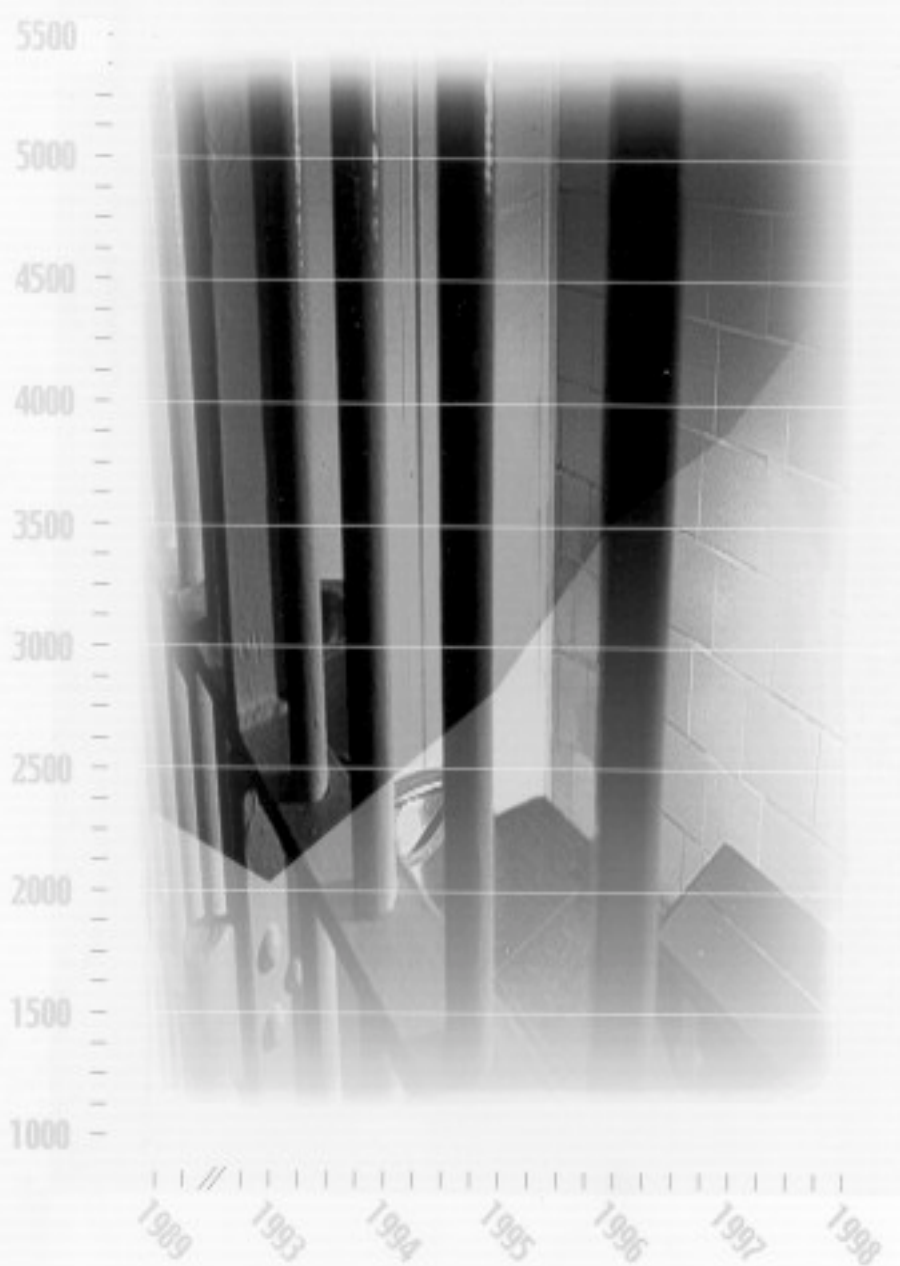




## PRISONER NUMBERS IN QUEENSLAND

An examination of population trends in Queensland's correctional institutions



# Chapter 1: Overview

- **Background to Prisoner Numbers Research Project**
- **Focus of report**
- **Data employed**
- **Prisoner numbers as a 'systems' issue**
- **Report outline**

## Background to Prisoner Numbers Research Project

In 1998, the Director-General of the (then) QCSC approached the CJC for assistance in identifying and analysing the factors responsible for the growth in Queensland's prisoner population since 1993.<sup>6</sup> The request was prompted by concern that the population of Queensland's prisons had grown by 116 per cent in the five years between 1993 and 1998.

The CJC's Criminal Justice System Monitor series had already identified the growth in the prisoner population as one of the major issues facing the criminal justice system and an area requiring further research.

When the Prisoner Numbers Research Project began in late 1998, the following three phases were defined:

### **1 a preliminary report for the QCSC (now Department of Corrective Services) highlighting the key factors underpinning the growth in prisoner numbers**

This phase was completed in March 1999 with the distribution of a preliminary report to key criminal justice system agencies. The draft report has been extensively drawn upon by agencies involved in the whole-of-government Prisoner Numbers Working Group under the umbrella of the Chief Executive Officers' Steering Committee and coordinated by the Department of the Premier and Cabinet.

### **2 a final report containing a detailed and comprehensive analysis of those factors**

This report marks the completion of phase 2.

### **3 establishment of a cross-agency capacity for the statistical modelling of key aspects of the Queensland criminal justice system**

This phase has begun with the Office of Economic and Statistical Research assuming primary responsibility. The first results were provided to Treasury and the Department of the Premier and Cabinet in November 1999.

## Focus of report

The report addresses three fundamental questions:

### **1 Why has the Queensland prisoner population risen so rapidly since 1993?**

### **2 How likely is it that the prisoner population will continue to grow (assuming that there is no policy intervention by government)?**

### **3 Which changes to practices and policies have the greatest potential to reduce the prisoner population?**

<sup>6</sup> Section 21(1)d of the *Criminal Justice Act 1989* lists one of the functions of the CJC as being to monitor, review and initiate reform of the administration of criminal justice in Queensland. Section 23 describes the CJC's responsibilities as including:

- (e) researching, generating and reporting on proposals for reform of the criminal law and the law and practice relating to enforcement of, or administration of, criminal justice, including assessment of relevant initiatives and systems outside the State; ...
- (j) reporting regularly on the effectiveness of the administration of criminal justice ...

In addition, section 56(1) describes one of the functions of the Research and Prevention Division as:

- (a) conduct research into the problems that from time to time beset, or could beset, the administration of criminal justice in the State.

Section 56(3)(c) also lists another function of the division as researching the resources available to the criminal justice agencies with a view to securing optimum use of those resources.

The focus of the report is on the State's prisoner population as a whole, rather than on trends within particular subgroups of that population (for example, Indigenous versus non-Indigenous; male versus female) or regional variations. While these more specific trends are obviously important, they require an examination of factors beyond the scope of the present study.

It should be emphasised that this report aims to deepen understanding of the factors that influence Queensland's prisoner population — *not to make specific recommendations pertaining to the administration of the Queensland criminal justice system*. In identifying policy options that could substantially reduce prisoner numbers, the CJC is not necessarily endorsing those options; rather, the intention is to contribute to a process of informed policy deliberations. For example, the report observes that an amnesty on the payment of a number of outstanding fines could potentially reduce the throughput of fine defaulters to prison by around 70 per cent. However, any decision to adopt such a policy would obviously need to consider the fairness of allowing some people to avoid paying fines, and the impact of such a policy on future levels of defaulting. Discussion of these broader issues is beyond the scope of this report.

It should also be noted that the report gives limited attention to the internal operations of the corrections system. In particular, no attempt is made to evaluate the success of correctional programs aimed at reducing the rate of recidivism. This is clearly an important area of inquiry, but, again, would require an examination of a different set of issues from those addressed in this report.

## Data employed

Most of the data presented in this report are quantitative. This is not to deny the value of qualitative data; however, at present the greater need is for a rigorous empirical profile of exactly what has occurred over the last decade across the key criminal justice agencies in Queensland.

The agencies focused on throughout this report are the Police, the Courts and Corrections. Data relating

to each have been obtained from a variety of sources in an effort to develop a broad picture of their operations and the nature of the relations between them.

The absence of coordinated counting methods across criminal justice agencies seriously complicates the interpretation of the data. The corrections data, in particular, are especially challenging when it comes to describing the changing profile of offenders.<sup>7</sup> These difficulties have made it necessary to draw together a very substantial body of data in order to tease out those factors that are most influential and, by corollary, most amenable to manipulation by changing policies and/or practices.

Where possible, trend data in the report relate to the period between July 1989 and June 1998 and are presented as calendar year, financial year or monthly data. Where available, monthly data have also been extended to cover the period to the end of March 1999 to illustrate more recent trends. Data for several indicators are not reported for the full period to which this report relates, either because of their unavailability or a lack of comparability.

For the most part, data on the number of prisoners include only those incarcerated in a gazetted prison — that is, those persons in the Work Outreach Camps (WORC) program or other community custody are generally not counted as prisoners. This was necessary for data availability reasons and to ensure consistency in time series. What this means, however, is that the prisoner population is arguably understated. For example, at 30 June 1998, the rate of Queensland's adult population in custody was just over 170 per 100,000. If all prisoners, including those in the community, are considered, this rate was almost 190 in every 100,000.

7 These challenges are primarily due to the difficulties associated with the database employed by Corrective Services, the Correctional Information System (CIS). This database was originally developed as an administrative information management tool and not with a view to subtle and sophisticated interrogation exercises. The result of this is that data queries relating to expected time to serve/duration of stay, for example, are made unusually complex in terms of the programming syntax required. In turn, this means that data queries relating to these matters are especially prone to 'off-target' data drilling.

While the differences may vary between months, there would appear to be around 400 prisoners, on average, in either the community or the WORC program. At 30 June 1998, there were 376 prisoners who were not in a gazetted prison, 187 in the WORC program and the remainder in one of four community corrections centres, two ‘halfway’ houses or four outstations.

In some instances, there are discrepancies between figures published in this report and those published elsewhere. These apparent anomalies occur as a result of different reporting periods, differences in ‘counting concepts’ employed by various criminal justice agencies and the complexities of the data on which this report is based. Explanations and elaborations of these (and other issues) are provided in the Glossary and in appendix A.

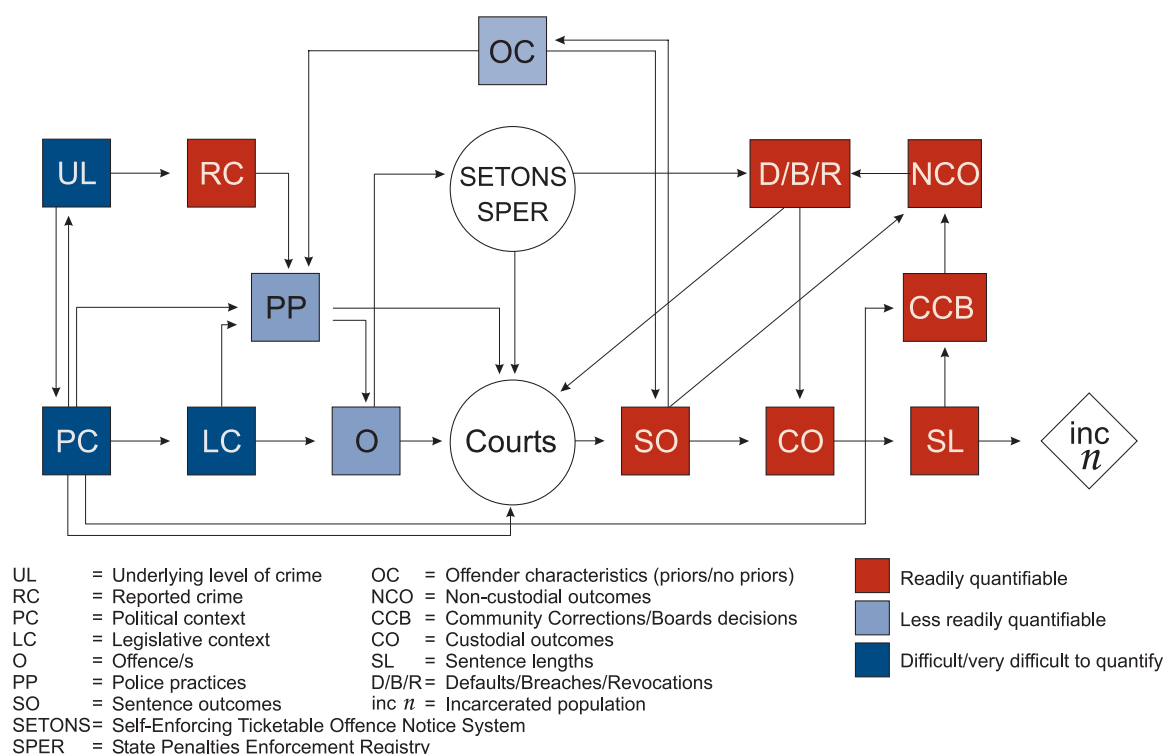
## Prisoner numbers as a ‘systems’ issue

The prisoner population (P) is always a function of admissions (A) and the duration of stay (D) or

discharges (d). When calculating the prisoner population, two relatively simple formulas are often employed, namely  $(P = A \times D)$  or  $(P = 1 + A - d)$ . However, these formulas obscure the complex interplay of factors (both agency-specific and more general) that ultimately determine the prisoner population. Because no criminal justice agency operates entirely independently of other bodies within the system, and no agency can operate without affecting other bodies (both within and outside the criminal justice system), a more sophisticated understanding of the system/process is required.

As can be seen in figure 1.1, a very wide range of intersecting and interacting factors need to be considered if the reasons for the recent rapid growth in the Queensland prisoner population are to be fully understood. The relative contributions of these different factors cannot be estimated with precision because the necessary data are either unavailable or incompatible with data from other criminal justice agencies. Nevertheless, the material presented in the following chapters roughly corresponds with a movement ‘through’ the model from left to right.

Figure 1.1 — Model of factors that affect the prisoner population





As is documented in some detail in this report, the operations of the key criminal justice agencies began to change in important ways around 1993 when the prisoner population started to rise rapidly. This increase resulted from the cumulative effect of increases across the criminal justice system, demonstrating the extent to which the growth in prisoner numbers is a system-wide issue.

The recognition that the increasing prisoner population is the result of the changing dynamics of the larger criminal justice system draws attention to the fragmented nature of the administration of criminal justice in Queensland (and elsewhere). There is a view among some academic criminologists that the very term ‘criminal justice system’ is a misnomer. It is argued that while there is certainly a criminal justice *process*, it is a mistake to describe it as a *system* because the word implies a degree of informed interdependence (or whole-of-government approach) of those involved, which does not accord with reality.

Traditionally, the various arms of the State, such as the Courts, the Police, Corrections and Cabinet/Treasury, have given a greater emphasis to the preservation of their independence from each other than to the recognition of their mutual interdependence. Clearly, there are important civil liberties issues relating to the separation of powers that to some extent underpin this interest in the preservation of discrete roles and the capacity for independent functioning. However, the maintenance of an appropriate separation of powers does not justify discrete criminal justice system/process agencies developing policies and practices without reference to possible downstream effects upon other agencies.

The empirical data presented in this report document some of the costs associated with the failure to require agencies to determine the effects of their policies and practices as a matter of course. However, to be fair to the agencies involved, in the absence of uniform counting methods and compatible data-management systems, the determination of such effects is not technically possible at present.

The need to improve coordination of the criminal justice system and its data-management processes has been recognised by the State Government for at least the last decade. There are currently three initiatives aimed at addressing this issue:

- the Courts Modernisation Project
- CJIIS, and
- the very much more recent Criminal Justice System Modelling Project (phase 3 of the Prisoner Numbers Research Project).

Collectively, these three initiatives offer the means by which criminal justice agencies can develop policies and practices in a way that takes into account downstream effects upon other agencies delivering criminal justice services. Such developments obviously have the potential to greatly enhance the Government’s ability to make informed decisions about the relative costs and benefits of particular initiatives proposed by criminal justice agencies (see chapter 9).

## Report outline

*Chapter 2* provides an overview of the Queensland prisoner population in terms of trend data, the national context and the possible future, illustrating that no single factor has been responsible for the dramatic growth in the prisoner population.

*Chapter 3* examines the relationship between recorded crime, police activities and prisoner numbers. The data presented provide little support for the notion that the increase in prisoner numbers is simply a result of an increase in the general level of crime. However, changes in police practices relating to the enforcement of some types of offences have had some impact on the number of persons entering the court system and, ultimately, the prison system.

*Chapter 4* examines the legislative context within which the increase in the Queensland prisoner population has occurred and the extent to which court sentencing practices have contributed to the increasing prisoner numbers. Between 1992–93 and 1997–98, the number of finalised appearances and the number of convictions that *could* result in a

sentence of imprisonment in the first instance both declined by 3 per cent each year (on average).

*Chapter 5* examines data on the use of community-based orders, drawing attention to the relationship between the declining use of orders and the increase in prisoners.

*Chapter 6* focuses upon the issue of fine defaulters, paying particular attention to SETONS matters and the execution of warrants by the police. The data show that the increase in the number of fine defaulters being apprehended is contributing to the increasing prisoner population.

*Chapter 7* examines the rates of recidivism among the adult prisoner population over recent years. Increased recidivism is obviously one possible explanation for the increase in the prisoner population. If people being sentenced have already exhausted all non-custodial options, an increase in the prisoner population will result even if levels of recorded crime remain stable.

*Chapter 8* examines discharge-related and duration of stay-related factors, drawing attention to the impact that the increasing numbers of short-term prisoners and the ‘stretching’ of longer sentences have had on the prisoner population.

*Chapter 9* gathers together the most pertinent data presented in chapters 2 to 8 and attempts to identify the most important messages contained in those data. The chapter identifies three sets of factors that might be focused upon by those in government who are interested in delivering a reduced growth rate in prisoner numbers. The factors and their attendant policy options are grouped as follows:

- ‘high yield’ and readily deliverable
- ‘lower yield’ and/or less readily deliverable
- ‘danger points/sleepers’ — that is, factors with the potential for significant future impact, depending upon the policy options adopted over the next year or two.

The chapter then outlines a strategy that, if implemented, would reduce the likelihood of an unanticipated event, such as a rapid growth in prisoner numbers, occurring again.

*Chapter 10* draws attention to a range of aspects of the criminal justice system that warrant further, more detailed, research.

*Appendixes A to C* provide background information. *Appendix D* provides additional data that support the findings in the body of the report.

# Chapter 2: Setting the scene

- Introduction
- Trend data
- Flow and stock
- Long-term trends
- Recent trends
- Queensland in the national context
- Where has the growth been concentrated?
- The future
- Summary

## Introduction

This chapter provides a very brief overview of the Queensland prisoner population in terms of trend data, the national context and the possible future.<sup>8</sup> The information presented here illustrates that no single factor is responsible for the recent dramatic growth in the prisoner population. In the following chapters, the factors identified as underpinning this growth are examined in as much detail as the available empirical data permit.

Every effort has been made to ensure consistency of the data presented throughout this report as far as possible. Details of each data source are provided in appendix A, as are any difficulties associated with interpretation of the data.

This report investigates data up to, and including, March 1999. Since compiling the data, it has become apparent that there is now some stability in prisoner numbers and that the rate of increase has slowed. Data for the full 1999 calendar year illustrate that the average daily number of prisoners during any month was around 4,700. The highest monthly population (4,771, recorded in March 1999) was only 305 above the number at 30 June 1998, and the lowest (4,649, recorded in August) was only 183 above the 30 June 1998 figure.

Despite the recent slowing of the growth in prisoner numbers, considerable caution needs to be exercised when drawing inferences from short-term changes in trend data. Spikes, troughs and plateaus are characteristic of such data, particularly when related to the criminal justice system. It cannot be assumed that the present trend will continue in the absence of any major changes to policies and practices. The fact that the post-1993 growth followed a four-year period of declining prisoner numbers is a salutary reminder of the risks associated with inferring future trends on the basis of short-term time series data.

## Trend data

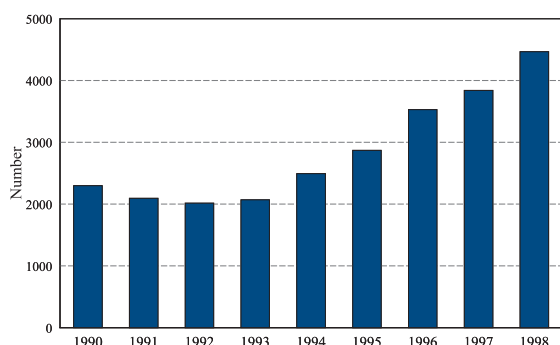
This report investigates trends in prisoner numbers since 1 July 1989, with a particular emphasis on the unexpected upward trend apparent since 1993.

Some caution is necessary in defining 1993 as the starting point of the growth in prisoner numbers because of the effect of excluding offenders on the WORC program, as well as those transferred to Community Corrections Centres to participate in approved programs such as Release to Work (RTW).<sup>9</sup> However, irrespective of precisely when prisoner numbers actually began to increase in Queensland, the general trend illustrated in figure 2.1 is clear and unambiguous.

8 Complete data comparisons across the States were beyond the scope of this report and little reference is made to interstate trends.

9 The WORC program commenced in March 1991, following the success of a project in 1990 whereby about 130 prisoners were employed for eight months in cleaning up after the floods in the town of Charleville in central western Queensland. In the 1992–93 financial year, the WORC program involved an average of 240 low and open classification prisoners who would normally be held in custody and who would, therefore, have been included in the prisoner population figures prior to the implementation of this program.

Figure 2.1 — Prisoners in custodial corrections centres, Qld (at 30 June 1990 to 1998)



Source: Trends and Issues in Crime and Criminal Justice, No. 130, AIC, Canberra.

## Flow and stock

Any attempt to measure (or predict) trends in prisoner numbers needs to take into account flow and stock.

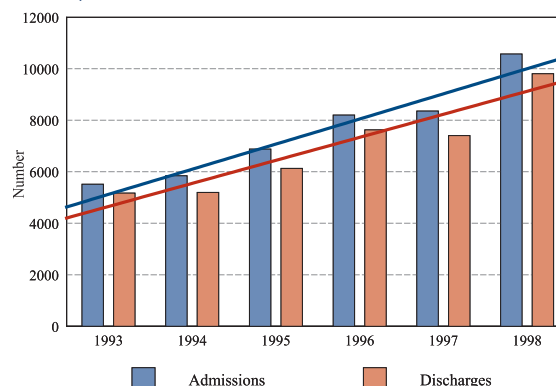
‘Flows’ are the inputs and outputs of the prison system as measured by the number of admissions and discharges.<sup>10</sup> ‘Stock’ refers to the actual prisoner population at any given time.

Figure 2.2 shows the number of distinct admissions to prison each year and illustrates that between 1993 and 1998 Queensland prisons experienced a 13.9 per cent average annual increase in the number of adults admitted (flow).<sup>11</sup> At the same time, the prisoner population (stock) increased by almost 17 per cent. This discrepancy indicates that inflows and outflows are not perfectly synchronised and the ‘mismatch’ is affecting the stock. The mismatch between admissions and discharges can be seen in figure 2.2, which shows an increasing divergence between admissions and discharges since 1993.<sup>12</sup>

## Long-term trends

It is sometimes suggested that the best long-term predictor of the size of the prisoner population is trends in the general population. Assuming that offending and detection rates as well as court and correctional practices remain constant, population trends will inevitably (and reasonably directly) influence the prisoner population. However, this factor alone cannot explain either the long- or short-term trends in the prisoner population.

Figure 2.2 — Admissions to and discharges from prison during year,\* Qld (1993 to 1998)



Source: Department of Corrective Services unpublished data.

Note: \* Including a linear trend line showing rate of growth (see appendix A)

Figure 2.3 (next page) shows that over the last fifty years, the long-term trend has been for the number of prisoners to increase more rapidly than the general population. From the late 1950s through to the early 1990s, the Queensland average annual imprisonment rate ranged between 85 and 120 per 100,000 adults. By 1997–98, this rate had increased to almost 165 per 100,000 adults in prison custody. If all prisoners, including those in the community, are considered, the daily rate at 30 June 1998 was almost 190 in every 100,000.<sup>13</sup>

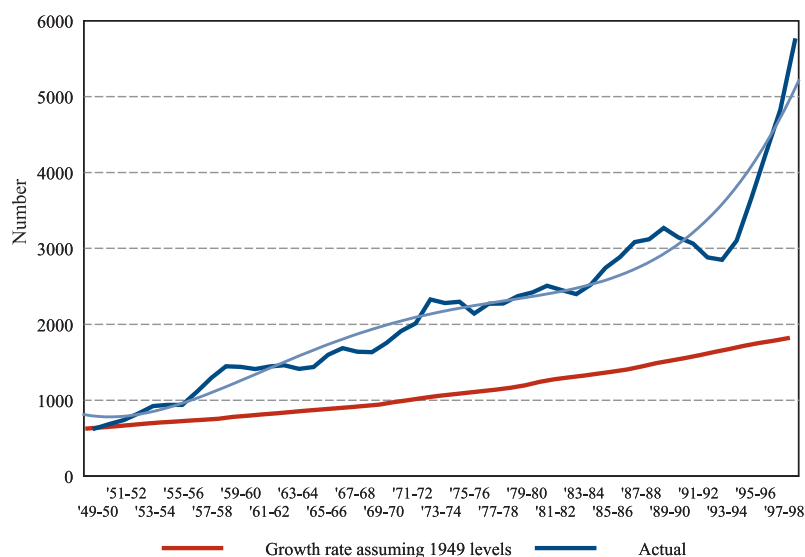
10 The rate at which persons are transferred from watchhouses to prisons has the potential to be an important flow-related factor. However, the issue of watchhouses was examined for this report and was generally found not to be significant. The exception to this occurred in early 1996 when, in response to overcrowding in watchhouses, the (then) Minister for Police and Corrective Services and Minister for Racing issued a directive that Corrective Services prisoners were not to be left in police watchhouses for longer than seven days. As a result, there was a one-off increase in the prisoner population of around 200 persons over a period of around three months, while the transfers to prison occurred.

11 Of particular importance is the fact that the period of greatest growth in admissions occurred between 1997 and 1998, when the number of admissions rose by 26.5 per cent, from 8,355 to 10,573.

12 Data relating to admissions and discharges between January 1993 and January 1999 also show that for each calendar year in the period, the ratio of admissions to discharges averages 1.1:1. At first glance it might seem that this ratio would not be significantly implicated in the increasing prisoner numbers. However, a ratio of 1.1:1 actually represents 110 admissions for every 100 discharges.

13 The daily rate was just over 170 in every 100,000 when community custody is excluded.

Figure 2.3 — Actual number of prisoners\* and projection of 1950s imprisonment rate, Qld (1949–50 to 1997–98)



Source: Department of Corrective Services unpublished data. See figure D1 (appendix D) for similar chart based on rate of population.

Note: \* Prison custody excluding WORC and other community custody.

Polynomial trend lines, as seen in this figure, are an accepted data-smoothing technique and are used extensively in this report. See appendix A.

Figure 2.3 compares the *expected* growth in prisoner numbers (had the prisoner population increased since the early 1950s solely in line with the general population increase) with the *actual* growth. The divergence between these two trends is particularly marked from 1993 onwards. Between 1993 and 1998, the adult population (17 years and over) increased by just over 2 per cent annually while the prisoner population grew by almost 17 per cent each year.<sup>14</sup> By contrast, between 1989 and 1993, the adult population increased, on average, by almost 3 per cent per year while the prisoner population declined by more than 3 per cent per year. This turnaround was unanticipated and provided the obvious impetus for this project.

## Recent trends

The year 1993 consistently emerges as the point at which the criminal justice system in Queensland changed its complexion in fundamental ways. The increase in prisoner numbers since then cannot be attributed to any one factor. As is shown in figure 2.4, the annual 17 per cent average increase in prisoner numbers occurred in the context of an annual average:

- 2 per cent increase in the adult population
- 4 per cent increase in recorded crime

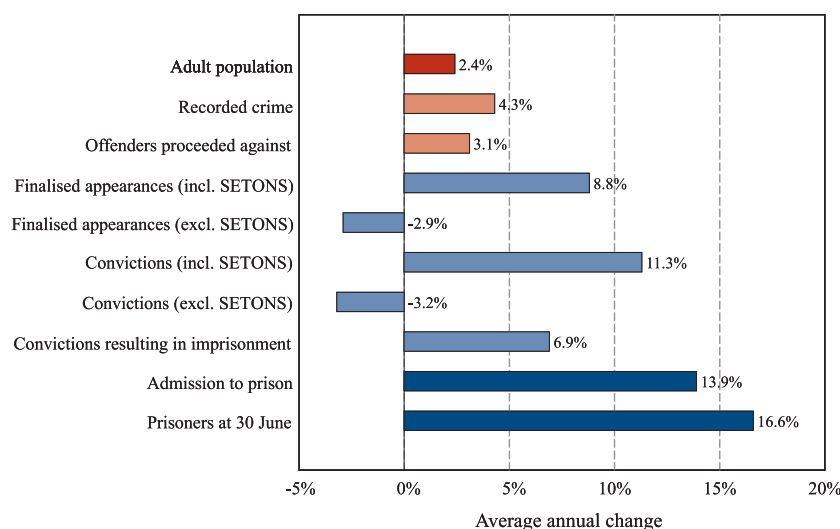
- 3 per cent increase in offenders proceeded against
- 3 per cent decrease in finalised appearances where the outcome might be imprisonment — that is, non-SETONS matters
- 3 per cent decrease in convictions where imprisonment is a possibility in the first instance — that is, non-SETONS matters
- 7 per cent increase in convictions carrying a sentence of imprisonment, and
- 14 per cent increase in admissions to prison.<sup>15</sup>

These data graphically demonstrate the extent to which the rise in prisoner numbers is a system-wide issue. The increase in convictions resulting in imprisonment points to the impact of police activities and court practices. The increase in the number of prisoners on hand over the rate of admissions points to the potential role of correctional practices. Importantly, all of these factors have been framed by the broader legislative and regulatory context determined by State Parliament.

<sup>14</sup> See also table D1 (appendix D).

<sup>15</sup> Extensive use of average annual growth rates occurs throughout this report. See appendix A for the formula.

Figure 2.4 — Average annual growth rates across the criminal justice system, Qld (1992–93 to 1997–98)



Source: Population: *Population by Age and Sex*, ABS.  
 Recorded crime and offenders: QPS unpublished data.  
 Appearances and convictions: ABS unpublished data; JAG unpublished data.  
 Admissions and prisoners: Department of Corrective Services unpublished data.

## Queensland in the national context

When compared with the other Australian States, at 30 June 1998, Queensland had the highest imprisonment rate.<sup>16</sup> The rate of imprisonment has also been increasing faster in Queensland than in any other State or Territory. Between 1993 and 1998, the national average increase in the incarceration rate was just under 5 per cent, whereas the imprisonment rate in Queensland has increased each year by almost 17 per cent. This rate of increase is particularly noteworthy when compared with the years 1989 to 1993, during which the Queensland prisoner population declined by an average of nearly 4 per cent per year (see table 2.1, next page).

In commenting on these trends at the *Beyond Prisons Symposium* held in Ontario, Canada, in March 1998, the QCSC Director-General observed:

... in the context of world experience, which is typified by rapidly expanding rates of imprisonment, the situation in Queensland is far more dramatic than anywhere else. No country or state has experienced the rate of increase which has occurred in Queensland ... (Apsey 1998)

As shown by figure 2.5 (next page), the Queensland rate of imprisonment at 30 June 1998 was more than

40 per cent above the national average and the highest of any State.<sup>17</sup> However, the rate of reported offending in Queensland was almost 20 per cent lower than the national average for offences against the person and 10 per cent lower than the national average for property crimes. This means that the higher imprisonment rate in Queensland cannot be explained as a function of a higher reported crime rate.

