From crime to sentence: trends in criminal justice, 1986 to 1996

Sue Triggs

Ministry of Justice
New Zealand
Foreword

This report represents a major step forward for our understanding of how the criminal justice system operates as an integrated whole. For the first time, statistical trends are documented for each stage of the criminal justice system (enforcement, prosecution, sentencing, and sentence administration) and the impact of these trends on other parts of the system are examined.

This type of analysis is one of the key outputs of the Ministry of Justice, which is charged with the co-ordination of policy and purchase advice across the justice sector. These findings can be invaluable for policy development and planning in all of the criminal justice agencies and, I hope, of interest to many in the wider community who are interested in Justice and law and order issues.

The Ministry of Justice aims to produce high quality statistical information. The Ministry’s annual statistical report, Conviction and Sentencing of Offenders in New Zealand, is the primary source of information on the criminal justice system. The present report builds on Conviction and Sentencing by providing data on offences recorded, cleared and prosecuted by the Police; by analysing prosecution and sentencing trends by demographic group, criminal history and seriousness of offending; by examining community-based sentence musters; and by integrating data from across justice agencies.

The analysis in this report was made possible by the development of a computerised statistical model of the criminal justice system. This model, together with the information presented here on the causes of past trends and the impact of policy changes, is also being used to forecast future workloads and to assess the potential effects of new policy initiatives.

The future for this type of research is very exciting indeed. The ability of criminal justice agencies to undertake complex computer modelling will also be enhanced by the implementation of the Justice Sector Information Strategy, which seeks to improve the integration of justice sector databases. I am proud that the Ministry of Justice continues to be a leader both of the information strategy and of justice research.

Colin Keating
Secretary for Justice
Acknowledgements

This report would not have been possible without the assistance of a number of agencies. I am particularly grateful to the New Zealand Police for providing all the data for Chapter Two. Special thanks to Colin Durville, Manager of the Research and Support Group, Planning and Policy, New Zealand Police, for providing data and assisting with interpretation.

Additional data for Chapter Five was provided by the Department of Corrections (prison and community-based sentence muster data) and the Department for Courts (fines infringement data). All other data came from the Ministry of Justice databases maintained and developed by Philip Spier and Barb Lash.

I am grateful for the helpful comments of those who reviewed all or part of the various drafts of this report, including Colin Durville (New Zealand Police); Angela Lee, Wayne Goodall, and Phillip Pigou (Department for Courts); Bruce Asher (Department of Corrections); Christine Laven (Crime Prevention Unit); and Philip Spier, Joy McDowall, Mandy McDonald, Francis Luketina and Pat McCabe (Ministry of Justice). Thanks also to Penny Gaylor for assisting with the publication of this report.

Sue Triggs
Senior Research Adviser
Criminal Justice Policy Group
Ministry of Justice
# Contents

Foreword 3  
Acknowledgements 5  
Executive Summary 15  
1 Introduction 21  
2 Enforcement by the Police 23  
  
  2.1 Introduction 23  
  2.2 Data issues 23  
  2.3 Review of crime trends 23  
  2.4 Clearance rates 25  
  2.5 Clearance modes 27  
    2.5.1 Data issues 27  
    2.5.2 Clearance mode by offence type 28  
    2.5.3 Trends in clearance modes 29  
  2.6 Demographic profile of offenders 30  
  2.7 Summary and implications 32  
    2.7.1 Overall workload 32  
    2.7.2 Differences between offence groups 33  
3 Court prosecutions 35  
  
  3.1 Introduction 35  
  3.2 From police data to court cases 35  
  3.3 Trends in the number of cases by offence type 37  
  3.4 The seriousness of prosecuted offences 39  
  3.5 Previous criminal history of defendants 40  
    3.5.1 Number of previous convictions 40  
    3.5.2 Seriousness of offending by criminal history 41  
  3.6 Gender of defendants 42  
    3.6.1 Gender by offence, seriousness and criminal history 42  
    3.6.2 Trends by gender 43  
  3.7 Age of defendants 44  
    3.7.1 Overall age distribution 44  
    3.7.2 Age distribution by offence group 44  
    3.7.3 Seriousness by age group 45  
    3.7.4 Previous convictions by age group 45  
    3.7.5 Trends in the number and type of cases by age group 47  
  3.8 Ethnicity of defendants 50  
    3.8.1 Overall ethnic distribution 50  
    3.8.2 Offence type and seriousness by ethnicity 51
3.8.3 Previous convictions by ethnicity 52
3.8.4 Trends in the number of cases by ethnicity 52
3.9 Summary and implications 55
3.9.1 Overall workload 55
3.9.2 Changes in the offence distribution 55
3.9.3 Representation of different demographic groups 56
3.9.4 Trends in the type of offenders dealt with by the courts 56

4 Outcome of prosecutions 58
4.1 Introduction 58
4.2 An overview of trends in prosecution outcomes 59
4.3 Outcomes by the seriousness of the offence 60
4.4 Outcomes by the criminal history of the defendant 63
4.5 Outcomes by offence type 65
4.6 Outcomes by gender 68
4.7 Outcomes by age group 68
4.8 Outcomes by ethnicity 70
4.9 Summary and implications 72

5 Sentences and correctional populations 76
5.1 Overview 76
5.2 Demographic profile of selected sentences 77
5.3 Prison 79
5.3.1 Trends in the size of the prison population 79
5.3.2 Changes in the use of imprisonment 81
5.3.3 The composition of the prison population 83
5.3.4 Changes in the composition of the prison population 84
5.3.5 Home detention and habilitation 85
5.4 Suspended prison sentences 85
5.5 Periodic detention 87
5.5.1 Sentencing to periodic detention 87
5.5.2 Periodic detention muster 88
5.6 Community programme 90
5.6.1 Sentencing to community programmes 90
5.6.2 Community programme muster 91
5.7 Community service 92
5.7.1 Sentencing to community service 92
5.7.2 Community service muster 93
5.8 Supervision 95
5.8.1 Sentencing to supervision 95
5.8.2 The supervision muster 97
5.9 Monetary penalties 97
5.10 Driving disqualification 99
5.11 Police diversion 99
5.11.1 Background to the diversion scheme 99
List of Tables

Table 2.1: Clearance modes used by the Police 27
Table 2.2: Clearance mode by offence type, 1996 28
Table 2.3: Apprehensions by demographic group, 1986 compared to 1996 31
Table 2.4: Comparison of clearance and prosecution rates, by offence type, 1996 33
Table 3.1: The number of cases prosecuted, the percentage of cases prosecuted by the Police, and the average number of charges per case, by offence, 1996 36
Table 3.2: Offence distribution for offences recorded and prosecuted by the Police compared to cases prosecuted in court, 1996 36
Table 3.3: Gender distribution of defendants, by offence type, 1996 42
Table 3.4: Distribution of previous convictions and seriousness scores for non-traffic offences, by gender, 1996 43
Table 3.5: Age distribution of defendants for non-traffic cases, 1996 44
Table 3.6: Distribution of offences by age group, 1996 45
Table 3.7: Percentage of each age group with 0, 1, 2-4, or 5+ convictions in the previous six years for non-traffic offences, 1996 46
Table 3.8: Ethnic distribution of defendants for non-traffic cases, 1996 50
Table 3.9: Prosecution rates for non-traffic cases by gender, age and ethnicity, 1996 51
Table 3.10: Prosecution rates by offence type and ethnicity and percentage of prosecutions in each offence group, by ethnicity, 1996 52
Table 3.11: Percentage of each ethnic group with 0, 1, 2-4, or 5+ convictions in the previous six years, non-traffic offences, 1996 52
Table 4.1: Outcomes of prosecution 58
Table 4.2: Number of cases in each outcome group, 1986 compared to 1996 59
Table 4.3: Percentage of cases resulting in each outcome by offence seriousness, 1996 60
Table 4.4: Percentage of non-traffic cases resulting in each outcome by the number of convictions in the previous six years, 1996 63
Table 4.5: Percentage of non-traffic cases resulting in each outcome by the number of previous convictions and seriousness of the current offence, 1996 63
Table 4.6: Percentage of cases resulting in each outcome by offence type, 1996 65
Table 4.7: Percentage of non-traffic cases resulting in each outcome, by gender, 1996 68
Table 4.8: Percentage of non-traffic cases resulting in each outcome, by age group, 1996 69
Table 4.9: Percentage of non-traffic cases resulting in each outcome by ethnicity, 1996 71
Table 5.1: The number and percentage of proved cases resulting in each sentence type for sentences 1 to 3, in order of sentence rank, 1996 76
Table 5.2: The total number of cases resulting in each major type of sentence (sum of sentences one, two and three) and the percentage of the total cases by gender, age, ethnicity and previous convictions, 1996 78
Table 5.3: Changes in the imprisonment rate and the average imposed sentence length between 1984-86 and 1994-96, for selected offence types 82
Table 5.4: Composition of the prison population, receptions to prison, and average sentence length, by offence type, 1995 83
Table 5.5: The number of cases resulting in monetary penalties and the percentage they make up of the primary sentences imposed and of the monetary penalties imposed, by offence type, 1996 98
Table 5.6: Estimates of diversion, 1996 102
Table 6.1: Selected branching point probabilities by offence type, 1996 111
Table 6.2: Selected retention rates (cumulative branching point probabilities) by offence type, 1996 112
List of Figures

Figure 1.1: Major pathways through the criminal justice system 21
Figure 2.1: Number of offences recorded by the Police, by offence type, 1986-96 25
Figure 2.2: Clearance rates, by offence type, 1986-96 (offences cleared per 100 offences recorded by the Police) 26
Figure 2.3: Clearance modes by offence type, 1986-96 (method of clearance per 100 offences cleared by the Police) 30
Figure 3.1: Number of cases prosecuted by offence type, 1986-96 38
Figure 3.2: Average seriousness score, 1986-96 39
Figure 3.3: Number of previous convictions, 1986-96 (percentage of people prosecuted with 0, 1, 2-4 or 5+ convictions in the previous six years) 41
Figure 3.4: Seriousness score of the current offence by number of convictions in the previous six years for all non-traffic cases, 1996 42
Figure 3.5: Relative growth of cases by gender, 1986-96 43
Figure 3.6: Percentage of non-traffic cases involving people with no convictions in the previous six years, by age group, 1986-96 47
Figure 3.7: Non-traffic cases prosecuted by age group, 1986-96 48
Figure 3.8: Relative growth of cases by age group, 1986-96 49
Figure 3.9: Number of non-traffic cases and prosecution rate by ethnic group, 1986-96 53
Figure 3.10: Relative growth of cases prosecuted by ethnicity, 1986-96 54
Figure 4.1: Percentage of cases prosecuted resulting in each outcome, 1986-96 60
Figure 4.2: Percentage of cases prosecuted resulting in each outcome, by seriousness score, 1986-96 61
Figure 4.3: Percentage of cases resulting in each outcome, by the number of previous convictions, 1986-96 65
Figure 4.4: Percentage of cases resulting in each outcome, by offence, 1986-96 66
Figure 4.5: Percentage of cases resulting in each outcome by gender, 1986-97 68
Figure 4.6: Percentage of non-traffic cases resulting in each outcome by age group, 1986-96 70
Figure 4.7: Percentage of cases resulting in each outcome by ethnic group, 1986-96 71
Figure 5.1: Average annual sentenced prison population, number of receptions each year and average imposed sentence length, 1986-96 79
Figure 5.2: Relative growth in the imprisonment rate, the average sentence imposed and the average seriousness of cases involving imprisonable offences, 1986-96 80
Figure 5.3: Trends in the use of periodic detention (PD), 1986-96 87
Figure 5.4: Percentage of cases resulting in a PD sentence, by seriousness category, 1986-96

Figure 5.5: The average sentence length and average annual muster for PD

Figure 5.6: Trends in the use of community programmes, 1986-96

Figure 5.7: Percentage of cases resulting in a community programme sentence, by seriousness category, 1986-96

Figure 5.8: The average sentence length and the average annual muster for community programmes

Figure 5.9: Trends in the use of community service, 1986-96

Figure 5.10: Percentage of cases resulting in a community service sentence, by seriousness category, 1986-96

Figure 5.11: The average ‘sentence length’ estimate and the average annual community service muster, 1986-96

Figure 5.12: Trends in the use of supervision, 1986-96

Figure 5.13: Percentage of cases resulting in supervision, by seriousness category, 1986-96

Figure 5.14: The average sentence length and the average annual muster for supervision

Figure 5.16: Estimates of the number and percentage of eligible cases diverted, by offence type, 1988-96

Figure 6.1: Pathways through the criminal justice system

Figure 6.2: Changes in the volume of offences and cases at each stage of the justice system, 1996

Figure 6.3: The percentage of the total offences or cases at each stage of the system accounted for by each offence group, 1996

Figure 6.4: The percentage of total recorded offences and selected sentences accounted for by each offence group, 1996

Figure 6.5: Percentage of the total non-traffic offences accounted for by each offence group at each stage of the system, 1986 compared to 1996

Figure 6.6: Percentage of each stage by demographic group, 1996
Executive Summary

Overview

The aim of this publication is to bring together statistics on enforcement, prosecution, sentencing and correctional populations to give an integrated picture of the criminal justice system. As the development of criminal justice policy requires information not only on the current make-up of the system, but also on how the system functions over time and responds to change, this report examines trends from 1986 to 1996 in the volume and type of the offences and offenders at each stage of the system and in the system as a whole.

To achieve this a computerised statistical model of the criminal justice system was developed. The model is also being used to forecast future trends and to estimate the potential impacts of proposed policy changes.

Enforcement by the Police

Chapter 2 examines data on recorded offences, clearance rates and clearance modes for offences enforced by the Police. The key findings were:

- The number of offences recorded by the Police (excluding traffic offences) increased by 29% between 1986 and 1996. The greatest percentage increases have been for offences against the person, which have more than doubled, and offences against justice, which have trebled in number. In contrast, the number of recorded property offences has increased by 19%, while drug offences and other non-traffic offences increased by a third. Offences against the person include all violent offences, threats, robbery and most sexual offences.

- Clearance rates and prosecution rates differ between offence groups so that some offences (e.g. offences against the person) are much more likely to result in a court prosecution than others (e.g. property offences).

- The rapid increase in the number of recorded offences against the person and offences against justice, which have high clearance rates, has contributed to an increase in the overall clearance rate since 1986.

- Since 1986 prosecution rates have decreased markedly, especially for less serious offences and for offences more often committed by young people. This decrease is due to an increase in the use of warnings and cautions for less serious offences and the use of alternatives to prosecution (such as Family Group Conferences) for most young offenders following the introduction of the Children, Young Persons, and Their Families Act 1989.

- In spite of the greater use of alternatives to prosecution, the total number of offences prosecuted by the Police has increased by 25% over the past decade. This overall
increase has arisen from the increasing number of recorded offences, the increasing seriousness of those offences, and the higher overall clearance rate.

- The demographic profile of apprehended offenders has changed over the past decade, with increases in the number of older offenders and Pacific persons apprehended by the Police.

**Court prosecutions**

Chapter 3 examines data on the number and type of cases and offenders prosecuted in the criminal courts. Moving from police data to courts data requires a transition from offence-based data to case-based data. Several offences may be dealt with in one court case, especially for offence types where multiple offences are common (such as fraud). Data on traffic offences and offences prosecuted by agencies other than the Police are included in this chapter. The key findings were:

- Overall there was a slight decrease in the number of cases dealt with by the criminal courts between 1986 and 1996. However this decrease was largely due to the decriminalisation of a number of minor (non-imprisonable) traffic offences. Non-traffic cases increased by 11% and cases involving imprisonable offences of all types increased by 20%.

- The decriminalisation of some minor traffic offences, the trend away from prosecuting less serious offences and young offenders, and the large increases in the caseload of serious offences (especially offences against the person and offences against justice) mean that the average seriousness of cases prosecuted in court increased by 68% between 1986 and 1996.

- Almost half of all non-traffic cases involved defendants who had no convictions in the previous six years, while 19% had five or more recent convictions. People with no recent convictions were more likely to have committed the least serious (non-imprisonable) offences.

- Fewer than one in five defendants in non-traffic cases were females. On average females were prosecuted for less serious offences and had fewer previous convictions than males. The number of cases involving females showed similar growth trends to males over the 1986-96 period, except that females showed a higher growth rate for offences against the person.

- Amongst the age groups the highest prosecution rates were for 17-19 year olds (124 cases per 1000 population), then 20-29 year olds (71 per 1000), 30-39 year olds (33 per 1000), 14-16 year olds (19 per 1000) and people aged 40 or over (7 per 1000). Children aged 10-13 year can only be prosecuted for murder or manslaughter (none were in 1996).

- The average seriousness of offences prosecuted increases with age, except for 14-16 year olds. The high average seriousness of offences prosecuted for 14-16 year olds is because they are generally only prosecuted in court for serious offences. The age group with the greatest number of previous convictions is the 20-29 year olds.
• Over the last decade the number of people prosecuted per head of population has increased most rapidly for older offenders (those aged 30 or more) for all offence types. There has been a large drop in prosecutions of youth offenders due to the introduction of the Children, Young Persons, and Their Families Act 1989.

• Prosecution rates are higher for Māori (116 cases per 1000 population aged 14 or over) and Pacific peoples (68 cases per 1000 population aged 14 or over) than for the Other ethnic group (i.e. all other ethnic groups combined; 20 cases per 1000 population aged 14 or over). Both Māori and Pacific peoples are particularly over-represented for offences against the person and offences against justice and therefore have higher average seriousness scores than the Other ethnic group. Māori are more likely to have several previous convictions than the Pacific and Other ethnic groups.

• The shape of the trends in prosecution rates by offence type are similar for each ethnic group, although for some offences types the prosecution rate has increased less for Māori and Pacific peoples than for the Other ethnic group. However, the total number of cases prosecuted has increased at a faster rate for Pacific peoples due to their more rapid population growth and the more rapid increases in offence types for which Pacific peoples are most over-represented (especially offences against the person).

*Prosecution outcomes*

Chapter 4 looks at trends in the outcome of prosecutions in five broad categories: prison sentences, community-based sentences, monetary penalties, other proved outcomes and ‘not proved’ outcomes. The key findings were:

• There have been major changes in the outcome of prosecutions over the 1986–96 period. In particular:

(i) The percentage of cases resulting in a ‘not proved’ outcome has doubled due to the introduction of the Police Adult Diversion Scheme. (Although diverted offenders have admitted their guilt, successful completion of diversion results in the case being withdrawn without formal proof or a conviction.) The large increase in the use of ‘not proved’ outcomes is apparent only for first offenders, as expected as the diversion scheme is targeted at first offenders.

(ii) The use of community-based sentences has almost doubled.

(iii) The use of monetary penalties has dropped substantially as the use of diversion and community-based sentences has increased.

(iv) The use of imprisonment has changed little relative to other sentence types.

• These changes are partly related to the increase in the average seriousness of cases dealt with by the courts. However, the trends have also occurred within most seriousness categories, particularly in the low to moderate seriousness groups, and for most offence types, indicating that changes in sentencing practice have occurred.

• These trends mean that more of the offenders prosecuted in court are now dealt with via community-based sanctions (community-based sentences and some diversion schemes) instead of paying fines. Therefore the cost of sentence administration has increased.
• The seriousness and type of offence committed and the number of previous convictions of the defendant are important factors in determining the sentence received.

• As the average seriousness of offending and the average number of previous convictions vary between gender, age and ethnic groups, the type of prosecution outcome also differs between these groups. In particular:

(i) Females are less likely to receive a prison sentence and are more likely to have a ‘not proved’ outcome than males. This finding is consistent with the lower average seriousness of offences committed by females and their lower average number of previous convictions.

(ii) Māori, and to a lesser extent Pacific peoples, are more likely to receive a prison sentence or community-based sentence that other ethnic groups. This finding is consistent with the higher average seriousness of offending by Māori and Pacific peoples and the higher average number of previous convictions for Māori.

**Sentences and correctional populations**

Chapter 5 examines specific sentence types in more detail, including information on imprisonment, individual community-based sentences and monetary penalties, driving disqualification and the Police Adult Diversion Scheme. This chapter also includes information on the average number of people serving sentences. The key findings were:

• In 1996 there was an average of over 25,500 people serving prison or community-based sentences (4200 sentenced prison inmates, 7400 under supervision, 6800 serving periodic detention, 6700 on community service and 470 on community programmes). This represents a 78% increase in the total correctional population since 1986.

• The sentenced prison population increased by 83% between 1986 and 1996. This growth resulted from an increase in the number of serious (especially serious violent) cases dealt with by the courts, an increase in imposed sentence lengths for serious offences and changes in parole eligibility for serious violent offenders and people serving life or preventive detention sentences. The prison population would have increased even more but for a decrease in the use of imprisonment for less serious offences and earlier parole eligibility for some offenders.

• The size of the prison population is very sensitive to the number of serious violent offenders prosecuted as they serve by far the longest sentences. Even a small increase in the number of serious violent offences can lead to a large increase in the prison population. The difficulty of accurately predicting small changes in the number of serious violent offences that will be committed in the future means that it is also difficult to accurately predict the future size of the prison population.

• The introduction of the suspended prison sentence in 1993 was expected to significantly reduce the size of the prison population. However, net-widening in the application of suspended sentences (the imposition of suspended sentences in cases that would not otherwise have received a prison sentence or in cases that would have received a shorter prison sentence) combined with significant activation rates mean that little if any reduction in the prison population is likely to result from the introduction of suspended
sentences. The inappropriate application of new sentences makes it difficult to estimate the likely impact of new options to reduce the prison population, such as the proposed extension of the home detention programme.

- The number of people serving periodic detention, community service and community programme sentences peaked in the early 1990s after a very rapid increase. More recently the use of these sentences has declined while the use of monetary penalties has again increased. Over half of these sentences are imposed for cases involving traffic or property offences.

- The fourth type of community-based sentence, supervision, shows a different trend. The use of supervision increased rapidly in the early 1990s before stabilising in the mid 1990s. Much of this recent increase was related to the rapid increase in the number of domestic violence cases, as well as an increase in the use of supervision in these cases. Supervision can be imposed as the primary sentence or as a second sentence in combination with prison or periodic detention. The same pattern of increase occurs for both primary and secondary sentences of supervision.

- Estimation of periodic detention and particularly community service musters is complicated by use of these sentences for fines defaulters, as there is a lack of data on the resentencing of fines defaulters. Calculation of sentence length for community service is also problematic as only the number of hours of service to be completed is recorded (the hours may be completed over any length of time up to a year).

- In 1996 some 62,000 court cases resulted in monetary penalties, 88% of which were fines and 12% were reparation. This represents about 15% of the total number of fines administered by the Department for Courts, as a large number of fines result from the non-payment of fees for infringement offences (such as speeding), which are not included in the prosecution and conviction statistics. The majority of fines are imposed for low seriousness (non-imprisonable) offences. Property offences are the most likely to have reparation imposed.

- In 1996 almost 33,000 cases resulted in a driving disqualification. The majority of serious traffic offences resulted in a driving disqualification, almost invariably in combination with another sentence such as a fine or community-based sentence. Disqualification from driving is mandatory for many serious traffic offences.

- The introduction of the Police Adult Diversion Scheme in 1988 has had a very significant effect on the outcome of court cases. A very large number of people (at least 11,000) were diverted in 1996. The most rapid growth in the use of diversion occurred in the first three years of the scheme (1988-91), although a broadening of the eligibility criteria in 1994 seems to have produced a smaller secondary growth phase. An estimated 34-38% of adult first offenders who have committed property, drug or ‘other non-traffic’ offences are diverted.

**The system as a whole**

Chapter 6 presents an integrated view of volumes, flows and trends in the criminal justice system. The findings must be interpreted with caution due to different methods of
measurement of offences, cases, and individuals under correctional supervision. Also, enforcement data for offences not prosecuted by the Police had to be estimated to allow comparisons of all offences across the whole system. The key findings were:

- The number of offences dealt with by each stage of the criminal justice system is lower than in the previous stage, as only a proportion of offences are cleared, prosecuted and sentenced. An estimated 58% of recorded offences are cleared, 32% are prosecuted, 25% are proved, and 2% result in a prison sentence (based on an estimate of all recorded offences including traffic offences and offences prosecuted by agencies other than the Police).

- The percentage remaining at each stage of the system (the retention rate) varies considerably between offence types. For example, the probability that a recorded offence in the ‘serious offence against the person’ group will result in a prison sentence is estimated to be 16% compared to 1% for a property offence.

- Differences in retention rates between offence types, and to a lesser extent between demographic groups, mean that the type of offences and offenders dealt with differs between stages of the system. For example, prison inmates are more likely to have committed a serious violent offence than the average offender apprehended by the Police.

- These differences also mean that the various sentences or outcomes are sensitive to changes in different types of offending. For example, an increase in young property offenders would have only a small effect the overall workload of the Department for Courts and Department of Corrections, but would have a large impact on the volume of Family Group Conferences. Similarly, an increase in the number of adult first offenders committing offences of low to moderate seriousness would result in a disproportionate increase in the workload of the Police Diversion Scheme and an increase in the number of serious, repeat offenders would have a large impact on the prison population.

- The rapid increase in the number of recorded offences against the person over the last decade has had a disproportionate impact on the workload of the criminal justice system due to the high clearance, prosecution, and imprisonment rates and the relatively long prison sentences served for offences against the person. Offences against the person also have a high unit cost. For example, the most costly way to process a case through the courts is by a jury trial and by far the most expensive sentence is imprisonment. As offenders who have committed offences against the person account for over half of all jury trials and just over 60% of the prison population, the growth of offences against the person has had a significant impact on costs as well as on volumes.
1 Introduction

Several separate agencies are responsible for the operation of various parts of the criminal justice system, including three core operational agencies – the New Zealand Police, the Department for Courts and the Department of Corrections. Although each agency has separate functions they deal sequentially with the same offenders and offences. This sequence can be described by a branching tree model, with one or more possible outcomes at each branching point (Figure 1.1).

Figure 1.1: Major pathways through the criminal justice system

Offences recorded by the police (and other enforcement agencies)

\[ \downarrow \quad \text{Cleared} \quad \downarrow \text{Not cleared} \]

\[ \downarrow \quad \text{Prosecution} \quad \downarrow \text{Diversion} \quad \downarrow \text{Youth Aid} \quad \downarrow \text{FGC}^1 \quad \downarrow \text{Warning} \quad \downarrow \text{Caution} \quad \downarrow \text{No offence} \quad \downarrow \text{Other} \]

\[ \downarrow \text{Proved} \quad \downarrow \text{Not proved}^2 \]

\[ \downarrow \text{Prison} \quad \downarrow \text{Periodic detention} \quad \downarrow \text{Supervision} \quad \downarrow \text{Community programme} \quad \downarrow \text{Community service} \quad \downarrow \text{Monetary} \quad \downarrow \text{Defer or suspend} \quad \downarrow \text{Other} \]

1 Family Group Conference

2 ‘Not proved’ does not necessarily imply ‘not guilty’. Offenders dealt with by FGCs or police diversion may admit guilt but the outcome is entered as ‘case withdrawn’, technically a ‘not proved’ outcome.

First, the offence must be recorded by the enforcement agency, usually the Police. If an offender is apprehended they may be dealt with in a number of ways including prosecution through the court system. If the case is proved in court a sentence may be imposed, which may include a term in prison or a community-based sentence administered by the Department of Corrections.

