

Notices to Appear

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Introduction

Major new police powers legislation came into force in Queensland on 6 April 1998 with the proclamation of the *Police Powers and Responsibilities Act 1997* (Qld). The Act and the accompanying Police Responsibilities Code standardised and, in several respects, expanded the powers available to police.¹

One important feature of the new legislation was the introduction of an alternative way of starting criminal proceedings. Instead of arresting and charging a person, or serving a summons, police may now issue a notice, similar to an infringement notice, called a Notice to Appear (or an NTA), which requires the defendant to appear in a nominated court on a designated date.

This paper examines the use of NTAs in their first six months of operation. It:

- describes what an NTA is;
- explains why NTAs were introduced;
- examines how frequently and for what types of offences NTAs are being used by police; and
- looks at the impact the introduction of NTAs has had on other areas of the criminal justice system, including:
 - police watchhouse numbers
 - complaints against police
 - rates of failure-to-appear in court
 - the number of criminal proceedings started by police.

Data sources

The two main data sources for this paper are the Crime Reporting Information System for Police (CRISP) and the QPS Custody/Search Index:

- The **CRISP database** records all reports to the Queensland Police Service (QPS) of suspected or actual crime. CRISP entries are required only for indictable offences (e.g. homicide or assault) or simple offences of a serious nature (such as unlawful use of a motor vehicle, unlawful possession of property and offences under the *Vagrants, Gaming and Other Offences Act 1931*). CRISP was used to identify all cases for the period 6 April to 30 September 1998 where proceedings against an adult were instituted by an NTA, arrest or summons. Comparative data for the period July 1995 to March 1998 were also examined.²
- The **QPS Custody/Search Index** records details of all persons who are arrested, detained for questioning, investigation or search, or otherwise held in custody.³ The first three months of the Index (April–June 1998) were analysed to identify cases where NTAs had been issued to people who had at some point been in police custody.

CJC police complaints data, QPS data on watchhouse workloads and Department of Justice data on the number of defendants who failed to appear in court in answer to an NTA were also used.

What is a Notice to Appear?

Before the new Act came into force, police could only start criminal proceedings against adults in one of two ways — arrest and charge or complaint and summons. Now a third, simpler option is available.

- Arrest and charge.* Police can arrest a person, either with or without a warrant.⁴ Once the arrest is made, police are obliged to transport the person to a watchhouse, carry out a personal search, formally charge him or her, and either release the person on bail, or take the person before a justice as soon as practicable to have the question of bail considered.
- Complaint and summons.* Police can make a written complaint about a person before a magistrate or justice. On the basis of the complaint, a summons is issued to the person to appear before a court to answer the charge made in the complaint. A summons allows the person 21 days to appear. After the summons is served, an Oath of Service is completed and filed with the clerk of the court where the complaint is to be heard, together with an endorsed copy of the summons.
- Notice to appear.* Police can issue a document that looks like an infringement notice in relation to any type of offence, whether minor or more serious. The notice contains brief details about the alleged offences and states when and where the recipient must appear in court.

NTAs may be issued ‘on the spot’ or after a person has been arrested or otherwise taken into custody, as an alternative to charging and then bailing the person. Before or at the time of giving the NTA, police may detain the suspect to take identifying particulars (such as fingerprints and photographs)⁵ or may issue the person with a separate notice requiring attendance at a police station within

FORM 1
QUEENSLAND
Police Powers and Responsibilities Act 1997
Section 40
NOTICE TO APPEAR (Ver. 1 - 6/4/99)

OFFENDER'S DETAILS: C/I No. _____
Surname _____ CRISP No. _____
Given Name(s) _____
Address _____
Suburb/town _____ Postcode _____
Date of Birth / / _____ Place of Birth _____
(if supplied) (if supplied)

YOU ARE ACCUSED OF THE FOLLOWING OFFENCE(S):
(Include offence type, e.g., stealing, and time, date and place for each offence.)

(These are general particulars of the offence(s) only.)
YOU ARE REQUIRED TO APPEAR BEFORE THE MAGISTRATES COURT
SITUATED AT _____
(Full street address of Magistrates Court.)
ON / / _____ AT _____ am/pm.
(date) (time)
(The above date must be at least 14 days after the notice is served.)
If you do not go to court you may be arrested.
You are advised to see a solicitor before your court appearance.
A COPY OF THIS NOTICE WAS SERVED PERSONALLY ON THE ABOVE NAMED AT
(time) am/pm / / _____ (date) _____ (place of service)
BY _____ (Name) _____ (Rank) _____ (Reg. No.)
_____ (Station) _____ (Signature)

Actual size of an NTA

48 hours for the purpose of taking these particulars.⁶ Failure to attend at a police station in response to such a notice is an offence.⁷

If the suspect does not attend court at the time specified on the NTA, an arrest warrant may be issued. Alternatively if the matter is less serious, it

may be dealt with in the suspect's absence (ex parte) in the same way as a complaint and summons.⁸

NTAs may only be issued to adults. Since 1992 a similar scheme has been in place for juveniles (known as Attendance Notices), but this scheme will not be dealt with here.⁹

When may police issue an NTA?

