prison experience.

Figure 3.10 Drug offences reported to police and cleared, 1986-87



Source: Police Departments, *Annual Reports*, 1986-87.

A large number of offenders are processed for drug offences

In 1986-87 almost 62,000 drug offences were reported to the police in Australia, of these 99.5 per cent were cleared by arrest.

Juveniles are under represented in arrests for drug offences

Contrary to prevailing wisdom, persons under the age of 17 are grossly under-represented in arrests concerning drug offences. This is in spite of the fact that most of the drug offences relate to possession and/or abuse of prohibited drugs. In 1986-87, of those arrested for drug offences, only 8.5 per cent were juveniles; persons aged 17 to 24 years accounted for 55 per cent of all drug arrests.

A minority of drug offenders in prisons are young

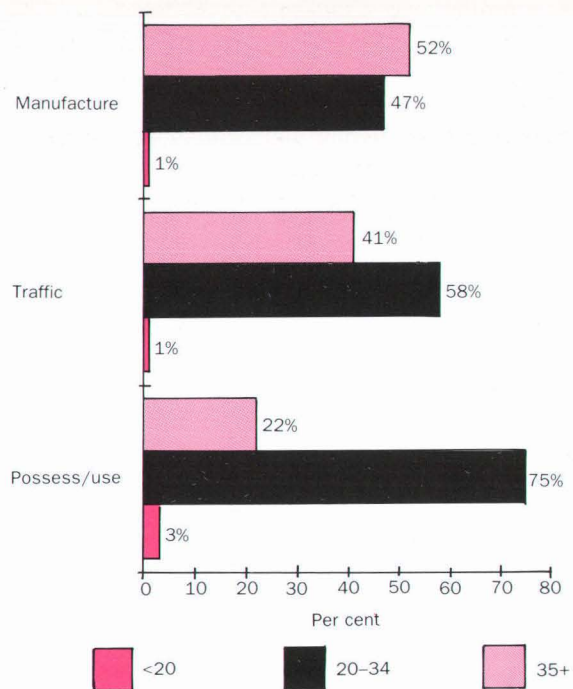
Only 2 per cent of the drug offenders in prisons are under the age of 20 years, and 50 per cent of the offenders are in the age group 25 to 34 years.

The drug-crime link is complex

Research results on the link between drugs and crime are inconclusive. A random sample of property offenders in prisons showed that about 40 per cent of the offenders were users of barbiturates, cocaine, heroin and other opiates before they committed the current offence.

- About 88 per cent of the users gave heroin as their main drug of choice.
- About 90 per cent of heroin users gave "need to support their drug habit" as the main reason for committing the major offence.
- Cash purchase was the main way of obtaining heroin for 92 per cent of heroin users.
- Heroin users expended between \$100 and \$10,000 per week with a median of \$2,000.

Figure 3.11 Drug offences by age of offenders



Source: Walker, J. and Biles, D. 1987, *Australian Prisoners*, 1986, Australian Institute of Criminology, Canberra.

The Response to Crime

*This chapter offers an overview of arrest and court procedures
with answers to questions such as:*

- How does one enter the criminal justice system?
- What are some of the roles and functions of the law enforcement agencies?
 - What determines the size of the police force?
 - When is a crime solved?
 - How do the court processes work?
- In which courts are most of the criminal cases finalised?
 - Who is a juvenile?
 - How are juvenile cases dealt with?
 - Can a juvenile be tried in a criminal court?
 - Can a juvenile be sentenced to a prison?

An overview

Entry into the system

Many crimes get no response from the justice system because they have neither been discovered nor reported. The police usually learn about crime from the reports of citizens—the victim, a neighbour, a bystander, etc. In a minority of instances crimes are detected either by the police officer in the field, or from investigative and intelligence work.

Once the report of a crime is accepted, the police investigate to establish that the crime has in fact been committed; search for suspects; make arrests; process the case through the system. Sometimes, a suspect is arrested at the scene; however, identification and arrest of a suspect usually takes time and extensive investigation. More often than not, no one is identified or arrested for a crime.

Pre-trial procedures

Arrested persons are brought to a police station where they are charged. Before being charged it is usual for the person to be searched, and if this is resisted the police are empowered to use force. In all serious cases, arrested persons are photographed and fingerprinted after being charged. But if no charges are filed, the accused is released.

In most Australian jurisdictions police permit arrested persons to make a telephone call to a legal adviser, friend, or relative. After the charge proceedings are completed, the accused may be either released on bail or held in custody. Sometimes the police may grant bail only in cases which can be tried by a magistrate. In minor cases an accused may be released on bail simply by entering into a recognisance; in serious cases a cash deposit and/or surety may be required before granting a bail. A suspect who is refused bail must be taken before a justice or a magistrate without unnecessary delay.

The police play a central role in pre-trial decision-making; they do the detection and investigative work; file charges; and except for the Australian Capital Territory, conduct the prosecution case. For matters which can be tried summarily the police retain complete power in the determination of the charges to be filed. Where the matter can be tried summarily or on indictment (that is before judge and jury) the police decision carries significant weight. If the police decide that the matter be dealt with summarily, it generally does end up being heard summarily. If it is decided that the charges filed be heard on indictment, there is usually a committal or preliminary hearing to discover whether there is sufficient evidence for the suspect to be committed for trial.

The Court hearing

There are basically two kinds of court hearing: those conducted in the Magistrates' Courts and those conducted in the higher courts. The Magistrates' Courts (also known as Courts of Petty Sessions and Court of Summary Jurisdiction) have no jury and, as a general rule, magistrates decide the guilt or innocence of the

accused. At the higher court the task is shared by a judge and a jury. The judge presides over the court and determines the law; the jury determines the guilt or innocence of the accused. As there are many more minor crimes than serious ones, the great bulk of criminal charges are heard and determined by the Magistrates' Courts.

From the point of view of the courts, crimes are classified into summary offences (that is, those triable by a Magistrate's Court) and indictable offences (that is, those triable by a higher court). Hearings at the Magistrates' Courts are quicker and the penalties less severe than trials involving indictable offences. There are strict limits on the amount of a fine and duration of a prison sentence which a magistrate may impose. Most serious offences such as murder, rape, grievous bodily harm and armed hold-up, are triable only at the higher courts but offences such as traffic violations, shoplifting and drunkenness, are dealt with summarily by Magistrates' Courts.

Once a charge has been filed or indictment issued, a hearing date is set and the accused informed. At the hearing the accused is informed of the charges and asked to enter a plea to the charges. If the accused pleads guilty, the judge or magistrate may accept or reject the plea. If the plea is accepted, no trial is held and the offender is sentenced at the same hearing or at a later date. The plea may be rejected for a number of reasons and if this happens the case may proceed to trial. Entering into plea plays a vital role in processing of cases. Guilty pleas not only expedite the flow of cases but also reduce overloading of the court system.

If the accused pleads not guilty or not guilty by reason of insanity, a date is set for the trial. A person accused of an indictable offence is entitled to a jury trial. However, for some charges involving indictable offences the accused may waive the right to a jury trial and opt to be tried summarily, at a Magistrate's Court. In both instances, the prosecution and defence present evidence by questioning witnesses. The trial results in acquittal or conviction on the original charges, or on lesser included offences.

After the trial and conviction, the offender may appeal for a review of the conviction or sentence. In other instances, the Crown or the state may appeal for a review of the sentence.

Sentencing and correction

If the offender pleads guilty or is convicted, the judge may then impose the sentence. If the judge/magistrate does not impose the sentence at this trial then the offender is remanded in custody, or on bail, to appear for sentence at a future date.

At this stage additional enquiries may be made as to the offender's background. This may be done by obtaining a pre-sentence (or welfare) report which is prepared by a social worker or probation officer. Such a report contains information concerning the offender's personality, family background, work record, his/her associates, etc. Sometimes these reports contain recommen-

dations relating to suitability or otherwise of particular sentencing measures, although they are intended only as a guide to the sentencing court. In arriving at an appropriate sentence, a sentencing hearing may be held at which the pre-sentence report and evidence of aggravating or mitigating circumstances will be considered.

There are a number of sentencing choices available to the court, they include:

- Imprisonment
- Community service orders — a means of restitution to the community which requires the offender to perform certain tasks for a prescribed duration.
- Probation — allowing the convicted person to remain at liberty but subject to certain conditions and restrictions. Such a sentence may or may not involve supervision by a probation officer.
- Fines — primarily applied as penalties for relatively minor offences.

If sentenced to a prison term, the offender may be eligible for parole after serving a specific portion of the sentence. Parole is a conditional release of a prisoner before serving the full sentence. The decision to grant parole is generally made by a parole board. The system of parole applies to all the states and territories. Some jurisdictions also have measures such as after-care probation and pre-release orders.

The juvenile justice system

The processing of juvenile offenders is, in most respects, similar to adult criminal processing. A child can be arrested, convicted and committed to an institution. For serious offences, such as murder and armed hold-up, a child receives a supreme court trial similar to an adult.

The pre-trial procedures for juveniles follow the same legal rules as for adults. The police have the power to ask questions, to arrest, to search, and to charge a juvenile. At trial, or hearing, the rules of evidence, the right to legal representation, etc., are the same for juveniles as for adults. In practice, however, these procedures appear much more informal for juveniles than for adults.

Discretion is exercised throughout the criminal justice system

The criminal justice system consists of a large number of agencies and thousands of officials. As they deal with such a variety of situations, circumstances and behaviours, it is impossible to make legislative provisions to cover every eventuality. Therefore, agencies such as the police, courts, and corrective services, and their officials, exercise a wide range of freedom to act according to their judgment. In criminal justice vocabulary this process is known as "discretion".

Discretion also allows the criminal justice system to function within resource limitations. If each and every violation was to pass through all the stages of the criminal justice system, the system would become so overloaded as to make it totally unworkable. Therefore, officials use their discretion to allocate resources in a way that meets the dual purpose of protecting the community and avoiding unnecessary stigmatisation of

individual members of the community.

The limits of discretion vary. For example, in dealing with a juvenile suspected of committing a crime, the police may use informal or formal caution, warning, do nothing, or arrest the juvenile. But the police do not have such options in all jurisdictions in Australia. Similarly, magistrates and judges in various jurisdictions may have different degrees of discretion in sentencing offenders, particularly in a children's/juvenile court, where hearings are without a jury, the magistrate/judge exercises enormous authority in deciding guilt/innocence as well as in sentencing.

Who exercises discretion?

Table 4.1 Powers of law enforcers

	Powers
Police	Enforce specific laws Investigate specific crimes Search people, surrounds, buildings Arrest, caution or warn people Release on bail File charges Seek summary trial or an indictment Reduce charges
Magistrate and Judge	Set bail Accept pleas Determine guilt Dismiss charges Impose sentence Revoke bond or probation
Correctional Authority	Determine security level Assign to type of correctional program Award privileges including work release etc. Punish for breaches of disciplinary code
Paroling Authority	Determine date and conditions of parole Revoke parole

Source: Australian Institute of Criminology, Canberra.

Response to crime is mainly a state function

The responsibility to respond to most crimes rests with the state and territory governments. Police protection, judicial administration, prisons, probation, parole, etc., are primarily state/territory government functions. The Commonwealth government exercises exclusive jurisdiction on a few crimes, for example, income tax and social security fraud, importation and traffic in illicit drugs, crimes against Australia Post, violation of customs law, etc. There are other crimes — many drug offences and fraud — where the Commonwealth and state/territory governments both have jurisdiction. In this last category of crimes the investigation and prosecution may be undertaken by several agencies, but only one level of government usually pursues a case.

Entry into the criminal justice system

The initial response to crime is usually by the police, but the system responds directly to only a small amount of crime.

Crimes are brought to the attention of the criminal justice system through citizen reporting or direct observation. But, as noted in Chapter 2, a large portion of crimes actually occurring in the community are not even reported to the police and only a very small portion of crimes are detected by the police. Therefore, the system responds only to a minority of total crimes.

Because most crimes reported, or becoming known to the police, are not solved by arrest, the amount of crimes dealt with directly by the criminal justice system through the processing of a suspect is relatively small. Indirectly, the system may be dealing with more crimes than appears in arrest data because the offenders who are processed may be responsible for much more crime than that for which they are arrested.

The following chart shows that the ratio between rates of crimes reported and arrests made vary markedly for violent and property offences.

Figure 4.1 Reported rate and arrest rate of property crime*

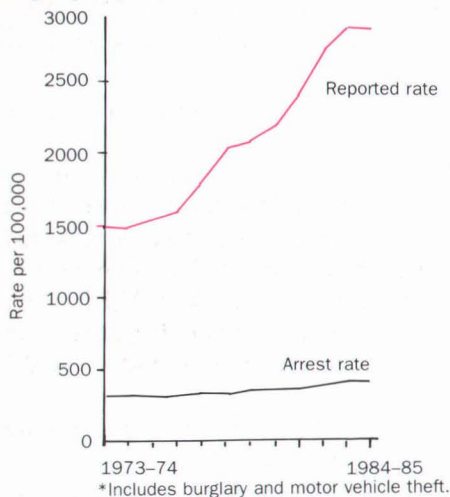
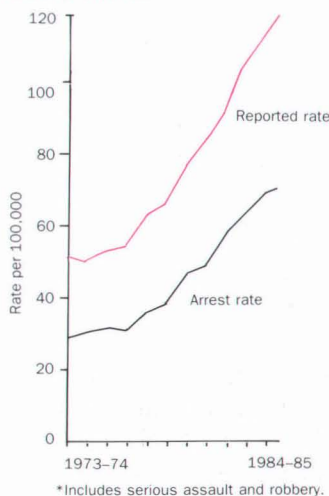


Figure 4.2 Reported rate and arrest rate of violent crime*



Source: Mukherjee, S.K. 1987, *The Size of the Crime Problem in Australia*, Australian Institute of Criminology, Canberra.