<sup>16</sup> The exclusion of prisoners in community custody or WORC programs in Queensland data ensures a certain level of inconsistency of reporting between the States, as this type of prisoner is included in other States' data where applicable. Both Western Australia and Queensland have very high rates and often surpass each other.

<sup>17</sup> The offence rates in figure 2.5 have been calculated from the 1998 national recorded crime data compiled by the ABS. It should be noted that the ABS publishes data for only the following offence categories: murder, attempted murder, manslaughter, driving causing death, assault, sexual assault, armed and unarmed robbery, blackmail/extortion, unlawful entry with intent, motor vehicle theft and other theft. The imprisonment rate is that calculated by the ABS and published in the quarterly publication *Corrective Services Australia*, June Quarter 1998. In Queensland it includes WORC and other community custody. New South Wales corrections figure excludes periodic detainees.

Data from both the Northern Territory and the Australian Capital Territory are included in the figure for Australia but are not shown separately. The Northern Territory figures are atypical because of its small population base (e.g. during June 1998, there was an average of 634 prisoners per day, but the rate was almost 470 in every 100,000). In the Australian Capital Territory, sentenced prisoners are included in figures for New South Wales and there are very few unsentenced prisoners at any given time (e.g. an average of 30 during June 1998).



Table 2.1 — Trends in prisoner\* numbers, Australian States and Territories (1989 to 1998)

State or Territory	No. at 30 June 1989	No. at 30 June 1998	Av. annual change 1989 to 1998	Av. annual change 1989 to 1993	Av. annual change 1993 to 1998
	No.	No.	%	%	%
New South Wales	5,261	7,810	4.5	9.7	0.5
Victoria	2,256	2,858	2.7	0.2	4.7
<b>Queensland</b>	<b>2,390</b>	<b>4,466</b>	<b>7.2</b>	<b>-3.6</b>	<b>16.6</b>
South Australia	871	1,385	5.3	7.5	3.6
Western Australia	1,568	2,352	4.6	6.7	3.0
Tasmania	245	314	2.8	2.0	3.5
Northern Territory	351	635	6.8	4.7	8.5
<b>Australia†</b>	<b>12,942</b>	<b>19,820</b>	<b>4.8</b>	<b>5.2</b>	<b>4.6</b>

Source: *Prisoners in Australia*, 1998, ABS.

Notes: \* For Queensland refers to those in prison custody, i.e. excludes WORC and other community custody.

† Excluding the Australian Capital Territory, as complete historical data are not available (86 prisoners at 30 June 1998).

## Where has the growth been concentrated?

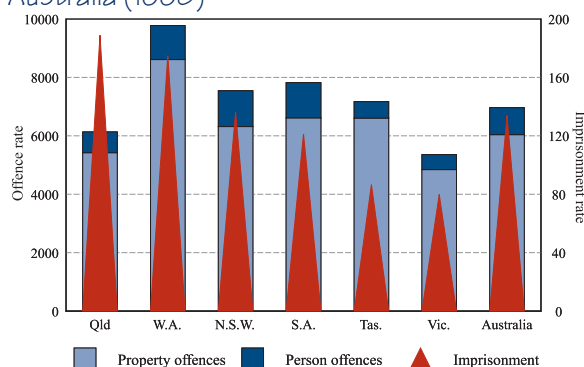
**Men and women.** Males comprise about 95 per cent of the total prisoner population. Not surprisingly, as shown in table 2.2, the growth in the male prisoner population between 1993 and 1998 reflects that of the total prisoner population at 30 June, with an annual average increase of 16.4 per cent. Although the absolute numbers involved remain relatively low, the female prisoner population has been increasing at a much faster rate than has that for males (22.1 per cent). Since early 1996, the

average daily number of female prisoners has more than doubled, rising from 105 in January 1996 to 263 by March 1999. This growth occurred after an average 10 per cent decline each year between 1989 and 1993 in the number of female prisoners on hand at 30 June. Over the same period, the male prisoner population declined by 3 per cent annually.

**Indigenous background.** Since 1993, the number of prisoners who are from Indigenous backgrounds has also increased annually at a greater rate (19.3 per cent), than has the total prisoner population (16.6 per cent). At 30 June 1989, 17.2 per cent of all adults in custody were from either Aboriginal or Torres Strait Islander backgrounds, but by 30 June 1997, Indigenous prisoners represented almost a quarter of the prisoner population even though they comprise less than 3 per cent of Queensland's adult population.

Some of the recorded rise in Indigenous representation may be more apparent than actual. Recording practices have improved and there is an increasing preparedness to self-identify as Indigenous ('category shift').

Figure 2.5 — Rate per 100,000 population for selected recorded offences and imprisonment, Australia (1998)



Source: *Corrective Services, Australia*, June Quarter 1998, ABS; *Recorded Crime, Australia*, 1998, ABS.

**Younger people.** Perhaps surprisingly, given claims that 'youth crime' is increasing dramatically, the number of younger prisoners aged 24 years or under has increased at a lower rate (an average of 6.6 per

Table 2.2 — Selected characteristics of adult prisoners, Qld (at 30 June 1989 to 1998)

At 30 June	Males		Females		Indigenous		Under 25 years of age	
	No.	%	No.	%	No.	%	No.	%
1989	2,271	95.0	119	5.0	412	17.2	811	34.0
1990	2,195	95.6	101	4.4	367	16.0	834	36.4
1991	2,026	96.8	68	3.2	346	16.5	754	35.9
1992	1,941	96.2	76	3.8	370	18.3	755	37.4
1993	1,989	96.2	79	3.8	427	20.6	756	36.5
Average annual change 1989–1993 (%)	–3.3	..	–9.7	..	0.9	..	–1.8	..
1993	1,989	96.2	79	3.8	427	20.6	756	36.5
1994	2,391	96.0	100	4.0	554	22.2	928	37.3
1995	2,765	96.3	105	3.7	638	22.2	992	34.6
1996	3,355	95.1	173	4.9	809	22.9	1,182	33.5
1997	3,649	95.1	190	4.9	942	24.5	1,251	32.6
1998	4,252	95.2	214	4.8	1,033	23.1	1,351	30.2
Average annual change 1993–1998 (%)	16.4	..	22.1	..	19.3	..	12.3	..
Average annual change 1989–1998 (%)	7.2	..	6.7	..	10.8	..	6.6	..

Source: *Australian Prisoners*, 1989 to 1993, AIC; *Prisoners in Australia*, 1994 to 1998, ABS.

Note: .. Not applicable.

cent each year since 1989) than has the total prisoner population. At 30 June 1989, 34.0 per cent of all adult prisoners were between 17 and 24 years of age; however, by 30 June 1998, this figure had fallen to 30.2 per cent.

## The future

It is important to know what the future prisoner population is likely to be if the post-1993 trends continue *in the absence of any changes to current policies and practices*. Forecasting in this way also provides benchmark data against which the impacts of policy changes can be determined/measured. Figure 2.6 (next page) uses the 1992–1998 data to forecast the prisoner population through to 2001.

The figure illustrates three sets of data:

- the actual number of sentenced prisoners from 1992 through to 1999 (actual data)
- a (two-point polynomial) trend line applied to the actual data on sentenced prisoners to provide estimates through to 2001 (poly-actual data)<sup>18</sup>
- the official approved capacity of Corrective Services (capacity).

The trend line in figure 2.6 shows that the sentenced prisoner population in 2001 is estimated on the basis of this procedure to be around 6,000 persons. In addition, the remand population is likely to increase from the (actual) 1998 figure of 558 persons to more than 700 persons. This means that if the recent slowing of growth in numbers proves to be temporary, the total prisoner population in 2001 would be somewhere between 6,500 and 7,000 persons.

The magnitude of such an increase is clearly very great. After almost three decades of relative stability, the Queensland prisoner population would have trebled within one decade, resulting in a capacity shortfall of around 1,000 persons.

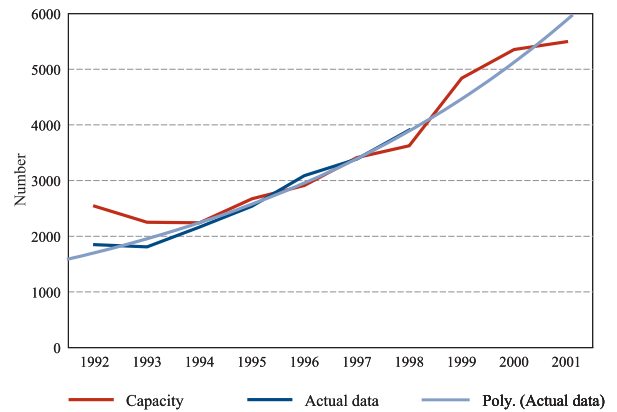
The standard lead time required for planning and building a new prison is two years and the capital costs are substantial. For example, the Department of the Premier and Cabinet allocated \$176m to the Corrective Services 1998–99 budget for a ‘capital works program providing an additional 1,800 beds to the prison system’, suggesting that an additional

<sup>18</sup> See appendix A.

\$100m (or more) would need to be allocated if it were determined that the approved capacity in 2001 should equal the forecast of the 2001 prisoner population.

It should also be remembered when considering these figures that the costs of delivering correctional services are more than just the costs associated with capital works. The total cost of capital works together with the recurrent costs involved in the maintenance of the material infrastructure of corrections and the delivery of correctional services (both custodial and non-custodial) represent a substantial investment by the Queensland Government.

Figure 2.6 — Forecast\* and actual sentenced prisoners, Qld (1992 to 2001)



Source: Department of Corrective Services unpublished data.

Note: \* The projection is simply an extrapolation from current trends, which assumes not only that current practices and policies remain unchanged but also that 'inputs', such as persons arrested and proceeded against, also remain unchanged.

## SUMMARY

- The prisoner population in Queensland began to rise steeply after the 1992–93 financial year.
- The increase in prisoner numbers since 1993 cannot be explained on the basis of the trends observed before 1993.
- The post-1993 rate of imprisonment in Queensland far exceeds anything that might be explained on the basis of population trends.
- Although the absolute numbers of female prisoners remain relatively low, the female prisoner population has been increasing at a much faster rate than has that for males.
- The rate of increase in the prisoner population (stock) has been exceeding the rate of growth in admissions (flow).
- At 30 June 1998, Queensland had the highest rate of imprisonment and fastest growing prisoner population of any Australian State.
- The high level of imprisonment in Queensland cannot be explained as a consequence of higher than average levels of crime. In terms of crimes against the person and property crimes, Queensland is below the national average.
- It is estimated that by 2001 around 6,000 (sentenced) persons will be in prison, assuming no action is taken to stem the growth. This level of incarceration substantially exceeds the approved capacity of the Department of Corrective Services.
- The increase in prisoner numbers since 1993 has been propelled by a range of factors across the broader criminal justice system. At the most general level there are four causes of the post-1993 increase in numbers. These are:
  - the legislative/regulatory context
  - police practices
  - court practices
  - correctional practices.

Examination of these four factors provides the focus for the following chapters of this report.

# Chapter 3: Recorded crime and police activities

- Introduction
- Trends in reported offences
- Offenders proceeded against by police
- Other indicators of enforcement activity
- Summary

## Introduction

One of the factors that can cause the prisoner population to grow is an increase in the number of offenders entering the ‘front end’ of the criminal justice system. This can come about because of:

- a rise in reported crime
- greater enforcement activity by police.<sup>19</sup>

This chapter assesses the extent to which changes in either of these two areas have contributed to the growth in prisoner numbers since 1993.

The data presented here show that little of the post-1993 rise in the prisoner population can be attributed to an increase in recorded crime.

Increased police enforcement activity has resulted in more people being apprehended for minor drug offences, good order offences, breaches of orders and nonpayment of fines. However, because the imprisonment rates for most of these offences are low and the duration of stay (for those imprisoned) generally quite short, this has had a relatively small effect on the total custodial population.

## Trends in reported offences

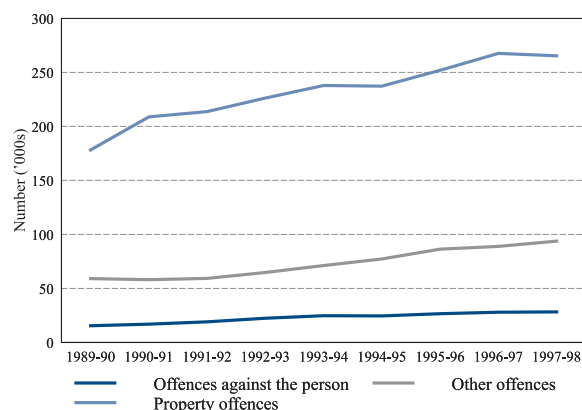
Statistics on reported crime are published annually by the Queensland Police Service (QPS). These statistics encompass crimes against the person, property crimes, drug offences and various ‘good order offences’, but exclude most traffic offences, such as parking infringements, along with breaches of orders and nonpayment of fines.

Figure 3.1 shows a breakdown of trends in reported offences against the person, property offences and ‘other’ offences between the financial years 1989–90 and 1997–98. These three categories are those most often referred to when examining crime trends.

The reason for distinguishing personal and property from ‘other’ offences is that personal and property offences generally come to police attention as the result of a report from a victim or witness, whereas ‘other’ offences (comprising mainly drug, good order and traffic offences) are usually ‘police-generated’ and so are more an indicator of police enforcement activity than of rates of offending.

Between 1989–90 and 1997–98 (the entire period examined in this project), total recorded crime increased by 53.3 per cent. Between 1989–90 and 1992–93, when the prisoner population remained relatively stable, the average rate of growth was 7.4 per cent. In contrast, between 1992–93 and 1997–98, when the upsurge in prisoner numbers occurred, total recorded crime increased by an average of only 4.3 per cent per year. Compared to the total, the rate

Figure 3.1 — Offences reported to police, Qld (1989–90 to 1997–98)



Source: QPS Statistical Reviews 1990–91 to 1997–98.

<sup>19</sup> A small number of offenders are apprehended by other agencies, such as the Queensland Crime Commission and the National Crime Authority, but the QPS accounts for the great bulk of the criminal prosecutions initiated in Queensland.

of growth for property offences over the whole period 1989–90 to 1997–98 was slightly lower at 48.9 per cent. In comparison, offences against the person increased by 83.1 per cent over the entire period.<sup>20</sup>

Again, the rate of growth was slower after 1992–93 than in the preceding years. Property offences increased annually by 8 per cent in the earlier period and by only 3 per cent in the latter. Similarly, offences against the person increased by an average of 13 per cent each year between 1989–90 and 1992–93, but just under 5 per cent each year afterwards. (The trend in relation to ‘other’ offences is dealt with below.)

A more detailed breakdown of recorded crime statistics shows that some types of offences have increased much more rapidly than others. For example, between 1992–93 and 1997–98 the number of reported armed robbery offences increased by 41 per cent, which was well above the increase in overall reported crime. However, while this might help to explain why the number of armed robbers in prison has increased substantially over this period, these offence-specific trends have had little impact on the custodial population as a whole.<sup>21</sup>

**Overall, data on recorded crime indicate that over the last decade there has *not* been a close relationship between changes in recorded crime and the size of the prisoner population. More particularly, it is clear that the marked increase in prisoner numbers after 1992–93 cannot be accounted for in terms of changes in the level of reported offending.**

## Offenders proceeded against by police

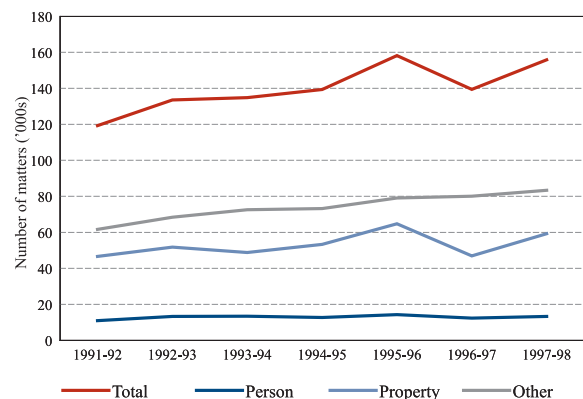
All other things being equal, an increase in recorded crime should lead to an equivalent increase in the number of persons who are apprehended and charged by police (assuming a constant level of police efficiency and no change in enforcement practices). However, greater police activity, or improved technology or detection methods, can also lead to more people being apprehended even though there has been no change in the level of recorded crime.

For this reason, it is important to examine trends in the number of offenders processed as well as in offences reported.

The QPS does not record the number of distinct persons who are charged each year — only the number of offenders cleared by arrest or summons. Because a person may be charged with several different offences, the number of offences cleared by these means is likely to well exceed the number of offenders.<sup>22</sup> However, assuming that there is a fairly constant ratio between the two measures, trends in cleared offences can provide a broad indication of the extent to which there has been an increase over time in the number of people entering the ‘front end’ of the criminal justice system.

Figure 3.2 shows the number of matters cleared by arrest or summons in the period 1991–92 to 1997–98, broken down into the broad offence categories of ‘person’, ‘property’ and ‘other’.<sup>23</sup> The figure indicates that between 1991–92 and 1997–98, the total number

Figure 3.2 — Offenders cleared\* by arrest or summons, Qld (1991–92 to 1997–98)



Source: QPS unpublished data.

Note: \* QPS count.

<sup>20</sup> Such proportional comparisons are affected by the small numbers involved.

<sup>21</sup> Data on offence-specific trends can be obtained from the QPS *Statistical Review*. See also *A Snapshot of Crime in Queensland*, CJC 1999.

<sup>22</sup> See Glossary for definition of ‘offender’.

<sup>23</sup> This includes the issuing of a Court Attendance Notice to a juvenile and, for the period from March 1998 onwards, the issuing of a Notice to Appear.

Table 3.1 — Selected offence categories, total offences reported and offenders cleared by arrest or summons, Qld (1992–93 and 1997–98)

Offence category	Offences reported			Offenders cleared by arrest or summons*		
	1992–93	1997–98	Av. annual change (%)	1992–93	1997–98	Av. annual change (%)
Against the person	22,378	28,249	4.8	13,300	13,284	–
Against property	226,254	265,381	3.3	51,821	59,265	2.7
Other offences	64,766	93,820	7.7	68,447	83,342	6.4
• drug offences	21,662	34,347	9.7	22,256	30,213	6.3
• good order offences <sup>†</sup>	12,794	19,736	9.1	12,850	18,361	7.4
• driving/traffic offences	22,252	25,637	2.9	22,972	25,105	1.8
• other	8,058	14,100	11.8	10,369	9,663	-1.4

Source: QPS unpublished data.

Notes: \* QPS count.

<sup>†</sup> Including prostitution, trespassing, vagrancy, indecent behaviour, language offences, fare evasion, disorderly conduct and resisting arrest/hindering police.

– Nil or rounded to zero.

of offenders cleared by arrest or summons increased by 31 per cent, from about 119,000 to just under 156,000. Between 1992–93 and 1997–98, the annual increase averaged only 3.1 per cent, although the picture is complicated somewhat by considerable year-to-year volatility.

Figure 3.2 indicates that the greatest rate of growth was in the ‘other’ offences category, which is also the category that accounts for the largest number of arrests and summonses issued. By contrast, there was very little change in the number of offences against the person that were cleared by arrest or summons. There was substantial variability in the property offences category, although the overall trend was upwards.

Table 3.1 (above), which provides a more detailed breakdown for the years 1992–93 and 1997–98, shows that the increase in ‘other’ offences was mainly in the drug and good order offence categories.<sup>24</sup> Only a small proportion of persons prosecuted for such offences receive a term of imprisonment in the first instance, although failure to pay a fine may ultimately result in imprisonment (see chapter 6). The low probability of imprisonment has served to limit the impact of increased police enforcement activity in these areas on the total prisoner population.

## Other indicators of enforcement activity

As already noted, recorded crime statistics do not give a complete indication of the level of, or trends in, police enforcement activity. In particular, these statistics do not count breaches of orders or nonpayment of fines as offences. These are important omissions because, as will be discussed at more length in subsequent chapters, there has been an upsurge in recent years in police enforcement activity in both of these areas.

As discussed in chapter 4, between 1992–93 and 1997–98, the number of appearances for ‘enforcement of order’ offences (such as breach of bail provisions) that resulted in imprisonment doubled (from 769 to 1,540). The number of persons apprehended by police for nonpayment of fines jumped by almost 140 per cent between the December quarter in 1996 and the March quarter in 1999 (9,351 warrants compared with 22,227 warrants).<sup>25</sup>

<sup>24</sup> Most (86.0 per cent) of drug offences in 1997–98 were for possession of small quantities of a drug (usually cannabis) (45.6 per cent), or drug ‘paraphernalia’ (40.4 per cent), rather than for more serious offences such as trafficking.

<sup>25</sup> Based on the number of warrants of commitment executed and an average of five warrants per person.



As over 19.4 per cent of those convicted for enforcement of order offences in 1997–98 received a term of imprisonment, the increase in police enforcement activity in this area has had an impact on the prisoner population (see chapter 4).<sup>26</sup> Only a very small proportion of fine defaulters serve a term

of imprisonment and then generally only for quite short periods (chapter 6). However, the rapid rise in the total number of fine defaulters apprehended means that this factor has also contributed to the growth in the prisoner population.

## SUMMARY

- Over the last decade, the level of recorded crime and the size of the prisoner population appear to have varied fairly independently of each other. The largest increase in recorded crime occurred between July 1989 and June 1993 when the prisoner population was relatively stable. By contrast, after 1993, when the prisoner population increased sharply, there was only a modest rise in recorded offences.
- Between 1992–93 and 1997–98, the total number of offenders cleared by arrest or summons increased only gradually, broadly in line with the increase in reported offences. The rapid growth in the prisoner population during this period, therefore, cannot be attributed to increasing numbers of offenders entering the ‘front end’ of the criminal justice system.
- Over the last decade, police enforcement activity has increased substantially in relation to minor drug offences, good order offences, enforcement of order offences (such as breach of bail conditions) and execution of outstanding warrants. Imprisonment rates for most of these offences are relatively low (with the exception of enforcement of order offences) and the sentences are fairly short. However, because of the large volume of persons apprehended for these offences and for fine defaulting, increased police activity in these areas has contributed to the growth in the short-term prisoner population.
- Although overall changes in recorded crime and police activity have had some impact, efforts to explain the high rate of growth in the prisoner population since 1993 must be focused primarily on other parts of the criminal justice system — principally, the courts and the corrections system itself. The contribution of these different areas will be considered in detail in the following chapters.

<sup>26</sup> The figure for the lower court was 16.6 per cent and for the higher court 50.4 per cent.

# Chapter 4: Courts and sentencing

## PART A: THE LEGISLATIVE CONTEXT

- Purposes of the Act
- Changes from existing law
- Governing principles
- Range of sentencing options
- Provisions relating to fines
- Major amendments since 1992
- Summary

## PART B: THE COURTS' CONTRIBUTION

- Data issues
- Prisoner numbers and the courts
- Trends in the use of imprisonment
- Summarising the impact of the courts on prison admissions
- Other relevant factors
- Summary

## Introduction

This chapter is divided into two major sections: the legislative context and the courts' contribution to increased prisoner numbers. The first considers the *Penalties and Sentences Act 1992*, which defines the general legislative context for the matters examined in this report. In terms of the model of the criminal justice system outlined in figure 1.1 (page 3),

the Act is one of the most important concrete factors identifiable at the extreme left of the model and is a key determinant of who enters the custodial system. Court actions are in large part dependent on the legislative framework that exists in the State. The second section examines court data relating to appearances and sentences to determine how courts have contributed to the increase in prisoner numbers.

## PART A: THE LEGISLATIVE CONTEXT

### Purposes of the Act

The substantive provisions of the *Penalties and Sentences Act* commenced in 1992.<sup>27</sup> The Act consolidated a range of provisions governing the sentencing of offenders that had previously been defined within a number of different statutes, namely the *Criminal Code*, the *Justices Act 1886*, the *Corrective Services Act 1988*, the *Penalty Units Act 1985* and the *Vagrants, Gaming and Other Offences Act 1931*. Section 3 of the Act outlined its purposes:

- collecting into a single Act general powers of courts to sentence offenders
- providing a sufficient range of sentences to balance protection of the community with appropriate punishment and rehabilitation of offenders

- promoting consistency of approach in the sentencing of offenders
- providing fair procedures for imposing sentences and for dealing with offenders who contravene the conditions of their sentence
- providing sentencing principles that are to be applied by the courts
- ensuring offenders are not imprisoned for nonpayment of fines without the opportunity of obtaining a fine option order
- promoting public understanding of sentencing practices and procedures
- reforming the sentencing laws of Queensland.

<sup>27</sup> The provisions for intensive correction orders commenced on 1 September 1994.

## Changes from existing law

While the new Act was primarily intended to be a consolidating Act, it also introduced some changes to the law and procedures relating to the sentencing of offenders. Such changes included:

- the introduction of governing principles for the sentencing of offenders including sentencing guidelines and a range of other matters which the sentencing courts were required to consider (s. 9)
- the consolidation of the range of sentencing options and their organisation into a hierarchy of options according to their severity
- the creation of entirely new sentencing options, such as intensive correction orders and indefinite sentences, and the reintroduction of sentencing options that had previously been diluted and/or fallen into disuse, such as suspended sentences
- a change to how default periods of imprisonment for nonpayment of a fine were required to be served (s. 185).

## Governing principles

Part 2 of the Act, headed ‘governing principles’, contains guidelines for the sentencing of offenders. The inclusion of principles or guidelines for the sentencing of offenders in legislative provisions was a new development in this area of the law.

Section 9, headed ‘sentencing guidelines’, outlines the only purposes for which a sentence may be imposed on an offender.<sup>28</sup> These guidelines are essentially a list of well-recognised sentencing principles, which had routinely been applied by the courts in the course of past judgments but which had never before been incorporated into a single legislative scheme.

These purposes include to:

- punish the offender (retribution)
- help the offender to be rehabilitated (rehabilitation)
- deter the offender or others from committing the same or similar offences (deterrence)
- make it clear that the community denounces the offender’s conduct (denunciation)
- protect the community from the offender (incapacitation).

In certain fundamental respects these purposes are mutually incompatible:

- retribution prioritises the victim
- rehabilitation prioritises the offender
- deterrence prioritises potential perpetrators
- denunciation and incapacitation prioritise the wider community.

A reconciliation (of sorts) of these disparate purposes can only be achieved by ‘weighting’ the different objectives. Accordingly, the Act also lists 16 matters the court must regard when sentencing an offender. This list includes:

- the principles that imprisonment should only be imposed as a last resort and that a sentence which allows the offender to remain in the community is preferable
- the nature and seriousness of the offence, including any physical or emotional harm done to a victim
- the offender’s character, age and intellectual capacity
- the prevalence of the offence
- how much assistance the offender gave to law enforcement agencies in the investigation of the offence or other offences.

Other provisions found in Part 2 of the Act impose further obligations on the court or enable the court to take into account additional factors, for example:

- section 10 requires the court to state reasons for imposing a sentence of imprisonment
- section 11 enables the court to take into account matters that may be considered in determining an offender’s character
- section 12 requires the court, when considering whether to record a conviction, to take into account the circumstances of the case
- section 13 requires the court to take a plea of guilty into account
- section 13A prescribes how the court is to treat an offender who has undertaken to cooperate with law enforcement agencies

<sup>28</sup> The Hon. D.M. Wells (then Attorney-General), in his Second Reading speech, stated that these sentencing guidelines were intended to achieve a ‘higher degree of conformity and consistency’ in sentences throughout the State.

- section 14 requires the court to give a preference to making an order for compensation for a victim over the imposition of a fine, where there is doubt whether the offender can pay both.

## Range of sentencing options

Again, to cater for the divergent purposes of the Act, the range of sentencing options available to the courts were for the first time all listed together in one Act, and were arranged in a hierarchy of severity from least to most severe:

- order to release an offender absolutely (s. 19[1][a])
- release of an offender on recognisance with conviction recorded/without conviction recorded (ss. 19–33A)
- orders for restitution and compensation (ss. 34–43)
- fines and fine option orders (ss. 44–89)
- probation orders (ss. 90–99)
- community service orders (ss. 100–108)
- intensive correction orders (ss. 111–119)
- orders of suspended imprisonment (ss. 143–151A)
- imprisonment (ss. 152–161)
- indefinite sentences (ss. 162–179).

## Provisions relating to fines

### Fine option orders

Under the Act, the court may impose a fine in addition to, or instead of, any other sentence to which an offender is liable and whether or not it records a conviction (ss. 44–45). An offender who is ordered to pay a fine may apply for a fine option order.

A fine option order (ss. 53–89) is an order that requires the offender to perform a certain number of community service hours instead of paying the fine or serving the default period of imprisonment for nonpayment.

As will become clear in the chapters that follow, fine option orders have indirectly contributed to the post-1993 prisoner population.

### Nonpayment of fines

Before the Act, default periods of imprisonment for nonpayment of fines were served concurrently. In practice, this meant that a person who was sentenced to a term of imprisonment (for any type of offence) or was arrested and imprisoned on a warrant for nonpayment of a fine could ‘call in’ all outstanding warrants for nonpayment of a fine and serve the default periods of imprisonment concurrently.

For example, if a person had four outstanding warrants for nonpayment of fines with the default periods on three of the warrants being two weeks and on the remaining warrant being four weeks, the default period required to be served in custody was four weeks. After the commencement of the Act, the period required to be served in custody for the four warrants was 10 weeks — two-and-a-half times the period previously required to be served (ss. 182A[2][b] and 185[2][b]).

## Major amendments since 1992

The Act has been amended 17 times since the commencement of most of its provisions in late 1992. Most of these have been technical amendments that have not had much impact on the prisoner population. However, some have resulted in substantial changes to the law relating to the sentencing of offenders and, therefore, have the potential to affect prisoner numbers to some degree.

### General principles

The original version of the Act included a provision permitting the court to impose a sentence only when it was satisfied that the sentence was appropriate in all the circumstances and was no more severe than necessary to achieve its purposes (s. 9[3]). The Act also made special provision for first offenders under 25 years of age, requiring that imprisonment be imposed only if the court was satisfied that no other sentence was appropriate in the circumstances of the case, having taken into account all other available sentences and the desirability of not imprisoning a first offender (s. 9[4]). Both sections were later repealed.

## Serious violent offences

The 1997 amendments<sup>29</sup> to the Penalties and Sentences Act and the Corrective Services Act created a new sentencing regime for offenders convicted of ‘serious violent offences’, under which an offender is convicted of a ‘serious violent offence’ if convicted under section 161A of the Penalties and Sentences Act of an offence listed in the schedule. Such offences range from unlawful assembly (s. 62 of the *Criminal Code*) to attempted murder (s. 306 of the *Criminal Code*). There are three circumstances in which an offender can be deemed to be convicted of a serious violent offence:

- 1 the offender is convicted on indictment of an offence listed in the schedule, or of counselling or procuring the commission of, and attempting or conspiring to commit, an offence listed in the schedule, and is sentenced to 10 or more years imprisonment (s. 161A)
- 2 the offender is convicted on indictment of an offence listed in the schedule or of counselling or procuring the commission of, and attempting or conspiring to commit, an offence listed in the schedule and is sentenced to five or more, but less than 10, years imprisonment and is declared by the sentencing court to be convicted of a serious violent offence (s. 161B[3])
- 3 the offender is convicted on indictment of an offence
  - (i) involving the use of serious violence against another person or of counselling or procuring the commission of, or conspiring or attempting to commit, such an offence, or
  - (ii) that resulted in serious harm to another person and is sentenced to a term of imprisonment and is declared by the sentencing court to be convicted of a serious violent offence (s. 161B[4]).

The impact of this new sentencing regime will be felt mainly from 2006 onwards when prisoners sentenced under the new rules reach the point where they would previously have been eligible for release (see pp. 70–71 for more detail).

