

Criminal Justice System

CRIMINAL JUSTICE COMMISSION

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Introduction

The *Criminal Justice Act 1989* gives the Criminal Justice Commission (CJC) responsibility for monitoring the performance and resources of the Queensland criminal justice system. The Criminal Justice System Monitor series has been prepared as one way of discharging this responsibility. The Monitor (1995a) aims to provide policy makers and people involved or interested in the Queensland criminal justice system with a concise overview of key developments in that system. Regular production of the Monitor is also intended to promote informed public debate about criminal justice issues in Queensland.

Volume 1 of the Monitor identified and analysed trends in the Queensland criminal justice system over the five-year period from July 1989 to June 1994. This volume examines the period from July 1989 to June 1996 (and beyond, where data are available), to see whether trends reported previously have continued. Where possible, the situation in Queensland is also compared with other States, although differences in the ways in which various jurisdictions collect and report criminal justice statistics continue to limit the scope for such comparisons.

The Monitor identifies recent key events in the Queensland criminal justice system and their likely impact. In addition, it includes data on the resourcing of the Office of the Director of Public Prosecutions (ODPP) and the Legal Aid Office (LAO).¹

The primary focus of the Monitor is on the adult criminal justice system. Issues relating to the juvenile justice system have been dealt with in an earlier publication prepared by the CJC, *Children, Crime and Justice in Queensland* (1995c).

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1. The CJC is required by the *Criminal Justice Act* to monitor and report on the sufficiency of funding for law enforcement and criminal justice agencies, including the ODPP and LAO. The CJC published a comprehensive report on the funding of these two bodies (1995b).

Data sources

Most of the statistical information presented in the Monitor has been published by the Australian Bureau of Statistics (ABS), the Crime Statistics Unit of the Queensland Government Statistician's Office (CSU), and the various criminal justice agencies.

The CJC has not been able to 'quality assure' the data from these various sources. There are significant shortcomings in some data collections. Of particular note is the absence in this volume of the Monitor of data on outcomes in the higher and lower courts. Because of problems with data collection these data were not available in time for this publication.

Some of the findings reported in the previous Monitor have been revised as the result of updated or more reliable data becoming available. Findings reported in this volume may also be subject to later revision for this reason. Likewise, data expressed as rates per population may be subject to later revision as population figures produced by the ABS are updated.²

The previous Monitor noted the urgent need to improve the quality, quantity and timeliness of criminal justice statistics in Queensland. The CSU and the criminal justice agencies have been making progress in this regard. This work needs continued support to enable criminal justice decision makers to have access to the best available data. In particular, the scope and quality of statistics relating to the operation of the criminal courts need to be enhanced.

This volume is organised under the following headings:

- Police and crime
- The Magistrates Court
- The higher courts
- The Court of Appeal
- The provision of legal services
- Corrections
- The cost of criminal justice
- Key events
- Issues for further research.

Police and crime

Recorded crime

Media reporting of crime sometimes gives the impression that Queensland has been in the grip of a crime epidemic. Those listening to public debate on law and order matters would be unlikely to have such a fear dispelled. But an analysis of crime data from various sources shows little evidence of any

substantial growth in crime in Queensland as a whole in the period 1993-94 to 1995-96. The increases in crime that have been recorded primarily reflect the effects of population growth and increased enforcement activity by the police, rather than any increase in the underlying level of criminal activity.

The main source of crime-trends data for this report is the offence statistics recorded by the Queensland Police Service (QPS). The quality of these data has improved markedly in recent years. Nevertheless, they require cautious interpretation, as they are sensitive to changes in recording practices and in the willingness of victims to report crimes.

Trends in recorded and cleared crime

Figures 1, 2 and 3 show trends in the broad categories of offences against the person, offences against property and other offences, for the seven-year period from 1989-90 to 1995-96. Both the total number of offences in each category and the rate per 100,000 population are shown.

These figures show that the rate of offences against the person levelled off in the period 1993-94 to 1995-96, following a steady upward trend. The rate of property offences has been fairly stable since 1990-91. On the other hand, the rate of recorded 'other offences' has continued to increase. These offences primarily consist of drug offences and good order offences such as language offences, resist arrest, hinder police and disorderly conduct.³ The number of such offences recorded is determined to a large extent by the level of police enforcement activity, whereas property offences and offences against the person are normally notified by members of the public.

FIGURE 1: OFFENCES AGAINST THE PERSON: NUMBER RECORDED AND RATE PER 100,000 POPULATION, 1989-90 TO 1995-96, QLD

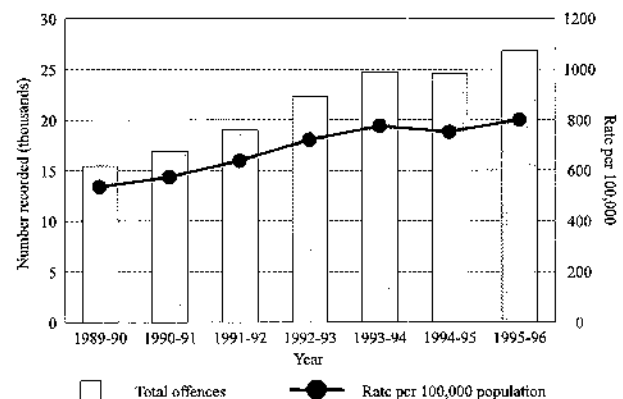


FIGURE 2: OFFENCES AGAINST PROPERTY: NUMBER RECORDED AND RATE PER 100,000 POPULATION, 1989-90 TO 1995-96, QLD

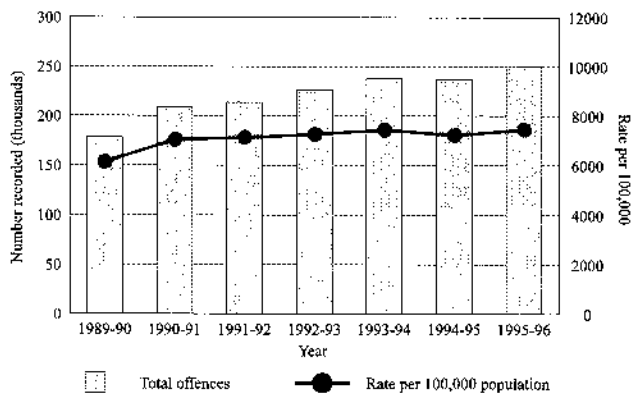
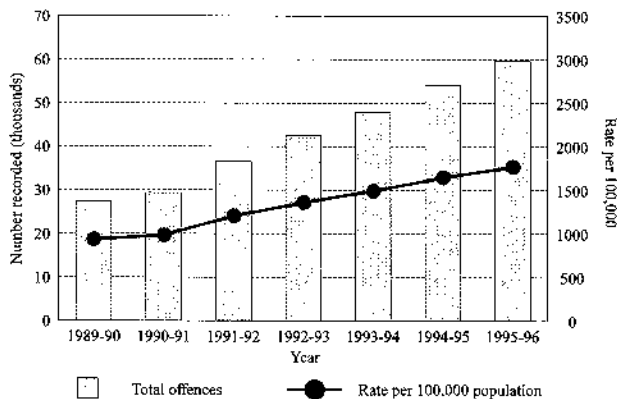


FIGURE 3: OTHER OFFENCES: NUMBER RECORDED AND RATE PER 100,000 POPULATION, 1989-90 TO 1995-96, QLD



Sources: QPS *Statistical Reviews, 1990-91 to 1995-96*. Population data are from various ABS publications.

Notes:

1. 'Other offences' excludes traffic and traffic-related offences.
2. The vertical axes vary between figures 1, 2 and 3.

Some notable trends within these broad offence categories are as follows:

Offences against the person

- The murder rate has been stable, at between one and two per 100,000, since 1989-90.
- The rate of recorded serious assaults has increased by 76 per cent since 1989-90, with a 23 per cent increase since 1993-94. The proportion of all recorded assaults that are classified as 'serious' (as opposed to 'minor') increased from below 50 per cent over the five years to 1993-94, to 58 per cent by 1995-96. However, it is possible that this reflects changed police recording practices, rather than an increase in serious violence in the community.

- The rate of recorded sexual offences has fluctuated from year to year, particularly since 1991-92. An upward trend may be emerging, but this may be due, at least partly, to changes in the recording practices of police, and the willingness of victims to report offences to the police.
- The rate of recorded robbery and extortion offences increased by 44 per cent in the five years to 1993-94, but by only 8 per cent between 1993-94 and 1995-96.

Offences against property

- There was a 31 per cent increase in recorded break and enter offences per 100,000 population in the five years to 1993-94. Since 1993-94, the rate of break and enters of dwellings has fallen by 10 per cent. The rate for both shops and 'other premises' has shown a downward trend since 1990-91.
- There has been no change since 1993-94 in the rate of reported stealing offences.
- The rate of motor vehicle thefts continued to increase, but the increase was slight (4% since 1993-94).
- The rate of 'other property damage' offences increased by 48 per cent in the five years to 1993-94, and by 15 per cent between 1993-94 and 1995-96. This category of offences includes malicious damage caused by various means, such as graffiti.

Other offences

- The largest offence type in the 'other offences' category is 'drug offences'. The rate of recorded drug offences per 100,000 population has risen by 149 per cent since 1989-90. These offences are mostly minor. Offences relating to possession of drugs and/or items for use in consuming drugs accounted for 82 per cent of the 30,604 drug offences recorded in 1995-96. Cannabis was the only known drug seized in 90 per cent of the possession offences.

2. Population data used throughout this Monitor are from the following sources: population figures for 1990-1994 (Crocket 1996); population figure for 30 June 1995 (ABS 1996a); population figure for 30 June 1996 (ABS 1996b); estimated population figure for 30 June 1997 (ABS 1996c).
3. Traffic-related offences are excluded because QPS statistics are highly selective in the traffic offences recorded. Also, the introduction of ticketable offences for some traffic-related offences distorts the time series.

Clearance rates

There is no evidence of any significant change over time in the rates of clearance of offences by police.⁴ The average clearance rate for offences against the person between 1989–90 and 1995–96 was 68 per cent.⁵ For the same period the average clearance rate for property offences was 24 per cent. Clearance rates for specific offence types within the broad categories of personal offences and property offences have not changed significantly over time. 'Other offences' are a diverse group of recorded offences that usually result from the police detecting an offence and at the same time apprehending the offender. As such, these offences often have clearance rates close to 100 per cent.

Interstate comparison: Recorded crime

The ABS publication *National Crime Statistics 1995* (1996d) enables some comparisons to be made of levels of recorded crime at the national level. Table 1 compares the rate of victimisation per 100,000 people in Queensland with the national average for eight different offence categories for 1994 and 1995. The table shows that, allowing for year to year fluctuations (especially in recorded sexual assaults), the rate of recorded crime in Queensland is generally at or below the national average. The most noteworthy differences are in robbery and motor vehicle theft, where the Queensland rates are well below the national average.

Interstate comparison: 1995 Crime and Safety surveys

Interstate comparative crime data are also available from the Crime and Safety surveys, undertaken in 1995 by the ABS in Queensland, New South Wales, ACT, Victoria, South Australia and Western

Australia. These surveys collected information about crime victimisation directly from the community, rather than relying on police statistics. The survey results provide further support for the view that, overall, Queensland does not have above average crime rates, compared to the rest of Australia. However, the rate for assault was slightly above the national average, as was also the case in 1993 (CJC 1997). Queensland also showed some overall increase in crime rates since the National Crime and Safety Survey undertaken by the ABS in 1993. (An analysis and discussion of these and other similar surveys can be found in the recent CSU (1996) publication *Crime and Safety: Trends in Queensland*.)

Workload measures

There is a widespread perception that police resources are being increasingly stretched to deal with the growth in crime and disorder. However, available data on police workload trends do not support this view.

Volume 1 of the Monitor (CJC 1995a) used the number of offences (excluding traffic offences) recorded each year divided by the number of QPS employees (sworn and unsworn) in that year as a rough workload measure.⁶ Between 1989–90 and 1993–94, the number of such offences per QPS employee rose from 34.1 to 41.7, an increase of 22 per cent. However, as indicated in figure 4, this measure shows little change in police workload between 1993–94 and 1995–96. (This is because QPS staff numbers have increased, while offence numbers have been relatively stable, apart from 'other offences', which are largely police-generated.)

TABLE 1: RATE OF RECORDED OFFENCES PER 100,000 POPULATION BY OFFENCE CATEGORY: QUEENSLAND VS NATIONAL AVERAGE, 1994 AND 1995

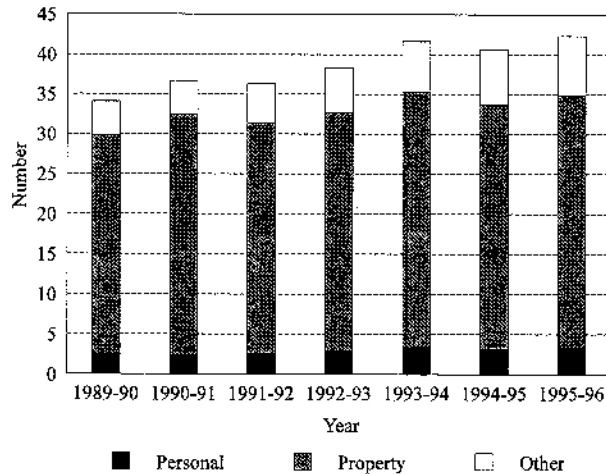
	Year	Murder	Assault	Sexual Assault	Robbery	Motor Vehicle Theft	Unlawful Entry with Intent	Blackmail Extortion	Kidnapping Abduction
Queensland	1995	1.8	536.6	75.4	59.4	561.3	2,061.3	1.6	2.2
	1994	1.3	n.a.	62.9	60.5	517.1	2,296.5	1.1	2.7
National Average	1995	1.8	560.3	71.0	91.2	703.0	2,131.9	0.8	2.6
	1994	1.6	n.a.	71.3	78.3	669.7	2,127.5	0.9	3.1

Source: ABS *National Crime Statistics 1995*, pp. 13–14.

