

# Monitor

## Criminal Justice System

CRIMINAL JUSTICE COMMISSION

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# 3

This, the third volume of the *Monitor* series, includes expanded sections on the court system and the performance of the correctional system.

We do not deal with the operation of the juvenile justice system. The Justice Department has recently completed an extensive study as part of an evaluation of the operation of the *Juvenile Justice Act 1992*, which is expected to be published in mid-1998. We also do not include any information on the cost of criminal justice as the 1998-99 State Budget had not been released at the time of publication.

We have kept general explanatory notes on matters such as data sources to a minimum as most of such information is contained in previous volumes. The periods for which data are presented vary depending on the availability of comparable data.

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## MAJOR FINDINGS

- ❖ Recorded personal and property crime rates in Queensland have been fairly stable in recent years.
- ❖ Crime levels in Queensland — as measured both by police crime statistics and crime and safety surveys — are generally around the national average.
- ❖ Queensland's prison population is continuing to expand rapidly. On present trends, Queensland will soon have the highest imprisonment rate of any State in Australia.
- ❖ Despite the opening of the new Woodford Correctional Centre in March 1997, prison overcrowding remains a significant problem.
- ❖ Over the last several years, there has been a downward trend in escapes from prison custody and recorded assaults by prisoners. However, deaths in prison custody are increasing.
- ❖ Major contributing factors to the increase in the prison population have been a large increase in the number of cases being processed through the higher courts and a marked rise in the number of appearances for 'enforcement of order' matters in the Magistrates Court.
- ❖ It has become more difficult for prisoners to obtain early release, especially since the issuing of new early release guidelines in mid-1997 and the replacement of the membership of the Queensland Community Corrections Board.
- ❖ The Magistrates and District Courts appear to be making more use of imprisonment as a sentencing option, although sentence lengths do not seem to have increased.
- ❖ There continues to be broad compliance with the seven-day limit on watchhouse stays and there have been few problems with watchhouse overcrowding.
- ❖ Both the magistrates and higher court systems appear to be coping adequately with their current criminal workload.
- ❖ There has been an improvement in funding of the Office of Director of Public Prosecutions (ODPP). On the other hand, the legal aid system is coming under greater funding pressure, despite the injection of substantial additional funding by the State Government.

# Police and crime

## Trends in recorded crime

Figures 1 to 3 show trends in the total number of offences and the number per 100,000 population ('the rate') for each broad category of recorded crime for the eight years from July 1989 to June 1997. It should be stressed that these trends need to be interpreted cautiously, as they are sensitive to changes in recording practices and victim reporting behaviour.

Figure 1 shows a small increase in 1996–97 in the rate of recorded offences against the person. According to the QPS *Statistical Review*, this was attributable largely to two offenders who were charged with a large number of sexual offences committed over a lengthy period. Allowing for this factor, the rate has basically been stable since 1993–94.

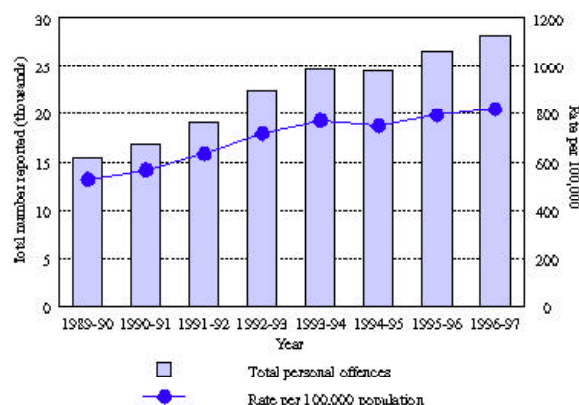
In 1996–97, within the broad category of offences against the person:

- the rate of recorded assaults, which had been increasing steadily for a number of years, fell to 490 per 100,000 population
- the proportion of assaults recorded as 'serious' continued to rise — possibly reflecting a change in police recording practice
- the rate of robbery offences increased by 5 per cent to 65 offences per 100,000 population, continuing an upward trend since the late 1980s
- the murder rate remained stable at around two offences per 100,000 population
- the rate of reported rapes and attempted rapes was 17 per 100,000 population — as in 1992–93.

Figure 2 indicates that the rate of recorded offences against property has increased only slightly in recent years. There were few changes of note within specific property offence categories in 1996–97. The rates of recorded break and enter offences, stealing offences, and motor vehicle offences have all been relatively stable during the 1990s, although there has been a shift from break and enters on business premises to the targeting of dwellings. However, the rate of 'other property damage' offences (including malicious damage) has grown by 59 per cent since 1990–91.

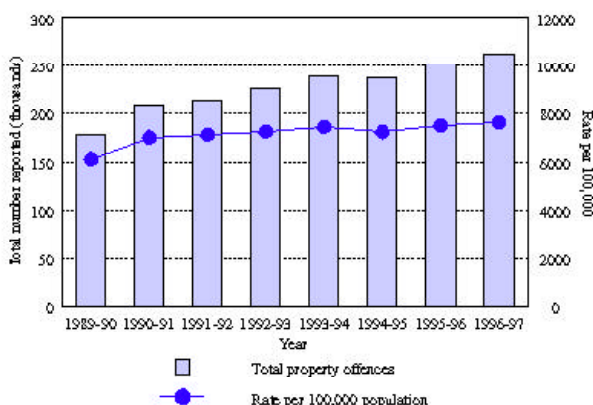
Figure 3 shows that the rate of recorded 'other offences'<sup>1</sup> has continued to increase, but this may reflect greater law enforcement activity by police rather than an increase in offending.

**FIGURE 1: OFFENCES AGAINST THE PERSON: NUMBER RECORDED AND RATE PER 100,000 POPULATION (1989–90 TO 1996–97, QLD)**



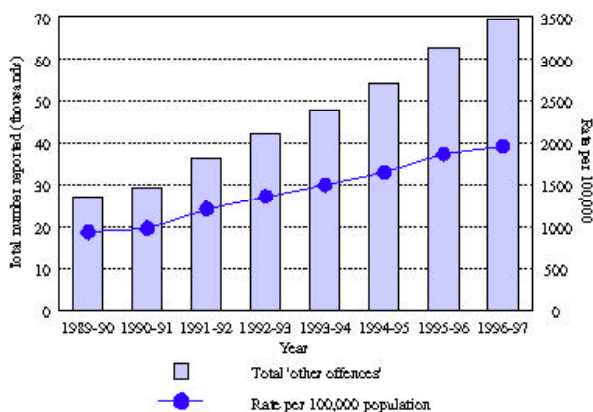
Sources: QPS *Statistical Reviews*, 1990–91 to 1996–97.  
 Note: The vertical axes vary between figures 1, 2, and 3.

**FIGURE 2: OFFENCES AGAINST PROPERTY: NUMBER RECORDED AND RATE PER 100,000 POPULATION (1989–90 TO 1996–97, QLD)**



Sources: QPS *Statistical Reviews*, 1990–91 to 1996–97.

**FIGURE 3: OTHER OFFENCES: NUMBER RECORDED AND RATE PER 100,000 POPULATION (1989–90 TO 1996–97, QLD)**



Sources: QPS *Statistical Reviews*, 1990–91 to 1996–97.

Within the 'other offences' category in 1996–97:

- the rate of recorded drug offences rose by 5.4 per cent to 971 offences per 100,000 population (most drug arrests are for possession of drugs and/or items for use in consuming drugs, with cannabis typically being the drug seized by police)
- the rate of good order offences (resisting or hindering police, disorderly conduct, and language offences) remained quite stable at 481 offences per 100,000 population.

## Clearance rates

There has been little change since 1989–90 in the proportion of recorded offences classified by the police as 'cleared'.<sup>2</sup>

## Interstate comparisons

### Recorded crime

According to the ABS publication *Recorded Crime Australia 1996* — the most recent source of comparative data — the rate of recorded crime in Queensland has remained generally around the national average (see table 1).

**TABLE 1: RECORDED CRIMES PER 100,000 POPULATION BY OFFENCE CATEGORY (QLD V. NATIONAL AVERAGE, 1996)**

	Queensland	National average
Murder	1.9	1.7
Attempted murder	4.0*	1.8
Manslaughter/driving causing death	1.1	2.1
Assault	533.2	620.1
Sexual assault	90.4	78.6
Robbery	63.8	89.3
Motor vehicle theft	517.5	671.4
Other theft	2,753.9	2,844.6
Unlawful entry with intent	2,116.5	2,183.3
Blackmail/extortion	2.8	1.4
Kidnapping/abduction	2.1	2.6

Source: ABS *Recorded Crime Australia 1996*.

Note: \* Queensland's comparatively high rate of 'attempted murder' offences most probably indicates that Queensland police are classifying as 'attempted murder' some offences that police in other jurisdictions would class as 'serious assault'.