### Leave of absence and home detention

A conviction for a serious violent offence has a number of implications for eligibility for release. The Corrective Services Act<sup>30</sup> provides that a prisoner convicted of a serious violent offence is not eligible for release on leave of absence or home detention unless the prisoner has served at least:

- 15 years of that sentence, if the prisoner is serving a life sentence; or
- 80 per cent of the sentence in all other circumstances.

## Parole

Before the 1997 amendments to the Corrective Services Act, a prisoner serving a term of imprisonment was eligible for release on parole after serving half of the term or any lesser period specified as the non-parole period by the sentencing court. The Penalties and Sentences (Serious Violent Offences) Amendment Act specifies that a prisoner is not eligible for release on parole:<sup>31</sup>

- if the prisoner is serving a life sentence —
  - for murder and has been convicted of murder on a previous occasion — until the prisoner has served at least 20 years of that sentence
  - in all other circumstances — until the prisoner has served at least 15 years of that sentence
- if the prisoner is convicted of a serious violent offence — until the prisoner has served at least 80 per cent of the term of imprisonment imposed or 15 years, whichever is the lesser
- in all other circumstances — until the prisoner has served at least half of his or her sentence.<sup>32</sup>

Under section 157(2) of the Penalties and Sentences Act a sentencing court may still recommend that a prisoner be eligible for earlier release on parole as stated above, except prisoners who have been convicted of a serious violent offence.

## Remissions

Under the Corrective Services Act, a prisoner serving a sentence of imprisonment on conviction of a serious violent offence is not eligible for remission on that sentence.<sup>33</sup>

<sup>29</sup> The *Penalties and Sentences (Serious Violent Offences) Amendment Act 1997* (No. 4, 1997).

<sup>30</sup> Sections 61 and 86 of the Corrective Services Act.

<sup>31</sup> Amendments to section 166 of the Corrective Services Act by section 24 of the Penalties and Sentences (Serious Violent Offences) Amendment Act.

<sup>32</sup> Section 166 of the Corrective Services Act.

<sup>33</sup> Section 161D of the Penalties and Sentences Act.

## SUMMARY

Legislative changes since 1992 have provided a basis for more people to receive custodial sentence options and for longer sentences to be imposed. Specifically:

- The Penalties and Sentences Act redefined how default periods of imprisonment for nonpayment of a fine were required to be served. Unless otherwise specified, periods of default imprisonment are now to be served cumulatively, rather than concurrently.
- The Act initially included a provision permitting the court to impose a sentence only when it was satisfied that the sentence was appropriate in all the circumstances and no more severe than necessary to achieve its purpose. The Act also made special provision for first offenders under 25 years of age. Both these provisions, which might have reduced prisoner numbers, were removed in amendments to the Act.
- New provisions relating to serious violent offenders, introduced in 1997, will significantly increase the time in prison served by this category of offenders.

## PART B: THE COURTS' CONTRIBUTION

### Data issues

Before examining the court data in detail, the following points should be noted.

#### 1. Break in time series

The ABS discontinued the collection of court data after 1993–94, with the commercial arm of the Office of Economic and Statistical Research (Qstats) collecting and publishing data on behalf of the Department of Justice and Attorney-General for 1994–95 onwards, leading to some differences in the recording of data between the two periods.

#### 2. Traffic Offence Notices and SETONS

Traffic Offence Notices for specific drink-driving offences were introduced in December 1991<sup>34</sup> and SETONS were introduced in 1992 for a range of traffic and other offences. This meant that a large number of matters previously dealt with in a Magistrates Court, usually in the presence of the offender, were dealt with

through a computerised process without the appearance of the offender. Use of the SETONS process continues to expand as technological advances, such as red-light cameras, are introduced and more local authorities use the process. SETONS does not use imprisonment as a sentencing option, although persons who fail to pay SETONS fines risk being jailed as fine defaulters.

#### 3. Appearances and convictions

Court data are based on finalised appearances. An appearance is counted each time a person appears in a criminal court and any matter being heard is finalised in that court on a particular day. A person appearing more than once during a particular period is counted once for each appearance. Court outcome data, such as convictions resulting in imprisonment, show the most serious outcome of all matters finalised at an appearance.

Outcomes of imprisonment include intensive correction orders and partially suspended sentences, but exclude fully suspended sentences.

<sup>34</sup> Traffic offence notices were excluded from court data until included in SETONS from 1993–94 onwards.



## Prisoner numbers and the courts

To a large extent, the number of people sentenced to prison by the courts is determined by police enforcement activities and offending patterns in the community. However, courts can contribute independently to the increase in the prisoner population by such means as:

- increasing the proportion of defendants who receive terms of imprisonment
- increasing the sentence length imposed on persons who are sentenced to imprisonment
- making greater use of non-custodial sentencing options where there is a high probability that a breach will result in a person going to prison.

Part B of this chapter examines the impact of the courts in relation to the first two of these factors. The impact of changes in the use of non-custodial options by courts is dealt with in chapter 5.<sup>35</sup>

Much of the following discussion deals separately with the activities of the higher and lower courts. This separation is necessary because these courts have different jurisdictions and deal with different types of cases. The higher courts process a relatively small number of matters. The more serious nature of the offences dealt with means the rate of imprisonment is much greater and the terms imposed significantly longer than in the lower courts. By contrast, the lower courts are characterised by low imprisonment rates but very high volumes. The lower courts also include the SETONS court, which processes matters that *cannot* result in imprisonment in the first instance.

## Trends in the use of imprisonment

### Overall court trends

Table 4.1 shows that the average annual increase (over the period 1992–93 to 1997–98) in total court appearances was 8.8 per cent and the increase in charges was 9.8 per cent. There was an average annual increase of 11.3 per cent over the same period in the number of convictions (that is, a finding of guilt) by the courts and an associated rate of increase in custodial sentences of 6.9 per cent.

Table 4.1 — Total higher and lower court appearances: average annual change, Qld (1992–93 to 1997–98)

Particulars	Av. annual change %
Finalised appearances	8.8
Charges	9.8
Convictions	11.3
Custodial sentences (convictions resulting in)	6.9

Source: ABS unpublished data for 1992–93;  
JAG unpublished data for 1997–98.

These data suggest little change in court practices that might have independently contributed to the increased prisoner numbers. The figures for charges and convictions appear simply to reflect the increased volume of appearances resulting from police activities and court administrative processes.

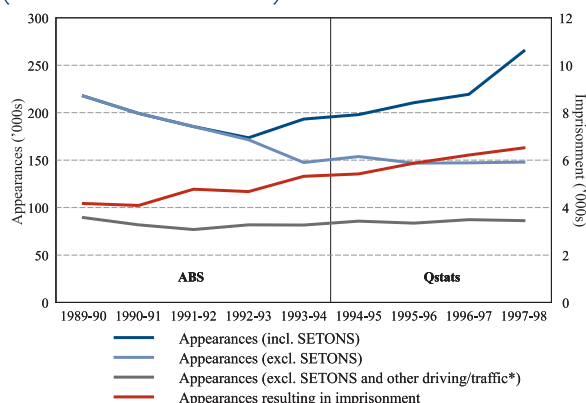
The fact that convictions increased by an average 11.3 per cent while custodial sentences increased by only 6.9 per cent suggests that the courts have become more lenient over time and have reduced rather than added to the pressure on prisoner numbers. However, a different picture emerges once we separate out matters that either cannot result in imprisonment or do not usually result in a custodial sentence (SETONS and driving/traffic).

Figure 4.1 shows that the number of appearances excluding SETONS and other lower court driving/traffic was relatively flat over the period of growth in prisoner numbers (an increase of 5 per cent since 1992–93, with an average annual growth of 1 per cent). Despite this flatness, the number of appearances resulting in imprisonment grew by a total of 39 per cent over the same period (or 6.9 per cent annually).

In contrast to the data presented in table 4.1, figure 4.1 suggests that the courts as a whole have become more punitive over time. However, the overall trend disguises some significant differences between the lower and higher courts.

<sup>35</sup> The adoption of more conservative bail practices would also increase prisoner numbers. This issue is addressed here in terms of the consequences of breaches of bail; however, the extent to which bail is made available by the courts is not discussed.

Figure 4.1 — Total court appearances and appearances resulting in imprisonment, Qld (1989–90 to 1997–98)



Source: ABS unpublished data for 1989–90 to 1993–94;  
JAG unpublished data for 1994–95 to 1997–98.

Note: \* Lower court driving and traffic only. Most driving/traffic matters are processed by the SETONS court.

### Lower court trends

As indicated, the lower courts deal with many more matters than do the higher courts. If SETONS matters are included, a total of 258,006 appearances were finalised by the lower courts in 1997–98. Excluding SETONS matters, the number of appearances finalised by the lower courts in 1997–98 was 140,825.

Table 4.2 presents data on rates of change for the lower courts, with SETONS matters included and excluded. The table shows that the 4.8 per cent annual increase in the imposition of custodial sentences by the lower courts occurred at a time when both appearances and convictions for non-SETONS matters actually *declined* by more than 3 per cent.

Table 4.2 — Lower court appearances: average annual change, Qld (1992–93 to 1997–98)

Particulars	Incl. SETONS %	Excl. SETONS %
Appearances	8.9	–3.3
Charges	9.4	2.1
Convictions	11.4	–3.6
Custodial sentences (convictions resulting in)	4.8	

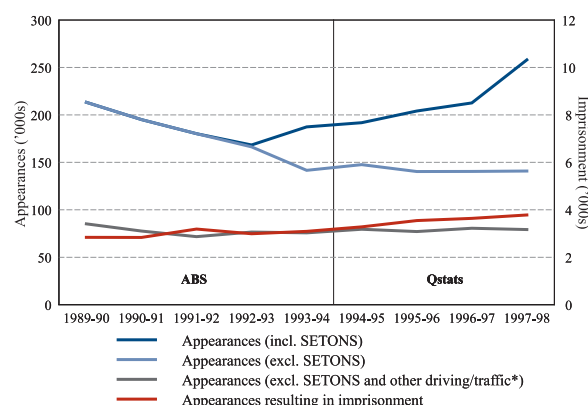
Source: ABS unpublished data for 1992–93;  
JAG unpublished data for 1997–98.

The decline in the number of non-SETONS appearances and convictions does not reflect a decline in crime or offences so much as the progressive shift in infringement processing towards the SETONS process (particularly for driving/traffic offences). The percentages in the first two rows of column one (table 4.2) are thus inflated by the inclusion of all SETONS matters and, conversely, the percentages of column two are deflated by the exclusion of all SETONS matters.

Even allowing for this unavoidable statistical artifact, it is apparent that since 1992–93 there has been a disproportionate increase in the use of custodial sentences by the lower courts. This can be seen more clearly in figure 4.2, which separates out both ‘other driving/traffic’ and SETONS matters. The figure shows a steady increase over time in the use of custodial sentences by the courts for those offences more typically associated with sentences of imprisonment.

Figure 4.2 also shows that the number of appearances resulting in imprisonment has risen by a total of 26.3 per cent since 1992–93, or approximately 500 extra prisoners in 1997–98. This has clearly made a contribution (albeit modest) to the rise in prisoner numbers over this period.

Figure 4.2 — Lower court appearances and appearances resulting in imprisonment, Qld (1989–90 to 1997–98)



Source: ABS unpublished data for 1989–90 to 1993–94;  
JAG unpublished data for 1994–95 to 1997–98.

Note: \* Lower court driving and traffic only. Most driving/traffic matters are processed by the SETONS court.

### Higher court trends

Because the higher courts do not deal with SETONS matters and only a very small number of driving/traffic offences, the data are less complicated than those relating to the lower courts. As can be seen in table 4.3, the growth rates in higher courts are closer to those of the ‘total courts’ than is the case with the lower court data (excluding SETONS). On

average, from 1992–93 to 1997–98, higher court appearances rose by 6.2 per cent per year, charges rose by 15 per cent and convictions rose by 8.4 per cent. At the same time, the number of custodial sentences imposed by the higher court increased by 10.3 per cent. Overall, there were approximately 1,000 extra persons sentenced to prison by the higher courts in 1997–98 than in 1992–93 (see table 4.6, page 26).

Table 4.3 — Higher court appearances: average annual change, Qld (1992–93 to 1997–98)

Particulars	Av. annual change %
Finalised appearances	6.2
Charges	15.0
Convictions	8.4
Custodial sentences (convictions resulting in)	10.3

Source: ABS unpublished data for 1992–93;  
JAG unpublished data for 1997–98.

### What these data mean

The data presented so far indicate that both higher and lower courts appear to have made independent contributions to the increased prisoner population over the period 1992–93 to 1997–98. For both jurisdictions, there has been an increase in the proportion of appearances that *could* result in imprisonment that actually *did* result in imprisonment.<sup>36</sup>

There are three possible explanations (not necessarily mutually exclusive) for these trends:

- the **offence mix** of convictions finalised by the courts has altered
- the **volume** of particular offence types finalised by the courts has increased
- the **imprisonment rates** associated with different offence types finalised by the courts have increased (in other words, the courts have become ‘tougher’).

These three factors interact in complex ways and may result in unexpected outcomes in terms of overall levels of imprisonment. If, for example, the offence mix changes such that proportionately more finalised matters involve more serious offences for which imprisonment is appropriate, there will be a consequential overall increase in the rate of imprisonment. This overall increase might occur even where there is a decline in the imprisonment rate associated with the particular offence that has increased in volume (that is, the courts actually becoming more lenient over time).

Tables 4.4 and 4.6 present mix, volume and rate data for each of the major offence categories in the lower and higher courts with tables 4.5 and 4.7 indicating the components of the ‘other’ offence category. Data for the three key years 1989–90, 1992–93 and 1997–98 are presented in order to illustrate the changes over time in terms of each of these factors.<sup>37</sup> These data relate only to appearances that resulted in imprisonment.

<sup>36</sup> For more detailed court data see appendix D: tables D4 to D6 and figures D4 and D5.

<sup>37</sup> Data for the intervening years are provided in appendix D: tables D7 to D10.

### The lower court in more detail

Table 4.4 shows that for the lower courts, there were only two offence categories in which the number of appearances resulting in imprisonment increased significantly between 1992–93 and 1997–98:

‘assault etc.’ and ‘other’ offences. For the remaining categories, the number of appearances resulting in imprisonment either remained stable (‘property’ offences) or (in the case of ‘driving, traffic, etc.’) actually declined. There were very marginal increases in imprisonment rates for property and driving/traffic offences, but in both cases there were no identifiable consequences for overall prisoner numbers.

The number of persons imprisoned in the lower courts for offences within the ‘assault etc.’ category increased from 278 in 1989–90 to 433 in 1997–98, but the imprisonment rate for this offence category has remained relatively stable at around 8 per cent. As a proportion of the total, the number imprisoned for this offence category has fluctuated around the 10–12 per cent level. Thus, the data reveal no evidence of an independent contribution by the lower court on the number of persons being imprisoned for these offences. The explanation for the observed increase in persons being imprisoned must, therefore, lie with either police activities or the increased occurrence of such offences in the community (or a combination of both).

Table 4.4 indicates that the ‘other’ offences category accounts for the bulk of the increase between 1992–93 and 1997–98 in the number of lower court appearances resulting in imprisonment. As a proportion of all offences resulting in imprisonment, this category has risen from 28 per cent in 1989–90 to 45 per cent in 1997–98. The absolute numbers imprisoned for this category of offence have more than doubled, from 780 in 1989–90 to 1,687 in 1997–98. The imprisonment rate associated with this offence category has also risen over time, from 2.6 per cent in 1989–90 to 5 per cent in 1997–98.

Table 4.5 shows that the apparent increased propensity of the lower court to impose custodial

Table 4.4 — Lower court convictions resulting in imprisonment: offence category by number, proportion of total and imprisonment rate,\* Qld (1989–90, 1992–93 and 1997–98)

Particulars		1989–90	1992–93	1997–98
Assault etc.	No.	278	358	433
	%	9.8	12.0	11.4
	Rate	7.7	7.3	7.9
Fraud and misappropriation	No.	170	151	155
	%	6.0	5.0	4.1
	Rate	8.8	6.7	7.5
Theft, breaking and entering etc.	No.	785	790	790
	%	27.6	26.4	20.9
	Rate	9.4	8.9	10.1
Property damage	No.	138	136	150
	%	4.9	4.5	4.0
	Rate	7.0	5.8	6.8
Driving/traffic etc.	No.	690	643	567
	%	24.3	21.5	15.0
	Rate	0.6	0.8	1.0
Other	No.	780	916	1,687
	%	27.5	30.6	44.6
	Rate	2.6	3.3	5.0
Total	No.	2,841	2,994	3,782
	%	100.0	100.0	100.0
	Rate	1.7	2.3	3.5

Source: ABS unpublished data for 1989–90 and 1992–93; JAG unpublished data for 1997–98.

Note: \* Imprisonment rate is the number of convictions that result in imprisonment (excluding fully suspended sentences) as a proportion of total convictions for that offence.

Table 4.5 — Lower court convictions resulting in imprisonment for ‘other’ offences: offence category by number, proportion of all convictions resulting in imprisonment and imprisonment rate, Qld (1989–90, 1992–93 and 1997–98)

Particulars		1989–90	1992–93	1997–98
Drug offences	No.	158	201	381
	%	5.6	6.7	10.1
	Rate	2.9	1.8	2.7
Weapons offences	No.	32	32	30
	%	1.1	1.1	0.8
	Rate	6.0	3.5	2.7
Enforcement of order offences	No.	490	625	1,208
	%	17.2	20.9	31.9
	Rate	24.5	19.0	16.6
Other	No.	100	58	68
	%	3.5	1.9	1.8
	Rate	0.4	0.5	0.6
Total	No.	780	916	1,687
	%	27.5	30.6	44.6
	Rate	2.6	3.3	5.0

Source: ABS unpublished data for 1989–90 and 1992–93; JAG unpublished data for 1997–98.

sentences for ‘other’ offences actually derives from the increase in convictions for enforcement of order offences. Convictions resulting in imprisonment for these offences have almost trebled over the period 1989–90 to 1997–98 (from 490 to 1,208).

Crucially, however, this increase has occurred in the context of a *declining* rate of imprisonment, from 24.5 per cent in 1989–90 to 16.6 per cent in 1997–98. This means that once the ‘other’ offences category is disaggregated, there is no evidence that changed sentencing practices by the lower court have contributed to the increase in prisoner numbers. Indeed, the declining imprisonment rate for enforcement of orders has softened the impact of the increase in convictions for these offences.

The category of ‘enforcement of order’ offences encompasses offences such as breach of bail, breach of home detention, breach of community service and breach of a domestic violence order. However, most people appearing for this type of offence have been charged with breach of bail. Further research is required to determine why the number of appearances for this type of offence has increased so dramatically, but increased police enforcement would seem likely to be a major cause.

Table 4.5 (previous page) also shows that between 1989–90 and 1997–98, the number of appearances for drug offences resulting in imprisonment more than doubled (from 158 to 381). As a proportion of all lower court appearances resulting in imprisonment this represents an increase from 5.6 per cent in 1989–90 to 10.1 per cent in 1997–98. Over this period, the imprisonment rate for drug offences remained very low at the 2 to 3 per cent level.

### The higher court in more detail

The higher court data reported in table 4.6 indicate that three categories of offences account for a large proportion of convictions resulting in imprisonment. Specifically, around a third of *all* sentences of imprisonment in 1997–98, regardless of jurisdictional level, resulted from higher court convictions for ‘assault etc.’, ‘theft, breaking and entering’ or ‘other’ offences.

Examination of the volume and rate data associated

Table 4.6 — Higher court convictions resulting in imprisonment: offence category by number, proportion of total and imprisonment rate, Qld (1989–90, 1992–93 and 1997–98)

Particulars		1989–90	1992–93	1997–98
Homicide etc.	No.	79	51	85
	%	5.9	3.0	3.1
	Rate	83.2	77.3	84.2
Assault etc.	No.	384	455	771
	%	28.8	27.1	28.2
	Rate	43.3	48.9	55.1
Robbery, extortion	No.	111	176	241
	%	8.3	10.5	8.8
	Rate	73.0	66.7	77.0
Fraud and misappropriation	No.	94	117	188
	%	7.1	7.0	6.9
	Rate	33.1	35.7	37.5
Theft, breaking and entering	No.	394	493	731
	%	29.6	29.4	26.7
	Rate	35.9	37.3	41.7
Property damage	No.	36	56	64
	%	2.7	3.3	2.3
	Rate	22.0	34.8	28.4
Driving/traffic etc.	No.	13	14	48
	%	1.0	0.8	1.8
	Rate	24.5	45.2	56.5
Other	No.	221	317	608
	%	16.6	18.9	22.2
	Rate	45.8	44.5	46.1
Total	No.	1,332	1,679	2,736
	%	100.0	100.0	100.0
	Rate	41.5	44.0	48.0

Source: ABS unpublished data for 1989–90 and 1992–93;  
JAG unpublished data for 1997–98.

with these three high-volume offence categories reveals that in each case (and in marked contrast to the lower courts) the higher court imprisonment rate has increased over time. This is particularly the case with the ‘assault etc.’ category where the imprisonment rate has increased from 43.3 per cent in 1989–90 to 55.1 per cent in 1997–98.

The seriousness of the matters finalised in the higher court will always mean that the imprisonment rate will be much higher than that of the lower court. However, the general increases in the rates of imprisonment mean that either the higher courts have become more punitive or the matters being finalised have become more serious over time.

As can be seen in table 4.7, more than half of the appearances in the ‘other’ offences category that result in imprisonment relate to enforcement of



Table 4.7 — Higher court convictions resulting in imprisonment for ‘other’ offences: offence category by number, proportion of all convictions resulting in imprisonment and imprisonment rate, Qld (1989–90, 1992–93 and 1997–98)

Particulars		1989–90	1992–93	1997–98
Drug offences	No.	130	168	259
	%	9.8	10.0	9.5
	Rate	51.2	50.8	42.3
Weapons offences	No.	3	2	3
	%	0.2	0.1	0.1
	Rate	25.0	20.0	30.0
Enforcement of order offences	No.	82	144	332
	%	6.2	8.6	12.1
	Rate	46.6	42.9	50.4
Other	No.	6	3	14
	%	0.5	0.2	0.5
	Rate	14.6	8.3	37.8
Total	No.	221	317	608
	%	16.6	18.9	22.2
	Rate	45.8	44.5	46.1

Source: ABS unpublished data for 1989–90 and 1992–93; JAG unpublished data for 1997–98.

order offences. However, unlike in the lower courts, the imprisonment rate associated with enforcement of order offences has risen since 1992–93 from 46.6 per cent to 50.4 per cent in 1997–98.

Drug offences account for much of the remaining appearances in the ‘other’ category that result in imprisonment. In absolute terms, the number imprisoned by the higher courts for drug offences doubled between 1989–90 and 1997–98 (from 130 to 259). However, as a proportion of all higher court appearances resulting in imprisonment, drug offences remained stable at around 10 per cent and the imprisonment rate declined over time from 51.2 per cent (1989–90) to 42.3 per cent (1997–98).

**A NOTE ON DRUG OFFENCES.** The rate drug offences are reported to or detected by police has increased annually by almost 16 per cent since 1989–90 and most of this growth is attributable to possession and ‘other’ drug offences that would usually be considered relatively minor. There has been a steady upward trend in recent years (slightly more than 10 per cent annually; 11.6 per cent since 1992–93) of courts imprisoning drug offenders. In 1989–90 only 288 offenders were imprisoned for drug offences but by 1997–98,

the comparable number was 640. Thus, while the absolute numbers involved are still relatively small, the steady upward trend in the number of persons who are imprisoned for drug offences signals the potential for this to increase the prisoner population.

## Summarising the impact of the courts on prison admissions

Once the data are carefully disaggregated, it becomes clear that there are important differences between lower and higher courts in their use of prison sentences. In overall terms, between 1992–93 and 1997–98, proportionately more of those appearances that *could* result in imprisonment *did* result in imprisonment. However, it would appear that this development has largely been ‘driven’ by the higher rather than lower court.

Although the overall rate of imprisonment has risen in both jurisdictions, it is only in the higher court that ‘volume/offence mix’ effects have consistently been accompanied by increases in the rate of imprisonment.<sup>38</sup> For all high-volume offence categories, proportionately more people were imprisoned in 1997–98 than in 1992–93. In the lower courts, on the other hand, the increase in appearances resulting in imprisonment was due almost entirely to volume/offence mix factors — principally, the marked increase in appearances for enforcement of order offences.

The increasing rate of imprisonment in the higher court could be attributable to one or more of the following four factors:

- an increasing propensity on the part of the court to favour the use of imprisonment

<sup>38</sup> The consistency of lower court sentencing is obscured by what has occurred in the higher courts. However, data relating to volume, mix and rate shift the focus away from one important means by which the lower court can independently (albeit indirectly) contribute to the increase in prisoner numbers.

Because the lower court makes much greater use of community-based orders, any changes in sentencing practices with these orders are important because of the different rates of imprisonment associated with breaches of the various non-custodial orders. Such a change in sentencing practices has occurred with fine option orders.



- an increase in the seriousness of the matters finalised
- a decrease in non-custodial options available to the court as a result of increasing levels of recidivism
- legislative momentum for the diminution of ‘imprisonment as a last resort’.<sup>39</sup>

At this point, the data are not available to enable a precise determination to be made as to which of these factors is more responsible for the increased use of custodial sentences by the higher courts. However, it is certainly the case that the political environment in Queensland since 1992–93 has consistently been characterised by an emphasis upon ‘getting tough on crime’.<sup>40</sup> This is despite the fact that neither the police data (in particular) nor the lower court data provide compelling evidence of any fundamental increase in the ‘average’ seriousness of the matters being finalised by the courts.

## Other relevant factors

In addition to the extent to which the courts *generally* favour the use of custodial sentences, the following factors need to be considered when examining the extent to which the courts may have independently contributed to increased prisoner numbers:

- length of sentence from the court
- suspended sentences
- intensive correction orders
- remand practices.

## Length of sentence from the court

Quite apart from any changes in the levels of use of imprisonment as a sentencing option by the courts, there is the issue of sentence length. If courts are sentencing offenders to longer periods of imprisonment and there have been no significant changes to release mechanisms, offenders would be spending longer periods in custody. This would also help explain the growth in the prisoner population.

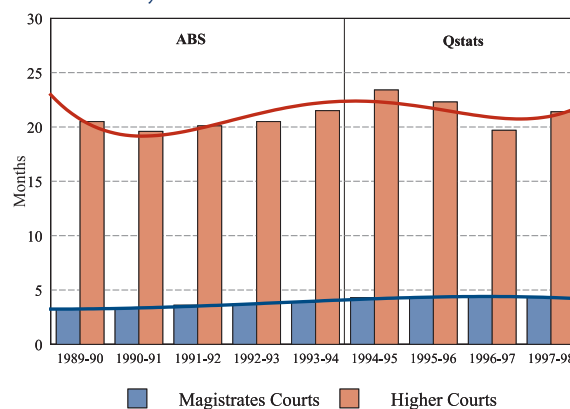
Figure 4.3 shows the median term of imprisonment imposed by courts since 1989–90. At the lower court level, the median duration of sentences

imposed has remained relatively stable at around four months.<sup>41</sup>

The higher courts, on the other hand, have shown greater variability. After a period of relative stability, the median length of sentence imposed by these courts rose by one month between 1992–93 and 1993–94 and was followed by another increase of around two months the following year. After this, the median sentence length declined over the next two years before beginning to rise again in 1997–98.

It is important to be aware that the very large number of shorter sentences imposed by the courts will reduce both median and mean sentence lengths. Table 4.8 shows that since 1994–95 almost 70 per cent of all convictions where the most serious outcome involved a term of imprisonment were for periods of less than 12 months. The table also

Figure 4.3 — Calculated median\* term of imprisonment imposed in courts, Qld (1989–90 to 1997–98)



Source: ABS unpublished data for 1989–90 to 1992–93; JAG unpublished data for 1994–95 to 1997–98.

Note: \* For formula, see appendix A. The median figures differ slightly from those made available from 1994–95 as only aggregate information was available. Access to finer level data will change the calculated median.

39 The 1997 amendments to the Penalties and Sentences Act.

40 See, for example, *Our New Laws: Getting Tough on Criminals*, Department of Justice 1997.

41 Note that median data were not readily available prior to 1994–95. For consistency purposes, a median calculation has been applied to all years. As a result, the figures are slightly different from those made available by Qstats on behalf of the Department of Justice and Attorney-General from 1994–95 onwards.

Note also that the data for lower courts excludes partially suspended sentences, which may or may not impact upon the calculation of the median figure.

indicates that while there has been an increase of 6.3 per cent, on average, each year in the number of appearances resulting in imprisonment, this is almost entirely due to the increases associated with the shorter sentences. The number of sentences of five years or longer has increased annually by only about 4.1 per cent.

Two other ways in which the courts could have an impact on the length of time being served by prisoners are:

- (a) by imposing further sentences on people who have previously been sentenced and are already in prison, thus extending the time (aggregate sentence) that that person can be expected to serve
- (b) by reducing the gap between the ‘head’ sentence and the court’s recommendation as to the period of sentence to actually be served.

No data are available to test these two hypotheses, but even if there was evidence of such effects, it is unlikely that in themselves they would have had a major (independent) impact on the increased rate of growth in the prisoner population.

## Suspended sentences

Although the option of a suspended sentence<sup>42</sup> existed before 1992, it had ‘largely fallen into disuse’<sup>43</sup> until it was resurrected by the introduction of the Penalties and Sentences Act at the end of November 1992.

Where a court imposes a sentence of imprisonment of five years or less, it may order that the term of imprisonment be suspended, either wholly or partially. If an offender is subsequently convicted of an offence for which imprisonment may be imposed, and the offence was committed during what is known as the operational period of the suspended sentence, the court may order that the offender serve all or part of the suspended sentence in custody.

Between 1994–95 and 1996–97, the number of fully suspended sentences imposed by Queensland courts rose only slightly. By way of contrast, in 1997–98 the number of such sentences jumped from 1,708 to 2,455, an increase of almost 45 per cent (see figure 4.4, next page).

Most fully suspended sentences are imposed by lower courts and the general upward trend is largely a result of the greater use of this sentencing option

Table 4.8 — Convictions\* resulting in imprisonment and duration, Qld (1994–95 to 1997–98)

	Under 1 yr	1 yr and under 2 yrs	2 yrs and under 5 yrs	5 yrs and under 10 yrs	10 yrs and over	Total†
1994–95	3,688	688	694	282	89	5,421
1995–96	4,021	745	779	255	69	5,869
1996–97	4,311	814	745	258	85	6,213
1997–98	4,377	853	869	321	98	6,518
Average annual change — all courts (%)	5.9	8.5	7.8	4.4	3.3	6.3
Average annual change — lower courts (%)	4.0	12.7	24.1	—	—	4.8
Average annual change — higher courts (%)	14.0	6.5	7.2	4.4	3.3	8.6

Source: JAG unpublished data.

Note: \* Convictions involving adult offenders in either lower or higher courts.

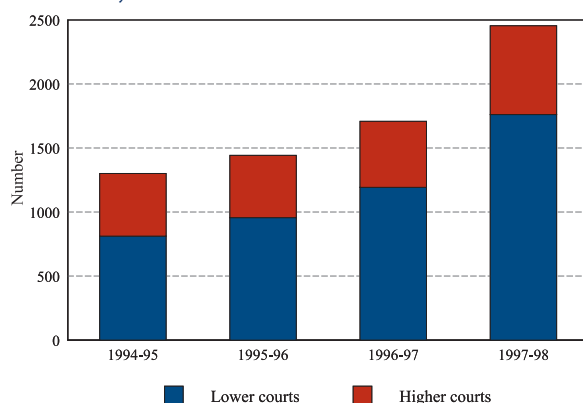
† Including those sentences where the duration was not stated.