Notes:

1. The population data for 1994 was updated after publication, so some rates are different to those shown in CJC 1995a.
2. No data were available in 1994 for the category of 'assaults'.

FIGURE 4: NUMBER OF RECORDED OFFENCES PER QPS STAFF MEMBER, 1989-90 TO 1995-96



Source: QPS *Statistical Reviews 1989-90 to 1995-96*

Note: Offence numbers exclude traffic and traffic-related offences. Staff numbers exclude recruits in training, wages and other Crown employees (part-time etc.), band members, office trainees and pilots. Police Liaison Officers are included in staff numbers.

Calls for police assistance

Much of the work which police do is not directly related to responding to, or preventing, crime (CJC 1996a). Therefore, data on calls from the public for police assistance potentially provide a more comprehensive measure of the workload of police.

Table 2 shows the number of calls for police assistance per QPS staff member in the Brisbane metropolitan area in the three years from 1993-94 to 1995-96.⁷ The table shows that the workload of police in the Brisbane area, as measured by calls for service, has been relatively stable.⁸ This is broadly consistent with the workload trends measured by recorded offences.

TABLE 2: NUMBER OF CALLS FOR POLICE ASSISTANCE PER QPS STAFF MEMBER, 1993-94 TO 1995-96, BRISBANE METROPOLITAN AREA

Year	Staff numbers	Number of calls for service	Calls per staff member
1993-94	1,748	154,519	88
1994-95	1,677	163,506	97
1995-96	1,691	151,286	89

Sources: Correspondence received from QPS, December 1996 and February 1997; QPS *Statistical Reviews 1993-94 to 1995-96*, QPS *Annual Reports 1993-94 to 1995-96*.

Summary: Police and crime

- Recent increases in recorded crime largely reflect population growth or policing activity levels. The overall rate of recorded property offences and offences against the person did not change significantly between 1993-94 and 1995-96.
- Recorded and unreported crime rates in Queensland are largely at or below the national average.
- Police workload, as measured by recorded crime and calls for service per employee, has remained relatively stable since 1993-94.

The Magistrates Court

The Magistrates Court is the Court in which most adults charged with criminal offences make their first appearance. However, criminal cases represent only one part of the work of the Magistrates Court. The Court also deals with civil and family law cases and a range of other matters, and changes in these areas will affect the workload of the courts. Our focus here is only on the criminal jurisdiction of the Magistrates Court.

A note on data sources

The first volume of the Monitor used ABS data on the number of appearances in criminal law matters in the Magistrates Court throughout Queensland from 1989-90 to 1993-94.⁹ The ABS discontinued the collection of court data and, in 1995, the CSU took over the collection process with a view to publishing these data in a similar format. Because of problems

4. An offence is considered cleared if, as a result of an investigation, an offender has been arrested, summonsed, cautioned, or an information has been laid for the purpose of bringing an offender before a court; or sufficient evidence exists for the arrest of the offender but there is a bar to prosecution: for example, the victim refuses to proceed with the complaint or the offender is already in prison or some other institution.
5. QPS *Statistical Reviews 1990-91 to 1995-96*. Note that the QPS *Statistical Review* has published clearance data slightly differently since 1994-95, reporting both the number of offences reported and cleared within the same year and the number of offences cleared in that year but reported in a previous year. For the sake of continuity with the previous Monitor, the clearance rates reported in this Monitor will be the total number of offences cleared in the year.
6. The use of a per employee, rather than per officer, measure takes account of the impact of civilianisation in the QPS, which has released some police to operational duties.
7. The area is that of the QPS Metropolitan North and Metropolitan South regions.
8. Calls for service data published in the QPS *Statistical Reviews* for 1991-92 and 1992-93 show that call numbers increased markedly in 1992-93. The calls for service data, therefore, appear to follow a similar trend to that observed for the rate of offences overall, which increased rapidly in the early 1990s but then stabilised by the mid-1990s.
9. ABS *Law and Order, 1989-90 to 1991-92* and unpublished data received from ABS for 1992-93 to 1993-94.

encountered during the checking of data quality, data on the Magistrates Court for the years 1994–95 and 1995–96 were not available for inclusion in this volume of the Monitor. As a result, the coverage of the Magistrates Court in this volume is much less comprehensive than in the previous volume.

The Department of Justice published limited data on the workload of the Magistrates Court from 1992–93 to 1995–96. These data form the basis of much of the following analysis. They cannot be compared to the ABS data presented in the first volume of the Monitor because:

- the Department of Justice data come from ten of the busiest Magistrates Courts on the computerised data collection system, whereas the ABS data were from all Magistrates Courts
- the counting rules applied by the Department of Justice differ from those applied by the ABS.

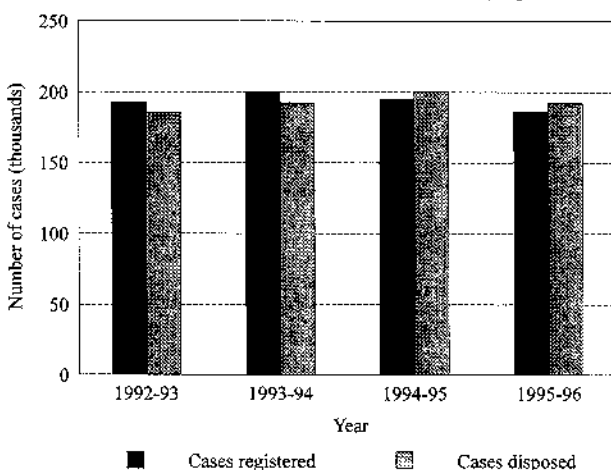
In addition, the data are not broken down by offence type, outcome, or sentence imposed.

Workload trends

Figure 5 shows that over the four-year period 1992–93 to 1995–96, there was very little change in the total number of criminal matters processed by the ten busiest Magistrates Courts in Queensland.¹⁰

Further, the figure shows an increase in the disposal rate over the four-year period and particularly in the last two years, when the courts disposed of more cases than they registered.

FIGURE 5: TOTAL CRIMINAL CASES REGISTERED AND DISPOSED OF IN TEN BUSIEST MAGISTRATES COURTS, 1992–93 TO 1995–96, QLD



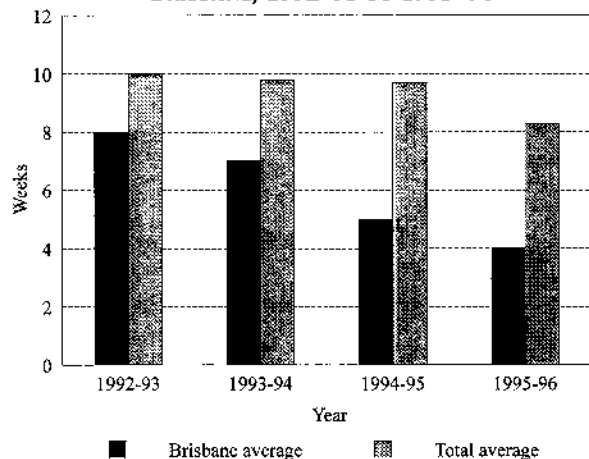
Source: Department of Justice, *Annual Report 1995–96*

Delays

Across the ten busiest Magistrates Courts, the average delay between the time a request is made for a hearing and the earliest available hearing date decreased from ten weeks in 1992–93 to eight weeks in 1995–96.¹¹

Figure 6 compares the average delay recorded in Brisbane Magistrates Court (the busiest court) with that recorded in the 10 busiest courts (including Brisbane). It shows that this court has experienced a substantial reduction in the amount of time a case must wait for hearing, falling from eight weeks in 1992–93 to only four weeks in 1995–96. There were similar reductions of about 50 per cent in Cairns and Townsville, but a 50 per cent increase in delays in Mackay.

FIGURE 6: MAGISTRATES COURT DELAYS: EARLIEST HEARING DATE, TOTAL QUEENSLAND AND BRISBANE, 1992–93 TO 1995–96



Sources: Department of Justice and Attorney-General *Annual Report 1994–95* and Department of Justice *Annual Report 1995–96*

Sentence outcomes

Between 1989–90 and 1993–94, there was a large increase (from 2,151 to 2,497) in the number of appearances resulting in a sentence of imprisonment imposed in the Magistrates Court.¹² Reliable data are not yet available for 1994–95 and 1995–96, but Queensland Corrective Services Commission (QCSC) data on sentenced admissions to prison (see 'Corrections', p. 15) indicate that there has been a substantial increase in the number of people sentenced to prison by the Magistrates Court.

Summary: The Magistrates Court

- The overall workload of the ten busiest Magistrates Courts has changed little over the past few years, with total cases registered and disposed of remaining relatively stable between 1992–93 and 1995–96.
- On average, there has been a slight decrease in average hearing delays since 1992–93, with delay time in the Brisbane Magistrates Court being halved.

The higher courts

The Supreme and District Courts of Queensland deal with the more serious criminal offences, called 'indictable offences'. The Supreme Court has exclusive jurisdiction to deal with the most serious offences such as murder, attempted murder and manslaughter, and trafficking in, supplying or producing large quantities of a dangerous drug. All other indictable offences are dealt with in the District Court.

In 1995–96, 91 per cent of depositions received by the State ODPP related to District Court matters.

Incoming matters

The criminal workload of the higher courts is primarily determined by the number of committals from the Magistrates Court and the number of *ex officio* indictments. The latter are matters which go directly to a higher court, rather than through a committal hearing. *Ex officio* indictments are used increasingly at the request of the accused or his or her legal representative where the accused intends to plead guilty.

ODPP data show that higher court workload, as measured by incoming matters, levelled off in 1995–96, after a steady increase from 1991–92 to 1994–95 (figure 7).¹³ The Department of Justice collects data on the number of incoming matters in the Brisbane higher courts. These data show that there was a 48 per cent increase in the number of matters coming into Brisbane over the same period—from 2,546 to 3,768.

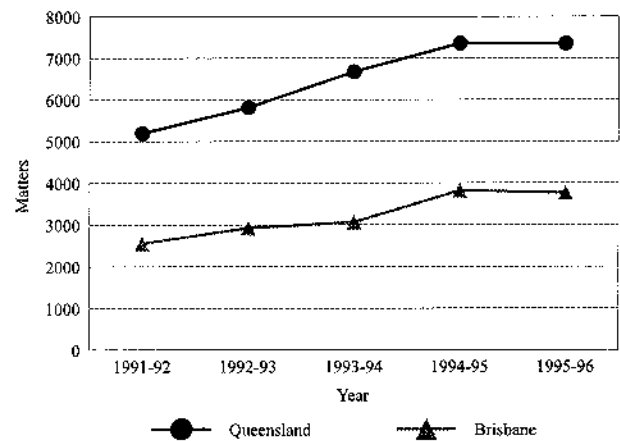
On this measure also, there was virtually no change in the number of incoming matters between 1994–95 and 1995–96.¹⁴

Disposal by discontinuance

Prosecutions are discontinued for a variety of reasons, the most common being that, after considering all available evidence, the ODPP determines that there is no reasonable prospect of an accused being convicted, and a 'no true bill' or 'nolle prosequi' is entered. Other reasons include the unavailability of key prosecution witnesses, or the discovery of further evidence which shows the case against the accused to be flawed.

Volume 1 of the Monitor (CJC 1995a) noted an increase in discontinuances. However, this trend has not continued, with discontinuances as a proportion of all higher court appearances levelling off at around 18 per cent in 1994–95 and 1995–96.¹⁵

FIGURE 7: HIGHER COURTS: INCOMING MATTERS, 1991–92 TO 1995–96, QLD AND BRISBANE



Sources: ODPP Half Year Report, January to June 1995; ODPP Annual Report 1995–96; Department of Justice and Attorney-General Statistical Summary, Queensland Courts 1993–94; Department of Justice Annual Report 1995–96; Supreme Court Trial Division Report on Organisation and Work 1995–96

Note: 1991–92 figures were the earliest available for Queensland.

Result of disposal by plea or verdict

Figure 8 (next page) shows the number of trials and sentences in the higher courts from 1989–90 to 1995–96, according to ODPP data.

It is apparent that the growth in higher court disposals has been in the form of an increasing number of sentences being heard by the courts. The number of trials disposed of per year has remained stable over the period. The proportion of matters heard in the higher courts as trials has decreased from 29 per cent in 1989–90 to 14 per cent in 1995–96.

10. Total excludes SETONS (Self-Enforcing Ticketable Offence Notice System) matters. Preliminary data for this period from CSU shows no upward trend in workload. The number of magistrates in Queensland did not change during this period. The total number of magistrates rose by two, to 73, in late 1996.