## Crime and safety surveys

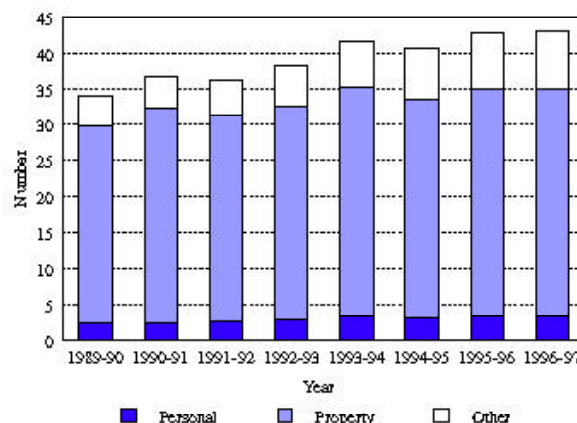
Crime and safety surveys provide a more comprehensive picture of victimisation than do recorded crime statistics. The most recent survey was undertaken in Queensland in 1995 (see Crime Statistics Unit 1996 for a summary of results). It and previous surveys generally support the view that crime rates here are not unduly high by national standards.

The next national ABS Crime and Safety survey is planned for the latter part of 1998.

## Workload measures

Figure 4 shows that, over the past four years, there has been little change in the number of recorded offences per QPS staff member. However, this may not be an accurate measure of workload trends, as many of the matters dealt with by police are not recorded as crimes. In addition, police workloads can be influenced by other factors such as increased accountability requirements.

**FIGURE 4: NUMBER OF RECORDED OFFENCES PER QPS STAFF MEMBER (1989–90 TO 1996–97, QLD)**



Source: QPS *Statistical Reviews 1990–91 to 1996–97*

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.

<sup>1</sup> Driving and traffic-related offences are excluded because QPS statistics are selective in the recording of such offences. Infringement notices for some driving offences were introduced in December 1991; these are not included in QPS statistics.

<sup>2</sup> An offence is considered to be cleared if, as a result of an investigation, an offender has been arrested, summonsed or cautioned, or information has been laid to bring an offender before a court, or there is sufficient evidence for the arrest of an offender but a bar to prosecution — e.g. the victim refuses to proceed with the complaint or the offender is already in prison or some other institution.

In contrast to the picture presented in figure 4, table 2 shows that the number of calls for police assistance received in the Brisbane area by the Police Communications Centre increased by 30 per cent between 1995–96 and 1996–97. This arose from a surge in calls about non-crime-related matters, such as community assistance, accidents, noise complaints, disturbances, disputes and mentally ill persons.

**TABLE 2: NUMBER OF CALLS FOR POLICE ASSISTANCE PER QPS STAFF MEMBER (1993–94 TO 1996–97, 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
1996–97	1,788	196,705	110

Sources: Correspondence received from QPS, December 1996, February 1997 and September 1997; QPS *Statistical Reviews* 1993–94 to 1996–97, QPS annual reports 1993–94 to 1996–97.

A likely explanation, according to the QPS, is that the public is now calling the emergency 000 phone number more frequently for such problems, instead of contacting local police stations.

### Summary: Police and crime

- The rate of recorded offences against the person rose steadily between July 1989 and June 1994, but has remained fairly stable since then.
- The rate of recorded property offences has remained relatively stable in recent years.
- Most of the increase in recorded crime has been in the ‘other offences’ category, particularly drug offences. This is most probably a reflection of increased law enforcement activity by police.
- The rate of recorded crime in Queensland is generally around the Australian average. Crime and safety surveys present a similar picture.
- The level of recorded crime per QPS staff member has not increased significantly in recent years. However, calls for service per staff member have increased recently, at least in the Brisbane area.

### Police watchhouses

The previous two volumes of the *Monitor* reported on the problems of overcrowding and lengthy stays by prisoners in police watchhouses. In September 1996, the CJC released its *Report on Police Watchhouses in Queensland*, followed in November 1997 by a status report on the implementation of the recommendations made in the watchhouse report. The status report concluded that significant progress had been made towards implementing several recommendations, that several other recommendations were supported by the relevant government agencies but were yet to be implemented, and that no progress had been made on some matters, including a key recommendation to amend legislation to limit stays in watchhouses by prisoners en route to prison.

We have continued to monitor prisoner population levels and lengths of stays by prisoners at the major watchhouses throughout Queensland. It appears that there is broad compliance with the direction made early in 1996 by the Minister for Police and Corrective Services and Minister for Racing that corrective services prisoners were not to be left in police watchhouses for longer than seven days. There has been no lasting overcrowding in watchhouses, despite continued overcrowding in the prison system.

## The court system

This section relies primarily upon data collected by the Australian Bureau of Statistics (ABS) and the Qstats unit of the Government Statistician's Office. (The Crime Statistics Unit — CSU — will be providing more detailed statistics in its forthcoming publication *Crime Statistics Queensland*, expected to be released in mid-1998.)

As reported in the previous volume of the *Monitor*, the ABS discontinued the collection of court data after 1993–94, with Qstats collecting and publishing the data for 1994–95 onwards. Accordingly, there may be some small differences in the recording of data between these two periods. Graphs using the combined data contain a vertical line to indicate the change in data collection and recording.

In addition to the data provided by the ABS and Qstats, this section also presents data from:

- the ODP
- the Courts Division of the Department of Justice.

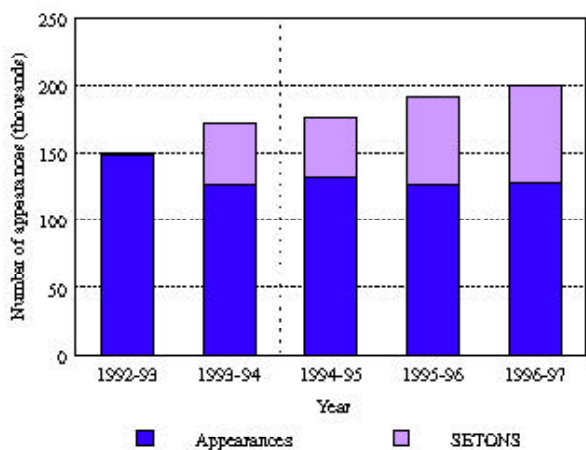
## The Magistrates Court

### Trends in criminal appearances

Figure 5 presents data on appearances (excluding drunkenness) and the use of Self-Enforcing Ticketable Offence Notices (SETONS)<sup>3</sup> for the five-year period from July 1992 to June 1997. Since 1992–93:

- the use of SETONS has increased substantially
- total appearances in the Magistrates Court have remained stable.<sup>4</sup>

**FIGURE 5: MAGISTRATES COURT APPEARANCES: SETONS AND OTHER APPEARANCES (1992–93 TO 1996–97, QLD)**



Source: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

Notes: Appearances exclude drunkenness offences.

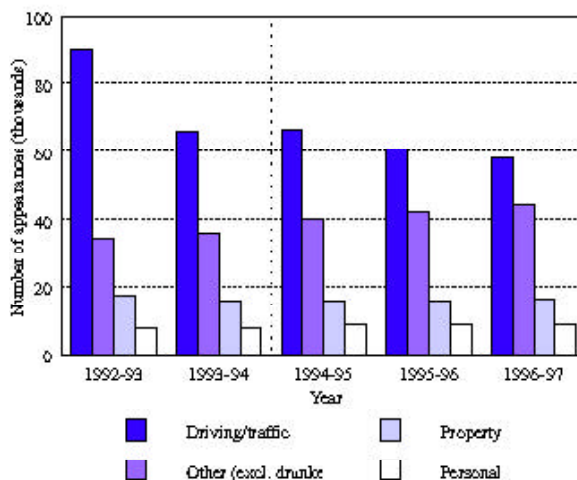
The increased number of SETONS reflects the growth in the range of offences for which SETONS may be issued. This process is now available for offences under about thirty Acts and numerous other regulations and instruments.

Figure 6 shows trends in appearances for the four broad offence categories: personal offences, property offences, driving and traffic offences, and 'other' offences (excluding drunkenness).

Between 1992–93 and 1996–97:

- appearances for driving and traffic offences — the largest category of offences — decreased substantially, most probably due to the greater use of SETONS for these types of offences
- appearances for 'other offences' increased, with drug offence appearances (which make up about a third of this category) increasing by 20 per cent from 12,334 to 14,824, and 'enforcement of order'<sup>5</sup> appearances almost doubling from 4,576 to 8,798
- appearances for personal and property offences remained fairly stable.

**FIGURE 6: MAGISTRATES COURT APPEARANCES BY OFFENCE CATEGORY (1992–93 TO 1996–97, QLD)**



Source: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

Notes: Appearances exclude drunkenness and SETONS.

<sup>3</sup> SETONS were introduced in 1992 for a range of traffic and other offences, thus enabling many more matters to be dealt with in the Magistrates Court without the need for an appearance in court.

<sup>4</sup> Drunkenness offences, nearly all of which result in forfeiture of bail without the need for a court appearance, and SETONS, which do not require a court appearance, have been excluded from ABS and Qstats appearance figures.

<sup>5</sup> The 'enforcement of order' category includes breaches of home detention, leave of absence, probation or recognisance, parole, suspended sentence, community service order, *Domestic Violence (Family Protection) Act*, and other offences against justice procedures.



## Outcome of appearances

Around 86 per cent of people appearing before the Magistrates Court either plead guilty or are found guilty. A further 3 to 4 per cent of appearances lead to a committal to the higher courts, and the remainder result in a finding of not guilty, a discharge, or a withdrawal.