Law enforcement is only one of several roles of police, the three main roles of police officers being:

- Law enforcement — dealing with behaviour that violates laws through arrest and other recourses.
- Maintenance of order — taking steps to prevent and control events and situations that disturb or threaten to disturb the peace. For example, a police officer may be called to disperse an unruly crowd, to quiet an overly boisterous party, to deal with a brawl in a pub, to control a disturbance at a sporting event, or to mediate a family dispute.
- Information gathering — asking routine questions at a crime scene, inspecting victimised premises and maintaining necessary records.

The police also perform a number of secondary roles:

- Service related duties — responding to emergency calls relating to injured or sick persons, fire, accidents, notification of deaths, etc.
- Traffic control
- Protecting dignitaries
- Organising police— youth clubs
- Visiting schools to talk to children

Several detection techniques are used by police when a crime has been committed, but the suspect has not been identified, or if identified, has not been apprehended.

- Undercover techniques are used when a person is suspected of participating in criminal activity, yet no specific crime has been committed. Undercover work is common when a person or a group of persons are suspected of being involved with an organised drug dealing operation; police investigators pose as drug buyers.
- Informers are used to break illegal gambling, book-making, etc.
- Intelligence techniques such as telephone tapping and electronic surveillance may be used.

Police functions are determined by state and territory governments

- All the six states and the Northern Territory have their own police forces.
- In 1985-86 the seven police forces employed 32,904 uniformed police officers and 6,171 civilian (public service) employees.
- There are a number of other agencies at the state and Northern Territory level which participate in law enforcement related work. These include corporate affairs commissions, ranger services and health and railway departments.

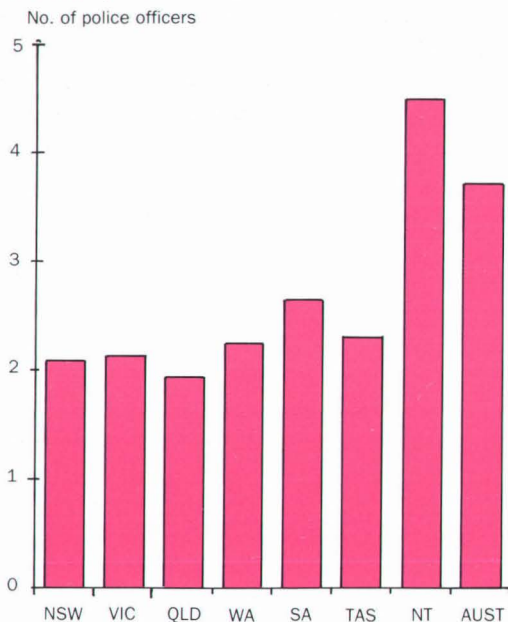
There are a number of agencies at the Commonwealth level that have substantial law enforcement workloads and functions:

- Australian Federal Police which, besides policing the Australian Capital Territory, is also responsible for the enforcement of Federal laws throughout Australia.
- Australian Bureau of Criminal Intelligence.
- National Crime Authority.
- Australian Customs Service.

- Departments of Taxation, Health, Social Security, Immigration and Ethnic Affairs, the Trade Practices Commission and the Armed Forces all have their own investigative bodies, and co-operate with and assist the Australian Federal Police.

The relationship between police strength and crime

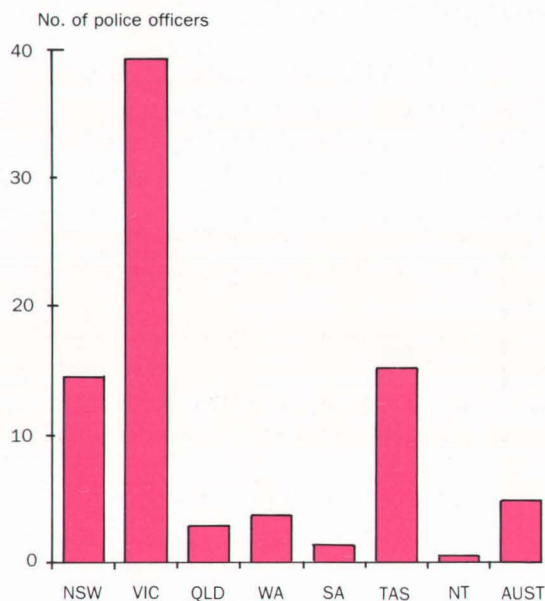
Figure 4.3 Number of police officers per 1000 residents, 1985-86



Source: Police Departments, *Annual Reports*, 1985-86.

Police employment in Australia ranges from one police officer for 214 residents in the Northern Territory to one officer for 523 residents in Queensland. The number of officers per 1,000 km² range from 0.5 in the Northern Territory to 40 in Victoria

Figure 4.4 Number of police officers per 1000 km²



Source: Police Departments, *Annual Reports*, 1986-87.

Decisions on the size and distribution of the police force are determined by a variety of factors

These include political expediency and the budgetary constraints of a government.

- Many people believe that crime prevention and control are the sole responsibility of the police and other criminal justice agencies, and therefore increasing the size of the police force will result in higher levels of protection and will lead to reductions in crime. However, there is no simple and clear-cut relationship between crime and police strength.
- Policing, unlike most other activities, is a round-the-clock activity, and only a portion of the total police force can be on duty at any given time.
- Approximately 85 to 90 per cent of the crimes coming to the attention of the police are reported by the citizens. Hence, the attitude of the citizens toward informing on criminal incidents plays a part in the level of reported crime.
- Crimes which are likely to be influenced by the increased size and distribution of the police force are: traffic related crimes; drunkenness and drunk and disorderly; and possession and abuse of narcotic drugs.
- Two factors that appear to determine the distribution of police strength are the density of population and commercial activity.

Police employment per capita rose by 27 per cent in twelve years

Between 1973-74 and 1985-86, the number of police officers per 1,000 residents of Australia increased from 1.8 to 2.3. Over approximately the same time period reported violent crime rates rose by 200 per cent (from 28.3 per 100,000 population in 1973-74 to 84.7 in 1985-86), and the property crime rate increased by 89 per cent (from 2991.6 per 100,000 population in 1973-74 to 5650.8 in 1985-86).

Between 1973-74 and 1985-86, growth in the number of police officers per capita occurred in most states but was highest (38 per cent) in South Australia and was lowest (17 per cent) in Queensland.

Growth in police officers per capita between 1973-74 and 1985-86 was

New South Wales	19 per cent
Victoria	37 per cent
Queensland	17 per cent
Western Australia	24 per cent
South Australia	38 per cent
Tasmania	nil
Northern Territory	29 per cent
Australia	27 per cent

Besides uniformed officers, the police forces employ a large number of public service personnel. During the five-year period (1980-81 to 1985-86) public service employees in police departments rose by 34 per cent, from 4613 to 6171.

The arrest process

A suspect must be identified and arrested before the case of a crime can proceed through the system. Sometimes a suspect is arrested at or around the scene of an offence; however, often extensive investigation and detective work is required to identify a suspect; and in many cases, no one is identified or arrested. Arrest can be made with or without a warrant; law enforcement officers have wide discretion in determining when to make an arrest. In making an arrest without a warrant, the police must be able to show that they had probable cause that the suspect committed the crime at the time of arrest. The decision to arrest may be based on a number of other factors, namely, the seriousness of the crime, likelihood of re-offending by the suspect, likelihood of suspect absconding, protection of the suspect, etc. Warrants for arrest are used when the suspect is known but his/her whereabouts is not, or in complex criminal cases where a decision to prosecute precedes a decision to arrest, etc.

Most individuals enter the criminal justice system through the arrest process, but some enter by other means

For example, summons and infringement notices may be issued by a police officer requiring a person to appear before a court to answer a criminal charge. The most common use of such notices are for minor traffic violations. One can avoid a court appearance in this instance by paying a prescribed sum. A second means of entering the criminal justice system is through the issuance of an indictment by an Attorney-General, the Director of Public Prosecution or the National Crime Authority.

Over 270,000 arrests were reported by the police in 1985-86

Table 4.2 Arrests by Police, 1985-86

Rank	Offence	Number of Arrests	Per cent
1	Theft	74,271	27.33
2	Drugs	45,216	16.64
3	Break/Enter/Steal	28,793	10.60
4	Assault	25,274	9.30
5	Prop. Damage etc.	19,967	7.35
6	Fraud/Forgery	12,013	4.42
7	Motor Vehicle Theft	11,888	4.38
8	Other Sex Offence	2,942	1.08
9	Robbery	2,127	0.78
10	Rape	1,375	0.51
11	Other Against Person	947	0.35
12	Homicide	686	0.25
	Miscellaneous	46,236	17.01
	Total	271,735	100

Source: Police Departments all states and territories, *Annual Report*, 1985-86.

Juveniles may be arrested for conduct that would not be considered criminal if committed by an adult

Such conduct includes running away from home, truancy, possession of alcoholic beverage, and incorrigibility. Generally, juveniles arrested for such conduct are referred to welfare agencies.

The crime clearance rate

When is a crime considered solved?

Only a portion of all crimes reported or becoming known to the police are ever solved; even serious crime like murder does not have a 100 per cent solution rate. "Solution" is the terminology used by the police as "cleared" and does not refer to the trial by court and its final disposition. An offence may be cleared in a number of ways, for example:

- When a person is arrested and charged with committing the offence, or warned by a police officer instead of being charged, or an information is laid against at least one person.
- When it is discovered on investigation that no offence was committed.
- When the offender identified is below the age of criminal responsibility or has diplomatic immunity, and cannot be charged.
- When the offender has been committed to a psychiatric hospital before a charge could be laid or he/she is already serving a sentence, or the suspect is dead, etc.

Most crimes are not cleared by arrest

Table 4.3 Percentage of reported crimes cleared by arrest 1985-86

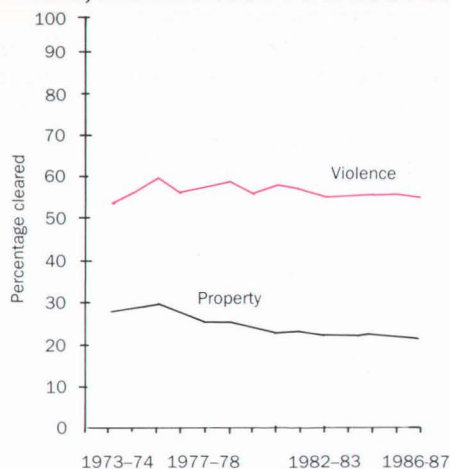
Crimes	Reported crimes cleared by arrest
Violent Crimes	55%
Murder	86%
Serious Assault	73%
Rape	71%
Robbery	25%
Property Crimes	21%
Burglary	12%
Motor Vehicle Theft	15%
Fraud Forgery	71%
Larceny - Theft	22%

Source: Mukherjee, S.K. et al. 1987, *The Size of the Crime Problem*, Australian Institute of Criminology, Canberra.

Violent crimes are more likely to be cleared than property crimes

The rate of clearance for crimes of violence (murder, serious assault, rape, and robbery) is nearly 55 per cent as compared with 21 per cent for property crimes (burglary, motor vehicle theft, fraud, and theft). The difference in clearance rate is mainly due to the fact that in violent crime incidents the victim often confronts the offender; witnesses are more frequently available in connection with violent crimes than with property crimes; the police allocate greater resources to investigate crimes of violence than property crimes, resulting in a greater number of arrests.

Figure 4.5 Proportion of violent and property offences cleared, Australia 1973-74 to 1986-87



Source: Mukherjee, S.K. et al. 1987, *The Size of the Crime Problem*, Australian Institute of Criminology, Canberra.

Prosecution and adjudication

How is a case brought before the courts?

Except in the Australian Capital Territory, the police bring charges against individuals and conduct prosecution. An arrested person is brought to a police station and once the formalities are completed he/she is charged or released. In relatively minor cases the arrested person may be released on bail on his/her own surety. In more serious cases he/she may be required to deposit a cash bail and/or present a surety. Bailed persons are informed of the time and place of their court hearing. Persons refused bail must appear before a magistrate as soon as possible.

Once charges are laid a case may be terminated only by official action

The prosecution can drop a case or the court can dismiss the case on motion of the defence on grounds that the prosecution has failed to establish that the defendant committed the crime charged. The most common reason for rejection or dismissal of cases is the lack of sufficient evidence that links the defendant to the crime. Other reasons may be the failure of a witness to offer clear and consistent statements, or his/her reluctance to testify, or he/she may be unsure of the identity of the defendant.

Accused persons are entitled to representation by counsel

Accused persons have the right to defend themselves, but in all serious cases most prefer to be represented by a legal practitioner. Such representation, especially in protracted cases, can be an expensive affair. In 1973 a national system of legal aid — the Australian Legal Aid Office — was instituted. Later, some of the states established Legal Service Commissions under state legislation and these receive funding from both the Commonwealth and state governments. Legal aid to defendants is based on certain eligibility criteria. Legal aid is provided either through the salaried legal staff of the commissions or by assignment to private legal profession.

How are the courts organised?

The courts which may exercise criminal jurisdiction in Australia may be ranked from the lowest to the highest in four distinct categories:

- Courts of summary jurisdiction (referred to as Courts of Petty Sessions or Magistrates' Courts);
- Intermediate courts (District or County Courts);
- Supreme Courts;
- High Court of Australia.

There are no courts at the intermediate level in Tasmania, the Northern Territory and the Australian Capital Territory, and cases which would otherwise be heard at the intermediate level in those jurisdictions, are heard in their respective Supreme Courts.

A large majority of criminal charges are finalised by the courts of summary jurisdiction

Almost all of the numerous simple offences created by statute are matters for the courts of summary jurisdiction. These simple offences are many and include traffic and parking offences, drunkenness offences, offences against public order and safety, public health offences (including possession and abuse of drugs), etc. These summary offences are tried without jury, and decided almost always at a single sitting. Very frequently the defendant pleads guilty and the case may be disposed of in a matter of minutes. Although penalties are specified, the court, within a maximum limit, usually has a considerable amount of discretion.