11. The decrease in delays for criminal matters was not at the expense of increased delays for non-criminal matters, as, on average, these remained relatively stable during this period.

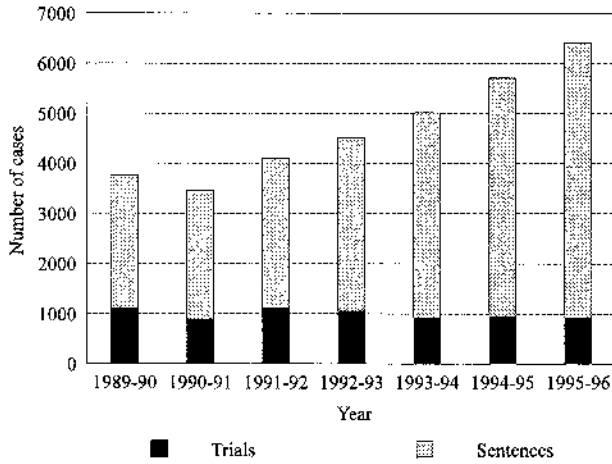
12. ABS *Law and Order* 1989–90 to 1991–92; ABS unpublished data 1992–93 to 1993–94.

13. In the first volume of the Monitor (CJC 1995a) we used a combination of Magistrates Court data on number of committals and ODPP data on number of *ex officio* matters. Because Magistrates Court data is not available beyond 1993–94, we have used ODPP data on number of depositions received instead of the number of committals. However, this should have little impact on the trend.

14. Preliminary data from CSU is broadly similar.

15. ABS *Law and Order* 1989–90 to 1991–92; ABS unpublished data, 1992–93 to 1993–94; CSU unpublished data 1994–95 to 1995–96.

FIGURE 8: HIGHER COURTS: TRIALS AND SENTENCES, 1989-90 TO 1995-96, QLD



Sources: ODPP *Annual Report 1995-96*; ODPP unpublished data for 1989-90 to 1992-93

This decrease may be due to one or more of the following causes:

- the long-term effect of the statewide implementation by the QPS of mandatory electronic recording of police interviews with suspects, which has reduced the opportunity for defence counsel to challenge confessional evidence
- the impact of the *Penalties and Sentences Act 1992*, which provides for a discount on sentence for an early plea, thus encouraging more people to plead guilty rather than go to trial
- a change in the mix of offence types being heard; for example, property offenders may be more likely to plead guilty than those charged with offences against the person (because there are fewer defences available for property offences).

The proportion of higher court appearances (excluding discontinuances) resulting in conviction increased from 88 per cent in 1989-90 to 95 per cent in 1995-96. The increase in the number and proportion of sentences heard by the higher courts has been largely responsible for this increase. However, there has been a small increase in the proportion of trials in which the accused is found guilty. In 1993-94, the District Court trial conviction rate was about 49 per cent (correspondence from Court Administrator, November 1994), whereas in 1995-96, the trial conviction rate reached 60 per cent (from ODPP *Annual Report*).

Sentencing outcomes

Data on sentencing outcomes for 1989-90 to 1993-94 are presented at page 10 of Volume 1 of the Monitor (CJC 1995a). Comparable data for 1994-95 and 1995-96 were not available at the time of publication.

Time at which plea is indicated

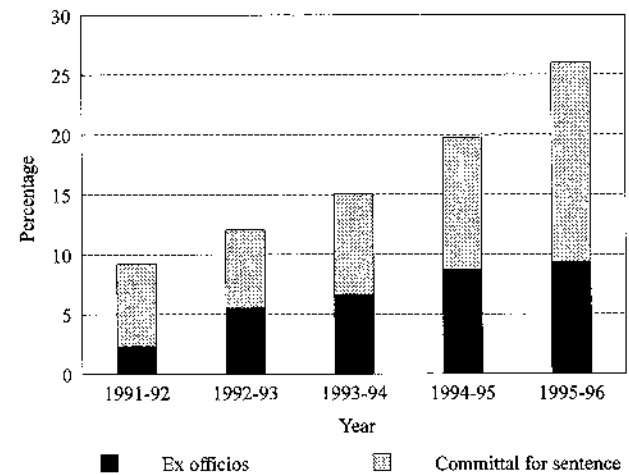
A key indicator of the efficiency of the prosecution process is the timing of the notification of the plea of guilty—the earlier a plea of guilty is identified the more efficient the process.

Figure 9 shows for the period 1991-92 to 1995-96 the percentage of matters which were either committed for sentence or required an *ex officio* indictment to be presented in the higher court. Both of these categories identify the matter as a plea of guilty upon entry to the higher court.

Less than 10 per cent of matters were identified as pleas of guilty upon entry to the higher court in 1991-92. This had increased to 26 per cent by 1995-96, with committals for sentence increasing from 7 per cent to 17 per cent, and *ex officio* indictments from 2 per cent to 9 per cent. Most of the increase in *ex officio* indictments in 1995-96 is attributable to the Brisbane Central Committals Project (BCCP) (see p. 9).

There are still a number of matters that are not notified as pleas of guilty until very late in the prosecution process. For example, in the Brisbane District Court from March 1995 to May 1996, a total of 187 matters (9% of all matters listed for trial) were identified as pleas of guilty on the morning of or during the trial. Data from the Court Administrator's office shows that the situation has changed little from that reported in 1995.

FIGURE 9: HIGHER COURTS: PROPORTION OF MATTERS RECEIVED AS COMMITTAL FOR SENTENCE OR EX OFFICIO INDICTMENT, 1991-92 TO 1995-96, QLD



Sources: ODPP *Half Year Report, January to June 1995*; ODPP *Annual Report 1995-96*

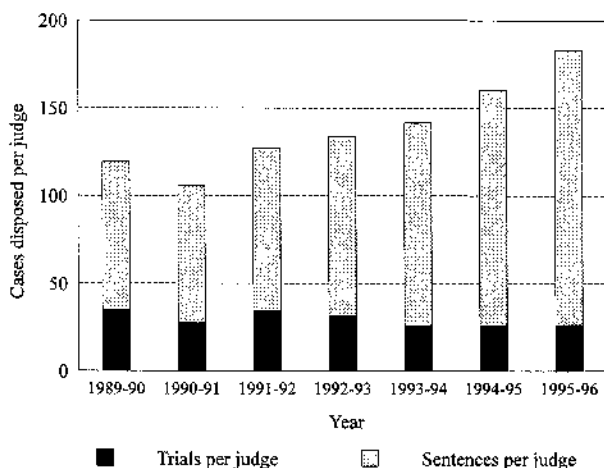
Workload measures

To determine whether the workload pressure on the District Court (which deals with most criminal matters) has increased, the number of trials and sentences per District Court Judge was examined.¹⁶

Figure 10 shows that between 1990–91 and 1995–96 there was a steady increase in the workload of the District Court, driven almost entirely by the increasing number of sentences being heard.¹⁷

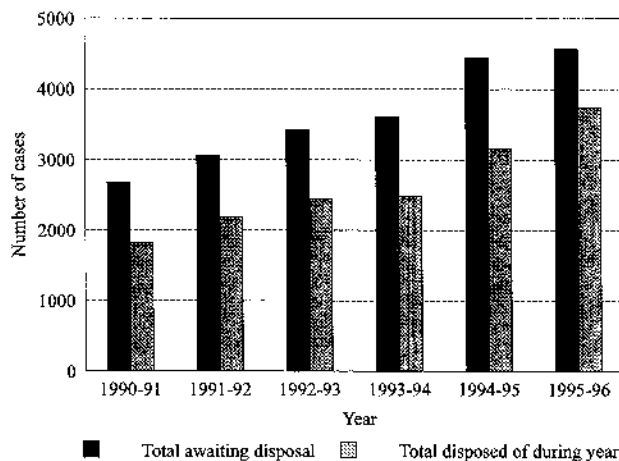
One indication of how the higher courts are coping with the increased workload is the time taken to dispose of a matter. A comparison of data for 1993–94 and 1995–96 from the Courts Division of

FIGURE 10: NUMBER OF TRIALS AND SENTENCES PER DISTRICT COURT JUDGE, 1989–90 TO 1995–96, QLD



Sources: ODPP *Annual Report 1995–96*; ODPP unpublished data for 1989–90 to 1992–93; Department of Justice and Attorney-General *Annual Reports 1989–90 to 1993–94*, unpublished data for 1994–95 and 1995–96 from the Court Administrator's office.

FIGURE 11: BRISBANE DISTRICT COURT: MATTERS DISPOSED OF AND MATTERS AWAITING DISPOSAL, 1990–91 TO 1995–96



Sources: Department of Justice and Attorney-General *Statistical Summary, Queensland Courts 1993–94*; Department of Justice *Annual Report 1995–96*

the Department of Justice shows that there has been little change in the time that the higher courts are taking to dispose of matters.¹⁸

Another useful workload measure is the trend in the backlog of cases. The Department of Justice produces data on the number of matters awaiting disposal by the Brisbane District Court and the number of matters disposed of by that court, for each year from 1990–91 to 1995–96.¹⁹ Figure 11 presents these data.

The figure shows that until 1995–96 the Brisbane District Court was only able to dispose of around 70 per cent of the growing number of matters awaiting disposal. However, in 1995–96 the court disposed of 82 per cent of the matters awaiting disposal, reducing the backlog from 1312 matters at the end of 1994–95 to 814 at the end of 1995–96.

Brisbane Central Committals Project

The BCCP was a pilot conducted during 1995–96, which involved the ODPP assuming full responsibility for all committal proceedings conducted in the Brisbane Central Magistrates Court. Traditionally, this time-consuming task was the responsibility of the police. The CJC's evaluation of the pilot project showed that a considerable amount of police investigating officers' time had been saved over the 12-month period, and it also found that the project had fostered improved relations between the QPS and the ODPP (CJC 1996b).

Summary: The higher courts

- There has been a substantial overall increase in the number of matters dealt with by the higher courts, but incoming matters levelled off in 1995–96.
- All of the extra matters handled have been guilty pleas.
- There have been some modest improvements in the early identification of guilty pleas, and no increases in delays and backlogs.

16. Between 1994–95 and 1995–96 there had been no increase in the number of judges appointed to the District Court or the Supreme Court. Appointments made in September 1996 increased the number of District Court judges by two (both in Brisbane), to take the total to 34.

17. It was not possible to construct a similar measure for the Supreme Court, due to insufficient data on the number of judges allocated to criminal work. In any event, the District Court hears the bulk of the State's criminal matters.

18. Across the higher courts in Queensland, there was little change in average delays in either criminal or non-criminal matters.

19. 'Matters awaiting disposal' are matters 'entered' or commenced in the court during the year and those matters carried over from the preceding year.

The Court of Appeal

The Court of Appeal determines all appeals relating to trials or sentences for indictable offences, whether the offence had been dealt with summarily or not.²⁰ Additionally, some appeals from magistrates' decisions relating to non-indictable offences may be dealt with by the Court of Appeal.

Workload trends

The number of criminal matters filed in the Court of Appeal rose by only 3 per cent between 1993–94 and 1995–96 (from 558 to 572 matters), following a 50 per cent increase between 1991–92 and 1993–94.²¹

The number of matters disposed of continued to increase between 1993–94 and 1994–95, rising another 10 per cent, from 528 to 583. The increase in the rate of disposal of matters meant that in 1994–95 the Court disposed of more matters than it received in that year. As shown in figure 12, in the following year, total disposals dropped considerably to 488 matters, a reduction of 16 per cent.

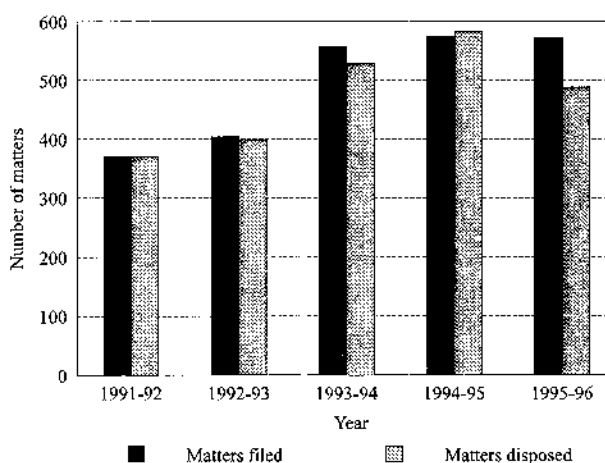
The reduction in disposals may be, in part, a result of a 14 per cent increase from 1994–95 in the number of civil appeals disposed of by the Court. Over that period, criminal appeals declined from 71 per cent of matters commenced in 1994–95 to 66 per cent in 1995–96. In addition, from 1994–95 to 1995–96, there was a 33 per cent increase in the number of criminal appeals in which parties were not legally represented. As noted in the *Court of Appeal Fifth Annual Report 1995–1996*, matters in which a legally unqualified person appears often take longer, requiring judges to perform additional research and other work in preparing judgments. Therefore, while the backlog in the Court of Appeal appears to be increasing, it may be due to factors other than the number of appeals filed each year.

In 1995–96, the median time delay between the filing of an appeal and the hearing was 69 days, a drop of 22 per cent from the 89 days reported in 1993–94 (CJC 1995a).