The *Police Powers and Responsibilities Act* has standardised and modified police powers relating to arrest. A person may now be arrested without a warrant in relation to any offence, provided that it is necessary for one of the following reasons:

- to prevent the continuation or repetition of the offence or the commission of another offence
- to establish the person's identity
- to prevent the person escaping
- to ensure the person appears before a court
- to obtain or preserve evidence, or to prevent evidence being fabricated
- to prevent interference with witnesses
- to preserve the safety or welfare of any person because of the nature and seriousness of the offence.¹⁰

In addition, a person who is suspected of committing an indictable offence may be arrested for the purpose of questioning or investigation.¹¹ In any other case, police have a duty to proceed by way of NTA or summons.

The new Act also gives police the power to discontinue arrest and issue an NTA instead.¹² The Act encourages the discontinuation of arrest in those circumstances where 'it is more appropriate to take the person before a court by notice to appear or summons'.¹³

Why were NTAs introduced?

Traditionally, police tended to rely heavily on arrest and charge, rather than the complaint and summons procedure. The CJC's 1993 review of police powers reported that police were using the power to arrest in instances where a summons would have been equally effective, and that a large proportion of people arrested were charged and released almost immediately.¹⁴ Two possible reasons for the heavy reliance on arrest were identified:

- (i) *The time-consuming nature of the complaint and summons process.* According to data provided by the QPS in 1993, the average police time taken to process a summons was 2.32 hours,

against 25 minutes for the process of arrest and charge (plus another 15 minutes for fingerprinting and photographing when needed).¹⁵

- (ii) *Restrictions on the power to fingerprint.* Fingerprinting is used extensively by police both in investigating crimes and in managing criminal record data. For most offences, a suspect's fingerprints can be taken following arrest. This power is not available to police when the complaint and summons process is used, although sometimes fingerprinting is authorised following conviction.¹⁶

Taking away a person's liberty is a serious step. In recent years, there have been increasing calls for suspects to be diverted from police custody where possible.¹⁷ It has also been argued that reducing the number of people who are taken into custody — only to be released soon after — is a way of lessening demand on other police resources, such as watchhouse facilities, and freeing police for other duties.

Alternative ways of starting criminal proceedings have been introduced in other jurisdictions to redress the shortcomings of traditional processes. For example, New South Wales police are empowered to issue Field Court Attendance Notices for prescribed offences,¹⁸ and in the Australian Capital Territory, Voluntary Agreements to Attend Court were introduced in 1992.¹⁹

The CJC's 1993 review recommended that a process similar to the NSW scheme be adopted in Queensland.²⁰ The NTA provisions in the Act are basically in line with this recommendation.²¹ The main difference from the NSW scheme is that in Queensland NTAs are potentially available for all offences, whereas the NSW provisions apply to only a few.

Summary

Key features of NTAs:

- They may only be issued to adults.
- They can be issued for any offence.
- They can be issued on the spot without the need to arrest or take the person to a police station.
- They may also be issued after a suspect has been arrested and the arrest has been discontinued.
- They must be served personally.
- Police have a statutory duty to proceed as far as appropriate by way of an NTA or summons rather than arrest.
- Police can fingerprint and photograph suspects, either at the time of issuing an NTA or by a separate notice requiring them to attend a police station within 48 hours for this purpose.

How often are NTAs being used?

Figure 1 shows that in the three months before the introduction of NTAs, 86 per cent of proceedings were commenced by arrest with the remaining 14 per cent by summons.

By contrast, in the first six months of operation of the new provisions, about 50 per cent of all proceedings commenced by the QPS against adults were initiated by an NTA, 45 per cent by an arrest and only 5 per cent by complaint and summons (see figure 2).

It should be noted, however, that in many cases where proceedings were initiated by an NTA, the suspect had first been arrested or otherwise taken into police custody (see page 6: 'At what point are NTAs issued?').

Trends

Figure 3 provides a monthly comparison of all proceedings commenced by the QPS from when the new Act was proclaimed in April 1998 through to September 1998. In the first month, NTAs comprised about 40 per cent of all proceedings commenced. This proportion increased by about 12 per cent in the second month of operation. Thereafter, the use of NTAs stabilised while the use of summonses continued to decline.