A notable development has been the increasing proportion of summary convictions for which no conviction is recorded. Section 12 of the *Penalties and Sentences Act 1992* provides that the court has a discretion about whether to record a conviction, having regard to the circumstances of the case. In 1992–93, only 4 per cent of Magistrates Court appearances where the defendant was found guilty resulted in no conviction being recorded. By 1996–97, this proportion had increased to 14 per cent.

## Trends in prison sentences

Although the total number of appearances in the Magistrates Court fell between 1992–93 and 1996–97, the number of appearances for which imprisonment was the most serious outcome rose by 42 per cent — from 2,994 to 4,253 (see figure 7). Suspended sentences are shown separately.<sup>6</sup>

This rise was due primarily to a marked increase in the number of convictions for ‘enforcement of order’

matters — from 3,296 to 6,984. On average, 19 per cent of these convictions result in a prison sentence.

The other contributing factor was the increase in the imprisonment rate for personal and property offences, from 7.8 per cent to 10 per cent between 1992–93 and 1996–97.<sup>7</sup>

According to preliminary data supplied by the CSU, the average length of sentences of imprisonment imposed by the Magistrates Courts did not increase between 1994–95 and 1996–97.

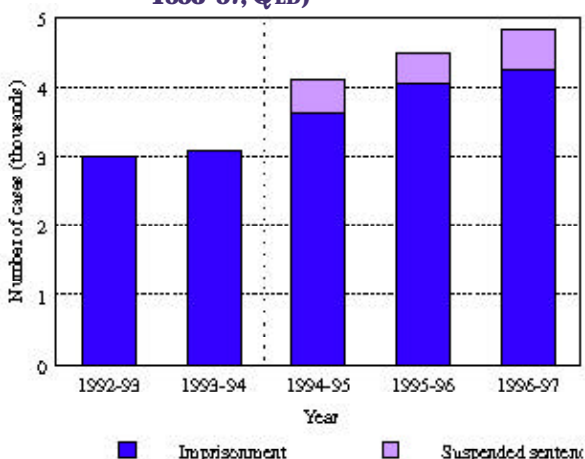
## Workload measures

There are currently 73 magistrates appointed to courts throughout Queensland, following the appointment of two additional magistrates in 1996.

Figure 8 shows that between 1992–93 and 1996–97 the number of appearances and charges per magistrate fell by 18 per cent and 4 per cent respectively.

Although, on these measures, the workload per magistrate appears to be declining slightly, the appearances are becoming more complex, with appearances per magistrate for personal, property and other offences (which are the more ‘criminal’ matters) increasing by 13 per cent over the same period.

**FIGURE 7: MAGISTRATES COURT CONVICTIONS RESULTING IN IMPRISONMENT (1992–93 TO 1996–97, QLD)**

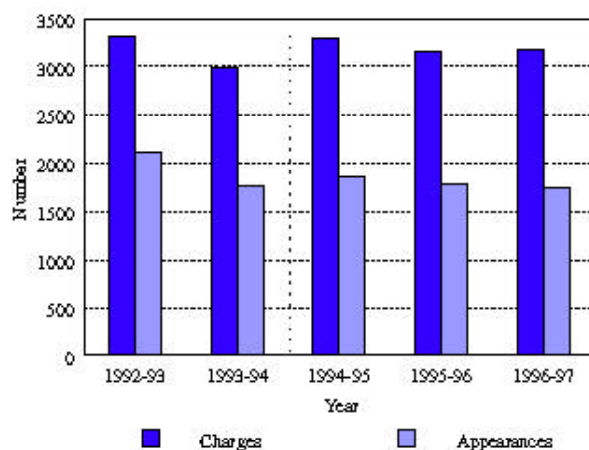


Source: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

Notes:

1. Convictions exclude drunkenness and SETONS.
2. Data for 1994–95 to 1996–97 include cases where no conviction was recorded.

**FIGURE 8: APPEARANCES AND CHARGES PER MAGISTRATE (1992–93 TO 1996–97, QLD)**



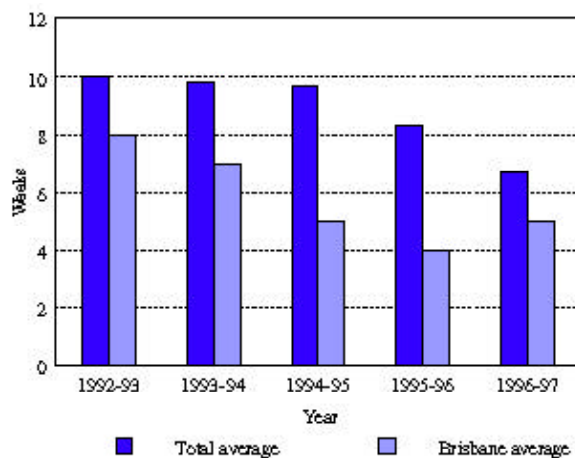
Source: Appearances and charges: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

Number of Magistrates: correspondence received from Courts Strategy and Research Division, Dept of Justice, March 1998.

Notes: Appearances and charges include traffic and exclude drunkenness and SETONS.

An indication of whether the Magistrates Courts are coping with their workload is the length of time a person must wait for a hearing date. Figure 9 shows that the average waiting time for a criminal matter across 10 of Queensland's busiest Magistrates Courts was 6.7 weeks in 1996–97. This is considerably less than the 8.3 weeks average delay reported in 1995–96 and the 10 weeks average delay in 1992–93. The average waiting time in Brisbane increased from 4 to 5 weeks in 1996–97, but is still well below the 8 weeks reported in 1992–93.

**FIGURE 9** MAGISTRATES COURT DELAYS — EARLIEST HEARING DATE (1992–93 TO 1996–97, QLD AND BRISBANE)



Source: Dept of Justice annual reports 1994–95 to 1996–97.

Note: The total average (Queensland) is based on 10 of the busiest Magistrates Courts in Queensland (including Brisbane).

### Summary: The Magistrates Court

- Appearances in the Magistrates Court have remained fairly stable since 1992–93, mainly because an increasing number of matters are processed via SETONS.
- The number of people sentenced to imprisonment by the Magistrates Court has increased, due to a marked rise in the number of convictions for ‘enforcement of order’ offences and an increase in the imprisonment rate for personal and property offences. However, prison sentence lengths do not appear to have increased.
- The number of appearances per magistrate has decreased slightly, but appearances are becoming more complex with a higher proportion of crime-related as opposed to traffic-related matters, and a growing number of charges per appearance.
- The Magistrates Court system appears to be coping with its current workload, with the average waiting time for a criminal matter continuing to decrease.

## The higher courts

Around 3 to 4 per cent of criminal appearances in the Magistrates Court result in committal to the District or Supreme Court for final disposition. In addition, a number of prosecutions — known as ‘ex officio’ matters — come directly to the higher courts without going through a committal. Of those matters progressing to the higher courts, 90 per cent are disposed of in the District Court.<sup>8</sup>

## Matters discontinued

Some matters that are committed to the higher court for trial are discontinued because the Director of Public Prosecutions determines that there is no reasonable prospect of the accused being convicted or there are other problems such as unavailability of key Crown witnesses.

The proportion of discontinued higher court matters decreased from 19 per cent in 1993–94 to 12 per cent in 1996–97.<sup>9</sup> The declining proportion of discontinued matters may indicate a more effective committal process in some areas of the State, arising from the Brisbane and Ipswich Committals Projects.<sup>10</sup>

## Types of offences heard

Appearances in the higher courts (excluding discontinued matters) increased by 41 per cent from 4,244 in 1992–93 to 5,998 in 1996–97.

<sup>6</sup> Suspended sentences or ‘orders of suspended imprisonment’ were introduced as a sentencing option under the *Penalties and Sentences Act 1992* from the end of November 1992. ABS data isolating suspended sentences from bonds etc. were not available for the years 1992–93 and 1993–94. However, the number of suspended sentences imposed in 1992–93 is likely to have been relatively low as the legislation did not take effect until nearly halfway through the period.

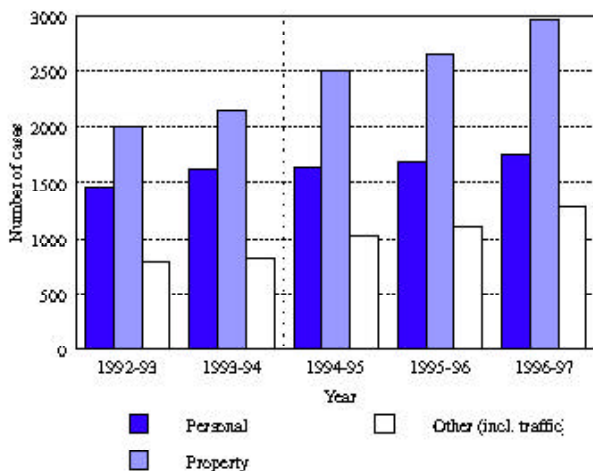
<sup>7</sup> The imprisonment rate is the number of appearances resulting in imprisonment as the most serious outcome expressed as a proportion of all appearances offences resulting in conviction. Suspended sentences have been excluded from the calculation of the imprisonment rate.

<sup>8</sup> The Supreme Court has jurisdiction over only the most serious offences such as murder, attempted murder, manslaughter, and trafficking in, supplying or producing large quantities of dangerous drugs.

<sup>9</sup> ABS unpublished data 1992–93 to 1993–94; Qstats unpublished data 1994–95 to 1996–97.