Trends in the nature of appeals lodged

ODPP data show that, over the past two years, appeals against sentence have continued to increase as a proportion of all appeals. In 1993–94, 62 per cent of appeals heard were appeals against sentence only; in 1995–96, this proportion had increased to 66 per cent. The actual number of appeals against sentence heard over the period rose steeply from 226 in 1993–94 to 290 in 1994–95, before dropping to 213 in 1995–96.²² This probably reflects the overall increase in higher court matters proceeding as sentences.

FIGURE 12: NUMBER OF CRIMINAL APPEALS FILED IN AND DISPOSED OF BY THE COURT OF APPEAL, 1991–92 TO 1995–96, QLD



Sources: Court of Appeal Annual Reports 1993–94 to 1995–96; Department of Justice and Attorney-General, *Statistical Summary, Queensland Courts 1993–94*; Department of Justice and Attorney-General Annual Report 1994–95; Department of Justice Annual Report 1995–96

The provision of legal services

In April 1995, the CJC published its *Report on the Sufficiency of Funding of the Legal Aid Commission of Queensland and the Office of the Director of Public Prosecutions, Queensland* pursuant to its statutory responsibilities under section 23(c) of the *Criminal Justice Act*. That report provided a detailed description of the operations and funding of the Legal Aid Commission (LAC) and the ODPP. This section of the Monitor updates some of the information contained in that report.

Office of the Director of Public Prosecutions

The function of the ODPP is primarily to prepare, institute and conduct all criminal proceedings in the District and Supreme Courts throughout Queensland on behalf of the Crown. In addition, the ODPP is currently involved in the Ipswich Committals Project (ICP) and the Brisbane Central Committals Project (see above), which require the ODPP to take an active role in proceedings for indictable offences in the Magistrates Court.

Funding

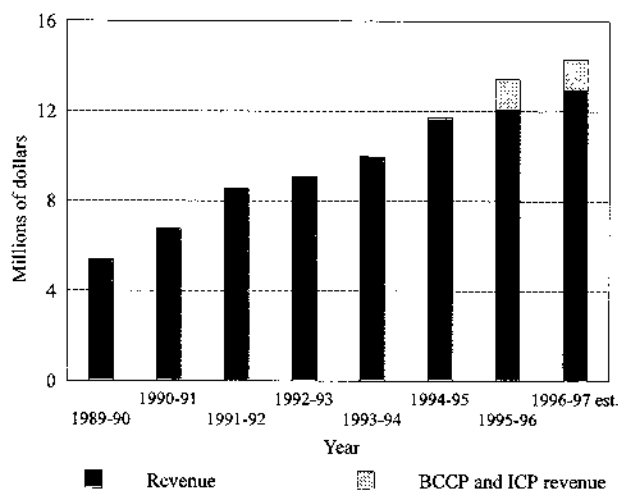
Under section 32 of the *Director of Public Prosecutions Act 1984*, the Director-General of the Department of Justice has administrative and financial control of the ODPP. The funding of the ODPP is adjusted on an ad hoc basis and when additional judges are appointed.²³

Figure 13 shows trends in ODPP revenue from 1989–90 to 1995–96 and estimated figures for 1996–97. It also shows (separately) the revenue received by the ODPP for the ICP and the BCCP in 1994–95 and 1995–96 and estimated revenue for these projects for 1996–97.

The figure shows that over the eight years to 1996–97, ODPP revenue has grown by 140 per cent. Since 1993–94, this increase has been in the order of 30 per cent. If funding for the BCCP and the ICP is included, revenue over the eight years has increased by 166 per cent.²⁴

The bulk of the additional revenue received by the ODPP has been expended on additional staff. This is to be expected, given that the ODPP handles almost

FIGURE 13: ODPP ACTUAL REVENUE 1989–90 TO 1995–96 AND ESTIMATED REVENUE 1996–97, QLD



Sources: For 1989–90 to 1993–94, unpublished information received from the Director-General of the Department of Justice and Attorney-General, July 1994; for 1994–95, ODPP *Half-Year Report January to June 1995*; for 1995–96, ODPP *Annual Report 1995–96*; for 1996–97 estimates, oral communication from the ODPP 21 February 1997.

Notes:

1. A revenue figure was not available for 1989–90; it was therefore assumed revenue equalled expenditure.
2. Revenue for 1993–94 excludes \$1,311,100 received for property maintenance and \$200,000 for Victim Support Services; revenue for 1994–95 excludes \$1,586,865 included in the budget category 'Property Management Costs and Capital Works' and \$300,000 for Victim Support Services; revenue for 1995–96 excludes \$1,495,470 included in the budget category 'Property Management Costs and Capital Works' and \$853,000 for Victim Support Services; revenue estimates for 1996–97 excludes \$1,533,700 included in the budget category 'Property Maintenance', \$870,000 and a \$200,000 carry-over for Victim Support Services, and \$436,000 for the Police Interview Tape Transcription function. Prior to 1993–94, liability for property management had been the responsibility of the Department of Administrative Services. The Victim Support Service and Police Interview Tape Transcription function are new functions for the ODPP and do not relate directly to the provision of traditional prosecution services.

all of its work in-house. Between 1989 and the end of the last financial year, the overall staff establishment increased by 117 per cent. The majority of these staff increases were in direct service-provision areas, with a 147 per cent increase in the number of legal staff and prosecutors over the period.

While these increases are significant, it is generally accepted that the ODPP's funding prior to 1990 was very low and inadequate (CJC 1995b, p. 73).²⁵

Workload

When analysing funding trends, the key issue is whether increases in ODPP resources have kept pace with increases in workload. The most readily available and reliable measure of workload trends is the number of depositions received by the ODPP.²⁶ The best available measure for determining whether funding has kept pace with workload is real revenue (i.e. revenue indexed for inflation) per deposition.

Figure 14 (next page) shows real revenue per deposition received for the five financial years between 1991–92 through 1995–96. The figure shows that real funding over the past five years has not kept pace with the increase in depositions received.²⁷

Real revenue per deposition dropped by 11.5 per cent between 1991–92 and 1993–94 and increased modestly over the following two years. Consequently, the 1995–96 level of funding per deposition was still 10 per cent below that of 1991–92.

20. The Court of Appeal also deals with civil appeals.

21. Court of Appeal *Annual Reports 1993–94 to 1995–96*.

22. ODPP *Annual Reports 1994 and 1995–96*; ODPP *Half Year Report January to June 1995*.

23. The 'judge's formula', as it is known, provides that the ODPP be funded for additional staff every time an additional judge is appointed—recognising that the appointment of an additional judge will generate more work for the ODPP because of the increased number of cases that can be handled by the court system at any one time.

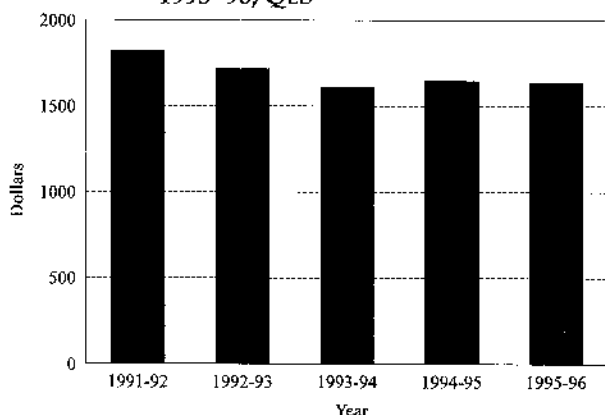
24. As was noted in the CJC's *Evaluation of the Brisbane Central Committals Project* (CJC 1996b), about half of the total funding to the ODPP for the BCCP was expended on the provision of post-committal services, that is, usual ODPP services (p. 66). In addition, it is expected that these projects will generate time and resource savings for the ODPP at the higher court level, which should translate into benefits for the organisation as a whole.

25. On the basis of a very rough comparative measure of workload, we also found that, compared with prosecuting authorities in other jurisdictions, the Queensland ODPP had by far the lowest level of funding per matter (CJC 1995b, p. 77–78).

26. Depositions received are those indictable matters committed for trial or sentence to the higher courts from the Magistrates Court, plus *ex officio* indictments. Although they are not a complete measure of ODPP workload, they account for the bulk of ODPP activity.

27. The ODPP has also experienced workload increases in other areas. For example, over the period 1991–92 to 1995–96 the Court of Criminal Appeal/Court of Appeal workload increased by only 14%, but the District Court appeals workload increased by 55%.

FIGURE 14: ODPP REAL REVENUE PER DEPOSITION RECEIVED (EXCLUDING REVENUE FOR THE BCCP AND THE ICP), 1991-92 TO 1995-96, QLD



Sources: See figure 13.

Note: Real revenue was calculated by using the Consumer Price Index figure (averaged over the eight capital cities) for the December quarter 1995. Also see notes 1 and 2 from figure 13.

Figures available from the ODPP for the current financial year suggest that the number of depositions received will be 8,600, 17 per cent above the 1995-96 level (verbal advice from ODPP, April 1997). If this projection is correct, real revenue per deposition in 1996-97 will be 10 per cent below the last financial year and 18 per cent below that of 1991-92.

Summary: Director of Public Prosecutions

- Between 1989-90 and 1995-96 ODPP revenue increased by 166 per cent if funding for the BCCP and the ICP is included. Although these increases were significant, the ODPP's funding prior to 1990 was generally accepted as being very low and inadequate.
- Over the same period, staff numbers increased by 117 per cent with the number of legal staff and prosecutors increasing by 150 per cent.
- Real revenue per deposition in 1995-96 was 10 per cent below that of 1991-92 and is projected to fall by a further 10 per cent in 1996-97.

Legal Aid Commission of Queensland²⁸

The Legal Aid Commission (LAC) is the body responsible for the provision of legal aid services in Queensland. It performs its statutory functions through the LAO. In practice, the LAC is responsible for legal aid policy and the future direction of the organisation, and the LAO is responsible for the day-to-day operations of the organisation and the provision of legal aid services.²⁹

The LAO provides free legal representation to people who are charged with criminal offences and cannot

afford the cost of private legal representation.³⁰ The object of the provision of legal aid for people in these circumstances is to ensure that:

- defendants in criminal cases receive a fair trial
- criminal trials are not delayed because defendants who are not legally represented do not know the law or understand court procedures.

In criminal law, the two main forms of legal assistance are:

- The **Legal Aid Scheme**, which constitutes the bulk of the LAO workload and involves the greatest commitment of LAC resources. This scheme involves the provision by LAO staff and private legal practitioners of ongoing legal assistance in matters where legal aid is granted. Legal assistance provided under this scheme is available for criminal, family and civil law matters subject to the LAO's guidelines, merit and means tests.
- The **Duty Lawyer Scheme**, which provides legal representation in Magistrates Courts across Queensland for people charged with criminal offences.³¹ Representation by the duty lawyer generally involves providing basic legal advice in respect of the charge/s and representing the defendant in the court on an adjournment or a plea of guilty. In 1995-96, 46,647 defendants were assisted under the Duty Lawyer Scheme.

As we noted in our *Report on the Sufficiency of Funding of the Legal Aid Commission of Queensland and the Office of the Director of Public Prosecutions, Queensland* (CJC 1995b), the LAC's operations are coming under increasing pressure as a result of rising demand for legal assistance at the same time as the LAC's income is decreasing.

Funding

Funding of the LAC comes from six sources:

- Commonwealth Government grants
- State Government grants
- interest on solicitors' trust accounts
- recoverable costs in actions which were successfully settled or resolved in favour of the LAC's clients
- contributions from clients towards the cost of legal representation
- interest on investments.

Revenue and expenditure³²

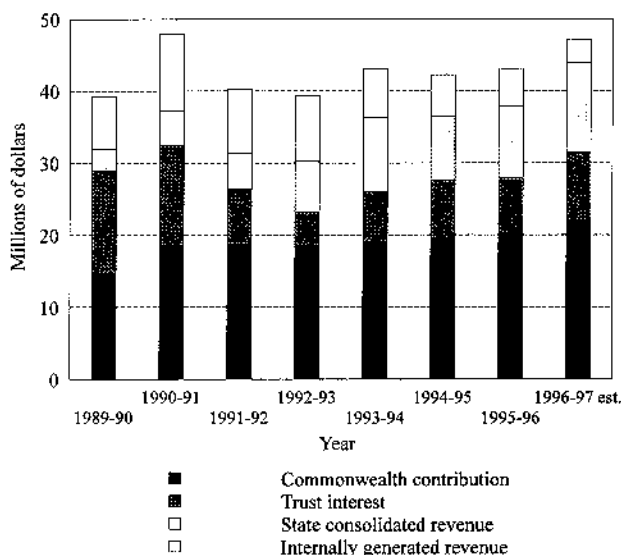
Figure 15 shows LAC revenue for the financial years 1989–90 to 1995–96, projected revenue for 1996–97 and the sources of that revenue.