Regional variations

There appears to be relatively little variation between police regions in the use of NTAs. In the first three months, the utilisation rates for NTAs ranged from 44 to 53 per cent of total proceedings, depending on the region. By the end of the first six months under review, utilisation rates in the eight geographical regions ranged from 48 to about 56 per cent.²²

FIGURE 1: MEANS OF PROCEEDING AGAINST ADULTS, QPS, JANUARY–MARCH 1998

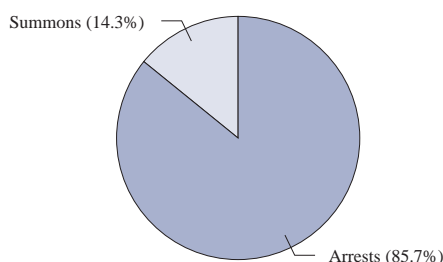
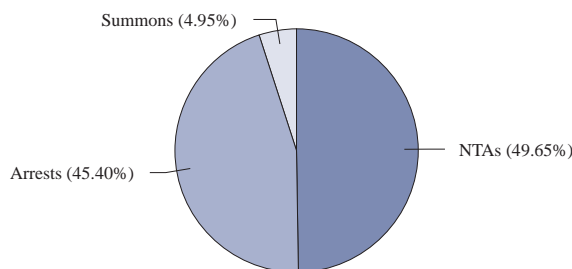
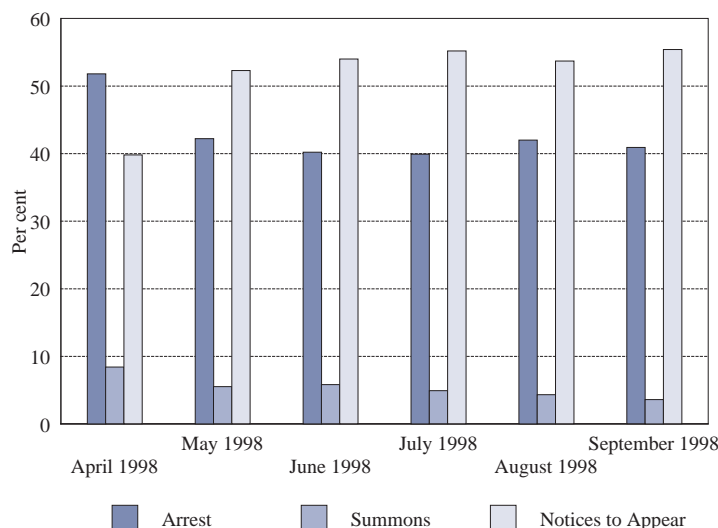


FIGURE 2: MEANS OF PROCEEDING AGAINST ADULTS, QPS, APRIL–SEPTEMBER 1998



Source: CRISP data provided by Statistical Services Section, QPS.

FIGURE 3: MEANS OF PROCEEDING AGAINST ADULTS, 6 APRIL–30 SEPTEMBER 1998



Source: CRISP data provided by Statistical Services Section, QPS.

Types of offences

Table 1 shows the total number of NTAs issued for each offence category and also gives NTAs as a proportion of the total number of proceedings for each category.²³ Most notices were issued for drink-driving and drug offences, which is attributable both to the large numbers of these offences and the high rate of use of NTAs.

NTAs were by far the most common means by which police dealt with prostitution offences, accounting for 92 per cent of proceedings. NTAs were also the preferred means of proceeding for offences relating to other driving, traffic and related offences (69.5%),

drugs (69%), driving under the influence of alcohol/drugs (67%), and weapons (61.3%).

On the other hand, NTAs were used relatively infrequently for offences relating to robbery (14.6%), justice procedures (26%),²⁴ sexual assault (28%) and unlawful use of a motor vehicle (29%).

Not surprisingly, police appear to be less willing to use NTAs where the offence is serious. NTAs are also used less frequently in situations where there is a need to remove the person from the scene of a disturbance, such as in the case of public order and domestic violence offences.

TABLE 1: NTAs ISSUED BY PRIMARY OFFENCE TYPE, 6 APRIL–30 SEPTEMBER 1998

Offence type	No. NTAs issued	NTAs as % of total proceedings for offence category
Driving under the influence of alcohol or drugs	6741	67.0
Drug offences	6010	69.0
Other theft (excluding motor vehicle theft)	3415	57.2
Other driving, traffic and related offences	3074	69.5
Fraud/forgery/imposition	2970	50.9
Assault (non-sexual)	1429	39.4
Offences against good order	1418	38.4
Unlawful entry	1376	32.8
Offences against justice procedures	1270	26.3
Property damage	971	47.0
Handling stolen goods etc.	889	51.7
Unlawful possession, use and/or handling of weapons	652	61.3
Theft or unlawful use of motor vehicle	496	37.5
Trespassing and vagrancy	252	41.0
Sexual assault	199	28.0
Other offences ²⁵	194	38.3
Prostitution offences	160	92.0
Other offences against the person/life endangering acts	126	33.2
Liquor licensing offences	98	30.2
Robbery	52	14.6

Source: CRISP data provided by Statistical Services Section, QPS.