In addition to these statutory offences, the courts of summary jurisdiction also try summarily a range of indictable offences. These include thefts, false pretences, simple assaults, receiving stolen property, burglary and break and enter, etc. These are the numerically most frequent offences and summary trials reduce greatly the work-load of the higher courts. Generally, property offences up to a certain value are triable summarily; the higher limits of the value vary greatly across Australian jurisdictions.

In Victoria, for example, the limit was increased in 1980 from \$2,000 to \$10,000. Similarly, the 1983 changes in the law raised the limits in New South Wales to \$10,000. In the Australian Capital Territory, Northern Territory and Tasmania the jurisdiction of Magistrates' Courts for property crimes have also been increased to \$10,000. In Queensland the limit is \$5,000, in South Australia \$2,000 and in Western Australia \$500. The maximum limit in certain states is applicable only to cases in which the defendants consent to summary trial. In some states, defendants may opt for any minor indictable offence to be tried by jury. However, for more serious offences the defendant in all states must consent to summary trial.

A small portion of offences are tried in higher courts Barring the offences of homicide, rape and robbery, most of the thousands of criminal charges are finalised in the Magistrates' Courts. Three in four charges result in convictions and only two per cent are committed for sentence or trial to the higher courts. A quarter of the charges are dismissed, withdrawn or acquitted.

Table 4.4 Magistrate court appearances: summarily convicted and committals for sentence or trial, Queensland, 1987-88

Offence	Total Appearances	Summarily Convicted	Convicted for Sentence or Trial
Homicide, etc.	167	-	156
Murder	54	-	51
Attempted murder	51	-	49
Manslaughter	16	-	14
Other related	46	-	42
Assault, etc	5006	2842	995
Major assault	1543	987	376
Minor assault	2622	1667	33
Rape	156	-	144
Other sexual offences	481	54	387
Other violations of persons	204	134	55
Robbery & Extortion	178	-	170
Fraud & Misappropriation	2682	2215	317
Breaking & Entering, Theft, etc.	9986	7849	1567
Burglary, break & enter	1885	1144	665
Unlawful use of motor vehicle	977	699	223
Stealing	6313	5472	495
Receiving	811	534	184
Property Damage	1991	1663	220
Driving, Traffic, etc	110033	97996	48
Other Offences	50261	19156	325
Total	180304	131721	3798

Source: Australian Bureau of Statistics, Queensland 1989, *Law and Order*, 1987-88, Cat. No. 4502.3

Delays in Magistrates' Courts occur at several stages

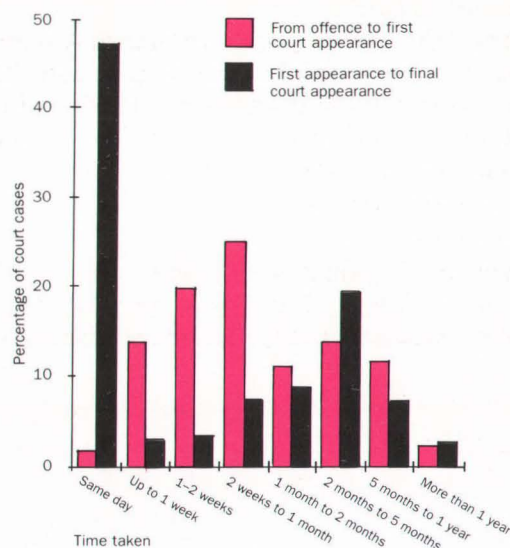
The first delay involves identification of a suspect, laying charges and first appearances before a court. Only about one in three charges lands in court for the first time in less than two weeks after the offence. Once brought before the court, about half of the cases are disposed of the same day, 70 per cent of the cases are decided within two months and the time taken between the first and final appearance for 90 per cent of the charges is less than six months.

Table 4.5 Time taken in processing charges at magistrates' courts, New South Wales, 1987

Time Taken	From Offence to First Court Appearance	First Appearance to Final Court Appearance
Same day	1,097	27,805
Up to 1 week	8,150	1,798
1-2 weeks	11,673	2,058
2 weeks - 1 month	14,649	4,422
1- 2 months	6,478	5,226
2- 6 months	8,172	11,433
6 months - 1 year	6,894	4,314
More than 1 year	1,397	1,692

Source: NSW Bureau of Crime Statistics & Research, 1987, *Lower Criminal Courts & Children's Courts Statistics 1987*.

Figure 4.6 Time taken in processing charges New South Wales 1987



Source: NSW Bureau of Crime Statistics and Research 1987, *Lower Criminal Courts & Children's Courts Statistics 1987*.

Summary trials have certain attractions:

- Charges of indictable offences at the Magistrate's Courts are heard and determined quickly.
- The Magistrate's Court is usually less formal and less intimidating than a higher court.
- A summary trial may result in a lesser penalty than could be imposed by district or Supreme Courts.
- A summary trial is cheaper particularly when the accused pays for the lawyer.

While these may be seen by some as advantages or merits of summary trials, accused are often pressured into such a trial. A case tried by a jury appears to have a higher probability of being acquitted, but the defendant may have to wait for months before his/her case comes up for trial. It also increases the cost. Even when a defendant receives publicly funded legal aid, often such aid is available if he/she consents to a summary trial.

Higher courts appearances

Relatively serious cases are tried at the higher courts. Of the cases appearing before higher courts, about three in four result in convictions.

Table 4.6 Higher courts, appearances and convictions, Queensland, 1987-88

Offence	Total Appearances	Convictions
Homicide, etc	120	65
Assault, etc.	1,094	740
Robbery & Extortion	178	131
Fraud & Misappropriation	358	259
Breaking & Entering	1,414	1,091
Theft, etc. Property Damage	210	142
Driving, Traffic, etc	53	40
Other Offences	384	327
Total	3,811	2,795

Source: Australian Bureau of Statistics, Queensland, 1989, *Law and Order*, 1987-88, Cat. No. 4502.3.

Cases involving juveniles are handled differently to those involving adults

There are eight juvenile justice systems in Australia, each has the agency of children's/juvenile court. The language used in these courts is less harsh and the procedure less formal than in courts for adults. Besides arrest, a juvenile may be referred to a court by parents, schools or other sources.

Who is a juvenile?

The definition of a juvenile varies across states. As the information in Table 4.7 indicates, both the age of criminal responsibility and the upper age limits vary.

Table 4.7 Age of criminal responsibility and upper age limit of juveniles

Jurisdiction	Criminal Responsibility	Upper Age Limit
New South Wales	10 years	Under 18 years
South Australia	10 years	Under 18 years
Australian Capital Territory	8 years	Under 18 years
Western Australia	7 years	Under 18 years
Queensland	10 years	Under 17 years
Northern Territory	10 years	Under 17 years
Victoria	8 years	Under 17 years
Tasmania	7 years	Under 17 years

Source: Various legislation, all jurisdictions.

Most referrals to Childrens Courts are for property crimes

Table 4.8 Children's Courts, appearances, offences proven and committals, Queensland 1987-88

	No. of Appearances	Percentage of total
Against the person	323	7%
Homicide, etc	6	
Assaults, etc	299	
Robbery & Extortion	18	
Against property	2755	62%
Burglary, break & enter	1070	
Unlawful use of motor vehicle	449	
Stealing	783	
Receiving	177	
Fraud & Misappropriation	65	
Property Damage	211	
Driving, Traffic etc	700	16%
Other Offences	670	15%
Total	4448	100%

Source: Australian Bureau of Statistics, Queensland, 1989, *Law and Order*, 1987-88, Cat. No. 4502.3.

Under some circumstances, juveniles may be tried in criminal courts

In all states any child above the age of criminal responsibility, when charged with homicide, including murder and manslaughter, shall be tried like an adult in an adult court.

In Victoria, South Australia and Northern Territory a trial is conducted in a criminal court when a child above

the age of criminal responsibility and charged with an indictable offence requests a trial by a jury in an adult court.

In Victoria parents of a child under the age of 15 years charged with an indictable offence can request a trial by jury in an adult court.

In addition to the above juveniles are tried in criminal courts for the following reasons:

New South Wales When charged with rape or an offence punishable by life imprisonment.

Queensland When charged with an indictable offence punishable by imprisonment with hard labour for life.

Western Australia Any child above the age of criminal responsibility charged with treason. Children 14 years of age and over charged with indictable offences.

Tasmania When a child 14 years of age and over charged with rape, wounding with intent to inflict grievous bodily harm, and robbery with violence.

Northern Territory When charged with an indictable offence punishable by imprisonment for life.

Australian Capital Territory When charged with rape or an offence punishable by life imprisonment.

Can a juvenile be sentenced to imprisonment by a Children's/Juvenile Court Magistrate/Judge?

New South Wales The *Child Welfare Act* does not prohibit a magistrate sentencing children to prison.

Victoria A juvenile over the age of 15 years may be ordered to be detained in a Youth Training Centre for a period not exceeding 2 years for one offence.

Queensland A juvenile may be ordered to be imprisoned for a period not exceeding 2 years.

Western Australia A juvenile 16 years of age and over can be ordered to a term of imprisonment not exceeding 3 months in respect of any one offence.

South Australia The Children's Court is not empowered to sentence a child to imprisonment.

Tasmania A juvenile 16 years of age and over can be ordered to be sent to prison.

Northern Territory A juvenile 15 years of age and over can be ordered to imprisonment to a term not exceeding 6 months.

Australian Capital Territory The *Child Welfare Act* does not prohibit a magistrate sentencing children to prison.

Sentencing and Punishment

This chapter describes what happens to convicted offenders in Australia, with data showing:

- How does public opinion assess the various sentencing options?
 - How many people are sentenced in Australia each year?
 - What types of sentences are imposed on offenders?
 - What sentence lengths are actually served by offenders?
- How many people are under some form of supervision, including prison?
 - What sort of people are they?
- Are prison populations outstripping available accommodation?
 - Does imprisonment really deter from re-offending?
 - How are juvenile offenders punished?

Objectives of sentencing

The sentencing of criminal offenders is a reflection of multiple and often conflicting social objectives.

The principal objectives of sentencing are:

Deterrence—punishing convicted offenders to reduce crime by making the public and the offender aware of the probability and severity of punishment for criminal behaviour

Retribution—punishing offenders to express societal disapproval of criminal behaviour without specific regard to prevention of crime by the offender or among the general public

Rehabilitation—removing or remedying presumed causes of crime by providing economic, psychological, or social-skills assistance to offenders to reduce the likelihood of continuing in crime

Incapacitation—separating offenders from the community to reduce the opportunity for further commission of crime

Reparation—increasingly the community in general, and victims' organisations in particular, are demanding the compensation of the victim(s) of the crime for hurt or loss. This can take the form of reparative community work such as cleaning up graffiti, or specific monetary compensation to the victim.

Attitudes about sentencing reflect multiple objectives and other factors

Research on judicial sentencing attitudes and practices,

such as that carried out by the various Law Reform Commissions, has shown that judges and magistrates vary greatly in their commitment to one or more of these objectives when imposing sentences.

Factors such as the prevalence of the offence, the circumstances of the offender (particularly their prior record if they have one), and differing opinions as to the seriousness of the offence, all complicate the sentencing decision.

Public opinion, as well, shows considerable divergence about the appropriate sentences to be served in different cases.

Magistrates and judges are usually given a wide range of discretion in sentencing offenders

As an illustration of the variation allowable by law in sentencing in Australia, consider the following list of sentencing options available to magistrates in New South Wales in 1986 in respect of a minor shoplifting offence:

The magistrate could:

1. Without proceeding to conviction, either dismiss charge or discharge defendant on entering recognisance to be of good behaviour for a stated period (and comply with probation supervision).
2. Convict, but defer passing sentence on recognisance to be of good behaviour for a stated period (and comply with probation supervision).
3. Impose a fine not exceeding \$1,000.

Table 5.1 Most commonly selected sentence options for selected offences - survey of public opinion 1987

Offence	No penalty	Warning	Fine	Percentages					Total
				Probation	CSO	Prison	Life	Death	
1. Stabbing to death	-	-	-	-	-	17	53	29	100
2. Heroin trafficking	-	-	-	1	2	42	36	18	100
3. Factory pollution causing death	-	2	57	2	3	28	6	-	100
4. Employer negligence causing injury to employee	1	4	66	3	2	22	2	-	100
5. Armed robbery (\$5,000 stolen)	-	1	5	3	3	85	3	-	100
6. Child bashing (victim requires hospital treatment)	1	8	4	24	13	49	2	-	100
7. Wife bashing (victim requires hospital treatment)	1	12	7	23	17	40	1	-	100
8. Social security fraud (\$1,000 cheques cashed)	1	6	41	10	24	17	-	-	100
9. Medicare fraud (\$5,000 false claims)	-	3	60	6	6	24	-	-	100
10. Income tax evasion (\$5,000 tax evaded)	3	9	61	7	8	13	-	-	100
11. Break and enter (\$1,000 stolen)	-	1	17	11	11	60	-	-	100
12. Male homosexuality in private	72	10	3	4	3	6	-	-	100
13. Shoplifting (\$5 goods stolen)	3	51	11	15	11	8	-	-	100

Source: Walker, J. et al. 1987, *How the public sees sentencing - an Australian survey*, Trends and Issues No.4, Australian Institute of Criminology,

4. Impose a community service order - not exceeding 200 hours.
5. Sentence to a term of periodic (weekend) detention not exceeding 12 months.
6. Sentence to a term of imprisonment not exceeding 12 months.
7. Sentence to imprisonment not exceeding 12 months plus fine of \$1,000.

Source: Anderson, K. 1986, "Sentencing in Magistrates Courts" in *Sentencing in Australia*, Ivan Potas (ed.), Australian Institute of Criminology, Canberra.