The aim of this publication is to bring together statistics from each of these agencies to give an integrated picture of the criminal justice system. As the development of criminal justice policy requires information not only on the current make-up of the system, but also on how the system functions over time and responds to change, this report examines trends from 1986 to 1996 in the volume and type of the offences and offenders at each stage of the
Offences dealt with by the Police are analysed in Chapter Two, the number and outcome of cases heard by the criminal courts are considered in Chapters Three and Four, and the number of people serving sentences is covered in Chapter Five. The analysis highlights the different trends apparent for different types of offences and offenders and relates changes in trends to policy changes.

Chapter Six presents a system-wide perspective, integrating the information from each stage of the system. The analysis examines some of the effects of having a system involving a series of branching points or decisions points, including:

- a reduction in the number of offences dealt with in successive stages of the system, as not all offences move through to the next stage and some offences are dealt with outside the core system;
- a change in the type of offences and offenders dealt with at each stage due to their different paths through the system;
- the sometimes unexpected effects caused by seemingly small changes that can magnify through the system to produce large downstream impacts.

This integrated analysis was made possible by the development of a computerised simulation model of the volumes and flows through the criminal justice system. The modelling approach not only allows a better understanding of the current system and the impact of recent trends, but also allows forecasting of likely future trends and analysis of the potential impacts of proposed changes.

The analysis presented here looks only at major pathways through the system, as in Figure 1. The information is mainly from operational data originally collected by the three core operational agencies, particularly emphasising data on prosecutions and sentencing collected by the Department for Courts and processed into an annual summary data-set by researchers in the Ministry of Justice. This report does not go into the details of the criminal justice process, such as the court or trial type or the number and type of hearings. Nor does it include data collected by other agencies, such as youth justice data from the Department of Social Welfare.
2 Enforcement by the Police

2.1 Introduction

The enforcement of the various criminal laws of New Zealand is the first stage of the formal criminal justice system. The analysis presented in this chapter covers trends in the number and type of offences recorded by the New Zealand Police, the percentage of these offences cleared and the mode of clearance, and a demographic profile of apprehended offenders. The final section summarises the findings and discusses some of their implications.

2.2 Data issues

The Police deal with the majority of criminal offences; 87% of all criminal court cases are prosecuted by the Police. No information is included in this chapter on offences dealt with by other agencies, but prosecutions of these offences are included in the data in subsequent chapters. A range of other agencies can prosecute offenders under a variety of Acts. For example, justice agencies can prosecute cases involving a breach of a sentence or court order, Inland Revenue prosecute tax offences, Social Welfare and the Serious Fraud Office prosecute some fraud cases, and local councils prosecute cases involving a variety of minor offences such as dog control offences.

Traffic offences are included in this analysis where possible. Trend data are not available for the 1986-96 period for traffic offences, as traffic offences were not recorded in a single consistent format prior to the 1992 merger of the Police and the Traffic Safety Service of the Ministry of Transport.

The data presented in this chapter may differ from the published Police statistics. This is because the published statistics are compiled after the end of the calendar year from returns submitted by districts. Any returns submitted after the deadline are not included. In contrast, the analysis presented here is based on the final data-set including all offences occurring in the calendar year. In particular, clearance rates and prosecution rates may be significantly higher than for published data due to the time delay between recording and clearance for some offences. Traffic offences are not generally included in the published statistics.

The data were supplied by the New Zealand Police from the Law Enforcement System (the former Wanganui Computer database).

2.3 Review of crime trends

The main entry point to the criminal justice system is the recording of an offence by the Police. The number of offences recorded by the Police depends on the number of offences
actually committed and the proportion of these offences that are officially recorded by the Police. Only a proportion of the offences that are committed are detected and reported and not all incidents reported are officially recorded as offences. The results of the Victimisation Survey\(^1\) suggest that about 13% of the offences reported in the survey were both reported to the police and recorded by the police. Reporting and recording rates vary significantly between offences. For example, a high percentage of vehicle thefts are both reported and recorded (an estimated 86%) compared to a low percentage of thefts (8%), minor assaults (7%) and threats (<1%). Therefore, crime trends do not necessarily reflect trends in actual levels of offending, as changes in the number of offences recorded by the Police can also be influenced by changes in the reporting of offences by the public and changes in Police recording practices.

Only a summary of recent trends is included here, as a previous report examined trends in recorded crime in detail.\(^2\) One of the characteristics of recorded crime trends when viewed over several decades is the increasing trend over the long-term combined with very strong fluctuations in the shorter term. Several years of little change in the number of recorded offences for any particular offence are often followed by very rapid growth or even decline.

The reasons for these fluctuations cannot be established with certainty, as so many factors can affect recorded crime. Changes in public attitudes or police policy can lead to rapid, one-off changes in trends, whereas gradual changes in the nature of society may lead to gradual increases in crime over time, and economic cycles may influence shorter-term fluctuations. Therefore, it is very difficult to forecast future trends and it can be misleading to consider trends over short time periods.

The number of recorded offences has increased over the 1986 to 1996 period for all offence types (Figure 2.1). The greatest percentage increases have been for offences against the person, which have more than doubled, and offences against justice, which have trebled in number. In contrast, the number of recorded property offences has increased overall by only 19%, with a period of decline between 1992 and 1994. Recorded drug offences and other non-traffic offences have increased by a third. Trends for traffic offences are not available.

In 1996 around 650,000 offences were recorded by the Police, including 106,000 traffic offences. In terms of volume, property offences account for the largest proportion (59%) of total offences recorded by the Police. Traffic offences account for a further 16% of offences and the mostly minor offences grouped under ‘other non-traffic’ account for a 11% of offences. Only a small proportion of the recorded offences are serious offences against the person (2%), other offences against the person (6%), drug offences (4%) or offences against justice (1%).

‘Serious offences against a person’ includes all the most serious violent offences and other serious offences against a person (homicide, grievous and aggravated assault, kidnapping,

---

1 Young, W.; Morris, A; Cameron, N.; Haslett, S. (1997) New Zealand National Survey of Crime Victims. Victimisation Survey Committee, Wellington. The Victimisation Survey includes offences committed against individuals and households. Offences against businesses, administrative offences, ‘victimless’ offences (e.g. drugs, traffic) etc are excluded.

sexual offences, and robbery), including those legally defined as 'Serious Violent’ with regards to parole eligibility (see Appendix). All other violence and offences against a person are included under ‘other offences against a person’.

Property offences include burglary, theft, vehicle conversion, receiving, fraud and property damage. Offences against justice include breaches of sentences and orders, breach of parole, breach of bail, escaping custody, and obstruction of justice. The ‘other non-traffic’ group includes offences against good order, property abuse, and miscellaneous offences (e.g. offences under various Acts dealing with dog control, tax, fisheries, and so on). More detail on the offences making up each offence group is given in the Appendix.

**Figure 2.1: Number of offences recorded by the Police, by offence type, 1986-96 (000s of offences)**

2.4 Clearance rates

The impact of crime trends on the workload of the courts and correctional systems is mediated through the proportion of recorded offences that are cleared and prosecuted. An offence can be cleared by the apprehension of an offender or by the determination that no offence has occurred after further examination of the evidence. The clearance rate is the percentage of recorded offences that are cleared.
Clearance rates vary considerably between offence types (Figure 2.2). Offences with high clearance rates include offences that are detected by the Police rather than reported by the public (most drug offences), offences where the offender is more often caught in the act or known to the victim (many assaults) and offences where the offender is known to the authorities (offences against justice). Offences where the offender remains undetected at the time of the offence (most property offences) have lower clearance rates.

Because the clearance rate differs between offence types, the overall clearance rate depends strongly on the distribution of offence types for each year. Between 1986 and 1996 the overall clearance rate for non-traffic offences increased mainly as a result of the very rapid increase in the number of recorded offences with high clearance rates (especially offences against the person) compared to the low rate of growth for offences with low clearance rates (property offences).

Clearance rates are not meaningful for traffic offences, as a different system is used to record traffic data. In the majority of cases the offence is only recorded when further action is to be taken, therefore almost all traffic offences are ‘cleared’, except for the few offences reported to the Police.

**Figure 2.2: Clearance rates, by offence type, 1986-96**

(Offences cleared per 100 offences recorded by the Police)

Clearance rates increased between 1986 and 1996 for serious offences against the person and for other offences against the person. Again this was partly due to a change in the type of offences against the person being recorded, with greater increases in the number of recorded offences that have high clearance rates (e.g. assault) relative to those with lower clearance rates (e.g. robbery).

The clearance rates for property offences, drug offences and offences against justice fluctuated with little overall change between 1986 and 1996, while the rate for other non-traffic offences went through considerable fluctuations due to changes in the offence types making up this category.
2.5 Clearance modes

2.5.1 Data issues

The clearance mode describes the way in which an offence is cleared by the Police. Cleared offences are dealt with by one of 13 clearance modes, which are summarised in this analysis into four or five groups (Table 2.1). Clearance modes, other than the number of prosecutions, are not recorded for traffic offences.

In this analysis any offence formally proceeded against in court is counted as a prosecution. Police diversion is included under prosecution, as the outcome is registered in the court prosecution statistics even though successful completion of a diversion scheme does not result in a conviction. A detailed analysis of diversion is provided in section 5.11.

Table 2.1: Clearance modes used by the Police

<table>
<thead>
<tr>
<th>Police code</th>
<th>Description</th>
<th>Summary group</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROS</td>
<td>Prosecuted in adult court</td>
<td>Prosecuted</td>
</tr>
<tr>
<td>PYC</td>
<td>Prosecuted in youth court</td>
<td>Prosecuted</td>
</tr>
<tr>
<td>DIVR</td>
<td>Police adult diversion scheme</td>
<td>Prosecuted</td>
</tr>
<tr>
<td>YAS</td>
<td>Child or young person dealt with by Youth Aid Section</td>
<td>Youth</td>
</tr>
<tr>
<td>FGC</td>
<td>Child or young person attends Family Group Conference</td>
<td>Youth</td>
</tr>
<tr>
<td>CAUT</td>
<td>Offender cautioned</td>
<td>Warn/caution</td>
</tr>
<tr>
<td>WARN</td>
<td>Officially authorised warning</td>
<td>Warn/caution</td>
</tr>
<tr>
<td>WCYP</td>
<td>Officially authorised warning to child or young person</td>
<td>Warn/caution</td>
</tr>
<tr>
<td>NOOFF</td>
<td>No offence disclosed, after being recorded</td>
<td>Other (No offence)</td>
</tr>
<tr>
<td>MENT</td>
<td>Offender with mental condition</td>
<td>Other</td>
</tr>
<tr>
<td>INFT</td>
<td>Too young to deal with</td>
<td>Other</td>
</tr>
<tr>
<td>CUST</td>
<td>Already in custody</td>
<td>Other</td>
</tr>
<tr>
<td>OTHR</td>
<td>Other (e.g. died, left New Zealand, over the time limit for prosecution)</td>
<td>Other</td>
</tr>
</tbody>
</table>

Offenders can also be dealt with without a formal court prosecution, either by the use of an informal caution or official warning or, for children and young people under the age of 17, via the youth justice system and the Youth Aid Section of the Police.

Before November 1989 young people were dealt with under the provisions of the Children and Young Persons Act 1974. Since then they have been dealt with under the Children, Young Persons, and Their Families Act 1989. The latter Act introduced the use of Family Group Conferences as an alternative to the formal court system for young people.
Prosecution is therefore less commonly used for young offenders than it is for adults. A child under the age of ten cannot be prosecuted at all and children aged 10 to 13 can only be prosecuted for murder or manslaughter. In general young people aged 14 to 16 are prosecuted through the courts only for serious offences and even then most cases are handled by a Family Group Conference after a preliminary court hearing. The process is explained in more detail in Conviction and Sentencing (p. 99):

‘As it relates to youth justice, the CYP&F Act indicates that ‘...unless the public interest requires otherwise, criminal proceedings should not be instituted against a child or young person if there is an alternative means of dealing with the matter’ (s.208). The legislation provides that in most cases where a young person is arrested and brought before the Youth Court, the court must adjourn the proceedings until a family group conference has been held (s.246). The family group conference is required to recommend to the court whether the young person should be dealt with by the court or in some other way (s.258(d)). Where a young person is not arrested, proceedings may not be instituted unless a family group conference has been held (s.245). In these cases, the young person will only appear in court if the family group conference recommends that the matter be dealt with by the courts (s.258(b)) or if the enforcement officer (usually a police officer) disagrees with the recommendations of the conference (s.263(1)(b), s.264(2)). The CYP&F Act, therefore, places an emphasis on diverting young people from formal prosecution processes in court, and using the family group conference as a means of making decisions about young offenders.’

### 2.5.2 Clearance mode by offence type

Just over half (51%) of all cleared offences (excluding traffic offences) are prosecuted, with a further 18% being dealt with by warnings or cautions, and 12% being dealt with by the youth justice system (Table 2.2). About one in seven cleared offences result in a ‘no offence disclosed’ outcome. For traffic offences, 67% of recorded offences are prosecuted.

Table 2.2: Clearance mode by offence type, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Number of clearances</th>
<th>Prosecuted</th>
<th>Youth</th>
<th>Warn/caution</th>
<th>No offence</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>% of cleared offences resulting in each mode</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serious against person</td>
<td>13,315</td>
<td>66.8</td>
<td>6.9</td>
<td>7.3</td>
<td>14.0</td>
<td>5.1</td>
</tr>
<tr>
<td>Other against person</td>
<td>33,172</td>
<td>51.9</td>
<td>5.9</td>
<td>21.9</td>
<td>15.6</td>
<td>4.7</td>
</tr>
<tr>
<td>Property</td>
<td>144,913</td>
<td>51.8</td>
<td>18.0</td>
<td>11.8</td>
<td>11.9</td>
<td>6.5</td>
</tr>
<tr>
<td>Drugs</td>
<td>23,698</td>
<td>64.9</td>
<td>4.7</td>
<td>25.9</td>
<td>2.8</td>
<td>1.7</td>
</tr>
<tr>
<td>Against justice</td>
<td>7,710</td>
<td>68.9</td>
<td>4.8</td>
<td>13.6</td>
<td>7.5</td>
<td>5.2</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>70,704</td>
<td>39.4</td>
<td>5.5</td>
<td>27.9</td>
<td>23.3</td>
<td>3.8</td>
</tr>
<tr>
<td>Total (excluding traffic)</td>
<td>293,512</td>
<td>51.0</td>
<td>11.7</td>
<td>17.8</td>
<td>14.3</td>
<td>5.2</td>
</tr>
</tbody>
</table>

---

The clearance mode varies significantly between offence types, depending on the seriousness of the offence and the age distribution of offenders. Prosecution rates are higher for more serious offences (e.g. serious offences against the person), for offences involving the breach of another sentence (e.g. offences against justice), and for offences more often committed by adults (e.g. drug offences).

Warnings or cautions are used more extensively for less serious offences, such as offences relating to the possession or use of cannabis (which make up over half of the drugs category) and offences relating to disorderly behaviour and trespassing (which contribute to the ‘other non-traffic’ category).

Offences more often committed by offenders under the age of 17 have a higher percentage cleared through the youth justice processes (Family Group Conferences and the Youth Aid Section of the Police). Young people make up a large proportion of property offenders (44%), compared to a minority of offenders for serious offences against the person (14%), other offences against the person (10%) and drug offences (6%). The exceptions to this are robbery (a serious offence against the person for which 40% of offenders are young people) and fraud (a property offence for which 16% of offenders are young people).

The ‘no offence’ category is used when the reported event proves not to be an offence on further investigation (e.g. the report is unsubstantiated or does not fall into the category of an offence against the law or the victim withdraws the complaint). Offences more often detected by the Police or other justice agencies (drugs and offences against justice) have the lowest percentages of ‘no offence’ outcomes.

### 2.5.3 Trends in clearance modes

The percentage of cleared offences that are prosecuted has declined overall from 61% in 1986 to 51% in 1996. These data exclude traffic offences, for which consistent trend data are not available. The decline in prosecution rates over the 1986-96 period has occurred within all offence groups except for offences against justice (Figure 2.3).

The decrease has been greatest for the less serious offences (such as drug offences and ‘other non-traffic’ offences) as the use of warnings and cautions increased for these offences in the late 1980s. The introduction of the Children, Young Persons, and Their Families Act in 1989 further decreased the use of prosecution as many young offenders are now dealt with by Family Group Conferences rather than by formal court processes. This is especially true for property offences, which are more often committed by young offenders.

In the last few years the trends for all clearance modes have been more stable.
Figure 2.3:  Clearance modes by offence type, 1986-96
(method of clearance per 100 offences cleared by the Police)

(a) Serious offences against the person

(b) Other offences against the person

(c) Property

(d) Drugs

(e) Offences against justice

(f) Other non-traffic offences

2.6  Demographic profile of offenders

The demographic characteristics of an offender are not known until the offender is
apprehended, therefore the demographic data kept by the Police are for apprehended offenders rather than recorded offences. One apprehension is recorded for each offence and offender. For example, one offence committed by ten people or one person arrested for ten offences both appear ten times in the apprehension statistics. The demographic data presented here do not include people who have committed traffic offences.

Total numbers and trends in apprehensions by gender, age and ethnicity are examined in this section. A more detailed analysis of demographic data with respect to offence type and population size is given in sections 3.6-3.8.

A total of 195,000 apprehensions were made in 1996, up 40% on the number for 1986 (Table 2.3). This is not equivalent to 195,000 individual offenders, as many offenders are apprehended for multiple offences. A fifth of all offenders are female. This is about the same as a decade ago as the number of male and female offenders apprehended has increased at about the same rate.

Table 2.3: Apprehensions by demographic group, 1986 compared to 1996

<table>
<thead>
<tr>
<th>Gender</th>
<th>Number of apprehensions1</th>
<th>% of total apprehensions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>112,342</td>
<td>157,028</td>
</tr>
<tr>
<td>Female</td>
<td>27,323</td>
<td>37,986</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-16</td>
<td>36,159</td>
<td>44,692</td>
</tr>
<tr>
<td>17-20</td>
<td>43,533</td>
<td>46,881</td>
</tr>
<tr>
<td>21-30</td>
<td>42,625</td>
<td>59,268</td>
</tr>
<tr>
<td>31+</td>
<td>17,348</td>
<td>44,173</td>
</tr>
<tr>
<td>Ethnicity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Māori</td>
<td>55,004</td>
<td>77,209</td>
</tr>
<tr>
<td>Pacific</td>
<td>6,219</td>
<td>14,340</td>
</tr>
<tr>
<td>Other</td>
<td>78,442</td>
<td>103,465</td>
</tr>
<tr>
<td>Total</td>
<td>139,665</td>
<td>195,014</td>
</tr>
</tbody>
</table>

1 Apprehensions by the Police for all offences excluding traffic offences.

By 1996 apprehensions were approximately evenly distributed between offenders aged 16 or less, 17 to 20, 21 to 30, and over 30. The main change since 1986 has been the more rapid growth of apprehensions of people aged over 30 (a 155% increase), such that this group now make up 23% of the apprehensions compared to 12% in 1986. Some growth in numbers has also occurred for those aged 21 to 30 (a 39% increase) and aged 16 or less (a 24% increase), compared to a lower growth rate for 17 to 20 year olds (an 8% increase).

The ethnic data presented here must be interpreted with some caution. The Statistics New
Zealand standard classification of ethnicity requires self-identification, with anyone who states Māori (even if other ethnic groups are also stated) being classified as Māori. The Police also use self-identification, but only one ethnic group is allowed and self-identification may not always be achieved.

The number of offenders recorded as being Māori and the number from Other ethnic groups (i.e. all other ethnic groups combined) have increased at a similar rate over the last decade, compared to a much greater increase in the number of Pacific peoples. Pacific peoples now account for 7% of apprehensions compared to 4% in 1986. This greater increase in apprehensions for Pacific peoples reflects two factors. Firstly, the population of Pacific peoples has grown faster than that of Māori or Other ethnic groups. The Pacific population increased by 47% between 1986 and 1996, compared to an increase of 18% for Māori and 6% for Other ethnic groups. And secondly, the offence types for which Pacific peoples are most over-represented, especially offences against the person, have increased at the greatest rate (see section 3.8 for further details).

### 2.7 Summary and implications

#### 2.7.1 Overall workload

The increase in the number of recorded offences over the last decade suggests that the Police have faced an increasing workload, especially from the rapidly increasing number of recorded offences against the person. The number of offenders dealt with by the Police has increased even more due to the overall increase in the clearance rate. The number of recorded offences is predicted to continue increasing in the next few years for most offence types under the current conditions, although the rate of increase for offences against the person is predicted to slow considerably relative to the early 1990s.

The combination of an increase in recorded offences and an increase in the overall clearance rate has meant that the number of prosecutions entering the court system has increased over the last decade even though the percentage of cleared offences that are prosecuted has decreased significantly. Between 1986 and 1996 the number of recorded offences (excluding traffic offences) increased by 29%, the number of cleared offences increased by 41% and the number of prosecuted offences increased by 25%.

Unless new procedures for dealing with offenders are introduced, the number of prosecutions for each offence type will probably continue to increase at about the same rate as the number of recorded offences as both clearance rates and prosecution rates have stabilised in the last few years. By 1996 a quarter of recorded offences other than traffic offences resulted in a prosecution.

Over the past decade the criminal justice system has expanded the diversity of approaches to dealing with offenders. Family Group Conferences, administered by the Department of Social Welfare, have taken over some of the role that would previously have been provided by the Department for Courts, while the Police Adult Diversion Scheme provides a new way of

---

dealing with adult offenders. Also minor offences are now more likely to be dealt with by way of cautions or warnings. The ethnic diversity of offenders has also increased over the last decade, particularly with the growth of populations of Pacific peoples.

These changes have affected the workload of the Courts system:

- A greater proportion of offences are being dealt with outside the court system.
- Fewer young people and more Pacific peoples are being dealt with in the courts.
- The proportion of property offences dealt with by the courts has decreased as a relatively high proportion of property offences are committed by young offenders.
- The average seriousness of offences prosecuted in court has increased due to an increased use of alternatives to prosecution for less serious offences and an increased number of serious offences (especially offences against the person) being recorded by the Police.

### 2.7.2 Differences between offence groups

Variation in clearance rates and clearance modes between offence groups (Table 2.4) means that the offence distribution differs between recorded offences, cleared offences, and prosecutions.

**Table 2.4: Comparison of clearance and prosecution rates, by offence type, 1996**

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Clearances per 100 recorded offences</th>
<th>Prosecutions per 100 cleared offences</th>
<th>Prosecutions per 100 recorded offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious against person</td>
<td>80.5</td>
<td>66.8</td>
<td>53.7</td>
</tr>
<tr>
<td>Other against person</td>
<td>85.9</td>
<td>51.9</td>
<td>44.6</td>
</tr>
<tr>
<td>Property</td>
<td>31.8</td>
<td>51.8</td>
<td>16.5</td>
</tr>
<tr>
<td>Drugs</td>
<td>93.0</td>
<td>64.9</td>
<td>60.3</td>
</tr>
<tr>
<td>Against justice</td>
<td>83.3</td>
<td>68.9</td>
<td>57.4</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>90.4</td>
<td>39.4</td>
<td>35.6</td>
</tr>
<tr>
<td>Total non-traffic</td>
<td>48.2</td>
<td>51.0</td>
<td>24.6</td>
</tr>
</tbody>
</table>

The high clearance and prosecution rates for offences against the person, drug offences and offences against justice mean that these offences are more likely than property offences to pass from the recorded crime stage to a formal prosecution in court. Thus, offences against the person make up 9% of non-traffic offences recorded by the Police, compared to 17% of prosecutions. In contrast property offences make up 71% of the non-traffic offences recorded by the Police, compared to 50% of prosecutions. The comparative figures for drug offences are 4% and 10%, while offences against justice make up less than 2% of offences recorded by the Police, compared to 4% of prosecutions.

Although prosecution rates have decreased significantly over the last decade, the number of prosecutions has continued to increase as both the total number of recorded offences (especially serious offences) and the overall clearance rate have increased. The number of prosecutions has increased most rapidly for offences against the person and offences against justice. Therefore these offence groups have made up an increasing proportion of
prosecuted offences. These changes are due to the more rapid increase in the number of recorded offences involving offences against the person and offences against justice, combined with an increase in clearance rates (for offences against the person) and a smaller decrease in prosecution rates.

In the last decade the number of offences prosecuted has doubled for offences against the person and increased by 170% for offences against justice, compared to increases in the range of 10% to 20% for other offences. Offences against the person made up 10% of prosecuted offences in 1986 compared to 17% in 1996. The proportion accounted for by offences against justice is small, but has increased from 1% to 4% over the last decade. In contrast property offences now account for 50% of prosecutions, down from 57% in 1986.
3 Court prosecutions

3.1 Introduction

The aim of this chapter is to provide a detailed examination of those offences and offenders that flow through from the enforcement stage to the criminal courts. As noted in the previous chapter, a quarter of offences recorded by the Police (excluding traffic offences) result in a prosecution, with some offences being more likely to be prosecuted than others.

After an initial discussion of the data issues around the police to courts transition, this chapter covers the number, type and seriousness of offences for court cases and profiles defendant characteristics (previous criminal history, gender, age and ethnicity), before finishing with some implications of the findings.

3.2 From police data to court cases

The transition from police data to courts data requires a change in the unit of measure from offences to cases. The number of prosecuted offences is considerably higher than the number of prosecuted cases as more than one offence can be processed by one court case. A ‘case’ is defined in general terms as all charges against a single offender which share a first or final hearing date in common (see the Appendix for a more detailed definition). For a case involving more than one charge, the charge taken to represent the case is the one that resulted in the most serious penalty.

The number of cases prosecuted in the criminal courts is influenced by the number of offences prosecuted by the Police and the average number of charges (offences) per case, as well as the number of cases prosecuted by agencies other than the Police.

On average there are just under two charges per case (Table 3.1). The average number of charges per case differs by offence type. Cases involving property offences have the highest average number of charges per case. In particular, fraud and burglary cases may deal with a large number of offences together. In 1996, cases with fraud as the major offence involved an average of seven charges, with a maximum of 440 charges. The average for burglary was four charges with a maximum of 261 charges. The high average number of charges in cases involving sexual offences (average four charges, maximum 96) contributes to the relatively high average for the ‘serious offence against the person’ group.5

The court case data also differ from the Police data because they include cases prosecuted by agencies other than the Police. The vast majority of cases are prosecuted by the Police (Table 3.1), with the exception of offences against justice (e.g. breaches of sentences or orders

---

5 Serious offences against the person include homicide, grievous and aggravated assault, kidnapping, sexual offences and robbery (see Appendix for more details).
imposed by the court, often prosecuted by justice agencies) and ‘other non-traffic’ offences (offences under a variety Acts, often prosecuted by local councils and government departments such as Inland Revenue).

Table 3.1: The number of cases prosecuted, the percentage of cases prosecuted by the Police, and the average number of charges per case, by offence, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Number of cases</th>
<th>% prosecuted by the Police¹</th>
<th>Average charges per case</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious against person</td>
<td>5,622</td>
<td>100</td>
<td>3.13</td>
</tr>
<tr>
<td>Other against person</td>
<td>12,745</td>
<td>100</td>
<td>1.55</td>
</tr>
<tr>
<td>Property</td>
<td>29,176</td>
<td>98</td>
<td>3.04</td>
</tr>
<tr>
<td>Drugs</td>
<td>8,881</td>
<td>100</td>
<td>1.79</td>
</tr>
<tr>
<td>Against justice</td>
<td>9,094</td>
<td>36</td>
<td>1.90</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>26,434</td>
<td>56</td>
<td>1.53</td>
</tr>
<tr>
<td>Serious traffic</td>
<td>37,196</td>
<td>99</td>
<td>1.48</td>
</tr>
<tr>
<td>Minor traffic</td>
<td>18,022</td>
<td>97</td>
<td>1.23</td>
</tr>
<tr>
<td>Total</td>
<td>147,170</td>
<td>87</td>
<td>1.89</td>
</tr>
</tbody>
</table>

¹ The cases not prosecuted by the Police are prosecuted by other agencies such as local authorities, Inland Revenue, Social Welfare etc.