<sup>10</sup> The Committals Projects have involved the ODPP assuming full responsibility for all committals proceedings conducted in the Brisbane Central and Ipswich Magistrates Courts. This task has traditionally been done by police prosecutors.

**FIGURE 10: HIGHER COURT APPEARANCES (1992–93 TO 1996–97, QLD)**



Source: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

Note: Figure shows higher court appearances (excluding discontinuances) by offence type — personal, property and other (including driving and traffic).

Figure 10 uses ABS and Qstats data from 1992–93 to 1996–97 to show trends in the three broad offence categories of ‘personal’, ‘property’ and ‘other’:

- Appearances for property offences rose by 49 per cent. Within this category, burglary and housebreaking appearances increased the most (up 114 per cent from 342 in 1992–93 to 733 in 1996–97).
- Appearances for ‘other’ offences (including driving and traffic) increased by 63 per cent. Appearances for drug offences, which make-up close to half of this category, rose by 69 per cent.
- Appearances for personal offences increased only slightly after 1993–94.

### **Trials and sentences**

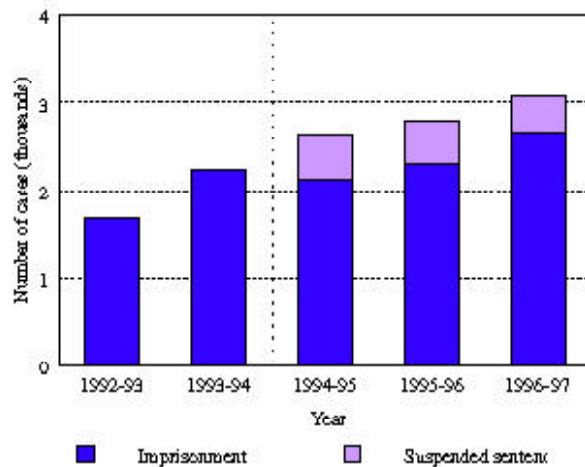
The proportion of matters heard in the higher courts as trials has fallen from 23 per cent in 1992–93 to 12 per cent in 1996–97. According to the ODPP *Annual Report 1996–97*, the conviction rate for those matters that went to trial in 1996–97 was 55 per cent — a slight decrease from the 60 per cent reported by the ODPP in 1995–96. However, the overall conviction rate in the higher courts remained constant at 94 per cent, due to the increased number of pleas of guilty in the higher courts.

### **Trends in the use of imprisonment**

Figure 11 shows the trends in the number of higher court appearances resulting in either a prison sentence or a suspended sentence:

- The number of appearances resulting in imprisonment as the most serious outcome (excluding fully or partly suspended sentences),

**FIGURE 11: NUMBER OF APPEARANCES RESULTING IN IMPRISONMENT, HIGHER COURTS (1992–93 TO 1996–97, QLD)**



Source: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

increased by 58 per cent from 1,679 in 1992–93 to 2,651 in 1996–97.

- In 1996–97, there were 418 suspended sentences imposed — a slight decrease from around 495 for each of the previous two years. Qstats data do not differentiate between fully and partly suspended sentences but, assuming that about half of the suspended sentences are only partly suspended, this would mean an additional 200 to 250 people sent to prison by the higher courts over each of the last three years.

The number of appearances resulting in imprisonment can be influenced either by an increase in the total number of cases being dealt with by the courts, or the increased preparedness of judges to impose a prison sentence (the imprisonment rate).

Figure 12 shows that between 1992–93 and 1996–97:

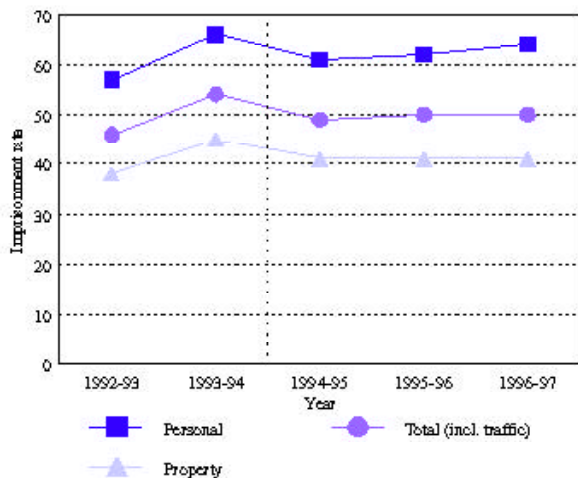
- the total imprisonment rate rose from 46 to 50 per cent, due mainly to an increase in the imprisonment rate for personal offences from 57 to 64 per cent
- the imprisonment rate for property offences increased only slightly, from 38 to 41 per cent.

Within the personal offences category, the imprisonment rate for sexual offences increased the most, from 55 per cent in 1992–93 to 78 per cent in 1996–97.

These data confirm that some of the increase in the number of appearances resulting in imprisonment was due to an increased use of imprisonment as a sentencing option. However, the major factor



**FIGURE 12: HIGHER COURTS IMPRISONMENT RATE — PERSONAL, PROPERTY AND TOTAL (1992–93 TO 1996–97, QLD)**



Source: ABS unpublished data for 1992–93 to 1993–94; Qstats unpublished data for 1994–95 to 1996–97.

contributing to the increase was the greater number of people appearing in, and being convicted by, the higher courts.

According to preliminary data supplied by the CSU, the average length of prison sentences imposed by the higher courts did not increase between 1994–95 and 1996–97.

### Time at which plea indicated

The number of matters identified as ‘early’ pleas of guilty has continued to increase with:

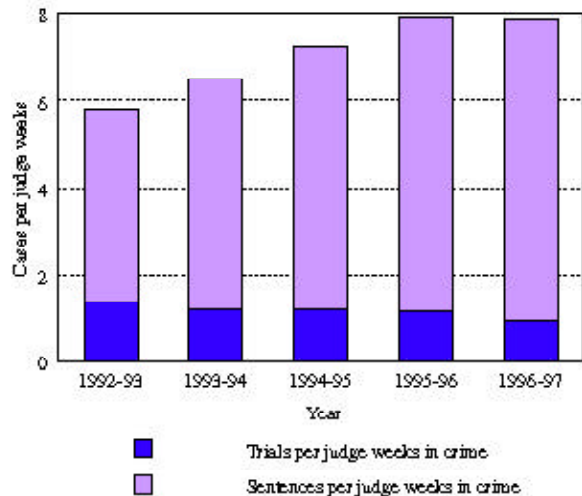
- 12 per cent of matters coming directly to the higher courts without committal (‘ex officios’) in 1996–97, compared to only 5 per cent in 1992–93
- 17 per cent being committed to the higher court for sentence, compared to only 7 per cent in 1992–93.

Despite these improvements, there is a continuing problem with pleas of guilty not being identified until very late in the process. Between 30 September 1996 and 30 June 1997, 13 per cent of the matters listed for trial turned into pleas of guilty on the day of the trial.<sup>11</sup>

### Workload measures

Two additional District Court judges were appointed in September 1996, bringing the total number statewide to 34.

**FIGURE 13: HIGHER COURT WORKLOAD — TRIALS AND SENTENCES PER DISTRICT COURT JUDGE (1992–93 TO 1996–97, QLD)**



Sources: Disposals: correspondence received from the ODP for 1992–93; ODP annual reports 1993–94 to 1996–97.

Judge weeks in crime: correspondence from Court Administrator’s Office, March 1998.

Notes: Number of judge weeks include circuit centres which are gazetted as ‘criminal/civil’ sittings which deal primarily with criminal matters.

As noted, the District Court handles nearly all of the higher court criminal matters. The number of trials and sentences heard per judge week<sup>12</sup> spent in the criminal jurisdiction each year gives an indication of whether the workload pressure on the courts has increased.

Figure 13 shows a decline in the number of trials heard per judge week in crime from 1.4 in 1992–93 to 0.9 in 1996–97. However, the number of sentences heard per judge week in crime increased from 4.4 to 6.9 over the same period.

In 1996–97 the District Court disposed of only 77 per cent of the matters awaiting disposal, compared to 82 per cent in 1995–96. However, this disposal rate is still considerably higher than between 1992–93 and 1994–95 when the rate ranged between 69 and 72 per cent.

In summary, the appointment of additional District Court judges, combined with an increase in the number of judge weeks allocated to crime, appears to have enabled the District Court to cope with the increasing number of criminal matters coming into the court.

<sup>11</sup> Data provided by Court Administrator, Department of Justice.

<sup>12</sup> Throughout each year, judges’ time is divided between hearing cases in the criminal jurisdiction and hearing cases in the civil jurisdiction. The number of District Court judge weeks spent in crime is the sum of the number of weeks each District Court judge spent hearing criminal cases during that year.

## Comparison with other States

In 1997, the ABS released *Australian Criminal Courts 1995*, which aims to provide nationally comparable statistics on the volume and flow of criminal matters through the higher courts.<sup>13</sup>

These data show that Queensland higher courts deal with a much larger number of criminal matters than do higher courts in other jurisdictions.

In 1995, Queensland higher courts finalised 6,555 defendants or 38 per cent of the national total (ABS 1997, p. 8). The Australian rate of finalised defendants per 100,000 persons aged over 17 years was 126.2, whereas the Queensland rate was 266.3 per 100,000 persons.