Key points to note concerning this figure are:

- LAC revenue fluctuated significantly over the period, reaching a peak of \$47.898 million in 1990–91 and a low of \$39.375 million in 1992–93.
- The largest and most stable revenue component has been from the Commonwealth Government, which was projected to be \$22.019 million in 1996–97. However, earlier this year the Commonwealth Government notified the LAC of a proposed funding cut (the upper limit of which was \$4.9 million), with the size of the cut depending upon the outcome of negotiations between the State and Commonwealth Governments and the LAC. As at the date of publication, the parties are close to an agreement and the funding cut is expected to be less than \$4.9 million.
- The State consolidated revenue contribution to the LAC has substantially increased from a low of \$3.109 million in 1989–90 to a projected grant in 1996–97 of \$12.55 million.
- Revenue from interest on solicitors' trust accounts fell markedly between 1989–90 and 1992–93, but recovered to some extent thereafter. Projected income from statutory interest for 1996–97 is \$9.408 million—23 per cent more than for 1995–96.
- Over the period, income from internally generated sources has steadily declined, because of:
 - a decline in investment income as a result of:
 - * a reduction in the LAC's liquid assets
 - * a reduction in interest rates; and
 - the withdrawal of assistance in civil law and family law property matters, from which the LAC recovered costs when an assisted client was successful.

The extent of the proposed cut to the Commonwealth grant to the LAC is not presently known, but if it had been the maximum amount proposed, namely \$4.9m, the grant would have been 15 per cent less than the 1995–96 Commonwealth grant of \$20.249m. However, the impact of these proposed cuts has, to a substantial degree, been offset by the projected increases in the current financial year in the State grant and income from statutory interest. In terms of the overall LAC budget, the proposed cut of \$4.9m would have represented a 10 per cent reduction in revenue anticipated for 1996–97, but only 2 per cent less revenue than in 1995–96.

FIGURE 15: LEGAL AID COMMISSION, QUEENSLAND
ACTUAL REVENUE BY SOURCE, 1989–90 TO
1995–96 AND ESTIMATED 1996–97



Source: LAC n.d., *Submission to the Treasurer of Queensland on Funding for Prescribed Criminal Proceedings*; LAC, *Annual Reports 1983–84 to 1995–96*; Department of Justice and Attorney-General information received 10 August 1994; correspondence dated 28 January 1997 from the Director, LAO.

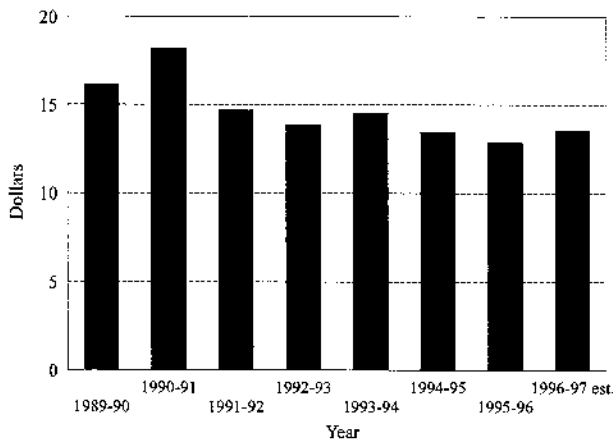
Note: Revenue for the period up to and including 1990–91 includes LAC and Public Defender's Office revenue.

Revenue per capita

Figure 16 (next page) shows that between 1989–90 and 1995–96, real LAC revenue (in 1995 \$ terms) per capita declined from a peak of \$18.20 in 1990–91 to \$12.86 in 1995–96, a decrease of 29 per cent. A small recovery is expected in 1996–97. This indicates that funding has fallen well behind population growth.

28. Since the writing of this section, the *Legal Aid Queensland Act 1997* was passed by the Queensland Parliament. The Act, which commences operation on 1 July 1997, repeals the *Legal Aid Act 1978*—abolishing the former Legal Aid Commission of Queensland and creating a new entity called Legal Aid Queensland. Legal Aid Queensland will perform essentially the same functions as the previous entity, but will provide legal assistance only in respect of State-based legal matters unless directed by the Attorney-General (under section 63(2)) to provide assistance for Commonwealth matters under a legal assistance arrangement with the Commonwealth.
29. For simplicity, all references in this document to the LAC should be read as meaning the LAO where appropriate.
30. Subject to a means test and a merit test in certain cases.
31. The Duty Lawyer Scheme does not provide representation in summary trials or committal proceedings (except as part of the LAC's involvement in the BCCP and the ICP) nor for people facing their first or second drink-driving charge, unless a conviction might result in a sentence of imprisonment.
32. Historically, funding for the LAC has been composed of untied grants which the LAC has been permitted to expend in the provision of legal services in whatever area of law and in whatever proportion the LAC determined. It is therefore not possible to break down the funding and expenditure of the LAC for criminal law and other types of legal matters.

**FIGURE 16: LEGAL AID COMMISSION, QUEENSLAND
REAL REVENUE PER CAPITA, 1989-90 TO
1995-96 AND ESTIMATED 1996-97**



Sources: See figure 15.

Notes:

1. Revenue for the period up to and including 1990-91 includes LAC and Public Defender's Office revenue. In 1990-91, the Public Defender's Office merged with the LAC.
2. 'Real revenue per capita' is revenue per capita indexed for inflation, and was calculated by using the Consumer Price Index figure (averaged across the eight capital cities) for the December quarter 1995.

In our 1995 report (CJC 1995b) we noted that the Queensland LAC total revenue per capita for the years 1991-92 to 1993-94 was consistently lower than that for LACs in New South Wales and Victoria. A significant factor contributing to this discrepancy is that the Commonwealth-State LAC funding agreement made no provision for population growth. Accordingly, from a per capita funding perspective, the significant increases in LAC projected revenue from Commonwealth and State Government sources for 1996-97 (see above) were long overdue. For the same reason, a substantial cut in the Commonwealth grant to the Queensland LAC in 1996-97 will mean that the inequities for Queensland of the previous funding arrangements will be exacerbated.

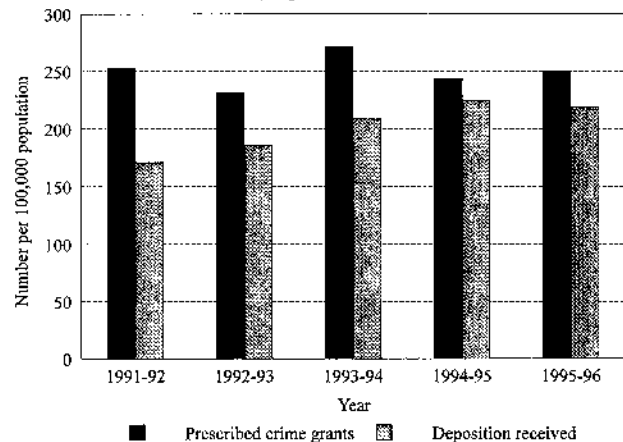
Criminal law workload³³

Table 3 shows the number of grants of aid per 100,000 population for prescribed crime and other crime matters for 1989-90 to 1995-96.³⁴ This provides a rough indication of the extent to which the provision of services in this area has kept pace with changes in demand.

The table shows that from 1991-92 onwards, the number of prescribed crime grants per 100,000 population was fairly stable. By contrast, per capita grants of aid for 'other crime' matters declined steadily after 1990-91, except for an upsurge in 1995-96. The increase in this year was almost wholly attributable to the involvement of the LAC in the two Committals Projects.³⁵

Figure 17 compares the number of prescribed crime grants of aid and the number of depositions received by the ODPP per 100,000 population for 1991-92 through 1995-96. As discussed in the section on

**FIGURE 17: PRESCRIBED CRIME GRANTS OF AID AND
DEPOSITIONS RECEIVED BY THE ODPP PER
100,000 POPULATION, 1991-92 TO
1995-96, QLD**



Sources: Grants figures are from LAC, *Annual Reports 1989-90 to 1995-96*; LAC n.d., *Submission to the Treasurer of Queensland on Funding for Prescribed Criminal Proceedings*. Depositions figures are from ODPP *Half Year Report, January to June 1995*; ODPP *Annual Report 1995-96*.

Note: 'Depositions' includes ex officio indictments received by the ODPP.

TABLE 3: CRIMINAL LAW GRANTS OF AID PER 100,000 POPULATION, 1989-90 TO 1995-96

	1989-90	1990-91	1991-92	1992-93	1993-94	1994-95	1995-96
Prescribed Crime	180	210	250	230	270	240	250
Other Crime	190	250	210	210	170	160	210

Source: Grants figures are from LAC, *Annual Reports 1989-90 to 1995-96*; LAC n.d., *Submission to the Treasurer of Queensland on Funding for Prescribed Criminal Proceedings*.

Notes: Figures for the period up to and including 1990-91 include those for the LAC and the Public Defender's Office.

Higher Courts, the number of depositions received by the ODPP approximates the number of matters committed from the Magistrates Court for trial or sentence in the higher courts. As such, this provides a rough measure of trends in the level of demand for aid for prescribed crime matters.

Figure 17 shows that, since 1991–92, the number of depositions received by the ODPP has increased at a considerably higher rate than population, whereas prescribed crime grants of aid have just kept pace with population over the period. (The number of LAC grants of aid for prescribed crime exceeds the number of depositions received. This is because the former also includes funding for committal hearings for serious offences, appeals, Mental Health Tribunal matters and indictable matters in the Children's Court.)

If LAC grants of aid for prescribed crime matters had increased at the same rate as depositions received, LAC prescribed crime grants in 1995–96 should have been 30 per cent above their actual level. As there were no changes in LAC policies or guidelines for the granting of aid for prescribed crime matters during this period, there is no obvious explanation for this apparent discrepancy.

Summary: The Legal Aid Commission

- Between 1989–90 and 1995–96, LAC revenue per head of population declined by 29 per cent in real terms.
- A substantial reduction in the Commonwealth grant to the LAC in 1996–97 will result in a further decrease in the overall LAC budget.
- Compared with population growth and trends in depositions received, the number of criminal law matters being funded has decreased in recent years, particularly in the area of non-prescribed crime.

Corrections

In recent years, there has been a substantial growth in the number of people in prison in Queensland. For much of this period, prisoner numbers have been well above the design capacity of the custodial corrections system. By contrast, community corrections centres have generally been under-utilised. Also, case loads of staff responsible for correctional supervision of offenders in the community have, on average, decreased slightly.

Prison

The large and increasing number of people in Queensland prisons, together with acute overcrowding of the prison system, has attracted considerable attention in recent times. In reaction, the State Government has approved a substantial (and unavoidably expensive) expansion of the prison system infrastructure.

There are 13 prisons throughout Queensland: 11 are managed by the QCSC and two are managed by private operators.³⁶ The two privately operated prisons—the Arthur Gorrie Correctional Centre and the Borallon Correctional Centre—held 27 per cent of the total prison population, as at 30 June 1996 (correspondence from QCSC, November 1996). Some defendants sentenced to prison terms, and persons remanded to appear in court, are also held in police watchhouses on a short-term basis (see 'Police watchhouses', p. 18).

According to QCSC data, as at 30 June 1996, 88 per cent of prisoners held in QCSC custody were serving sentences imposed on them by a court. The remaining 12 per cent were in custody pending trial and/or sentence, and a very small number were being held for other reasons, such as immigration detention.

Recent years have seen large increases in the number of offenders imprisoned, in terms of both the number being admitted to prison within a given period and the number held at any one time. Figure 18 (next page) shows the trend in the number of sentenced people aged 17 years or over admitted to prison each year from 1991–92 to 1995–96. The figure indicates that, in the two years from 1993–94 to 1995–96, there was a 77 per cent increase in admissions.

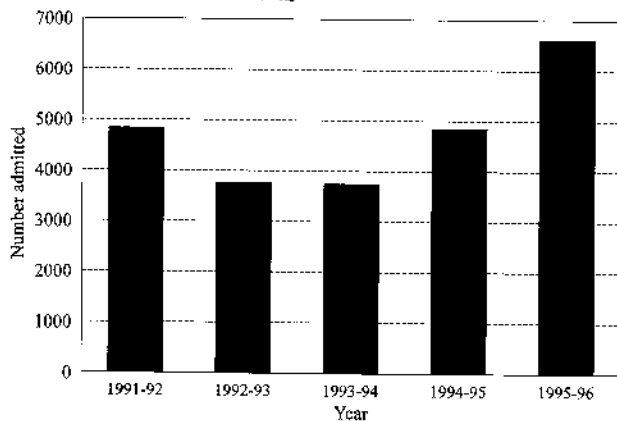
33. The demand for legal assistance is difficult to measure directly. Application rates are not a good measure of demand because the vast majority of legal aid applications are initiated either through LAOs or private solicitors, both of whom are well-informed about the likelihood of an application being successful. As a result, applications which would have little or no prospect of being granted aid, because the matters do not satisfy LAC guidelines, are not made. Therefore, variations in numbers of applications and grants of aid do not necessarily reflect *demand* for legal aid services.

34. Prescribed criminal law matters are defined in section 6(1) of the *Legal Aid Act 1978* and include committal proceedings for serious offences, indictable offences against children at all stages of the proceedings, and all proceedings for indictable offences in the higher courts. 'Other crime' matters are criminal law matters other than prescribed crime matters.

35. As part of its involvement in the BCCP and the ICP, the LAC agreed to provide legal aid to all financially eligible defendants for committals proceeding in the courts where the pilot projects were operating. This entailed granting legal aid for 'other crime' matters for which legal aid is not normally available (CJC 1996b).