— Nil or rounded to zero.

<sup>42</sup> Data relating to fully suspended sentences were not available until 1994–95.

<sup>43</sup> The Hon. D.M. Wells, Attorney-General for Queensland, Queensland Legislative Assembly, Hansard, 6 August 1992, p. 6309.

Figure 4.4 — Fully suspended imprisonment sentences imposed by courts, Qld (1994–95 to 1997–98)



Source: JAG unpublished data.

by the lower courts. This is indicated by the fact that whereas the lower courts accounted for 62 per cent of suspended sentences in 1994–95, by 1997–98 the lower courts were responsible for 72 per cent.

Offenders sentenced to suspended imprisonment orders may ultimately be imprisoned for noncompliance. Given that breaches will always occur, any increase in the number of such sentences imposed by the courts as an alternative to more definitively non-custodial sentences (such as community service orders) can be expected to have some impact upon future prisoner numbers.

### Intensive correction orders

Intensive correction orders were introduced by the Penalties and Sentences Act as an alternative to prison sentences.

A court that sentences an offender to a term of imprisonment of one year or less may make an intensive correction order whereby the offender serves the sentence of imprisonment in the community. Under certain circumstances, the order may be revoked and the offender required to serve, in custody, the portion that was unexpired at the time of commission of the offence.

The number of offenders serving this type of order at the beginning of the month rose from 28 in January 1995 to 212 in March 1999. In the 12 months from April 1998 to March 1999, the number

of intensive correction orders increased by just over 76 per cent. If this trend continues and the current breach rate of almost 50 per cent is maintained, there is potential for this to have some impact on the increasing prisoner numbers if breaches result in imprisonment. (However, not all breaches of these orders necessarily result in the offender's imprisonment, unless a court so orders.)

### Remand

A final factor that could potentially contribute to the growth in the prisoner population is an increase in the size of the prison remand population, due to either more defendants being refused bail and/or defendants spending more time on remand as a result of delays in the court system. At 30 June 1990, the proportion of Queensland's adult prisoners who were remandees was 8.4 per cent. Between 1990 and 1992, this proportion rose as high as 9.6 per cent, stabilised between 1993 and 1997 at around 12 or 13 per cent and increased slightly in 1998 to 14.3 per cent (see table 4.9).

This table illustrates, firstly, that the ratio of sentenced to unsentenced prisoners has remained relatively stable since 1993, and, secondly, the time spent on remand is similarly stable and perhaps even declining. There is, therefore, no persuasive evidence that any of the increase in prisoner numbers after 1993 can be attributed to remand-related factors. However, the absolute numbers of persons on remand is substantial. For example, over 550 prisoners at 30 June 1998 were unsentenced. This number would fill a reasonable sized prison and is greater than the average number of incarcerated fine defaulters on any given day.

Table 4.9 — Prisoners by legal status and time already spent on remand, Qld (at 30 June 1990 to 1998)

Year	Sentenced prisoners* No.	Unsentenced prisoners		Time already spent on remand	
		No.	% of total	Published mean (in months)	Calculated mean (in months)
1990	2,104	192	8.4	n.a.	1.5
1991	1,894	200	9.6	4.3	2.0
1992	1,849	168	8.3	4.1	2.3
1993	1,809	259	12.5	6.6	3.6
Gross change 1990 to 1993 (%)	-14.0	34.9	..	..	..
Average annual change 1990 to 1993 (%)	-4.9	10.5	..	..	..
1993	1,809	259	12.5	6.6	3.6
1994	2,165	326	13.1	8.2	4.5
1995	2,538	332	11.6	10.1	5.2
1996	3,088	440	12.5	4.2	2.7
1997	3,386	453	11.8	4.3	3.1
1998	3,908	558	14.3	4.8	2.8
Gross change 1993 to 1998 (%)	116.0	115.4	..	..	..
Average annual change 1993 to 1998 (%)	16.7	16.6	..	..	..

Source: *Australian Prisoners*, 1990 to 1993, AIC and *Prisoners in Australia*, 1994 to 1998, ABS.

Note: \* Includes a small number (e.g. three at 30 June 1993) who were awaiting sentence or deportation.

.. Not applicable.

n.a. Not available.

## SUMMARY

- Excluding from consideration SETONS matters (which cannot result in imprisonment in the first instance), there was almost no growth in the total number of finalised appearances before higher and lower courts between 1992–93 and 1997–98. Over this period, however, appearances resulting in imprisonment increased annually by an average of almost 7 per cent.
- The reasons for the increased use of custodial sentences are different for the higher and lower courts. In the lower courts, sentencing practices have been consistent since 1992–93 with the overall increased use reflecting changes in the volumes of particular offence categories. In the higher courts, however, in addition to changes in the volumes of particular offence categories, there have been ‘across the board’ increases in the rate of imprisonment.
- For both higher and lower courts, the ‘other’ offence category has increased markedly in volume. For both courts, this increase is largely associated with enforcement of order offences and (to a much lesser extent in the lower courts) drug offences. Importantly, while in the lower courts the rate of imprisonment for enforcement of order offences has declined over time, in the higher courts the rate of imprisonment for these offences has increased.
- The increase in the number of enforcement of order offences signals a development in the operations of the Queensland justice system which will require a policy response in the near future if prisoner numbers are to be contained.
- The number of prisoners on remand and the time spent on remand have remained relatively stable since 1993. Remand-related factors cannot, therefore, account for the increase in the prisoner population.
- Sentence lengths have remained relatively stable in the lower courts since 1993. Between 1992–93 and 1994–95, they increased in the higher courts by about three months, before declining in the following years and rising again in 1997–98. Overall, sentence lengths cannot account for the observed increase in the prisoner population.
- There has been a steady increase in both the number of drug offences reported to or detected by police and the imprisonment rate for drug offences since 1989–90. Should this trend continue, drug-related offences are likely to contribute significantly to the prisoner population.
- There has been a substantial increase in the use of suspended sentences. In 1997–98, the courts imposed a total of 2,455 suspended sentences, an increase of 45 per cent over the previous year.

# Chapter 5: Use of community-based orders

- Introduction
- Court outcomes generally
- Community-based orders
- Compliance rates
- Impact of reduced use of community-based orders
- The 'mix' of orders
- Greater use of community-based orders
- Summary

## Introduction

This chapter draws attention to the relationship between the use of community-based orders and the changes in prisoner numbers. In its 1997–98 Annual Report, the QCSC cited the view of the Commonwealth Industry Commission that Queensland achieved a comparable recidivism outcome among offenders regardless of whether placed on community-based orders or given a prison sentence.<sup>44</sup> This is an important issue because the average custodial sentence costs more than twenty-five times that of community-based orders. Any increase in the use of imprisonment over community-based orders is, therefore, important in terms of both fiscal responsibility and community welfare.

## Court outcomes generally

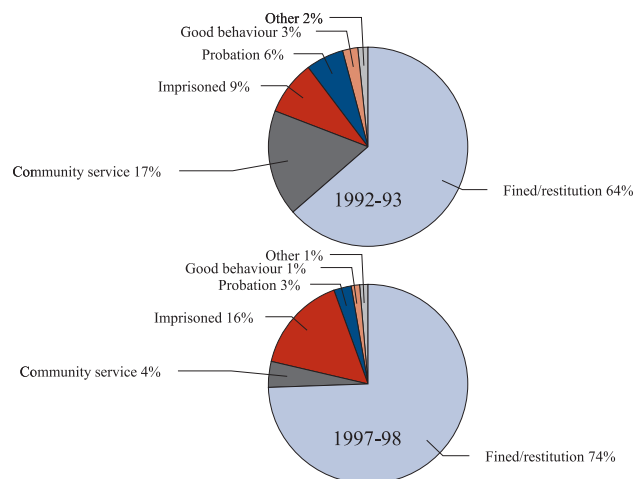
Community-based orders are one of the sentencing options available to the courts. However, most court sentences, especially in the lower courts, involve monetary penalties, usually fines. Some 95 per cent of all convictions in Magistrates Courts (including SETONS) during 1997–98 resulted in a monetary penalty. Even when lower court driving/traffic offences are excluded, almost 80 per cent of outcomes involved a fine or restitution.<sup>45</sup> Higher courts are different in that just over 60 per cent of convictions in 1997–98 resulted in a sentence of

imprisonment (including partially suspended sentences and intensive correction orders to be served in the community).

Figure 5.1 shows the outcomes of all convictions, excluding lower court driving and traffic matters, for both higher and lower courts. The data illustrate the decreasing use of both probation and community service orders and the increasing use of monetary penalties and imprisonment orders.

Between 1992–93 and 1997–98, the number of convictions resulting in community service orders fell by an average of 28 per cent each year and the number resulting in probation declined by an average of 12 per cent annually. At the same time, the

Figure 5.1 — Outcome of court conviction\* by punishment, Qld (1992–93 and 1997–98)



Source: ABS unpublished data for 1992–93; JAG unpublished data for 1997–98.

Notes: \* Excluding lower court appearances for driving and traffic matters and juveniles in higher courts. The outcome of imprisonment includes imprisonment, suspended imprisonment and intensive correction orders.

<sup>44</sup> QCSC Annual Report 1997/98, p. 15.

<sup>45</sup> Almost all lower court driving/traffic matters result in a fine (95 per cent in 1997–98).



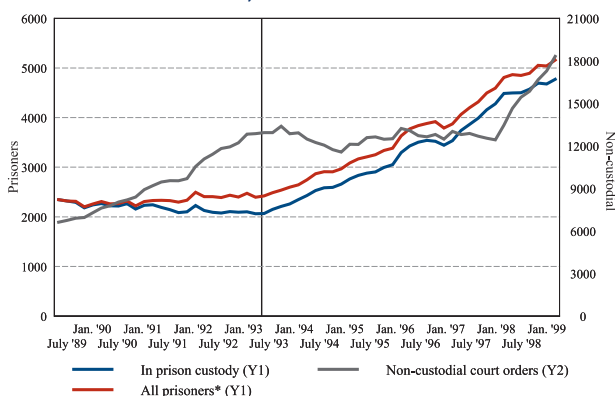
number of non-driving/traffic convictions that resulted in an imprisonment order (including intensive correction and fully or partially suspended orders) rose by 25.7 per cent annually and the use of fines increased by 8.3 per cent each year.

## Community-based orders

Figure 5.2 compares the average daily number of offenders in prison during the month with the number of offenders serving a community-based order direct from the court — that is, probation, community service, fine option or intensive correction orders — from July 1989 to March 1999.<sup>46</sup> Two series of prisoner data are illustrated, with the dark blue series reflecting those actually in prison and the red relating to those who are serving a term of imprisonment either in prison or community custody.

The data indicate that while the number of offenders serving direct-from-court community-based orders (excluding post-prison orders) almost doubled from July 1989 to June 1993, the number of prisoners in custody rose only very slightly (by just under 2 per cent).<sup>47</sup> However, between June 1993 and July 1997, this pattern was reversed, with the number of prisoners rising by 76.2 per cent and the number of offenders on a direct-from-court community-based order falling by just under 1 per cent.

Figure 5.2 — Offenders serving imprisonment or non-custodial orders direct from court, Qld (July 1989 to March 1999)



Source: Department of Corrective Services unpublished data.

Note: \* Including those in prison, WORC or in other community custody.

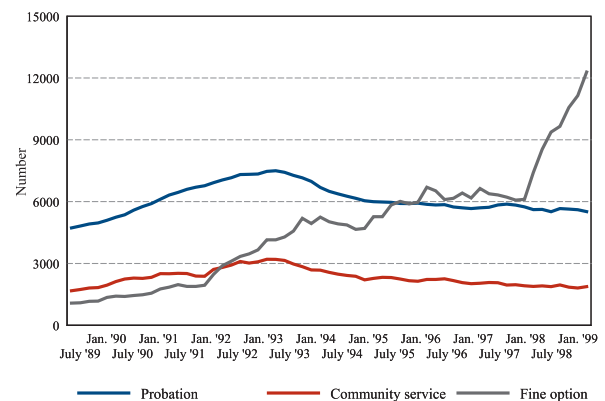
The most dramatic change in sentencing patterns occurred between 1992–93 and 1993–94.

Community service was the outcome of about 8,043 appearances in 1992–93 (7,165 of which were in lower courts). By contrast, in 1993–94 community service was the outcome for only 5,508 appearances (4,801 in lower courts).<sup>48</sup>

Since late 1997, there has been another reversal, with the number of offenders in prison rising by 20 per cent and the number of offenders on community-based orders increasing by 33 per cent. However, this latest ‘reversal’ is due almost entirely to a marked increase in the use of fine option orders.

Figure 5.3 shows the number of offenders serving specific court-ordered community-based orders (probation, community service and fine option orders) at the first day of the month.<sup>49</sup>

Figure 5.3 — Offenders serving community-based\* orders by type ordered by a court, Qld (at first day of month, July 1989 to March 1999)



Source: Department of Corrective Services unpublished data.

Note: \* Excludes those serving intensive correction orders. These orders were introduced with the Penalties and Sentences Act. At the beginning of March 1999, there were 212 offenders on this type of order.

46 See Glossary for definition of community-based orders.

47 The growth in the use of community-based orders between 1989 and 1993 may be the result of the philosophy and approach embodied in the Kennedy Report, a significant historical factor in Queensland corrections. See appendix D (figure D12) for longer-term trends in community corrections.

48 ABS and JAG unpublished data.

49 Offenders serving more than one type of community-based order are included in each category.

The key point to note is that the use of probation and community service has declined since 1993 following a period of steady increase. By contrast, there has been a marked increase in the use of fine option orders, particularly since late 1997. Between January 1998 and March 1999 the number of offenders on fine option orders more than doubled, rising from 6,108 to 12,290.

Some of the growth in fine option orders may be attributable to the increasing availability of police technology. In the March quarter 1998, about 15,000 warrants of commitment were executed whereas more than 22,200 such warrants were executed in the March quarter 1999, an increase of around 50 per cent. Given that there are an average of five warrants for each person, this increase in the number of warrants being executed translates to an additional 1,400 offenders (over 450 each month on average) who pay the fine, are granted a fine option order or are imprisoned.

A related factor contributing to this growth is the increased use of fines in the first instance, largely as a result of the SETONS process. During 1996–97, around 72,000 SETONS matters resulted in a fine, but in 1997–98 the comparable figure was 117,177, an increase of 62.2 per cent over the 12 months.

The fact that the Penalties and Sentences Act allows the court to impose a fine without recording a conviction may also be contributing to the increasing use of fine option orders. It may be that, over time, both probation and community service orders have come to be viewed by the courts as appropriate sentencing options for the more serious offences, with fine option orders being increasingly used for the less serious offences.<sup>50</sup>

Regardless of the reasons, the rapid growth in the number of fine option orders affects the number of people who are imprisoned because about a third of offenders serving a fine option order will not, in fact, comply with that order (see table 5.1, next page).

## Compliance rates

Table 5.1 shows that in both 1996–97 and 1997–98 the overall rate of noncompliance with community-based orders has remained relatively stable at around

one-third. However, the termination (that is, noncompliance) rate is much higher for some types of orders than for others.

Importantly, under current legislation, there is a greater likelihood of an offender who fails to comply with a fine option order being imprisoned, than, for example, an offender who does not comply with the conditions of a community service order. In both instances, an application must be brought before the court as a result of noncompliance. When this application involves a fine option order, the court may admonish the offender and, if necessary, extend the period. The only other alternative is to revoke the order, in which case the offender is automatically imprisoned for the default period of imprisonment specified at the time of the original sentence. When the application involves a community service order and the court revokes the order, that court may re-sentence the offender for the original offence. In this case, there are a number of non-custodial options available such as a fine, an intensive correction order or a fully or partially suspended imprisonment sentence.

Department of Justice and Attorney-General data for 1997–98 show that offenders who breach a fine option order are more likely to be admitted to prison than those on any other type of community-based order.<sup>51</sup> In that year, 13 per cent of matters involving a contravention or breach of a fine option order resulted in a revocation of the order and the imprisonment of the offender (either in a watchhouse or prison). In contrast, just under 6 per cent of breaches of community service and 3 per cent of

<sup>50</sup> Additionally, intensive correction orders were introduced by the Penalties and Sentences Act as an alternative to prison sentences. The number of offenders serving this type of order at the beginning of the month rose from 28 in January 1995 to 212 in March 1999. In the 12 months from April 1998 to March 1999, the increase was just over 76 per cent. If this trend continues and the current breach rate of almost 50 per cent is maintained, there is potential for this to have a significant impact on the increasing prisoner numbers. However, not all breaches of these orders necessarily result in the offenders' imprisonment, unless a court so orders. There are currently only a very small number of offenders with this type of order.

<sup>51</sup> Relates only to the lower courts for which data are available electronically. These courts account for the majority of lower court appearances across Queensland.

Table 5.1 — Number of community-based orders by type and how completed, Qld (1996–97 and 1997–98)

Type of order	Year	Total no. orders	Successfully completed (%)	Order terminated (%)
Home detention	1996–97	538	86.4	13.6
	1997–98	422	88.9	11.1
Parole	1996–97	1,018	71.3	28.7
	1997–98	1,126	72.0	28.0
Fine option	1996–97	25,530	65.6	34.4
	1997–98	30,510	68.4	31.6
Community service	1996–97	2,807	65.3	34.7
	1997–98	3,065	64.7	35.3
Probation	1996–97	3,593	65.1	34.9
	1997–98	4,129	63.8	36.2
Prison-probation	1996–97	166	54.2	45.8
	1997–98	171	41.5	58.5
Intensive correction	1996–97	124	53.2	46.8
	1997–98	156	54.5	45.5
<b>Total</b>	<b>1996–97</b>	<b>33,776</b>	<b>65.9</b>	<b>34.1</b>
	<b>1997–98</b>	<b>39,579</b>	<b>67.7</b>	<b>32.3</b>

Source: Queensland Corrective Services Review, *Corrections in the Balance*, 1999 (p. 86).

breaches of probation did so.<sup>52</sup> An additional concern is the increasing number of offenders being admitted to prison after revocation of a post-release order such as home detention, leave of absence for release to work and parole order). This issue is discussed further in chapter 7.

## Impact of reduced use of community-based orders

As shown in table 5.2, in 1992–93, the year when prisoner numbers commenced their dramatic increase, just over 72 per cent of offenders for whom QCSC had responsibility were on community supervision as ordered by the court. By 1997–98, the comparable figure was 67 per cent. Had this proportion remained constant over the period of growth in the prisoner population and assuming a constancy in the criminal justice system, as many as 1,135 prisoners may not have been in custody in 1997–98. This would represent a reduction in the 1997–98 prisoner population of around 25 per cent (see appendix B).

## The ‘mix’ of orders

Quite apart from the issue of the ‘overall’ use of community-based orders, the specific issue of the distribution, or mix, of orders used needs to be considered. Increasing the number of offenders with fine option orders (at the expense of other community-based orders) entails the prospect of a substantial downstream impact on the prisoner population. For example, if one-third of the 12,290 offenders who had a fine option order in March 1999 were to breach their order and 13 per cent of those were to be imprisoned as a result, almost 533 persons would be imprisoned. By comparison, if those who breached these orders were imprisoned at the same rate as those who breached community service orders (5.6 per cent), this would translate into 229 persons being admitted to prison.

<sup>52</sup> Based on the number of cases where the order was revoked (or an imprisonment order made) as a proportion of relevant breach cases finalised during 1997–98. The court may have granted an extension of time as well as subsequently revoking the order (fine option order) or making an imprisonment order (community service order and probation) in the same year.

In other words, the effect of using fine option orders instead of community service orders could be to increase the number of admissions by over 300 prisoners.<sup>53</sup> If the proportional distribution of the major order types had been maintained as at 1992–93 through to 1997–98, substantially fewer persons would have ultimately been imprisoned. Although difficult to quantify accurately, it is estimated that a proportional reduction in the total prisoner population of around 6 to 7 per cent might reasonably be anticipated by a return to the earlier distribution of order types as part of a shift towards greater use of community-based orders (see appendix B).

Further investigation is required to isolate the reasons for the reduction in the use of community service and probation orders. Some possible explanations include:

- the introduction of the Penalties and Sentences Act, which provided courts with alternatives such as suspended imprisonment and intensive correction orders
- higher recidivism rates among those sentenced to imprisonment
- the enhancement of fine option orders by the Penalties and Sentences Act, which provided courts with a more appealing sentencing option where an offender could have an option of paying a court-imposed monetary penalty or applying to perform a period of community service instead
- an increased tendency by courts to use probation and community service for more serious offending and fine option orders for the lesser offences
- a lower participation rate among community organisations, decreasing the opportunity for offenders to perform community service with these organisations (although it is difficult to reconcile this with the increased use of fine option orders)
- an increase in the number of offenders appearing before the courts for offences for which a community-based order is not appropriate (that is, a changed offence mix, see chapter 4)
- an increase in the number of offenders appearing before the courts, having already exhausted all community options.

Table 5.2 — Average number of prisoners\* and persons serving community-based orders direct from court, Qld (1992–93 to 1997–98)

Year	Average number at beginning of any month				Scenario options		
	Prisoners	Court	Other† orders	Total	Court orders as %	No. prisoners if % remained constant	Difference from actual
1992–93	2,413	12,282	2,250	16,945	72.5	2,413	—
1993–94	2,588	12,882	2,226	17,696	72.8	2,640	–52
1994–95	3,000	11,992	2,147	17,139	70.0	2,566	434
1995–96	3,460	12,769	2,114	18,343	69.6	2,930	530
1996–97	3,908	12,764	2,146	18,818	67.8	3,029	879
1997–98	4,575	13,246	2,015	19,836	66.8	3,440	1,135

Source: Department of Corrective Services unpublished data.

Notes: \* In prison and community custody.

† Includes home detention, parole and probation after a period of imprisonment.

— Nil or rounded to zero.

<sup>53</sup> This is not to say that a ‘saving’ of 300 beds/cells could be achieved by ‘switching’ from fine option orders to community service orders. The two factors of date of admission and duration of stay mean that the net effect at any given time would be less than the figure of 300 persons.

Given such factors, maintenance of the 1993 levels of use of community-based orders and distribution of order types was almost certainly not possible and it would be difficult to return to the earlier levels of custodial and community-based orders.

## Greater use of community-based orders

One strategy for facilitating the greater use of community-based orders would be to examine the number of prisoners sentenced to relatively short periods of imprisonment and investigate whether there are any alternative (non-custodial) sentencing options available. The January 1999 Report of the Commission of Inquiry recommended that:

... consideration be given to broadening the range of sentencing options available to the judiciary in dealing with minor offenders

and pointed out that:

if the option to sentence some offenders to either home detention or to an 'outstation' was available, this could result in offenders being effectively removed from the community without placing additional pressures on an already overcrowded prison system.

In addition, there are a number of community custody centres operating below full occupancy levels that might possibly be used to accommodate some short-term prisoners. At 30 June 1998, 21 per cent of all sentenced prisoners in Queensland expected to serve less than six months.<sup>54</sup> Were these prisoners to be routinely directed to community custody then just over 800 persons would not be incarcerated at any given time (representing 18 per cent of the total prisoner population — that is, sentenced prisoners as well as remandees).<sup>55</sup>

Legislative amendment would be necessary to enable courts to sentence offenders to home detention or outstations, but the Department of Corrective Services has the capacity to release prisoners to either home detention or outstations.

The important point to note here is that the adoption of a considerably more liberal approach to the use of community-based orders will not result in a return to

the 1992–93 situation. On the basis of available data, it would seem unrealistic to expect that any reduction in prisoner numbers greater than 18 per cent could be achieved by legislative/policy changes relating to community-based orders. Any such policy changes would need to involve both the 'front end' direct-from-court orders as well as the direct-from-prison 'back end' orders.

54 It is also relevant that *almost half* of all adult offenders who are sentenced to imprisonment by a court are sentenced to periods of less than six months (JAG unpublished data). The apparent discrepancy between the 21 per cent with an expected time to serve of less than six months and the almost one-half of adult offenders sentenced to terms of imprisonment of a similar period relates to aggregate sentences (where one sentence may be added to another) and the release practices such as remission whereby very few prisoners actually serve the whole period of their original sentence.

55 A further means of assessing the possible impact of a greater use of community custody would be to examine the actual sentences of sentenced prisoners in both 1993 and 1998 and the numbers involved. In this exercise, it is not unreasonable to consider that aggregate sentences of less than two years might be appropriate for transfer. At 30 June 1998, approximately 1,100 prisoners had an aggregate sentence of less than two years but at 30 June 1993, only 500 did so. This means that there were almost 600 sentenced prisoners (13 per cent of all prisoners) who could perhaps be in community custody rather than in prison. It is worthy of note that a large proportion of the prisoners with these short aggregate sentences were fine defaulters. There has been extraordinary growth in the number of fine defaulters being imprisoned (see chapter 6). Even if fine defaulters were excluded from this calculation because of the rate of growth, it would still be possible for the prisoner population to be reduced by around 350 persons (almost 8 per cent of the total).

## SUMMARY

- It would appear from the data reported here that from 1989 to 1993 the courts were increasingly confident of the appropriateness of community-based orders. For reasons that are unclear, this confidence appears to have plateaued and then declined after 1993.
- There is evidence of a relationship between the (proportional) decline in the use of community-based orders and the increase in the prisoner population. From July 1989 to June 1993, a period characterised by a declining prisoner population, the number of offenders serving a non-custodial court order more than doubled. However, between June 1993 and July 1997, this pattern was reversed, with the number of prisoners rising by 76.2 per cent while the number of offenders on a non-custodial court order increased by less than 1 per cent.
- Use of probation and community service has been declining (in both absolute and proportional terms) since 1993.
- Use of fine option orders has grown steadily since 1993, with a particularly steep increase since late 1997. As at March 1999, there were over 12,000 persons on these orders.
- The reasons for decline in the use of community-based orders are complex and varied. Some decline was probably inevitable given the changing offence mix, but the abruptness of the decline in 1993–94 exceeds anything that can be easily explained as necessarily determined by the nature of the matters finalised.
- The shift away from community service and probation and towards fine option orders is a consequence of the general shift by the courts towards the use of fines. This would appear to reflect a desire by the courts to reserve probation, community service, intensive correction orders and suspended sentences for more serious offences. This strategy is arguably undermined somewhat by the fact that breaching a fine option order is more likely to result in imprisonment than is breaching a direct-from-court community-based order.



# Chapter 6: Fine defaulters in prison

- Introduction
- Categories of fine defaulters
- Admissions of pure fine defaulters to prison
- The offence profile of fine defaulters
- Why are there more fine defaulters in prison?
- Costs and benefits
- Summary

## Introduction

This chapter examines the issue of fine defaulters in detail and pays particular attention to data relating to SETONS matters and the execution of warrants by the police.

The issue of fine defaulters is arguably one of the most important aspects of the criminal justice system examined in this report. Although fine defaulters comprise only a small proportion of the prisoner population, the sheer number of people jailed for fine defaulting means that this group has the potential to contribute significantly to the growing prisoner population. The total costs associated with processing and housing these short-term prisoners are very substantial. In addition, developments with police practices and information technology have the potential to increase rapidly the numbers of fine defaulters apprehended.

Individuals may incur fines as a result of either a court-imposed order or an infringement notice<sup>56</sup> served through the SETONS process (or both). Failure to pay the fine may ultimately result in imprisonment.

Figures 6.1 and 6.2 illustrate the different ways in which these two types of fines may lead to imprisonment if no action is taken to avoid defaulting on the fine.<sup>57</sup> These flowcharts describe

the processes associated with fines, whether imposed by the SETONS process or another court, and applications for fine option orders. Breaches or contraventions of fine option orders are also illustrated. The colours within the charts indicate those involved in the process.

## Categories of fine defaulters

There are two broad categories of fine defaulters.

A **court fine defaulter** is a person who has failed to pay a fine imposed by a court. A **SETONS fine defaulter** is a person who has failed to pay an infringement notice issued by an ‘administering authority’ (for example, Queensland Transport), under Part 4A of the Justices Act, and who has failed to comply with an enforcement order made by the SETONS clerk.

Both categories of fine defaulters are able to apply for an order that they perform a certain number of hours of community service work instead of having to pay their fine (a ‘fine option order’). When a fine defaulter fails either to pay his or her fine or to obtain a fine option order, the court or SETONS clerk can issue a warrant for the arrest of the person.

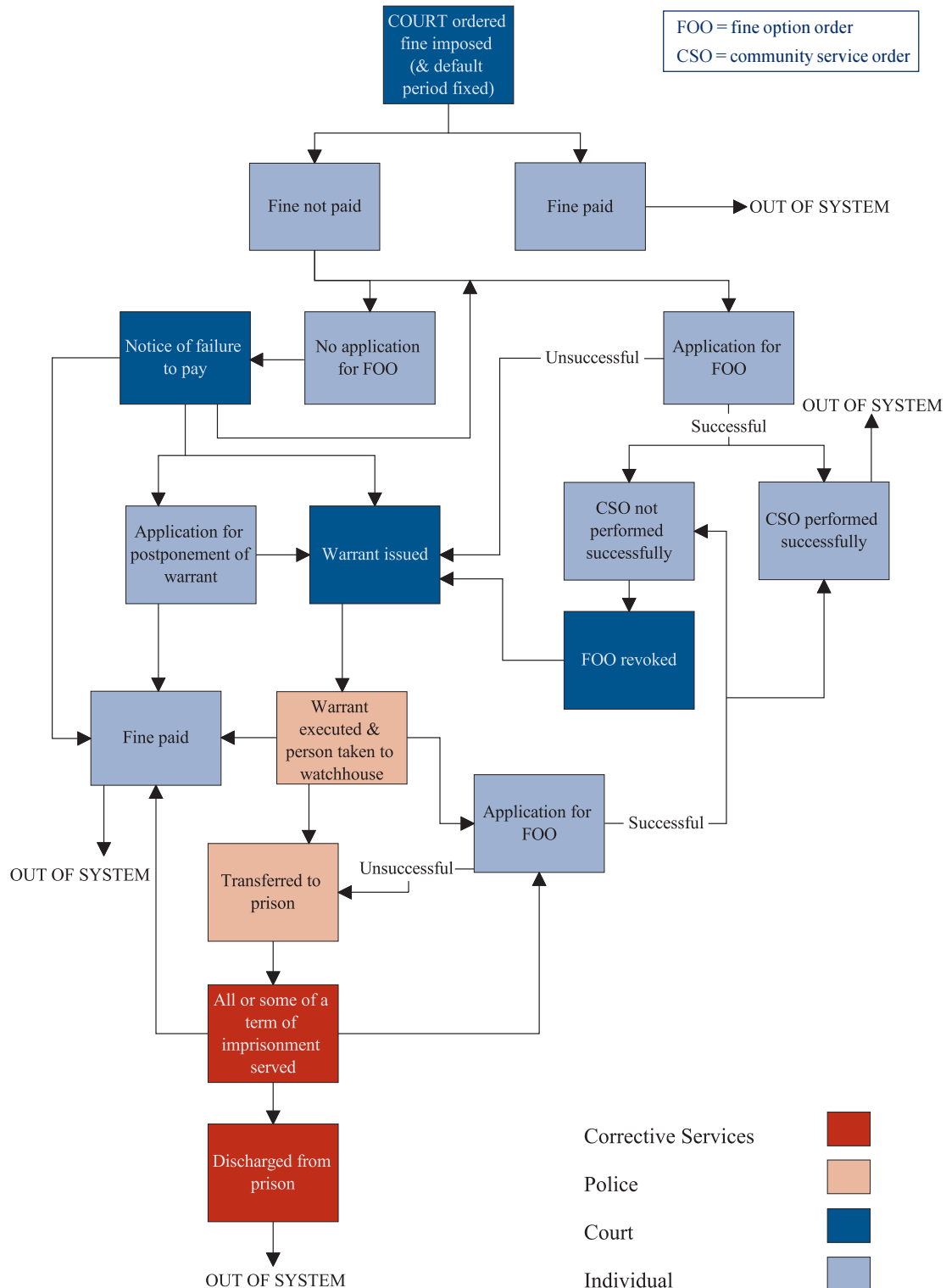
When warrants are executed against fine defaulters, the defaulters are taken to a police watchhouse (where they are given another opportunity to either pay the fine or apply for a fine option order) and then transferred to a correctional centre to serve what is known as ‘the default period of imprisonment’. When offenders are first fined or issued with a SETONS enforcement order, they are informed that if they fail to pay the fine or obtain a fine option order, they may be imprisoned for a particular period (that is, the default period). The default period of imprisonment is calculated by reference to the amount of the fine.