Further analysis is needed to determine why Queensland varies so much from other parts of Australia. Possible explanations include:

- compared to other States and Territories, Queensland criminal law requires a greater proportion of offences to be determined in the higher courts
- legal aid funding rules, which vary from State to State, encourage more defendants in Queensland to have their cases dealt with in the higher courts.

## Summary: The higher courts

- The number of appearances in the higher courts increased by 41 per cent between 1992–93 and 1996–97, with the greatest growth being in appearances for property offences.
- Over this period the proportion of defendants pleading guilty increased, with the proportion of trials falling from 23 per cent to 12 per cent.
- The number of people sentenced to imprisonment by the higher courts increased by 58 per cent. Most of this was due to an increase in the number of appearances in the higher courts. There was also some increase in the imprisonment rate, mainly in relation to personal offences.
- Prison sentence lengths appear not to have increased in the past three years.
- The increased number of judges and the increasing number of judge weeks allocated to hearing criminal matters has enabled the District Court to keep up with the increasing workload.
- In 1995, Queensland dealt with more criminal cases in its higher courts than did any other jurisdiction in Australia.

<sup>13</sup> This publication compares a number of measures across the States and Territories (including initiation details and pending and duration data). However, Queensland data were only available for the number of defendants finalised.

## Corrections

### Prison

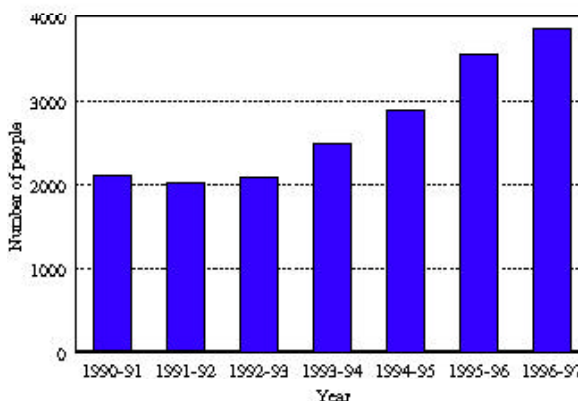
The number of sentenced offenders admitted to prison has continued to increase. Annual admissions grew by 98 per cent from 1993–94 to 1996–97. According to the QCSC, at 30 June 1997 there were 3,851 adult prisoners (3,662 males and 189 females) in Queensland prisons, an increase of 313 prisoners from the same date in the previous year (see figure 14). By 31 March 1998 the adult prison population in Queensland was 4,492, an increase of a further 17 per cent.

In June 1997, 12 per cent of prisoners were being held pending trial and/or sentence; a proportion which has been stable for the past five years. The proportion of females in the prison population remained the same as in June 1996, at 4.9 per cent.

### Prisoners by offence type

Between 1996 and 1997, the number of people in prison increased for most offence categories, as table 3 shows. The largest proportional increases were for break and enters, good order offences, and assaults.

**FIGURE 14: TOTAL NUMBER OF PEOPLE IN PRISON AT 30 JUNE (1991 TO 1997, QLD)**



Sources: AIC *National Prison Census 1991 and 1992*; correspondence received from QCSC, July 1995 and November 1996; QCSC *Annual Report 1996-97*.

### Time spent in prison

The average period served in prison by inmates released during 1996–97 was 4.3 months for males and 2.0 months for females, similar to the averages in 1995–96.<sup>14</sup>

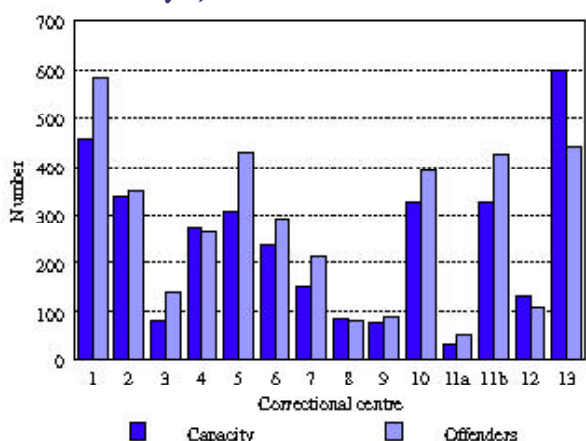
**TABLE 3 PEOPLE IN PRISON BY MOST SERIOUS OFFENCE AT 30 JUNE (1991 TO 1997, QLD)**

	1991	1992	1993	1994	1995	1996	1997
Homicide	305	313	282	308	366	363	404
Assault	153	177	249	333	366	423	489
Sexual assault	356	354	371	429	502	533	577
Robbery/extortion	228	249	295	370	416	497	542
Other personal offences	12	12	12	29	25	25	31
Break and enter	275	271	299	364	420	426	582
Other theft	282	229	203	238	228	399	321
Property damage	54	33	29	36	51	65	70
Good order offences	96	94	74	107	139	176	234
Drug offences	160	136	91	125	172	252	272
Motor vehicle	156	108	86	113	149	225	181
Other	17	41	77	39	36	154	148
TOTAL	2,094	2,017	2,068	2,491	2,870	3,538	3,851

Source: AIC *National Prison Census* 1991 and 1992; correspondence received from QCSC.

Note: 'Other' includes 'unknown' — those prisoners undergoing admission processing at 30 June.

**FIGURE 15: NUMBER OF OFFENDERS AND CAPACITY BY CORRECTIONAL CENTRE AT 30 JUNE (1997, QLD)**



- |                     |                        |                         |
|---------------------|------------------------|-------------------------|
| 1. Arthur Gorrie    | 6. Moreton A           | 11a. Townsville Women's |
| 2. Borallon         | 7. Moreton B           | 11b. Townsville Men's   |
| 3. Brisbane Women's | 8. Numinbah            | 12. Darling Downs       |
| 4. Rockhampton      | 9. Palen Creek         | 13. Woodford            |
| 5. Lotus Glen       | 10. Sir David Longland |                         |

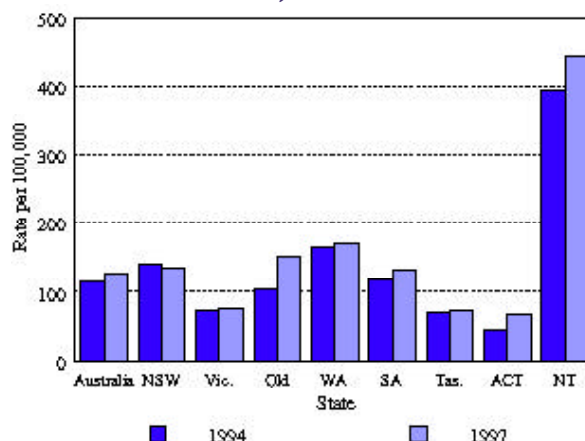
Source: Correspondence received from the QCSC, February 1998.

### Prison capacity

Figure 15 shows that overcrowding continued at many centres in 1996–97.<sup>15</sup> The opening of the new Woodford Correctional Centre in March 1997 temporarily reduced the occupancy rate to 112 per cent,<sup>16</sup> compared to 122 per cent one year earlier.

However, by 31 March 1998 the prison system in Queensland was at approximately 132 per cent capacity. The two female centres were the most overcrowded, with occupancy rates of approximately 170 per cent each.

**FIGURE 16: IMPRISONMENT RATE PER 100,000 ADULT POPULATION (JUNE 1994 AND JUNE 1997, AUSTRALIA)**



Sources: ABS *National Correctional Statistics: Prisons, June Quarter 1996 and June Quarter 1997*.

### Queensland's imprisonment rate compared with Australia

Figure 16 shows that the adult imprisonment rate in Queensland was 151 per 100,000 adults at June 1997, well above the national average of 125 per 100,000.

<sup>14</sup> 'Released' means discharged from prison or transferred to community custody (includes time under sentence and/or on remand).

<sup>15</sup> The accommodation 'capacity' of a prison is the number of permanent beds in that prison. This includes beds in 'hospital' units and detention units.

<sup>16</sup> The Woodford prison's accommodation was not fully utilised at the date of reporting (30 June 1997).

Queensland's imprisonment rate excludes prisoners on the Work Outreach Camps (WORC) program. If these prisoners had been included, the imprisonment rate would have been 158 per 100,000 adults. By December 1997, Queensland's imprisonment rate was 165 per 100,000, compared to the national average of 126 per 100,000.<sup>17</sup>

### Decision-making by Community Corrections Boards

During 1996–97 Community Corrections Boards received applications<sup>18</sup> for Release to Work, Home Detention and/or Parole from 3,187 prisoners, and granted approval<sup>19</sup> to 2,098 offenders.

Monthly data on new applications and approvals (see figure 17) show a downward trend for both over the period for which data are available — July 1996 to March 1998. Factors that may have contributed to this trend were the new guidelines on early release issued in mid-1997 and the replacement of the membership of the Queensland Community Corrections Board (see also page 17, 'Key Events').