36. The new QCSC-managed facility at Woodford opened in March 1997.

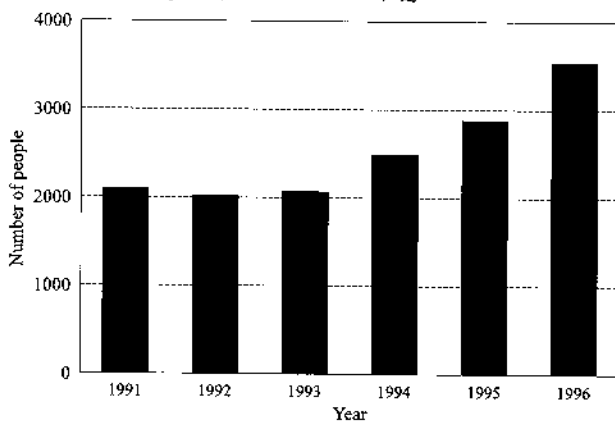
FIGURE 18: TOTAL NUMBER OF SENTENCED PEOPLE ADMITTED TO PRISON, 1991-92 TO 1995-96, QLD



Sources: AIC *Australian Prisoners 1993* and *Australian Prison Trends 1976-1993*; correspondence received from QCSC, July 1995 and April 1997.

On the date of the most recent annual prison census, 30 June 1996, there were 3,538 prisoners (3,366 males and 172 females) in custody throughout Queensland. Figure 19 shows the trend in the number of people in prison at 30 June each year from 1991 to 1996.

FIGURE 19: TOTAL NUMBER OF PEOPLE IN PRISON AT 30 JUNE, 1991 TO 1996, QLD



Sources: ABS *National Prison Census 1991* and 1992; correspondence received from QCSC, July 1995 and November 1996

The sharp upward trend since 1993 in the number of offenders held in custody, noted in the first volume of the Monitor (CJC 1995a), has continued, with a 23 per cent increase between 1995 and 1996. This growth in prisoner numbers would have required the construction of one additional large prison each year for the past three years, if overcrowding were to be avoided.

The growth in prisoner numbers during 1995-96 was likely to have been influenced to some extent by the ministerial direction that QCSC prisoners were not to be held in police watchhouses for longer than seven days.³⁷ The implementation of this direction would have increased prisoner numbers in the QCSC custodial system after March 1996. From QPS data

on watchhouse numbers, it is estimated that the impact of the policy change was a one-off increase in the prison population of approximately 130 prisoners.

The proportion of female prisoners in the total prison population increased from 3.5 per cent on 30 June 1995 to 4.9 per cent on 30 June 1996. The increase in the proportion of female prisoners has occurred at a time when the total prison population continues to expand. The effect of this on the Brisbane Women's Correctional Centre is shown in figure 20.

Prisoners by offence type

Table 4 shows the trend in the number of offenders held in custody, broken down by the most serious offence, as at 30 June each year, from 1991 to 1996.

The first volume of the Monitor (CJC 1995a) noted that the increase in overall prisoner numbers since 1993 had been due primarily to increases in the number of people in prison for assault, robbery and extortion, sexual assault and break and enter offences. There have also been large increases since 1995 in the number of people in prison for 'other theft', drug offences, and motor vehicle offences. This pattern broadly reflects the increases in offence numbers recorded by police, with the exception of recorded break and enter offences, which have not increased much over recent years.

Time spent in prison

At 30 June 1996, 22 per cent of sentenced prisoners in Queensland were serving sentences of less than one year; 34 per cent were serving sentences of one year or more but less than five years; 35 per cent were serving sentences of five years or more (excluding life sentences); and 7 per cent were serving sentences of life or an indeterminate period.³⁸ At the same date the previous year, only 17 per cent of prisoners were serving sentences less than one year.

The increase in short-term prisoners was probably due to the Minister's seven-day direction, which has seen more short-sentenced prisoners transferred into the prison system.

Average sentence lengths for prisoners do not appear to have increased between 1994-95 and 1995-96 (correspondence from QCSC, July 1995 and November 1996).

Prison capacity

Figure 20 shows the number of prisoners in custody as of 30 June 1996 and the design capacity of each correctional facility at that time, in terms of the number of permanent beds.

TABLE 4: PEOPLE IN PRISON BY MOST SERIOUS OFFENCE AT 30 JUNE, 1991 TO 1996, QLD

	1991	1992	1993	1994	1995	1996
Homicide	305	313	282	308	366	363
Assault	153	177	249	333	366	423
Sexual assault	356	354	371	429	502	533
Robbery/ Extortion	228	249	295	370	416	497
Other Personal Offences	12	12	12	29	25	25
Break and Enter	275	271	299	364	420	426
Other Theft	282	229	203	238	228	399
Property Damage	54	33	29	36	51	65
Good Order Offences	96	94	74	107	139	176
Drug Offences	160	136	91	125	172	252
Motor Vehicle	156	108	86	113	149	225
Other	17	41	77	39	36	154
TOTAL	2,094	2,017	2,068	2,491	2,870	3,538

Sources: ABS National Prison Census 1991 and 1992; correspondence received from QCSC, July 1995 and November 1996

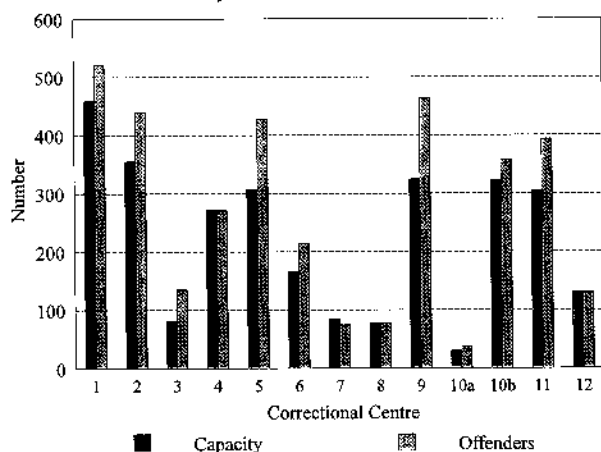
Note:

1. 'Other Theft' includes fraud and receiving offences; 'Motor Vehicle' includes Traffic and related offences; 'Other' includes those where the most serious offence is unknown or not stated at the time of data collection.
2. 1995 data differ from those reported previously (CJC 1995a); updated from correspondence received from QCSC March 1997.

These data show that most prisons were accommodating more prisoners than their capacity.³⁹ The only prisons not occupied beyond 100 per cent capacity were Rockhampton, Westbrook, Numinbah

and Palen Creek. The overall occupancy rate of the prison system on 30 June 1996 was 122 per cent, compared to 108 per cent one year before (correspondence from QCSC, July 1995 and November 1996).

FIGURE 20: NUMBER OF OFFENDERS AND CAPACITY BY CORRECTIONAL CENTRE IN QUEENSLAND AT 30 JUNE 1996



1. Arthur Gorrie
2. Borallon
3. Brisbane Women's
4. Rockhampton
5. Lotus Glen
6. Moreton
7. Numinbah
8. Palen Creek
9. Sir David Longland
- 10a. Townsville Women's
- 10b. Townsville Men's
11. Wacol
12. Westbrook

Source: Correspondence received from the QCSC, November 1996

Notes: In late 1996, the male occupants of the Dutton Park Community Corrections Centre were transferred to provide accommodation for female prisoners from the Brisbane Women's Correctional Centre. The change of role for the centre, now known as the Brisbane Women's Annexe, has lessened the severity of overcrowding at Brisbane Women's prison.

Overcrowding worsened in 1995-96 despite an expansion of 239 permanent beds in the overall capacity of the prison system. The largest addition to capacity in 1996-97 was the opening of a new facility on the site of the former Woodford Correctional Centre. The new Woodford prison opened in March 1997 and can accommodate a maximum of 600 inmates in a mix of single and double cells. This should greatly reduce the extent of the problem of

37. In February 1996, the Minister for Police and Corrective Services and Minister for Racing directed that QCSC prisoners were not to be held in police watchhouses for longer than seven days, but were to be transferred to prison. Prior to this direction, the QCSC had, for some time, been in the practice of not accepting, or delaying accepting, some prisoners from watchhouses, in order to reduce the pressure of overcrowding in the prison system. Consequently, prisoners were held in substandard conditions in many watchhouses, some for periods of up to several months. (Refer to *Report on Police Watchhouses in Queensland*, CJC 1996c.)
38. For the remaining 2%, sentence length information was not available at the time of data collection.
39. Prisons actually become 'overcrowded' at some point before the prisoner population occupies 100 per cent of accommodation capacity. There are a number of reasons for this, including the probability that some cells will need to be vacated for repair work, the inclusion within the capacity total of the number of 'special purpose' beds such as those in prison medical and punishment areas, and the need for prison management to have the flexibility to move prisoners in order to keep separate certain types of prisoners.

Police watchhouses

Volume 1 of the Monitor (CJC 1995a) reported that overcrowding in the prison system was having a severe impact upon police watchhouses, causing overcrowding and lengthy stays in short-term holding facilities for prisoners who normally would be transferred to a prison. In February 1996, the new Minister for Police and Corrective Services and Minister for Racing directed that QCSC prisoners were to spend no longer than seven days in police watchhouses (CJC 1996c). The implementation of this direction reduced the average length of stay by prisoners and also the prisoner populations in police watchhouses.

In September 1996, the CJC *Report on Police Watchhouses in Queensland* was published. Recommendations included that: there be a legislative amendment to ensure that QCSC prisoners spend no longer than three days in a watchhouse before being transferred to prison, medical services to watchhouses be improved, and there be accelerated replacement and refurbishment of watchhouses. Since the report, there has been action taken on some of the recommendations, most notably in relation to medical services, including psychiatric services, and watchhouse upgrades. The Minister has also stated an intention to reduce maximum stays to three days (*Weekly Hansard*, 11 October 1996, p. 3,328).

Data showing prisoner numbers and trends in the average length of stay at 11 of the larger watchhouses indicate that, up to the end of April 1997, the Minister's direction has continued to have a positive impact, with no lasting overcrowding and with few prisoners staying longer than seven days. The occasional exceptions to the seven-day maximum have been mainly at Brisbane and Cairns watchhouses. However, very few prisoners have had to endure a prolonged stay, which had been a common occurrence prior to the Minister's direction.

Future Monitors will present updates on developments relating to police watchhouses.

prison overcrowding in the short term, but on current trends the prison system is still likely to be near or even over capacity once Woodford is fully operational. The QCSC has plans for major further expansion of the prison system.⁴⁰

How does Queensland's imprisonment rate compare with the rest of Australia?

Volume 1 of the Monitor noted that while Queensland did not have a particularly high imprisonment rate when compared to other jurisdictions, that rate appeared to be rising relative to other States. Figure 21 shows the adult imprisonment rate per 100,000 of the adult population for all Australian jurisdictions, as at June 1996, compared with June 1994.

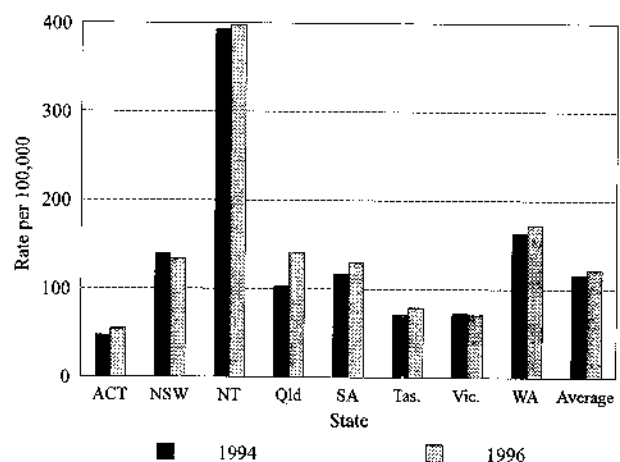
The figure indicates that Queensland's imprisonment rate has increased at a substantially greater rate than any of the other States or Territories. In June 1994, the rate was 103 per 100,000 population, which was under the national average of 116. By June 1996, the rate was 142 per 100,000, well above the national average of 122. (The Queensland imprisonment rate excludes prisoners in the WORC program.)⁴¹

Capacity of community custody facilities

Usually offenders do not spend the full term of their sentence in prison. The QCSC has procedures designed to provide for the supervised gradual return of low-risk prisoners to the community. Some of the available options to facilitate gradual return to the community include leave of absence, transfer to a community corrections centre or approved program such as WORC, and parole.

In contrast to what has been happening in the prison system, community custody facilities are continuing to operate somewhat below their total accommodation capacity. The capacity of the WORC program at 30 June 1996 was 218, but there were only 175 offenders in the program at that date, which is 20 fewer than at the same date in 1995. Total community corrections centre capacity at 30 June 1996 was 201 offenders, but only 162 offenders were accommodated in the centres at that date, 23 more than at the same date in 1995.

FIGURE 21: IMPRISONMENT RATE PER 100,000 ADULT POPULATION, JUNE 1994 AND JUNE 1996, AUSTRALIA



Source: ABS 1996e

Notes:

1. Adult refers to persons 17 years of age and over.
2. The Queensland total does not include offenders in WORC camps.

The data on prisoner numbers and sentence lengths of prisoners, described above, show that there are now more prisoners in the prison system than ever before, but the sentence length pattern has been consistent for some years. This suggests that more prisoners could be eligible for transfer to community custody and greater use could possibly be made of community custody facilities.