Concern over sentencing disparities has resulted in appeals systems and monitoring agencies

Fairness in trial procedures and in sentencing requires that offenders in similar circumstances should face similar verdicts and penalties, but this can be extremely difficult to achieve, particularly in a multi-jurisdictional justice system with diverse legislation and practices. To reduce the incidence of disparities each jurisdiction has a system whereby people can appeal to a higher court against a conviction or against the severity of a sentence. The results of significant appeal cases are often held up as precedents when similar cases arise.

State and Federal Law Reform Commissions have been in operation since the 1970s, with the task of reviewing out-dated and unfair laws and court practices. Some jurisdictions are also setting up judicial commissions to monitor sentences in general and to review specific sentencing issues as they arise.

Different levels of court have different sentencing powers

Three distinct levels of court exist in Australian jurisdictions—children's courts, adult lower courts, and higher courts—and each of these levels of court has different sentencing powers. For example, Queensland 1984-85 courts data show the following sentencing patterns. Persons appearing in Children's Courts most frequently were admonished and discharged, or committed to the care and supervision of a juvenile institution. Persons appearing in Magistrates' Courts most frequently received a fine, while those sentenced in a higher court most often received prison sentences. The sentencing patterns shown here are, broadly speaking, repeated in all jurisdictions in Australia.

The majority of cases are heard by magistrates

The lower courts hear the majority of cases in Australia. They are the Courts of Summary Jurisdiction, variously known as Magistrates' Courts, Local Courts or Courts of Petty Sessions. Around 90 per cent of all cases are heard in this type of court. Magistrates may impose a variety of sentencing measures including imprisonment, but there are maximum limits placed by law on the amounts of fines and prison terms they may impose.

Where the accused is a juvenile, the case will normally be heard in a Children's Court, unless the charges are particularly serious. Children's Courts are similar in operation to Magistrates' Courts, but the range of orders available differs in that offenders may, for example, be placed under the supervision of juvenile probation

officers or be sent to special juvenile institutions (with or without a recorded conviction).

The more serious charges, for which heavy prison sentences or fines may be imposed, are generally heard initially at the Lower Court level, and there, if appropriate, committed for trial by jury at the Higher Court level. Judges presiding over these cases may impose prison sentences or other sentencing options as prescribed by legislation and as guided by common law principles.

Current sentencing alternatives

What types of sentences are available in Australia?

The main types of sentences are: care and supervision order, good behaviour bond, fine, probation, community service order, suspended prison sentence, home detention, prison sentence.

In addition, courts are entitled to impose other orders such as the loss of a driver's licence or restitution.

All states and territories of Australia have prisons, except for the Australian Capital Territory where there is currently only a Remand Centre. Prisoners serve their sentences in institutions which vary from maximum security prisons, which are heavily guarded and surrounded by high walls and perimeter fences, to the minimum security prison farms and forestry camps, where relatively trusted prisoners can be given productive work and prepare themselves for their eventual return to society. Sentenced prisoners from ACT courts are sent to prisons in New South Wales to serve their sentences.

Three types of community-based supervision orders are also available in all Australian jurisdictions:

- Orders whose principal objective is supervision of the offender, for example, probation;
- Orders whose principal objective is restitution, or compensation to the community, such as community service orders; and,
- Orders whose principal objective is the supervision of an offender during their return to the community after serving all or part of a term in prison, for example, parole.

The most common sentence passed in Australia is, however, the fine. This is largely due to the fact that the most frequent charges heard in courts are for relatively minor offences, such as breaches of traffic regulations, for which the fine is deemed the most appropriate penalty in most jurisdictions.

Of the over half a million sentences handed down in Australia each year, about two-thirds are fines; just over 10 per cent are prison sentences

Almost two-fifths of sentences passed in Australian courts per year are for driving offences.

Table 5.2 Charges heard during 1984-85: principal outcomes of offences proven, by level of court and offence

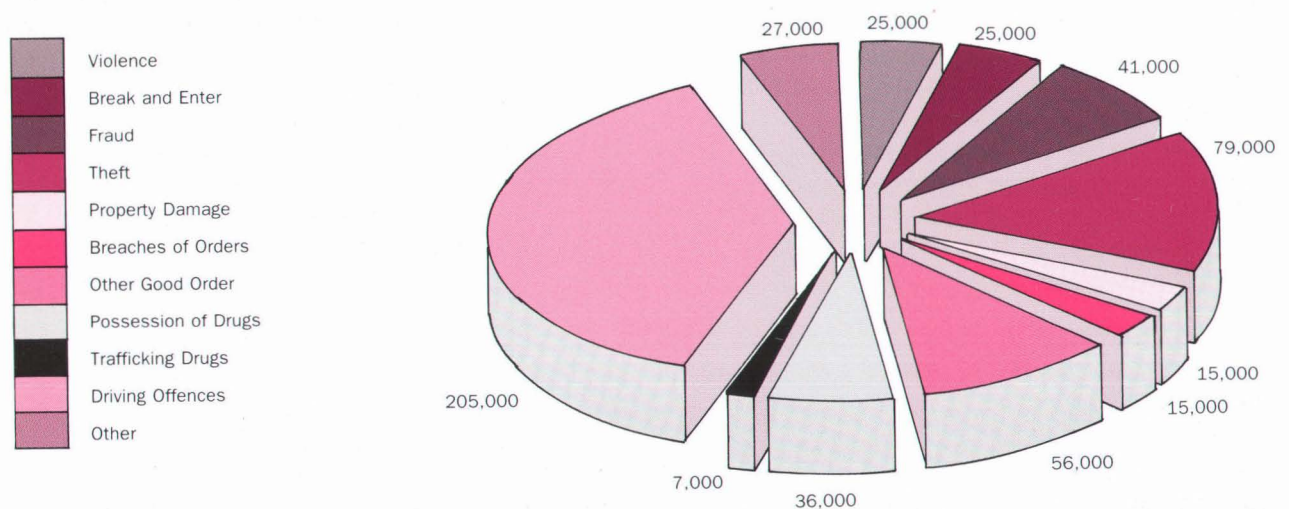
Offence Category	Children's Court Outcomes (%)				Total Children's Courts
	Admonished & Discharged	Care or Supervision Order	Fine or Restitution Order		
Homicide etc	-	100	-		100
Assault etc	55	31	14		100
Robbery & extortion	50	50	-		100
Fraud & Misappropriation	79	21	-		100
Theft, Breaking & Entering etc	51	43	1		100
Driving, Traffic etc	52	7	39		100
Other Offences	65	21	13		100
Total	54	38	8		100

Offence Category	Magistrates' Courts Outcomes (%)					Total Mag. Courts
	Good Behaviour Bond	Fine &/or Restitution	Probation	Community Service Order	Prison	
Homicide etc	-	-	-	-	-	100
Assault etc	7	72	6	5	9	100
Robbery & extortion	-	-	-	-	-	100
Fraud & Misappropriation	8	52	12	9	19	100
Theft, Breaking & Entering etc	3	66	11	8	12	100
Driving, Traffic etc	-	97	-	1	2	100
Other Offences	1	82	3	4	5	100
Total	1	87	3	3	4	100

Offence Category	Higher Court Outcomes (%)					Total Higher Courts
	Good Behaviour Bond	Fine &/or Restitution	Probation	Community Service Order	Prison	
Homicide etc	3	17	2	5	73	100
Assault etc	11	9	16	8	53	100
Robbery & Extortion	1	1	8	3	82	100
Fraud & Misappropriation	4	9	13	23	52	100
Theft, Breaking & Entering etc.	8	6	26	19	39	100
Driving, Traffic etc	5	34	5	11	43	100
Other Offences	3	10	7	2	77	100
Total	5	8	16	13	56	100

Note - Outcomes published under "Other" categories have been omitted. Their numbers were small.
Source: Australian Bureau of Statistics, Queensland *Law and Order*, 1984-85, Cat No. 4502-3, pp. 34-5, 22-3, 16.

Figure 5.1 Sentences passed in Australian courts, by offence type



Source: Compiled from various original documents containing the most recently available statistics for each jurisdiction. The source documents mostly relate to 1985-86, but some elements date back to 1982. These differences would not significantly affect the table as presented here. The figures must, however, be regarded as under-estimates of the true figures. In particular, the New South Wales data were only for the most serious offence; many sentences would therefore be omitted. Secondly, the Victorian data did not include driving offences, which were a large proportion of all charges proved.

Table 5.3 Numbers of charges proved, by offence type and type of penalty (in thousands)

Offence	Detention	Recognisance, Bond, Probation	Fine	Other	Total
Violent Offences*	6 (23.9)	8 (33.6)	10 (39.1)	1 (3.4)	25 (100.0)
Breaking and Entering	12 (48.1)	9 (36.5)	3 (12.3)	1 (3.2)	25 (100.0)
Fraud and Misappropriation	10 (23.6)	13 (32.8)	15 (36.5)	3 (7.1)	41 (100.0)
Other Theft	17 (21.5)	28 (35.2)	30 (38.2)	4 (5.1)	79 (100.0)
Property Damage	2 (10.2)	3 (21.1)	10 (63.9)	1 (4.7)	15 (100.0)
Breaches of Court Orders	3 (20.3)	2 (16.3)	7 (48.3)	2 (15.1)	15 (100.0)
Other Good Order Offences	3 (6.1)	5 (8.2)	40 (71.7)	8 (14.0)	56 (100.0)
Possession of Drugs	2 (4.8)	7 (20.5)	24 (67.8)	3 (6.9)	36 (100.0)
Trafficking/Growing Drugs	1 (17.0)	2 (24.3)	3 (47.1)	1 (11.7)	7 (100.0)
Driving Offences	5 (2.2)	4 (2.2)	173 (84.3)	23 (11.4)	205 (100.0)
Other Offences	1 (4.3)	1 (3.1)	25 (90.6)	1 (2.0)	27 (100.0)
Total Offences	61 (11.5)	83 (15.7)	340 (64.0)	47 (8.8)	531 (100.0)

*includes Homicides, Assaults, Sexual Offences, Other Offences against the Person and Robbery/Extortion

Source: Compiled from various original documents containing the most recently available statistics for each jurisdiction. The source documents mostly relate to 1985-86, but some elements date back to 1982. These differences would not significantly affect the table as presented here. The figures must, however, be regarded as under-estimates of the true figures. In particular, the New South Wales data were only for the most serious offence; many sentences would therefore be omitted. Secondly, the Victorian data did not include driving offences, which were a large proportion of all charges proved.

Community-based orders can have special conditions attached

Most terms of probation are set at two to three years duration with a requirement to report monthly. Community service orders are generally fixed at between one hundred and two hundred hours, reporting weekly, although sentences of as many as five hundred hours are not unusual. Those on parole serve terms which depend upon the specifications of their original prison sentence, and the decisions of the Parole Board.

One in five community-based orders includes a requirement to undergo court-ordered treatment for alcohol, drug and/or psychiatric problems. About one in five also require the payment of a fine or restitution. Restrictions are commonly placed on freedom of movement or association, for example, preventing the person from moving interstate, or more specifically from visiting proscribed locations or persons. Courts sometimes also require offenders to remain in employment as a condition of an order.

Some prison sentences have specified non-parole periods
Courts in most jurisdictions have the power to set a non-parole period in certain circumstances when sentencing an offender to a term of imprisonment.

The court sets what is known as the "head sentence",

or the "maximum term", and a "non-parole period" or "minimum term". This limits the discretion of the Parole Board so that the prisoner cannot apply for release until he/she has served the specified minimum period (less earned remissions).

The legislation differs from state to state, but the objective is to ensure the offender serves an appropriate minimum term while providing an incentive for good behaviour both inside prison and afterwards.

Minimum terms are most often set between one-third and two-thirds of the head sentence. Any serious re-offending during the period on parole in the community usually requires the offender to serve out all or a substantial part of the rest of the sentence.

Table 5.4 Non-parole periods as percentage of maximum terms, Victoria

	Less than one- third	Between one & two - thirds	Over two - thirds
Under 5 years	8%	71%	21%
5<10 years	-	54%	46%
10 yrs & over	-	9%	91%
Overall	5%	62%	33%

Source: Law Department 1981, *Parole and Remission*, Victoria.

How long do offenders actually serve in prison?

The confusing terminology of the indefinite type of sentencing has provoked public cynicism, and some jurisdictions are already implementing what they call "truth in sentencing" legislation to do away with it. For example, a court might describe a sentence as "Ten years imprisonment, with a three-year non-parole period"; although statistics would show that a sentence of 10 years has been imposed, in most cases this would actually mean that the offender would spend two years in prison (after deducting remissions from the non-parole period) followed by seven years under parole supervision. As a result, court statistics have been unreliable indicators of the actual times spent in prison by sentenced offenders.

Prison statistics, however, show that over 20,000 convicted offenders are sentenced to serve terms in prison per year in Australia. Property offenders are the largest single category, followed by driving offenders. Violent offenders are less than one in six of the total prison receptions under sentence. Consequently, most people sent to prison do not serve very long sentences. About one in six serve less than a week in prison. Less than half actually serve over three months, and under one in 10 serve over a year. Two persons in every 1000 sentenced to prison actually serve more than 10 years.