*Continued page 43.*

<sup>56</sup> A type of fine and hereafter referred to as such.

<sup>57</sup> See appendix C for a detailed description of the processes.

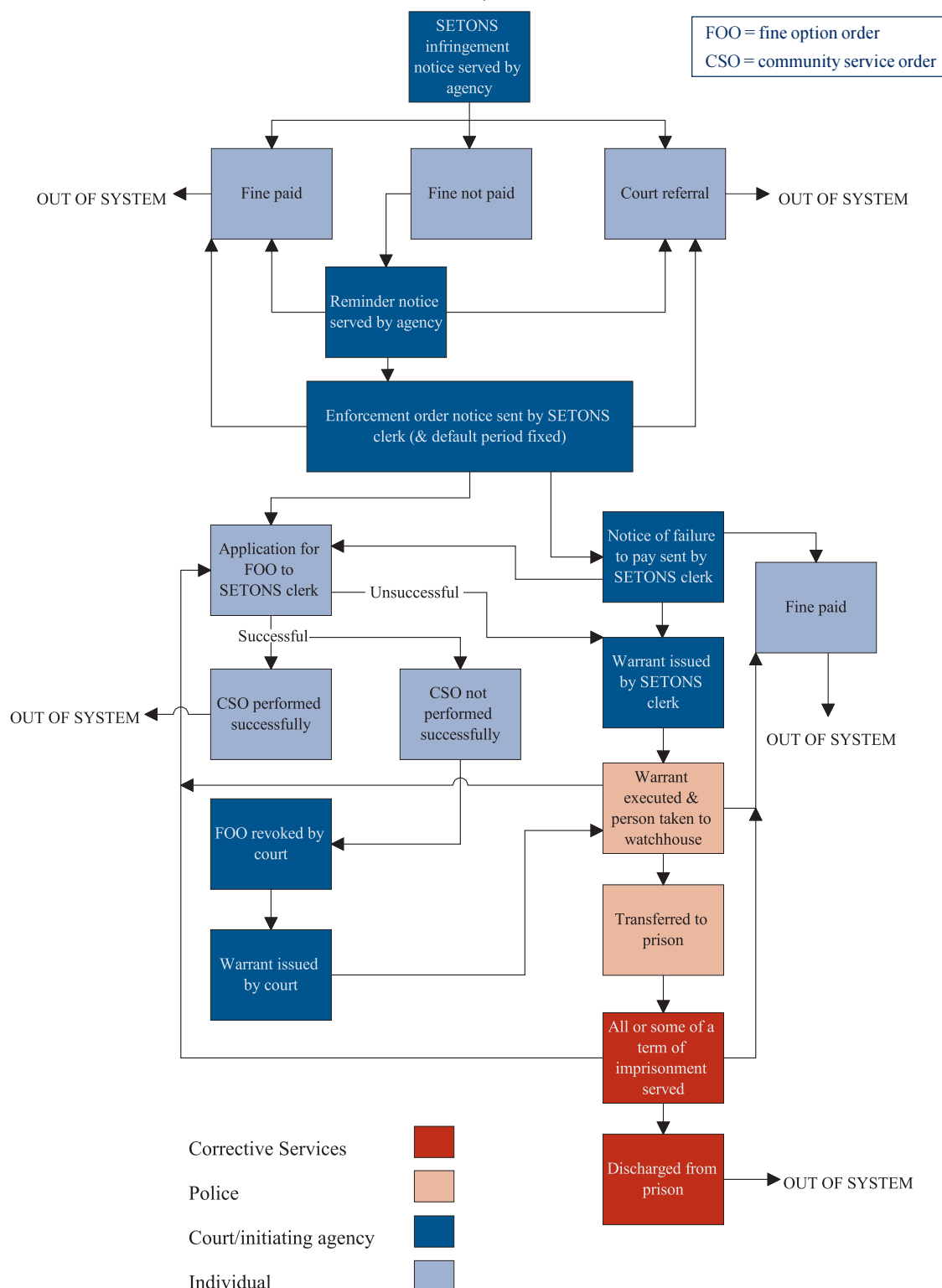
Figure 6.1 — Flowchart for court-ordered fines, Qld (at 1999)



Source: Compiled with reference to the Penalties and Sentences Act and consultation with staff of JAG, QPS and the Department of Corrective Services.

Note: Applications for fine option orders are oral if the offender is in court at the time of sentencing. Otherwise, applications are written to the Clerk of Court. Subject to one exception, an offender can make only one application for a fine option order. An offender is entitled to make a second application if s/he can show that the first application was rejected on the basis of not being able to afford to pay the fine and that her/his financial position has since worsened (see ss. 57–58 of the Penalties and Sentences Act).

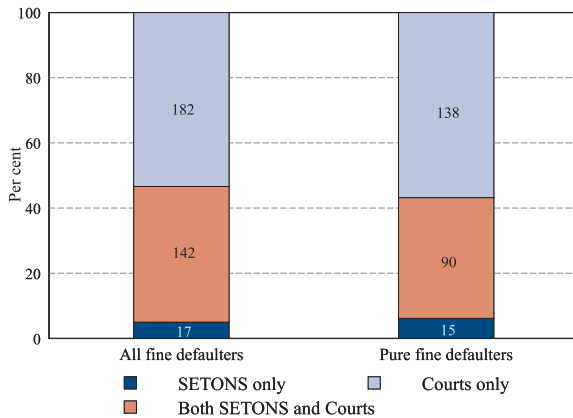
Figure 6.2 — Flowchart for the SETONS enforcement process, Qld (at 1999)



Source: Compiled with reference to the Penalties and Sentences Act and consultation with staff of JAG, QPS and the Department of Corrective Services.

Note: Subject to one exception, an offender can make only one application for a fine option order. An offender is entitled to make a second application if s/he can show that the first application was rejected on the basis of not being able to afford to pay the fine and that her/his financial position has since worsened (see ss. 57–58 of the Penalties and Sentences Act).

Figure 6.3 — Fine defaulters in prison by type and originating court, Qld (at 3 March 1999)



Source: Department of Corrective Services unpublished data.

Figure 6.3 shows that at 3 March 1999, there were 341 prisoners who had defaulted on payment of a fine. Of these, 243 (over 70 per cent) were ‘pure’ fine defaulters, meaning that the only reason they were in prison was that they had not paid an outstanding fine. The remaining 98 were serving time for some other offence as well as for nonpayment of a fine or fines. Only 15 of the pure fine defaulters were there because they had failed to pay a SETONS fine. The remainder had received either a court fine or a combination of SETONS and court fines.

### Admissions of pure fine defaulters to prison

As reported in the 1997/98 QCSC Annual Report, 27 per cent of all people admitted to prison during that year were imprisoned solely as a result of defaulting on payment of a fine. In the first nine months of 1998–99 this figure rose to 37 per cent.<sup>58</sup> Between 1994–95 and 1997–98, the number of pure fine default admissions more than doubled (from 1,315 to 2,805).<sup>59</sup> In the nine months from July 1998 to March 1999, there was a further increase to 2,906 admissions.

As shown by figure 6.4 (next page), the number of fine defaulters admitted to prison may vary substantially between months. However, a four-point polynomial trend line<sup>60</sup> applied to the data indicates

that the period of greatest growth has occurred since mid-1997. In 1995, just over a quarter of all admissions to prison involved pure fine defaulters; by 1998, this group represented over a third of all admissions.

The short time fine defaulters actually spend in prison meant that, until early 1998, only about 4 per cent of prisoners (at any given time) were fine defaulters. However, since that time, the proportional representation of this group has increased. Since December 1998, fine defaulters have represented about 7 per cent of the prisoner population.

Figure 6.5 (next page) illustrates the number and proportion of prisoners who are fine defaulters. The figure shows that the number of fine defaulters has increased more rapidly than has their proportional representation. This divergence results from the overall increase in the number of people being admitted to prison and the short sentences that fine defaulters serve.

### The offence profile of fine defaulters

As shown in table 6.1 (page 45), almost half of the 243 pure fine default prisoners at 3 March 1999 were imprisoned as a result of previously having been fined for either a drug offence (26.7 per cent) or an enforcement of order offence, such as a breach of probation (22.6 per cent).<sup>61</sup>

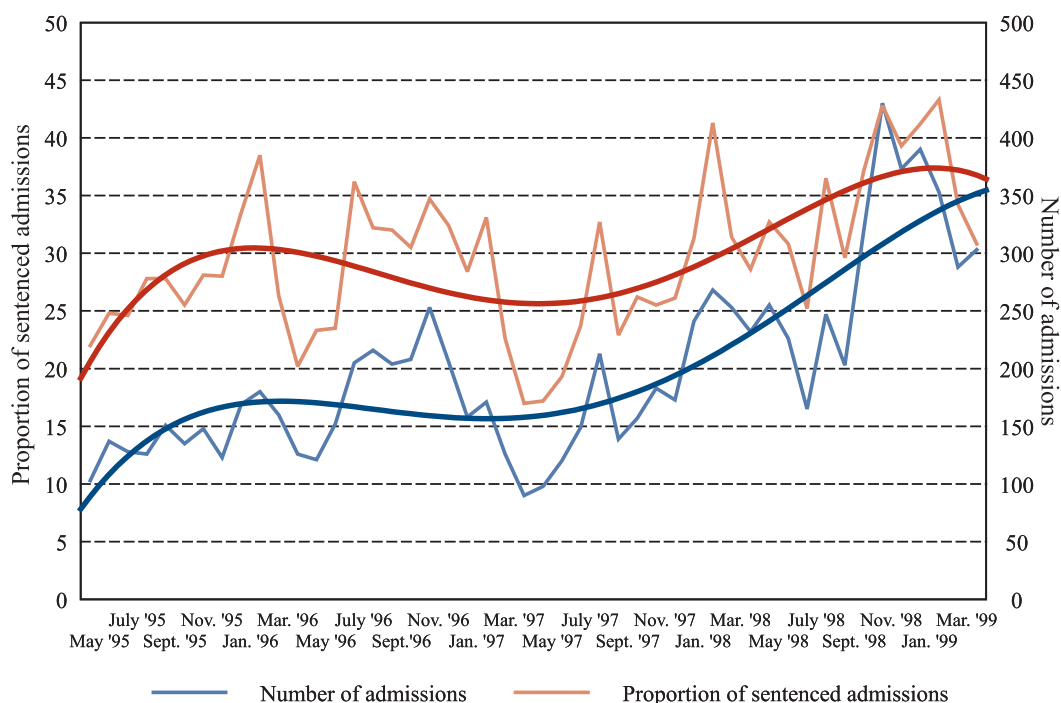
58 Almost half (43%) of all admissions in one month (January 1999) involved pure fine defaulters.

59 Figures for 1997–98 differ from those previously published in the *Criminal Justice System Monitor*, volume 4, as the database from which they are extracted is continually updated.

60 See appendix A.

61 Of the 93 fine defaulters whose most serious offence involved drugs, over 70 per cent had additional charges for driving or traffic offences. By way of comparison, only 51 per cent of those whose most serious offence was a breach of order also had driving or traffic-related offences. These data suggest that, typically, the offender is brought to the attention of the police by way of a traffic or driving offence, and is then found to be in possession of drugs or in breach of an existing enforcement order.

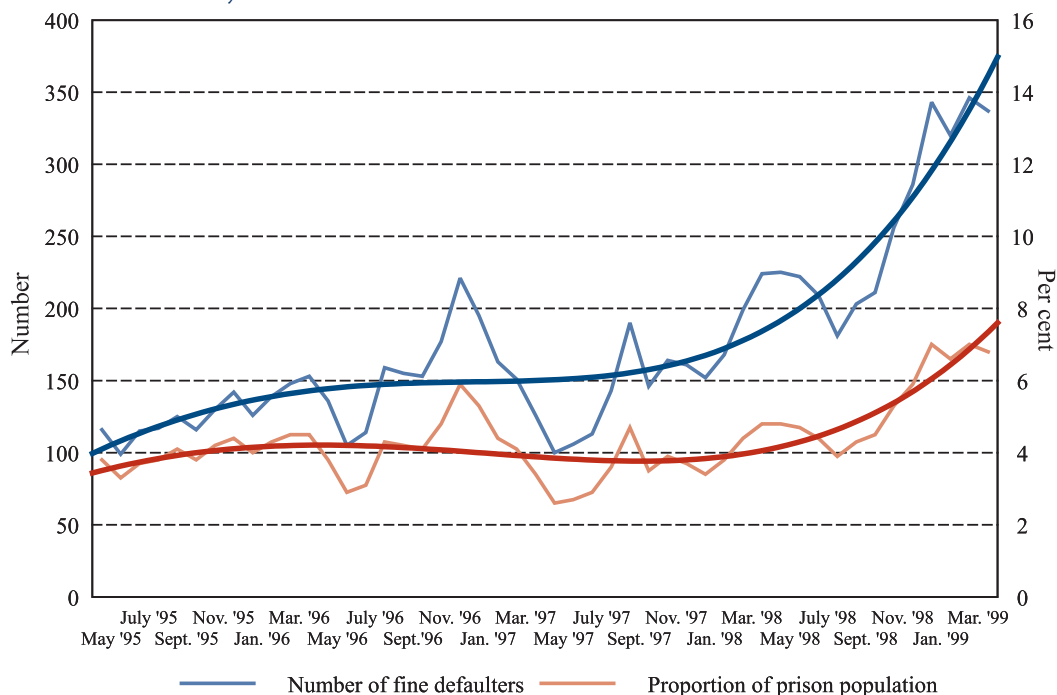
Figure 6.4 — Admissions to prison by 'pure'\* fine defaulters by month, Qld (April 1995 to March 1999)



Source: Department of Corrective Services unpublished data.

Note: \* Those who were admitted for nonpayment of a fine and who were not imprisoned for any other offences.

Figure 6.5 — Number of fine defaulters and proportion of total prisoners,\* Qld (at selected dates, April 1995 to March 1999)



Source: Department of Corrective Services unpublished data.

Note: \* Those in secure, open or community custody (including the WORC program).

Table 6.1 — Persons imprisoned as a result of fine defaulting, Qld (at 3 March 1999)

Most serious offence	All fine defaulters				Pure fine defaulters			
	Total No.	%	SETONS* No.	%	Total No.	%	SETONS† No.	%
Against the person	21	6.2	4	2.5	14	5.8	—	—
Against property	44	12.9	25	15.8	31	12.7	—	—
Enforcement of order	85	24.9	30	18.9	55	22.6	—	—
Drug offences	93	27.3	43	27.0	65	26.7	—	—
Driving and traffic offences	79	23.2	45	28.3	65	26.7	13	86.7
Other	19	5.6	12	7.5	13	5.3	2	13.3
<b>Total persons</b>	<b>341</b>	<b>100.0</b>	<b>159</b>	<b>100.0</b>	<b>243</b>	<b>100.0</b>	<b>15</b>	<b>100.0</b>

Source: Department of Corrective Services unpublished data.

Notes: \* Those who had at least one SETONS fine and may also have had fines imposed by other courts.

† Those who were solely imprisoned as a result of nonpayment of SETONS fines.

— Nil or rounded to zero.

Figure 6.6 has been included to enable comparisons to be made between:

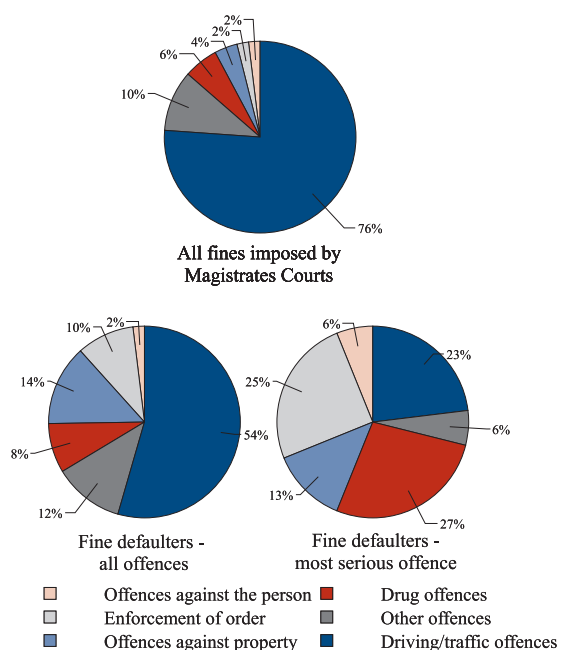
- the types of offences for which courts are imposing fines
- all offences for which fines have not been paid and for which the offender has been imprisoned as a result, and
- the most serious offence for which an offender was imprisoned as a result of not paying a fine.

Accordingly, figure 6.6 shows the types of offences that resulted in the imposition of a fine in the lower courts, including SETONS fines, during 1997–98. In addition, data are provided that relate to persons imprisoned at 3 March 1999 as a result of nonpayment of a fine. The data for fine defaulters are shown in two ways: the first pie shows all offences for which these prisoners had not paid a fine and the second shows the most serious offence.<sup>62</sup> While the two data sources are not directly comparable, they do reveal an interesting trend — most people who are imprisoned for not paying a fine have often not paid a fine on a traffic offence as well as some other more serious offence.

Because of the large number of driving or traffic-related offences with which courts deal, these offences are responsible for 76 per cent of all fines imposed by lower courts in 1997–98. Not surprisingly, 54 per cent of all charges on which payment was not received and the offender was in

prison at 3 March 1999 were also driving- or traffic-related. However, the most serious offence was most likely to be one relating to drugs (27 per cent) or enforcement of orders (25 per cent).

Figure 6.6 — Offences resulting in a fine (1997–98) and offences for which fine defaulters were imprisoned, Qld (at 3 March 1999)



Source: Offences resulting in a fine: JAG unpublished data  
Fine defaulters: Department of Corrective Services unpublished data.

<sup>62</sup> Based on the maximum possible penalty allowed for each offence under the relevant legislation.



## Why are there more fine defaulters in prison?

Some possible explanations for the increase are:

- an increase in the number of fines being imposed by the courts (particularly SETONS)
- an increase in the number of outstanding warrants being executed by the police
- an increase in the time prisoners are serving prior to release
- a reduced availability of fine option orders
- a change in the composition.

### The use of fines as a sentencing option

The number of fine defaulters is obviously dependent on the number of fines that courts are imposing; therefore, any increase in fine imposition has the potential to increase the number of people imprisoned as a result of fine defaulting. In both 1994–95 and 1997–98, about 85 per cent of recorded convictions resulted in a fine. Fines imposed through the SETONS process are automatic while those imposed through other courts are discretionary — that is, they are usually imposed by a magistrate following a hearing of the matters before the magistrate.

Lower courts data for the four financial years 1994–95 to 1997–98 show that the number of charges that result in a fine has increased by 48 per cent.<sup>63</sup> At the same time, the total number of charges for which a punishment of any sort was imposed increased by only 42 per cent. This suggests either that there is a greater propensity for courts to use fines as a sentencing option or that a greater number of charges are being brought before the courts for which a fine is the only sentencing option.

### The effect of warrants

The very large number of outstanding warrants of commitment and the increasing availability and use of technology by the police mean that there is potential for more and more people to be arrested and imprisoned for fine defaulting. As mentioned earlier in this chapter, the execution of a warrant of

commitment will result in the incarceration of the offender should the offender fail to pay the fine or successfully apply for a fine option order.

It is possible for more than one warrant to be executed against the same fine defaulter at the same time and not all executed warrants will result in the imprisonment of the offender. However, the relationship between the two is evident in figure 6.7. The chart also shows the effect of a clearance of backlogs coupled with the introduction of enhancements to the database in the last four months of the 1998 calendar year. As the warrant data in the chart relate to the actions of the police and not to the number being issued by the courts, the data in the chart show the real effect of the availability of warrants to police.<sup>64</sup>

On 26 October 1996, electronic warrants were introduced as part of the POLARIS database within the QPS, leading to electronic transmission from the courts and the SETONS clerk and, hence, earlier availability for actioning. Prior to this, warrants were manually transferred, and minimal details manually entered on an electronic index. With the introduction of POLARIS, a concerted effort was made to input all additional data from almost all outstanding warrants at that time.

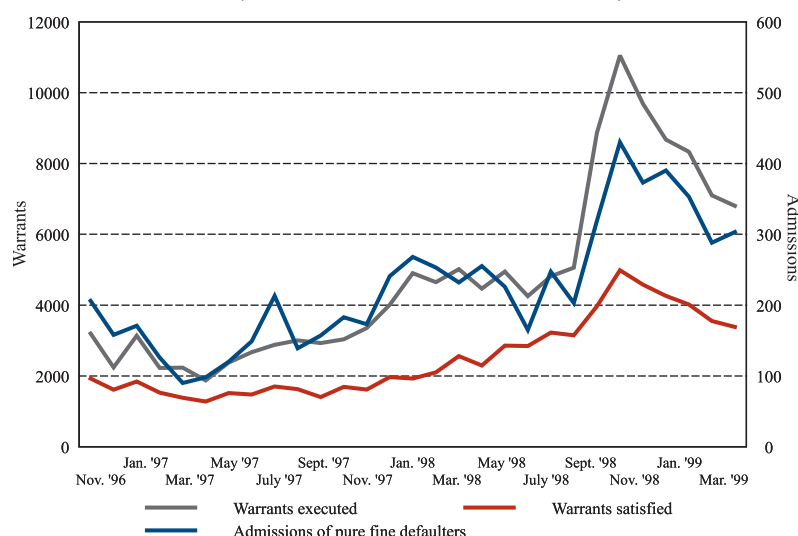
Table 6.2 shows that outstanding warrants for fine defaulting represent the great majority of all outstanding warrants: almost 95 per cent of outstanding warrants at 1 March 1999 related to nonpayment of fines (a number of which were warrants on behalf of other States and Territories).

As at 1 March 1999, there were almost 375,000 outstanding warrants of commitment for fine defaulters in Queensland. Based on an average of five warrants per person, about 75,000 offenders are ‘eligible’ for targeting in any more focused/effective warrant execution exercise by the police. For the period November 1996 to March 1999, for every

<sup>63</sup> Fines imposed in all lower court jurisdictions, including by the SETONS clerk. In 1997–98, almost 60 per cent of fines imposed as the most serious outcome of an appearance were SETONS fines.

<sup>64</sup> See appendix D (table D16) for further warrant-related data.

Figure 6.7 — Number of warrants of commitment executed or satisfied by the QPS and number of admissions of pure fine defaulters, Qld (November 1996 to March 1999)



Source: QPS unpublished data and Department of Corrective Services unpublished data.

Note: A satisfied warrant is one that is paid in full to the police at time of detection or interception. An executed warrant results in the offender's admission to a watchhouse or prison.

Table 6.2 — Number of outstanding warrants by type, Qld (at 1 March 1999)

Type	No.	%
<b>Fine default</b>	<b>427,256</b>	<b>94.5</b>
Apprehension (interstate)	50,362	11.1
Commitment	374,716	82.9
Execution	2,178	0.5
<b>Other</b>	<b>24,662</b>	<b>5.5</b>
Apprehension and conveyance to prison	375	0.1
Bench	1,959	0.4
Mesne	22,275	4.9
Other*	53	—
<b>Total</b>	<b>451,918</b>	<b>100.0</b>

Source: Unpublished QPS data.

Note: \* Including Defence Force, Family or Mental Health and Bankruptcy warrants.  
— Nil or rounded to zero.

100 warrants executed, five fine defaulters were admitted to prison. Assuming this ratio remains fairly constant, this would mean that even if only a third of outstanding warrants were executed, about 6,200 persons would be admitted to prison as fine defaulters.

Greater use of computer technology in the QPS means that many more warrants may be able to be

executed. Should this occur, the inevitable result would be an ever increasing number of people arrested and admitted to prison for defaulting on payment of fines. Clearly, a sustained 'blitz' by police in the execution of warrants has the potential to overwhelm the Department of Corrective Services.

### Duration of imprisonment

In March 1994, the Policy, Research and Analysis Branch of the QCSC reported that the average aggregate sentence for pure fine defaulters over the seven-month period from 1 July 1993 to 31 January 1994 was 31 days, with the average duration of stay being 13 days for those who had been discharged. In addition, the report showed that, on average, the duration of stay was 43 per cent of the sentence length, with almost 20 per cent of fine defaulters being discharged on the same day as they were admitted. The report stated:

It would appear that relatively few offenders are taking the options of paying their fines or applying and being granted a Fine Option Order. The majority of fine defaulters are being granted an early release resulting in many being detained for little or no time at all.

While such a practice may be of benefit to the Commission, it offers little incentive for fine defaulters to pay fines or apply for a Fine Option Order, particularly for those who have been through the mill before and know how the system works.

The Commission should consider very carefully whether 'early release' of fine defaulters is consistent with its policy objectives and those of Government.<sup>65</sup>

Over a similar but more recent period studied (1 July 1997 to 31 January 1998), there were 1,326 discharges involving pure fine defaulters, an average of 190 per month. For these prisoners, the aggregate sentence was just under 40 days, of which 48.5 per cent was served. This means that the average duration of stay for fine defaulters has risen from 13 days in 1993–94 to 19 days in 1997–98. The data for 1993–94 also show that for just under 20 per cent of the discharges in that period, the prisoner was discharged on the same day as admission. In contrast, in the 1997–98 period examined, less than 7 per cent of prisoners were discharged on the same day as admitted.

These data thus show that in a seven-month period in 1993–94, fine defaulters were discharged after spending an average of 13 days' imprisonment. In the same seven-month period in 1997–98, the period in prison had risen to 19 days.

It is possible that in 1997–98 fine defaulters were being transferred to prison earlier than in 1993–94, a factor that may, at least in part, explain this apparent increase in duration of imprisonment. Until February 1996, prisoners often spent long periods in watchhouses. However, a ministerial directive was issued in that month that prisoners were not to be held in a watchhouse for longer than seven days. It is possible, therefore, that there has been no real change in the length of time fine defaulters are detained, but rather a change in the location of their incarceration.

Table 6.3 shows the process of release from prison for fine defaulters in both periods studied. The table shows that the proportion who are serving their full sentence (that is, discharged with no remission) has increased from 6 per cent in 1993–94 to 33 per cent in 1997–98. The data also show that just over a third of these pure fine defaulters either paid their fine or

Table 6.3 — Discharges of pure fine default prisoners, Qld (1993–94 and 1997–98)

Method of release	1.7.93–31.1.94		1.7.97–31.1.98	
	No.	%	No.	%
Discharged early*	236	62.1	44	3.3
Remission	70	18.4	351	26.5
Expiry, no remission	23	6.1	439	33.1
Payment of fine/ fine option order	44	11.6	454	34.2
Other	7	1.8	38	2.9
<b>Total</b>	<b>380</b>	<b>100.0</b>	<b>1,326</b>	<b>100.0</b>

Source: Department of Corrective Services unpublished data.

Note: \* Discharged by early release or administrative decision.

successfully applied to perform a fine option order following their admission to prison in 1997–98. This compares with only 12 per cent in the earlier period.

### Fine option orders

After a person has been fined by a court or issued with a SETONS enforcement order, the offender is given a number of opportunities to apply to a court or to the SETONS clerk for a fine option order. Offenders who are granted a fine option order must perform a certain number of hours of community service work instead of having to pay their fine. The legislation that regulates the granting of fine option orders stipulates that a court (including the SETONS clerk) can make a fine option order only if the court is satisfied that:

- the offender is unable to pay the fine or, if the offender were to pay the fine, the offender or the offender's family would suffer economic hardship; and
- the offender is a suitable person to perform community service under a fine option order.<sup>66</sup>

As already illustrated in figures 6.1 and 6.2, an offender is given a number of opportunities to apply for a fine option order. A fine defaulter can currently apply for a fine option order from a police watchhouse (that is, even after having been arrested for fine defaulting).

<sup>65</sup> QCSC 1994, *Fine Defaulters Update*, p. 2.

<sup>66</sup> See s. 57(1) of the Penalties and Sentences Act.

If an offender fails to comply with the terms of a fine option order (for example, fails to perform community service work), the fine option order can be revoked and a warrant issued for the arrest of the person.<sup>67</sup>

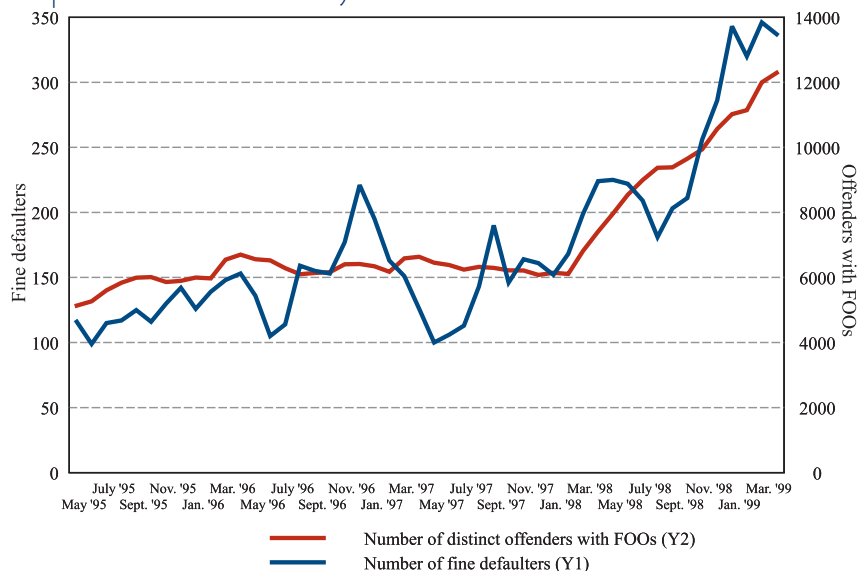
Figure 5.2 (page 34) showed that at June 1990, there were 1,380 people in Queensland who were performing community service under a fine option order. By April 1995, there were just over 5,100 and by March 1999 there were 12,000 offenders with a fine option order. This represents an increase of almost 140 per cent over the last four years, with the increase particularly marked during 1998 (see figure 6.8). Over the same period, the number of fine defaulters in prison, either secure or open custody, almost trebled, rising from 116 at the beginning of April 1995 to 337 at 1 March 1999. This represents an increase of over 190 per cent over the last four-year period. The increase has, again, been particularly marked since early 1998. The close relationship between fine defaulters in prison and offenders with a fine option order evident

in figure 6.8 is not unexpected, as both are dependent on the number of fines in the first instance, which, in turn, is dependent on police enforcement practices and court sentencing practices.