At what point are NTAs issued?

As discussed, an NTA may be issued ‘on the spot’ instead of arresting a person, or it may be issued after a person has been taken into police custody as an alternative to charging and then bailing the person. The Act recognises that both uses of NTAs are legitimate, although the Minister’s Second Reading of the Bill indicates that the primary purpose for introducing the NTA procedure was to reduce the need for police to exercise the power of arrest.²⁶

With current QPS databases it is not possible to ascertain precisely the proportion of notices being issued to suspects ‘on the spot’, as opposed to after being taken into police custody. However, a reasonable estimate can be had by comparing, over the same period, the total number of notices recorded on CRISP, with the number of entries in the Custody/Search Index where it is recorded that an NTA was issued.²⁷

For the period 6 April to 30 June 1998, 34,781 entries were recorded in the Custody/Search Index. In 7,816 (22%) of these entries, an NTA was issued at some point in the process. Over the same period, a total of 13,980 notices were issued to adults, indicating that approximately 56 per cent of notices were issued *after* the person had been taken into custody.

Further analysis of the Custody/Search Index established that NTAs were issued to three categories of suspects:

- 1 *arrestees* — persons who were arrested at some point in the custody process
- 2 *detainees* — persons who were detained (e.g. for an RBT or drug search) but not arrested
- 3 *volunteers* — persons who accompanied police voluntarily without having been detained or arrested.

Table 2 shows that just over 20 per cent of those who received a notice while in custody were arrested at some point. In 97 per cent of these cases, the suspects received an NTA after the arrest. This sequence suggests that those people were arrested and then ‘unarrested’ because police considered it more appropriate to proceed by way of NTA. For the remaining 3 per cent, NTAs were issued prior to the person’s arrest, presumably in relation to other charges such as obstructing police.

Most people (62%) who received a notice while in custody were classified as ‘detainees’ or ‘volunteers’. These suspects, although in custody, were not formally under arrest. In the remaining 17 per cent of cases, it was not possible to tell the suspect’s custody status from the Index (due to deficient record-keeping procedures).

TABLE 2: STATUS OF PERSONS IN CUSTODY ISSUED WITH AN NTA, 6 APRIL–30 JUNE 1998

Custody Status	Number	Percentage
Detainee	2622	33.6
Volunteer	2226	28.5
Arrestee	1631	20.9
Custody status unknown	1337	17.1
Total	7816	100.00

Source: QPS Custody/Search index.

Summary

In the first six months after the Act came into force:

- NTAs accounted for about 50 per cent of all proceedings instituted
- in many cases, police are using NTAs not as a substitute for arrest or detention but as an alternative to the charge and bail process — in more than half of the cases where NTAs were issued, the suspect was recorded as having first been in police custody
- the highest rate of utilisation of NTAs was for offences related to prostitution, traffic (including drink-driving), drugs, and unlawful possession/use of weapons.

What has been the impact of NTAs?

Changes to police powers and methods of operating have the potential to affect the operation of the criminal justice system in a variety of ways. In the case of NTAs, we looked to see if this new procedure had resulted in:

- a decrease in the number of suspects being processed through police watchhouses
- a decrease in complaints about police behaviour, particularly in regard to the use of force and inappropriate arrest
- an increase in the number of people being charged with minor offences
- an increase in the number of suspects failing to appear in court.

The following section summarises our findings.

Watchhouse workloads

To assess the impact of NTAs on police watchhouses, we examined statistics collated by the Brisbane City Watchhouse, one of the largest in Queensland.

The Brisbane City Watchhouse classifies as ‘Level 1’ prisoners those suspects who are taken into police custody, processed at the watchhouse and then released on bail by police (rather than being held to await court). Figure 4 shows that in the first six months after the introduction of NTAs there was a marked and sustained decrease in the number of

'Level 1' prisoners, of around 41 per cent. The beneficial effects of this have been twofold:

- Police are 'off the road' for shorter periods, if at all.
- There is less pressure on watchhouse resources.

However, a possibly unintended consequence of the introduction of NTAs has been to shift the bail processing burden from QPS to Magistrates Court staff, who must complete bail paperwork for those NTA defendants whose matters were not finalised on the first court appearance. According to Department of Justice data, approximately six thousand NTA matters each quarter are not finalised on the first appearance.