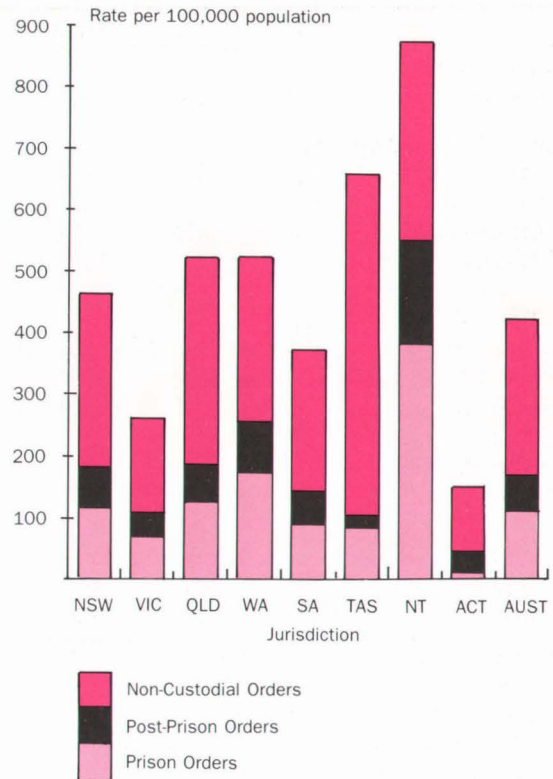
Table 5.5 Actual time served in prison by sentenced offenders

Time actually served	Per cent of all receptions
Under 1 Week	16.3
1 Week < 4 Months	16.8
1 < 3 Months	29.0
3 < 6 Months	17.9
6 Months < 1 Year	10.5
1 < 2 Years	5.5
2 < 3 Years	1.9
3 < 5 Years	1.4
5 < 10 Years	0.5
10 Years and Over	0.2

Source: Walker, J. 1989, *Prison Sentences in Australia*, Trends and Issues No 20, Australian Institute of Criminology, Canberra.

Persons under supervision in the community outnumber prisoners three to one. Almost 50 per cent of all those under supervision or detention orders are on probation. About 25 per cent are actually in prison, and about 14 per cent are serving post-prison orders including parole and pre-release schemes. New South Wales has roughly twice as many persons under supervision or detention as the next highest state, Queensland. In per-capita terms, however, the Northern Territory's rate of imprisonment is around three times the national average, Tasmania's use of non-custodial orders is around twice the national average, while Victoria's rates of both imprisonment and supervision orders are both well below average.

Figure 5.2 Comparative rates of adult detention and supervision, by jurisdiction



Notes for Table 5.6 also apply to Figure 5.2.

Source: Walker, J. & Biles, D. 1986, *Australian Community-Based Corrections*, Australian Institute of Criminology, Canberra; Walker, J. & Biles, D., 1986, *Australian Prisoners 1985*, Australian Institute of Criminology, Canberra.

The main characteristics of people under supervision

What sorts of offences have they committed?

Those convicted of offences involving serious violence such as homicide, rape or robbery, are very much more likely to be in prison or under post-prison supervision than on probation or community service orders. Non-custodial orders are dominated by relatively minor offenders such as persons convicted of petty shoplifting (included in the "other property" category), possession of drugs, or driving offences. There are quite distinct differences between states in the distribution of offences for which persons are under supervision. For example, in Tasmania, community-based corrections appear to be used as the standard penalty for driving offences; the Northern Territory appears to prefer short prison terms to deter and punish traffic offenders, while in other jurisdictions the most common sentence for these offences would be a fine.

How many people are under correctional supervision?

Table 5.6 Numbers of persons under supervision and detention orders, by jurisdiction

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST.
Juvenile Corrections									
Total Offenders	273	130	107	109	42	14	23	8	706
Adult Non-Custodial Orders									
Probation	8,944	3,393	4,224	2,023	756	1,123	223	146	20,832
Community Service	1,647	388	977	790	228	337	52	-	4,419
Other Non-Custodial*	60	469	700	-	1,188	380	125	22	2,944
Total Adult Non-Custodial	9,912	4,165	5,376	2,360	2,076	1,569	285	168	25,911
Prison Orders									
Remand in Custody	632	225	168	134	194	21	60	11	1,445
Sentenced Prisoners	3483	1654	1796	1361	580	207	274	0	9364
Total Prison Orders	4,115	1,879	*1,999	1,495	783	228	334	11	10,844
Post-prison Orders									
After-care Probation	550	-	577	-	84	-	83	6	1,300
Pre-Release Orders	-	203	-	-	-	-	-	-	203
Parole/Licence	1,750	832	398	705	420	56	65	52	4,278
Total Post-prison	2,299	1,035	990	706	487	56	148	58	5,779
Total Persons	16,397	7,186	8,461	4,589	3,363	1,858	783	245	42,953

*Includes Pre-sentence supervision (NSW-60, Qld-1, SA-1, ACT-2), Fine Options Orders (Qld-699), Attendance Centre Orders (Victoria-469), and Supervised Suspended Prison Sentences (SA-1187, Tas-380, NT-125 and ACT-22).

Notes: The data in this table all relate to 30 June 1985, except for the non-custodial orders in Victoria (30 September 1985) and Tasmania (30 June 1986). Columns do not necessarily add to totals because of persons serving more than one order-type.

Source: Mukherjee, S.K. 1986 'Juveniles Under Detention', in *Reporter*, vol. 7, no. 2, June; Walker, J. & Biles, D. 1986, *Australian Community-Based Corrections 1985-86*; and Walker, J. & Biles, D. (eds) 1986, *Australian Prisoners 1985*, all Australian Institute of Criminology, Canberra.

Table 5.7 Most serious offences for which serving orders

Offense	Non Custodial Orders	Prison Orders	Post Prison Orders
Homicide	65	1159	530
Other Offences Against the Person	3,395	1,744	1,209
Robbery and Extortion	464	1,544	843
Break, Enter and Steal	4,230	1,972	1,159
Fraud and Misappropriation	2,344	424	354
Other Property Offences	7,980	1,254	653
Breaches of Court Orders	418	366	92
Other Good Order Offences	754	219	48
Possession of Drugs	1,857	283	179
Trafficking Drugs	1,003	835	470
Driving Offences	3,064	979	184
Other and Unknown	243	65	58
Total Persons	25,911	10,844	5,779

Source: Walker, J. & Biles, D. (eds) 1986, *Australian Prisoners 1985*, Australian Institute of Criminology, Canberra. Walker, J. & Biles, D. 1986, *Australian Community-based Corrections 1985-86*, Australian Institute of Criminology, Canberra.

What sort of people are they?

Although persons under supervision and detention orders are predominantly males between 18 and 39 years, there are substantial minorities in the younger and older age-groups, and approximately one in six are females. Those under 20 years are much more likely to be serving non-custodial orders — it is typical of court practices that young offenders are given a chance to

reform themselves. If they continue to offend as they reach adulthood they receive much less sympathy. Women are also more frequently on non-custodial orders, perhaps because the offences they commit tend to be less serious than those committed by men.

Table 5.8 Age-distributions of persons serving orders

Age Groups (yrs)	Non-Custodial Orders (%)	Prison Orders (%)	Post Prison Orders (%)
15-19	22.4	10.2	5.7
20-24	34.2	28.6	28.1
25-29	18.5	23.6	26.5
30-34	10.4	15.4	12.3
35-39	6.2	9.4	11.1
40 and over	8.3	12.8	16.3
Total Persons	100.0	100.0	100.0

Source: Walker, J. & Biles, D. (eds) 1986, *Australian Prisoners 1985*, Australian Institute of Criminology, Canberra; Walker, J. & Biles, D. 1986, *Australian Community-based Corrections 1985-86*, Australian Institute of Criminology, Canberra.

Some groups are over-represented in correctional populations

Although Aborigines constitute little more than 1 per cent of the population, they make up nearly 8 per cent of those on non-custodial orders and over 13 per cent of those in prison. Persons never married constitute around 60 per cent of the persons under supervision and detention. Around 80 per cent of all persons under corrections did not complete secondary education. Three-fifths of

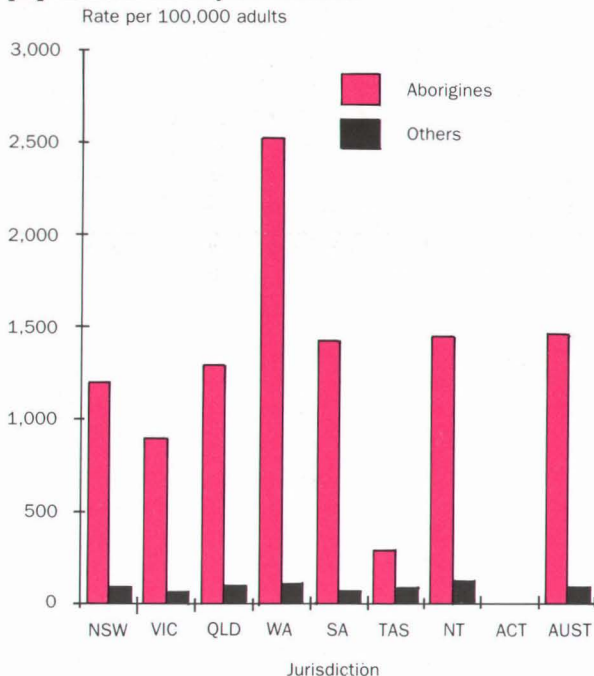
those in prison were unemployed at the time of arrest, whereas only around two-fifths of those under community-based supervision were unemployed. The overseas-born are under-represented in supervision and detention, being only 14.5 per cent of the non-custodial group and 19.5 per cent of the prisoners group, compared with around 22 per cent in the general population.

Table 5.9 Characteristics of correctional populations

Characteristics	Non-Custodial Orders (%)	Prison Orders (%)	Post Prison Orders (%)
Aboriginal	7.8	13.4	12.0
Never Married	60.6	57.8	46.4
Unemployed at Date of Arrest	42.2	61.7	42.2
Incomplete Secondary Education	78.0	84.3	80.0
Overseas born	14.5	19.5	17.3
Previously Imprisoned	15.2	63.9	100.0

Source: Walker, J. & Biles, D. (eds) 1986, *Australian Prisoners 1985*, Australian Institute of Criminology, Canberra; Walker, J. and Biles, D. 1986, *Australian Community-based Corrections 1985-86*, Australian Institute of Criminology, Canberra.

Figure 5.3 Over-representation of Aborigines in prison populations in all jurisdictions



Source: Walker, J. 1989, *Australian Prisoners 1988*, Australian Institute of Criminology, Canberra.

How is time served in prison determined?

Prison sentence lengths are strongly related to offence type and prior record of offender

Over sixty per cent of prisoners serving sentences for homicide are serving life sentences. Other violent offenders, including rapists and robbers, typically serve at least two years in prison, and often over 10 years, depending principally on the seriousness of the offence and their own prior record.

Sentences for property offenders most frequently fall in the range two to five years, while those convicted of "street" offences such as prostitution and offensive behaviour usually serve less than one year.

The most common sentence length for serious traffic offenders is in the range three to six months.

Drug offenders can frequently be given prison sentences over 10 years if convicted of trafficking, but those convicted of possession offences generally receive much shorter sentences.

Broadly speaking, those with a prior record of imprisonment can expect sentences on average 10 per cent longer than those in prison for the first time.

Most prisoners are released before serving their maximum sentence

Release from prison generally occurs as the result of the decision of a paroling authority or the expiry of the sentence.

Parole is the release of a prisoner by the decision of a paroling authority. The offender is placed under the supervision of a parole officer who monitors the offender's compliance with rules of conduct imposed by the paroling authority.

Expiry of sentence occurs when the maximum term imposed by the court is served and the offender must be released without further conditions or supervision.

The release from prison process varies between jurisdictions

The period of imprisonment which a convicted prisoner actually serves depends upon the sentence(s) originally handed down, the system of remissions and the forms of parole and other early release schemes available in the various jurisdictions.

The rules governing date of release are complex and differ from jurisdiction to jurisdiction, and from time to time.

In general, however, prisoners serving sentences with no minimum term or non-parole period set earn remission for good behaviour at the rate of one day for every two days served. Thus a person with a sentence of three years may be released after serving just over two years, with good behaviour.

An offender given a "head" sentence and a non-parole period in some states earns remissions from the non-parole period, so that, for example, someone with a head sentence of six years and a non-parole period of four years may be eligible for parole after serving less than three years.

Their release, however, then depends upon the decision of the Parole Board. When released, they are supervised by parole officers until the expiry of their remaining sentence or such other lesser period as the Board may determine.

Persons serving "Governor's Pleasure" sentences (in Queensland, "Queen's Pleasure") are held in prison literally until the prison administrator is advised, by the Minister or the courts, to release them. These are frequently persons who are regarded as mentally ill,

whose release depends on medical reports.

Overcrowding in Australian prison systems

Australian prisons are overcrowded

The desirable operating level of occupancy for a prison is regarded as around 85 per cent of accommodation capacity, to enable flexibility in allocating cells to new arrivals and to allow for routine prison management operations including cell refurbishing and renovations. Only Tasmanian prisons presently have this degree of flexibility. Overall, however, and particularly in the male prisons, overcrowding has reached serious proportions.

Most prisoners are accommodated in single cells. Multiple cells (that is, those designed for two to four prisoners) and dormitories are mostly located in the minimum security prison farms or forestry camps. Tasmania is the only state to provide a single cell for each prisoner. Victoria has over half of its prison population in shared accommodation.

Twenty-three of Australia's 88 prisons were built before 1900. Many of these are out-dated and substandard according to international human rights standards—they are also mostly overcrowded.

A quarter of all sentenced prisoners are held in maximum security accommodation

Persons remanded in prison pending court hearings are generally housed in special remand accommodation because, as unconvicted prisoners, they have certain rights and privileges not available to convicted prisoners. Upon conviction, prisoners with lengthy sentences would normally be housed in maximum security accommodation for the initial part of their term, progressing to medium and finally minimum security accommodation as time and their behaviour progresses.

Short-term, non-dangerous prisoners, who only have a total of a few weeks or months to serve, may serve all of their sentences in medium or even minimum security at the discretion of the prison administrators.