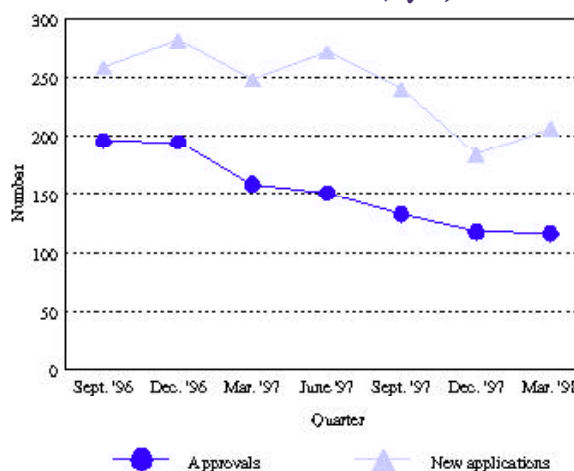
### Capacity of community custody facilities

Community custody facilities<sup>20</sup> are still being under-utilised. The accommodation capacity of the WORC program at 30 June 1997 was 220, but there were only 179 offenders in the program, a similar situation to the year before. Total community corrections centre capacity at 27 June 1997 was 174,<sup>21</sup> but only 143 offenders were accommodated in the centres, 19 fewer than in the same month in 1996.

### Community supervision

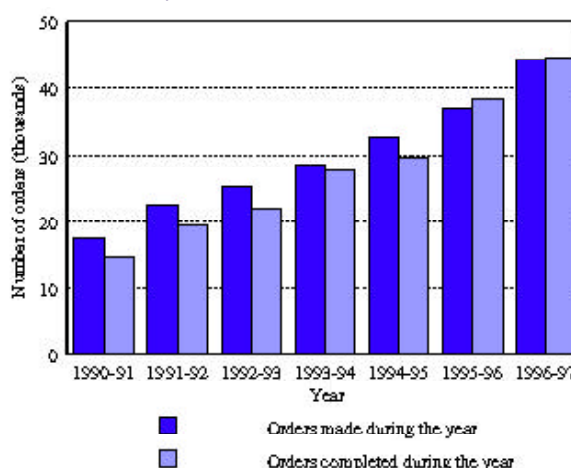
The number of community corrections orders made and the number completed has continued to rise, as figure 18 shows. This was largely due to an increased use of Fine Option Orders,<sup>22</sup> which in 1996–97 constituted 75 per cent of all orders made. Table 4 shows that the use of community service orders and probation by the courts has decreased since 1992–93.

**FIGURE 17: APPLICATIONS MADE TO AND APPROVED BY COMMUNITY CORRECTIONS BOARDS (JULY 1996 TO MARCH 1998, QLD)**



Source: Correspondence received from QCSC, February 1998.  
Note: Monthly data are shown as quarterly averages.

**FIGURE 18: COMMUNITY CORRECTIONS ORDERS MADE AND COMPLETED (1990-91 TO 1996-97, QLD)**



Sources: QCSC annual reports 1990-91 to 1994-95; information received from QCSC, November 1996 and February 1998.

**TABLE 4: USE OF COMMUNITY SERVICE ORDERS AND PROBATION BY THE MAGISTRATES AND HIGHER COURTS (1992-93 TO 1996-97, QLD)**

	1992-93	1993-94	1994-95	1995-96	1996-97
Community service and bonds					
– number	8,943	5,997	5,228	4,972	4,642
– proportion of all sentences	(18.5%)	(7.4%)	(6.2%)	(6.2%)	(5.8%)
Probation					
– number	2,778	1,729	2,288	2,355	2,236
– proportion of all sentences	(5.7%)	(2.1%)	(2.7%)	(3.0%)	(2.8%)

Source: ABS unpublished data for 1992-93 and 1993-94 and Qstats unpublished data for 1994-95 to 1996-97.



## Outcome of community corrections orders

The proportion of intervention-type orders successfully completed was 69 per cent in 1997–98, the same as in the previous two years.<sup>23</sup>

The number of offenders admitted to prison after revocation of an order has continued to increase, although not at the same rate as in recent years. In 1996–97 there were 1,081 offenders imprisoned following revocation of their community corrections order, compared to 1,066 during 1995–96.

## Workload

There was no change in the workload of community corrections staff compared to the previous year, as measured by the average number of offenders supervised per staff member.

## Performance measures

The adult correctional system has suffered a spate of major incidents over recent months. In addition to the information presented above on prison overcrowding, there are several other indicators that may reflect problems within this system.

## Escapes

Table 5 shows that the escape rate has generally been decreasing since 1990–91, and that Queensland's escape rate has compared favourably with the national average in recent years.<sup>24</sup> The QCSC *Annual Report 1996–97* stated that the number of escapes from 'secure custody environments' decreased steadily during the 1990s, from a high of 45 in 1990–91 to only one in 1996–97.

**TABLE 5: PRISON ESCAPE RATE (1988–89 TO 1996–97, QLD AND AUSTRALIA)**

Year	Number of escapes	Queensland rate	National rate
1988–89	37	1.5	n.a.
1989–90	20	0.9	n.a.
1990–91	62	2.8	n.a.
1991–92	55	2.6	n.a.
1992–93	44	2.1	1.7
1993–94	31	1.4	1.8
1994–95	28	1.0	1.8
1995–96	38	1.2	1.8
1996–97	18	0.5	n.a.

Source: QCSC *Annual Report 1996–97* and *Report on Government Services 1998*.

Notes:

1. Escape rate = number of escapes/average daily state x 100 (average daily state is the average number of prisoners held during the year).
2. n.a.: not available.

The recent escapes of nine prisoners in two violent and well-publicised incidents were a major departure from this trend. Escapes from 'open custody environments'<sup>25</sup> fluctuate from year to year, but, according to the QCSC *Annual Report 1996–97*, averaged 22 per year between July 1990 and June 1997.

## Complaints by prisoners

The QCSC *Annual Report 1996–97* data on complaints received by Official Visitors show that the rate of recorded complaints in 1996–97 was less than in 1995–96, for both prison and community custody.<sup>26</sup> (Official Visitors are community representatives appointed by the QCSC to provide independent monitoring of custodial facilities. Part of their role is to receive complaints from prisoners.)

On the other hand, unpublished data provided by the Queensland Ombudsman show that corrective services complaints (including against community corrections boards) increased from 327 in 1993–94 to 664 in 1996–97 — a rise of 103 per cent. According to the Ombudsman's office, most of these complaints have involved sentence management issues. The increase in complaints broadly reflects the growth in the prison population. However, the Ombudsman's office considers that changes in the management of the system have also had an impact:

Prisoners are spending longer in secure custody than previously; privileges are harder to get; community release has been increasingly denied beyond eligibility dates for community release; and community placements are being revoked more quickly, at a time when cell accommodation is at a premium and doubling up is occurring at a high level. (Correspondence, April 1998)

<sup>17</sup> Source: ABS *National Correctional Statistics: Prisons, December Quarter 1997*.

<sup>18</sup> This is a count of the number of prisoners who applied for an early release option. If a prisoner applied for more than one option at the same time, the application was counted once only. New applications only were counted.

<sup>19</sup> This is a count of the number of prisoners who received approval for an option. If a prisoner received approval for more than one option from the same application the approval was counted once only.

<sup>20</sup> Community custody facilities accommodate offenders who have been transferred from prison to supervision within the community. These include the WORC program and community corrections centres, which incorporate a range of accommodation types, many operated under contract by community organisations.

<sup>21</sup> In July 1997, total capacity was expanded to 196.

<sup>22</sup> Fine Option Orders are those orders in which a fine is imposed by the court and the offender elects to do community service instead.

<sup>23</sup> Intervention-type orders include Home Detention, Parole, Probation, and Intensive Correction Orders, but exclude Community Service and Fine Option Orders.

<sup>24</sup> Queensland's escape rate was also below the national average in 1996–97, according to the *Report on Government Services 1998* (which used a slightly different measure than above).

<sup>25</sup> Open custody features lower levels of security and accommodates prisoners of lower security classifications.

<sup>26</sup> Rate = number of complaints/average daily number of prisoners.

## Deaths in custody

The number of deaths in prison custody per year has been increasing, as table 6 shows. Between July 1997 and March 1998 there were a further 10 deaths. While the rate of deaths per prison population has fluctuated, it was above the national rate over most of the period shown.

**TABLE 6: DEATHS IN PRISON CUSTODY (1990-91 TO 1996-97, QLD AND AUSTRALIA)**

Year	Number of deaths	Queensland rate	National rate
1990-91	4	1.9	2.3
1991-92	8	4.0	2.0
1992-93	6	2.9	2.6
1993-94	12	4.4	3.4
1994-95	12	4.2	3.2
1995-96	10	2.8	2.5
1996-97	13	3.4	3.5

Sources: QCSC annual reports 1990-91 to 1996-97; ABS *National Correctional Statistics: Prisons, June Quarter 1997 and September Quarter 1997*; AIC *Deaths in Custody Australia 1992-93 to 1994-95*; AIC *Australian Deaths in Custody and Custody-Related Police Operations, 1995-96*; AIC media release 3 October 1997.

Notes:

1. Rate = deaths per 1,000 prison population (based on prison census data).
2. National rates for 1995-96 and 1996-97 calculated using ABS average prisoner numbers data for July 1996 and July 1997.

## Reported assaults by prisoners

Between 1993-94 and 1996-97 there was a decrease in the overall rate of reported assaults by prisoners (see table 7). However, there was an increase in the number of reported assaults by prisoners on other prisoners (which is likely to be linked to increased prisoner numbers).