Differences between offences in the number of charges per case, combined with substantial differences in clearance and prosecution rates for different offences and the addition of non-Police prosecutions to some offence categories, mean that the offence distribution is different for court cases than for offences recorded by the Police (Table 3.2). The designation of the charge with the most serious penalty as the representative offence of each case also means that the average case has a more serious offence than the average charge.

Table 3.2: Offence distribution for offences recorded and prosecuted by the Police compared to cases prosecuted in court, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Recorded offences</th>
<th>Prosecuted offences</th>
<th>Prosecuted cases</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Percentage of total offences or cases</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serious against person</td>
<td>2.3</td>
<td>4.0</td>
<td>3.8</td>
</tr>
<tr>
<td>Other against person</td>
<td>5.6</td>
<td>7.8</td>
<td>8.7</td>
</tr>
<tr>
<td>Property</td>
<td>59.5</td>
<td>33.9</td>
<td>19.8</td>
</tr>
<tr>
<td>Drugs</td>
<td>3.6</td>
<td>6.9</td>
<td>6.0</td>
</tr>
<tr>
<td>Against justice</td>
<td>1.4</td>
<td>2.4</td>
<td>6.2</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>11.2</td>
<td>12.6</td>
<td>18.0</td>
</tr>
<tr>
<td>Traffic</td>
<td>16.3</td>
<td>32.4</td>
<td>37.5</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>
3.3 Trends in the number of cases by offence type

Overall the number of court cases for non-traffic offences increased by 11% between 1986 and 1996 (from 83,105 to 91,952 cases). The large decrease in minor traffic offences due to decriminalisation of some offences (see below) has meant that the total number of cases (i.e. traffic plus non-traffic cases) dealt with by the criminal courts has decreased by 7%. The total number of cases involving offences punishable by imprisonment has increased by 20%.

The overall increase of non-traffic cases since 1986 (11%) is less than the increase for offences prosecuted by the Police (25%) mainly due to the increasing number of charges per case for some offence groups. Overall the average number of charges per case has increased from 1.7 to 1.9 between 1986 and 1996, with significant increases for serious offences against the person (2.1 to 3.1), property offences (2.3 to 3.0) and offences against justice (1.6 to 1.9).

For offences against justice this increase reflects changes in the type of offences making up the offence group. For serious offences against the person the main increase occurred in 1988, suggesting that much of this increase can be accounted for by the change in the way a case was defined from 1988 (see Appendix). However, for property offences the number of charges per case has increased throughout the 1986-96 period. This increase is not just a function of changes in the type of property offences being prosecuted, as there have been increases since 1988 in the number of charges per case for each of the specific offence types making up the property offence group. The average number of charges per case has increased between 1988 and 1996 for burglary (3.4 to 4.4), theft (1.5 to 1.7), receiving stolen goods (1.8 to 2.4), vehicle conversion (3.0 to 3.3), fraud (5.7 to 7.1) and property damage (1.5 to 1.7).

Changes in clearance and prosecution rates, the number of charges per case, and the percentage of offences prosecuted by the Police mean that trends in the number of offences recorded by the Police (section 2.3) are not the same as trends in the number of cases (Figure 3.1), although there are similarities. As for recorded offences, the greatest percentage increases in the number of court cases over the 1986-96 period were for offences against the person (a 92% increase for serious offences against the person and a 90% increase for other offences against the person) and offences against justice (a 160% increase).

In contrast to the slight increase in the number of recorded offences in the property and drug offence groups, the number of cases has decreased very slightly in both of these groups over the 1986-96 period. This difference reflects the decrease in prosecution rates over the last decade, as fewer young offenders are now being dealt with by the courts and more minor offences are now being dealt with by cautions or warnings, as well as changes in the average number of charges per case.

The number of cases in the ‘other non-traffic’ offence group decreased by almost half in the late 1980s but has since increased back to the 1996 level. This trend reflects the very different trends for the specific offence types that make up this offence group, almost half of which are not prosecuted by the Police.
Over a third (38%) of all cases prosecuted in court are for traffic offences. The number of cases with a serious traffic offence as the most serious charge has increased overall by a third over the last decade, but the rapid increase in the late 1980s was followed by a sharp decline between 1991 and 1994. This decline may be partly related to the merger of the Police and the Traffic Safety Service of the Ministry of Transport in 1992, as many officers were involved in retraining over this period. Since 1994 the number of serious traffic cases has increased again.

**Figure 3.1: Number of cases prosecuted by offence type, 1986-96**

(000s of cases)

The number of minor traffic cases went through a massive decline from 1989 after increasing prior to that. The explanation for this is given on page 87 of *Conviction and Sentencing of Offenders in New Zealand: 1987 to 1996* (P. Spier, 1997, Ministry of Justice):

> Between 1987 and 1996, amendments to the Transport Act 1962 resulted in a number of minor traffic offences being decriminalised and subsequently being dealt with as infringements. This resulted in marked changes in the total number of convictions for traffic offences in this period.

---

6 Serious traffic offences are defined in this report as those punishable by imprisonment. Minor traffic offences are non-imprisonable offences.
The offence of never having held a driver's licence was particularly affected by decriminalisation. Prior to August 1987, the maximum penalty for this offence was a fine of $500, so that it was a minor traffic offence, and did not result in conviction. The Transport (Vehicle and Driver Registration and Licensing) Amendment Act 1987 (which came into effect on 1 August 1987) increased the maximum penalty to a fine of $1,000, and took the offence into the category of traffic offences which could result in conviction. The offence was decriminalised in the Transport Amendment Act 1989, and so appeared in the data only for the period between August 1987 and late 1989. There were a substantial number of convictions for this offence in this period e.g. in 1988 there were 11,994 prosecutions by the Ministry of Transport which resulted in a conviction for never having held a driver's licence.

### 3.4 The seriousness of prosecuted offences

The relative seriousness of each offence type is measured in this analysis using the seriousness scale used in other Ministry of Justice studies. The seriousness scale measures the average number of days of imprisonment imposed for each offence type, where the average is taken over both imprisoned and non-imprisoned offenders (see the Appendix for details). Non-imprisoned offences are given a score of zero.

The ‘serious offences against the person’ group has by far the highest average seriousness score (516), as it includes most of the very serious offences that result in long prison terms (e.g. homicide, sexual violation, grievous assault, robbery).

Offence groups with moderate average seriousness scores include other offences against the person (18), property (29), drugs (33), justice (19) and serious traffic offences (8), although most of these groups contain offences that cover a wide range of seriousness. The lowest average seriousness scores are for the ‘other non-traffic’ offence group (2), which mainly contains non-imprisonable offences, and minor traffic offences (0), all of which are non-imprisonable offences.

The criminal courts now deal with more serious offences on average than they did a decade ago (Figure 3.2). The average seriousness score of all cases prosecuted has increased by 68% over the 1986-96 period. Decriminalisation of minor traffic offences has made a significant contribution to the overall increase. The average seriousness of non-traffic cases has increased by 41%. The reasons for the increase in seriousness for non-traffic offences are the more rapid growth of the number of serious offences recorded over the last decade (especially offences against the person), the increased use of warnings and cautions for less serious offences, and the processing of less serious types of youth offending by Family Group Conferences (as described in Chapter Two).

---

**Figure 3.2:** Average seriousness score, 1986-96
3.5 Previous criminal history of defendants

3.5.1 Number of previous convictions

As the total number of previous convictions for all offenders prosecuted in the 1986-96 period was not available in a readily accessible form, a proxy measure of the criminal history of defendants was used for this analysis. Criminal history was measured by the number of convictions a person had received in the previous six years. A previous conviction was taken as a case held under the same personal identifier code. If several charges were heard against a person in one case, this counts as one previous conviction. This use of 'previous conviction' is more accurately specified as 'a previous court case resulting in one or more convictions'.

This measure is an underestimate of the full criminal history as a person may have been convicted more than six years previously or may have appeared in court under an unknown alias. Also, cases where guilt is admitted but no conviction is entered (e.g. cases dealt with by the youth court or police diversion) are not included. Traffic offences were excluded from the analysis as traffic offence histories are complicated by the fact that traffic offenders may be prosecuted under either their criminal identifier or under their driver’s licence number.

The categories used in this analysis are zero, one, two to four, and five or more previous convictions. Almost half of the non-traffic cases prosecuted in 1996 involved defendants with no previous convictions (49%), while 13% had one, 10% had two to four, and 19% had five or more previous convictions.

The overall proportion of people with no previous convictions has fluctuated with little overall change over the last decade, although there has been an increasing trend between 1990 and 1996 (Figure 3.3). However, changes in the age distribution combined with different probabilities of past convictions in each age and offence group together disguise the more substantial changes that have actually occurred (see section 3.7.4).
3.5.2 Seriousness of offending by criminal history

The seriousness of offending shows some relationship to the criminal history of the defendant. A person with no convictions in the previous six years is more likely to have committed an offence of low seriousness than a person with one or several previous convictions (Figure 3.4). The greatest difference is for non-imprisonable offences (those with a seriousness score of zero). Of the people with no recent convictions 31% were prosecuted for non-imprisonable offences, compared to 14% of people with one previous conviction, 9% for people with two to four previous convictions and 7% for people with five or more previous convictions.

For the most serious offences (those with a seriousness score of more than 365) the difference is less notable. Just under 2% of people with no recent convictions were prosecuted for these offences, compared to less than 3% of people with five or more previous convictions.

Because there are a large number of cases involving people with no previous convictions, this group makes up a large percentage (42%) of the total people charged with the most serious offences. People with no recent convictions also make up a large percentage of the other seriousness groups (76% of 0 seriousness, 49% of >0-10, 37% of >10-60, 38% of >60-365 and 42% of >365).
Figure 3.4: Seriousness score of the current offence by number of convictions in the previous six years for all non-traffic cases, 1996

3.6 Gender of defendants

Traffic offences are excluded from this analysis as demographic data are not consistently available for traffic offences.

3.6.1 Gender by offence, seriousness and criminal history

Men are highly over-represented in criminal justice statistics. Of the 91,952 non-traffic cases prosecuted in 1996, 19% were female defendants, 79% were male defendants and 2% did not have their gender recorded. This is similar to the proportions for offenders apprehended by the Police (19% females, 81% males). Men were most over-represented for offences against the person and offences against justice (Table 3.3).

Table 3.3: Gender distribution of defendants, by offence type, 1996

<table>
<thead>
<tr>
<th></th>
<th>Serious person&lt;sup&gt;1&lt;/sup&gt;</th>
<th>Other person</th>
<th>Property</th>
<th>Drugs</th>
<th>Against justice</th>
<th>Other non-traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Females</td>
<td>8.9</td>
<td>12.0</td>
<td>23.3</td>
<td>18.4</td>
<td>13.6</td>
<td>22.2</td>
</tr>
<tr>
<td>Males</td>
<td>91.1</td>
<td>88.0</td>
<td>76.7</td>
<td>81.6</td>
<td>86.4</td>
<td>77.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

<sup>1</sup> Serious offences against the person

<sup>2</sup> For defendants of known gender only
Females also tend to commit less serious offences on average than males and have fewer previous convictions (Table 3.4). The average seriousness score for all non-traffic cases for females (25) was less than half that for males (54). Two-thirds of women compared to half the men are prosecuted for offences with a seriousness score of less than 10 (equivalent to an average of ten or fewer days in prison). Similarly, two-thirds of women had no convictions in the previous six years compared to less than half of men, while 9% of women had five or more previous convictions compared to 22% of men.

Table 3.4: Distribution of previous convictions and seriousness scores for non-traffic offences, by gender, 1996

<table>
<thead>
<tr>
<th>Percent in each previous convictions group</th>
<th>Percent in each seriousness group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td>-------</td>
<td>------</td>
</tr>
<tr>
<td>0</td>
<td>67.1</td>
</tr>
<tr>
<td>1</td>
<td>11.5</td>
</tr>
<tr>
<td>2-4</td>
<td>12.9</td>
</tr>
<tr>
<td>5+</td>
<td>8.5</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
</tr>
</tbody>
</table>

3.6.2 Trends by gender

The overall increase in the number of non-traffic cases prosecuted has been similar for females (12% increase) and males (10% increase) over the 1986-96 period (Figure 3.5a). The trend has also been similar for males and females within each offence group. The main difference is that the increase over the last decade for offences against the person has been higher for females (135%) than males (83%) as the number of prosecutions for females continued to increase in 1994-95 when the trend for males was levelling off (Figure 3.5b).

Figure 3.5: Relative growth of cases by gender, 1986-96
(1986 indexed to 1.0, other years are expressed as a ratio of 1986)1

(a) All non-traffic offences

(b) Offences against a person

For example, if there were twice as many prosecutions in 1996 as there were in 1986, the ratio for 1996 would be 2.0.
3.7 Age of defendants

Traffic offences are excluded from this analysis as demographic data are not consistently available for traffic offences.

3.7.1 Overall age distribution

People aged 17 to 29 years are highly over-represented in criminal justice statistics (Table 3.5). Despite comprising less than a quarter of the New Zealand population aged 14 or over, 17-29 year olds made up 64% of those of known age prosecuted in court in 1996. People aged 17-19 had the highest prosecution rate (number of prosecutions per head of population), followed by 20-29 year olds.

Table 3.5: Age distribution of defendants for non-traffic cases, 1996

<table>
<thead>
<tr>
<th></th>
<th>14-16</th>
<th>17-19</th>
<th>20-29</th>
<th>30-39</th>
<th>40+</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases</td>
<td>2,728</td>
<td>17,597</td>
<td>35,629</td>
<td>17,504</td>
<td>9,450</td>
<td>82,908</td>
</tr>
<tr>
<td>% of cases</td>
<td>3.3</td>
<td>21.2</td>
<td>43.0</td>
<td>21.1</td>
<td>11.4</td>
<td>100.0</td>
</tr>
<tr>
<td>% of population aged 14+</td>
<td>5.5</td>
<td>5.5</td>
<td>19.4</td>
<td>20.3</td>
<td>49.2</td>
<td>100.0</td>
</tr>
<tr>
<td>Rate per 1000 pop</td>
<td>19.1</td>
<td>124.4</td>
<td>71.3</td>
<td>33.4</td>
<td>7.4</td>
<td>32.5</td>
</tr>
</tbody>
</table>

1 Total cases excludes 9044 cases with defendants of unknown age.
2 People of unknown age are distributed proportionately between age groups to calculate rates. ‘Total’ rate is calculated per population aged 14 or over, as no defendants were under 14 years of age.

Although people aged 30 or over have substantially lower prosecution rates, their impact in terms of the overall number of prosecutions is still significant, as almost a third of all cases where the age is known involve this age group.

Offenders aged 14-16 accounted for 3% of prosecutions, compared to 6% of the New Zealand population aged 14 or over and 16% of the offenders apprehended by the Police. As discussed in section 2.5, since 1989 most young people (except those who have committed serious offences) are dealt with by Family Group Conferences or the Youth Aid Section of the Police and thus are not recorded in court prosecution statistics. Children aged 10-13 can only be prosecuted for murder or manslaughter (none were in 1996) and younger children cannot be prosecuted at all. Children aged 10-13 accounted for 6% of the offenders apprehended by the Police and children under 10 accounted for less than one percent of offenders.

About 10% of the total cases do not have age recorded at all. Most of these relate to minor offences.

3.7.2 Age distribution by offence group

The different age groups tend to be prosecuted for different types of offences (Table 3.6). The proportion that offences against the person represent of the total offences increases with
age (with the exception of the relatively high proportion of offences against the person for 14-16 year olds, which is due to use of prosecution mainly for serious offences for young offenders). In contrast, the proportion of property offences relative to other offences declines with age. Drug offences and offences against justice peak as a proportion of all offences for ages 20 to 39. As noted above, most defendants who have not had their age recorded are for minor ‘other non-traffic’ offences.

### Table 3.6: Distribution of offences by age group, 1996

<table>
<thead>
<tr>
<th>Age</th>
<th>Serious person(^1)</th>
<th>Other person</th>
<th>Property</th>
<th>Drugs</th>
<th>Against justice</th>
<th>Other non-traffic</th>
<th>Total non-traffic</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-16</td>
<td>18.4</td>
<td>8.0</td>
<td>59.9</td>
<td>1.8</td>
<td>2.9</td>
<td>9.0</td>
<td>100.0</td>
</tr>
<tr>
<td>17-19</td>
<td>5.3</td>
<td>9.0</td>
<td>45.8</td>
<td>7.9</td>
<td>9.0</td>
<td>23.0</td>
<td>100.0</td>
</tr>
<tr>
<td>20-29</td>
<td>5.6</td>
<td>14.6</td>
<td>32.9</td>
<td>12.4</td>
<td>13.3</td>
<td>21.3</td>
<td>100.0</td>
</tr>
<tr>
<td>30-39</td>
<td>7.3</td>
<td>21.2</td>
<td>28.3</td>
<td>12.9</td>
<td>11.3</td>
<td>19.2</td>
<td>100.0</td>
</tr>
<tr>
<td>40+</td>
<td>9.6</td>
<td>21.7</td>
<td>29.1</td>
<td>8.0</td>
<td>7.1</td>
<td>24.5</td>
<td>100.0</td>
</tr>
<tr>
<td>Unknown</td>
<td>0.1</td>
<td>0.1</td>
<td>0.8</td>
<td>0.0</td>
<td>0.7</td>
<td>98.4</td>
<td>100.0</td>
</tr>
</tbody>
</table>

\(^1\) Serious offences against the person

#### 3.7.3 Seriousness by age group

The average seriousness score reflects the differences in offence distribution by age. Offenders aged under 17 are generally only prosecuted in court for serious offences and therefore their prosecuted offences have a high average seriousness score (122). Otherwise, the average seriousness increases with age from 43 for 17-19 year olds, to 45 for 20-29 year olds, 55 for 30-39 year olds and 75 for people aged 40 or over.

As noted in section 3.4, the average seriousness of non-traffic offences dealt with by the courts has increased by 41% between 1986 and 1996. Part of this overall increase is related to the increased seriousness of youth cases, as less serious offences are now more likely to be dealt with by Family Group Conferences. The average seriousness of cases involving 14-16 year olds has increased by 221% (from 38 to 122) in the last decade. The average seriousness has also increased substantially for the 17-19 and 40 plus age groups (by 59% and 50% respectively), but has increased to a lesser extent for 20-29 year olds (a 10% increase) and 30-39 year olds (a 12% increase).

#### 3.7.4 Previous convictions by age group

The proportion of defendants who have had a conviction in the previous six years is very different for different age groups. Young people aged under 17 usually only receive a conviction for very serious offences so very few people in this age group have previous convictions (Table 3.7).

Likewise, any 17-19 year olds who have had previous contact with the criminal justice system
as a juvenile only via the Youth Court or Family Group Conferences will have received no formal convictions, unless they have also been prosecuted as an adult.

The age group most likely to have a number of previous convictions is the 20-29 year olds. Only a third of this group has no previous convictions compared to 39% of 30-39 year olds and 61% of people aged 40 or over.

**Table 3.7: Percentage of each age group with 0, 1, 2-4, or 5+ convictions in the previous six years for non-traffic offences, 1996**

<table>
<thead>
<tr>
<th>Age</th>
<th>0</th>
<th>1</th>
<th>2-4</th>
<th>5+</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-16</td>
<td>96.7</td>
<td>2.8</td>
<td>0.5</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>17-19</td>
<td>54.8</td>
<td>16.3</td>
<td>21.4</td>
<td>7.5</td>
<td>100.0</td>
</tr>
<tr>
<td>20-29</td>
<td>33.1</td>
<td>12.9</td>
<td>23.3</td>
<td>30.7</td>
<td>100.0</td>
</tr>
<tr>
<td>30-39</td>
<td>39.2</td>
<td>14.6</td>
<td>23.3</td>
<td>22.9</td>
<td>100.0</td>
</tr>
<tr>
<td>40+</td>
<td>60.6</td>
<td>13.9</td>
<td>16.2</td>
<td>9.3</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Over the last decade the percentage of cases involving people with no recent convictions has increased most for defendants aged under 30, with slight increases for older age groups (Figure 3.6). There may be a number of factors influencing this trend.

Firstly, young people are less likely to be formally convicted following the introduction of the Children, Young Persons, and Their Families Act 1989. This helps to explain the increase in the percentage of 14-16 year olds with no previous convictions from 91% in 1989 to 97% in 1996. The youth justice changes have also had a flow-on effect to 17-19 year olds, increasing the percentage with no previous convictions from 49% in 1989 to 55% in 1996. There may also have been a small and delayed impact on 20-29 year olds (an increase from 28% in 1993 to 33% in 1996).

Secondly, the introduction of the Police Adult Diversion Scheme in the late 1980s means that a large proportion of first offenders no longer receive a conviction. The impact of this change may be relatively small as offenders who have been through Police diversion appear to have a relatively low rate of reoffending, at least in some areas of New Zealand.7

---

And thirdly, the largest increases in the percentage with no recent convictions have occurred for offences against the person. In 1986, 30% of violence cases against an adult involved a person with no previous convictions compared to 44% in 1996. In an earlier report I speculated that the rapid increase in the number of offences against the person recorded by the Police may have been influenced by an increase in reporting of offenders known to the victim (based on overseas data and changes in targeting policies in New Zealand, especially in relation to domestic violence). If this is true then there could be a new population of offenders moving through the criminal justice system for the first time, which would also help to explain the criminal history trend.

3.7.5 Trends in the number and type of cases by age group

Trends in the number of cases prosecuted differ by age group (Figure 3.7). A large drop in the number of cases involving 14-16 year olds occurred after the introduction of the Children, Young Persons, and Their Families Act 1989, although numbers had been declining in this age group even prior to the new Act. Since 1990 the number of cases involving 14-16 year olds has increased again by 70%.

The greatest overall increases between 1986 and 1996 have been for the older age groups. The number of cases where the defendant is aged 30-39 or 40 plus has more than doubled, compared to a small increase (14%) for 20-29 year olds and a fluctuating trend with a small overall decrease (-17%) for 17-19 year olds.

On possible factor contributing to these changes may be the different rates of population growth for each age group, as there was a 13% decline in the number of people aged under 20 in the New Zealand population between 1986 and 1996 compared to a 20% increase in the over 30s and little change in the number of people in their 20s. However, population growth cannot explain more than a small portion of the difference in the age trends, as the general

---

direction of the trends remains when prosecution rates per head of population are compared (Figure 3.7b).

**Figure 3.7:** Non-traffic cases prosecuted by age group, 1986-96

(a) Number of cases (000s) population

(b) Rates (cases per 1000 population)

To some extent the more rapid growth rates for older age groups is related to the type of offence committed by older persons. The fastest growth has occurred for offences against the person and offences against justice, which are more likely to be committed by older offenders, and the slowest growth has been for property offences which are more likely to be committed by younger offenders.

However, even within each of the offence groups the number of cases prosecuted involving older offenders has increased at a much greater rate than for younger offenders (Figure 3.8). Therefore, there appears to be a real trend for an increase in older offenders.

For example, although overall the number of cases involving property offences has decreased slightly, the number of cases involving people aged 30-39 and 40 or over has increased (by 64% and 74% respectively), while the number of cases involving 17-19 and 20-29 year olds has decreased slightly (-8% and -5%), and the number of cases for 14-16 year olds has dropped by 76%.

Similarly, the number of cases involving serious offences against the person has increased overall by 92% between 1986 and 1996. Within this increase for serious offences against the person, the number of cases with defendants aged 30-39 or 40 plus have almost tripled, compared to increases of 61% for 20-29 year olds, 69% for 17-19 year olds and 36% for 14-16 year olds. In this offence group, some of the increase for older offenders is due to the prosecution of sexual offences that occurred some years previously.

More recently, since the early 1990s, prosecution rates have increased at a fairly similar rate for each age groups.
Figure 3.8: Relative growth of cases by age group, 1986-96
(1986 indexed to 1.0, other years are expressed as a ratio of 1986)\(^1\)

(a) Serious offences against the person

(b) Other offences against the person

(c) Property

(d) Drugs

(e) Against justice

(f) Other non-traffic

\(^1\) For example, if there were twice as many prosecutions in 1996 as there were in 1986, the ratio for 1996 would be 2.0.
3.8 Ethnicity of defendants

The ethnic data presented here must be interpreted with some caution. Recording of ethnicity for criminal justice statistics is done by the enforcement agency (usually the Police). The Statistics New Zealand standard classification of Māori requires self-identification, with anyone who states Māori (even if other ethnic groups are also stated) being classified as Māori. The Police also use self-identification, but only one ethnic group is allowed and self-identification may not always achieved.

Traffic offences are excluded from this analysis as demographic variables are poorly collected for many traffic offences. About 13% of the total non-traffic cases do not have ethnicity recorded at all. Most of these relate to minor, non-imprisonable offences.

3.8.1 Overall ethnic distribution

Both Māori and Pacific peoples are over-represented in criminal justice statistics relative to the size of their populations (Table 3.8). Forty percent of cases prosecuted have Māori defendants, whereas Māori make up 11% of the New Zealand population aged 14 or over. Pacific peoples account for almost 9% of cases prosecuted compared to 4% of the population aged 14 or over. These proportions are similar to those for offenders apprehended by the police (40% of apprehended offenders are Māori, 7% are Pacific peoples and 53% are from other ethnic groups).

Table 3.8: Ethnic distribution of defendants for non-traffic cases, 1996

<table>
<thead>
<tr>
<th></th>
<th>Māori</th>
<th>Pacific</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of cases¹</td>
<td>31,881</td>
<td>6,893</td>
<td>40,989</td>
<td>79,763</td>
</tr>
<tr>
<td>% of cases</td>
<td>40.0</td>
<td>8.6</td>
<td>51.4</td>
<td>100.0</td>
</tr>
<tr>
<td>% of population aged 14+</td>
<td>10.8</td>
<td>4.1</td>
<td>85.1</td>
<td>100.0</td>
</tr>
<tr>
<td>Rate per 1000 pop 14+²</td>
<td>116.2</td>
<td>67.7</td>
<td>20.1</td>
<td>32.5</td>
</tr>
</tbody>
</table>

¹ Total cases excludes 12,189 cases involving defendants of unknown age. People of unknown ethnicity are distributed proportionately between ethnic groups to calculate rates. Rates are calculated per population aged 14 or over, as there were no prosecutions of children aged 13 or under.

Māori have almost six times, and Pacific peoples have 3.4 times, as many prosecutions per head of population aged 14 or over than the Other ethnic group (i.e. all other ethnic groups combined). To some extent the over-representation of Māori and Pacific peoples reflects the younger age distribution of their populations. That is, more of the population is in the offending-prone younger age groups. However, over-representation occurs in all age groups and for both males and females (Table 3.9).

The over-representation of Māori and Pacific peoples is higher relative to the Other ethnic group for 14-16 year olds and older offenders (aged 30 or over) than for 17-29 year olds.
Māori women and Pacific men are more over-represented relative to the Other women and men respectively.