The introduction of NTAs is unlikely to have had any effect on the number of police prisoners who are denied bail by police and held in custody at a watchhouse pending their court appearance. In cases where suspects are denied bail, the offence is normally serious and/or there is a strong risk that the suspect will not appear before court. An NTA would not generally be issued in these circumstances.

Complaints against police

Increased use of alternatives to arrest has often been recommended as one strategy for reducing the opportunity for police-civilian conflict, which is a major cause of complaints against police. To ascertain if the introduction of NTAs has had this effect, we examined CJC records of complaints about police misconduct for the period before and after notices were introduced, focusing on complaints relating to excessive force and arrest-related issues.

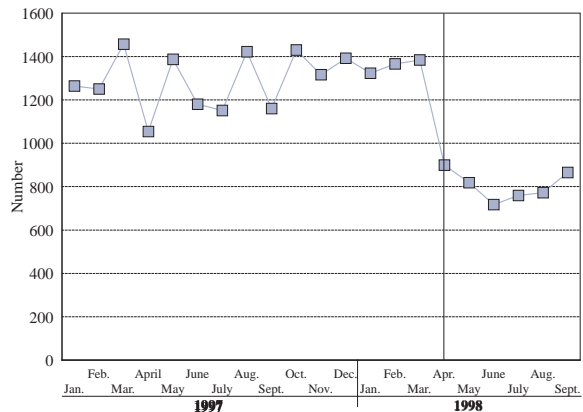
Figure 5 shows the number of assault or excessive force allegations and allegations relating to arrest or detention per 1,000 police officers, averaged over the second and third quarter of each year since 1992. The same quarters are shown for each year to control for seasonal factors which can influence the number of complaints received.

At this stage, there is no clear change that could be attributed to the introduction of NTAs, possibly because notices are frequently being issued *after* a person has been taken into custody rather than as an alternative to arrest. However, an effect on complaint numbers may become clearer in time.

Possible 'net-widening' effects

Because NTAs are much quicker and easier for police to use, they may encourage police to initiate some prosecutions where they once might have exercised their discretion not to prosecute. In the criminological literature, this is called a 'net-widening' effect.

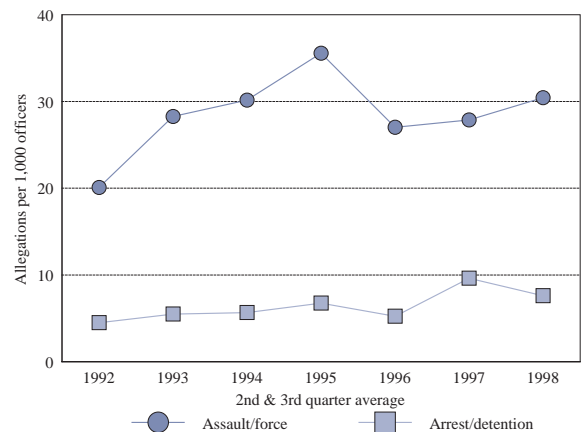
FIGURE 4: NUMBER OF ADULTS TAKEN INTO POLICE CUSTODY IN BRISBANE CITY WATCHHOUSE — LEVEL 1, JANUARY 1997–30 SEPTEMBER 1998



Source: Brisbane City Watchhouse, QPS.

Note: This figure is based on the monthly total of the number of police prisoners at the start of each eight-hour shift.

FIGURE 5: ASSAULT AND ARREST/DETENTION ALLEGATIONS AGAINST QPS OFFICERS, RECORDED BY CJC, 1992–98



Source: CJC complaints database; QPS Statistical Reviews, 1992–93 to 1997–98.

Notes:

1. The third quarter figure in 1998 is based on the number of police officers recorded in 1997–98.
2. Assault allegations include complaints of excessive force.

For example, Cannabis Expiation Notices in South Australia allow police to issue a fine for minor drug offences (possession, private cultivation or use of small amounts of cannabis) rather than prosecute. From when the notices were introduced in 1987 to June 1994, the number of cannabis offences dealt with by police nearly tripled — from 6,200 to 17,000 — even though there was apparently only a gradual rise in cannabis use over this time.²⁸

To see whether the introduction of NTAs has had a similar effect in Queensland, we looked at the trends in offence categories where policing is more discretionary: drugs, traffic, good order, and prostitution. As shown by figure 6, there was no increase in the number of drug offence proceedings initiated in the six months after the introduction of NTAs, despite NTAs becoming the preferred means of proceeding for this type of offence. There were also no increases in prostitution and traffic offences.