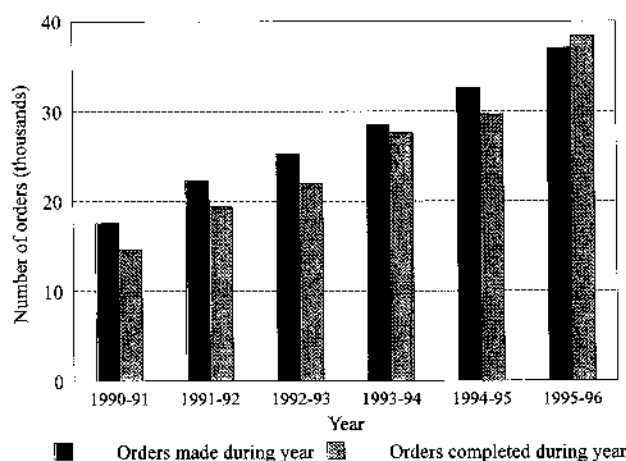
Community supervision

The QCSC also has responsibility for adults who receive community-based court sentences such as community service or probation, and other post-prison supervision orders approved by a Community Corrections Board.⁴²

Figure 22 shows the number of community correction orders made and completed each year between 1990–91 and 1995–96. The figure shows a continuation of the rising trend in the number of admissions to new orders, reported in Volume 1 of the Monitor (CJC 1995a).

QCSC data on intervention-type community corrections orders show that the rate of successful completions has been stable, at 69 per cent in both 1994–95 and 1995–96. However, there appears to be an increasing trend in the number of offenders imprisoned after revocation of an order.⁴³ One thousand and sixty-six offenders were admitted to prison during 1995–96 after having had a community corrections order revoked during that year, compared to 896 in 1994–95 and 762 in 1993–94.⁴⁴

FIGURE 22: COMMUNITY CORRECTIONS ANNUAL WORKLOAD, 1990–91 TO 1995–96, QLD



Sources: QCSC Annual Reports 1990–91 to 1994–95, information received from QCSC, November 1996

Table 5 shows trends in the use of different types of community corrections orders, expressed as a rate per 100,000 adults, at 30 June each year from 1990 to 1996. The table indicates that the rate of use of probation and community service orders by the judiciary declined significantly between 1993 and 1996. The increase in the overall rate for community corrections orders is due to offenders utilising the Fine Option Order as an alternative to paying fines imposed by the court.⁴⁵

TABLE 5: COMMUNITY CORRECTIONS: TYPE OF ORDER PER 100,000 ADULTS AS AT 30 JUNE, 1990 TO 1996, QLD

	1990	1991	1992	1993	1994	1995	1996
Probation	282	337	362	370	294	266	256
Community Service	114	129	150	165	102	101	91
Fine Option	74	104	160	234	294	415	495
Prison/ Probation	35	36	36	36	26	19	15
Parole	52	59	64	66	64	69	68
Other	5	9	14	15	13	15	12
TOTAL	562	674	786	886	793	885	937

Sources: Correspondence received from QCSC, July 1995 and November 1996; ABS Estimated Resident Population by Sex and Age, States and Territories of Australia, catalogue no. 3201.0

Note: Includes orders that the QCSC supervise on behalf of other jurisdictions. The recording of data across categories is not consistent throughout the period.

40. Cabinet has approved plans for further expansion of the capacity of the prison system within the next two years, including a female annex at Numinbah (with a capacity of 25 prisoners, due for completion by mid-1997), a two-stage expansion of the Lotus Glen Correctional Centre in Far North Queensland (approximately 200 prisoners, by mid-1998), a new male prison in South-East Queensland (600 prisoners, by late 1998), and a new female prison, also in South-East Queensland (150 prisoners, by late 1998). The QCSC also has plans for infrastructure development beyond 1998, but these are subject to revision in light of emerging trends and so remain confidential at this time.

41. As discussed above, the increase in the imprisonment rate was partly a result of the implementation of the Minister's direction in February 1996 that QCSC prisoners are not to be left in police watchhouses for more than seven days.

42. Community corrections manages several post-prison programs which allow the gradual reintegration of a prisoner back into the community, including parole and home detention. Other community corrections responsibilities include providing advice to courts, assessing offenders prior to their release, and the supervision of offenders on the WORC program and in community custody facilities.

43. QCSC correspondence received February 1997.

44. QCSC correspondence received February 1997.

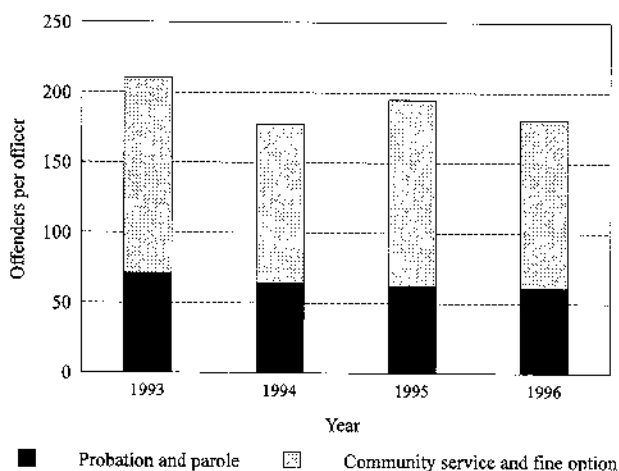
45. Fine Option Orders are those orders in which a fine is imposed by the court and the offender elects to do community service in lieu of payment of the fine.

Workload of community corrections

An approximate measure of the workload of the community corrections system is the average number of offenders supervised per staff member. Figure 23 (next page) presents this information for the two broad categories of order (each of which is supervised by different types of staff) as at 30 June each year from 1993.

From figure 23 it can be seen that the average case load, in terms of the number of offenders supervised, fell over the period. Again, this situation contrasts with the increased pressure on the custodial system.

FIGURE 23: COMMUNITY CORRECTIONS: CASE LOADS PER OFFICER AS AT 30 JUNE, 1993 TO 1996, QLD



Source: Correspondence received from QCSC, November 1996.
Notes:

- In 1992-93 and 1993-94 staff supervising community service and fine option orders also supervised home detention and leave of absence.
- Staff numbers are actual staff numbers and include Full Time Equivalents. Staff members who either do not perform supervisory duties or who have reduced case loads because of managerial responsibilities are included.

Summary: Corrections

- Prior to the opening of the new Woodford Correctional Centre in March 1997, the prison system was critically overcrowded, due to a high rate of growth in prisoner numbers.
- Queensland's imprisonment rate is now above the national average.
- It appears to be primarily the increased volume of prisoners, rather than lengthier sentences, that is producing the prison population growth.
- Despite prison overcrowding, community custody options remain under-utilised.
- The rate of use of community corrections orders by the courts has been decreasing, except for Fine Option Orders. The case load of community corrections officers has also been decreasing.

The cost of criminal justice

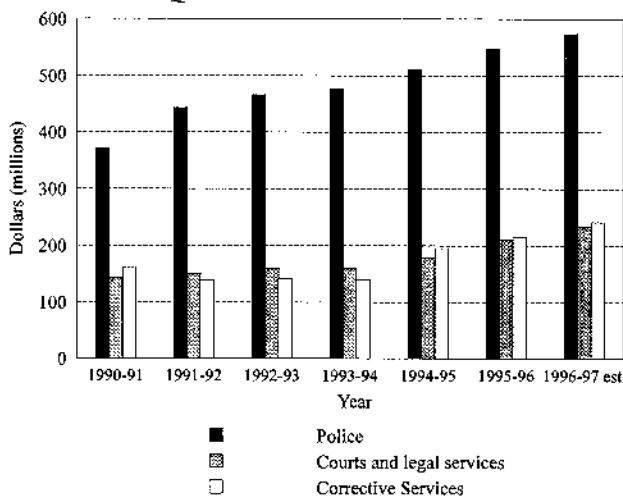
The three program areas relating to criminal justice are Police, Law Courts and Legal Services,⁴⁶ and Corrective Services.⁴⁷ In 1995-96, the criminal justice components of these program areas accounted for 45 per cent of the Law, Order and Public Safety policy area and 6 per cent of the total State Budget.

Figure 24 compares the relative levels of funding for Police, Law Courts and Legal Services, and Corrective Services from 1990-91 to 1995-96 and the Budget estimates for those program areas for 1996-97.

Key points to note are:

- Spending on Police increased from \$510.2m in 1994-95 to an estimated \$573.8m in 1996-97, an increase of 12 per cent.
- Law Courts and Legal Services increased by 30 per cent from \$179.5m in 1994-95 to an estimated \$234.1m in 1996-97.
- Corrective Services funding increased from \$195.4m in 1994-95 to an estimated \$241.4m for 1996-97, an increase of 24 per cent.⁴⁸
- The proportion of criminal justice funding allocated to each of Police, Law Courts and Legal Services, and Corrective Services has been relatively stable since 1990-91. Police received between 55 and

FIGURE 24: EXPENDITURE PER CRIMINAL JUSTICE PROGRAM AREA, 1990-91 TO 1996-97, QLD



Source: Queensland State Government Budget Papers 1991-92 to 1996-97

Notes:

- Expenditure for 1990-91 to 1992-93 is actual expenditure; for 1993-94 to 1995-96, it is estimated actual expenditure. Expenditure for 1996-97 is the Budget figure.
- Police figures for 1995-96 and estimates for 1996-97 exclude the outlays for Racing. Corrective Services figures for 1995-96 and estimates for 1996-97 exclude outlays for juvenile detention.

Cost of criminal justice: State Budget for 1997–98

The Budget papers for 1997–98 show that spending on Police and on Corrective Services in 1996–97 was higher than forecast in the 1996–97 Budget, and that both areas will receive substantially larger funding allocations in 1997–98. Specifically:

- spending on Police is estimated to be \$644.1m in 1997–98, 11 per cent more than in 1996–97
- expenditure on Law Courts and Legal Services in 1997–98 is forecast to be \$238.1m, a one per cent increase on 1996–97
- Corrective Services expenditure on adult corrections in 1997–98 is estimated to be \$270.2M, an increase of 10 per cent from 1996–97

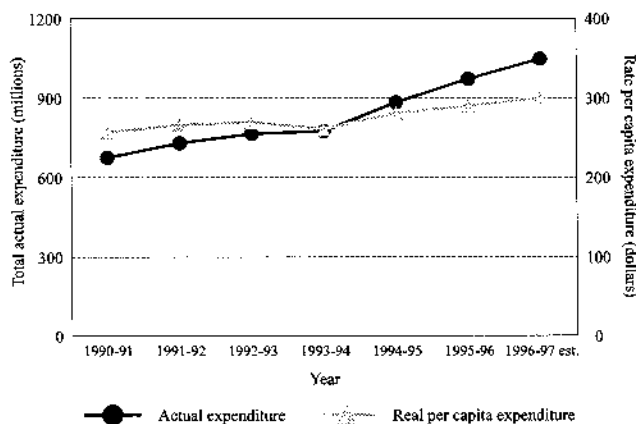
Included in the budgets of both Police and Corrective Services are significantly larger allocations for capital works.

65 per cent of the funding each year, while the remainder was divided about evenly between Law Courts and Legal Services, and Corrective Services.

A more accurate picture of the trend in resources devoted to criminal justice can be gained by looking at 'real per capita' spending, which adjusts for the effects of inflation and for population growth. Figure 25 shows that real per capita spending on criminal justice has increased steadily since 1993–94. The 1996–97 Budget estimate of spending on criminal justice, expressed in real per capita terms, is \$301.⁴⁹

Just prior to the publication of this volume of the Monitor, the State Budget for 1997–98 was released. New Budget figures relevant to the cost of criminal justice are shown in the text box above. These updated figures can be compared with those in figure 24 above.

FIGURE 25: CRIMINAL JUSTICE EXPENDITURE: ACTUAL AND REAL PER CAPITA, 1990–91 TO 1996–97, QLD



Sources: Queensland State Government Budget Papers 1991–92 to 1996–97. Population figures from ABS; Consumer Price Index figures are for the December quarters, data supplied by the Government Statistician's Office.

Note: Real per capita expenditure is in 1995–96 dollars.

How does Queensland funding compare with the rest of Australia?⁵⁰

The first volume of the Monitor (CJC 1995a) reported that Queensland spending on Law, Order and Public Safety was consistently lower than the Commonwealth Grants Commission national standard, although the gap was narrowing.⁵¹

In 1995–96, Queensland expenditure per capita on Law, Order and Public Safety was \$278.23, whereas the national standard had increased to \$293.43. Victoria and Tasmania continued to be the only two States which spent less per capita in this area than Queensland.⁵² A breakdown of the expenditure within

46. The Law Courts and Legal Services program area includes funding for a range of programs not related to criminal justice, for instance: the Land Court, the Public Trust Office and the Fair Trading Program. Wherever non-criminal justice programs are identifiable, they have been excluded from the Law Courts and Legal Services program area budget to enable comparison with other criminal justice program areas. It is not practicable to exclude the non-criminal law component of funding for such areas as the Courts, Crown Law and Legal Aid.

47. In 1995–96, responsibility for juvenile detention was transferred from the Department of Family Services under the Social Welfare and Housing policy area to the QCSC. To enable comparison of funding with earlier years, the data presented for 1995–96 and 1996–97 exclude funding for juvenile detention. The actual expenditure by QCSC on juvenile detention was \$37.3m in 1995–96, with \$41.4m budgeted for 1996–97.