Table 3.9: Prosecution rates for non-traffic cases by gender, age and ethnicity, 1996

<table>
<thead>
<tr>
<th>Gender</th>
<th>Age</th>
<th>Māori</th>
<th>Pacific</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cases prosecuted per 1000 population aged 14+†</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Females</td>
<td>14-16</td>
<td>19.8</td>
<td>6.1</td>
<td>2.2</td>
</tr>
<tr>
<td></td>
<td>17-19</td>
<td>90.7</td>
<td>36.7</td>
<td>23.7</td>
</tr>
<tr>
<td></td>
<td>20-29</td>
<td>67.5</td>
<td>24.0</td>
<td>11.5</td>
</tr>
<tr>
<td></td>
<td>30-39</td>
<td>44.5</td>
<td>15.0</td>
<td>6.0</td>
</tr>
<tr>
<td></td>
<td>40+</td>
<td>12.5</td>
<td>7.1</td>
<td>1.5</td>
</tr>
<tr>
<td>Males</td>
<td>14-16</td>
<td>86.8</td>
<td>50.7</td>
<td>12.4</td>
</tr>
<tr>
<td></td>
<td>17-19</td>
<td>398.1</td>
<td>251.1</td>
<td>128.7</td>
</tr>
<tr>
<td></td>
<td>20-29</td>
<td>283.0</td>
<td>168.2</td>
<td>71.4</td>
</tr>
<tr>
<td></td>
<td>30-39</td>
<td>167.1</td>
<td>100.7</td>
<td>30.8</td>
</tr>
<tr>
<td></td>
<td>40+</td>
<td>46.6</td>
<td>35.7</td>
<td>8.0</td>
</tr>
</tbody>
</table>

† People of unknown sex, age or ethnicity are distributed proportionately between the groups to calculate rates. Rates are calculated per population aged 14 or over, as there were no prosecutions of children aged 13 or under.

3.8.2 Offence type and seriousness by ethnicity

Māori and Pacific peoples are over-represented in every offence group, although the degree of over-representation differs by offence type (Table 3.10). Māori have six to eight times the prosecution rate (prosecutions per head of population aged 14 or over) of the Other ethnic group for offences against the person and property offences and over nine times the prosecution rate for justice offences, but less than five times the prosecution rate for drug offences.

Pacific peoples are over-represented for offences against the person (six times the prosecution rate of the Other ethnic group), offences against justice (4.6 times) and property offences (3.3 times), but are not over-represented amongst drug offenders. Other non-traffic offences have not been included in this table as over 40% of the ethnic codes are missing for this offence group.

This means that cases involving different offence groups have a different ethnic composition. Māori and Pacific peoples combined make up over half the cases for all offences groups except drug offences. Pacific peoples make up 13% of cases involving offences against the person, but only 3% of drug cases (Table 3.10).
Table 3.10: Prosecution rates by offence type and ethnicity and percentage of prosecutions in each offence group, by ethnicity, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Prosecutions rate¹</th>
<th>% of total offence group</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mäori</td>
<td>Pacific</td>
</tr>
<tr>
<td>Serious against person</td>
<td>8.0</td>
<td>6.2</td>
</tr>
<tr>
<td>Other against person</td>
<td>16.5</td>
<td>14.5</td>
</tr>
<tr>
<td>Property</td>
<td>40.1</td>
<td>19.9</td>
</tr>
<tr>
<td>Drugs</td>
<td>10.8</td>
<td>2.3</td>
</tr>
<tr>
<td>Against justice</td>
<td>14.7</td>
<td>7.1</td>
</tr>
</tbody>
</table>

¹ Prosecutions per 1000 population aged 14 or over. People of unknown ethnicity are distributed proportionately between the ethnic groups to calculate rates.

The different offence profiles mean that the ethnic groups also differ in the average seriousness of cases prosecuted. Pacific peoples have the highest average seriousness score (64), followed by Mäori (60) and Other (48).

3.8.3 Previous convictions by ethnicity

The criminal history profiles of Pacific peoples and Other ethnic groups are similar, but Maori are more likely to have had several previous convictions and are less likely to have had no previous convictions (Table 3.11).

Table 3.11: Percentage of each ethnic group with 0, 1, 2-4, or 5+ convictions in the previous six years, non-traffic offences, 1996

<table>
<thead>
<tr>
<th></th>
<th>0</th>
<th>1</th>
<th>2-4</th>
<th>5+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mäori</td>
<td>32.4</td>
<td>13.9</td>
<td>26.1</td>
<td>27.6</td>
</tr>
<tr>
<td>Pacific</td>
<td>49.6</td>
<td>15.3</td>
<td>20.5</td>
<td>14.6</td>
</tr>
<tr>
<td>Other</td>
<td>49.4</td>
<td>13.9</td>
<td>19.0</td>
<td>17.7</td>
</tr>
</tbody>
</table>

3.8.4 Trends in the number of cases by ethnicity

Although the actual number of cases involving Mäori and Pacific peoples is less than the number of cases involving Other ethnic groups, Mäori and Pacific people have a higher rate of prosecution per head of population. Prosecution rates have been higher for Mäori and Pacific peoples than Other ethnic groups throughout the past decade (Figure 3.9).

The number of cases involving Pacific peoples has increased by 57% over the past decade, a much greater increase than that for Mäori (7% increase) and the Other ethnic group (4% increase). This greater increase reflects two factors. Firstly, the population of Pacific people
has increased by 47% compared to increases of 18% in the Māori population and 6% in the population of the Other ethnic group. And secondly, the offence types for which Pacific people are most over-represented (especially offences against the person) have increased at the greater rate than other offences.

**Figure 3.9: Number of non-traffic cases and prosecution rate by ethnic group, 1986-96**

(a) Number of cases prosecuted (000s) aged 14+  
(b) Prosecutions per 1000 population

![Graph showing number of non-traffic cases and prosecution rate by ethnic group, 1986-96](image)

When population growth and offence type are taken into account by examining prosecution rates by offence, the shape of the trends are approximately similar for each ethnic group (Figure 3.10).

However, there are some differences between ethnic groups in the relative increases for each offence type. For Māori, prosecution rates have not increased as much as they have for the Other ethnic group for offences against the person, property offences and ‘other non-traffic’ offences.

For Pacific peoples, prosecution rates have not increased as much as they have for the Other ethnic group for serious offences against the person, drug offences and ‘other non-traffic’ offences. The relative increase in the prosecution rate for other offences against the person has been greater for Pacific peoples than for other ethnic groups.
Figure 3.10: Relative growth of cases prosecuted by ethnicity, 1986-96
(1986 indexed to 1.0, other years are expressed as a ratio of 1986)\(^1\)

(a) Serious offences against the person

(b) Other offences against the person

(c) Property

(d) Drugs

(e) Against justice

(f) Other non-traffic

---

\(^1\) For example, if there were twice as many prosecutions in 1996 as there were in 1986, the ratio for 1996 would be 2.0.
3.9 Summary and implications

3.9.1 Overall workload

Despite an increase in the use of informal sanctions and the development of new processes to deal with youth offenders outside the formal court system, there has been an increase in the number of cases involving non-traffic offences over the last decade. However, these factors, plus the increase in the number of charges per case (partly due to a change in the way a case is defined), do mean that the number of cases heard by the criminal courts has not increased as much as the increase in the number of offences recorded by the Police. The number of cases involving non-traffic offences increased by 11% between 1986 and 1996 compared to a 29% increase in recorded offences. The total number of cases declined by 7% due to the decriminalisation of some minor traffic offences.

On the other hand, the courts now deal with much more serious offences on average than they did a decade ago, due to the more rapid increases in the number of recorded serious offences combined with decreases in prosecution rates for less serious offences and the decriminalisation of some minor traffic offences. The average seriousness of all cases prosecuted increased by 68% between 1986 and 1996.

Policy and legislative changes over the past decade (such as the Children, Young Persons, and Their Families Act 1989) have had a very significant impact on recent trends. Any future policy changes could likewise have a significant impact on the volume and nature of cases dealt with by the courts. The computer model developed during this project can be used to estimate both the direct effect and the potential flow-on effects of future changes before a new policy is introduced.

3.9.2 Changes in the offence distribution

High clearance and prosecution rates mean that offences against the person, drug offences and offences against justice make up a larger proportion of court cases than offences recorded by the Police. Offences against justice and ‘other non-traffic’ offences also have a higher caseload due to the addition of offences prosecuted by agencies other than the Police. In contrast property offences make up a smaller proportion of the total cases due to lower clearance and prosecution rates and a high number of charges per case.

As for recorded offences, the greatest increases were in the caseloads of offences against the person and offences against justice. The increase of 90% in the number of cases involving offences against the person has had a significant impact on the number of jury trials held and therefore on the cost of providing court services, as over half of all jury trials involve offences against the person.

The rapid growth rate for offences against the person is predicted to ease in the next few years, although some growth is likely to continue in the medium term. The number of cases in most other offence groups is also predicted to increase gradually over the next few years as the predicted increase in the number of recorded offences for most offence types should offset the trend for an increase in the number of charges per case.
3.9.3 Representation of different demographic groups

The type of people prosecuted in court is far from representative of the New Zealand population. The distribution by gender and ethnicity reflect the relative numbers of offenders apprehended by the Police, but young people (aged under 17) make up a smaller proportion of persons prosecuted in court than those apprehended by the Police due to the alternatives to prosecution for young people.

The demographic groups that are over-represented in court cases (i.e. those with higher than average prosecution rates per head of population) are:

- males, especially for offences against the person;
- Māori and Pacific peoples, especially for offences against the person and offences against justice;
- people aged 17-19 and 20-29, especially for property offences.

Males and Māori are also more likely to have had several previous convictions and to be prosecuted for serious offences. Older offenders (aged 30-39 or 40 plus) are prosecuted for more serious offences on average but have fewer previous convictions than 20-29 year olds.

The over-representation of some demographic groups has implications for the way in which services are provided. The differences between demographic groups in the nature and seriousness of offences and the number of previous convictions have a significant impact on the outcome of prosecutions, including the sentences imposed by the court, as detailed in the following chapter.

3.9.4 Trends in the type of offenders dealt with by the courts

The demographic composition of court cases has changed over the last decade:

- There are fewer people aged under 17 prosecuted due to changes in the youth justice system. The large decrease for young offenders occurred after the introduction of the Children, Young Persons, and Their Families Act in 1989, but since then the number of cases involving young offenders has grown at about the same rate as for other ages.
- The number of cases involving older offenders (aged 30 or over) has grown at a faster rate than for other age groups over the 1986-1996 period, although in the last few years the growth rate for different age groups has been similar.
- The number of cases involving Pacific peoples has increased more rapidly than the number of cases for other ethnic groups. This trend is expected to continue as the population of Pacific peoples in the key offending age group (ages 17 to 29) is projected to increase by 23% over the next decade compared to a 1% increase for Māori and an 8% decrease for the Other ethnic group. However, future increases in the number of cases involving Pacific peoples may not be as high as the increases over the last decade, as the growth rate for offences against the person is predicted to slow and the highest over-representation of Pacific peoples is for this offence group.

These trends may change in the future with the introduction of new policies and if current
initiatives aimed at reducing the number of Māori, Pacific and youth offenders are successful.
4 Outcome of prosecutions

4.1 Introduction

The outcome of a prosecution can include the imposition of one or more sentences if the case is formally proved or it can be one of a variety of ‘not proved’ outcomes (Table 4.1). The aim of this chapter is to document recent trends in prosecution outcomes and to examine the factors that influence the probability of each outcome.

This chapter examines general trends for five summary outcome groups: prison sentences, community-based sentences (‘community’), monetary penalties, other proved (‘other’), and not proved outcomes. Where two sentences may be imposed together, such as periodic detention and supervision, only the sentence ranked as the most serious is analysed here (see the Appendix for information on sentence ranking). Specific sentence types, including secondary sentences, are considered in more detail in Chapter 5.

Table 4.1: Outcomes of prosecution

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Summary group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison, corrective training</td>
<td>Prison</td>
</tr>
<tr>
<td>Periodic detention</td>
<td>Community</td>
</tr>
<tr>
<td>Supervision</td>
<td>Community</td>
</tr>
<tr>
<td>Community programme (community care)</td>
<td>Community</td>
</tr>
<tr>
<td>Community service</td>
<td>Community</td>
</tr>
<tr>
<td>Youth community work, youth supervision</td>
<td>Community</td>
</tr>
<tr>
<td>Fine, reparation, restitution</td>
<td>Monetary</td>
</tr>
<tr>
<td>Driving disqualification</td>
<td>Other proved</td>
</tr>
<tr>
<td>Suspended or deferred sentence</td>
<td>Other proved</td>
</tr>
<tr>
<td>Court costs, other sentences</td>
<td>Other proved</td>
</tr>
<tr>
<td>Discharge without conviction, no sentence</td>
<td>Other proved</td>
</tr>
<tr>
<td>Withdrawn, dismissed, discharged, struck out, not proceeded with, acquitted</td>
<td>Not proved</td>
</tr>
</tbody>
</table>

This analysis considers all outcomes together instead of making the usual distinction based on whether a case has resulted in a conviction or not. This was done for two reasons. Firstly, a case proved in the Youth Court does not result in a conviction but can result in a sentence. As this analysis is concerned with whether or not a sentence is imposed, the important distinction is whether the case is proved rather than whether a conviction is entered.
Secondly, the recent changes in the number of cases falling into the ‘not proved’ category are so substantial that trends in proved outcomes cannot be analysed in isolation. As discussed later in this chapter, these changes have largely resulted from the introduction of the Police Adult Diversion Scheme. In this context ‘not proved’ means not formally recorded in the court proceedings as proved. Offenders who have admitted guilt but have been processed through the diversion scheme have their cases withdrawn and therefore fall into the ‘not proved’ category.

4.2 An overview of trends in prosecution outcomes

The total number of cases dealt with by the courts has decreased by 7% over the last decade. However, as discussed in section 3.3, this decrease is largely due to the decriminalisation of a number of minor traffic offences. Excluding minor traffic offences the number of cases prosecuted has increased by 17%.

Trends in the number of cases resulting in each type of outcome differ between outcome groups (Table 4.2). The number of cases resulting in prison sentences has increased by 28% since 1986, while the number of community-based sentences has almost doubled. In contrast the number of cases resulting in monetary penalties has declined. The biggest change has been in the ‘not proved’ category, which has increased 150% for cases involving offences other than minor traffic offences.

Table 4.2: Number of cases in each outcome group, 1986 compared to 1996

<table>
<thead>
<tr>
<th>Outcome</th>
<th>All cases 1986</th>
<th>All cases 1996</th>
<th>% change</th>
<th>All except minor traffic 1986</th>
<th>All except minor traffic 1996</th>
<th>% change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prison</td>
<td>6,900</td>
<td>8,861</td>
<td>28%</td>
<td>6,900</td>
<td>8,861</td>
<td>28%</td>
</tr>
<tr>
<td>Community</td>
<td>18,058</td>
<td>34,947</td>
<td>94%</td>
<td>18,058</td>
<td>34,947</td>
<td>94%</td>
</tr>
<tr>
<td>Monetary</td>
<td>81,895</td>
<td>56,024</td>
<td>-32%</td>
<td>62,108</td>
<td>43,955</td>
<td>-29%</td>
</tr>
<tr>
<td>Other proved</td>
<td>13,423</td>
<td>13,382</td>
<td>0%</td>
<td>11,721</td>
<td>11,361</td>
<td>-3%</td>
</tr>
<tr>
<td>Not proved</td>
<td>38,477</td>
<td>33,956</td>
<td>-12%</td>
<td>12,017</td>
<td>30,084</td>
<td>150%</td>
</tr>
<tr>
<td>Total</td>
<td>158,753</td>
<td>147,170</td>
<td>-7%</td>
<td>110,804</td>
<td>129,148</td>
<td>17%</td>
</tr>
</tbody>
</table>

Therefore, over the 1986 to 1996 period there have been some very significant changes in the percentage of cases resulting in each prosecution outcome (Figure 4.1). The main trends are (with percentage changes for all cases except those involving minor traffic offences):

- a drop in the use of monetary penalties from 56% of case outcomes to 34%;
- an increase in the use of community-based sentences from 16% to 27% of cases;
- an increase in not proved outcomes from 11% to 23% of cases;
- a decrease in other proved outcomes from 11% to 9% of cases;
- relatively little change in the use of imprisonment, which has fluctuated between 6% and 7%.
4.3 Outcomes by the seriousness of the offence

Part of the reason for the declining use of monetary penalties is likely to be the increasing seriousness of offences being dealt with by the courts. As outlined in the previous chapter, less serious offences are now more likely to be dealt with outside the courts than they were a decade ago, due to the increased use of warnings and cautions and the alternatives to prosecution for young offenders who have committed less serious offences. However, as will be seen in the following analysis, the use of monetary penalties has also declined within all seriousness categories, reflecting a significant shift in sentencing practice.

The seriousness of the offence committed has a major role in determining the sentence imposed. The higher the seriousness score the greater the use of most serious sentence (imprisonment) and the lower the use of the monetary penalties (Table 4.3). The use of community-based sentences peaks for offences of medium seriousness.

Table 4.3: Percentage of cases resulting in each outcome by offence seriousness, 1996

<table>
<thead>
<tr>
<th>Seriousness score</th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other</th>
<th>Not proved</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0.0</td>
<td>0.0</td>
<td>64.3</td>
<td>11.8</td>
<td>23.9</td>
<td>100.0</td>
</tr>
<tr>
<td>&gt;0-10</td>
<td>2.4</td>
<td>23.2</td>
<td>44.9</td>
<td>8.1</td>
<td>21.4</td>
<td>100.0</td>
</tr>
<tr>
<td>&gt;10-60</td>
<td>10.6</td>
<td>43.5</td>
<td>14.3</td>
<td>8.8</td>
<td>22.8</td>
<td>100.0</td>
</tr>
<tr>
<td>&gt;60-365</td>
<td>23.5</td>
<td>35.3</td>
<td>5.6</td>
<td>7.3</td>
<td>28.4</td>
<td>100.0</td>
</tr>
<tr>
<td>&gt;365</td>
<td>44.0</td>
<td>11.3</td>
<td>0.6</td>
<td>5.1</td>
<td>39.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

As the average seriousness of cases is increasing it is important to disaggregate the trends by the seriousness score of the major offence to see to what extent the seriousness trend has influenced the outcome trends. Even within most seriousness categories, the three major
The non-imprisonable offences (those with a seriousness score of zero) are the only category for which the use of monetary penalties has not declined substantially. This is the result of major changes in the offence types making up the non-imprisonable category, due to the decriminalisation of a large number of minor traffic offences in the late 1980s (see section
3.3). With this dramatic drop in the number of very minor offences the number of ‘not
proved’ outcomes also dropped, as a high proportion of these offences resulted in a ‘case
withdrawn’ outcome within the not proved category. The remaining offence types were
more likely to receive a monetary penalty.

When traffic offences are excluded from the non-imprisonable group (Figure 4.2b) the
common trend of a large decline in the use of monetary penalties at all levels of seriousness
(except the most serious, Figure 4.2f) is clear. Therefore, the decreasing use of monetary
penalties is not simply due to an overall increase in the seriousness of cases coming before the
courts, as there has been a move to greater use of community-based sentences and ‘not
proved’ outcomes in all seriousness categories. This indicates that sentencing practice has
changed substantially over the last decade.

For all seriousness groups, except the most serious (seriousness score of more than 365) and
the non-imprisonable traffic offences, the not proved category has increased as the use of
monetary penalties has declined. The greatest increases in not proved outcomes have
occurred for the least serious offences. Between 1986 and 1996 the percentage of cases
resulting in a not proved outcome has increased from:

- 4% to 26% for non-imprisonable non-traffic offences;
- 9% to 21% for offences with seriousness scores in the range of >0-10;
- 15% to 23% for the seriousness category >10-60;
- 20% to 28% for the seriousness category >60-365.

The increasing ‘not proved’ trend seems to be mainly due to the introduction of the Police
Adult Diversion Scheme, which results in a ‘case withdrawn’ outcome within the not proved
category. The extension of diversion to more serious offences in 1994 is consistent with the
increase in ‘not proved’ outcomes from 1994 in the >10-60 and >60-365 seriousness
categories. The evidence for this trend being related to Police diversion is discussed in more
detail in sections 4.4 and 5.11.

Community-based sentences may only be imposed for imprisonable offences. The use of
community-based sentences has increased for all imprisonable groups, particularly for the less
serious offences. Between 1986 and 1996 the use of community-based sentences has
increased from:

- 14% to 23% for seriousness scores of >0-10;
- 29% to 43% for seriousness scores of >10-60;
- 29% to 35% for seriousness scores of >60-365;
- 9% to 11% for seriousness scores of >365.

The increasing use of community-based sentences has not only occurred in all seriousness
groups, but also has occurred across different offence, demographic and criminal history
groups. This finding suggests that community-based sentences have become an increasingly
preferred sentencing option, particularly in preference to monetary penalties (sections 4.5-4.9). However, since 1992-1993 this trend has reversed somewhat, with the use of
monetary penalties again increasing and community-based sentences declining. More detailed
information on the trends for individual community-based sentences can be found in sections 5.5-5.8.

The use of imprisonment increases with the seriousness of the offence from 2% for the least serious imprisonable offences (>0-10 seriousness range) to 11% (for >10-60), 24% (for >60-365) and 44% for the most serious offences (>365). In no category has there been a dramatic change in the use of imprisonment between 1986 and 1996, although there was an increase in the use of imprisonment in the late 1980s and a decrease again in the 1990s, especially from 1993. The small drop from 1993 may be partly due to the introduction of the suspended prison sentence in September 1993 (see sections 5.3-5.4 for more information on suspended sentences).

The decrease in ‘other proved’ outcomes in the late 1980s is linked with the decrease in cases resulting in many of the less serious sentence types, including driving disqualification and conviction and discharge. This seems to be mainly the result the decreased number of cases involving less serious offences that go to court, as well as the increased number of less serious cases that now result in diversion.

### 4.4 Outcomes by the criminal history of the defendant

People with no or few previous convictions tend to receive a less serious sentence than those with many previous convictions (Table 4.4). A smaller proportion of cases involving offenders with no recent convictions receive a prison sentence while more receive monetary penalties. (Cases involving traffic offences are excluded from this analysis; see section 3.5).

<table>
<thead>
<tr>
<th>Previous convictions</th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other proved</th>
<th>Not proved</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1.8</td>
<td>13.3</td>
<td>32.8</td>
<td>11.7</td>
<td>40.3</td>
<td>100.0</td>
</tr>
<tr>
<td>1</td>
<td>5.3</td>
<td>30.1</td>
<td>32.4</td>
<td>12.4</td>
<td>19.8</td>
<td>100.0</td>
</tr>
<tr>
<td>2-4</td>
<td>10.0</td>
<td>35.7</td>
<td>26.4</td>
<td>10.1</td>
<td>17.8</td>
<td>100.0</td>
</tr>
<tr>
<td>5+</td>
<td>19.6</td>
<td>33.1</td>
<td>17.3</td>
<td>10.3</td>
<td>19.7</td>
<td>100.0</td>
</tr>
</tbody>
</table>

To some extent the imposition of more serious sentences on people with a previous criminal history reflects the interaction between seriousness and criminal history (section 3.5.2), as the offences committed by people with a previous conviction history have a higher average seriousness. However, criminal history does have an independent effect as well (Table 4.5). Within each seriousness category for imprisonable offences the use of the most serious sentence (imprisonment) increases as the number of previous convictions increases.

<table>
<thead>
<tr>
<th>Previous convictions</th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other proved</th>
<th>Not proved</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1.8</td>
<td>13.3</td>
<td>32.8</td>
<td>11.7</td>
<td>40.3</td>
<td>100.0</td>
</tr>
<tr>
<td>1</td>
<td>5.3</td>
<td>30.1</td>
<td>32.4</td>
<td>12.4</td>
<td>19.8</td>
<td>100.0</td>
</tr>
<tr>
<td>2-4</td>
<td>10.0</td>
<td>35.7</td>
<td>26.4</td>
<td>10.1</td>
<td>17.8</td>
<td>100.0</td>
</tr>
<tr>
<td>5+</td>
<td>19.6</td>
<td>33.1</td>
<td>17.3</td>
<td>10.3</td>
<td>19.7</td>
<td>100.0</td>
</tr>
</tbody>
</table>
of previous convictions and seriousness of the current offence, 1996

<table>
<thead>
<tr>
<th>Seriousness score</th>
<th>Previous convictions</th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other proved</th>
<th>Not proved</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>0</td>
<td>0.0</td>
<td>0.0</td>
<td>61.6</td>
<td>9.0</td>
<td>29.4</td>
</tr>
<tr>
<td>0</td>
<td>1</td>
<td>0.0</td>
<td>0.0</td>
<td>62.0</td>
<td>20.0</td>
<td>18.0</td>
</tr>
<tr>
<td>0</td>
<td>2-4</td>
<td>0.0</td>
<td>0.0</td>
<td>64.1</td>
<td>21.5</td>
<td>14.4</td>
</tr>
<tr>
<td>0</td>
<td>5+</td>
<td>0.0</td>
<td>0.0</td>
<td>61.8</td>
<td>26.3</td>
<td>11.9</td>
</tr>
<tr>
<td>&gt;0-10</td>
<td>0</td>
<td>0.3</td>
<td>9.3</td>
<td>26.4</td>
<td>12.5</td>
<td>51.4</td>
</tr>
<tr>
<td>&gt;0-10</td>
<td>1</td>
<td>0.8</td>
<td>22.8</td>
<td>44.8</td>
<td>15.1</td>
<td>16.4</td>
</tr>
<tr>
<td>&gt;0-10</td>
<td>2-4</td>
<td>2.3</td>
<td>29.5</td>
<td>42.6</td>
<td>12.3</td>
<td>13.4</td>
</tr>
<tr>
<td>&gt;0-10</td>
<td>5+</td>
<td>7.8</td>
<td>32.9</td>
<td>30.5</td>
<td>13.9</td>
<td>14.9</td>
</tr>
<tr>
<td>&gt;10-60</td>
<td>0</td>
<td>1.9</td>
<td>29.4</td>
<td>15.9</td>
<td>13.4</td>
<td>39.4</td>
</tr>
<tr>
<td>&gt;10-60</td>
<td>1</td>
<td>5.2</td>
<td>45.3</td>
<td>17.9</td>
<td>9.5</td>
<td>22.1</td>
</tr>
<tr>
<td>&gt;10-60</td>
<td>2-4</td>
<td>10.9</td>
<td>48.7</td>
<td>12.2</td>
<td>8.4</td>
<td>19.7</td>
</tr>
<tr>
<td>&gt;10-60</td>
<td>5+</td>
<td>21.1</td>
<td>40.6</td>
<td>6.9</td>
<td>8.4</td>
<td>23.0</td>
</tr>
<tr>
<td>&gt;60-365</td>
<td>0</td>
<td>8.2</td>
<td>30.6</td>
<td>8.9</td>
<td>14.4</td>
<td>37.9</td>
</tr>
<tr>
<td>&gt;60-365</td>
<td>1</td>
<td>19.7</td>
<td>44.7</td>
<td>7.1</td>
<td>4.9</td>
<td>23.7</td>
</tr>
<tr>
<td>&gt;60-365</td>
<td>2-4</td>
<td>29.5</td>
<td>39.4</td>
<td>5.1</td>
<td>2.7</td>
<td>23.2</td>
</tr>
<tr>
<td>&gt;60-365</td>
<td>5+</td>
<td>44.5</td>
<td>29.5</td>
<td>2.2</td>
<td>2.2</td>
<td>21.6</td>
</tr>
<tr>
<td>&gt;365</td>
<td>0</td>
<td>35.0</td>
<td>13.0</td>
<td>1.3</td>
<td>7.3</td>
<td>43.4</td>
</tr>
<tr>
<td>&gt;365</td>
<td>1</td>
<td>49.5</td>
<td>12.7</td>
<td>0.4</td>
<td>2.5</td>
<td>34.9</td>
</tr>
<tr>
<td>&gt;365</td>
<td>2-4</td>
<td>52.6</td>
<td>8.6</td>
<td>0.2</td>
<td>0.7</td>
<td>37.9</td>
</tr>
<tr>
<td>&gt;365</td>
<td>5+</td>
<td>59.7</td>
<td>6.4</td>
<td>0.0</td>
<td>0.8</td>
<td>33.1</td>
</tr>
</tbody>
</table>

People with no recent convictions are much more likely to have a not proved outcome than those with one or more previous convictions. Although Police diversion cannot be distinguished in the statistics from other withdrawn cases, a number of points indicate that the increase in not proved outcomes is mainly due to the introduction of diversion for adult first offenders from 1988:

- From Figure 4.3 it is clear that the increase in the not proved category has been very dramatic for people with no previous convictions (from 8% to 40% of cases), whereas people with previous convictions have shown little or no increase in the not proved category. (The small increase in not proved outcomes from 1994 for people with previous convictions may reflect the widening of the eligibility criteria to include repeat offenders in some circumstances.)