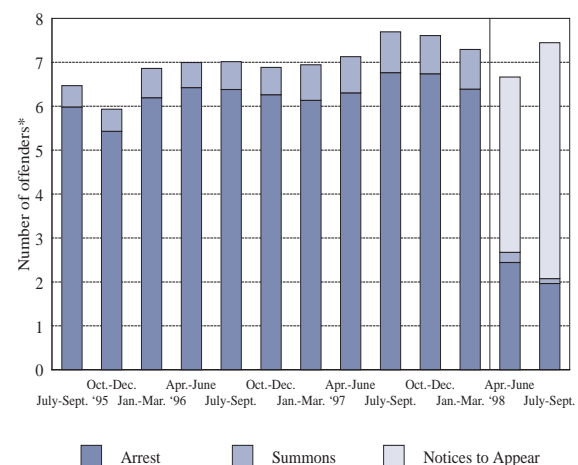
On the other hand, as figure 7 shows, more proceedings for good order offences were initiated. The number of suspects processed in the April–June 1998 quarter was about 29 per cent higher than in the same quarter in the previous year. Similarly, a comparison of the July–September quarters for 1997 and 1998 shows an increase of 41 per cent in the number of suspects. In both the April–June and July–September quarters, the increase in proceedings was due entirely to the use of NTAs. The main types of good order offences for which notices were issued were disorderly behaviour, indecent behaviour, and insulting or offensive language. Enforcement of these offences is a highly discretionary area of policing.

Failure-to-appear rates

Another important issue is whether the use of NTAs has resulted in more defendants failing to appear in court as required.²⁹ At least two features of the NTA procedure could produce such an effect:

- 1 Its newness and apparent informality may lead some defendants to misunderstand the obligation to attend court and the consequences of failing to do so.
- 2 The consequences are less serious than for other procedures. In the case of an NTA (as with a complaint and summons), failure to appear may result in the matter being dealt with in the absence of the defendant or in a warrant being issued to apprehend the defendant and bring him/her before the court. On the other hand, failing to appear following arrest, charge and the granting of watchhouse bail will not only result in a warrant being issued for the apprehension of the defendant, but also constitutes an offence against the *Bail Act 1980* (Qld).

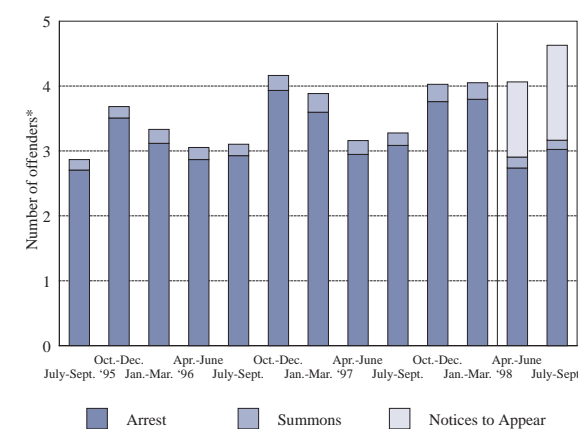
FIGURE 6: MEANS OF PROCEEDING — DRUG OFFENCES, JULY 1995–SEPTEMBER 1998 (PER QUARTER)



Source: Statistical Services Section, QPS.

* These statistics are not a unique suspect count; rather, they show the number of suspects associated with each offence cleared per offence category. The figure excludes cases cleared by caution, NTA, community conference and warrant.

FIGURE 7: MEANS OF PROCEEDING — GOOD ORDER OFFENCES, JULY 1995–SEPTEMBER 1998 (PER QUARTER)



Source: Statistical Services Section, QPS.

* As for figure 6.

Figure 8 compares the failure-to-appear rates for suspects issued with an NTA with the rate for suspects proceeded against by arrest or complaint and summons for the April–June and July–September quarters of 1998.³⁰ The figure also includes comparative data for the same two quarters in the year before NTAs were introduced.

As figure 8 shows, the failure-to-appear rate for defendants issued with an NTA has exceeded that for the other means of proceeding. The rate was 9 per cent in the April–June quarter and 8.4 per cent in the July–September quarter — well above the rates for arrest and complaint and summons matters.³¹ The failure-to-appear rates for matters initiated by arrest

before and after the introduction of NTAs have remained fairly steady at between 4 and 5 per cent.

The failure-to-appear rates for NTAs may be inflated by the fact that the ‘arrests’ data include people who were arrested, charged and held in custody until their first appearance before a court. In these cases there is clearly no possibility of the defendant failing to appear. A more accurate measure would be to compare the non-appearance rates of those issued with NTAs with the rate for defendants arrested and released on bail. Unfortunately, it was not possible to identify defendants who had been arrested and released on watchhouse bail.

There was also a slight increase overall in 1998 in the rate of failures-to-appear, which suggests that the use of the NTA procedure has had some impact. For the April–June and July–September quarters of 1997, total failures-to-appear on the first return date averaged 4.9 per cent of all matters. For the same quarters in 1998, following the introduction of NTAs, they averaged 5.5 per cent. In actual figure terms, this represents the difference between 1,586 total failures-to-appear on the first return date in the July–September quarter of 1997 and 2,323 failures-to-appear for the same period in 1998.