### Payment of fine after imprisonment

Some people admitted to prison for nonpayment of a fine have either deliberately delayed paying the fine or were unable to organise payment before admission. These people are usually discharged shortly after admission by paying their fine. Accordingly, figure 6.9 (next page) shows the number of admissions each month that involve pure fine defaulters and compares this trend with the number who are discharged by way of payment. These two sets of data are not entirely comparable, as a prisoner may be admitted one month and pay the fine the following month. However, the slippage would be minimal as the average duration of stay was only 19 days in 1997–98. The chart also includes discharges from prison where the offender has successfully applied for a fine option order.<sup>68</sup>

Figure 6.8 — Distinct offenders serving fine option orders and fine defaulters in prison,\* Qld (at selected dates April 1995 to March 1999)



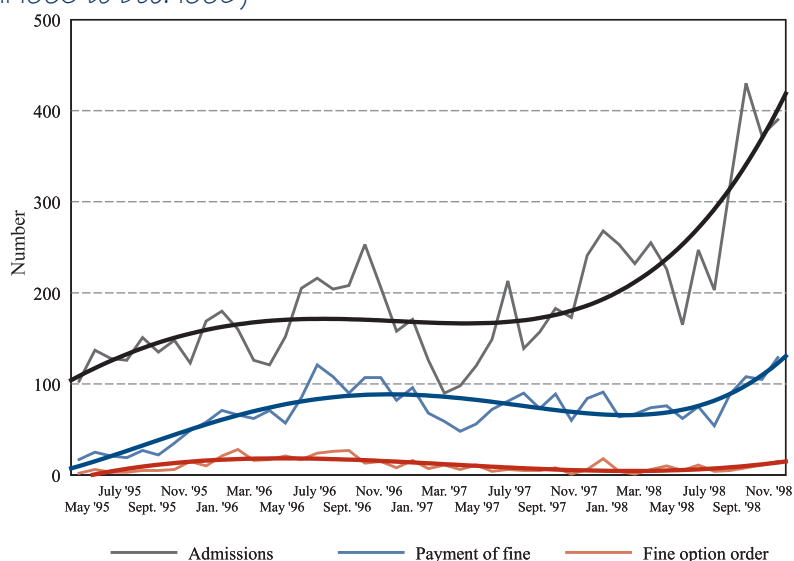
Source: Department of Corrective Services unpublished data.

Note: \* Those in secure, open or community custody (including the WORC program).

<sup>67</sup> See ss. 74 and 78 of the Penalties and Sentences Act.

<sup>68</sup> Under the State Penalties Enforcement Act, offenders will no longer be able to apply for a fine option order following the issue of a warrant for their arrest (see s. 44).

Figure 6.9 — Admissions of pure fine defaulters and discharges by payment of a fine or fine option order, Qld (April 1995 to Dec. 1998)



Source: Department of Corrective Services unpublished data.

Figure 6.9 shows that the trend for discharges by way of payment of a fine was, until early 1997, relatively similar to the admissions. However, since then, discharges as a result of payment of a fine or the granting of an application for a fine option order have increased at a slower rate than has the number of admissions of fine defaulters. This has had the effect of increasing the pressure on the prisoner population as the ‘throughput’ of fine defaulters is not as even as before. It may be that this increased number of admissions is linked to the increasing proportion of fine defaulters who are simply unable to pay their fines. Alternatively, the increase may relate to recidivism levels and reduced access to fine option orders.

## Costs and benefits

### Profile of fine defaulters

Obviously, the ability of offenders to pay a fine depends very much on the size of their income. Table 6.4 shows that at 3 March 1999, three-quarters of the pure fine defaulters in prison were either unemployed or were pensioners or students. This is slightly higher than the comparable figure of 72.7 per cent in the previous year.<sup>69</sup>

Although offenders who are unable to pay a fine can apply for a fine option order, they will still be admitted to prison or a watchhouse if they fail to comply with their fine option order. Data reported in table 5.1 (page 36) show that about a third of offenders do not comply with these orders. In about 13 per cent of contraventions or breaches of fine

Table 6.4 — Employment status of pure fine defaulters at time of admission to prison, Qld (at 3 March 1998 and 1999)

Employment status	3 March 98		3 March 99*	
	No.	%	No.	%
Employed/self-employed	34	18.9	52	19.8
Pensioner/student	24	13.3	30	11.5
Unemployed	107	59.4	167	63.7
Other	5	2.8	4	1.5
Unknown or not stated	10	5.6	9	3.4
<b>Total</b>	<b>180</b>	<b>100.0</b>	<b>262</b>	<b>100.0</b>

Source: Department of Corrective Services unpublished data.

Note: \* Figure differs from that reported elsewhere in this report as data were obtained at different dates from a database that is continually updated.

<sup>69</sup> This may be an over-representation as persons who are imprisoned may have been employed until the time of admission, after which their employment status may have changed.

option orders brought before the court, the order is revoked and the default period of imprisonment is activated. Consequently, the very large number of offenders with these orders has the potential to increase prisoner numbers.<sup>70</sup>

### Amounts of outstanding fines

Almost three-quarters of the 243 pure fine defaulters imprisoned at 3 March 1999 had defaulted on payments of less than \$3,000 in total. The greatest amount owing by any prisoner was over \$50,000.

At 3 March 1999, the 243 pure fine defaulters in prison accounted for almost \$655,000 in outstanding fines. This equated to an average amount of almost \$2,700 per prisoner. The modal amount (that is, that most frequently recorded) was \$2,500 for pure fine defaulters and \$1,500 for all fine defaulters. For any individual charge, the average amount was \$428 while the median amount was \$284.

Table 6.5 shows the cumulative amounts outstanding for all fine defaulters in prison at 3 March. It shows that less than 8 per cent of pure fine defaulters owed over \$5,000.

### Prisoner days attributable to fine defaulters

Only a very small proportion of the total number of prisoner days involve fine defaulters.<sup>71</sup> However, the cost of housing these offenders is substantial. At 30 June 1998, secure prisons in Queensland had a capacity of 3,625. The actual number of prisoners incarcerated at that date was higher, as was the average daily number of prisoners in secure custody (3,670) for the entire year. If the capacity, rather than the actual number of prisoners, is used as the more conservative basis for calculating the number of prisoner days in the 1997–98 financial year, there was a total of 1,323,125 prisoner days available in secure prisons across the State.

In the 1998 calendar year, there were 3,361 admissions to prison which involved pure fine defaulters. As already noted, fine defaulters spend an average of 19 days in prison. Thus, if each admission spent the average number of days in prison, this would equate to about 64,000 prisoner days; about 5 per cent of the total.

Table 6.5 — Persons imprisoned by amounts owed for defaulted fines, Qld (at 3 March 1999)

Cumulative total amount of outstanding fines	All fine defaulters				Pure fine defaulters			
	Total		SETONS*		Total		SETONS†	
	No.	%	No.	%	No.	%	No.	%
Under \$500	10	2.9	1	0.6	8	3.3	1	6.7
\$500–\$900	31	9.1	14	8.8	23	9.5	5	33.3
\$1,000–\$1,499	50	14.7	19	11.9	42	17.3	2	13.3
\$1,500–\$1,999	61	17.9	21	13.2	39	16.0	2	13.3
\$2,000–\$2,499	58	17.0	25	15.7	45	18.5	2	13.3
\$2,500–\$2,999	30	8.8	16	10.1	21	8.6	—	—
\$3,000–\$4,999	65	19.1	39	24.5	47	19.3	2	13.3
\$5,000 and over	36	10.6	24	15.1	18	7.4	1	6.7
<b>Total persons</b>	<b>341</b>	<b>100.0</b>	<b>159</b>	<b>100.0</b>	<b>243</b>	<b>100.0</b>	<b>15</b>	<b>100.0</b>

Source: Department of Corrective Services unpublished data.

Notes: \* Those who had at least one SETONS fine and may also have had fines imposed by other courts.

† Those who were solely imprisoned as a result of nonpayment of SETONS fines.

— Nil or rounded to zero.

<sup>70</sup> There is a need for further research into fine option orders to ascertain their availability and why defendants either do not apply or fail to complete.

<sup>71</sup> Data presented elsewhere in this report showed that as much as 7 per cent of all prisoners are pure fine defaulters.



To calculate the actual costs involved in imprisoning fine defaulters, a number of methods were used. The first consideration was the custodial status of fine default prisoners. About 70 per cent are in secure custody and the remaining 30 per cent in open custody. Using this as a starting point and the associated daily costs of secure custody (\$116 per day) and open custody (\$64 per day),<sup>72</sup> an estimated annual cost of almost \$6.5m is derived.<sup>73</sup>

An alternative method is to apportion some of the 1998–99 custodial corrections budget<sup>74</sup> to fine defaulters. As already noted, fine defaulters comprise about 7 per cent of the prisoner population. Hence, if as much as 7 per cent of the budget were required to house these prisoners, it would be at a cost of \$14m per annum. It is likely, however, that the real cost is somewhere between the two figures, perhaps around \$10m per year. This very substantial figure does not, however, include all of the associated administrative costs involved.

### State Penalties Enforcement Registry

One current response to the number of fine defaulters being imprisoned is the State Penalties Enforcement Act, which aims to divert fine defaulters from prison through SPER.

The SPER charter includes the following:

- maximising the collection, for victims of offences, of amounts ordered to be paid under the Penalties and Sentences Act by way of restitution or compensation
- maximising the amount of fines and other money penalties paid before enforcement action is taken
- promoting a philosophy that community service work is for the needy in the community and not as an alternative to payment of a fine for those who can afford to pay the fine
- reducing the use of imprisonment for fine default by encouraging the use of other enforcement mechanisms
- promoting public education about the obligations of offenders and the consequences of not satisfying the obligations.

At the Second Reading of the Bill, the Minister stated that the SPER charter included:

reducing the use of imprisonment for fine default by encouraging the use of other enforcement mechanisms.<sup>75</sup>

To achieve this objective, a feature of the SPER model is that:

warrants for arrest and imprisonment [will be used] but only as a last resort.

The introduction of SPER should have some impact, although the extent of this impact is difficult to quantify definitively. If SPER were 100 per cent effective, a reduction in the total prisoner population of about 5 per cent might be possible.<sup>76</sup> However, it is unlikely that such an impact will be achieved for reasons such as:

- lack of income (that is, as already noted more than 60 per cent of fine defaulters are unemployed)
- licence cancellation effects (that is, cancellation of a licence may lead to persons being imprisoned for unlicensed driving offences)
- removal of the option for applying for a fine option order at time of arrest.

The data in table 6.6 show that the average amount of fine redeemed for each day of imprisonment (regardless of the court, including SETONS, that imposed the fine and whether the prisoner was imprisoned solely as a result of nonpayment of the fine) was about \$30 a day. Under the State Penalties Enforcement Act, the cut-out rate for an infringement notice will increase to \$60 a day.<sup>77</sup> As the default period of imprisonment is calculated on this cut-out rate, the increase should result in a proportional reduction of the default period and should reduce the number of fine defaulters in prison.

As reported in the QCSC 1997/98 Annual Report, the Commonwealth Industry Commission found that the cost per prisoner day in secure custody in

<sup>72</sup> As reported in the 1999 Commonwealth Industry Commission Report on Government Services.

<sup>73</sup> Based on the proportional distribution (70:30) of 63,859 prisoner days calculated previously.

<sup>74</sup> As reported in the *Criminal Justice System Monitor*, Volume 4 custodial corrections' non-capital budget was \$200m for 1998–99.

<sup>75</sup> The Hon. M.J. Foley, Attorney-General and Minister for Justice, Queensland Legislative Assembly, Hansard, 11 June 1999, p. 2542.

<sup>76</sup> See appendix B for calculations.

<sup>77</sup> The rate at which imprisonment counts towards paying off the fine.

Queensland in 1996–97 was \$119. The recently released 1999 Commonwealth Industry Commission Report on Government Services reported that this cost per day in Queensland had fallen slightly to be just under \$116 during the 1997–98 financial year and the daily cost of open custody was \$64.

Given that fine defaulters are paying off their debt at around \$30 per day (\$60 following introduction of SPER), the incarceration of these prisoners is arguably not cost-effective given the daily cost of \$4 for those offenders not sent to prison but given a community-based order. With this comparison in mind, it is relevant to note that the QCSC 1997/98 Annual Report states that the Commonwealth Industry Commission reported that Queensland achieved a comparable recidivism outcome among offenders regardless of whether offenders are placed on a community-based order or imprisoned (1997/98:15). However, this finding does not take account of any broader deterrent effect that *may* result from imprisoning fine defaulters.

Table 6.6 — Selected data relating to fine defaulters in prison, Qld (at 3 March 1999)

Type of fine defaulter	Cumulative no. days	Total amt fines owing \$	Av. amt fine per day imprisonment \$
Total	35,396	963,580	27.22
Total pure	23,614	653,957	27.69
Total SETONS	18,317	487,078	26.59
Total pure SETONS	911	28,718	31.52

Source: Department of Corrective Services unpublished data.

## SUMMARY

- In both absolute and proportional terms, the number of fine defaulters imprisoned is increasing steadily. In January 1999, 43 per cent of all admissions to prison were solely for fine defaulting.
- The key factors leading to an increase in admissions are:
  - the increasing numbers of fines being issued by courts and the SETONS process, and
  - the increasing efficiency of the police in using information technology to execute outstanding warrants.
- Further information technology developments in policing mean that there is a potential to increase the apprehension and incarceration of fine defaulters.
- As at 3 March 1999, there were 341 fine defaulters in prison — more than double the number in January 1995. Over the last three years, admissions have risen by 113 per cent compared with an overall increase in total admissions of just under 40 per cent.
- Pure fine defaulters now spend an average of 19 days in custody.
- Key factors that may have contributed to increased lengths of stay are:
  - the requirement for transfer to prison from watchhouses after seven days
  - legislation specifying that sentences be served cumulatively rather than concurrently (although there is some evidence that courts may in fact be specifying the reverse)
  - release practices of the Department of Corrective Services.
- As many as 64,000 prisoner days each year may be attributable to fine defaulters.
- Only about 20 per cent of imprisoned fine defaulters were at the time employed.
- It costs almost \$120 a day to incarcerate fine defaulters. This compares with \$4 a day for community-based orders. Queensland achieves a comparable recidivism outcome among offenders regardless of whether offenders were imprisoned or placed on a community-based order.
- Fine defaulters are increasingly apprehended by police as a result of traffic or driving offences and are often found to be in possession of drugs.
- Almost three-quarters of pure fine defaulters in prison at 3 March 1999 had defaulted on payments of less than \$3,000 in total.
- In June 1990, there were just over 1,300 persons subject to a fine option order (community service). By March 1999, this figure had risen to over 12,000 offenders.
- The proportion of discharges from prison resulting from a successful application for a fine option order or payment of a fine is declining.
- Ninety-five per cent of all outstanding police warrants relate to fine defaulting. The total number of outstanding warrants as at March 1999 was over 450,000.
- In theory, the introduction of SPER has the potential to reduce the prisoner population by 5 per cent by 2001, but the actual impact is likely to be less than this.

# Chapter 7: Recidivism

- Introduction
- The recidivism ratio over time
- Revocation of post-release orders
- Admissions to prison for breaching orders
- Recidivism by offence categories
- Summary

## Introduction

Increasing recidivism among the adult prisoner population over recent years is one possible explanation for the increase in the prisoner population. If people being sentenced have already exhausted all non-custodial options, an increase in the prisoner population would result even if levels of recorded crime and convictions and sentencing practices were to remain stable.

Recidivism can be defined as:

- persons re-offending within a particular period
- persons reappearing in court, either any subsequent appearances or those within a specified time frame
- persons receiving terms of imprisonment after having previously been convicted on other matters and not imprisoned as a result
- persons admitted to prison who had previously been sentenced to prison
- persons returning to prison as a result of the revocation of a post-release order.

This research has concentrated on the last two definitions shown above. The necessary data are simply not available (and will not be available for some years to come) to analyse adult recidivism trends in Queensland in terms of the first three factors. The available data permit only the most general of inferences to be drawn. To fully examine court recidivism rates, for example, both higher and lower court histories require examination. As detailed in appendix A, this is currently not possible.

Police data should also be capable of being examined to determine recidivism rates based on re-offending patterns. However, the lack of a unique identifier for persons who offend, and are recorded on police information systems, precludes any such examination. These data constraints seriously limit the extent to which it is possible to understand some of the most important aspects of the way in which the Queensland criminal justice system operates.

## The recidivism ratio over time

Court data for 1997–98<sup>78</sup> show that about 72 per cent of offenders sentenced to imprisonment in a lower court had been previously convicted by a lower court.<sup>79</sup> About 24 per cent of offenders imprisoned by the higher court had prior convictions from a higher court. However, it has not been possible to ascertain whether there has been any change over time in these proportions.

At the 1987 Prisoner Census<sup>80</sup> conducted on 30 June, 54 per cent of Queensland's prisoners were known to have previously been imprisoned under sentence in a gazetted prison. The comparable figure at 30 June 1998 was 62 per cent.

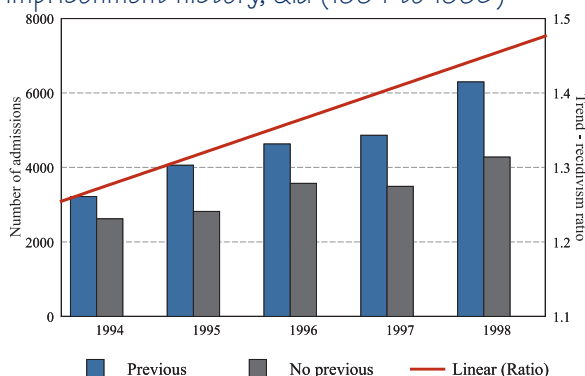
Figure 7.1 (next page) shows that the ratio of admissions with a previous history to those with no previous history has risen from 1.2:1 in 1994 to almost 1.5:1 in 1998. This means that for every 100 non-recidivist prisoners there are now nearly 150 recidivist prisoners admitted.

<sup>78</sup> See appendix A.

<sup>79</sup> The number of prior convictions for a person in the lower court relate to those prior convictions determined in a lower court from 1994–95 onwards. Similarly, prior convictions for a person in the higher court relate only to previous higher court convictions from 1994–95.

<sup>80</sup> The 1987 figure used here because data for the years 1988 to 1994 are characterised by a degree of volatility which suggests changes in recording practices as much as any real change in recidivism. However, it should be noted that if admissions data, rather than 30 June data, are examined, the recidivism level for 1994 is 55 per cent. For these reasons, the 1987 figure is regarded as providing the best available estimate of the actual levels at the beginning of the 1990s.

Figure 7.1 — Admissions to prison by previous imprisonment history, Qld (1994 to 1998)



Source: Department of Corrective Services unpublished data.

Note: A linear trend line has been used to smooth the ratio data.

It is possible that this upward trend is linked to the escalating turnover of short-sentenced prisoners (especially fine defaulters) who in a sense attest to the net-widening and net-thickening logic of the criminal justice system — that is, once a person enters the criminal justice system there is a greater likelihood s/he will remain within it than to never come to the attention of the police again.<sup>81</sup> For example, it could be that once a fine defaulter has served a period of imprisonment, s/he has a greater likelihood of being returned to prison, should the person subsequently appear before the court. However, no data were examined to determine whether this is so. The more likely situation is that repeat offenders have exhausted all alternatives to prison and courts have no option other than imprisonment.

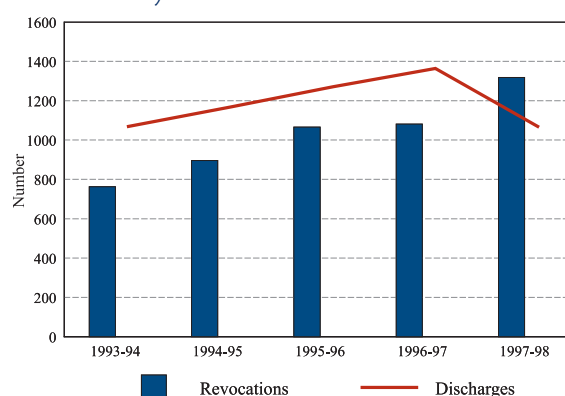
## Revocation of post-release orders

Another measure of recidivism is the number of prisoners who re-offend within a particular period. The data reported in this section refer to the number of offenders admitted to prison after the revocation of an order.<sup>82</sup> This means that an offender serving an intervention-type order (that is, parole, home detention and leave of absence for release to work and programs, but not for transfer to a community corrections centre) has breached that order and action has been taken that resulted in the offender appearing before the court. As a result, the court has revoked the order and the offender has been admitted to prison.

As shown in figure 7.2, the number of such revocations has almost doubled, rising from 762 in 1993–94 to 1,318 in 1997–98. Over the same period, the number of discharges to (that is, placement on) these types of orders rose by less than 30 per cent between 1993–94 and 1996–97, but fell to the 1993–94 level in 1997–98. However, it is important to note that it is not always the case that a discharge in one year will result in a revocation in the same period, although this may occur. In fact, the longer the period of the order, the more likely it is to be breached later rather than earlier. Thus, for example, a prisoner discharged on parole for two years is more likely to breach in the second year. As a result, a comparison of one year's discharges with the revocations for the same year is not entirely appropriate.

As the two measures track each other until 1997–98, a data issue may be indicated (that is, the lag effect). Notwithstanding this, however, these data as well as those presented in table 5.1 (see page 36) suggest a greater proportion of people are being imprisoned as a result of having breached their order.

Figure 7.2 — Discharges to post-release orders\* and revocations of intervention-type† orders resulting in admission to prison, Qld (1993–94 to 1997–98)



Source: Department of Corrective Services unpublished data.

Notes \* Includes home detention, parole, to community corrections, to suspended sentences, leave of absence and release to work.

† Includes parole, home detention and leave of absence for release to work and program areas. Excludes leave of absence for transfers to community corrections.

81 See Glossary for explanation of 'net thickening'.

82 Intervention-type orders such as parole, home detention and leave of absence for release to work and program areas.

## Admissions to prison for breaching orders

Table 7.1 shows the number of admissions to prison over three 12-month periods for breaches of either court orders or Department of Corrective Services' orders, including escapes. What these data show is that while the overall number of admissions during any 12-month period is relatively stable, those that involve shorter sentences are increasing. The reverse is true for admissions involving longer periods. Between November 1995 and October 1996, for example, there were 350 admissions to prison for these offences for which the offender had been sentenced to a period of five years or more, but between November 1997 and October 1998 there were only 105 such admissions. By way of contrast, there were 641 admissions in the earlier period that involved sentences of less than 12 months (43.5 per cent of the total), but in the latter period there were 968 (67.6 per cent of the total). Together, these figures suggest that while the recidivism rate may be increasing, the courts are not necessarily sentencing the offenders to long sentences as a result.

## Recidivism by offence categories

Table 7.2 (next page) shows the number of admissions to prison for each of the calendar years 1994 to 1998 and the number of those admissions where the offender involved had previously been in prison. The table indicates that recidivism is rising at a faster rate than the total prisoner population. The offence categories shown relate to the most serious offence for which the person was admitted.

The data in table 7.2 show the previous imprisonment history for offenders involved in admissions to prison between 1994 and 1998. Offenders admitted in the period who had previously been imprisoned have been classified as recidivist offenders while those who had never previously been imprisoned at the time of admission have been classified as non-recidivist offenders.<sup>83</sup>

The data show that the increase in the rate of recidivism is greater in the categories of disorderly conduct (that is, good order) and drug offences than it is in any other specified category.<sup>84</sup> The proportion of all admissions for drug offences where the offender involved had a history of imprisonment was

Table 7.1 — Admissions to prison for breaches of court orders or of Department of Corrective Services prison/orders,\* Qld (Nov. 1995 to Oct. 1998)

Length of sentence	November 1995 to October 1996		November 1996 to October 1997		November 1997 to October 1998	
	No.	%	No.	%	No.	%
Up to 12 months	641	43.5	745	55.2	968	67.6
12 months and up to 2 years	174	11.8	184	13.6	222	15.5
2 years and up to 5 years	307	20.9	267	19.8	137	9.6
5 years and over	350	23.8	153	11.3	105	7.3
<b>Total</b>	<b>1,472</b>	<b>100.0</b>	<b>1,349</b>	<b>100.0</b>	<b>1,432</b>	<b>100.0</b>

Source: Department of Corrective Services unpublished data.

Note: \* Includes breaches of community service, parole, probation, home detention, leave of absence, failure to pay restitution, escape from custody, aiding an escape, unlawfully at large and breach of Prisons Act/Corrective Services Act.

<sup>83</sup> A better measure would be to measure the number of released prisoners who re-offend within a particular period, but this information was not available for this study.

<sup>84</sup> Disorderly conduct includes abusive language, indecent behaviour, trespassing, consorting, prostitution, drunkenness, vagrancy, liquor licence and gambling offences. It also includes breaches of orders where the breach was that recorded as the most serious for which the offender was admitted to prison.



45.9 per cent in 1994, but by 1998 had risen to 55.4 per cent, representing a 4.8 per cent average annual increase. The rate for admissions involving disorderly conduct or good order offences increased annually by 4.1 per cent, on average, from 58.9 to 69.2 per cent. In considering these figures, it needs to be kept in mind that the data refer to the most

serious offence for which the offender was admitted. It is possible that an offender may previously have been imprisoned for a more serious offence and because of this record is more likely to be sentenced to a term of imprisonment if brought before the court on a good order offence.

Table 7.2 — Total admissions to prison and number with prior imprisonment history by selected offences, Qld (1994 to 1998)

Offence	1994	1995	1996	1997	1998	Average annual change (%)
<b>Total admissions</b>						
Offences against the person	1,777	1,901	2,008	2,033	2,016	3.2
Offences against property	1,941	2,124	2,437	2,546	2,704	8.6
Drug offences	423	587	780	737	1,094	26.8
Motor vehicle offences	883	1,179	1,490	1,366	2,201	25.7
Disorderly conduct	594	756	956	1,083	1,733	30.7
Total*	5,841	6,879	8,198	8,355	10,573	16.0
<b>Admissions where the offender has previously been imprisoned</b>						
Offences against the person	995	1,151	1,169	1,228	1,176	4.3
Offences against property	1,167	1,344	1,504	1,589	1,732	10.4
Drug offences	194	290	354	375	606	32.9
Motor vehicle offences	454	700	842	784	1,273	29.4
Disorderly conduct	350	469	586	712	1,199	36.0
Total*	3,219	4,058	4,628	4,863	6,296	18.3
<b>Proportion of the total who have a previous history of imprisonment (%)</b>						
Offences against the person	56.0	60.5	58.2	60.4	58.3	1.0
Offences against property	60.1	63.3	61.7	62.4	64.1	1.6
Drug offences	45.9	49.4	45.4	50.9	55.4	4.8
Motor vehicle offences	51.4	59.4	56.5	57.4	57.8	3.0
Disorderly conduct	58.9	62.0	61.3	65.7	69.2	4.1
Total*	55.1	59.0	56.5	58.2	59.6	2.0

Source: Department of Corrective Services unpublished data.

Note: \* Including other and unknown offences that are excluded elsewhere in this table.

## SUMMARY

- Over 60 per cent of prisoners have a known prior adult imprisonment history.
- Recidivism is increasing faster than the total prisoner population.
- Between 1994 and 1998, the ratio of admissions of recidivist to non-recidivist prisoners rose from 1.2:1 to almost 1.5:1.
- The number of offenders admitted to prison after breaching their post-release orders has almost doubled.

# Chapter 8: Impact of the corrections system

## PART A: THE CHANGES

- Sentence management
- Leave of absence policies
- Community release and the dismissal of the Queensland Community Corrections Board
- Leave of absence and release to work
- Backlog of applications for community release
- Summary

## PART B: THE IMPACT

- Sentence lengths in proportional terms
- Duration of stay
- Discharges from prison: release mechanisms
- Changes in security classification
- Departmental/board decisions
- The use of remission
- Legislation for serious violent offences
- Summary

## Introduction

As detailed in the previous chapters, the increase in prisoner numbers is to a large degree a consequence of the increase in admissions resulting from the practices of both the police and the courts. However, the magnitude of the increase cannot be fully explained by these two factors alone. Policies and practices within the corrections system have also contributed to the increasing prisoner population. This chapter examines the extent to which these factors have increased the prisoner population (over and above the impact of increased admissions) by increasing the average duration of stay.<sup>85</sup>

The 1990s saw the development of tough law and order policies by all major political parties. These policies were, in part, a response to community concern at a perceived rise in crime levels, coupled with increasing media attention on the correctional system. As a consequence, corrections policies were constantly amended to restrict the progression of prisoners through the correctional system, which resulted in ever greater demands on the system. The first part of this chapter outlines the changes that occurred and the second part examines the impact of those changes.

## PART A: THE CHANGES

### Sentence management

Movement through the sentence-management system from high to low security classification is essential for the ultimate achievement of release into community custody. Obtaining one's 'low' is one of the most important milestones in a prisoner's sentence. Since 1992 there have been major changes to the sentence management process, which have had a significant impact on the process by which prisoners achieve a low classification.

In 1992, a prisoner's non-parole time was divided into four periods. At the commencement of each period, a sentence-management plan was developed to meet the specific needs of the prisoner. It was intended that each of those periods would equate to a security classification point of high, medium, low, open, then parole. A point-scoring process was used by the Sentence Management Team at each correctional centre (with the approval of the General Manager) as a tool for classifying prisoners into the appropriate security rating. The scoring system used then is still in force today.

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<sup>85</sup> See Glossary.

The scoring system is as follows:

High	55 points or more
Medium	25 to 54 points
Low	15 to 24 points
Open	up to 14 points

In 1993, the sentence management policy was amended to allow the assessment of a prisoner's security classification to take into consideration those factors as set forth in section 13 of the Corrective Services Regulations 1989.

In 1996–97, dramatic changes took place as a result of corporatisation of the service-delivery mechanisms within the QCSC. One such change was the establishment of the Office of Sentence Management (OSM) to oversee the sentence management of all prisoners, including making decisions on whether prisoners should be granted access to community release programs, such as leave of absence and release to work. The OSM developed a strong focus on assessing the risk of a prisoner released into the community. Although risk was always considered when determining community release, it was given closer attention by the OSM.

The OSM assesses risk on the basis of whether a prisoner has successfully completed programs that have addressed offending behaviour. Correctional centres are required to submit to the OSM a recommended point score and security classification for a prisoner, for approval or amendment. The most crucial reclassification is that from medium to low security, the point at which prisoners can apply for access to community release programs.

It is argued by some interest groups that the OSM has proved to be overly conservative in its point-score assessment and has not progressed prisoners as quickly as was the case when such matters were solely determined by the Sentence Management Team located within each correctional centre. The OSM accepts that it has adopted a much 'harder line' than previously characterised by the Sentence Management Teams, but points to the need to address an apparent lack of consistency in the decisions made by the teams. The OSM has taken the view that insufficient attention was being given by

centres to assessing the risk of an offender if released into the community.

Whatever the merits of each of these views, in a considerable number of cases prisoners have been held at a 25-point medium classification, thereby precluding them from moving to a low classification.<sup>86</sup> The Ombudsman's 1997–98 Annual Report states that:

many prisoners complain that they have been refused a low classification on the basis of risk when there is no evidence of this [risk].

The report goes on to say that the OSM bases risk assessment on the basis of completion of programs and notes the inappropriateness of such an assessment criterion when programs are not readily available and there are extensive waiting lists for particular programs (for example, sex offender treatment program).

## Leave of absence policies

Since 1992, four leave of absence (LOA) policies have been developed by the QCSC. Leave of absence is the first step in the community release process. LOAs enable correctional authorities and Community Corrections Boards to observe, under close supervision, how a prisoner performs within the general community. Access to leave of absence is an essential step to obtaining parole.

In 1992, the eligibility criteria for leave of absence were relatively simple. Prisoners were eligible if they had achieved a low or open security classification and had reached 50 per cent of the specified non-parole period.

In 1993, there was a slight tightening of the eligibility requirements, but only in relation to the time served before eligibility. This change ensured that persons who were given a short non-parole period by the courts were not accessing community release at one-quarter of that time, but, rather, their earliest release would now be in line with the remaining prisoner population at a quarter of their sentence.

<sup>86</sup> Ombudsman Annual Report 1997–98, p. 32.

Major changes to the leave of absence policy were implemented in 1995. More stringent eligibility criteria were developed, which focused on risk to the community, institutional behaviour and program participation. The 1995 policy required that, to be eligible for leave of absence, prisoners must be within six months or less of their release to work eligibility date, or within 12 months of that time where the sentence was 10 years or over.