Some Australian prisons, particularly the larger metropolitan ones, are of mixed security levels, with some highly secure accommodation and some sections of lower security. All jurisdictions, however, also provide minimum security prisons, usually in the form of forestry camps or farms where prisoners can work and undergo vocational training. The larger metropolitan prisons, such as Long Bay Gaol or Pentridge Prison, are all mixed level prisons with several separate "wings" to accommodate the different classifications of prisoners. The entire complex at Long Bay in Sydney houses over 1500 prisoners, but few distinct management units in Australian prisons house more than 500 prisoners. Regional prisons are rarely designed for more than 250 and often house fewer than one hundred.

Table 5.11 The break-up of prisoners by security level, sex and jurisdiction, 1986

Jurisdiction	Maximum %		Medium %		Minimum %		Unclassified %	
	M	F	M	F	M	F	M	F
New South Wales	25	19	14	11	40	37	20	31
Victoria	31	37	40	43	29	21	-	-
Queensland	17	-	49	1	25	1	7	97
Western Australia	27	40	26	17	47	42	-	-
South Australia	49	58	25	31	26	11	-	-
Tasmania	10	9	13	45	58	18	-	-
Northern Territory	29	50	25	30	46	20	-	-

Source: Walker, J. & Biles, D. (eds) 1986, *Australian Prisoners* 1985, Australian Institute of Criminology, Canberra.

Table 5.10 Prison accommodation and occupancy in Australia, 1987

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST
Male									
Single cells	3,364	818	1,966	1,280	689	426	180	16	8,739
Multiple cells	90	855	-	283	-	-	16	-	1,244
Dormitories	98	230	68	102	89	-	157	-	744
Total Male Accom.	3,552	1,903	2,034	1,665	778	426	353	16	10,727
Peak Prisoner Numbers,	3,898	1,872	2,192	1,601	813	263	448	19	11,106
Male									
Peak Occup. Rate (%)	109.7	98.4	107.8	96.2	104.5	61.7	126.9	118.8	103.5
Female									
Single cells	213	115	73	81	72	23	10	2	589
Multiple cells	27	20	-	42	-	-	-	-	89
Dormitories	29	-	-	12	-	-	-	-	41
Total Female Accom.	269	135	73	135	72	23	10	2	719
Peak Prisoner Numbers,									
Female	183	116	91	99	43	11	18	3	564
Peak Occup. Rate (%)	68.0	85.9	124.7	73.3	59.7	47.8	180.0	150.0	78.4

Source: Biles, D. 1987, *Australian Prison Trends*, Australian Institute of Criminology, Canberra.

What are the trends in correctional populations?

Population growth has pushed prisoner numbers beyond capacities

Between 1900 and 1950 the average number of people in prison fluctuated between 2500 and 4500. In per capita terms, the rate of imprisonment (per 100,000 total population) fell from 126 at the turn of the century to a low of 49 in 1919, rose briefly to over 70 in the early 1930s and then fell again below 50.

But in the post-World War II decades, rates again rose steadily to peak at over 80 in 1970. In that year prisoner numbers reached over 10,000 for the first time, and the resulting overcrowding, along with new concepts of minimum standards for prisoner accommodation, prompted greatly increased use of the community-based alternatives to imprisonment.

Alternatives to imprisonment have only delayed the crisis

The use of probation for minor offenders considerably reduced prisoner numbers in the mid-1970s. In recent years, however, it appears that demographic change—population growth most notably in the 18-25 year-old age group—has conspired to refill Australia's prisons. The overcrowding in prisons, particularly where the majority of prisoners are in minimum security classifications, has prompted a plethora of schemes designed to reduce prisoner numbers.

The systems of community service orders have been continually broadened, so that community work is now usually seen not only as a form of restitution but also as an alternative for a fine (considerably reducing the numbers of people in prison for default of fines).

Various early-release schemes are now in operation which, with good behaviour, effectively decrease the length of time an offender must spend in prison; and alternatives to imprisonment have been instituted such as the home detention schemes now operating in Queensland and the Northern Territory. An offender serving a home detention order must remain at home, except during specified hours and for specified reasons (for example, for employment), and can be visited at any time without notice by a probation or prison officer.

Periodic (or weekend) detention has also been made available for some offenders in New South Wales and Queensland, whereby offenders report to prison on Friday evenings and are released each Monday morning. Policies currently being examined include the use of electronic "bracelets" for offenders on conditional liberty sentences.

Such sentences have made some impact on total prisoner numbers. But because persons who re-offend while on early release or other diversionary schemes risk almost automatic return to prison, perhaps with a lengthier sentence than before, there is always doubt as to the long-term effectiveness in holding down prisoner numbers.

It is difficult, in times of economic cut-backs, to find money to expand prison systems

Despite the overcrowding, state governments are reluctant to spend large amounts of taxpayers' money on enlarging the prison systems. Debate continues over whether there is sufficient public acceptance of community-based sentences to continue further in that alternative direction. Another option is to reduce effective prison terms, particularly for non-violent offenders. (Australia's prison sentences are currently quite long by the standards of many western countries.) But this suggestion often appears to be unpopular with influential sections of the community. The example of Victoria, whose rate of imprisonment is only two-thirds of the national average without any apparent effect on crime levels, shows that there is some potential for economies.

Prisoner numbers have been rising in recent years, but after taking account of the growth in the general population, the increases have been fairly small.

Figure 5.4 Average number of prisoners in Australian prisons May 1976 – April 1989

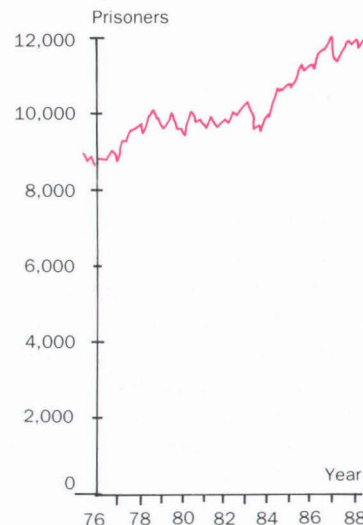
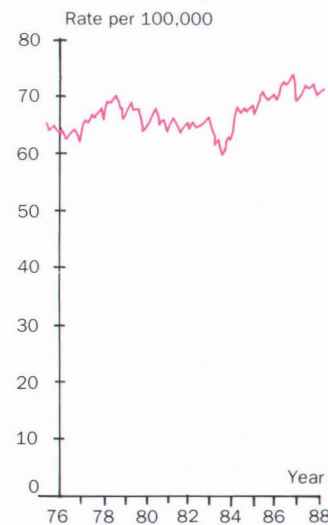


Figure 5.5 Prisoner rates per 100,000 population



Source: *Australian Prison Trends*, Nos. 1-155, Australian Institute of Criminology, Canberra.

The assessment of post-correctional performance

Re-conviction or re-imprisonment within a given time is the most useful measure of recidivism

The measurement of performance of offenders after serving terms of imprisonment or supervision poses many problems. Clearly, if offenders re-offend and are re-arrested, reconvicted and returned to prison in a short time after serving their original sentence, this suggests that the correctional processes have failed to rehabilitate or deter. If the offender, on the other hand, leads a blameless life for the rest of his years, then the correctional processes might claim a success. Reality shows, however, that a high proportion of offenders who spend time in prison eventually commit further offences and many of them are returned to prison.

Most prison inmates have served previous terms of imprisonment

Sixty per cent of prisoners in Australian prisons at any time have been in prison under sentence before, according to National Prison Census data (1986). According to some Western Australian statistics (Broadhurst et al. 1985) it takes less than one year for the average person released from his first term of imprisonment to return to prison. Subsequent returns to prison come at increasingly shorter intervals, so that a person released after his seventh term of imprisonment can expect to be back in just over two months.

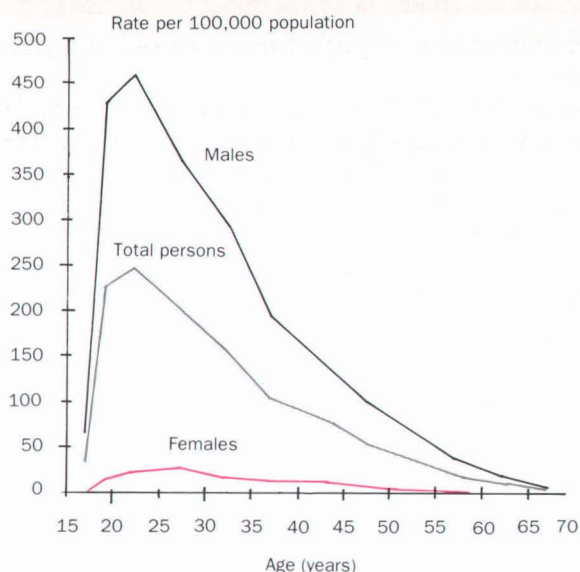
Some types of offenders are more likely to be returned to prison than others

The Broadhurst study (1985) like others before it, failed to identify any factors which reliably differentiate between those who learn from the prison experience and those who do not. The study, however, did show that certain categories of offence are prone to higher levels of repetition or specialisation: traffic offenders, property offenders and offenders against good order show the greatest tendency to be re-imprisoned for the same type of offence. This in part explains the very high Aboriginal rates of imprisonment, since it is in these three areas that Aborigines are particularly over-represented in prison. There is no evidence of any tendency for the seriousness of offences to increase through the recidivist's career.

After age 25 many offenders begin to drop out of crime

The peak age-specific imprisonment rate is in the 20-24 years age group where almost one in every four hundred of the total Australian population of that age will be in prison at any given time. The rate for males aged 20-24 is in fact almost 450 per 100,000 while the female rate at the same age is only 22 per 100,000. Both sexes exhibit a steady decline in the age-specific imprisonment rate after age 24. In terms of specific offences, the peak age of imprisonment for theft is under 20 years old. With the exception of the violent offences, which peak in the 25-29 age range, all other offences groups peak in this 20-24 age group.

Figure 5.6 Rates of imprisonment by age



Source: Walker, J. 1989, *Australian Prisoners 1988*, Australian Institute of Criminology, Canberra.

Juvenile offenders

Juveniles are treated differently from adult offenders

Generally speaking, the Australian criminal justice systems prefer to treat juvenile offending as a welfare matter, unless it is particularly serious. Some states have police cautioning systems or juvenile panels which try to counsel young offenders about the seriousness of their actions and warn them of the possible consequences of further offending. Offenders appearing before such hearings must usually admit their guilt but will not normally be proceeded against further on the same matter. Their parents or guardians are normally required to be present and to participate in the proceedings.

In more serious cases, Children's Courts magistrates have a variety of sanctions they can use. Most states have special juvenile probation systems in which they can be supervised by trained welfare workers, and institutions where they can be accommodated according to their circumstances. Where the welfare of the juvenile is judged to require their removal from their parents' or guardians' supervision, they may be placed in the care of foster parents or welfare institutions.

Since the 1970s there has been a tendency towards semi-custodial sentences, in which a short period in a detention centre for assessment is followed by an attendance centre program or a period of community service work.

Table 5.12 Children's Courts statistics: dispositions by offence type 1984-85

Offence	Detention	Supervision	Community work, Fine, Compensation	Other	Total
Homicide	-	1	4	1	6
Other Against Person	693	1,813	1,273	1,136	4,915
Robbery & Extortion	54	92	3	16	165
Breaking & Entering	4,437	6,118	2,523	4,116	17,194
Fraud	963	1,270	1,874	1,853	5,960
Theft (incl. Motor Vehicles)	5,696	10,374	6,746	11,229	34,045
Property & Environment	603	1,278	1,811	1,635	5,327
Justice Procedure	291	1,234	1,451	601	3,577
Drug Offences	1,148	1,061	3,710	2,476	8,395
Driving	6,532	804	12,059	9,744	29,139
Other	1,111	1,960	10,096	4,800	17,967
Total	21,528	26,005	41,550	37,607	126,690

Note: Figures not available for Northern Territory

Source: Australian Bureau of Statistics 1986, *Court Statistics: Children's Courts*, 1985.

Table 5.13 Number and rates of detainees aged 10-17 in juvenile corrective institutions at 30 June 1986

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST
Proven Offenders									
Under Detention									
Numbers of Males	189	92	56	71	30	15	22	15	490
Number of Females	13	-	7	4	3	-	4	-	31
Rate per 100,000 Males	51.8	31.9	30.8	70.7	32.2	47.7	206.7	82.2	45.0
Rate per 100,000 Females	3.7	-	4.0	4.2	3.4	-	39.6	-	3.0
Alleged Offenders									
Awaiting Hearing									
Number of Males	65	20	22	22	8	5	4	-	146
Number of Females	11	3	7	1	-	2	-	-	24
Rate per 100,000 Males	17.8	6.9	12.1	21.9	8.6	15.9	37.6	-	13.4
Rate per 100,000 Females	3.2	1.1	4.0	1.1	-	6.5	-	-	2.3

Source: Mukherjee, S.K. 1987, *Persons in Juvenile Corrective Institutions*, No 35, February.

Rates of detention vary from state to state partly because of the differing ages at which young persons are treated as adults, and partly because of differing sentencing policies and ranges of alternatives. In New South Wales, Western Australia, South Australia and the Australian Capital Territory juveniles are defined as persons under 18 years of age. In the other jurisdictions the definition is persons under 17 years of age.

The Cost of Justice

This chapter reports on the costs involved in maintaining the criminal and civil justice systems.

It examines the spending on justice by the governments throughout Australia, and looks at how this compares with government expenditure on other functions.

The data in this chapter addresses such questions as:

- What do governments spend on criminal justice?
 - How much do police services cost?
- What are the costs incurred by the courts and legal services to ensure that criminal and civil justice is maintained?
- How much does the government spend on prisons and corrective services?
 - How has the per capita spending on justice changed in the last 20 years compared with other government expenditure?
 - What does it cost for personnel in the justice system?
 - How much does it cost to keep a person in prison?
 - What does it cost to build prisons and correctional facilities?
 - What does each state spend per capita for its justice system?
- What is the relationship between each state's per capita spending and its crime rate, total expenditure, imprisonment rate, police strength?
- How has the percentage of state government spending on police, prisons, and courts and legal services changed over the past 75 years?