48. There has been considerable expenditure in recent years on prison infrastructure, to increase the prison system's accommodation capacity in order to alleviate overcrowding problems.

49. This should be considered within the context of the significant growth in population of Queensland over the period. The population was approximately 2.961m in 1990–91, and will have grown to an estimated 3.441m in 1996–97, an increase of 16 per cent.

50. Data for interstate comparison are taken from the Commonwealth Grants Commission *Report on General Revenue Grant Relativities 1997 Update* (1997, p. 154).

51. The Commonwealth Grants Commission 'national standard' can be taken to mean the national average. Grants Commission figures are for recurrent expenditure only; capital expenditure is not included.

52. In 1995–96, Victoria and Tasmania spent far less per capita on corrections than the other States, and spent a smaller proportion of their Law, Order and Public Safety budgets on corrections. This reflects the lower imprisonment rates in Victoria and Tasmania (see figure 21).

Law, Order and Public Safety for 1995–96 shows:

- spending on Police was \$145.06 per capita in Queensland, 7 per cent below the national standard
- spending on Administration of Justice in Queensland was \$65.91 per capita (4 per cent under the national standard)
- Queensland spending on Corrective Services was slightly above the national standard at \$45.19 per capita (compared to \$45.12).

Summary: Cost of criminal justice

- Spending on criminal justice has increased considerably between 1990–91 and 1996–97, leading to an overall increase in real per capita outlays of 17 per cent.
- The largest outlays have been on Police, accounting for about 60 per cent of criminal justice funding.
- In terms of recurrent expenditure on criminal justice, Queensland continues to fall below the national standard.

Key events

Since the publication of the first Monitor (CJC 1995a), a number of changes have occurred within various parts of the criminal justice system that are likely to have an impact upon the operation of that system.

Criminal law

- The *Criminal Code 1995* passed by the previous Labor Government was repealed by the Coalition Government following its election in February 1996 and a Criminal Code Advisory Working Group was set up to amend the existing Criminal Code. On 26 March 1997, the Government passed the *Criminal Law Amendment Act 1997* which created a number of new offences, broadened the operation of some existing offences and increased the penalties for some offences, particularly in respect of violent offences and sexual offences.
- In contrast to the previous amendments proposed by the *Criminal Code 1995*, the *Criminal Law Amendment Act* makes no change to the size of the criminal jurisdiction of the Magistrates Court. We have noted previously that the proportion of criminal cases which proceed by indictment in Queensland is very high compared with New South Wales and Victoria (CJC 1995b, pp. 93–94). Higher court prosecutions are more costly than those dealt with in the Magistrates Court. In addition, the number of indictable offences dealt with in the District and Supreme Courts directly affects the workloads and costs of the LAC and the ODP.

- In March 1997, the *Penalties and Sentences Act 1992* was amended by the *Penalties and Sentences (Serious Violent Offences) Amendment Act 1997*. This Act creates a separate sentencing regime for offenders convicted of certain offences defined under the legislation as ‘serious violent offences’⁵³ requiring them to serve 80 per cent of the term of imprisonment imposed, or 15 years, whichever is the lesser, before being eligible for parole. It also amends the sentencing guidelines contained in Part 2 of the *Penalties and Sentences Act*, the provisions dealing with suspended sentences and cumulative sentences, and parole eligibility for offenders serving a term of life imprisonment.

The likely combined effect of the amendments to the *Criminal Code* and the *Penalties and Sentences Act* will be to increase both the sentences being imposed upon offenders—particularly violent and sex offenders—and the proportion of sentences of imprisonment that offenders serve in custody.

Possible consequences of these legislative changes are:

- There will be a further increase in the prison population. The size of this increase will depend upon:
 - the extent to which the amendments affect the courts’ sentencing practices; and
 - the number of offenders sentenced to terms of imprisonment who will be subject to the serious violent offender ‘80 per cent’ provisions.

Neither effect can be quantified at present.

- A greater proportion of defendants may choose to go to trial rather than to plead guilty. This is because the combined effect of the amendments—increased maximum penalties, changes to the sentencing guidelines and the serious violent offender provisions—may lead defence lawyers to the view that there will be little or no benefit to offenders from any sentence discount that may be granted for an early plea of guilty.
- More defendants charged with ‘hybrid’ offences may elect to have matters heard in the higher courts, due to the widely held perception of defence lawyers that offenders receive more favourable sentences in this jurisdiction.⁵⁴ This outcome would be contrary to one of the initial objects of the review of the *Criminal Code*—namely to expand the jurisdiction of the Magistrates Court to deal with more serious criminal offences, thereby reducing the workload of the higher courts and the costs associated with prosecutions in that jurisdiction.
- The amendments could increase the time involved in the sentencing of offenders convicted of serious

violent offences or offences involving the use of violence against another person. This is because of the need for defence lawyers to address two new issues: first, the requirement that the court sentencing an offender for an offence involving the use of violence against another person ‘have regard primarily . . . to the risk of physical harm to any members of the community if a custodial sentence were *not* imposed’ (emphasis added) (new s. 9(4)(a)); and second, the matter of whether or not the court should declare the person a serious violent offender.

Juveniles

The *Juvenile Justice Legislation Amendment Act 1996* (the substantive provisions of which commenced in November 1996) made a number of significant amendments to the *Juvenile Justice Act 1992*. These include:

- providing for community conferencing between juvenile offenders and the victims of their offending
- allowing the release of identifying information about children who are cautioned or involved in community conferences for some offences
- providing that records of cautions and community conference agreements for some offences are to form part of a child’s criminal history
- removing the restriction on the use of the arrest power against juveniles in cases involving the commission of a ‘serious offence’
- empowering courts to order parents to attend court and pay compensation
- providing for the imposition of life sentences on juveniles convicted of ‘life offences’ (the previous maximum penalty was 14 years’ imprisonment).

In July 1996, responsibility for the administration of juvenile justice matters was split among three departments. The QCSC became responsible for youth detention facilities, the Department of Families, Youth and Community Care for court support for juveniles and community-based orders, and the Department of Justice for the administration of the *Juvenile Justice Act 1992*, policy development and program coordination.

Victims

The *Criminal Offence Victims Act 1995* (the substantive provisions of which commenced on 18 December 1995) provides for:

- details of the harm caused to a victim (often called victim impact statements) to be given to a court sentencing an offender; and

- a compensation scheme for victims of indictable offences where injury has been suffered.

The Act contains a declaration of ‘fundamental principles’ of justice for victims of crime,⁵⁵ including that:

- the welfare of the victim should be considered and information provided to the victim at all stages of the investigation and prosecution of a crime
- the victim should be afforded all necessary protection from violence and intimidation from the person accused of the crime
- the victim should have access to information about compensation and services for victims according to need (including legal help and victim–offender conferencing programs).

However, section 4(5) of the Act provides that the principles are not legally enforceable and anything done or any decision taken in contravention of them is not rendered invalid or liable to review.

Firearm laws

The *Weapons Amendment Act 1996* was passed as part of the national response to the Port Arthur shootings in March 1996. The principles underlying the amendments were that weapon possession and use are subordinate to public and individual safety and safety is improved by strictly controlling the possession of weapons. These amendments also have substantial revenue implications for government, in respect of the weapon ‘buy back’ scheme.

Court procedures

The *Courts (Video Link) Amendment Act 1996* commenced on 7 June 1996 and amended the *Supreme Court of Queensland Act 1991*, the *District Courts Act 1967*, and the *Justices Act 1886*. It requires the use of video link facilities in bail and remand proceedings (unless the court, in the interests of justice, orders otherwise) where:

- the defendant is in custody in a correctional centre
- the correctional centre has video link facilities linking it with the court in which the defendant is required to appear

53. This term has a very broad meaning in the legislation, based on the wide range of offences contained in the Schedule which are deemed to be ‘serious violent offences’, such as ‘unlawful assembly’ and certain drug offences.

54. ‘Hybrid’ offences are those indictable offences that may be dealt with summarily at the election of the defendant.

55. Victims of crime are defined to mean persons who have been subjected to violence against the person, or the family member or dependent of such a person, or a person who intervened to assist the person who was subjected to violence.

- the defendant would otherwise be required to appear in court in person.

The Act should reduce the costs to the State of the transport and escort of prisoners to and from court for minor appearances and the collateral security risks associated with these appearances.

Committals Projects

The BCCP was briefly described earlier and in a separate report (CJC, 1996b). The State Budget 1997–98 has provided for the continued funding of this project and of the associated ICP.

Police

The *Justices (Warrants) Amendment Act 1996* which commenced on 18 September 1996 amends the *Justices Act 1886* to authorise the electronic issue and management of warrants which are issued by justices or by courts. This amendment will save considerable police time and resources previously spent transporting original warrants to the places where they were to be executed.

Aboriginal and Torres Strait Islander peoples

In early 1997, the functions of the Aboriginal Justice Advisory Committee (AJAC) (formerly based in the Department of Justice) and the Aboriginal and Torres Strait Islander Overview Committee (based in the Department of Families Youth and Community Care) were amalgamated to form the Indigenous Advisory Council (IAC). The new 12-member IAC has a full-time Chair, Mr Neville T Bonner AO and includes three former members of the AJAC, four former members of the Overview Committee and the current

chairs of the Islander Coordinating Council and the Aboriginal Coordinating Council. The IAC will provide advice to the Government and the Minister for Families, Youth and Community Care and will be supported by a Secretariat based in that Department.

Information about the criminal justice system

The need for better coordination and integration of information within the justice environment in Queensland has long been recognised, and led in 1994 to the creation of the Criminal Justice Information Integration Strategy (CJIS), under the auspices of the Government Statistician's Office. The purpose of the CJIS project is to facilitate the improved sharing and exchange of information between criminal justice agencies. The project will focus on data quality, timeliness, accessibility, and efficiency of operation, while protecting data security and privacy. CJIS has a steering committee of criminal justice agency Chief Executive Officers, chaired by the Director-General of the Department of Justice, and a two-person Secretariat. Work is still in the early stages, with the Secretariat currently finalising a strategic plan for CJIS, although a number of other projects are planned.

An area of particular concern is the lack of data on aboriginality. Queensland is the only State that is unable to produce data about arrest rates or sentencing outcomes for indigenous people. Collection of such information was recommended by the Royal Commission into Aboriginal Deaths in Custody (1991), and more recently by the review of the QPS (QPS Review 1996). Recording of this information needs to be addressed as a matter of priority.

Conclusion

Some of the key findings reported in this volume of the Monitor are as follows:

Police and crime

- While the total number of offences recorded by police increased between 1993–94 and 1995–96, the increases were largely attributable to population growth and greater policing activity. Recorded and unreported crime rates in Queensland are generally at or below the national average.
- Police workload, as measured by reported crime and calls for assistance from the public, remained relatively stable between 1993–94 and 1995–96.

The Courts

- The criminal workload of the Magistrates Court appears to have remained relatively stable since 1993–94.
- There has been a substantial overall increase in the number of matters dealt with by the higher courts. However, this has been accompanied by a significant increase in the guilty plea rate, which has made it easier for the courts to cope with the increased workload.

Provision of legal services

- Between 1989–90 and 1995–96, LAC revenue per capita declined by 29 per cent in real terms. Further substantial cuts in 1996–97 were due to a reduction in the Commonwealth grant to the LAC.
- While ODPP revenue increased substantially up to 1995–96, real revenue per deposition in 1995–96 was 10 per cent below that of 1991–92.

Corrections

- The high rate of growth in prisoner numbers continued in 1994–95 and 1995–96, with the prison system under increased pressure from over-crowding. The imprisonment rate in Queensland now exceeds the national average, despite crime rates being at or below the national average. The QCSC has continued to expand the capacity of the prison system, but community custody options remain under-utilised.

The cost of criminal justice

- Resources allocated to the criminal justice system increased considerably in all major program areas during the 1990s. Expenditure in real per capita terms has also increased, although it remains slightly below the national standard.

Issues for further research

A number of issues for further research were listed in the previous Monitor (CJC 1995a). Since then, the CJC has initiated several projects relevant to those issues and produced the following reports:

- *Residential Burglary in Queensland* (1996d)
- *Report on Police Watchhouses in Queensland* (1996c)
- *Assault in Queensland* (1997).

Research issues arising from this volume of the Monitor include:

- What factors have contributed to the significant growth in the imprisonment rate? In particular,

to what extent has this been due to changing sentencing practices by the courts?

- What impact will amended legislation, such as the *Criminal Code and Penalties and Sentences Act*, have on the operations and outcomes of the criminal justice system?
- What factors are driving the expansion of the caseload of the higher courts?

There is also an urgent need to develop and implement procedures for recording the aboriginality of people who are dealt with by the criminal justice system.

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Abbreviations

ABS	Australian Bureau of Statistics
AJAC	Aboriginal Justice Advisory Committee
BCCP	Brisbane Central Committals Project
CJC	Criminal Justice Commission
CJIS	Criminal Justice Information Integration Strategy
CSU	Crime Statistics Unit of the Government Statistician's Office
IAC	Indigenous Advisory Council
ICP	Ipswich Committals Project
LAC	Legal Aid Commission of Queensland
LAO	Legal Aid Office (Queensland)
QCSC	Queensland Corrective Services Commission
ODPP	Office of the Director of Public Prosecutions
QPS	Queensland Police Service
TRAILS	Transport Registration and Integrated Licensing System
WORC	Western Outreach Camps

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