In 1996, further policy changes took place. These changes followed a combined media and community focus on those prisoners serving life imprisonment for murder. The amended policy moved the eligibility time for leave of absence for life sentenced prisoners from 9 years to 10 years 8 months.

In 1997, with the establishment of the OSM, access to leave of absence became even more difficult for prisoners because of the more stringent and less flexible approach of the OSM. The introduction of a more watchful and professional process by the OSM, coupled with the delays in program participation reported by many prisoners, resulted in a contraction in the number of prisoners accessing community release.

## Community release and the dismissal of the Queensland Community Corrections Board

In May 1997, in response to the re-offending of three prisoners while on community release, the then Minister for Police and Corrective Services and Minister for Racing, Russell Cooper MLA, dismissed the Queensland Community Corrections Board (QCCB), which had earlier granted the prisoners community release. It was not until September that a new QCCB was appointed (chaired by retired Chief Justice Sir Dormer George Andrews).

Following the dismissal of the QCCB, the Minister issued interim guidelines (under s. 139 of the Corrective Services Act) directing the Board on matters to be taken into consideration when

exercising its functions. Several months later a more formal document was prepared for Cabinet approval. The guidelines were only for the QCCB, but the other Community Corrections Boards were expected to follow them. Although the Minister's statements were only guidelines, a number of key considerations were prefaced with the words 'it is inappropriate that a prisoner ...'. The words clearly 'set the tone' for the types of decisions the Minister expected of Community Corrections Boards. Highlighted in the guidelines as appropriate precursors to release were:

- that a prisoner be of low or open security before being granted community release
- that a prisoner serving a sentence of 10 years or more complete a minimum of six months in an open custody environment
- that a prisoner whose security classification is high or medium not be approved for community release
- that a prisoner who breached a community release order not be further released until after serving one-fifth of his or her original period of imprisonment.

In September 1998, a prisoner's application that challenged the validity of the ministerial guidelines was heard by the Supreme Court.<sup>87</sup> It was argued on behalf of the prisoner that the words 'it is inappropriate' severely limited the discretion of the Board and left little scope for what may be interpreted as appropriate. Although the Court commented that the Board misstated the effect of section 139 of the Corrective Services Act as meaning it must adhere to ministerial guidelines, the Court did not find that the guidelines were outside the power given to the Minister under section 139.

Shortly after the decision of the Supreme Court, the guidelines were amended. One of the most important changes was to allow the Board discretion to grant community release to medium security prisoners, where they have reached their eligibility date, if they:

- do not pose a risk to the community
- are close to low security classification
- are not serious violent offenders.

<sup>87</sup> *Re Wood* [1998] QSC 179 (10 September 1998).

Notwithstanding this amendment, it would appear that the political intervention into the activities of the QCCB resulted in a decline in the number of prisoners released from the Queensland correctional system.

## Leave of absence and release to work

### Interpretation of section 61 of the Corrective Services Act

Shortly after the appointment of the new Board in September 1997, Chairperson Sir Dormer George Andrews formed the view that section 61 of the Corrective Services Act had in the past been incorrectly interpreted. Section 61 relates to extended leave of absence which is commonly referred to in the correctional environment as release to work. Section 61(3) then provided:

**The commission shall not grant** leave of absence to a prisoner for a period exceeding 7 days for any purpose other than to participate in an approved compulsory program **unless—**

- (a) in the case of a prisoner serving a term of imprisonment not exceeding 5 years in a prison or other place situated in an area for which a regional community corrections board is established **the board has approved that leave be granted** [emphasis added]; or
- (b) in any other case the Queensland Community Corrections Board has approved that leave be granted.

Sir Dormer George Andrews interpreted the legislation as requiring the QCSC to first establish an intention to grant leave of absence. If the QCSC did not intend granting leave then the prisoner's application would not be forwarded to the Board.

Up to that point the standard procedure was for the prisoner to lodge an application with the Assessment Officer in his/her centre. The officer would collate all necessary correctional reports and forward them and the application to the appropriate Community Corrections Board. The Board would consider the

documentation and make a determination as to whether approval for extended leave of absence would be granted. If approval occurred, the general manager of the centre holding the prisoner would be informed. Arrangements would then be made for the Regional Manager of Community Corrections to sign the leave form. The prisoner would then be transferred to a community correctional centre where the extended leave of absence period would be carried out. It was considered that the actual grant of leave related more to the mechanics of the situation such as completing the necessary forms and transferring the prisoner to a community correctional centre.

As a consequence of the reinterpretation of section 61, Sir Dormer George Andrews required the general managers of correctional centres to provide a signed certificate stating that they were prepared to grant a prisoner extended leave of absence. However, in the 'post sacking' climate of the QCCB, general managers appeared reluctant to grant leave. This may also explain in part the reduced number of parole applications received by Community Corrections Boards in the preceding 12 months, as the Board would not receipt an application unless accompanied by the General Manager's certificate.

In March 1998, Sir Dormer George Andrews resigned and Mr Des Sturgess QC replaced him as Chairperson. Although Mr Sturgess returned to the standard processing procedure for applications for extended leave, he identified a further problem with section 61. At the time, section 61(7) expressly prohibited the QCSC from delegating the power to grant extended leave of absence. This, in effect, meant that all current grants of leave that had been affected by the Regional Managers of Community Corrections were invalid. The QCSC obtained Crown Law advice which confirmed the Chairperson's position. What then resulted was a review of all current grants of extended leave of absence by the Board of the QCSC.

## Backlog of applications for community release

The QCCB receives community release applications from prisoners serving five or more years. In the four months following the dismissal of the QCCB, all applications received from prisoners remained unattended to. Consequently, the new Board was faced with the daunting task of processing and determining the backlog of applications.

In March 1999, section 61 of the Corrective Services Act was amended (No. 94 of 1999) to provide the Chief Executive with authority to grant extended leave of absence. The amendment is intended not only to clarify matters but also to simplify the process by allowing the Director-General to sign-off on the QCCB's approval and grant extended leave to the prisoner.

### SUMMARY

- In terms of legislation/regulations relating to the granting of early release to prisoners, significant changes in the period since 1992 have served to reduce the degree of access of prisoners to early release mechanisms.
- A number of events have had an impact on the approval rate of parole applications such that the actual number of parolees has been decreasing while the prisoner population has been increasing.

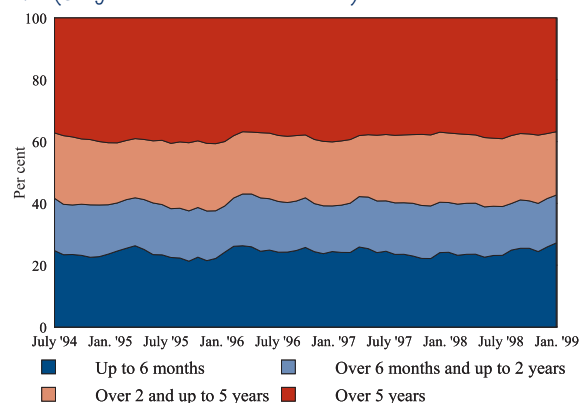
## PART B: THE IMPACT

Throughout the period of rapid growth in prisoner numbers and changing sentence management practices, the ratio of admissions to discharges remained stable at 110 admissions for every 100 discharges. This ratio obviously guarantees a steady increase in prisoner numbers. One of the ways in which this ratio has been maintained has been by steadily increasing the duration of stay as a consequence of delaying discharge. The remainder of this chapter focuses, firstly, on the extent to which duration of stay has increased, and, secondly, on the ways in which discharges have been slowed or delayed.

## Sentence lengths in proportional terms

The aggregate sentence length data presented in figure 8.1 demonstrate the extent to which the criminal justice system in its broadest sense has become ever more efficient at processing ever larger numbers of people. Figure 8.1 reveals a remarkable level of stability in the proportional breakdown of these categories of aggregate sentence.

Figure 8.1 — Proportion of prisoners\* at beginning of month by aggregate sentence length, Qld (July 1994 to March 1999)



Source: Department of Corrective Services unpublished data.

Note: \* Includes both sentenced and unsentenced prisoners.

Since July 1994 about:

- 27 per cent of the population consistently fell within the 'six months or less' category
- 13 per cent consistently fell within the 'over six months and up to two years' category
- 21 per cent consistently fell within the 'over two years and up to five years' category, and
- about 39 per cent consistently fell within the 'over five years' category.



These data demonstrate that, despite the very rapid growth in short-term admissions, offenders with sentences of two years or more have comprised around 60 per cent of the prisoner population since July 1994. This stability of the sentence-length mix over time is also important because of the way it has obscured the bases of the growth in prisoner numbers. Normally, growth of the magnitude experienced in Queensland would be accompanied by a ‘bulge’ in the mix, which would provide a useful clue as to what precisely was responsible for driving numbers upward. The absence of such a bulge makes it difficult for the Department of Corrective Services to pinpoint the bases of this growth.

The only means by which the sentence-length mix could remain as constant as it has (over a period of unparalleled growth) is for the rate of increase in short-term admissions to have consistently outstripped any increase in either the number or length of the longer stays. Or, to put it another way, the cumulative (or compounding) impact of any increase in longer-term admissions or lengthening of longer sentences can only be matched in proportional terms by means of a very much greater number of short-term prisoners being admitted.

The fact that this proportional stability has been maintained since at least mid-1994 suggests that it is the operations of the wider criminal justice system driving up prisoner numbers rather than any more restricted or agency-specific set of factors.

### Duration of stay

At first glance, the data reported in table 8.1 would seem to indicate that the increase in the prisoner population cannot be attributed to sentence lengths. For example, in the 1994–95 financial year, an average of 39 per cent of prisoners were serving aggregate sentences of more than five years. By 1997–98, this proportion had fallen to be just under 38 per cent. What these figures obscure, however, is the actual time that the prisoners serve prior to release. If, for example, prisoners who had an aggregate sentence of five years or more in 1994–95 served only 50 per cent of that sentence before release, but by 1997–98 were serving 80 per cent of

their sentence, there would be more people remaining in prison for a longer period, thereby resulting in an increase in the total prisoner population.

If data in the first three lines of the table are examined, the duration of stay does appear to be having an impact. For example, the average growth rate in the number of admissions (13.9 per cent) is almost exactly matched by a similar growth rate (13.7 per cent) in the number of discharges. At the same time, the median term of imprisonment imposed by the courts has not changed dramatically. Why then is there a greater growth rate (16.6 per cent) in the number of people in prison at the same day (30 June) each year? Lengthening stays would seem an obvious way in which these data might be reconciled and in so doing explain some of the growth in prisoner numbers. Data relating to the mean duration of stay do indeed indicate that there has been an increase over time, with the average number of months for which prisoners stayed prior to discharge increasing by almost half between 1993 (four months) and 1997 (almost six months), before falling slightly in 1998.

Other data presented in table 8.1 appear to indicate that practices within the Department of Corrective Services are contributing to a ‘lengthening’ of the time that a prisoner actually spends in prison. If we calculate the average duration of stay for those discharged during a month as a proportion of the average aggregate sentence for those discharged, we obtain an indication of the extent to which the length of time served has either increased or decreased over time.

Because, as already noted, the calculated mean figures are markedly influenced by the very large number of short-term admissions on the one hand and the small number of very long sentences on the other hand, the data reported in figure 8.2 should not be interpreted as meaning that in 1993 prisoners served 20 per cent of their sentence and in 1998 they served 40 per cent. What the data do demonstrate, though, is that between 1993 and 1998 the average length of time that individuals spend in prison has increased consistently and substantially.

Table 8.1 — Summary data, Qld (1993 to 1998)

Particulars	1993	1994	1995	1996	1997	1998	Av. annual change (%)
<b>Number of prisoners at 30 June</b>	<b>2,068</b>	<b>2,491</b>	<b>2,870</b>	<b>3,528</b>	<b>3,839</b>	<b>4,466</b>	<b>16.6</b>
Number of admissions during year	5,513	5,841	6,879	8,198	8,355	10,573	13.9
Number of discharges during year	5,168	5,197	6,127	7,626	7,403	9,805	13.7
Duration of stay data (averaged for each month in the calendar year)*							
Mean number of months	4.0	5.1	5.4	5.8	5.6	5.2	5.4
Duration of stay as a proportion of aggregate sentence length at discharge (%)†	17.0	25.7	30.6	29.4	34.4	42.3	20.0
Median term of imprisonment imposed by courts (financial year ending)‡							
Magistrates Courts (months)	3.7	3.9	4.3	4.4	4.3	4.3	3.2
Higher courts (months)	20.5	21.5	23.4	22.3	19.7	21.4	-0.9
Proportion of prisoners by aggregate sentence length (averaged for first day of each month in financial year)							
Six months or under (incl. remandees)	n.a.	n.a.	24.1	23.6	24.7	23.5	-0.8
More than 6 months and up to 2 years	n.a.	n.a.	16.3	16.1	15.9	16.6	-0.6
More than 2 yrs and up to 5 years	n.a.	n.a.	20.4	21.1	20.8	22.2	2.9
More than 5 years (incl. life/indeterminate)	n.a.	n.a.	39.3	39.2	38.7	37.7	-1.4

Source: Number of prisoners: *Australian Prisoners*, 1989 to 1993, AIC; *Prisoners in Australia*, 1994 to 1998, ABS.  
Duration of stay: Department of Corrective Services unpublished data.  
Median term of imprisonment: JAG unpublished data.

Notes: \* Two differing sets of data relating to the duration of stay were obtained for this research, only one of which was used as it provided the necessary level of detail required. See appendix A for explanation of differences.

† Average duration of stay for those discharged during a month as a proportion of the average aggregate sentence for those discharged.

‡ Including suspended sentences.

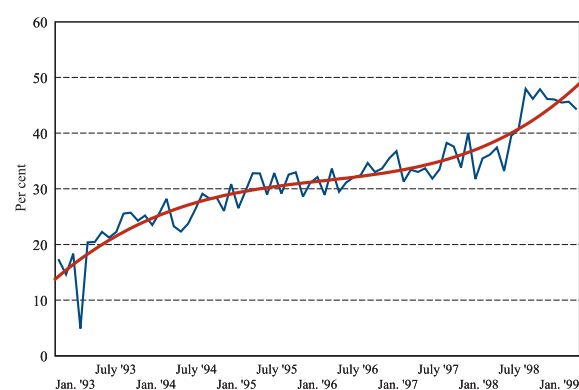
n.a. Not available.

Given the stability of the aggregate sentence mix as illustrated in figure 8.1, the steady upward trend evident in figure 8.2 provides persuasive evidence that changes in correctional policies have increased lengths of stays.

The magnitude of the changes in pre- and post-1993 prison stays can be seen by directly comparing the 1993 to 1998 period with the 1990 to 1993 period.

As can be seen in table 8.2 (next page), the growth in the number of persons expected to serve one year or less has been extraordinary.<sup>88</sup> Between 1990 and 1993, the number of persons within this category actually fell by an average of 16.5 per cent each year (a gross decrease of 42 per cent). In stark contrast, however, between 1993 and 1998 the number of persons within this category increased by an annual average of 25 per cent (a gross increase of 205 per cent). For this category of prisoners with an aggregate sentence of under 12 months there is little

Figure 8.2 — Duration of stay as a proportion of aggregate sentence length at discharge, Qld (Jan. 1993 to Jan. 1999)



Source: Department of Corrective Services unpublished data.

<sup>88</sup> The expected time to serve is the length of time a prisoner at 30 June was expected to be imprisoned (i.e. until the earliest date of release). The duration of stay is the actual time spent in prison prior to discharge and the aggregate sentence length is the complete sentence of imprisonment, ignoring any parole period, for example. See Glossary for complete definitions.

Table 8.2 — Proportional change to expected time to serve for sentenced prisoners, Qld (at 30 June 1990 to 1998)

Expected time to serve	1990 to 1993		1993 to 1998	
	Gross change (%)	Average annual change (%)	Gross change (%)	Average annual change (%)
Under 1 year	-41.8	-16.5	205.4	25.0
1 year and under 5 years	8.1	2.6	93.5	14.1
5 years and over	-8.3	-2.8	78.7	12.3
Total*	-13.6	-4.8	116.0	16.6

Source: *Australian Prisoners*, 1989 to 1993, AIC and *Prisoners in Australia*, 1994 to 1998, ABS.

Notes: \* Including those where the expected time to serve is unknown and which are excluded elsewhere in the table.

evidence of growth in the length of time actually served prior to discharge; rather it is the sheer volume (flow) which is serving to increase day-to-day numbers (stock).<sup>89</sup>

On the face of it, these figures would suggest there should inevitably have been a fundamental change in the sentence length 'mix' of the prisoner population. That this has not in fact proved to be the case is one of the most distinctive aspects of the Queensland experience. Once again, the 'whole of system/process' nature of the growth in Queensland is highlighted.

## Discharges from prison: release mechanisms

Given that the Department of Corrective Services has little control over the intake of short-term prisoners, the surprising degree of proportional stability in the overall sentence-length mix suggests that the 'balance' has been maintained (at least in part) by discharge-related policies and practices with longer prison stays.

There are many ways a person may be discharged from prison. These include:

- Decisions of the court, where, for example, a person remanded in custody may be granted bail at a court appearance. That person may have the capacity to raise the money at court and so be immediately released. Or the person may be returned to prison but later raise the money and be released from custody.

- A finding by a court that a person was not guilty of the offence/s for which s/he had been remanded in custody.
- The remission system, whereby, under certain circumstances, the Department of Corrective Services has the discretion to grant remission of up to one-third of a prisoner's sentence for prisoners who are serving sentences of two months or more.
- Early release of up to seven days at the discretion of the General Manager for prisoners with sentences of up to 12 months duration. For sentences of more than 12 months, an administrative decision may be made to release a prisoner up to 14 days early.
- At the date of completion of the full term of imprisonment as ordered by the court, with no remission granted.
- By a prisoner electing to pay a fine or an amount of recognisance, or perform community service instead of paying a fine, after admission to prison.
- To post-release orders, including release to work, leave of absence, home detention and parole.
- Other processes such as extradition, deportation, death, transfer to the John Oxley Security Patients Hospital.

<sup>89</sup> The average duration of stay for prisoners with aggregate sentences of less than 12 months and discharged in the years 1993–94 to 1997–98 is 1.41 months, 1.26 months, 1.33 months, 1.41 months, 1.33 months and 1.23 months respectively.

Table 8.3 (next page) provides data on the most common methods of discharge from prison for each of the calendar years, 1993 to 1998 inclusive.<sup>90</sup> A category of 'Other' has been included into which a variety of types of discharge have been grouped. The table also shows the proportional representation of the total which each type of discharge comprises. As the data in table 8.3 reveal, dramatic changes occurred after 1995, particularly with the use of discretionary methods of release, such as early release and administrative decisions. It would appear from the data that a fall in the proportional use of these options was accompanied by an increase in the number of offenders who completed their full sentence without remission. The introduction of the Office of Sentence Management in 1996–97 may well have been a factor in this change. Additionally, 1996 saw an increase in the proportion of prisoners electing to pay a fine or perform community service instead. Similarly, changes have occurred with the use of remission and release to community supervision (that is, post-release) orders, although in opposite directions.

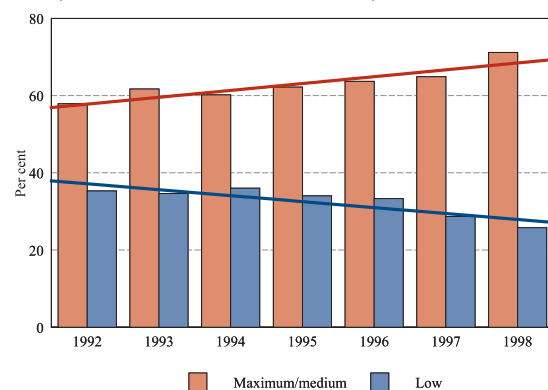
Perhaps the two most dramatic changes during 1995 and 1996 were the decline in early release<sup>91</sup> discharges from 22 per cent in 1995 to 3.2 per cent in 1996 and the increase in expiry/no remission discharges from 3.2 per cent in 1995 to 15 per cent in 1996. Even if this is an effect of inappropriate data-recording processes and all those discharged to early release should have been recorded as normal expiry (that is, expiry, no remission), the proportional decline is substantial (25 per cent down to 18 per cent).

## Changes in security classification

One of the most fundamental aspects of correctional policies/procedures is the security classification prisoners are awarded. Access to early release mechanisms is only available to prisoners with a 'low' classification. The security classification of prisoners, thus, directly affects the date on which a prisoner may be released. Any upward trend in the number of prisoners who have either a maximum or medium security classification will contribute to an increase in the number of prisoners in custody.

Figure 8.3 reveals that the proportion of prisoners classified as either high or medium risk has been increasing since 1992, rising from 57.9 per cent of all prisoners at 30 June 1992 to 71.2 per cent of the total at 30 June 1998. Conversely, the proportion who were classified as low/minimum risk has fallen from 35.3 to 25.8 per cent over the same period. As prisoners who have a security classification other than 'low' are unable to be considered for either release to community-based orders or to remission, these trends are undoubtedly contributing to the slowing of progress through the system and thereby increasing the prisoner population.<sup>92</sup>

Figure 8.3 — Prisoners by security classification, Qld (at 30 June 1992 to 1998)



Source: *Australian Prisoners, 1989 to 1993*, AIC and *Prisoners in Australia, 1994 to 1998*, ABS.

Note: Data for years prior to 1992 have been excluded as a result of the very high proportion of unknown information.

90 The difficulties associated with discharge data are detailed in appendix A, which illustrates alternative data possibilities. However, care should be exercised with data relating to the method of discharge from prison as they have been extracted from a text field on CIS. This and other related fields are reported by the department to contain information that may be misleading. For example, should a prisoner be granted parole and then be released, for whatever reason, a week early, it is possible that the record will indicate release by way of an administrative decision or early release rather than to parole. Advice has been received from the department that these release categorisations can be used inappropriately when a prisoner is released to remission or post-release orders.

91 As previously discussed, extreme caution is necessary with these data. It may be that this change is related more to a review of recording practices than of any change to release practices.

92 Given the very substantial level of Indigenous over-representation in Queensland prisons, it is relevant to note the comment made in *Corrections in the Balance* (1999:122) that 'current [sentence management] arrangements are not suitable for [Indigenous] offenders owing to their limited access to suitable programs which will reduce their points necessary to move to a low classification.'

Table 8.3 — Discharges from prison by reason, Qld (1993 to 1998)

Reason for discharge	1993	1994	1995	1996	1997	1998
<b>Number</b>						
Remission	1,029	1,005	1,307	1,643	2,004	3,760
Post-release orders*	1,028	1,104	1,225	1,407	1,101	1,155
Early release, sentence under 2 months	851	981	1,350	241	172	638
Administrative decision	785	804	751	681	663	720
Payment of fine, recognisance/ fine option order	182	159	420	1,260	962	1,092
Expiry, no remission	143	113	197	1,142	1,073	768
From court/bailed	788	784	653	919	1,080	1,312
Other†	362	247	224	333	348	360
<b>Total</b>	<b>5,168</b>	<b>5,197</b>	<b>6,127</b>	<b>7,626</b>	<b>7,403</b>	<b>9,805</b>
<b>Proportion of the total (%)</b>						
Remission	19.9	19.3	21.3	21.5	27.1	38.3
Post-release orders*	19.9	21.2	20.0	18.5	14.9	11.8
Early release, sentence under 2 months	16.5	18.9	22.0	3.2	2.3	6.5
Administrative decision	15.2	15.5	12.3	8.9	9.0	7.3
Payment of fine, recognisance/ fine option order	3.5	3.1	6.9	16.5	13.0	11.1
Expiry, no remission	2.8	2.2	3.2	15.0	14.5	7.8
From court/bailed	15.2	15.1	10.7	12.1	14.6	13.4
Other†	7.0	4.8	3.7	4.4	4.7	3.7
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

Source: Department of Corrective Services unpublished data.

Note: \* Comprising parole, home detention, leave of absence, release to work, to community corrections and to suspended sentences.

† Includes extradition and deportation.

The increase in the number of high/medium security classification prisoners may be attributed to many factors, including the bureaucratic interventions outlined at the beginning of this chapter. Program unavailability and lack of access to existing programs have also been identified. It should also be noted that the increasing incident rate<sup>93</sup> within secure prisons (operating well above their intended capacity) contributes to the number of prisoners classified either as medium or high risk.

## Departmental/board decisions

Prisoners serving sentences of five years or less, after application to the local regional board, may be granted parole, home detention or leave of absence

(including that to participate in a release to work program). For prisoners serving longer sentences (with the exception of life sentences) a report is prepared by the local board for consideration by the Queensland Board. For those prisoners with life sentences, a recommendation is forwarded to the Governor-in-Council.

Figure 8.4 shows that while the prisoner population was relatively stable for the period 1990 to 1993, the number of parolees was rising. However, since 1993 the number of parolees has remained relatively flat while the prisoner population has risen. For example, at the beginning of July 1989 there were

<sup>93</sup> See appendix D.

743 offenders on parole after serving a term of imprisonment; by January 1993 this number had almost doubled, rising to 1,380. Since then, however, the number of parolees at the beginning of any month has not exceeded 1,711 (January 1997). This represents an increase of only 24 per cent in the number of parolees while over the same period the number of prisoners (including those in community custody) rose by 58.1 per cent.

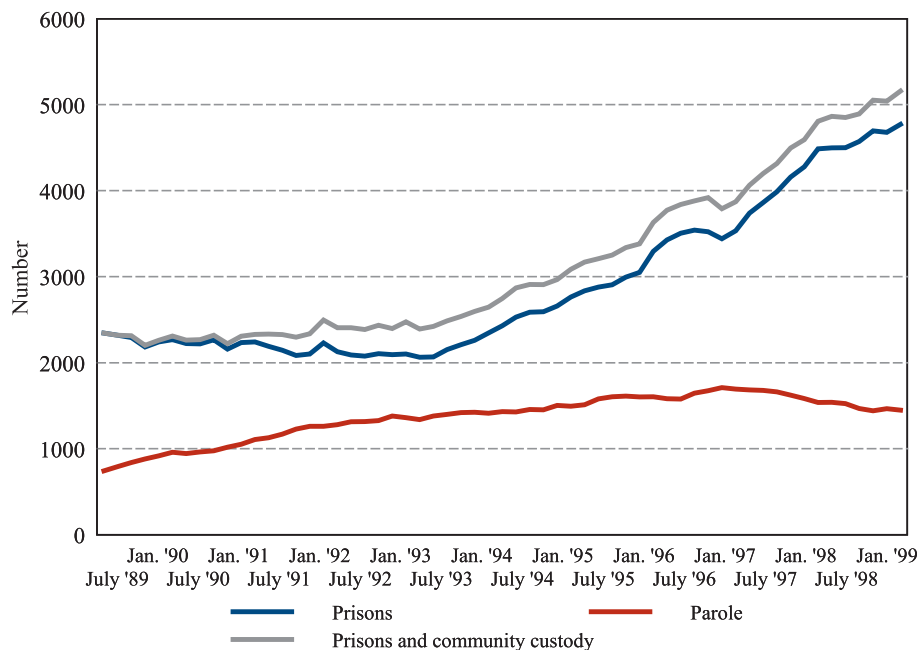
Between January 1997 and March 1999, the number of parolees at the beginning of the month actually fell from 1,711 to 1,448. This constitutes a decrease of just over 15 per cent at a time when the number of prisoners increased by over one-third (from 3,789 to 5,159).

As discussed earlier in this chapter, in December 1998, the Queensland Parole Board was replaced with a number of regional Community Corrections Boards. In May 1997, in response to the highly

publicised re-offending of a number of prisoners while on community release, the QCCB was dismissed. The new Board was not appointed until September 1997. As a result of these events, over the last two financial years there has been a downward trend in the rate at which applications are approved by the Board. In 1996–97, for example, an average of almost 270 new applications were received each month and about a third of all applications were approved. In 1997–98, the average number of new applications received each month was about 230 and of the total less than 27 per cent were approved. Since December 1997, the number of both applications and approvals has increased, but at a much slower pace than the growth in the prisoner population.

For each calendar year from 1993 to 1998, just under 45 per cent of all discharges to community supervision orders were to parole.<sup>94</sup>

Figure 8.4 — Offenders serving parole orders\* and prisoners†, Qld (July 1989 to March 1999)



Source: Department of Corrective Services unpublished data.

Notes: \* Number at first day of the month.

† Prior to October 1989 includes release to work programs. Includes secure prisons only.

<sup>94</sup> Some care should be exercised in interpreting this discharge data, however, particularly that relating to discharge to post-release orders or administrative decisions within the centres themselves (including early release). For example, a person released to a community supervision order may be recorded as being discharged by way of administrative decision should the actual removal from prison occur earlier.



Figure 8.5 illustrates the monthly trend (on the basis of a five-month moving average) in the patterns of various departmental/board decisions.<sup>95</sup> The figure shows that the trend is downward for all these mechanisms of release. For example, discharges to post-release orders comprised about 20 per cent of all discharges for the four calendar years, 1993 to 1996, but fell to 12 per cent of all discharges during 1998.

Further evidence of the reduced use of early release mechanisms is found in figure 8.5, which shows that in 1995, 22 per cent of all discharges were by way of an early release decision,<sup>96</sup> but in 1996, the comparable proportion was only 3 per cent, then rose slightly to almost 7 per cent of discharges in 1998. Similarly, there was a decline in the use of administrative decisions between 1995 and 1996, although that plateaued during 1996 and has since remained relatively constant.

## The use of remission

Under section 21 of the Corrective Services Regulations 1989, the Department of Corrective Services has a discretion to grant remission of up to a third of a prisoner's sentence for those prisoners serving sentences of two months or more where the prisoner has been of good conduct and industry.

Table 8.3 (page 68) provides information on the use of remission for the calendar years 1993 to 1998. It shows an increased use of remission of almost 30 per cent each year, on average, with the increase particularly marked between 1997 and 1998. In comparison, the total number of discharges has increased by less than one-half as much each year.

The proportional use of remission as a means of discharging a prisoner remained relatively stable for the period to 1997, after which its use increased dramatically. For example, for each of the four calendar years, 1993 to 1996, about 20 per cent of all discharges involved remission. In 1997, however, this proportion rose to 27 per cent and in 1998 again increased to represent over 38 per cent of all discharges.

When considering the 30 per cent increase per year in the use of the remission procedure, it is pertinent

to note that the position of the QCSC in January 1999 was that the remission system should either be abolished or restricted to low-risk prisoners. This appears to be recognised by Corrections, who note:

... considerable numbers of prisoners serving short sentences are released with remission ...  
if [remission] was abolished, prisoner numbers would increase.<sup>97</sup>

Given the data reported here, the removal of this option without any viable alternative, such as presumptive parole as suggested in the January 1999 Report of the Commission of Inquiry, would seem likely to exacerbate the pressures on the corrections system.

## Legislation for serious violent offences

Under the 1995–98 Coalition Government, the Department of Justice released *Our New Laws: Getting Tough on Criminals*, which stated:

Jail is no longer the penalty of last resort for serious violent offenders ... For the first time serious violent offenders are now defined in law, and must serve at least 80 per cent of their sentence behind bars.