**TABLE 7: NUMBER OF ASSAULTS BY PRISONERS (1993-94 TO 1996-97, QLD)**

Assaults	1993-94	1994-95	1995-96	1996-97
On prisoner				
– major	36	35	44	47
– minor	153	195	180	220
On officer				
– major	16	12	16	8
– minor	56	37	28	35
Total number	261	279	268	310
Rate	11.6	10.4	8.6	8.7

Source: QCSC *Annual Report 1996-97*.

Notes.

1. Assault rate — number of assaults/average daily state x 100.
2. A major assault is defined as one that results in the victim requiring medical treatment, but also includes all sexual assaults.

### Summary: Corrections

- The prison population and the imprisonment rate have continued to rise with the numbers in prison increasing by a further 17 per cent between June 1997 and March 1998.
- Overcrowding in the male custodial system was temporarily alleviated by the opening of extra accommodation, but the prison population remains well above the capacity of the prison system.
- The use and availability of early release options for prisoners appear to be declining, which may further increase prisoner numbers.
- Despite increasing pressure on the prison population, the accommodation capacity of the community custody system is still not being fully utilised.
- The use of community service orders and probation orders by the judiciary has fallen since 1992-93.
- The completion rate of intervention-type orders has remained stable. The number of offenders imprisoned following the revocation of an order rose slightly in 1996-97.
- There has been a downward trend in escapes and the rate of reported assaults by prisoners. However, deaths in custody are increasing and there has been a marked increase in the number of complaints to the Ombudsman.

## Funding of legal aid and prosecutions

The following discussion presents data on the revenue and workload of the ODPP and Legal Aid Queensland, pursuant to the CJC's monitoring responsibilities under section 23(c) of the *Criminal Justice Act 1989*.

### Office of the Director of Public Prosecutions

Figure 19 shows that over the nine years to 1997–98, 'base-level' ODPP revenue has grown by 176 per cent.

If funding for the Brisbane and Ipswich Committals Projects is included, the increase is 206 per cent. Funding for these projects is shown separately because they have entailed the ODPP taking on additional functions, but the overall capacity of the ODPP to process higher court matters has been enhanced by these projects.

An indication of whether ODPP resources have kept pace with increases in workload is provided by examining real revenue (i.e. revenue indexed for inflation) per higher court deposition received by the ODPP.

Figure 20 shows that real revenue per deposition for 1997–98 is projected to increase to a level near that of 1991–92. If funding for the committals projects is included, real funding per deposition will be at its highest level ever in 1997–98. However, as noted in Volume 2 of the *Monitor*, it is generally acknowledged that funding before 1990 was inadequate.

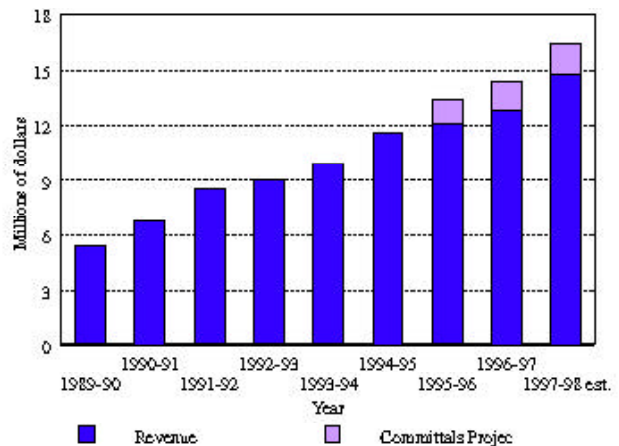
### Legal Aid Queensland

In 1997 there was a major restructuring of legal aid funding and administrative arrangements in Queensland. The Legal Aid Commission of Queensland (LAC) was reconstituted as Legal Aid Queensland (LAQ) and the Commonwealth Government withdrew from the Commonwealth–State Legal Aid Funding Agreement. LAQ continues to provide legal aid for Commonwealth matters on an agency basis (primarily for family law matters), but the Commonwealth has no involvement in the management of LAQ.

### Funding trends

Projected revenue for LAQ in 1997–98 is \$46.2 million, which is just above the 1996–97 revenue of \$45.8 million. Table 8 shows that revenue from the

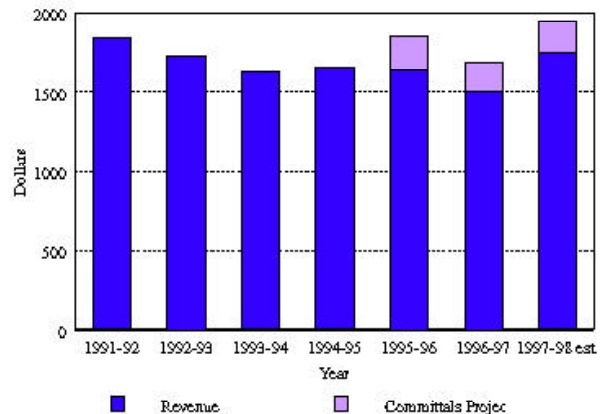
**FIGURE 19: ODPP ACTUAL REVENUE (1989–90 TO 1996–97) AND ESTIMATED REVENUE (1997–98) QLD**



Source: Data provided by ODPP, April 1998.

Note: To allow comparisons over time, revenue figures exclude funding for the following: 1989–90 to 1993–94: Special Prosecutor's Office; 1993–94 to 1997–98: Property Management and Capital Works, and Victim Support Services; 1996–97 and 1997–98: carryover for Victim Support Services, and the Police Interview Tape Transcription function.

**FIGURE 20: ODPP REAL REVENUE PER DEPOSITION RECEIVED (1991–92 TO 1996–97) AND ESTIMATED (1997–98) QLD**



Source: Data provided by ODPP, April 1998.

Note: Real revenue was calculated by using the Consumer Price Index figure for Brisbane for 1996–97, provided by the GSO.

**TABLE 8: LEGAL AID QUEENSLAND, ACTUAL REVENUE BY SOURCE (1996–97) AND ESTIMATED (1997–98)**

Source	1996–97 \$'000	1997–98 \$'000 (est.)
Commonwealth funding	21,856	20,343
State Consolidated Revenue	11,050	14,323
Trust Interest	8,697	8,060
Other (inc. internally generated revenue)	4,202	3,475
<b>TOTAL</b>	<b>45,808</b>	<b>46,201</b>

Source: Unpublished information provided by LAQ, March 1998.

State Government increased very substantially in 1997–98, due largely to an increase of \$2 million in recurrent funding and a one-off payment of \$1.5 million which was originally to have been paid during 1996–97.

These increases were counterbalanced by a reduction in Commonwealth funding of some \$1.5 million and a fall in income from statutory interest and internally generated revenue. Also, LAQ commenced 1997–98 with a deficit of \$1.3 million, due to reduced income from costs recovery and statutory interest.

Figure 21 shows that since 1989–90 legal aid funding in Queensland has fallen in real per capita terms by 25 per cent. A significant contributing factor to this decline was the Commonwealth–State funding agreement, which made no provision to adjust funding for population growth.

LAQ has advised that it will operate a deficit budget for the period 1997–98 to 1999–2000, with the shortfall to be funded by drawing down LAQ’s reserves. The operating deficit for 1997–98 is projected to be \$1.45 million, rising to \$5.77 million by 1999–2000. This is in line with a policy decision by the LAQ Board to reduce current reserves. Once LAQ reserves have been run down to the agreed level there will need to be a substantial injection of additional funding if service levels are to be maintained.

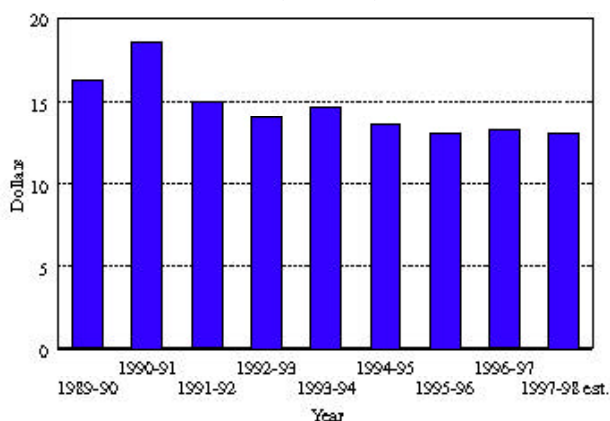
### Criminal law workload

In 1996–97, LAQ granted aid for 8,845 prescribed crime matters; that is, the more serious criminal offences where an appearance in a higher court is required.<sup>27</sup> This compared with 8,385 such matters in 1995–96 — an increase of 5.5 per cent. By contrast, grants of aid for ‘other crime’ matters fell by 9.5 per cent, from 6,987 to 6,321.

As reported in Volume 2 of the *Monitor*, the provision of services in relation to prescribed crime has generally kept pace with changes in demand. However, aid for the less serious criminal matters has become steadily more difficult to obtain.

Further research is required to determine whether budgetary constraints have had an adverse impact on the quality of legal assistance provided by LAQ.

**FIGURE 21: LEGAL AID QUEENSLAND, REAL REVENUE PER CAPITA (1989–90 TO 1996–97) AND ESTIMATED (1997–98)**



Sources: Unpublished information provided by LAQ; ABS catalogues 3201.0 and 3222.0.