- The increase has not occurred in the most serious offence category (seriousness >365), which would not generally be considered for diversion.

- The increase has been mainly in the ‘cases withdrawn’ category of not proved.

- The fastest increase occurred between 1988 and 1990, when the diversion scheme was
newly introduced.

A more extensive analysis of diversion is presented in section 5.11.

The other general trends (the decline in the use of monetary penalties and increase in the use of community-based sentences) apply to people with different past conviction histories.

Figure 4.3: Percentage of cases resulting in each outcome, by the number of previous convictions, 1986-96

(a) No recent convictions
(b) One recent conviction
(c) 2-4 recent convictions
(d) 5+ recent convictions

4.5 Outcomes by offence type

As expected, cases involving the most serious offences (serious offences against the person\(^9\)) more often result in imprisonment or community-based sentences, whereas the least serious offences (‘other non-traffic’ and minor traffic) more often result in monetary penalties and other sentences (Table 4.6).

Table 4.6: Percentage of cases resulting in each outcome by offence type, 1996

\(^9\) Serious offences against the person include homicide, grievous and aggravated assault, kidnapping, sexual offences and robbery (see Appendix for more details).
The general trends that have occurred over the 1986-96 period (increases in use of community-based sentences and not proved outcomes and decreases in monetary penalties) are apparent for most offence types, with some exceptions (Figure 4.4). There has been no dramatic increase in the not proved category for serious offences against the person and only a relatively small increase for serious traffic offences. This is presumably because police diversion is not appropriate or not allowed for many offences in the serious offences against the person and serious traffic offence groups (for example, purely indictable offences and drink driving offences are not eligible for diversion).

The decrease in the not proved category and increases in the use of monetary penalties for minor traffic offences is due to the decriminalisation of some very minor offences that resulted in a high proportion of ‘case withdrawn’ outcomes (as discussed in section 4.3).

The increase in not proved outcomes for offences against justice is unlikely to be related to the introduction of diversion as most of these offenders are not first offenders (since many offences against justice involve the breach of another sentence) and breaches of court orders are not eligible for diversion. Rather, this trend is related to a change in the type of offences making up the offences against justice group. In particular there has been an increase in breach of bail offences (after the introduction of this offence in August 1987), which have a high proportion of not proved (case withdrawn) outcomes.

The use of community-based sentences increased to a peak in the early 1990s for all imprisonable offence types, except serious offences against the person. The later increase in community-based sentences for serious offences against the person (at the expense of prison sentences) is due to the decrease in average seriousness for this offence group in the 1990s, as the number of assaults increased more rapidly than some of the more serious offences in the group.

The use of monetary penalties has decreased for all groups except for minor traffic offences (as explained above). The use of prison sentences has fluctuated at around the same level except for serious offences against the person and offences against justice, for which the offence composition has changed.

**Figure 4.4:** Percentage of cases resulting in each outcome, by offence, 1986-96
(a) Serious offences against the person
(b) Other offences against the person
(c) Property
(d) Drugs
(e) Against justice
(f) Other non-traffic
(g) Serious traffic
(h) Minor traffic
4.6 Outcomes by gender

A smaller percentage of women than men receive a prison or community-based sentence, whereas a greater percentage of cases with female defendants result in a not proved outcome (Table 4.7). This difference is consistent with the lower average seriousness of offences committed by females and the higher percentage of females with no previous convictions (section 3.6).

Table 4.7: Percentage of non-traffic cases resulting in each outcome, by gender, 1996

<table>
<thead>
<tr>
<th></th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other proved</th>
<th>Not proved</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Females</td>
<td>2.3</td>
<td>22.0</td>
<td>27.5</td>
<td>13.3</td>
<td>34.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Males</td>
<td>8.5</td>
<td>24.6</td>
<td>27.6</td>
<td>10.9</td>
<td>28.4</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The general trends over the 1986-96 period are similar for males and females (Figure 4.5), except that the increase in the not proved category and the decrease in the ‘other proved’ category has been more marked for females. As females are more often first offenders than males this change fits with an expected greater use of diversion for females.

4.7 Outcomes by age group

The distribution of prosecution outcomes is fairly similar for all age groups except for 14 to 16 year olds (Table 4.8). The differences amongst the older age groups reflect the differences in the average seriousness of offending and in the previous criminal history (see section 3.7). The average seriousness score increases with age, but countering this more defendants aged 30 or more are first offenders.
Table 4.8: Percentage of non-traffic cases resulting in each outcome, by age group, 1996

<table>
<thead>
<tr>
<th>Age group</th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other proved</th>
<th>Not proved</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>14-16</td>
<td>3.2</td>
<td>2.5</td>
<td>4.4</td>
<td>26.8</td>
<td>63.0</td>
<td>100.0</td>
</tr>
<tr>
<td>17-19</td>
<td>7.1</td>
<td>27.6</td>
<td>23.0</td>
<td>10.0</td>
<td>32.2</td>
<td>100.0</td>
</tr>
<tr>
<td>20-29</td>
<td>8.9</td>
<td>28.4</td>
<td>26.0</td>
<td>10.3</td>
<td>26.5</td>
<td>100.0</td>
</tr>
<tr>
<td>30-39</td>
<td>8.0</td>
<td>27.0</td>
<td>24.8</td>
<td>12.7</td>
<td>27.6</td>
<td>100.0</td>
</tr>
<tr>
<td>40+</td>
<td>7.3</td>
<td>19.1</td>
<td>24.8</td>
<td>14.1</td>
<td>34.6</td>
<td>100.0</td>
</tr>
</tbody>
</table>

1 Percentages are calculated for people of known age only.
2 There were no 10-13 year olds prosecuted in 1996.

The very different outcomes for 14-16 year olds must be interpreted in light of the changes introduced by the Children, Young Persons, and Their Families Act 1989. There are two separate elements to the trends in prosecution outcomes for 14-16 year olds (Figure 4.6). Firstly, where the young person is not arrested, the case usually does not go to court at all, so the total number of cases heard in court has decreased considerably.

Secondly, for serious offences resulting in an arrest, the case does go to court in the first instance, but generally results in a ‘case withdrawn’ (not proved) outcome if the matter is directed to and resolved at a Family Group Conference. In a relatively small number of cases the result is a sentence imposed by the court. Thus for 14-16 year olds the number of cases heard by the courts has decreased and the number of sentences has decreased relative to the number of ‘not proved’ outcomes. This has resulted in a huge increase in the percentage of youth outcomes that are in the not proved category.

The use of imprisonment for young people is rare in spite of the much higher average seriousness of court cases involving young people. Prison sentences may only be imposed on offenders under the age of 16 for purely indictable offences (Criminal Justice Act 1985).

For other age groups, the general shape of the trends has been similar.
4.8 Outcomes by ethnicity

The percentage of cases that result in a prison or community-based sentence is higher for Māori than Pacific peoples and higher for Pacific peoples than the Other ethnic group (Table 4.9). Also, cases with Māori defendants are less likely to result in a not proved outcome. These differences are consistent with ethnic differences in the average seriousness of the
current offence and the number of previous convictions. Cases with Pacific and Māori defendants involve offences which are more serious on average than for the Other ethnic group. A lower percentage of Māori defendants have no previous convictions (section 3.8), which means a smaller percentage of Māori offenders are eligible for diversion.

**Table 4.9: Percentage of non-traffic cases resulting in each outcome by ethnicity, 1996**

<table>
<thead>
<tr>
<th></th>
<th>Prison</th>
<th>Community</th>
<th>Monetary</th>
<th>Other proved</th>
<th>Not proved</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Māori</td>
<td>10.7</td>
<td>31.6</td>
<td>20.1</td>
<td>11.8</td>
<td>25.8</td>
<td>100.0</td>
</tr>
<tr>
<td>Pacific</td>
<td>7.2</td>
<td>28.3</td>
<td>19.5</td>
<td>14.1</td>
<td>30.9</td>
<td>100.0</td>
</tr>
<tr>
<td>Other</td>
<td>6.2</td>
<td>22.0</td>
<td>26.8</td>
<td>11.2</td>
<td>33.8</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The general shape of the trends over the 1986-96 period has been similar for all ethnic groups (Figure 4.7). That is, the use of monetary penalties has decreased for all ethnic groups as the use of community-based sentences and not proved outcomes has increased. The use of imprisonment has fluctuated but with little overall change.

**Figure 4.7: Percentage of cases resulting in each outcome by ethnic group, 1986-96**
4.9 Summary and implications

Over the past decade there have been major changes in the use of different sentences and other prosecution outcomes. To some extent these changes reflect increases in the average seriousness score of cases and changes in the distribution of offence types. However, the changes have also occurred within seriousness and offence groups, suggesting that the trends reflect real changes in sentencing practice.

The introduction of a new way of dealing with first offenders, the Police Adult Diversion Scheme, has had a very significant impact on the distribution of prosecution outcomes. Diversion has been widely used and has resulted in a large increase in the number of ‘case withdrawn’ outcomes within the ‘not proved’ category.

In addition, there has been a very substantial increase in the use of community-based sentences. To a large extent the new diversion outcomes and the increased number of community-based sentences seem to have replaced monetary penalties. In the last few years this trend has switched to a slight increase in the use of monetary penalties and a slight decrease in the use of community-based sentences.

There are a number of reasons for these changes in sentencing practice. The introduction of diversion was seen as providing an option to fill the gap between cautions and formal court convictions. Diversion allowed first offenders a second chance while still requiring the offender to make amends to the victim or community. The use of community-based sentences was actively promoted as they were expected to have a potential rehabilitative effect for the offender, along with the benefits of community involvement in the justice process. The inability of many offenders to pay monetary penalties is also likely to have been a factor, although community-based sentences were originally intended as an alternative to imprisonment.11

However, there has been little emphasis on the evaluation of the benefits of these changes in sentencing practice for either the offender or the community. Also, these major trend changes are likely to have had a number of cost consequences. More resources are required to administer community-based sentences (and some diversion schemes) than are required to administer monetary penalties. The reduced use of fines may also result in a loss of revenue. As some community-based sentences and diversion schemes involve programmes run with community support, the resourcing implications affect community groups and communities in general as well as the Police and the Department of Corrections. The increased cost of

10 For example, a survey of the views of judges, probation officers, offenders and sponsors to community service found that: ‘Five general groups of aims were identified from all the responses: providing benefit to the community…; providing benefit to the offender…; fostering community-offender integration; punishing the offender; and providing an alternative sentence (generally or specifically as an alternative to imprisonment).’ Page 150 in Leibrich, J.; Galaway, B.; Underhill, Y. (1984) Community Service Orders in New Zealand. Department of Justice, Wellington.

11 From the same survey as the previous footnote: ‘the ability to pay a fine was the most common consideration amongst probation officers when distinguishing between offenders suitable for a fine and for community service’ (page 152).
community-based sentences has not been offset by a major reduction in the use of imprisonment.

On the other hand, diversion may have resulted in some cost savings for the courts since the scheme was expected to reduce the number of defended hearings. Also community service, periodic detention and diversion can result in valuable work being done in the community.

The increased use of community-based sentences has also had a feedback effect on the number of cases prosecuted for breaches of these sentences, which explains a significant part of the rapid increase in the number of cases involving offences against justice. At the same time the decreased use of fines might be predicted to result in a decrease in alternative sentences imposed for fines default. However, the overall number of fines processed by the Department for Courts has not decreased, but rather has increased significantly, as there has been a rapid rise in the number of fines resulting from the non-payment of infringement fees (e.g. for speeding and parking infringement offences), which are not included in the prosecution and conviction statistics (see section 5.9).

The complexity of the consequences resulting from such major changes in sentencing practice reinforces the need for policy development to be backed up with evaluations of the effectiveness of different sentence types for different types of offender. Some research has evaluated various sentences, mainly in terms of reconviction rates, but these studies have not controlled for other factors that might influence recidivism and not all sentence types have been examined.12

Because trends in the use of different sentences can change rapidly, forecasts of future trends (and hence forecasts of community-based sentence musters) depend very much on proposed policy directions and new initiatives. At present it seems likely that the use of diversion will continue to increase slowly in the short term and there may continue to be some movement away from community-based sentences back to monetary penalties for less serious offences. However, if an increasing number of cases come through the system, the number of people serving community-based sentences may still increase.

The use of imprisonment as a percentage of all cases has changed relatively little in comparison to the larger changes in the use of community-based sentences and monetary penalties, suggesting that the very large number of additional community-based sentences imposed have not, in general, been replacing prison sentences as originally intended. A small increase in the overall use of imprisonment up to 1993 was followed by a small decrease, the latter partly due to the introduction of suspended prison sentences. Section 5.3 presents a more detailed analysis of imprisonment rates.

Although the overall percentage of cases resulting in imprisonment has not changed very much, the increase in the number of cases involving imprisonable offences has meant that the number of people being sent to prison has increased over the last decade.

The average seriousness of offences committed and the average number of previous convictions differs between males and females and among different age and ethnic groups. This results in variation between demographic groups in the types of outcomes imposed. The higher average seriousness of offences committed by male and Māori offenders means that they are more likely to receive a prison or community-based sentence. Also, males and Maori are less likely than females and other ethnic groups to have no previous convictions, which means that a smaller proportion of them are eligible for diversion and therefore they are more likely to have a case proved.

Pacific peoples are also more likely to receive a prison or community-based sentence than ethnic groups other than Māori. As the Pacific population is projected to increase at a faster rate than other ethnic groups, the number of Pacific peoples serving such sentences is also likely to increase faster than for other ethnic groups.

As is already widely recognised, effective culturally-appropriate programmes to prevent offending or reduce reoffending by Māori and Pacific peoples could therefore have a very significant impact on the workload of the criminal justice system as well as benefits for individuals, families and communities.

The results presented in this chapter also have technical implications for the development of useful databases for research purposes. The results highlight the increasing difficulty of determining the previous criminal history of an offender from conviction records, as most young people and a large proportion of adult first offenders no longer receive a formal conviction even when they admit to having committed an offence. While this serves an important purpose by not creating a criminal record which could unduly affect the offender’s future, recording of diversion under a separate code in the case-based data and integrating youth statistics with court statistics would help to give a more complete picture of criminal justice issues.
5 Sentences and correctional populations

5.1 Overview

The previous chapter examined the distribution of broad sentence types imposed on different types of offender for various offence types. This chapter focuses on a more detailed examination of the individual sentence types, including analysis of the length of prison and community-based sentences and the number of people serving these sentences on average (the ‘muster’), as well as analysis of suspended prison sentences, monetary penalties and driving disqualification. Diversion is also considered in more detail although strictly speaking it is not a sentence. The previous chapter considered the most serious sentence attached to each case, whereas all the recorded sentences for each case are considered in this chapter (Table 5.1).

Table 5.1: The number and percentage of proved cases resulting in each sentence type for sentences 1 to 3, in order of sentence rank, 1996

<table>
<thead>
<tr>
<th>Sentence type</th>
<th>Sentence number</th>
<th>Percent of total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>One</td>
<td>Two</td>
</tr>
<tr>
<td>Prison</td>
<td>8,861</td>
<td>0</td>
</tr>
<tr>
<td>Periodic detention</td>
<td>20,416</td>
<td>47</td>
</tr>
<tr>
<td>Community programme</td>
<td>780</td>
<td>24</td>
</tr>
<tr>
<td>Community service</td>
<td>8,262</td>
<td>1</td>
</tr>
<tr>
<td>Supervision</td>
<td>5,489</td>
<td>4,650</td>
</tr>
<tr>
<td>Youth supervision</td>
<td>536</td>
<td>0</td>
</tr>
<tr>
<td>Youth community work</td>
<td>114</td>
<td>46</td>
</tr>
<tr>
<td>Reparation</td>
<td>4,238</td>
<td>3,046</td>
</tr>
<tr>
<td>Fine</td>
<td>51,786</td>
<td>2,705</td>
</tr>
<tr>
<td>Driving disqualification</td>
<td>1,034</td>
<td>29,652</td>
</tr>
<tr>
<td>Sentence if called</td>
<td>3,548</td>
<td>346</td>
</tr>
<tr>
<td>Suspended sentence</td>
<td>156</td>
<td>1,400</td>
</tr>
<tr>
<td>Court costs</td>
<td>1,416</td>
<td>33,942</td>
</tr>
<tr>
<td>No sentence</td>
<td>6,578</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>113,214</td>
<td>75,859</td>
</tr>
</tbody>
</table>

1 Court costs and ‘no sentence’ (e.g. discharge without conviction) are not sentences as such, but they are possible outcomes of proved cases and are therefore included for the sake of completeness.
Up to three sentence types are recorded in the case-based data. The first sentence is the most serious according to the ranking criteria used by the Ministry of Justice. The second and third sentences therefore have a higher proportion of the less serious sentence types, particularly monetary penalties, driving disqualification and court costs. \(^{13}\)

Only some combinations of sentences are allowed to be imposed together, such as a community-based sentence or prison sentence plus a monetary penalty (reparation or fine), a prison or periodic detention sentence plus supervision, and a community-based sentence or monetary penalty with a suspended prison sentence.

The number of suspended prison sentences imposed as the most serious sentence is only a fraction of the total number imposed as most are imposed in combination with community-based sentences, which are considered more serious using the Ministry of Justice ranking system. Almost half (46%) of supervision sentences are imposed in combination with a prison or periodic detention sentence. Almost all driving disqualification sentences are imposed in combination with another sentence.

5.2 Demographic profile of selected sentences

In previous chapters demographic groups were found to differ by the average seriousness and type of offending and previous conviction history and therefore each demographic group has a different distribution of prosecution outcomes. More information on the demographic profile of people who receive specific sentences (whether as sentence one, two or three) is given in Table 5.2. Traffic offences are included for this analysis to give a more complete picture of the type of people receiving specific sentences.

The lower average seriousness of female offending contributes to the low percentages of females amongst persons receiving the more serious sentences of prison and periodic detention. In contrast a third of people receiving community service sentences are females. Females account for 11% of suspended prison sentences compared to 6% of prison sentences.

Youth offenders (aged under 17) account for only a small percentage of the people receiving each sentence type. Young adult offenders (aged 17 to 19) make up a higher proportion of the community programme and community service sentences than they do of the other sentence types. Conversely, slightly older offenders (aged 20 to 29) make up a higher proportion of the more serious sentences.

Māori have particularly high rates of sentencing to community programmes (some of which are specifically designed for Māori) as well as prison and periodic detention, whereas the

---

\(^{13}\) Sentence ranking is not straightforward. For example, a suspended prison sentence is ranked lower than most other sentences, as a suspended sentence involves no particular action like working in the community, attending a programme, or paying a fine. However, if the suspended sentence is activated following reoffending the result is a prison sentence, the most serious sanction. See the Appendix for more information on sentence ranking.
Other ethnic group makes up a greater proportion of the monetary penalties imposed. These differences at least partly reflect ethnic differences in the nature and seriousness of offending and the average number of previous convictions (section 4.8).

The strong association between sentence type and number of previous convictions is clear from the high proportion of the prison sentences given to people with five or more convictions in the past six years (43%) compared to the low proportion of monetary penalties (7%) given to this group. Community service sentences and monetary penalties have a high proportion of first offenders relative to other sentence types.

### Table 5.2: The total number of cases resulting in each major type of sentence (sum of sentences one, two and three) and the percentage of the total cases by gender, age, ethnicity and previous convictions, 1996

<table>
<thead>
<tr>
<th></th>
<th>Prison</th>
<th>Suspend</th>
<th>PD</th>
<th>Commun. Progrm</th>
<th>Commun. Service</th>
<th>Supervision</th>
<th>Monetary</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>No. of cases</strong></td>
<td>8,861</td>
<td>2,780</td>
<td>20,463</td>
<td>804</td>
<td>8,263</td>
<td>10,139</td>
<td>62,184</td>
</tr>
<tr>
<td><strong>% by gender</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>5.6</td>
<td>11.3</td>
<td>9.5</td>
<td>19.1</td>
<td>33.7</td>
<td>16.1</td>
<td>16.9</td>
</tr>
<tr>
<td>Male</td>
<td>94.4</td>
<td>88.7</td>
<td>90.5</td>
<td>80.9</td>
<td>66.3</td>
<td>83.9</td>
<td>83.1</td>
</tr>
<tr>
<td><strong>% by age</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14-16</td>
<td>1.1</td>
<td>0.5</td>
<td>0.2</td>
<td>1.2</td>
<td>0.1</td>
<td>0.6</td>
<td>3.7</td>
</tr>
<tr>
<td>17-19</td>
<td>17.3</td>
<td>12.4</td>
<td>18.0</td>
<td>23.0</td>
<td>22.9</td>
<td>18.8</td>
<td>12.4</td>
</tr>
<tr>
<td>20-29</td>
<td>47.7</td>
<td>47.4</td>
<td>50.0</td>
<td>41.4</td>
<td>38.4</td>
<td>44.6</td>
<td>33.1</td>
</tr>
<tr>
<td>30-39</td>
<td>23.0</td>
<td>28.0</td>
<td>23.2</td>
<td>23.4</td>
<td>24.3</td>
<td>24.6</td>
<td>40.1</td>
</tr>
<tr>
<td>40+</td>
<td>10.9</td>
<td>11.8</td>
<td>8.6</td>
<td>11.1</td>
<td>14.2</td>
<td>11.4</td>
<td>10.7</td>
</tr>
<tr>
<td><strong>% by ethnicity</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Māori</td>
<td>53.3</td>
<td>50.7</td>
<td>50.3</td>
<td>69.4</td>
<td>47.3</td>
<td>44.4</td>
<td>34.8</td>
</tr>
<tr>
<td>Pacific</td>
<td>7.3</td>
<td>8.6</td>
<td>8.5</td>
<td>7.9</td>
<td>8.6</td>
<td>10.1</td>
<td>6.8</td>
</tr>
<tr>
<td>Other</td>
<td>39.4</td>
<td>40.6</td>
<td>41.2</td>
<td>22.7</td>
<td>44.1</td>
<td>45.5</td>
<td>58.4</td>
</tr>
<tr>
<td><strong>% by previous convictions</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>12.0</td>
<td>20.5</td>
<td>16.7</td>
<td>28.8</td>
<td>52.3</td>
<td>27.1</td>
<td>61.1</td>
</tr>
<tr>
<td>1</td>
<td>10.7</td>
<td>12.5</td>
<td>20.1</td>
<td>16.6</td>
<td>23.7</td>
<td>18.8</td>
<td>17.1</td>
</tr>
<tr>
<td>2-4</td>
<td>34.3</td>
<td>32.0</td>
<td>38.7</td>
<td>32.9</td>
<td>18.7</td>
<td>32.5</td>
<td>14.8</td>
</tr>
<tr>
<td>5+</td>
<td>43.0</td>
<td>35.1</td>
<td>24.4</td>
<td>21.7</td>
<td>5.3</td>
<td>21.5</td>
<td>6.9</td>
</tr>
</tbody>
</table>

Abbreviations:  Suspend = suspended prison sentence, PD = periodic detention, Commun. Progrm = community programme, Commun. Service = community service

Note: percentages are for cases where gender, age and ethnicity are known. This may bias the results for sentence types or demographic groups with a high number of unknowns. Gender and age are generally well recorded, but ethnicity is poorly recorded for less serious offences (i.e. mainly those receiving monetary penalties). Traffic cases are included in the analysis.
5.3 Prison

5.3.1 Trends in the size of the prison population

Prison is the most serious sentence and as such is reserved for those offenders who have committed very serious offences, especially those who have extensive offending histories (section 4.4). Inmates in prison at the time of the 1995 Prison Census\textsuperscript{14} had on average 24 previous convictions and over 60% were in prison for an offence against the person (mainly violent offences).

The size of the sentenced prison population (i.e. excluding remand inmates) is governed by the number of receptions (admissions) and the average sentence length served. The number of receptions depends on the number of court cases involving imprisonable offences (i.e. cases that may result in imprisonment) and the imprisonment rate (the percentage of these cases that result in a prison sentence). The average amount of time spent in prison depends on the average sentence imposed by the courts and the percentage of the sentence actually served.

The average number of sentenced prison inmates increased by 83%, from 2300 to 4200 inmates, between 1986 and 1996 (Figure 5.1).

Figure 5.1: Average annual sentenced prison population, number of receptions each year and average imposed sentence length, 1986-96

This increase reflects both an increase in the number of receptions to prison (a 17% increase between 1986 and 1996) and an increase in the average length of sentence imposed (a 45% increase).

increase from 10.3 months to 14.9 months on average).\textsuperscript{15} The drop in the prison population between 1993 and 1994 corresponds to the release of a large number of inmates under the new parole provisions introduced in September 1993.

The number of receptions has increased mainly due to the increase in the caseload of serious offences coming through the courts. Both the total number of cases and the average seriousness of cases has increased. The number of cases involving imprisonable offences coming through the courts increased by 20\% and the average seriousness of these cases increased by 30\% between 1986 and 1996.

Relative to other sentence types the overall use of imprisonment has changed little over the last decade (Chapter 4). However, the imprisonment rate (the percentage of cases involving imprisonable offences that result in a prison sentence) did increase from 7.4\% in 1986 to 8.6\% in 1993. This increase is consistent with, although somewhat lower than, the increase in the average seriousness of cases dealt with by the courts over this period (Figure 5.2).

\textbf{Figure 5.2: Relative growth in the imprisonment rate, the average sentence imposed and the average seriousness of cases involving imprisonable offences, 1986-96} \\
(1986 indexed to 1.0, other years are expressed as a ratio of 1986)\textsuperscript{1}

\textsuperscript{1} For example, the average sentence length was 45\% higher (1.45 times higher) in 1996 than it was in 1986, therefore the ratio shown for 1996 is 1.45.

Between 1993 and 1995 the imprisonment rate decreased from 8.6\% to 7.4\%, before increasing again in 1996 to 8.0\%. (1997 data, available just prior to the completion of this report, indicates a further increase to 8.4\%). The decrease between 1993 and 1995 ran

\textsuperscript{15} The average sentence length calculation assumes that a life sentence results in an average of 12 years in prison and preventive detention is equivalent to 15 years.
counter to the trend in the average seriousness of cases and is likely to be at least partly due to
the introduction of suspended prison sentences in 1993 (section 5.4). The subsequent
increase in imprisonment rates appears to relate to the activation of suspended sentences
following reconviction for another imprisonable offence within the suspension period.