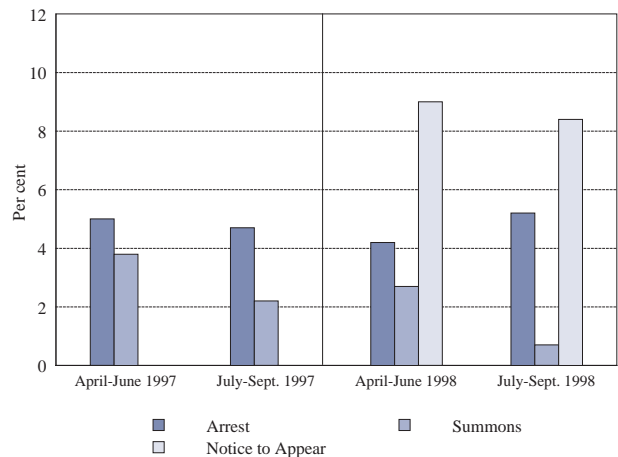
We also examined data provided by the QPS Police Information Centre on the number of warrants issued for failure-to-appear in Magistrates Courts for the period April 1997 to October 1998. Figure 9 shows that the number of warrants issued between June and October 1998 was higher than before the Act came into operation.³² This supports the previous finding that there had been an increase in the rate and numbers of failures-to-appear which coincided with the introduction of NTAs. However, this may simply be the continuation of a longer term upward trend in failures-to-appear. Interpretation of the warrants data is further complicated by the fact that we were unable to break down the data according to the means by which the proceedings were commenced.

Summary

In the first six months of operation, NTAs had the following impact on the criminal justice system:

- ▶ The number of suspects being processed through police watchhouses decreased substantially (based on Brisbane City Watchhouse data).
- ▶ There was no discernible change in the number of complaints of police misconduct reported to the CJC.
- ▶ Any possible ‘net-widening’ effect appears to have been limited to proceedings for good order offences, such as disorderly or indecent behaviour.
- ▶ There is some evidence that the failure-to-appear rate for defendants issued with an NTA was higher than for those proceeded against by other means.

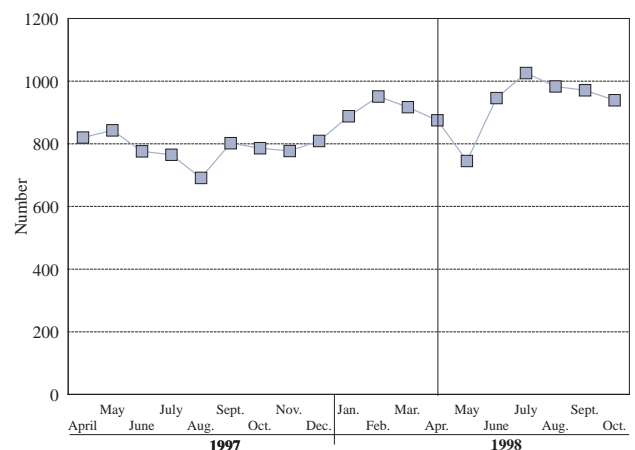
FIGURE 8: FAILURE-TO-APPEAR RATE FOR DIFFERENT MEANS OF INITIATING PROCEEDINGS, JUNE AND SEPTEMBER QUARTERS, 1997 AND 1998



Source: Courts Strategy and Research Branch, Department of Justice and Attorney-General.

Note: Data based on unique defendants for the following Magistrates Courts: Beenleigh, Brisbane, Cairns, Ipswich, Mackay, Maroochydore, Rockhampton, Southport, Toowoomba and Townsville.

FIGURE 9: NUMBER OF WARRANTS ISSUED FOR FAILURE-TO-APPEAR, MAGISTRATES COURTS, APRIL 1997–OCTOBER 1998



Source: Police Information Centre, QPS.

Key findings

In the first six months of operation of NTAs:

- ▶ Most proceedings against adults were initiated by an NTA, rather than by an arrest.
- ▶ NTAs were used most frequently for traffic (including drink-driving), prostitution, drug and weapon offences.
- ▶ More than half of the NTAs were issued after the person had been arrested, detained, or otherwise taken into police custody.
- ▶ More than one-fifth of people taken into police custody received an NTA.
- ▶ Watchhouse workloads were reduced significantly (based on the experience of the Brisbane City Watchhouse).
- ▶ ‘Net-widening’ effects appear to have been restricted to the area of good order offences.
- ▶ There was no clear sign that NTAs had reduced complaints of misconduct against police.
- ▶ There was some evidence that failure-to-appear rates were higher for suspects who had been issued an NTA.