How much does government spend on justice?

In 1984-85 governments in Australia spent \$2,385m on criminal and civil justice

Spending on justice in 1984-85 formed only 2.6 per cent of the total expenditure by all levels of government. The main area of expenditure was police services (1.7 per cent, with law courts and legal services receiving 0.6 per cent of the total expenditure, and prisons and corrective services only 0.4 per cent).

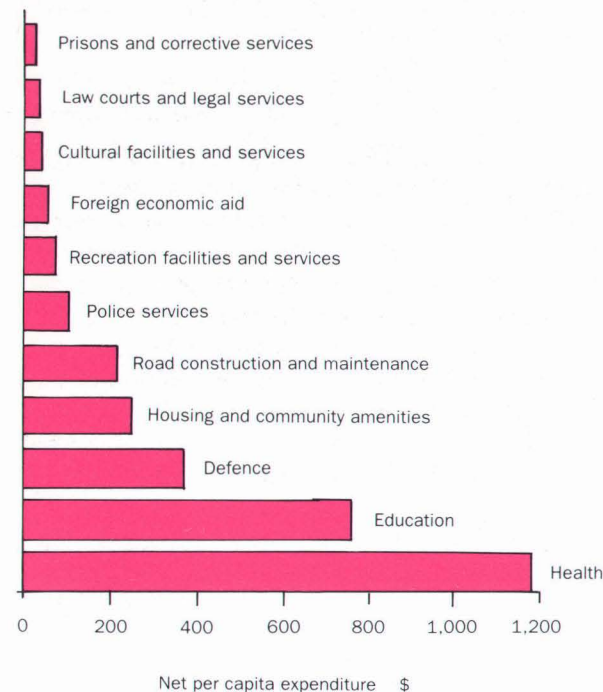
The amount spent on justice was less than that spent on most other government functions. The net per capita expenditure on justice for the Australian population in 1984-85 was:

- \$97 for police services
- \$33 for law courts and legal services
- \$23 for prisons and corrective services

This compares with -

- \$1182 for health
- \$762 for education
- \$366 for defence
- \$246 for housing and community amenities
- \$208 for road construction and maintenance
- \$74 for recreation facilities and services
- \$52 for foreign economic aid
- \$44 for cultural facilities and services

Figure 6.1 Per capita expenditure on various government functions



Source: Budget Papers, 1985, Auditor General's Report, Government Finance, Australian Bureau of Statistics, Canberra.

State government responsibility for justice

Justice expenditure forms a greater share of the state budgets than those of the Commonwealth and local governments

Nearly 5 per cent of the total expenditure by the states goes towards justice, compared with only 0.6 per cent for the Commonwealth government. However, this is significantly less than the amount spent by state governments on education, health, and transport and communication. Local governments do not pay any of the costs of justice, although a small proportion of their budget (1.6 per cent) is spent on other public order and safety.

Main expenditure items for Commonwealth, state and local governments are as shown in Table 6.1.

Table 6.1 Commonwealth/state/local government proportions of total expenditure 1984-85

	Commonwealth %	State %	Local %
Justice	0.6	4.8	-
Other public order and safety	-	0.9	1.6
Education	6.9	25.7	0.4
Health	9.1	14.4	2.1
Transport and communication	6.1	12.5	27.6
Housing and community amenities	2.1	6.1	18.7
Social security and welfare	26.7	2.6	2.7
Recreation and culture	1.1	2.0	15.1
Defence	8.6	-	-
Total expenditure (\$million)	\$66,864	\$42,804	\$5,130

Source: Budget Papers, 1985, Auditor General's Report, Government Finance, Australian Bureau of Statistics, Canberra.

The state governments paid nearly 84 per cent of all government expenditure on criminal and civil justice in 1984-85

State government expenditure on justice in 1984-85 was \$2,032m, which was more than five times that of the Commonwealth government (\$392m). The majority of the states' justice budgets come from each states' general revenue, but a small proportion (\$38.6m or 1.9 per cent) was obtained from Commonwealth government specific purpose grants. The dominance in expenditure by the states reflects the functional responsibilities of these governments for most aspects of criminal and civil justice.

The state governments maintain the police services and prisons and corrective services in each jurisdiction except the Australian Capital Territory. The Australian Federal Police, which are funded by the Commonwealth government, are responsible for general policing services in the Australian Capital Territory and the enforcement of Commonwealth law throughout Australia. The Commonwealth also pays for Australian Capital

Territory prisoners, who while serving sentence are usually held in New South Wales gaols. Whilst the law courts and legal services are also generally a state responsibility, there are a number of courts (for example, the High Court of Australia, the Family Law Courts and the Australian Capital Territory Courts) which are the concern of the Commonwealth.

As a result, in 1984-85 the state governments were responsible for:

- 87.3 per cent of the total expenditure on police services
- 69.2 per cent of the total expenditure on law courts and legal services (includes \$38.6 million from Commonwealth government to the states)
- 99.5 per cent of the total expenditure on prisons and corrective services.

Almost two-thirds of state government justice expenditure is for police services

In 1984-85 the total justice expenditure of the states was allocated as follows:

- 65.0 per cent for police services
- 17.6 per cent for law courts and legal services
- 17.4 per cent for prisons and corrective services

The Commonwealth expenditure on justice was almost equally divided between the police and the courts:

- 50.4 per cent for law courts and legal services
- 49.2 per cent for police services
- 0.5 per cent for prisons and corrective services

From 1964-65 to 1984-85 per capita spending by the states on prisons and corrective services increased more than spending on most other government functions

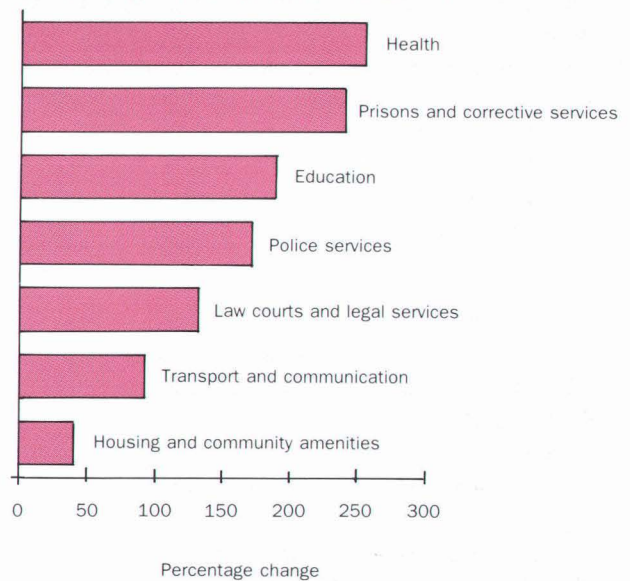
In constant 1984-85 dollars, state government expenditure for prisons and corrective services between 1964-65 and 1984-85 grew at an average rate of 12 per cent per year, which was greater than the rate for most other government functions, except health (12.7 per cent). The annual growth rate for police services was 8.6 per cent, which was slightly above the average rate of growth of the total state government expenditure (7.0 per cent). Spending on law courts and legal services increased at a slightly lower rate (6.7 per cent).

The greatest increase in expenditure on prisons and corrective services occurred between 1974-75 and 1979-

80. For most other government functions, including police services and law courts and legal services, the largest increase in the adjusted per capita spending occurred between 1969-70 and 1974-75.

State government per capita spending on justice increased along with other government functions during the past 20 years

Figure 6.2 Percentage growth in spending 1964-65 to 1984-85 in constant 1984-85 dollars



Source: *Budget Papers*, Auditor General's Report, Government Finance, Australian Bureau of Statistics, Canberra.

The trends in expenditure since 1974-75 on police, prisons, and courts and legal services were all different

Trends in the justice expenditure per capita over the 11 years to 1984-85 were quite irregular, and at times spending decreased from one year to the next when adjusted to constant 1984-85 dollars. There were different patterns in the expenditure levels for each of the separate components of the justice system.

The total growth rate in per capita spending on prisons and corrective services over this period was 54.7 per cent. The major part of this growth (34.3 per cent) occurred between 1978-79 and 1980-81, and since then the expenditure has remained almost constant.

Table 6.2 State government spending per capita in constant 1984-85 dollars

	1964-65	1969-70	1974-75	1979-80	1984-85	per cent change 1964-65 to 1984-85
	\$	\$	\$	\$	\$	
Police services	32	38	61	76	86	172
Law courts and legal services	10	12	19	20	23	133
Prisons and corrective services	7	10	15	21	23	239
Education	247	350	631	655	713	189
Health	113	146	269	349	400	254
Housing and community amenities	121	127	230	129	170	41
Transport and communication	180	206	265	282	348	93
Total government outlay	1158	1420	2098	2325	2778	140

Source: *Budget Papers*, Auditor General's Report, Government Finance, Australian Bureau of Statistics, Canberra.

Note: From 1978-79 includes expenditure by the Northern Territory

Both the capital and current expenditure on prisons and corrective services increased significantly in these 2 years, however the growth rate for the capital expenditure was greater (85 per cent compared with 28 per cent for current expenditure). The capital expenditure then decreased significantly in subsequent years whilst the current expenditure levelled off.

Spending on law courts and legal services showed the least growth since 1974-75 (25.2 per cent), with the adjusted per capita spending at times decreasing from one year to the next. However, because the data refers to net expenditure, such decreases may be partly due to an increase in revenue rather than a reduction in the actual spending.

The rate of growth in the spending on police services (41.2 per cent in total) was generally more constant, but showed a large increase from 1974-75 to 1975-76 and slightly greater than average increases between 1978-79 and 1980-81.

Commonwealth government responsibilities

Some major items of Commonwealth government expenditure on crime and justice in 1985-86 were as follows:

	(\$'000)
Australian Federal Police	125,323
Australian Security Intelligence Organisation	34,555
Office of the Director Public Prosecutor	19,804
National Crime Authority	11,426
High Court of Australia	4,715
Criminological Research	2,496
Law Reform Commission	2,486
Australian Bureau of Criminal Intelligence	1,385

Source: Budget papers, 1986, Auditor General's Report, Government Finance, Australian Bureau of Statistics, Canberra.

Legal Aid is an important component of Commonwealth government expenditure on justice

The Commonwealth government funds the Legal Aid Commissions in each state, and in the 4 years from 1982-83 to 1985-86 the amount provided increased by about 30 per cent, from \$33.1m to \$43.9m. In addition, the Australian Capital Territory Legal Aid Commission cost the Commonwealth government \$2.3m in 1985-86. In 1986-87 a further \$20m was granted to the states for the Australian Legal Aid Office.

How does the government pay for the cost of the justice system?

The majority of government spending on crime and justice is paid for by general taxes

The main sources of state government revenue are the taxes imposed by the state and funds received from the Commonwealth under the joint Commonwealth-state revenue sharing arrangements. The primary objective of this arrangement is fiscal equalisation, so that services of comparable standards can be provided by the governments throughout Australia.

In determining the amounts to be allocated to each state differences in the costs of the administration of justice, and the provision of police services and prisons and corrective services are considered, along with vari-

ations in the revenue required to provide equivalent services in other areas such as education, health, housing, etc.

A small proportion of the total expense of maintaining the criminal justice system is met by the offenders themselves, through:

- fines
- the awarding of court costs
- restitution payments made by offenders
- sale of the manufactured goods, produce and services of the prison industries.

In addition, as a result of Federal legislation introduced in 1987, the government is now able to seize the assets of criminals which are the direct profit of their criminal activities.

Personnel costs

Salaries are the most significant item of justice expenditure

The maintenance of law, order and justice is a highly personnel-intensive activity. About 80 per cent of the total expenditure of the police departments throughout Australia is devoted to salaries and related staffing costs. Capital works and equipment such as police buildings and computer equipment are generally the next greatest item of police expenditure. However, the costs associated with the purchase, maintenance and running of motor vehicles, motor cycles, launches and aircraft are also significant (about 3 to 4 per cent of total expenditure).

Salaries tend to form a slightly lower proportion of the spending on corrections, but they are still the main component of the total expenditure (about 70 to 75 per cent for most states). Other major costs in the area of correctional services include the construction and maintenance of prison facilities, and the expenses involved in keeping prisoners, such as food and clothing.

Salaries and other employee costs make up a relatively low proportion of the expenditure on courts and court administration (less than 60 per cent). Other items of expenditure for the courts include payments to jurors and witnesses, travelling expenses and general administration and maintenance.

Salaries for prison officers are lower than those of other justice employees, and are a little below those of police officers

The salaries of probation and parole officers tend to be higher than for prison and police officers. The salaries of judges increase as the level of court for which they are responsible increases, as there is greater responsibility associated with each position.

Jury payments are another cost of the judicial system

Members of a jury are paid attendance fees and the cost of their travelling expenses. In New South Wales in 1987 the attendance fees for jurors ranged from \$23 for a half day up to \$70 per day for trials lasting more than 40 days.

The expenses of witnesses are also paid for by the

courts. The amount paid to jurors and witnesses in the Sheriff's, Supreme and District courts in Queensland in 1985-86 was nearly \$4m, which was 41 per cent of the courts' total expenditure.

What do prisons and correctional programs cost?

The cost of keeping a person in prison is high

The cost of imprisoning offenders varies significantly across the states and between different institutions in the one state.

The average annual net cost per prisoner in each state ranges from about \$20,000 to \$44,000, but the variation in costs for different prisons can be even greater. For example, in South Australia in 1985-86 the cost per prisoner in the Adelaide Gaol was \$23,000, but it was more than three times this amount for inmates at Yatala Labour Prison (\$75,000).