Similarly, much of the substantial increase in the average length of prison sentences can be
explained by the increasing seriousness of offences. The average seriousness score of all
cases involving imprisonable offences increased by 22% over the past decade compared to an
increase in the average actual sentence imposed of 45%.

The trends for the average seriousness score and the average sentence imposed tracked each
other closely until 1993, when a much larger increase in the average sentence length occurred
at the same time as the imprisonment rate dropped (Figure 5.2). The increase from 1993 is
likely to be related to several changes made in the Criminal Justice Amendment Act 1993,
including changes in way time already spent in custody on remand is taken into account, an
increase in the maximum penalty for sexual violation, and the introduction of suspended
sentences. As noted in the following section, the evidence points to the imposition of
suspended prison sentences in place of short prison sentences rather than in place of six
month to two year sentences as was intended. Thus fewer prison sentences were imposed
from 1993, but the average sentence length was longer.

5.3.2 Changes in the use of imprisonment

Changes in the overall imprisonment rate and sentence length do not necessarily indicate
whether sentencing practice has changed (i.e. whether a specific type of case is dealt with
more or less severely than previously), unless the type of cases coming before the courts is
also taken into account. For example, if there were fewer homicides and more assaults both
the rate of imprisonment and the average sentence length would decrease for offences against
the person as a group, even though sentencing practice for individual offences may not have
changed.

Therefore imprisonment rates and average sentence lengths were examined for individual
offence types, comparing 1984-86 with 1994-96 (Table 5.3). The results suggest that prison
has increasingly been restricted to the more serious offences and that for the most serious
offence types penalties have increased. Four general patterns emerge:

- For very serious offences (e.g. sexual offences, robbery, kidnapping, and driving causing
death or injury) there has been a large increase in the average sentence length with little
change in imprisonment rates, suggesting these offences are dealt with more severely
and/or there has been an increase in the seriousness within the offence type. For sexual
violation this corresponds to an increase in the maximum penalty from 14 to 20 years in
1993.

- For other serious offences (e.g. assault causing injury, burglary, arson, dealing cannabis)
there has been a more modest increase in sentence lengths.
Table 5.3: Changes in the imprisonment rate and the average imposed sentence length between 1984-86 and 1994-96, for selected offence types

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Imprisonment rate</th>
<th>Average imposed sentence length (months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homicide</td>
<td>89.0</td>
<td>91.0</td>
</tr>
<tr>
<td>Kidnap/abduct</td>
<td>65.8</td>
<td>71.8</td>
</tr>
<tr>
<td>Rape</td>
<td>97.4</td>
<td>94.4</td>
</tr>
<tr>
<td>Att. sexual violation</td>
<td>90.9</td>
<td>88.7</td>
</tr>
<tr>
<td>Indecent assault</td>
<td>37.5</td>
<td>40.3</td>
</tr>
<tr>
<td>Aggravated robbery</td>
<td>78.3</td>
<td>75.6</td>
</tr>
<tr>
<td>Robbery</td>
<td>59.7</td>
<td>54.3</td>
</tr>
<tr>
<td>Injure/wound</td>
<td>68.8</td>
<td>63.1</td>
</tr>
<tr>
<td>Aggravated assault</td>
<td>46.7</td>
<td>32.4</td>
</tr>
<tr>
<td>Male assaults female</td>
<td>16.7</td>
<td>12.0</td>
</tr>
<tr>
<td>Other assault</td>
<td>10.7</td>
<td>5.7</td>
</tr>
<tr>
<td>Threat to kill/GBH</td>
<td>31.8</td>
<td>18.3</td>
</tr>
<tr>
<td>Incest</td>
<td>82.4</td>
<td>78.1</td>
</tr>
<tr>
<td>Other sexual</td>
<td>30.9</td>
<td>47.4</td>
</tr>
<tr>
<td>Resist/obstruct</td>
<td>4.5</td>
<td>2.4</td>
</tr>
<tr>
<td>Threats/intimidation</td>
<td>5.1</td>
<td>6.1</td>
</tr>
<tr>
<td>Burglary</td>
<td>27.5</td>
<td>31.3</td>
</tr>
<tr>
<td>Theft</td>
<td>5.0</td>
<td>4.8</td>
</tr>
<tr>
<td>Receiving</td>
<td>9.7</td>
<td>8.7</td>
</tr>
<tr>
<td>Conversion</td>
<td>27.6</td>
<td>21.3</td>
</tr>
<tr>
<td>Fraud</td>
<td>12.0</td>
<td>11.1</td>
</tr>
<tr>
<td>Arson</td>
<td>43.2</td>
<td>45.0</td>
</tr>
<tr>
<td>Wilful damage</td>
<td>2.5</td>
<td>2.0</td>
</tr>
<tr>
<td>Use cannabis</td>
<td>2.7</td>
<td>2.0</td>
</tr>
<tr>
<td>Deal cannabis</td>
<td>11.2</td>
<td>13.0</td>
</tr>
<tr>
<td>Use other drugs</td>
<td>6.8</td>
<td>4.9</td>
</tr>
<tr>
<td>Deal other drugs</td>
<td>65.4</td>
<td>47.7</td>
</tr>
<tr>
<td>Breach PD</td>
<td>33.3</td>
<td>17.3</td>
</tr>
<tr>
<td>Escape custody</td>
<td>67.7</td>
<td>42.6</td>
</tr>
<tr>
<td>Obstruct justice</td>
<td>16.3</td>
<td>27.1</td>
</tr>
<tr>
<td>Riot/assembly</td>
<td>39.8</td>
<td>39.0</td>
</tr>
<tr>
<td>Possess weapon</td>
<td>13.9</td>
<td>9.2</td>
</tr>
<tr>
<td>Drive causing death</td>
<td>18.8</td>
<td>18.0</td>
</tr>
<tr>
<td>Drive causing injury</td>
<td>3.4</td>
<td>5.8</td>
</tr>
<tr>
<td>Drink driving</td>
<td>2.6</td>
<td>2.3</td>
</tr>
<tr>
<td>Drive while disqual.</td>
<td>17.0</td>
<td>15.7</td>
</tr>
</tbody>
</table>

1 The imprisonment rate is the percentage of the total cases convicted which result in a prison sentence. Offences were excluded if they were newly introduced within the last decade or if the numbers imprisoned were too low for analysis.
For less serious offences (e.g. less serious types of assaults, property offences except for burglary and arson, driving while disqualified, many offences against justice such as breach of periodic detention) there has been a decrease in imprisonment rates, but an increase in sentence lengths, suggesting that only the more serious offences are being imprisoned within these offence groups. This finding is in line with the changes introduced in the Criminal Justice Act 1985, which indicates that imprisonment should not be used for the less serious offences except in special circumstances. The introduction of suspended sentences in 1993 is also likely to have had an impact on this group of offences.  

For some other offences (e.g. many drug offences other than cannabis dealing) there has been a trend to lower imprisonment rates and shorter sentence lengths.

### 5.3.3 The composition of the prison population

The composition of the prison population is very different to the composition of the annual receptions to prison. In particular, people who have committed very serious offences make up a far larger proportion of the prison population than they do of receptions, as they serve much longer than average sentences (Table 5.4).

By far the longest terms are served by people who have committed the most serious of offences within the serious offences against the person category (such as homicide, grievous and aggravated assault, kidnapping, sexual offences and robbery). Those who receive a life sentence (mainly for murder) or a preventive detention sentence (mainly for sexual violation) have no set sentence length to serve and are eligible for parole after a minimum of ten years (or longer, if a higher minimum non-parole period is imposed). People serving life or preventive detention sentences together accounted for 7.5% of the prison population at the time of the 1995 Census, but only 0.5% of the new receptions to prison in 1995.

People who have committed ‘Serious Violent’ offences are also disproportionately represented in prison. The Serious Violent group forms a sub-group of the ‘serious offences against a person’ category used in this report and is defined by both the offence type (including manslaughter, attempted murder, grievous assault, sexual violation, robbery) and the sentence imposed by the court (more than two years). Over a third of prison inmates have committed a Serious Violent offence, compared to just 8% of receptions. This is due to the very long sentences imposed on these offenders and the requirement that they serve at least two-thirds of the imposed sentence without eligibility for parole, as of August 1987. Prior to 1987 these offenders were eligible for parole at the same time as other offenders.

### Table 5.4: Composition of the prison population, receptions to prison, and average sentence length, by offence type, 1995

16 Analysis of 1997 data, just prior to the completion of this report, indicates that imprisonment rates for many less serious offences have increased again in 1996 and 1997. This seems to be related to the activation of suspended sentences, in that the reconviction leading to the activation of the suspended sentence is often for an imprisonable offence of relatively low seriousness.
<table>
<thead>
<tr>
<th>Offence type</th>
<th>Prison inmates$^1$</th>
<th>Receptions</th>
<th>Average sentence length (months)$^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>%</td>
<td>Number</td>
</tr>
<tr>
<td>Serious against person</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life</td>
<td>237</td>
<td>5.7</td>
<td>26</td>
</tr>
<tr>
<td>Preventive detention</td>
<td>74</td>
<td>1.8</td>
<td>9</td>
</tr>
<tr>
<td>‘Serious violent’</td>
<td>1479</td>
<td>35.8</td>
<td>510</td>
</tr>
<tr>
<td>Other</td>
<td>573</td>
<td>13.9</td>
<td>1015</td>
</tr>
<tr>
<td>Other against person</td>
<td>150</td>
<td>3.6</td>
<td>557</td>
</tr>
<tr>
<td>Property</td>
<td>872</td>
<td>21.1</td>
<td>1787</td>
</tr>
<tr>
<td>Drugs</td>
<td>250</td>
<td>6.1</td>
<td>407</td>
</tr>
<tr>
<td>Against justice</td>
<td>65</td>
<td>1.6</td>
<td>650</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>70</td>
<td>1.7</td>
<td>178</td>
</tr>
<tr>
<td>Serious traffic</td>
<td>362</td>
<td>8.8</td>
<td>1270</td>
</tr>
</tbody>
</table>

$^1$ The prison inmate estimates come from the 1995 Prison Census. The other data are for the number of and average sentence length of new receptions (admissions) to prison in 1995.

$^2$ Life and preventive detention do not have a set length of sentence imposed. ‘Served’ sentence length is estimated for all categories with reference to standard release and parole criteria (see text).

Other inmates are eligible for parole after they have served one-third of their sentence or are released at their one-half date if their imposed sentence is a year or less. Corrective trainees serve two months of a three month sentence. Eligibility for parole at the one-third date was introduced in September 1993. Previously, parole could only be considered after one-half the sentence had been served. The 1993 parole eligibility change brought the estimated average proportion of the sentence served down from 57% to 44% for those eligible for parole. This change was responsible for the noticeable dip in the prison population between 1993 and 1994 (Figure 5.1), as a large number of inmates were released in the latter part of 1993 under the new provisions.

### 5.3.4 Changes in the composition of the prison population

The composition of the prison population has changed over time towards a higher proportion of serious and violent offenders. The first Prison Census in 1987 recorded that 42% of the prison population comprised inmates whose major offence was a violent offence, compared to 59% in 1995. In contrast the proportion of the prison population who are property offenders has decreased from 31% to 21%, drug offenders are down from 9% to 6%, and traffic offenders are down from 9% to 8%.

These changes have resulted from several factors:

- The rapid increase in the number of offences against the person (mostly violent offences) and other serious offences recorded by the police and dealt with by the courts, compared to a slower rate of increase for many of the less serious offences.
- The increase in the average sentence lengths imposed for serious offences, especially serious offences against the person (including serious violent offences).
- The increase in the actual length of sentence served for inmates serving life sentences and preventive detention and for ‘Serious Violent’ offenders, due to the 1987 changes in parole provisions.
- Decreased imprisonment rates and earlier parole for other offenders.

The prison population is also older on average than previously. In the 1987 Prison Census 29% of inmates were aged 30 or over compared to 45% in 1995. This change has resulted from the increased numbers of older offenders being prosecuted (section 3.7), the longer sentences being served for serious violent offences and the decreased use of imprisonment for young people.

5.3.5 Home detention and habilitation

The introduction of the Criminal Justice Amendment Act in September 1993 opened the way for two new types of early release programme, home detention and habilitation centres. These were intended to assist the reintegration of prison inmates into society and to provide treatment services. Both were originally only open to prison inmates eligible for parole.

Potentially these programmes could reduce the number of inmates in prison, as inmates would be released earlier than they might otherwise have been released on parole. However, both programmes are still in their pilot phase and neither has been widely used as yet. During 1996 there was an average of six people on home detention and four in habilitation centres.

Proposed changes to the eligibility criteria for home detention in 1998 could extend the scheme to a wider range of offenders, both as a substitute for shorter prison sentences and as a pre-parole option for longer sentences. If these changes are implemented, their impact on the size of the prison population will depend on how extensively the new scheme is used and whether (as for suspended sentences) net-widening or other inappropriate applications of home detention occur. The proposed changes will not apply to Serious Violent offenders, who form a large proportion of the prison population.

5.4 Suspended prison sentences

The introduction and use of suspended prison sentences has been analysed in detail in other publications\(^\text{18}\), so only a summary of key points is presented here.

The suspended prison sentence was introduced as a new sentencing option by the Criminal Justice Amendment Act 1993. Prison sentences of not less than six months and not more than two years can be suspended for a period not exceeding two years. If the offender is convicted of another imprisonable offence within the suspension period the suspended sentence must be activated in some form.

Suspended sentences have been frequently used since their introduction. In 1994, 2652 cases resulted in a suspended prison sentence, compared to 3069 in 1995 and 2780 in 1996. Only about 5% of these have been imposed as the highest ranked sentence, so suspended sentences do not show up as a major outcome when only the major sentence is analysed. As Spier (1996) notes, most suspended sentences are imposed in combination with a community-based sentence (40% with periodic detention, 22% with supervision, 19% with both periodic detention and supervision, 4% with a community programme, 4% with community service), monetary penalty (4%) or driving disqualification (1%). Suspended sentences are most often imposed for driving while disqualified (26% of suspended sentences), burglary (12%), male assaults female (10%), cannabis dealing (9%), and fraud (6%).

The imposition of up to 3000 suspended sentences per year should have led to a reduction in the prison population by as many as 1500 inmates, given that these offenders should otherwise have been sentenced to six months to two years and would have served around half of that. This estimate takes into account the fact that some people with suspended sentences will end up in prison anyway as the estimated reconviction rate for imprisonable offences within the suspension period is at least 25%.19 As the prison population increased from 3580 sentenced inmates in January 1994 to 3761 inmates by January 1995 and 3917 inmates by January 1996, clearly a drop of this magnitude had not occurred.

Spier’s analysis suggests that in spite of the large number of suspended sentences imposed only a small drop occurred in the number of receptions to prison, especially for receptions in the relevant range of six months to two years. This finding suggests that ‘net-widening’ is occurring. That is, offenders who would previously have received a non-custodial sentence now receive a suspended prison sentence (and usually a community-based sentence as well). Also, the largest drop in receptions has occurred for sentences of less than six months, which suggests that longer sentences are being imposed in order to bring them within the allowable range for suspended sentences.

Furthermore, analysis of the most recent data (available just prior to the completion of this report) suggests that the activation of suspended sentences may have led to an increase in imprisonment rates, as the reconviction leading to the activation is often for an imprisonable offence of relatively low seriousness (and hence may not in other circumstances have received a prison sentence).

These factors, combined with reconviction rates of at least 25%, explain why very little, if any, decrease in the prison population has occurred. Further research is underway using information on the activation (or otherwise) of suspended sentences using data from court files.

19 Further research currently in progress indicates that reconviction rates may be substantially higher than 25% but that not all suspended sentences are being activated as intended in the legislation.
5.5 Periodic detention

5.5.1 Sentencing to periodic detention

Periodic detention (PD) is considered the second most serious sentence after imprisonment. Periodic detention involves an offender reporting to a work centre for at least one nine hour day a week. A periodic detention warden supervises the offender in unpaid work. Periodic detention can be imposed for a period not exceeding 12 months. As for all community-based sentences, PD can only be imposed for imprisonable offences.

In 1996 almost 20,500 cases resulted in a sentence of PD, up 73% from 1986, but lower than the high point reached in 1993 (23,300 cases; Figure 5.3). This increase is much greater than can be explained by the growth in the number of cases - the increase in the number of cases involving imprisonable offences was 20% over the past decade.

Therefore the use of PD as a sentence has increased considerably over the past decade, although in the last few years the trend has reversed. The percentage of cases involving imprisonable offences resulting in a PD sentence increased from 13% in 1986 to a peak of 22% in 1993 before declining to 18% in 1996 (Figure 5.3).

Figure 5.3: Trends in the use of periodic detention (PD), 1986-96

(a) Number of PD sentences imposed

(b) % of cases resulting in PD for imprisonable offences

In part, the increased use of PD sentences is due to the increased average seriousness of cases dealt with by the courts. However, the use of PD has also increased within each seriousness category, except the most serious (Figure 5.4), indicating that real changes in sentencing practice have occurred. The increased use of PD (as well as community service and community programmes) occurred at the same time as a decrease in the use of monetary penalties and supervision. The subsequent decrease in the mid-90s has corresponded with an increase in the use of monetary penalties and supervision.

Figure 5.4: Percentage of cases resulting in a PD sentence,
The increased use of PD over the last decade has also occurred within most offences groups. The use of PD varies between offence groups, from 28% of all outcomes for cases involving justice offences to 22% for serious traffic offences, 16% for property offences, 16% for offences against the person and drug offences and 3% for other non-traffic offences.

The large volume of cases involving property or traffic offences means that these offence groups make the largest contribution to the total number of PD sentences imposed. Of the total cases receiving PD sentences 25% are cases where the major offence is a property offence and 38% are cases involving a serious traffic offence. A further 14% of PD sentences are for offences against the person, 12% are for offences against justice, 7% for drug offences and 4% for other non-traffic offences.

**5.5.2 Periodic detention muster**

The average number of people serving PD at any one time during the year (the average annual muster) is a function of the number of sentences of PD imposed and the average length of the sentence. Calculation of the muster is complicated by a number of factors, including the possibility of multiple sentences (arising from one or more cases for the same individual) and the lack of data for fines defaulters.

Persons who fail to pay fines may be dealt with in a number of ways, including as a last resort re-sentencing to PD, community service, or (rarely) prison. This re-sentencing does not appear in the case-based data, so the number of fines defaulters entering the PD muster cannot be easily determined. Data supplied by the Department of Corrections indicates that around 22,500 new starts to periodic detention were recorded in 1996 compared to the 20,500 cases resulting in a PD sentence. This suggests that about 9% of new starts to PD are fines defaulters (about 2000 in 1996). This finding is consistent with the results of a study.
showing an estimated 7% of the PD muster in selected areas was composed of fines defaulters in 1991.20

The average sentence length for PD imposed by the courts in 1996 was 4.2 months. Fines defaulters are not included in this estimate and presumably serve less than the average in many instances, as the sentence terminates on payment of the outstanding fine. The average sentence length can also be estimated from the annual muster divided by the number of new starts. By this method the average sentence for all new starts, including fines defaulters, was 3.6 months in 1996.

The average sentence length differs between offence groups, but the differences are much less marked than the differences between offence groups in the average length of prison sentences. The longest average prison sentence for any of the offence groups used in this analysis is 18 times longer than the shortest average prison sentence. For periodic detention, the longest average sentence for any offence group is only 1.5 times the shortest average sentence. The difference for other community-based sentences is even less (1.4 times for community service and supervision, 1.2 times for community programme).

Serious offences against the person attract the longest PD sentences (5.2 months), followed by serious traffic offences (4.4 months), property offences (4.3 months), drug offences (4.2 months), other offences against the person (3.9 months), offences against justice (3.7 months) and other non-traffic offences (3.4 months).

Figure 5.5: The average sentence length and average annual muster for PD

Data on recent trends in the PD muster and sentence length are not available in a consistent format. A general indication of trends is given in Figure 5.5, which shows the average sentence imposed by the courts (excluding fines default) and the average annual muster (1990-94 are June year estimates, other years are calendar years). The average sentence length has decreased very slightly over the past decade, while the muster mirrors the pattern of growth and decline shown by the number of cases resulting in a sentence of PD (Figure 5.3). The annual average PD muster peaked at 8600 people in 1991 before declining to 6800 in 1996.

---

5.6 Community programme

5.6.1 Sentencing to community programmes

The community programme sentence (called community care prior to September 1993) involves an offender being placed in the care of an appropriate community group or individual and participating in a programme for a period not exceeding 12 months. As for other community-based sentences, community programmes may only be imposed for imprisonable offences.

This sentence has never been widely used. At no point has the use of community programmes exceeded 1.3% of the total cases prosecuted involving imprisonable offences (Figure 5.6). The number of cases that resulted in a community programme sentence has fluctuated over the past decade, increasing to a peak of almost 1300 in 1992 before dropping to around 800 in 1996, the second lowest number since 1986.

Figure 5.6: Trends in the use of community programmes, 1986-96

(a) Number of community programme sentences imposed

(b) % of cases resulting in community programmes for imprisonable offences

The use of the community programme sentence has fluctuated from 1.1% of cases involving imprisonable offences in 1986 to a peak of 1.3% in 1992, with a decline to 0.7% in 1996. A similar general trend (an increase in the early 1990s followed by a decrease) is found in each seriousness category (Figure 5.7).

Figure 5.7: Percentage of cases resulting in a community programme sentence, by seriousness category, 1986-96
The use of the community programme sentence in 1996 varied between offence groups from 1.3% of all outcomes for cases involving an offence against the person to 0.8% for property offences, 0.6% for serious traffic offences, 0.5% for justice offences, 0.3% for drug offences and 0.1% for other non-traffic offences.

The large number of cases involving property or traffic offences means that these offence groups make a large contribution to the total number of community programme sentences imposed. Of the total cases receiving community programme sentences 30% are cases where the major offence is a property offence and 29% are cases involving a serious traffic offence. A further 29% of community programme sentences are for offences against the person, 6% are for offences against justice, 4% for drug offences and 3% for other non-traffic offences.

### 5.6.2 Community programme muster

The average muster of people on community programmes is a function of the number of sentences imposed and the average length of the sentence. The average sentence length has increased gradually over the past decade to 7.8 months in 1996 (Figure 5.8). Serious offences against the person attract the longest community programme sentences (8.9 months) whereas all other offence groups have average sentences between 7.5 and 7.9 months.

The average annual muster shows a similar pattern to the number of sentences imposed (1990-94 are June year estimates, other years are calendar years). The community programme muster is the smallest of all the community-based sentence musters. The muster declined to 466 for the 1996 calendar year from a peak of over 700 in 1992.

**Figure 5.8:** The average sentence length and the average annual muster for community programmes
5.7 Community service

5.7.1 Sentencing to community service

Community service involves an offender doing between 20 and 200 hours of unpaid work for a community group. A sponsor from the community group supervises the offender. As for other community-based sentences, community service may only be imposed for imprisonable offences.

Figure 5.9: Trends in the use of community service, 1986-96

(a) Number of community service sentences imposed

(b) % of cases resulting in community service for imprisonable offences

The use of the community service sentence has increased dramatically over the 1986-96 period. In 1996 around 8300 cases resulted in a sentence of community service, more than four times the number imposed in 1986, although lower than the high point of almost 10,000 reached in 1993 (Figure 5.9). This increase is much greater than can be explained by the growth in the number of cases - the increase in the number of cases involving imprisonable offences was 20% over the past decade.

The use of community service increased very markedly from 2.1% of cases involving imprisonable offences in 1986 to 9.7% in 1992 before declining to 7.5% in 1996. This general trend occurs at all levels of seriousness except for the most serious offences, although the largest changes have occurred in the lower seriousness categories (Figure 5.10). As the
use of monetary penalties shows the opposite trend, this suggests that community service was mainly being used in place of monetary penalties. The decline in the mid-90s corresponds with an increase in the use of monetary penalties and supervision.

**Figure 5.10: Percentage of cases resulting in a community service sentence, by seriousness category, 1986-96**

The increased use of community service over the last decade has also occurred within most offences groups. The use of community service in 1996 varied between offence groups, from 12.1% of all outcomes for cases involving serious traffic offences to 8.0% for property offences, 6.1% for drug offences, 3.5% for offences against the person, 2.0% for offences against justice and 1.3% for other non-traffic offences.

The large number of cases involving property or traffic offences means that these offence groups make the largest contribution to the total number of community service sentences imposed. Of the total cases receiving community service sentences, 51% are cases where the major offence is a serious traffic offence and 28% are cases involving a property offence. A further 8% are for offences against the person, 2% are for offences against justice, 7% are for drug offences and 4% are for other non-traffic offences.

### 5.7.2 Community service muster

The average number of people serving a community service sentence is a function of the number of sentences imposed and the average length of the sentence. As for periodic detention, the calculation of the muster is complicated by the lack of data for fines defaulters, as persons re-sentenced to community service after failing to pay fines do not appear in the case-based data.

Data supplied by the Department of Corrections indicates that around 12,000 new starts to community service were recorded in 1996. This number is 44% higher than the number of cases that resulted in community service, suggesting that a very large number of fines defaulters are included in the community service muster. A previous study using 1991 data from selected locations found that an estimated 23-27% of the community service muster was
made up of fines defaulters. The difference between these two estimates may suggest that the proportion of fines defaulters has increased. However, the difference might also indicate that fines defaulters make up a smaller proportion of the muster than the new starts (this would be so if fines defaulters served shorter sentences) or the difference may simply be due to the different methods used for these analyses.

An additional complication is that the average sentence length is difficult to calculate for community service. This arises because a community service sentence is imposed as a certain number of hours (up to 200 hours of service) which can be performed over any length of time up to a year. Only the hours of service to be completed are recorded in the case-based data.

Estimation of the average ‘sentence length’ or time spent on the official muster could therefore only be achieved by dividing the average annual muster by the number of new starts. This method suggests that the time taken to complete community service in 1996 was about 6.7 months on average. The average appears to have decreased from about 8.8 months in 1986 (Figure 5.11). This could indicate a real decrease in the average time served or it may be due to administrative changes to tighten up record-keeping (i.e. ensuring that those who have completed their hours are removed from the muster) or it may be due to the limitations of the method and data.

The average number of hours of community service imposed has been recorded since 1991. In 1996 the average community service sentence was 89 hours, down slightly from 94 in 1991. The highest average number of hours service are imposed for serious offences against the person (121 hours), followed by offences against justice (100 hours). The average hours of service for other offence groups falls in the range 82-90 hours.

The average annual muster shows a similar trend to the number of cases resulting in a sentence of community service (Figure 5.11; 1990-94 are June year estimates, other years are calendar years). The muster increased from fewer than 1700 people in 1986 to a peak of almost 8200 in 1992 before declining to around 6700 in 1996.

Figure 5.11: The average ‘sentence length’ estimate and the average annual community service muster, 1986-96

---

5.8 Supervision

5.8.1 Sentence to supervision

Supervision can be imposed for a period of between six months and two years. The offender is under the supervision of a probation officer and must report to the probation officer as and when required to do so. Additional restrictions may be imposed on the offender by the court. These restrictions typically relate to the offender's work, education or training, residence, or associates.

Supervision may be imposed as the primary (highest ranked) sentence or as a second sentence with periodic detention or prison. As both PD and prison are ranked as more serious sentences, supervision is recorded as the second sentence when it is imposed in combination. As for other community-based sentences, supervision can only be imposed for imprisonable offences.