Further monitoring

Section 134 of the *Police Powers and Responsibilities Act* requires that the Act be regularly reviewed, with the first review to start no sooner than six months after the commencement of the Act and to be completed within three years. A Police Powers Review Committee has been constituted for this purpose, with representation from the major criminal justice agencies and the community sector.

As part of the review, the committee will be examining the sections of the Act relating to NTAs and will be consulting with representatives of agencies and groups that have an interest in, or knowledge of, the operation of these provisions.

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Endnotes

- 1 The Police Responsibilities Code is contained in the Police Powers and Responsibilities Regulation (No. 1) 1998.
- 2 It should be noted that figures that rely on CRISP data are affected by delays between the reporting of the incident to police and the forwarding of this information for entry onto the CRISP system.
- 3 Under the Police Responsibilities Code, police are required to maintain this record (cls. 99–100).
- 4 Before 1998, the range of offences for which a person could be arrested without a warrant was complex and confusing but generally included the more serious offences and offences relating to public order.
- 5 Section 57(1)(b)(i) of the *Police Powers and Responsibilities Act 1997*.
- 6 S. 57(1)(b)(ii) and s. 57(6) of the *Police Powers and Responsibilities Act*.
- 7 S. 57(3) of the *Police Powers and Responsibilities Act*.
- 8 S. 45(3) of the *Police Powers and Responsibilities Act*.
- 9 Attendance Notices were introduced by the *Juvenile Justice Act 1992*. A juvenile is defined as a person under the age of 17 years.
- 10 S. 35(1) of the *Police Powers and Responsibilities Act*.
- 11 S. 35(2) of the *Police Powers and Responsibilities Act*.
- 12 S. 38(2)(b) of the *Police Powers and Responsibilities Act* and cl. 84 of the Police Responsibilities Code.

- 13 S. 38(2) of the *Police Powers and Responsibilities Act*; see also cl. 84 of the Code.
- 14 CJC 1993, p. 599. Based on records held by the Brisbane City Watchhouse for August 1992.
- 15 CJC 1993, pp. 605–606.
- 16 CJC 1994, pp. 834–836.
- 17 RCIADIC 1991; HRSCATSIA 1994.
- 18 NSW Police Service 1994.
- 19 HRSCATSIA 1994, pp. 165–166.
- 20 CJC 1993, p. 610.
- 21 Ss. 40–47 of the *Police Powers and Responsibilities Act*; ss. 83–84 of the Code.
- 22 CRISP database, QPS.
- 23 Where there was more than one offence committed (21% of cases), only the primary offence was analysed.
- 24 For example: breach of domestic violence orders and resist arrest, incite, hinder or obstruct police.
- 25 ‘Other offences’ encompasses the *Casino Control Act 1982* offences, ‘Other offences (Queensland Legislation, including the *South Bank Corporation Act 1989*)’, and ‘Other offences (Federal Legislation)’.
- 26 QLA 1997, p. 4,312.
- 27 The CRISP database records details about the number of suspects associated with each cleared offence whereas the Custody/Search Index records persons. Hence, statistics from the two systems are not directly comparable.
- 28 Sutton & McMillan 1998, p. 6.
- 29 The significant stage in the prosecution process is the first appearance before the court (also called the first return date). It is important to bear this in mind when comparing failure-to-appear rates for defendants proceeded against by NTAs with those for other defendants proceeded against by other means. After the first appearance in court, the procedure is identical for all criminal prosecutions irrespective of how they began. The failure-to-appear data used here relate only to the first scheduled appearance of defendants.
- 30 The data are based on the ten major centres where Magistrates Courts are located in Queensland and are estimated to present approximately 60 per cent of the total lower court workload (excluding SETONS and Children’s Court matters).
- 31 As there were some major coding problems with the complaint and summons data, it was less useful for comparison with NTAs. However, the low rates of failure-to-appear for complaint and summons matters is to be expected due to the types of offences and defendants usually considered by police to be appropriate for this method of commencement of proceedings.
- 32 Not all cases where a defendant fails to appear on an NTA will result in a warrant being issued, as the Magistrates Court may deal with some matters in the absence of the defendant (ex parte). These data include all warrants issued during the course of a matter rather than just warrants issued for failure-to-appear at the first return date.

Abbreviations

CJC	Criminal Justice Commission
CRISP	Crime Reporting Information System for Police
HRSCATSIA	House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs
NTA	Notice to Appear
RBT	Random Breath Test
RCIADIC	Royal Commission into Aboriginal Deaths in Custody
SETONS	Self-Enforcing Ticketable Offence Notice System
QLA	Queensland Legislative Assembly
QPS	Queensland Police Service

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