Table 6.3 Average annual cost per prisoner

State	Cost per prisoner \$
New South Wales	40,880
Victoria	33,000
Queensland	20,140
Western Australia	35,765
South Australia	43,970
Tasmania	24,568
Northern Territory	32,580
Weighted Average	34,570

Source: Walker, J. 1988, *Adults under Supervision and Detention Orders*, Trends & Issues No. 14, Australian Institute of Criminology, Canberra.

The actual cost to the government is even higher than indicated by these figures as they only include the recurrent expenditure incurred by the prisons. They do not take into account other costs such as the capital expenditure on buildings and equipment and the administrative costs of the departments which administer the gaols

Factors affecting the range in costs include:

- the level of security at which prisoners are held (some states or prisons have a greater proportion of maximum security prisoners, which is more expensive per prisoner)
- differences in the services and facilities provided for prisoners
- the staff to prisoner ratio
- the size of the prisons—generally the smaller the institution the greater the cost per prisoner
- the amount of revenue received from prison industries
- the extent to which prisoners' food requirements are met by the produce of a prison farm
- the extent to which the labour of inmates is used to provide prison services.

It is more expensive to detain prisoners in maximum security

Although maximum security prisoners made up only about one-third of the classified prison population at 30 June 1984 nearly 60 per cent of the Departments' expenditure on classified prisoners in 1984-85 was for those in maximum security. The average annual cost per inmate of the maximum security prisons in New South Wales in 1982-83 was \$32,313, compared with \$20,856 in medium security and \$18,100 in minimum security.

Institutional supervision of young offenders costs more than imprisonment

The little data available which identifies the cost of keeping young offenders in institutions indicates that this has a higher net cost per person than the imprisonment of adults. Figures from the South Australian Department for Community Welfare show that in 1985-86 it cost \$237 per child per day at the Youth Training Centre and \$307 per child per day at the Remand and Assessment Centre, compared with an average daily net cost per adult prisoner in South Australia of \$99.

Some of the costs of prisoners is met from the proceeds of prisoner's labour

Most prisons undertake some industrial activity such as manufacturing, farming or the provision of services. This provides both revenue and goods which go towards the cost of maintaining the prisoners as well as providing them with the opportunity to work.

Measuring the actual monetary value of the prison industries is difficult as in addition to the direct financial benefits, the goods produced are often used to provide some of the prisons' own requirements (for example, food produced from a prison farm). The labour of inmates has at times also been used for construction and maintenance work, resulting in considerable savings.

The following details on the receipts from the sale of produce, manufactured goods and services provide some indication of the contribution these make to maintaining prisoners.

- New South Wales (1984-85) — received \$5,629,000, which represented 5.3 per cent of the department's recurrent expenditure
- Queensland (1985-86) — received \$3,319,810, which represented 8.5 per cent of the department's recurrent expenditure
- Western Australia (1985-86) — received \$266,632, which represented 0.5 per cent of the department's recurrent expenditure (also the farms provided 50 per cent of the departments food requirements).
- South Australia (1985-86) — received \$778,000, which represented 2.3 per cent of the department's recurrent expenditure
- Tasmania (1982-83) — received \$933,237, which represented 17 per cent of the department's recurrent expenditure.

(Note: these figures do not represent the net benefits as they do not take into account the costs involved in running the industries.)

The range of industries in which prisoners are involved is very extensive, despite limitations on the markets to which they are permitted access (usually only other government agencies). The activities include textile production and sewing, metal trades, carpentry, painting and sign writing, baking, laundry services, and farming.

The construction of new prison facilities is a major expense

In recent years a number of the prisons throughout Australia have experienced overcrowding, with the number of inmates on occasion exceeding the approved maximum accommodation. State governments have responded with efforts to both reduce the number of prisoners as well as increase the amount of accommodation. Expenditure to improve the standard of the existing accommodation and associated facilities, and the security of many prisons has also been necessary.

The extent of this expenditure varies markedly from year to year and from state to state. In 1985-86 South Australia spent \$23.3m on capital works, Western Australia spent \$3.7m, and New South Wales spent \$10.8m in 1984-85. Queensland's capital expenditure on buildings and grounds in 1985-86 came to only \$41,041.

Some of the building projects recently undertaken, with the estimated total costs are:

- construction of a hospital at the Long Bay Complex, New South Wales—\$13m;
- redevelopment of Grafton Gaol, New South Wales, including construction of a new minimum security prison—\$8m;
- construction of a 60 bed extension to the C.W.Campbell Remand Centre, Western Australia—\$2.75m;
- upgrade of prison security at Greenough Regional Prison, Western Australia—\$1.65m;
- construction of parent-child cells and a reception area at Bandyup Women's prison, Western Australia—\$176,000;
- construction of the Adelaide Remand Centre, South Australia—\$16.5m;
- construction of a new medium security prison at Mobilong, South Australia for the detention of 160 male prisoners—\$21.25m;
- construction of the Hillcrest Security Hospital, South Australia, to accommodate up to 30 psychiatrically disturbed prisoners—\$5.9m.

(Source: *Annual Reports* of the Prisons Departments. The ratio of per prisoner to per person on supervision ranges from a minimum of 13:1 in Victoria to a maximum of 37:1 in Western Australia.)

The limited data which are available on the cost of community-based corrections indicate that they are a far less costly form of sentence than imprisonment

The data available indicate that the cost of imprisonment is many times that of community-based orders. However, it is difficult to assess the cost of each scheme exactly and precise figures which are comparable across the states cannot be estimated.

Alternative community-based programs for young

Table 6.4 Average annual cost per capita of persons under non-custodial supervision orders

State	Cost per capita \$
New South Wales	1,800
Victoria	2,500
Queensland	750
Western Australia	960
South Australia	1,620
Tasmania	990
Northern Territory	1,580
Weighted Average	1,630

Source: Walker, J. 1988, *Adults under Supervision and Detention Orders, Trends & Issues* No. 14, Australian Institute of Criminology, Canberra.

Figure 6.3 Relative cost of prison and non-custodial supervision



Source: Wilson, P., Walker, J. & Mukherjee, S.K. 1986, *How the public sees crime: an Australian survey*, Australian Institute of Criminology, Canberra

offenders also appear to be a less costly option than institutionalisation. In South Australia Admission Units have been established which provide an alternative to remanding young offenders in custody for short periods. The net cost per child per day in 1985-86 for these units was \$180 compared with \$307 at the Remand and Assessment Centre. In Victoria the Youth Accommodation and Support Scheme was introduced for young people who have been charged with an offence and remanded to appear at a Children's Court to be released into the custody of a volunteer family. The family is paid \$150 per week to cover the accommodation expenses for the child. However, the total cost to the department is greater than this as administrative and staffing costs involved in running the scheme must be included.

What factors are related to state government per capita spending?

State government expenditure on justice in 1984-85 was \$132 per capita

The cost of justice varies widely between the states. In 1984-85 the minimum expenditure was \$107 per capita in Victoria and the maximum was \$405 per capita in the Northern Territory. The Northern Territory expenditure was far higher than that of the other states for all justice matters - police services, law courts and legal services, and prisons and corrective services. Whilst Victoria and Tasmania had the lowest total expenditure on justice New South Wales had the lowest per capita expenditure on police services. However, there was generally less variation between the states in their spending on police services than on the other justice functions.

Table 6.5 Net per capita expenditure 1984-85 - state governments

	NSW	VIC	QLD	WA	SA	TAS	NT
	\$	\$	\$	\$	\$	\$	\$
Police services	\$81	\$83	\$85	\$93	\$90	\$87	\$246
Law courts and legal services	30	9	29	24	23	14	86
Prisons and corrective services	21	15	21	44	32	20	74
Total justice*	132	107	135	162	146	121	405

Source: *Budget Papers*, 1985, Auditor General's Report, Government Finance, Australian Bureau of Statistics, Canberra.

*Components may not add to total due to rounding.

How much a state spends per capita for justice depends upon many factors

It is difficult to measure the exact extent or nature of the effect of each factor. There may also be differences between the states as to how significant the effect of one variable is when compared with the other variables.

Important factors which can be measured include:

- the crime rate;
- the financial resources available to the state;
- the geographic and demographic distribution of the population;
- the rate of imprisonment;
- the level of policing.

The crime rate

The amount of money a state spends on justice—for the prevention and investigation of criminal offences, and the prosecution and punishment of offenders—is related to the amount of crime reported to the police.

Statistics from each state on the number of selected offences reported (murder; serious assault; rape; robbery; break, enter and steal; motor vehicle theft; fraud) provides an index of the crime rate in each jurisdiction. The national rate of these offences per 100,000 population was 2,944 in 1984-85. It varied from 1,539 in Tasmania to 4,163 in the Northern Territory, but there was little difference between the rates for New South

Wales, Victoria and Western Australia. The high crime rate in the Northern Territory was consistent with the high per capita expenditure on justice in the Territory; conversely Tasmania had both a low crime rate and low expenditure.

Financial resources

The relative wealth of a state will affect how much it can spend on justice. However, other factors such as the amount of funding received from the Commonwealth, and the other demands on the states' budgets will also influence the level of expenditure. Thus, whilst the per capita income from taxation provides an indication of the revenue raising powers of a state, this is not necessarily a good indicator of its potential resources for spending on justice. In fact, the Northern Territory had the lowest per capita income from taxation in 1984-85, but the highest justice expenditure, and Victoria had the highest per capita taxation, but the lowest spending on justice.

A better measure of the financial resources available to each state is their total expenditure. When the total per capita expenditure is compared with the per capita spending on justice the very high level of justice expenditure for the Northern Territory is seen to be consistent with the high level of total expenditure for the Territory.

The proportion of the total budget which has been allocated to justice also provides an indication of the priority the government gives to justice compared with other areas of spending, although it may also be a function of the level of demand for justice services. The two states with the lowest per capita spending on justice had allocated much less of their total budget for this purpose (3.5 and 3.8 per cent) than the other states (5.1 and 5.5 per cent).

Geographic and demographic distribution

Persons in the 15-24 age group are the most likely to be arrested for a crime and therefore those areas with greater proportions of people in this age group are likely to impose greater expenses on the criminal justice system. The urban areas and larger cities are known to have higher crime rates than the smaller towns and rural areas. The states which have a greater proportion of their population in the capital and other major cities would probably therefore spend more per capita on justice. However, it is also recognised that the more a population is dispersed over a large area, the greater are the costs in providing a service and ensuring that justice is maintained. Whilst both Tasmania and the Northern Territory have similar degrees of urbanisation they are quite different with respect to the size of the area over which the population is dispersed. Therefore, although the former has one of the lowest levels of expenditure on justice, the latter has the highest per capita expenditure.

Imprisonment rate

The number of prisoners per 100,000 population has a direct effect upon the per capita expenditure on prisons. The states with a high rate of imprisonment also have a high level of per capita spending on prisons and correc-

tive services, and conversely those with low imprisonment rates spend less.

A further factor influencing the level of expenditure on prisons and corrective service is the use of community-based corrections and fines, which are less costly penalties than imprisonment. Data from the 1985-86 National Census of Community-Based Corrections shows that the number of people on community-based orders compared with the number in prison varies markedly between the states. In general, those states which make the greatest use of community-based orders have the lowest levels of expenditure on prisons and corrective services, and those which tend to use community-based orders less have higher levels of expenditure.

Police strength

The number of police officers per 100,000 population has a direct effect upon the per capita spending on police services. The Northern Territory has the greatest proportion of police per population (460 per 100,000) and the highest police expenditure, whereas New South Wales has the lowest level of per capita spending and a low ratio of police (194 per 100,000). Whilst the crime rate is clearly one of the variables influencing the level of policing in the community, many other factors also play a part. Community demands for an obvious police presence, political pressures, and the importance assigned to preventing and prosecuting various criminal activities (such as prostitution and other victimless crimes, minor drug offences) have an effect upon the police strength in a state.

Legislation and penalties

All states have their own penal codes. Activities which are illegal in one state may not be illegal in another (for example, prostitution). Some crimes incur longer prison sentences in some states than in others (for example, drug possession). Thus a state with relatively punitive legislation may incur greater costs in policing those activities which are not pursued in other states, and in punishing its offenders.

Further factors which are related to how much a state spends include:

- the attitudes of the community and politicians as to the seriousness of the crime problem and what should be done about it will affect the resources allocated to justice programs. It is difficult to assess the degree to which these attitudes are reflected in the expenditure, although measures such as the priority accorded to justice in the total budget, and the number of police in each state can be used to obtain some indication of their importance. However, attitudes also have a less identifiable effect upon the sentencing of offenders and the use of less traditional, community-based corrections.
- the "history" of justice spending and the legacy this has left with respect to the facilities available and efficiencies of the system within a state will also affect the current expenditure. For example, large expenditures may be necessary over a short period to increase the amount of prison accommodation or update prison and court facilities.
- the size of the transient populations and number of interstate and overseas visitors varies between the states and can place different demands on the judicial system.
- access to overseas countries will affect the extent of drug importation and trafficking in a state, and hence the resources required to prevent the associated criminal activity.

Table 6.6 Factors influencing the per capita expenditure on justice

	NSW	VIC	QLD	WA	SA	TAS	NT
Per capita spending on justice—\$	132	107	135	162	146	121	405
Crime rate—per 100,000 population	3,131	3,161	2,294	3,157	2,982	1,539	4,163
Total per capita expenditure—\$	2,583	2,818	2,657	3,048	2,659	3,506	7,550
Priority for justice spending - per cent of total exp. for justice—per cent	5.1	3.8	5.1	5.3	5.5	3.5	5.4
Proportion of population in capital/major cities—per cent	74	74	58	71	72	40	48
Proportion of population in 15-24 age group—per cent	16.0	17.0	17.0	17.0	16.5	16.4	19.0
Imprisonment rates—per 100,000 population	117	70	125	171	87	80	378
Police strength—per 100,000 population	194	211	188	211	239	221	460

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