As both a primary and secondary sentence the number of supervision sentences imposed increased substantially over the 1986-96 period (Figure 5.12). In total over 10,000 supervision sentences were imposed in 1996, double the number imposed in 1986. In contrast to trends for other community-based sentences, the number of supervision sentences was at its lowest in the early 1990s and reached its highest point in 1996. The use of supervision as either the primary or secondary sentence increased from 5.5% of cases involving imprisonable offences in 1986 to 9.2% in 1996.

Figure 5.12: Trends in the use of supervision, 1986-96
The recent growth in the number of cases resulting in a supervision sentence has been influenced by the rapid increase in the number of domestic violence cases coming before the courts combined with a significant increase in the use of supervision in such cases (from 7% of such cases in 1986 to 18% in 1996). Substantial increases in the use of supervision have also occurred for most other offences against the person as well as some other offence types. Increases in the use of supervision have occurred in all seriousness categories (Figure 5.13).

In 1996 the greatest use of supervision was for cases involving offences against the person. Supervision accounted for 10.6% of the total primary outcomes for offences against the person, compared to 5.3% for property offences, 3.4% for serious traffic offences, 2.7% for drug offences and offences against justice and 1.2% for other non-traffic offences.

**Figure 5.13: Percentage of cases resulting in supervision, by seriousness category, 1986-96**

The greater use of supervision for offences against the person means that this offence group makes the largest contribution to the total number of supervision sentences imposed. The large number of cases involving property or traffic offences means that these offence groups also make a large contribution to the total number of community service sentences imposed.
Of the total cases receiving supervision sentences 35% are cases where the major offence is an offence against the person, 26% are cases involving a property offence and 25% are cases involving a serious traffic offence. A further 5% are for drug offences, 4% are for offences against justice and 4% are for other non-traffic offences.

5.8.2 The supervision muster

The average muster of people on supervision is a function of the number of sentences imposed and the average length of the sentence. The average sentence length has decreased over the past decade from 11.5 months to 9.7 months (Figure 5.14). This decrease has occurred in all offence groups. In 1996 the average sentence length was 12.4 months for cases involving serious offences against the person, 11.3 months for drug offences, 8.6 months for other offences against the person and between 9.6 and 10.0 months for all other offence groups.

The average annual muster shows a similar general trend to the number of sentences imposed, although the overall increase in the muster has been lower due to the decline in the average sentence length. The muster increased by 38% to almost 7400 in 1996.

Figure 5.14: The average sentence length and the average annual muster for supervision

(a) Average sentence length (months)  (b) Average annual muster

5.9 Monetary penalties

In 1996 some 62,000 cases resulted in a monetary penalty being imposed by the courts as one of the three recorded sentences for the most serious charge.22 Of this total 88% were fines and 12% were for reparation. Reparation to the victim can be imposed whenever an

---

22 The Fines Collection unit of the Department of Courts recorded a total of 81,700 separate court-imposed fines for 1996/97. In addition, a large number of fines (about 477,000 in 1996/97) result from unpaid infringement fees for infringement offences such as illegal parking and speeding offences. As these do not result in a conviction they are excluded from the prosecution and conviction statistics analysed in this report.
offender caused any loss of or damage to any property of another person. Since 1 August 1987, reparation can also be imposed in cases where a victim suffered emotional harm.

Less serious offences are the most likely to result in monetary penalties (Table 5.5). The offence types with the greatest use of fines are minor traffic offences (84% of all primary sentences imposed) and other non-traffic offences (71%). These two groups, along with serious traffic offences, also account for the majority of fines imposed.

Table 5.5: The number of cases resulting in monetary penalties and the percentage they make up of the primary sentences imposed and of the monetary penalties imposed, by offence type, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Rep</th>
<th>Fine</th>
<th>Total</th>
<th>% of sentences</th>
<th>% of rep/fines</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% rep</td>
<td>% fine</td>
<td>% rep</td>
<td>% fine</td>
<td></td>
</tr>
<tr>
<td>Serious against person</td>
<td>0.9</td>
<td>5.1</td>
<td>0.6</td>
<td>0.3</td>
<td></td>
</tr>
<tr>
<td>Other against person</td>
<td>2.2</td>
<td>22.3</td>
<td>4.7</td>
<td>3.9</td>
<td></td>
</tr>
<tr>
<td>Property</td>
<td>15.9</td>
<td>12.9</td>
<td>77.2</td>
<td>5.1</td>
<td></td>
</tr>
<tr>
<td>Drugs</td>
<td>0.0</td>
<td>50.4</td>
<td>0.1</td>
<td>6.4</td>
<td></td>
</tr>
<tr>
<td>Against justice</td>
<td>0.2</td>
<td>11.4</td>
<td>0.3</td>
<td>1.4</td>
<td></td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>1.7</td>
<td>70.9</td>
<td>7.8</td>
<td>26.4</td>
<td></td>
</tr>
<tr>
<td>Serious traffic</td>
<td>0.5</td>
<td>51.1</td>
<td>4.3</td>
<td>33.6</td>
<td></td>
</tr>
<tr>
<td>Minor traffic</td>
<td>1.5</td>
<td>84.4</td>
<td>4.9</td>
<td>22.9</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>3.7</td>
<td>45.8</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
</tr>
</tbody>
</table>

1 Number of cases resulting in reparation (‘rep’) or a fine as the primary sentence and total primary sentences imposed.

2 Percentage of the total primary sentences imposed that are reparation or fines for each offence type.

3 Percentage that each offence type makes up of the total number of reparation or fines imposed.

Reparation does not make up a major proportion of sentence outcomes for any offence. Property offences are by far the most likely to receive a reparation sentence (16% of primary sentences for property offences). Property offences also account for the highest proportion (77%) of the total reparation sentences imposed.

Most court-imposed monetary penalties are combined with other sentences or court orders, including 54% in combination with court costs, 29% with a driving disqualification, and 6% with a community-based sentence. In 3% of cases resulting in a monetary penalty both reparation and a fine were imposed. More details of the use of reparation can be found in other Ministry of Justice publications.23

5.10 Driving disqualification

In 1996 almost 33,000 cases resulted in a driving disqualification as one of the sentences. Most of these (89%) were for serious traffic offences, with the remainder being mostly for minor, non-imprisonable traffic offences. Some non-traffic offences can also result in a disqualification if a vehicle is used during the commission of the offence.

Of all the cases involving serious traffic offences 83% resulted in a driving disqualification. Many of these offences have a mandatory minimum disqualification period. Of the minor traffic cases 14% resulted in a disqualification. In almost all cases (97%) another more serious sentence was also imposed, most often a fine (60%) or a community-based sentence (32%).

The number of disqualifications has increased from around 30,000 in 1986, peaking at around 39,000 in 1991, a similar trend to the number of cases involving serious traffic offences.

5.11 Police diversion

5.11.1 Background to the diversion scheme

The Police Adult Diversion Scheme ('diversion') is a very significant addition to the range of sanctions, although there is relatively little published research on the scheme. Laven’s research estimated around 11,000 people were diverted in 1994. The analysis in this section confirms that diversion has had a major impact on trends in prosecution outcomes. The following analysis examines the effect of diversion on the outcome of court cases and as such is based on data on the number of court cases withdrawn, which includes cases involving a successful Police diversion.

Diversion was introduced in 1988 after being piloted in Wellington in 1987. As explained in a study of the scheme:

‘A primary objective of the scheme was to provide first offenders with a second chance. Other objectives included that victims’ needs would be addressed ie, offenders were expected to apologise for their offending and to pay reparation where appropriate. Those regarded as being at risk of committing further offences were given the opportunity to be rehabilitated early in their offending careers. Saving of Court resources had also been identified as a consideration, as the use of diversion was likely to lessen the number of defended hearings.’

---

24 Two studies on the Police Diversion Scheme, both of which examined regional data, are:

The offender must admit guilt and accept responsibility for his or her actions. The requirements of diversion differ between offenders as appropriate to the circumstances of the offence, but may involve an apology and reparation to the victim, a donation to a community group (such as Victim Support), counselling, community work, or attendance at an alcohol or drug abuse programme. If the diversion requirements are successfully completed the case is withdrawn and no conviction is entered.

Eligible offenders, according to the 1994 police diversion guidelines, include all first offenders aged 17 or over, except those who have committed purely indictable offences, breaches of court orders, and drink driving offences. Other offences that are normally considered serious are eligible, but only when the particular circumstances of the case mean that the offence is much less serious than average. Recidivist offenders may be diverted in special circumstances.

When the scheme was first introduced it was generally used for adult first offenders who had committed offences of low seriousness. In Laven’s study the majority of diversions in Auckland and Manukau in 1992 and 1994 were for shoplifting or other theft, possession or use of cannabis, minor assaults, property damage, and disorderly or offensive behaviour. Since the introduction of diversion there has been a trend towards diverting more serious types of offences. For example, even over the short period between 1992 and 1994 Laven found a substantial increase in the number of assaults diverted in Wellington. However, the majority of diversions are still of offences of relatively low seriousness.

5.11.2 Method of analysis

Exact estimates of diversion cannot be made with court prosecution statistics as diversion is coded along with other ‘case withdrawn’ outcomes rather than having its own separate code. However, by comparing the number of cases withdrawn for those offenders eligible for diversion before and after the introduction of diversion in 1988, an estimate can be made of the total cases diverted. Traffic offences had to be excluded from this analysis as no adequate measure of previous convictions was available.

For the purposes of this analysis non-traffic cases were classified as ‘eligible’ for diversion if they involved adult first offenders who had committed offences other than a purely indictable offence or an offence against justice. This is by no means an exact measure. In reality diversion would not be considered for many of these ‘eligible’ cases either due to the nature and seriousness of the offence committed or due to the offender pleading not guilty. ‘First offenders’ were approximated by the variable ‘no convictions in the previous six years’.

5.11.3 Estimates of diversion

The number of cases withdrawn for first offenders has increased by an order of magnitude since 1988 when diversion was introduced (Figure 5.15a). In comparison, other ‘not proved’ outcomes have remained at around the same level. As a percentage of all outcomes (Figure

---

26 Family violence is also excluded in the 1994 guidelines, although Laven’s study found diversions under the offence codes usually associated domestic violence [‘male assaults female’ and common assault (domestic)]. Because of the difficulties in distinguishing domestic from other violence, the analysis presented here includes all types of assault.
5.15b), the most rapid increase occurred in the first three years of the scheme, with another period of increase from 1994 (the latter corresponding to the broadening of the eligibility criteria for diversion).

**Figure 5.15: Comparisons of cases withdrawn with other outcomes**

(a) **Number of not proved cases for first offenders, diversion-eligible offences**

(b) **Percentage of all cases that are withdrawn, first and repeat offenders**

An estimate of the number of diverted cases can be made by assuming that the percentage of cases diverted is equal to the percentage of cases withdrawn minus the percentage of cases that were withdrawn prior to 1988. This assumes that a certain percentage of withdrawn cases are not due to diversion, and that this fraction has not changed over the past decade. This approximation seems reasonable, given that the percentage of case withdrawn outcomes has changed little for repeat offenders, who are not generally considered for diversion (Figure 5.15b).

By 1996 a very large number of people (an estimated 10,430 cases) were diverted according to this analysis. This estimate is probably an under-estimate as it does not include any traffic offences or offences against justice that were diverted. By comparison, 10,754 diversions (including over 700 traffic offences) were recorded by the Police National Intelligence System (NIS) in 1996. The NIS figure is also an underestimate as not all districts send in data to NIS. In 1994 Laven estimated that the actual number of diversions could be as much as 15% higher than the number officially recorded by the NIS. Given improvements in recording since 1994, the actual number of people diverted in 1996 could be between 11,000 and 12,000.

Of the 10,430 people estimated to have been diverted in 1996 (Table 5.6) using the case-based data, an estimated:

- 42% were property offenders (24% of all diversions were for theft, 7% for wilful damage, 3% for fraud);
- 30% were for ‘other non-traffic’ offences (12% were for disorderly behaviour and 4% trespassing);
- 14% were for other offences against the person (12% for minor assault);
• 13% were for drug offenders (7% for using cannabis);
• less than one percent were for serious offences against the person.

Table 5.6: Estimates of diversion, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Estimated no. of cases</th>
<th>Estimated percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td>Eligible</td>
</tr>
<tr>
<td>Serious against person</td>
<td>5,622</td>
<td>1,375</td>
</tr>
<tr>
<td>Other against person</td>
<td>12,745</td>
<td>5,685</td>
</tr>
<tr>
<td>Property</td>
<td>29,176</td>
<td>11,612</td>
</tr>
<tr>
<td>Drugs</td>
<td>8,881</td>
<td>3,425</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>26,434</td>
<td>9,363</td>
</tr>
<tr>
<td>Total</td>
<td>82,858</td>
<td>31,460</td>
</tr>
</tbody>
</table>

1 The total number of cases prosecuted for each offence, the number of cases ‘eligible’ for diversion (defendant aged 17 or over, first offender, offence not purely indictable), and the estimated number resulting in a diversion (see text for estimation method).

2 Estimated % eligible of total cases in each offence group; estimated % diverted of eligible in each offence group; and estimated % each offence group makes up of total diversions.

Property offenders have always made up a large proportion of the total cases resulting in diversion (Figure 5.16a). However, trends in the use of diversion as a percentage of all eligible cases are fairly similar for the major offence groups, except for serious offences against the person (Figure 5.16b). By 1996 an estimated 26-38% of adult first offenders prosecuted for eligible offences appear to be receiving diversion, except for serious offences against the person at 7%.

When taken as a proportion of all cases (whether eligible or not), the percentage of cases diverted varies from 15% (property and drug offences) to 12% (other offences against the person and other non-traffic offences) to 2% (serious offences against the person). The serious offences against the person group has a high proportion of ineligible offences as many of the offences within this group are purely indictable.

Figure 5.16: Estimates of the number and percentage of eligible cases diverted, by offence type, 1988-96
5.12 Summary and implications

5.12.1 Prison

The rapid growth of the prison population (an 83% increase since 1986) is due to both an increase in the number of people sent to prison and an increase in the average sentence length.

Although the number of people being sent to prison has increased, this is due to increases in the number of serious offences coming through the system rather than due to an increase in the use of imprisonment per se. Indeed, the imprisonment rate has decreased for less serious types of offence. The small decrease in the use of imprisonment for less serious offences has meant an increase in the use of community-based sentences and suspended sentences for these offences. However, the decrease in the number of prison sentences is small compared to the very large increases in the number of community-based sentences and suspended sentences, suggesting that most of these sentences have not replaced prison sentences as intended.

The average imposed sentence length for people sentenced to prison has increased due to
both the decreased use of imprisonment for less serious offences and the increase in sentence lengths for very serious offences. The average sentence served has also increased for very serious offences due to changes in the parole eligibility for Serious Violent offenders and for people serving life and preventive detention sentences. The very long sentences served by this group of offenders mean that they have a very significant impact on the size of the prison population even though they make up only a small proportion of receptions to prison. For other inmates eligible for parole the average proportion of the sentence served has decreased.

Taken together these changes mean that the composition of the prison population has shifted towards older offenders who have committed more serious (especially serious violent) offences. These changes are likely to have influenced the type of services and programmes required in prisons.

If the number of recorded offences continues to increase for serious offences against the person then the prison population will continue to grow unless sentencing policy and practices are changed. Even given a moderately low growth rate for serious offences against the person, the prison population is predicted to increase by 16% in the next five years.

The sensitivity of the prison population to the number of these very serious offences means that small changes in offending or reporting rates (which are difficult to predict accurately) can lead to large impacts on the prison population. The difficulty of forecasting these changes contributes to the difficulty of prison planning, especially as a long lead time is required to build new prisons.

Changes that have been made in the past that were expected to reduce the size of the prison population have not always been as effective as expected due to three factors:

- Changes are often targeted at the less serious types of offender. A very large decrease in the use of imprisonment for this type of offender is required to make a significant impact as they serve short sentences and therefore make up only a small proportion of the total prison population. Also, a relatively small proportion of these offenders receive an imprisonment sentence in the first place.
- Reductions may be counter-acted by other changes that increase the prison population. For example, allowing some inmates to become eligible for parole at their one-third date instead of at one-half was offset by making Serious Violent offenders ineligible for parole.
- New initiatives are not implemented as intended. For example, the net-widening and sentence-lengthening side-effects of the introduction of suspended sentences is likely to have counter-acted any reductions in the prison population. An additional problem is that often the introduction of new sentence types cannot easily be monitored. For example, the activation of suspended sentences was not recorded in the case-based data until late 1997.

The first two of these factors can be predicted in advance using modelling techniques, but the impact of new initiatives is very difficult to forecast accurately if the application of new sentences does not occur as intended by the legislation. Therefore the potential impact on the prison population of currently proposed changes in the eligibility for home detention cannot be estimated with certainty.
5.12.2 Community-based sentences

Over the last decade the overall use of community-based sentences has increased at a greater rate than can be accounted for by increases in the total number and seriousness of cases processed. Thus sentencing practice has shifted in favour of community-based sentences and away from monetary penalties, although more recently this trend has reversed somewhat. There has also been some redistribution between different types of community-based sentences, as not all peaked at the same time. As noted in the previous chapter summary, future trends depend strongly on whether changes are made to sentencing practice and operational policy. More research is needed to evaluate the effectiveness of the various sentences.

Periodic detention and community service showed rapid increases up to the early 1990s but since then the use of these sentences has decreased. If no changes are made to sentencing policy then it seems likely that the use of these sentences will stabilise, perhaps after a few more years of gradual decline. The number of people who default on fines can have a substantial impact on the community service muster, as well as a smaller impact on the periodic detention muster. Although the use of fines is likely to increase in the next few years, new processes in place to promote higher fine collection rates may decrease the number of fine defaulters re-sentenced to these community-based sentences.

Even if the use of periodic detention and community service continues to decline gradually for the next few years, the net result could still be an increase in musters in the medium term, as the number of cases coming through the courts is predicted to continue increasing.

The use of community programmes is now at a lower level than at any time in the past decade. Continued use is likely to depend in part on the number of available programmes.

Supervision appears to have gained favour in the 1990s, although the high-growth phase appears to be over. The recent growth is partly due to the rapid increase in domestic violence cases, which have now levelled off and even decreased in the past two years. If the level of use stabilises at the current level then the supervision muster will continue to grow due to the predicted increase in the number of cases coming through the courts.

5.12.3 Monetary penalties

The use of monetary penalties seems likely to increase over the next few years, as the trends for a decline in the use of monetary penalties over the last decade have either stabilised or reversed. Promotion of the use of reparation in cases of emotional harm as well as physical loss may add to the use of monetary penalties. Also, changes in the way fines are collected may make them a more attractive sentencing option by decreasing the likelihood of non-payment.

Only a small proportion of monetary penalties are associated with court convictions, as fines resulting from unpaid fees for infringement offences do not appear in the conviction data. Increasing numbers of infringement offences are likely to add to the overall upward trend for monetary penalties administered by the Department for Courts.
5.12.4 Diversion

The Police Adult Diversion Scheme has had a major impact on sentencing practice. A significant proportion of first offenders who have committed offences of low to moderate seriousness are now processed through diversion instead of being convicted and sentenced. A continued but gradual increase in the use of Police diversion is possible at least for the next few years given the recent extension of the eligibility criteria. Since 1996, diversion has also been extended to more serious offences and repeat offenders via the Community Panel Diversion Pilot Programme, funded by the Crime Prevention Unit and overseen by local Safer Community Councils.

As noted in the summary for Chapter Four, the increased use of community-based sentences and diversion has put increased pressure on resources for the Department of Corrections, the Police and community groups. The impact of these changes and the effectiveness of these sanctions needs further evaluation.
6 The system as a whole

6.1 Overview

The presentation of statistics from each stage of the criminal justice process, as in Chapters Two to Five, provides useful information on the volume and type of offence and offender dealt with by each agency, but does not give a sense of the system as an integrated whole. This chapter summarises the findings of the previous chapters, to illustrate flows through the system and to highlight the effect of changes at one point in the system on subsequent stages of the system.

Offences dealt with by enforcement agencies form the input to the courts, which in turn provide the flow through to corrections and fines collection. At each stage of the process two or more paths are possible (Figure 6.1). The flow through different potential paths can be described by the ‘branching point probability’ at each decision point.

Figure 6.1: Pathways through the criminal justice system

1 Family Group Conference

2 ‘Not proved’ does not necessarily imply ‘not guilty’. Offenders dealt with by FGCs or police diversion may admit guilt but the outcome is entered as ‘case withdrawn’, technically a ‘not proved’ outcome.
The volume of offences at any stage of the process can be estimated by the number entering the system multiplied by the branching point probabilities through each intervening stage. For example, the number of sentences of imprisonment imposed is equal to:

\[
\text{the number of recorded offences} \times \% \text{ cleared} \times \% \text{ prosecuted} \times \% \text{ proved} \times \% \text{ receiving prison sentence}
\]

[In reality, to this simple equation must be added multipliers to convert offences to cases, as different units of measure are used by different agencies, as explained below.]

When viewed as an integrated whole the system shows a number of features:

- Attenuation: as some paths do not proceed to further stages of the criminal justice system (e.g. offences that are not cleared), there are fewer offences at each stage of the system.

- Composition changes: each stage has a different composition of offences and offenders due to their different flow probabilities. For example, because young people are less likely to be formally prosecuted in court they make up smaller proportion of prosecuted offenders than of they do of offenders apprehended by the Police.

- Changes in the volume and flow at one stage of the system can have magnified or diminished downstream impacts. For example, because offences against the person have a high clearance and prosecution rate, an increase in the number of recorded offences against the person has more impact on the number of cases dealt with by the courts than would the same increase in the number of recorded property offences. Similarly, because each sentence is appropriate for particular types of offences and offenders, changes in the volume of a specific offence type can result in very different impacts on different sentences.

The aim of this chapter is to illustrate these effects. To do this required the development of a computerised statistical model that links together all the data on volumes and flows in the criminal justice system. System modelling has a number of uses beyond simply describing the volumes and flows through the system. Modelling can assist in:

- Understanding what is happening in the criminal justice system. For example, determining the relative impact of changes in each part of the system that have led to the 83% increase in the sentenced prison population since 1986.

- Forecasting future trends. Analysing the nature and causes of recent trends in each part of the system and the system as a whole allows better forecasts to be made of each contributing variable.

- Simulating or testing the potential effects and side-effects of proposed policy changes before the changes are implemented.

- Determining where changes can be made most effectively to meet a specific goal. For example, what would be the most effective way of reducing the growth of the prison population without compromising justice principles or other requirements?

---

27 For more information on the model contact the author.
6.2 Data issues

Modelling the criminal justice system as an integrated whole raises a number of technical difficulties. The main problem is that each agency deals with different data entities, due to the different types of information available and required at each stage.

The Police record separate offences. Most often the offender is not known at the time the data are recorded, so no demographic details of the offender can be recorded and links cannot necessarily be made with other offences committed by the same offender. Demographic details are first recorded for apprehended offenders. Clearances are also recorded on an offence basis. Prosecutions are recorded on an offence and offender basis. That is, ten prosecutions are recorded if one person is apprehended and charged with ten separate offences or if ten persons are charged with a single offence.

In contrast, the most convenient unit of measure for court data is the case. One case may include several charges against one offender. For some offence types, such as fraud, a single case may involve dozens or even hundreds of separate offences (section 3.2). Therefore such offence types can make up a much greater proportion of prosecuted offences than they do of court cases. Also, a case may involve several charges for different offence types. The offence chosen to represent the case is the one resulting in the most serious penalty.

For the Department of Corrections an important unit of measure is the person serving a specific period of time in prison or on a community-based sentence. An offender who has been given a very long sentence makes a larger contribution to the correctional population than does an offender serving a short sentence.

The only offences that can be followed through the whole system are those offences that are enforced and prosecuted by the Police, as enforcement data for offences dealt with by other agencies are not available in the same format. This affects the two groups of offences that have a significant proportion of cases prosecuted by agencies other than the Police (offences against justice and 'other non-traffic' offences).

To allow comparisons of volumes through the whole system this meant either ignoring cases prosecuted by agencies other than the Police or, alternatively, making an estimate of the total number of recorded offences for these offence groups. The second alternative was chosen, as this allowed the inclusion of all the available information on the key areas of case, sentence and muster volumes.

The total volumes of recorded, cleared and prosecuted offences were estimated by assuming that the non-Police prosecutions shared the same clearance and prosecution rates as the Police prosecutions. [These estimates are unlikely to be very accurate, but they should give a sense of the approximate magnitude of changes in volume between recorded offences and cases.]
6.3 Flow through the system

A selection of the key branching point probabilities for each offence group is shown in Table 6.1. The estimated overall clearance rate for 1996 was 58% (that is, an estimated 58% of all recorded offences are cleared, including traffic offences). Once an offence is cleared it has a 55% probability of being prosecuted and a prosecuted case has a 77% probability of being proved. Once proved, less than 8% of cases result in a prison sentence.

The estimated overall clearance rate is higher than that published by the Police (42%) as the data in Table 6.1 include traffic offences and offences not dealt with by the Police, as well as Police data recorded after the official publication date. As a different system is used by the Police to record traffic offence data, clearance rates for traffic offences are not collected and are not included in the statistics published by the Police. Traffic clearance rates are likely to be high, as an offence is generally only recorded when further action is to be taken. An estimated traffic clearance rate of 90% was used for the purposes of this analysis.

Table 6.1: Selected branching point probabilities by offence type, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Cleared offences per 100 recorded offences</th>
<th>Prosecuted offences per 100 cleared offences</th>
<th>Proved cases per 100 prosecuted cases</th>
<th>Prison sentences per 100 proved cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious against person</td>
<td>80.5</td>
<td>66.8</td>
<td>63.6</td>
<td>46.9</td>
</tr>
<tr>
<td>Other against person</td>
<td>85.9</td>
<td>51.9</td>
<td>69.1</td>
<td>7.6</td>
</tr>
<tr>
<td>Property</td>
<td>31.8</td>
<td>51.8</td>
<td>69.6</td>
<td>12.1</td>
</tr>
<tr>
<td>Drugs</td>
<td>93.0</td>
<td>64.9</td>
<td>75.0</td>
<td>8.3</td>
</tr>
<tr>
<td>Against justice</td>
<td>83.3</td>
<td>68.9</td>
<td>70.3</td>
<td>14.6</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>90.4</td>
<td>39.4</td>
<td>72.2</td>
<td>1.6</td>
</tr>
<tr>
<td>Traffic</td>
<td>~90</td>
<td>~75</td>
<td>87.6</td>
<td>4.7</td>
</tr>
<tr>
<td>Estimated total</td>
<td>58.41</td>
<td>55.1</td>
<td>76.9</td>
<td>7.8</td>
</tr>
</tbody>
</table>

1 Differs from published Police statistics due to the inclusion of traffic offences and offences not enforced by the Police (see text).

Branching point probabilities differ considerably between offence groups. Property offences have the lowest clearance rates, while the least serious offences (e.g. the ‘other non-traffic’ group) have low prosecution rates and proven cases are rarely sentenced to prison. The most serious offences (serious offences against the person⁴⁸) have particularly high imprisonment rates, and also high clearance and prosecution rates. The majority of traffic cases are proven due to the nature of the cases (e.g. major traffic offences like driving while

⁴⁸ Serious offences against the person include homicide, grievous and aggravated assault, kidnapping, sexual offences and robbery (see Appendix for more details).
disqualified and drink driving are supported by strong evidence) and the lack of use of Police diversion for traffic offences.