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 LAC.
2. ‘Real revenue per capita’ is revenue per capita indexed for inflation, and was calculated by using the Consumer Price Index figure for Brisbane for 1996–97.

### Summary: Funding of Legal Aid and Prosecutions

- Recent funding increases to the ODPP have raised real funding per deposition to around 1990–91 levels.
- Between 1989–90 and 1997–98, LAQ revenue per head of population declined by 25 per cent in real terms.
- The State Government has provided substantial additional funding to LAQ for 1997–98, but this has been counterbalanced by a reduction in Commonwealth funding, a fall in income from statutory interest and internally generated revenue, and a carry over deficit from 1996–97
- Funding for non-prescribed crime matters is becoming more difficult to obtain.

<sup>27</sup> Prescribed criminal law matters, as defined in section 6(1) of the *Legal Aid Act 1978*, include all proceedings for indictable offences in the higher courts, committal proceedings for serious offences, and indictable offences at all stages where the defendant is a child. LAQ is required to provide funding for such matters, subject to a means test. There is a greater discretion over the funding of non-prescribed matters.



## Key events

This section overviews significant developments within the Queensland criminal justice system since the previous *Monitor* was published.

## Police powers

The *Police Powers and Responsibilities Act 1997* — which came into effect on 6 April 1998 — consolidates and, in some cases, extends police powers as well as imposes certain responsibilities on police. Major changes include the introduction of:

- a scheme of post-arrest detention for questioning and investigation
- an alternative method of bringing offenders to court through the issue of Notices to Appear
- limited ‘move on’ powers
- wider covert surveillance powers for police.

It is a requirement of the Act that a review of these new powers commence within six months of proclamation and be completed within three years. In late March 1998, the Police Minister announced the formation of a review committee with representation from the QPS, CJC, Courts Division of the Department of Justice, LAQ, ODPP, and Queensland Council of Civil Liberties.

## Queensland Crime Commission

The *Crime Commission Act 1997* has established a permanent investigative body known as the Queensland Crime Commission (QCC). The QCC’s main function is to investigate organised and major crime and criminal paedophilia. The QCC has been given wide-ranging powers, including the capacity to undertake electronic surveillance (subject to obtaining a warrant) and to conduct hearings.

The QCC is headed by a full-time Crime Commissioner. The Management Committee, which is responsible for approving the referral of matters to the QCC for investigation, consists of the Police Commissioner, Chair of the CJC, Chair of the National Crime Authority, Queensland Children’s Commissioner, the Chair and Deputy Chair of the Parliamentary Criminal Justice Committee, and two community representatives. The first meeting of the Management Committee was held in late March 1998.

## New offences

In May 1997, three new sections dealing with the contamination of goods (including hoax contaminations) were inserted into the *Criminal Code* (see sections 238 to 240).

Amendments to the *Criminal Code* in March 1998 added two further offences: unlawfully entering another person’s vehicle, and unlawfully entering another person’s vehicle with the intention of committing an indictable offence (see sections 426 and 427).

In March 1998, the *Weapons Act 1990* was amended to prohibit the possession of a knife in a public place. Under the Act, police officers have substantial powers to search for weapons, such as knives. Similar powers are set out in sections 26 and 27 of the *Police Powers and Responsibilities Act 1997*.

## Corrective Services

### Administration of Corrective Services

On 1 September 1997, responsibility for the running of all public correctional centres was transferred from the QCSC to a new government-owned corporation known as Queensland Corrections. Under the new structure, the QCSC is responsible for policy setting, the purchasing of correctional services from Queensland Corrections and private operators, and the monitoring of correctional service contracts.

During 1997, the CJC acquired jurisdiction to investigate complaints about officers employed by Queensland Corrections and the QCSC. However, the CJC’s jurisdiction does not extend to privately operated correctional centres, which hold about one-quarter of the State’s prisoners.

### Community Corrections

On 26 May 1997, the Queensland Government dismissed the membership of the Queensland Community Corrections Board following extensive media publicity about two rapes allegedly committed by a convicted rapist while he was at large after absconding from weekend leave. The Board had approved the convicted rapist’s application for weekend leave. New Board members were appointed on 2 June 1997.

In September 1997, the Minister for Corrective Services issued ministerial guidelines to the Board under section 139 of the *Corrective Services Act 1988*. These guidelines replaced — but are very similar to — interim guidelines that were issued by Cabinet to the Board in early June 1997. Among other things, the guidelines state that:

It is inappropriate that a prisoner whose security classification is high or medium be approved for or granted release to a community-based program in the absence of special circumstances.

As discussed above in the section on Corrections, the overall impact of both the interim and ministerial guidelines has been a noticeable drop in the number of new applications for release received by the Board and a decline in the number of applications for release approved by the Board.

## Indigenous justice issues

The *Aboriginal, Torres Strait Islander and Remote Communities (Justice Initiatives) Amendment Act 1997* has amended section 552C of the *Criminal Code* to give certain justices of the peace in Aboriginal, Torres Strait Islander, and remote communities, the power to hear and determine a limited number of indictable offences summarily.

To date, there have been 13 appointments for Thursday Island and six for Kowanyama. A justice of the peace can only hear and determine an indictable offence if the accused pleads guilty and if the justice of the peace is satisfied that he or she can adequately deal with the matter by imposing a penalty of not more than six months' imprisonment or \$7,500.

The Act aims to speed up the administration of justice in those remote communities that do not have a resident magistrate and encourage greater indigenous involvement in the judicial process.

The previous *Monitor* highlighted the lack of data on arrest rates and sentencing outcomes for indigenous people in Queensland and suggested that 'recording of this information needs to be addressed as a matter of priority' (page 24). These concerns about the lack of procedures for recording data on Aboriginality have still not been addressed.

## Victims

Prior to an amendment to the *Criminal Offence Victims Regulation 1995* in December 1997, a victim of a sexual offence who suffered no physical injury was only entitled to claim a maximum of \$25,000 for nervous shock.

Under the amendment, a victim of a sexual offence who does not suffer any physical injury is entitled to claim a maximum of \$75,000 for 'the totality of the adverse impacts of a sexual offence' which includes matters such as 'a sense of violation, reduced self-worth or perception, and increased fear or increased feelings of insecurity'.

## Courts

The *Courts Reform Amendment Act 1997* has:

- provided that a person convicted of an indictable offence in the Magistrates Court will be able to appeal to the District Court instead of to the Court of Appeal — this change should result in a reduction both in the workload of the Court of Appeal and the appeal costs of convicted defendants
- decreased the powers of the President of the Court of Appeal by giving the Chief Justice administrative responsibility for the whole of the Supreme Court, including the Court of Appeal
- established a Supreme Court at Cairns (known as the Far Northern Supreme Court).

Under the new *Jury Act 1995* — proclaimed 17 February 1997 — the same jury panels are used for both the Supreme and District Courts. According to the District Court's inaugural annual report (1996–1997), this change has produced 'significant savings' because '30 per cent fewer jurors are now being summonsed'.

## Use of video technology

The *Courts Reform Amendment Act 1997* has made it compulsory (unless a court, in the interests of justice, orders otherwise) for all State courts, other than Magistrates Courts, to use video link facilities (if available) for certain appeals by prisoners provided certain conditions are satisfied.

The purpose of this Act and the *Courts (Video Link) Amendment Act 1996* (see pages 23–24 of the previous *Monitor*) is to reduce the costs of transporting and escorting prisoners and to reduce the security risks associated with prisoners attending court. However, the Arthur Gorrie Correctional Centre is the only prison in Queensland with video link facilities and it only has one link. In addition, the only State courts with video link facilities are the Brisbane Magistrates Court, which has one link, and the Supreme and District Courts, which share a link.

From 11 June 1996 to 31 March 1998, the Brisbane Magistrates Court used its video link to hear 541 bail and remand applications and 207 pleas. The Supreme Court used its facilities only once (to hear a group of associated bail applications). The District Court has never used its facilities. Clearly, the benefits of using video links for criminal proceedings will not be fully realised until facilities are established in more prisons and courts.

### Issues for further research

Research issues arising from this volume of the *Monitor* include:

- Why is Queensland's imprisonment rate now so high relative to other States?
- What has caused the large increase in the number of higher court appearances and the marked rise in 'breach of order' matters being dealt with by Magistrates?
- Why has there been a decline in the use of community corrections options by the courts?
- What is likely to be the long-term effect of changes in early release guidelines on prisoner numbers?
- Why are so many matters heard in the higher courts in Queensland relative to other jurisdictions?
- What impact, if any, have legal aid funding constraints had on the quality of legal assistance given to criminal defendants?

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## Abbreviations

ABS	Australian Bureau of Statistics
AIC	Australian Institute of Criminology
CJC	Criminal Justice Commission
CSU	Crime Statistics Unit of the Government Statistician's Office
LAC	Legal Aid Commission of Queensland
LAQ	Legal Aid Queensland
QCC	Queensland Crime Commission
QCSC	Queensland Corrective Services Commission
ODPP	Office of the Director of Public Prosecutions
QPS	Queensland Police Service
SETONS	Self-Enforcing Ticketable Offence Notice System
WORC	Work Outreach Camps program

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- Queensland Corrective Services Commission
- Queensland Police Service

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