Within groups there is also a great deal of diversity. For example, within the serious offences against the person group, serious assaults and sexual offences have higher clearance rates (86% and 84%) than robbery (48%), presumably because the offender is less often known to the victim of a robbery.

The cumulative effect of these differing branching point probabilities can be approximately estimated by multiplying together the relevant probabilities (although this doesn’t take account of the changes in units of measure). For example, the overall probability that an offence will result in prison sentence is 1.9% (58.4% * 55.1% * 76.9% * 7.8%). This is a measure of the ‘retention rate’ or the percentage of the original recorded offences that are expected to remain at each subsequent stage of the system.

These retention rates should be interpreted with caution, as the probabilities determined from case-based data record only the most serious outcome. For example, when multiple charges (offences) are dealt with in one case only some of the charges may be proved and result in a sentence. Therefore, the percentage of offences proved and sentenced will be over-estimates.

Overall just under a third of all recorded offences are estimated to be both cleared and prosecuted through the court system, a quarter of all offences are proved, and 2% result in a prison sentence (Table 6.2). These figures include estimates for traffic offences and offences prosecuted by agencies other than the Police.

Table 6.2: Selected retention rates (cumulative branching point probabilities) by offence type, 1996

<table>
<thead>
<tr>
<th>Offence type</th>
<th>Cleared offences per 100 recorded offences</th>
<th>Prosecuted offences per 100 recorded offences</th>
<th>Proved cases per 100 recorded offences</th>
<th>Prison sentences per 100 recorded offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious against person</td>
<td>80.5</td>
<td>53.7</td>
<td>34.2</td>
<td>16.0</td>
</tr>
<tr>
<td>Other against person</td>
<td>85.9</td>
<td>44.6</td>
<td>30.9</td>
<td>2.3</td>
</tr>
<tr>
<td>Property</td>
<td>31.8</td>
<td>16.5</td>
<td>11.5</td>
<td>1.4</td>
</tr>
<tr>
<td>Drugs</td>
<td>93.0</td>
<td>60.3</td>
<td>45.2</td>
<td>3.8</td>
</tr>
<tr>
<td>Against justice</td>
<td>83.3</td>
<td>57.4</td>
<td>40.3</td>
<td>5.9</td>
</tr>
<tr>
<td>Other non-traffic</td>
<td>90.4</td>
<td>35.6</td>
<td>25.7</td>
<td>0.4</td>
</tr>
<tr>
<td>Traffic</td>
<td>~90</td>
<td>67.5</td>
<td>59.1</td>
<td>2.8</td>
</tr>
<tr>
<td>Estimated total</td>
<td>58.4(^{1})</td>
<td>32.2</td>
<td>24.8</td>
<td>1.9</td>
</tr>
</tbody>
</table>

\(^{1}\) Differs from published Police statistics due to the inclusion of traffic offences and offences not enforced by the Police (see text).
The fraction of offences actually committed (as opposed to those recorded by the Police) that proceed through the formal justice system is likely to be considerably lower again. The results of the Victimisation Survey\textsuperscript{29} suggest that an estimated 13\% of the offences reported in the survey were both reported to the Police and recorded by the Police. A further proportion of offences committed may go undetected by the victim.

Retention rates vary significantly between offence groups due to differences in clearance, prosecution, conviction and imprisonment rates. For example, the probability that a serious offence against the person will result in a prison sentence is 16\% compared to just over 1\% for a property offence. Traffic offences have high retention rates; unlike other offence groups the majority of recorded traffic offences result in a proved outcome.

The reduction in the number of offences in each stage of the system is easier to see in graphical form (Figure 6.2).

The total number of offences dealt with by enforcement agencies was estimated to be of the order of 720,000 in 1996. This total includes well over half a million non-traffic offences and 106,000 traffic offences recorded by the Police and a very rough estimate of around 70,000 offences dealt with by other enforcement agencies (based on the number of non-Police prosecutions adjusted by the clearance and prosecution rates for offences dealt with by the Police).

An estimated quarter of a million offences were prosecuted in 1996. Because multiple charges can be laid in one court case, several offences can be dealt with together. Thus the total number of cases prosecuted (about 147,000) is lower than the number of offences prosecuted. Of these prosecuted cases around 113,000 were proved and 8900 resulted in a sentence of imprisonment.

The effect of lower clearance rates for property offences on reducing numbers further on in the system stands out as a major difference between offence types (Figure 6.2). The relatively high proportion of serious offences against the person that result in a prison sentence is also clear, although even for this group of serious offences only a minority of offences result in imprisonment.

\textsuperscript{29} Young, W.; Morris, A; Cameron, N.; Haslett, S. (1997) \textit{New Zealand National Survey of Crime Victims}. Victimisation Survey Committee, Wellington. The Victimisation Survey includes offences committed against individuals and households. Offences against businesses, administrative offences, ‘victimless’ offences (e.g. drugs, traffic) etc are excluded.
Figure 6.2: Changes in the volume of offences and cases at each stage of the justice system, 1996

(a) All offences (estimated 000s)

(b) Serious against person (000s)

(c) Other against person (000s)

(d) Property (000s)

(e) Drugs (000s)

(f) Justice (estimated 000s)

(g) Other non-traffic (estimated 000s)

(h) Traffic (estimated 000s)

Abbreviations: record=recorded, clear=cleared, pros=prosecuted, prove=proved, prison=prison sentence
6.4 Composition of each stage of the system

6.4.1 Offence distribution at each stage of the system

The variation in retention rates between offence groups means that each agency deals with different types of offences. Also, as each sentence type is appropriate for a different type of offence and offender, the sentencing outcome differs according to the type of offence. Therefore changes in the number and type of offences coming into the criminal justice system can have a very different impact on one agency or sentence type than on another. To predict the impact of changes in offending patterns on any particular agency or sentence type both the volume and the type of change must be estimated.

The relative contribution of each offence type to the total volume at each stage of the system from recorded offences through to the prison population is shown in Figure 6.3. The relative contribution of each offence type to the total recorded offences is compared to that for community-based sentences and monetary penalties in Figure 6.4.

Two things stand out from Figure 6.3: the dominance of serious offences against the person in the prison muster and the substantial contribution of property offences and traffic offences to the total volume of offences.

Serious offences against the person make up only 2% of the estimated total recorded offences, but their relatively high clearance and prosecution rates and the extensive use of prison sentences for these offences mean that they make up an increasing percentage of the offences dealt with by subsequent stages. Furthermore, the longer average sentences served by people who have committed serious offences against the person mean that they make up 57% of the prison population. Therefore a change in the number of serious offences against the person recorded by the Police would have little impact on the overall crime rate but would have a major impact on the prison population. Conversely, a large increase in the overall crime rate would have little impact on the prison population if it was due to an increase in the number of minor offences recorded by the Police.

Property offences make up a large percentage of the estimated number of recorded offences (53%), but have much lower clearance rates than most other offences, so that fewer reach the ‘cleared offence’ stage. Property offences also reduce as a percentage of the total offences when offence based data are transformed to case-based data, due to their higher than average number of charges per case (see section 3.2). Therefore an increase in the number of recorded property offences would have less impact on the volume of cases dealt with by the courts than would the same increase in offences against the person. On the other hand, property offences still make a significant contribution to all stages (never less than 18% of the total volume) due to the very large volume of offences recorded in the first place.

Traffic offences also make a substantial contribution to each stage of the system, due to both the high volume of offences and large percentage of offences that are prosecuted and proved. The prison population has the lowest percentage of traffic offences (9% of inmates have a traffic offence as their major offence) due to low imprisonment rates and the short average sentence length imposed for traffic offences.
Figure 6.3: The percentage of the total offences or cases at each stage of the system accounted for by each offence group, 1996

(a) Serious offences against the person

(b) Other offences against the person

(c) Property

(d) Drugs

(e) Justice (offence data estimated)

(f) Other (offence data estimated)

(g) Traffic (offence data estimated)

Note: the prison muster data for each offence is the % of people in prison at the time of the 1995 Prison Census whose most serious offence is in that offence group. The prison sentence data is the % of court cases receiving a prison sentence that are in each offence group.
Drug offences form a small but consistent percentage (3-6%) of the volume at each stage. Offences against justice also make up a small percentage of the offences at each stage, although they do have a relatively high imprisonment rate. Other non-traffic offences (offences against good order and miscellaneous offences) tend to have high clearance rates but low prosecution rates due to the nature of the offences. People who have committed these offences make up only a small percentage of the prison population due to the relatively low percentage receiving a custodial sentence and the relatively short sentences served.

As noted above, serious offences against the person have a major impact on the prison population despite comprising only a small percentage of recorded offences. However, these offences have less of an impact on other sentence types (Figure 6.4).

Other offences against the person make up a greater percentage of the offences which result in a community-based sentence, especially supervision and community programme sentences, than they do of recorded offences. Therefore a small change in the number of these offences committed or recorded would have a significant impact on the supervision and community programme musters.

Property offences account for a significant percentage of the volume of community-based sentences and monetary penalties. However, they make up a smaller percentage of each sentence type than they do of recorded offences due to low clearance rates and the high percentage of property offences dealt with by the youth justice system and Police diversion. Cases involving property offences make up 25-30% of the total cases resulting in community-based sentences and 15% of the cases which result in monetary penalties compared to 53% of the estimated number of recorded offences.

Traffic offences make up half of the total volume of cases resulting in a community service sentence and half the cases resulting in a monetary penalty. Traffic offences also make up a substantial percentage of the PD sentences (38%), community programme sentences (29%) and supervision sentences (25%). Therefore any increase in the number of serious traffic offences dealt with by the Police will have significant flow-on effects for community-based sentence musters.

Drug offences and offences against justice make up a relatively small percentage of the total volume at each stage but they do have some impact on community-based sentences. Other non-traffic offences represent a significant percentage of the estimated recorded offences but, because these offences are generally minor in nature, they form a relatively low percentage of community-based sentences, although they do account for a significant percentage of monetary penalties.

Figure 6.4: The percentage of total recorded offences and selected sentences
accounted for by each offence group, 1996

(a) Serious offences against the person

(b) Other offences against the person

(c) Property

(d) Drugs

(e) Justice (offence data estimated)

(f) Other (offence data estimated)

(g) Traffic (offence data estimated)

Note: Com Service = community service sentences; Comm Programme = community programme sentences; PD = periodic detention sentences; Recorded = offences recorded by enforcement agencies.
6.4.2 Trends in composition by offence

Trends over the 1986 to 1996 period in the composition of each stage by offence type can only be examined for non-traffic offences, as consistent traffic data are not available prior to the 1992 merger of the traffic enforcement functions of the New Zealand Police and the Ministry of Transport.

Trends in the offence composition over the last decade reflect changes in both volumes and flows.

Offences against the person and offences against justice made up a higher percentage of recorded offences in 1996 than they did in 1986 due to the rapid increase in the volume of these offences relative to other offence groups (Figure 6.5). The number of offences against the person recorded by the Police has increased by 122% and the number of offences against justice has increased by 186%, compared to a 19% increase for property offences, a 32% increase for drug offences and a 33% increase for other non-traffic offences.

Over the last decade the relative increase in offences against the person and offences against justice is even greater for prosecutions than for recorded offences. This is because the flow of these offences into the court system has remained high whereas prosecution rates have decreased much more for other offences. This difference is due to the lesser impact on offences against the person and against justice of the two major factors that have led to the decrease in prosecution rates – the increased use of cautions and warnings and the processing of many youth offenders via Family Group Conferences rather than through the courts (Chapter 2).

Similarly, Police diversion has decreased the percentage of offences that are ‘proved’ for less serious offence groups (section 4.5), so that offences against the person and offences against justice now make up a higher percentage of proved outcomes for non-traffic offences than in 1986.

Offenders who have committed an offence against the person have also increased as a percentage of the inmates making up the prison population due to increased sentence lengths and tougher release provisions for Serious Violent offences (see section 5.3). Other offence groups now make up a smaller percentage of the prison population.

**Figure 6.5:** Percentage of the total non-traffic offences accounted for by each offence
group at each stage of the system, 1986 compared to 1996

(a) Recorded offences

(b) Cleared offences

(c) Prosecuted cases

(d) Proved cases

(e) Prison sentences

(f) Prison population

1 The prison population comparison is 1987 and 1995 as these were Prison Census years.

6.4.3 Average seriousness of offences at each stage of the system

As the prosecution rate is influenced partly by the seriousness of the offence, the average seriousness score increases between recorded offences (average seriousness score of 36) and prosecuted offences (average seriousness score of 61). As the most serious sentence type is imprisonment, offences receiving a prison sentence have a very high average seriousness score (121). This analysis compares only non-traffic offences dealt with by the Police, as individual offence-specific enforcement data are not available for other offences.
The average seriousness has changed little between 1986 and 1996 for recorded offences (from 34 to 36), but has increased for both prosecutions (from 39 to 61) and prison sentences (from 88 to 121) due to decreases in prosecution rates and imprisonment rates for less serious offences.

6.4.4 Demographic composition of each stage of the system

The most significant change in the demographic profile of offenders as they move through the system is the decreased representation of young people in prosecuted cases compared to Police apprehensions. People aged 16 or less make up 23% of apprehended offenders compared to 3% of prosecutions. The percentage continues to decrease as offenders move through the system. Only 0.3% of the prison population is aged 16 or less (Figure 6.6).

This difference is due to the use of alternatives to prosecution for young offenders. Since the introduction of the Children, Young Persons, and Their Families Act 1989 many young offenders are now dealt with by Family Group Conferences, although even prior to this Act young people were less likely to be formally prosecuted than adults. Thus, while young people made up only a slightly lower percentage of apprehensions in 1996 (23%) as they did in 1986 (26%), they accounted for a much lower percentage of the prosecutions in 1996 (3%) than they did in 1986 (14%).

The other significant age difference is the higher percentage of people aged 31 or over in the prison population compared to other stages of the criminal justice system, although not when compared to the general New Zealand population. The average age of the prison population is higher than the age of people receiving a prison sentence as many people in prison have already been there several years. Also, many of the most serious offences (such as homicide and sexual violation) are committed by offenders who are older than the average offender.

For adult offenders (aged 17 or over) the trend between 1986 and 1996 has been for an increase in the percentage of older offenders. Offenders aged 31 or over made up 7% of adult apprehensions in 1986 compared to 13% in 1996. Similarly offenders aged 31 or over made up 8% of prosecuted cases in 1986 compared to 15% in 1996 and 7% of prison sentences in 1986 compared to 15% in 1996.

Males are over-represented in justice statistics compared to the general New Zealand population and also make up a gradually increasing percentage of offenders at each stage of the criminal justice system. The difference is particularly pronounced for the prison population, 96% of whom are males compared to 81% of the offenders apprehended by the Police. This difference reflects the more serious nature of the offences committed by males and their more extensive previous conviction histories (see section 3.6).

---

30 The demographic characteristics of an offender are not known until the offender is apprehended, therefore demographic data kept by the Police is for apprehended offenders rather than recorded offences. The age groups used by the police differ slightly from those used in the rest of the report. For the purpose of comparing across the whole system, the police categories are used. Demographic data are not available for traffic offences.
Figure 6.6: Percentage of each stage by demographic group, 1996

(a) By gender

(b) By age group

(c) By ethnic group
There has been little change in these percentages over the last decade except for a decrease in the percentage of proved cases involving females (18% in 1986 compared to 15% in 1996). This is likely to be due to the introduction of the Police Adult Diversion Scheme for first offenders, as more females are first offenders and diversion results in a ‘not proved’ outcome.

Māori and Pacific peoples form a larger percentage of the apprehended offender population than they do of the general New Zealand population. The percentages accounted for by each ethnic group are similar for apprehended offenders and prosecuted cases. The over-representation of Māori offenders increases between prosecution and proved outcomes and increases again for prison sentences. These results reflect the higher average seriousness of offences committed by Māori offenders and the lower percentage of first offenders amongst Māori offenders (see section 3.8).

Pacific peoples now account for a larger percentage of offenders at each stage of the system than they did a decade ago. In 1986 4% of apprehended offenders were classified as Pacific peoples compared to 9% in 1996. This change is consistent with the higher growth rate of the Pacific population and the relative increase in offence types for which Pacific peoples are most over-represented. The percentage of Māori offenders at each stage has changed little since 1986, while the percentage of Other ethnic groups has decreased.

6.5 Summary and implications

One of the characteristics of the criminal justice system is attenuation, the reduction in the number of offences dealt with at each stage of the system due to only a proportion of offences being cleared, prosecuted and sentenced. The probability of any particular recorded offence being prosecuted varies from an estimated 54% for serious offences against the person to 16% for property offences, while the overall probability of a prison sentence varies from an estimated 16% for serious offences against the person to 1% for property offences.

This attenuation through the system, combined with the fact that only a small proportion of committed offences are detected, reported and recorded as offences prior to reaching the criminal justice system, means the justice agencies only deal with a fraction of the offences committed. The Department of Corrections, who manage many of the rehabilitation programmes, deal with the smallest fraction of offences (i.e. only those offences that are recorded, cleared, prosecuted, proved and sentenced to a community-based sentence or prison sentence).

On the other hand, this analysis does not (and cannot) allow for the probability that sentenced offenders are likely to have committed offences that are not reported or cleared in addition to the offences for which they are caught and prosecuted. This is important when considering the cumulative risk to offenders (the probability of punishment for any particular offender as opposed to a particular offence), which may influence deterrence.

Differences in retention rates, especially between offence types and age groups (but also between gender and ethnic groups), mean that the type of offences and offenders dealt with differs between different agencies. For example, prison inmates are older on average and are more likely to have committed serious and violent offences than the average offender apprehended by the Police.
Over the past decade changes in the processing of less serious offences and young offenders, combined with more rapid increases in the number of recorded offences against the person and older offenders, mean that older and more serious offenders now make up a larger proportion of court cases and prison inmates than previously. Thus the type of services required have changed as well as the volume of services required.

The impact of future changes in the number of recorded offences will depend on both the volume and the type of change. For example, an increase in the number of young property offenders would hardly affect the overall workload of the Department for Courts and the Department of Corrections but would have a large impact on the volume of Family Group Conferences. Similarly, an increase in the number of adult first offenders who have committed offences of low to moderate seriousness would result in a disproportionate increase in the workload of the Police Adult Diversion Scheme, whereas an increase in the number of serious, repeat offenders would have most impact on the prison population.

Because of the very large number of property offences recorded by the Police, fluctuations in property crime rates can have a significant influence on system workloads even though a relatively low proportion of property offences are cleared.

The large number of traffic offences processed each year and the high percentage of traffic offences that are prosecuted and proved means that traffic offences make up a large proportion of the total court cases, monetary penalties and community-based sentences. Therefore targeting of serious traffic offenders by the Police would have a significant downstream impact on community-based sentence musters.

An increase in the number of recorded offences against the person would have a much greater proportionate impact on the criminal justice system than a similar numeric increase in other offences, due to the high retention rates for offences against the person, their high imprisonment rate and the disproportionate cost of dealing with these offences. The greater unit cost of offences against the person to the criminal justice system occurs for Police resources, court resources (over half of all jury trials involve offences against the person) and correctional resources (imprisonment being by far the most expensive sentence to administer). In particular, very small changes in the number of serious violent offences can have a very large impact on the cost of the criminal justice system and particularly on the number of prison inmates.

The potentially significant downstream effects of small changes in the number of recorded offences can make workloads difficult to forecast, particularly as very substantial year to year fluctuations occur in the number of offences recorded by the Police. For example, in just the last decade offences against the person have increased by up to 22% between one year and the next. These changes are very difficult to predict due to the complexity of factors that influence both short-term and long-term changes in the number of recorded offences.

The change in composition at each stage of the criminal justice system towards a greater proportion of offences against the person and fewer property offences helps to explain why the prison population can show a very different trend to the overall crime rate. The number of recorded offences is most influenced by changes in the number of property offences, whereas the prison population is most influenced by the number of serious offences against the person. Since 1986 the total number of recorded offences has increased by 29%, while
the number of recorded serious offences against the person has doubled. Therefore the sentenced prison population has increased by much more than the increase in recorded offences (83% compared to 29%).
Appendix: Definitions and explanations

Offence groups

Serious offences against the person:
All the most serious violent offences and other serious offences against a person, including (but not restricted to) the offences legally defined as ‘Serious Violent’. Includes: murder, manslaughter, attempted murder, grievous assault, aggravated assault, kidnapping and abduction, sexual offences against a person (including sexual violation, indecent assault and incest), serious threats against a person (such as threats to kill or cause grievous bodily harm), robbery and aggravated robbery.

Other offences against the person:
All the less serious violent offences and other offences against a person, including common assault, ‘domestic violence’ (‘male assaults female’, child assault and child abuse), and threatening and intimidating behaviour. Theft from a person is sometimes included as an ‘offence against the person’ in overseas studies. In the present report this offence is included with other theft offences under ‘property offences’.

Property offences:
Burglary, theft, receiving stolen goods, vehicle conversion, fraud, and property damage.

Drug offences:
All offences relating to cannabis or any other drug.

Offences against justice:
All breaches of a sentence or court order (e.g. breach of periodic detention, breach of supervision, breach of community service, breach of parole, breach of bail, breach of non-molestation orders, escape from custody), and obstruction of justice.

Other non-traffic offences:
All other offences, excluding traffic offences. Includes offences against good order (e.g. unlawful assembly, disorderly behaviour, resisting arrest, possession of a weapon) and other behaviour offences (e.g. obscene and immoral behaviour), as well as offences against a wide variety of Acts (such as acts covering dog control, Inland Revenue and GST, sale of liquor, fisheries, broadcasting etc).

Serious traffic offences:
All traffic offences punishable by imprisonment (includes offences such as driving causing injury or death, driving while disqualified, and driving under the influence of drugs or alcohol).

Minor traffic offences:
All non-imprisonable traffic offences (excluding infringement offences such as illegal parking and speeding).
**Case-based data**

Except for the Police data in Chapter Two and the data on correctional new starts and muster levels in Chapter Five, all the information presented in this report is case-based data, derived from the Case Monitoring Subsystem of the Law Enforcement System (the former Wanganui Computer System), which records information on all the charges processed through New Zealand courts.


‘Before 1988, a case was defined as comprising all charges for which a single offender was convicted during the same final court hearing. In 1988 and subsequent years, charges were combined to form a case if they had either the same first court hearing date or the same final court hearing date. Two charges with neither a first nor a final court hearing date in common can, however, belong to the same case. This can occur if there exists another charge with which one of the charges has the first court hearing date in common and the other charge has the final court hearing date in common, or where a charge is not proved (usually withdrawn) on the same day that proceedings for another charge are commenced in court. For a case involving more than one charge, the charge taken to represent the case is the one that resulted in the most serious penalty. The change in the way the cases are formed reduces the number of cases slightly but does not affect the figures presented to any great degree.’

This report, as for the *Conviction and Sentencing* report

‘only presents information on the most serious sentence imposed in a case. For example, if in one case an offender was sentenced to periodic detention and reparation for one charge and supervision for another charge, the offender would appear in the statistics as having been sentenced to periodic detention for that case, as this sentence has the highest ranking of these three sentences in terms of their seriousness. This has the most effect on the number of supervision, suspended, and monetary sentences, as these sentences are the ones most frequently combined with more serious sentences. The order of sentences in terms of their seriousness (from most serious to least serious) for 1987, 1988, and the first six months of 1989 was: custodial sentences, periodic detention, community service, community programme, supervision, monetary penalties, court costs, disqualification from driving, deferred sentences, and other sentences.

This order of sentence seriousness was altered slightly from 1 July 1989 so that community programmes were taken to be more serious than community service, and disqualification from driving was taken to be more serious than court costs. The first of these changes should have no effect on the case-based data because s.13 of the Criminal Justice Act 1985 prohibits the joint imposition of community programmes and community service on an offender. The other change will have some effect on the number of cases showing up in the data with a driving disqualification as the most serious sentence, but only for cases where both a disqualification from driving and court costs were imposed, and no other more serious sentence was imposed.

There was a further change to the order of sentences from 1 July 1994, when deferred sentences were taken to be more serious than court costs, but still less serious than driving disqualifications. This change will mean that the number of cases shown as deferred may be a
little greater from 1994.

Offenders who default in the payment of their fine or reparation sentence can be resentenced by a judge to any of the following sentences in lieu of the fine or reparation sentence: imprisonment, corrective training, periodic detention, or community service. Offenders sentenced to a community-based sentence can, under certain circumstances, have their sentence reviewed, sometimes resulting in some other (possibly more serious) sentence being imposed. Also, people who have a suspended sentence of imprisonment imposed can have the sentence activated because of a subsequent conviction. All of these types of resentencing are not usually recorded in the data used for this report. Therefore, the actual number of offenders awarded a custodial or community-based sentence in each year is greater than the figures shown in this report.‘

**Seriousness score**


‘A seriousness of offence scale was originally developed by the Policy and Research Division of the Department of Justice in 1991. This scale was updated in 1996 by the Ministry of Justice. The updated scale gives offences a score according to how serious judges have deemed each offence (in terms of the use of custodial sentences) over a recent five year period. These scores enable offences to be ranked in terms of their relative seriousness, and can be used to examine whether offending which leads to conviction has become more serious over time (i.e. whether there has been an increase in the number of more serious offences relative to less serious offences over time).

The updated scale is based on court sentencing data for the period 1990 to 1994. The seriousness score assigned to each offence is the average number of days of imprisonment imposed on every offender convicted of that offence between 1990 and 1994, where the average is taken over both imprisoned and non-imprisoned offenders. Suppose, for example, that between 1990 and 1994 there were 100 cases of offenders being convicted of a particular offence. Of these cases, 50 resulted in a custodial sentence, and the total number of custodial sentence days imposed on these offenders was 1500 days. The seriousness score for this offence is (1500/100), or 15.

Offences which became obsolete prior to the end of 1989 either retained the old seriousness score which was calculated from data for the period 1984 to 1987, or they were given the same score as any new offences which were similar in nature. Imprisonable offences for which there were convictions but no custodial sentences over the period 1990 to 1994 were given a seriousness rating slightly lower than the least of the offences already assigned a seriousness score (i.e. a score of 0.2). Non-imprisonable offences were assigned a seriousness score of zero.

It should be noted that seriousness scores are constrained by the maximum penalty prescribed in legislation. For example, the highest feasible seriousness score for an offence with a three month maximum penalty (assuming everyone convicted was imprisoned for the maximum term) is 90 [3x30 days], whereas for an offence with a maximum penalty of ten years, the highest feasible score is 3650 [10x365 days].
The scale can be used to examine changes over time in the seriousness of offences which lead to conviction. … It should be noted that the change in the average seriousness score between years is independent of any change that may have occurred in the severity of sentences which the court imposed. This is the case because the seriousness scores assigned to individual offences do not change, but rather the frequency of occurrence of particular offences changes from year to year. Therefore, a higher average seriousness score in one year compared to another indicates that the ratio of the more serious offences to the less serious offences has increased.

Each offence has a seriousness score, and the seriousness of offence scale can also be used to compare the seriousness scores of different offences. For example, the seriousness score for burglary during daytime where more than $5,000 worth of goods are stolen is 200, while the score for rape of a female under 12 years of age is 2,101. This means that on average, judges consider the rape offence to be more than 10 times as “serious” as the burglary offence. This is quite a different indication of the relative seriousness of offences than is indicated by maximum penalties prescribed in legislation. For example, the maximum penalty for burglary is 10 years’ imprisonment, while for rape, the maximum penalty is 20 years’ imprisonment.