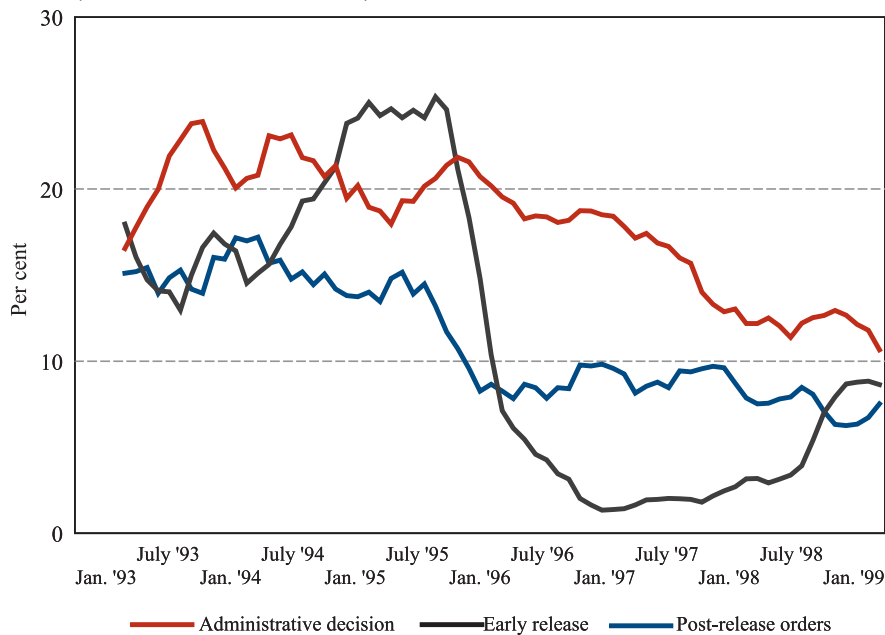
Legislation enacting these policies came into effect on 1 July 1997 by way of the Penalties and Sentences (Serious Violent Offences) Amendment Act. At the same time, amendments were made to the Criminal Code by the *Criminal Law Amendment Act 1997*, which, in part, increased the penalties for some offences, particularly for violent offences and sexual offences. Until 1997, serious violent offenders were able to apply for parole after serving

<sup>95</sup> Prior to a person being released from prison, the Department of Corrective Services ascertains the appropriateness of release through various mechanisms in an open security environment, such that prisoners often are granted leave of absence, release to work and home detention prior to being paroled. Accordingly, data relating to a number of different release methods have been grouped into a single category of post-release orders for the purposes of this research. In addition, a number of discharges occur as a result of administrative decisions (for prisoners serving sentences of 12 months or more) or the General Manager may grant an early release to a prisoner serving a sentence of less than 12 months.

<sup>96</sup> See also footnote 90.

<sup>97</sup> *Corrections in the Balance* 1999, p. 118.

Figure 8.5 — Discharges where departmental/board decisions were involved as a proportion of all discharges,\* Qld (Jan. 1993 to Jan. 1999)



Source: Department of Corrective Services unpublished data.

Notes: \* Each line shows a five-month moving average (see appendix A — 'Regression trend lines').

Post-release orders comprise parole, home detention, leave of absence, release to work, to community corrections and to suspended sentences.

50 per cent of their sentence. However, these offenders must now serve at least 80 per cent.

These provisions will not have an effect on the length of stay until persons sentenced under the new rules reach the point where they would previously have been eligible for release. Given that serious violent offences receive substantial terms of imprisonment, this point is still some time off, which means that these provisions are yet to have any real impact on prisoner numbers. However, they will certainly have an impact on the prisoner population over the longer term. The magnitude of

this impact will depend on the number of serious violent offences brought before the court.

Between 1989–90 and 1997–98, the number of convictions where the offender was imprisoned for an offence involving serious personal violence<sup>98</sup> increased by almost 85 per cent, rising from 696 in 1989–90 to 1,284 in 1997–98. This is an average increase of almost 8 per cent annually. Although the numbers involved are not excessive, a cumulative increase of 8 per cent annually will have serious repercussions for the prisoner population from around 2006 onwards.

<sup>98</sup> The term 'serious personal violence' should not be read as an exact equivalent to the legislative definition of serious violent offences.

## SUMMARY

- Policies and practices within the Department of Corrective Services have played a key role in stretching the duration of stay, particularly in relation to long sentences. This has been a consequence of:
  - a decline in the use of early release practices by corrections
  - a reduction in the number of parole decisions following the dismissal of the Board in 1997 and a tightening of criteria
  - an increasing number/proportion of prisoners with high or medium security classifications, due in part to the unavailability of required programs.
- The average number of months that prisoners are serving prior to release has risen from four months in 1993 to over five months in 1998.
- In the period of relative stability in the prisoner population (prior to 1993) the number of prisoners expected to serve up to one year fell by 17 per cent each year, but since 1993 there has been an extraordinary annual increase of 25 per cent in short-term prisoners. Despite this dramatic growth, those expected to serve sentences of two years or more consistently comprise about 60 per cent of prisoners.
- The Department of Corrective Services has increasingly used remission to counterbalance the decreasing use of other release mechanisms such that the proportion of discharges involving remission has almost doubled since 1993. The removal of remissions without an adequate alternative would mean either that duration of stay would again be stretched or that these prisoners would be discharged through other release mechanisms, perhaps to post-release orders (the use of which has decreased since 1993).
- The proportion of prisoners who serve their full sentence has increased, to be almost 8 per cent of the total discharges during 1998.
- Over 70 per cent of prisoners in custody at 30 June 1998 had a high or medium risk security classification and were thus ineligible for release. In 1992, the comparable proportion was less than 60 per cent.

# Chapter 9: Conclusion

## PART A: GENERAL CAUSES OF THE POST-1993 RISE

- Correctional system procedures
- Recidivism levels
- Court practices
- The SETONS process and fines
- Police activities and recorded crime
- The legislative context
- Precursor factors
- Summary

## PART B: POLICY OPTIONS

- Two categories of options
- 'High yield' and readily deliverable

- 'Lower yield' and/or less readily deliverable
- 'Danger points/sleepers'
- Points in the system that do not affect trends
- Summary

## PART C: PREVENTING UNANTICIPATED CHANGES IN CRIMINAL JUSTICE SYSTEM DYNAMICS

- A strategy
- 'Joined up' government
- Summary

## PART D: FUTURE RESEARCH

## Introduction

Taken collectively, the substantial body of data presented in the preceding chapters quantifies (as far as possible) the extent to which the increase in prisoner numbers can be attributed to various aspects of the Queensland criminal justice system.

In the introduction to this report it was noted that at the most general level there were four causes of the post-1993 increase in prisoner numbers — correctional system procedures, court practices, police activities and the legislative context.

- Part A indicates how each of these four aspects of the criminal justice system has contributed towards the growth in prisoner numbers.
- Part B examines the range of policy options available to government either to increase or reduce prisoner numbers.
- Part C outlines ways in which events such as the post-1993 increases might be avoided (or at least planned for) in the future.
- Part D identifies a number of issues requiring further research.

## PART A: GENERAL CAUSES OF THE RISE IN PRISONER NUMBERS SINCE 1993

This section of the report summarises the contribution of the factors affecting the post-1993 rise in prisoner numbers. These factors correspond with a general movement (right to left) through the model outlined in figure 1.1 (page 3).

In moving 'back' through the criminal justice system in this way, we are also moving from those areas of the system associated with the greatest impact upon prisoner numbers (corrective services and the courts), through to the aspect of the system associated with moderate impacts (police), to those aspects associated with low impacts (legislative framework, demographic trends).

To obtain some indication of the magnitude of the impacts associated with particular factors, we have attempted to quantify relevant policy/practice issues. These quantifications are summarised in the highlighted paragraphs, which are discussed in greater detail in Part B of this chapter. Appendix B provides detailed descriptions of the methodologies employed in estimating the magnitude of impacts.

## Correctional system procedures

Policy developments within the Department of Corrective Services appear to have consistently resulted in a slowing of prisoner progress through the custodial system. This is particularly so with policies relating to sentence management, leave of absence and the backlog of applications for community release.

Over a period when the median sentence of imprisonment ordered by the higher courts declined, and those imposed by Magistrates Courts remained stable, the average duration of stay in prison increased substantially. This increased duration of stay has primarily applied to longer-term sentences with only a marginal impact on short-term sentences.

The combination of the increasing numbers of admissions of short-term prisoners together with the stretching of the longer sentences appears to have played a key role in maintaining the consistency of the sentence-length mix of the prisoner population.

The stability of the sentence-length mix over a period of very rapid growth in prisoner numbers serves to obscure the bases of the growth in numbers. The impact upon overall 'stock' numbers of the 205 per cent gross increase in short-term admissions since 1993 is difficult to discern because the smaller increase in longer sentences has resulted in an almost perfectly balanced sentence-length mix of the prisoner population.

Dramatic changes occurred between 1995 and 1996 in the use of the discharge mechanisms of early release and administrative decisions. The proportion of discharges involving remission has almost doubled since 1993. Over the same period, releases to post-release orders decreased and the proportion of prisoners who served their full sentence increased from less than 3 per cent to almost 8 per cent of the total discharges during 1998. This can partly be explained by the fact that over 70 per cent of prisoners in custody at 30 June 1998 had a high- or medium-risk security classification and were thus ineligible for release. In 1992, the comparable proportion was less than 60 per cent.

**Changes in policies and practices within the correctional system have resulted in a 1997–98 prisoner population that is around 20 per cent greater than may otherwise have been the case had these policies/practices remained as they were in 1992–93.<sup>99</sup>**

## Recidivism levels

An increase in recidivism among the prisoner population since 1994 is a possible reason for the declining use of community-based orders by the courts. Between 1994 and 1998, the ratio of admissions of recidivist to non-recidivist prisoners rose from 1.2:1 to 1.5:1. Over 60 per cent of prisoners now have a known prior adult imprisonment history. Of particular concern, in terms of the likely future impact of recidivism upon the prisoner population, is the fact that recidivism is increasing at a greater rate than is the total prisoner population.

A related factor is the number of persons who are returning to prison following revocation of a post-release order.<sup>100</sup>

**Increasing recidivism since 1994 may have contributed as much as 7 per cent to the prisoner population.<sup>101</sup>**

## Court practices

Courts have contributed to the growth in prisoner numbers in two ways: (i) through their greater use of imprisonment and (ii) through the change in the types of non-custodial penalties being used.

In the period 1992–93 to 1997–98, convictions resulting in imprisonment rose by an average of almost 7 per cent per year. Prior to 1992–93, the growth rate in appearances resulting in imprisonment was about 4 per cent per year. This has clearly made a significant contribution to the rise in the prisoner population.

<sup>99</sup> See Part B: Policy Options ('High yield' and readily deliverable).

<sup>100</sup> The rate of increase in revocations is greater than the rate of increase in discharges to post-release orders.

<sup>101</sup> See Part B: Policy Options ('Lower yield' and/or less readily deliverable).

The reasons for the increased use of custodial sentences are different for the higher and lower courts. In the lower courts, sentencing practices have been consistent since 1992–93 with the overall increased use reflecting changes in the volumes of particular offence categories. In the higher courts, however, in addition to changes in the volumes of particular offence categories, there have been ‘across the board’ increases in the rate of imprisonment.

For both higher and lower courts, the ‘other’ offence category has markedly increased in volume. For both courts, this increase is largely associated with enforcement of order offences and (to a much lesser extent in the lower courts) drug offences. Importantly, while in the lower courts the rate of imprisonment for enforcement of order offences has declined over time, in the higher courts the rate of imprisonment for these offences has increased.

The increased number of convictions resulting in imprisonment corresponded with a marked decline in the rates of convictions resulting in a community-based order. Use of probation and community service has been in decline (in both absolute and proportional terms) since 1993. During the period 1989 to 1993, which was characterised by a declining prisoner population, the number of offenders serving a community supervision order more than doubled. However, between June 1993 and July 1997, this pattern was reversed, with the number of prisoners rising by 76.2 per cent while the number of offenders on a community supervision order fell by less than 1 per cent.

It may well be that the changing ‘offence mix’ together with more offenders appearing before the courts, after having already exhausted all community-based options, leaves the judiciary with no option other than to sentence an increased number of offenders to a term of imprisonment.

**A declining rate of community-based orders has resulted in a 1997–98 prisoner population that is potentially 25 per cent greater than might otherwise have been the case.<sup>102</sup> A return to the 1992–93 distribution of community-based orders has the potential to**

**reduce the prisoner population by around 6 or 7 per cent.<sup>103</sup>**

## *The SETONS process and fines*

As at 3 March 1999, there were 341 fine defaulters in prison. This is more than double the number in January 1995. Over the last three years the number of fine defaulter admissions to prison has risen by 113 per cent and their representation of the total prisoner population has increased from around 4 per cent to around 7 per cent. This is largely attributable to police enforcement practices, together with the increased use of fines by the courts.

Lower courts data for the four financial years 1994–95 to 1997–98 show that the number of charges that result in a fine has increased by almost 50 per cent over the period.

Defaulting on fines obviously has the potential to increase the number of prisoners if the police enforce the warrant. In addition to the potential impacts associated with court-imposed fines, the very substantial increase in the use of the SETONS process has also increased the number of persons eligible for imprisonment (in the event of defaulting).

Any consideration of the potential for fines to increase prisoner numbers needs to pay particular attention to the issue of fine option orders. A fine option order is made subsequent to an original sentence of a fine. A fine option order is an order of the court that allows defendants to do community service instead of serving a term of imprisonment for defaulting on payment of the original fine. Defaulting on the community service obligation then has the potential to trigger a default period of imprisonment, which was part of the original sentence imposed by the court.

At the end of June 1990, there were 1,380 people in Queensland who were performing community service as a result of the courts’ imposition of a fine

<sup>102</sup> See Part B: Policy Options (‘High yield’ and readily deliverable).

<sup>103</sup> See Part B: Policy Options (‘High yield’ and readily deliverable).



option order. By April 1995, there were just over 5,100 and by March 1999, 12,000. This represents an increase of almost 140 per cent over the last four years, with the increase particularly marked during 1998. This is in contrast to the reducing use of other community supervision orders such as probation and community service.

**The increasing number of fine defaulters being admitted to prison results from the activities of both the police and the courts as well as the ever increasing capacity for fines to be imposed in the first instance. In the unlikely event that SPER proves totally effective, a reduction (at best) of around 5 per cent of the prisoner population might be achieved over time.<sup>104</sup>**

## Police activities and recorded crime

The marked rise in prisoner numbers cannot simply be attributed to an increase in either reported or cleared crime. Between 1992–93 and 1997–98, the number of offences reported to police rose by an average of 4 per cent per year and the number of offenders proceeded against by the police rose by just barely over 3 per cent per year (QPS count).

The pre- and post-1993 distinction which characterises so much criminal justice system data is almost entirely absent in the QPS data. The QPS data are characterised by a lack of volatility and modest growth rates.

There are, however, some indications of an increased focus by police on particular types of offences associated with custodial outcomes, namely enforcement of order offences and drug offences.

Almost 80 per cent of all enforcement of order offences involving breaches etc. result in a conviction and over 20 per cent of these result in imprisonment. Between 1992–93 and 1997–98, there was a 15 per cent annual increase in the number of court appearances for these offences where a conviction occurred and the offender was imprisoned. Most of the admissions to prison for these offences involved breaches of the Bail Act.

The rate at which drug offences are reported to or detected by police has increased annually by almost 16 per cent since 1989–90. Most of this growth is attributable to possession and ‘other’ drug offences, which would usually be considered relatively minor. In 1997–98, just over 90 per cent of appearances for drug offences result in a conviction and about 5 per cent then result in imprisonment.

These categories of offences are associated with relatively short terms of imprisonment (six months or less). For enforcement of order and drug offences alike, the proportional rate of imprisonment has remained fairly stable. The increase in the numbers of offenders sentenced to prison for these offences would thus appear to derive reasonably directly from increased police focus or efficiency.

As well as the increased focus of the police on certain offences, their role in apprehending fine defaulters is contributing to the increasing number of fine defaulters in prison. The very large number of outstanding warrants, in combination with the increasing use of information technology within the QPS, has the potential to continue to increase prisoner numbers.

Changes in police practice are evident particularly in relation to the execution of warrants and offences such as enforcement of order. The impact of both has already been highlighted.

**Overall, crime trends and police activities have resulted in a 1997–98 prisoner population that is very slightly greater than would otherwise have been the case (that is, numbers pushed upwards by around 5 per cent).<sup>105</sup>**

## The legislative context

The specific (proportional) contribution of changes to legislation upon the prisoner population cannot be quantified on the basis of the currently available justice system data. However, such changes must

<sup>104</sup> See Part B: Policy Options (‘Lower yield’ and/or less readily deliverable).

<sup>105</sup> See chapter 3.

logically account (at least partially) for the observed changes in police focus, court sentencing practices and corrective services policies/procedures.

There have been marked changes to the legislative context in the period since 1992. These changes have provided the basis for more people to receive custodial sentences. For example, in 1992, a range of provisions and principles that had previously been defined within a number of different Acts and at common law were consolidated into a single Act: the *Penalties and Sentences Act 1992*.

The Act included a provision permitting the court to impose only a sentence that it was satisfied was appropriate in all the circumstances and which was no more severe than necessary to achieve the purposes for which it was imposed (s. 9[3]). The Act also made provision for first offenders under 25 years of age. For these offenders, a sentence of imprisonment could be imposed only if the court was satisfied that no other sentence was appropriate (s. 9[4]). Both these provisions, which might have tended to reduce prisoner numbers, were removed in later amendments to the Act.

## Precursor factors

### Demographic trends

If the adult population increases, the number of prisoners is also likely to increase even if there is no actual increase in the crime rate. Between 1993 and 1998, the Queensland adult population increased by just over 2 per cent per year. During this period, the prisoner population grew by almost 17 per cent each year. The post-1993 rate of imprisonment in Queensland thus exceeds anything that might reasonably be explained on the basis of demographic trends.

### The political context

In figure 1.1 (page 3), the political context is at the extreme left of the model, and, together with the underlying level of crime, is a primary determinant of the legislative context and all that follows with movement to the right through the criminal justice system.

The importance of the political context as a determinant of the prisoner population is obvious when considering the data reported in figure 2.5 (page 10). In terms of actual crime, Queensland is not too dissimilar from that recorded in Victoria, the State with the lowest rate of imprisonment in Australia. Why, then, did Queensland record the highest rate of imprisonment of any Australian State?<sup>106</sup> If the imprisonment rate is not a consequence of the crime rate it can only be a consequence of the *response* to the crime rate. While this is obviously not a simple issue, the nature of this response is undeniably shaped by the broader sociopolitical environment. One possible interpretation of the data reported in figure 2.5 is that they document the extent to which the Queensland response to crime is characterised by a propensity for (or at least tolerance of) punitive sentences, rather than rehabilitative and community-based sentences.

The historical bases of the Queensland concern with ‘getting tough on crime’ over the last decade are complex and will not be discussed further here. It is sufficient to note that the general political context in Queensland has readily accommodated a rapidly rising rate of imprisonment as well as accommodating direct political interventions into the day-to-day administration of the criminal justice system, the most obvious example being the dismissal of the QCCB.

<sup>106</sup> Since February 1999, Western Australia has had the highest rate of any Australian State. In June 1999, Queensland’s rate was 194 in every 100,000 and Western Australia’s 220 in every 100,000.

## SUMMARY

- One of the most important factors responsible for the escalating levels of imprisonment in Queensland since 1993 has been the decline in the use of community-based orders, either direct-from-court (community service and probation) or post-release (parole, home detention etc.). The declining use of community-based orders may reflect some decrease in confidence on the part of the courts in the appropriateness of these orders, but in addition, results from a more diverse set of factors operating across the criminal justice system. These include:
  - changes in the broader legislative context
  - increased use of imprisonment by the courts
  - a change in the ‘offence mix’
  - a possible increase in the numbers (and proportional representation) of recidivist offenders appearing before the courts after having exhausted all non-custodial options.
- Correctional practices have further contributed to the rising prisoner population by slowing the progress of prisoners through their sentences; that is, by increasing the length of stay. This has been caused by internal factors (policy/procedures) as well as external factors such as changes in the Queensland Community Corrections Board.
- Other aspects of the criminal justice system that have each contributed to the rising prisoner population include the increased:
  - number of fine defaulters being processed through the system due to the increased execution of warrants by the police
  - levels of recidivism
  - number of persons being proceeded against for enforcement of order offences.
- Changes in recorded crime and general population growth have had only a modest impact.

## PART B: POLICY OPTIONS

### *Two categories of options*

The data outlined in this report point to a range of policy options available for consideration that can reasonably be expected to affect the prisoner population. Two categories of policy options are described. These are:

- ‘high yield’ and readily deliverable
- ‘lower yield’ and/or less readily deliverable.

The terms ‘yield’ and ‘readily deliverable’ refer to the possible outcomes of policy options discussed in this chapter. ‘Yield’ is the change in the prisoner population were such a policy initiative to be adopted. Similarly, ‘deliverable’ relates to the capacity of the relevant agency to adopt and implement such a policy initiative.

Use of the term ‘readily deliverable’ does not mean that the calculated potential ‘yield’ can be achieved without difficulty (or indeed that the maximum possible yield could ever actually be achieved). What the term does indicate, however, is that the extent to which any potential yield is realised is primarily dependent upon the policy decisions made by government.

For example, some of the potential yield associated with an increased use of community-based orders could be realised by legislative changes that routinely converted custodial sentences of less than six months into community supervision orders. The policy change thus delivers the yield directly. Clearly, this takes no account of any administrative and/or political difficulties that might be entailed.

In contrast, the term ‘less readily deliverable’ refers to those policy options in which the realisation of any potential yield is dependent upon factors much less subject to policy decisions. For example, realising the full potential yield associated with a reduced rate of recidivism is as much dependent upon the criminal propensities of individuals as it is on the policy choices of government. The potential yield cannot be realised directly, but only as the indirect result of successfully influencing potential

re-offenders (a notoriously difficult exercise). For this reason, any policy of this type (that is, relying upon an indirect effect) would be put in the ‘less readily deliverable’ category.

It is also necessary at this point to indicate very clearly that the policy options given here are not intended to be formal recommendations to government. The objective is solely to identify those ‘policy levers’ available to government that do in fact impact upon prisoner numbers (either up or down). The choice as to which, if any, of these options to adopt is essentially a matter for government.

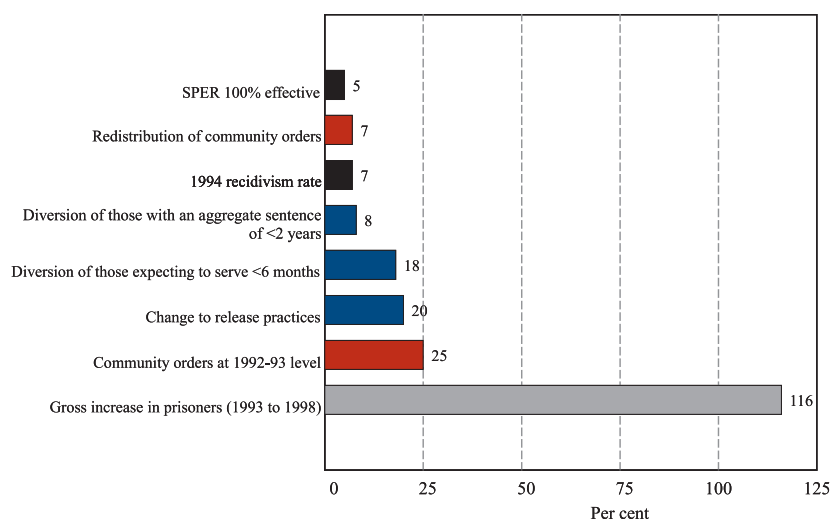
Figure 9.1 (next page) illustrates the potential reduction in prisoner numbers associated with each of the policy options examined in the discussion that follows. The figure also highlights the areas within the criminal justice system that have carriage of the relevant policies (that is, courts are red, corrections are blue and the black are cross-jurisdictional).

### *‘High yield’ and readily deliverable*

#### *Greater use of community-based orders*

A substantial impact upon prisoner numbers could be achieved by a greater use of community-based orders. In 1992–93, 72.5 per cent of all offenders for whom the QCSC had responsibility were serving a community-based order (as ordered by the court). By 1997–98, this proportion had fallen to 66.8 per cent. As discussed in chapter 5, had this proportion remained constant over the period 1992–93 to 1997–98, as many as 1,135 prisoners may not have been in custody in 1997–98. This would represent a reduction in the 1997–98 prisoner population of around 25 per cent. Achieving this reduction, however, is made difficult because of the nature of the factors responsible for the decline in the use of non-custodial sentences (higher recidivism levels, for example). A more achievable yield would be

Figure 9.1 — Implications of policy initiatives on Queensland prisoner numbers



Note: Red refers to courts, blue to corrections, black is cross-jurisdictional and grey is the gross increase in prisoner numbers since 1993.

realised if those prisoners *expected to serve* less than six months were routinely diverted to community corrections. If this were to occur, the prisoner population might be reduced by as much as 18 per cent. Alternatively, an 8 per cent reduction might be achieved if prisoners, other than fine defaulters, with *aggregate sentences* of less than two years were routinely placed on community supervision orders.<sup>107</sup>

### Changes to release practices

A substantial reduction in prisoner numbers could be achieved by changes to corrective services discharge procedures. The reduced use of discharges to either administrative discretion (including early release and administrative decisions) or post-release orders has meant that the 1998 prisoner population is around 20 per cent greater than it might have been had 1993 rates remained.

Given the concerns raised elsewhere in this report about the accuracy of these data, another series of data were examined to determine the reliability of this figure. Perhaps surprisingly, a very similar figure was derived by examining trends relating to the number of prisoners with longer sentences. Accordingly, it does appear that correctional practices that serve to ‘stretch’ sentences contributed around 20 per cent to the higher numbers of prisoners in 1998.

### Redistribution of community-based orders

A reduction of around 6 or 7 per cent in the prisoner population might reasonably be expected if a return to the 1992–93 distribution of community-based orders — that is, a greater use of both probation and community service and a reduction of fine option orders — were to occur as an aspect of a longer shift towards the 1992–93 levels of use of direct-from-court community supervision orders.

### ‘Lower yield’ and/or less readily deliverable

#### Reduce the number of fine defaulters in prison

There are two options identified, both of which relate to the possibilities for reducing the number of

<sup>107</sup> At first sight, it appears counter-intuitive that an 8 per cent reduction might be achieved by a policy change applying to prisoners with an aggregate sentence length of less than two years, while an 18 per cent reduction might be achieved by a policy change applying to prisoners with an expected time to serve of six months or less. At issue here are the different ways in which expected time to serve and aggregate sentence length are calculated. The aggregate sentence length calculation takes no account of any early release mechanisms such as parole, home detention or remission. (Full details of the two calculations are provided in the Glossary.) The difference between these two figures does, however, provide a useful example of the difficulties associated with understanding the nature of the dynamics of the Queensland criminal justice system.

fine defaulters in prison. Firstly, the introduction of SPER should have some impact, although the extent is difficult to estimate accurately at this point.

Since late 1998, fine defaulters have represented around 7 per cent of the entire prisoner population. Until then, at least since early 1995, they comprised around 4 per cent of the population. Given these figures, in the unlikely event that SPER should prove to be 100 per cent effective, a reduction in the prisoner population of around 5 per cent might reasonably be expected.<sup>108</sup>

Secondly, the number of offenders with fine option orders at any time has increased very substantially since 1992–93 (a gross increase of 190 per cent). The compliance rate with this type of order is no better or worse than any other type of community corrections order (that is, about one-third breach) but those who breach are more likely to be imprisoned; consequently, the increased use of these orders has real potential to increase the prisoner population.

A return to the 1992–93 distribution rates of court-ordered community-based orders could mean a 4 per cent reduction in the prisoner population at 30 June 1998. If this return were to occur as an aspect of a larger shift towards the 1992–93 levels of use of community-based orders, then a proportional reduction of 6 or 7 per cent in the prisoner population at any given time might reasonably be expected.

### *Reduce recidivism levels*

Reducing the proportion of offenders who appear before the court having either already been in prison or exhausted all non-custodial options is perhaps one of the most difficult (and desirable) ways of reducing the prisoner population. At 30 June 1987, the proportion of prisoners who had previously been in prison was 54 per cent, but by 1998 this proportion had risen to 62 per cent. Had it proved possible to maintain the rate of recidivism at the earlier level, then the 1998 prisoner population could have been as much as 7 per cent lower.

### *What if all these policy options were successfully implemented?*

In the post-1993 period, the Queensland prisoner population increased by 116 per cent. The quality of justice system data in Queensland does not permit a ‘true’ accounting of the relative contributions of the range of factors that have been examined in this report. It is simply not possible to apportion out this 116 per cent across individual factors. However, it is clear that a substantial proportion of the total can be accounted for in terms of the above factors if we add together:

- the proportional increases in the post-1993 prisoner population associated with the declining use of community corrections
- the changes to release practices
- the redistribution of community-based orders
- the increased levels of recidivism, and
- the imprisonment of fine defaulters.

The resulting figure is around 65 per cent. There is obviously a degree of imprecision and overlap entailed. Nevertheless, it explains a very substantial proportion of the increase. Given the limits of the data, it is unlikely that any more of the 116 per cent can be explained with any real accuracy.

Perhaps the most important point to be noted when considering the implications of the 116 per cent increase in prisoner numbers is that so much of this increase cannot easily be ‘wound back’. While around 25 per cent of the total increase can be attributed to changes in the extent to which community-based orders are used, this does not mean that there is a 25 per cent reduction in numbers ready to be ‘redeemed’ by a return to the practices of 1993. As documented, the adoption of even more liberal practices than those employed in 1993 will yield a reduction in numbers of only around half the figure. This is an important point as it illustrates that increases cannot necessarily be ‘clawed back’ by agency-specific changes in criminal justice policies.

<sup>108</sup> This assumes that SPER-related gains are not undermined by increased warrant execution by police.



The complexity and interrelatedness of the criminal justice system is such that even the most dramatic changes to one aspect of the system may result only in modest changes to the system as a whole. Conversely, a modest change to one aspect of the system may have dramatic implications for the system as a whole. If we wish to change the operations of the system as a total process, we need to understand very clearly the role and operations of each of the key constituent elements of the system.

### ‘Danger points/sleepers’

The factors that most obviously require monitoring are:

- enforcement of order offences
- drug offences
- offences involving serious personal violence
- fine defaulting
- outstanding warrants
- suspended sentences.

### Enforcement of order offences

Over 20 per cent of all adult offenders sentenced to prison during 1997–98 were sentenced for enforcement of order offences. Although most of these sentences were short, the annual 15 per cent increase in the number of offenders being imprisoned as a result of breaching an order has the clear potential to contribute significantly to the prisoner population in the future.

### Drug offences

The numbers being admitted to prison for these offences are relatively small at this stage and the duration of stay relatively short. However, the growth rate of over 10 per cent per year in the number of court appearances resulting in a sentence of imprisonment for such offences has the potential to significantly contribute to future prisoner populations should this rate of growth be sustained.

### Offences involving serious personal violence

An increase in the rate at which these offences are successfully prosecuted has real potential to lead to

increasing numbers of people being imprisoned. As these offences can result in longer sentences, the outcome may well be sustained growth in the number of persons imprisoned for these offences. It is important to note that the impact of the Penalties and Sentences (Serious Violent Offences) Amendment Act, which requires a greater proportion of the sentence to be served in prison, will not be felt till about 2006 onwards.

### Fine defaulting

The increasing numbers of fine default prisoners will continue to add to the prisoner population unless initiatives such as SPER have a marked effect. As much as 40 per cent of monthly admissions involve fine defaulters, who now represent 7 per cent of the prisoner population. This trend highlights the importance of initiatives to counter the possible impact of the increasing use of fines and fine option orders.

### Outstanding warrants

As noted in chapter 6, there are almost 375,000 outstanding warrants of commitment, involving about 75,000 offenders. This has enormous potential to increase the prisoner population.

For example, if the QPS were to dedicate more resources to clearing this backlog, and were successful in this endeavour over a 12-month period, and everyone was imprisoned as a result of the outstanding warrant, then almost 80 per cent of all prisoner days in the year would involve pure fine default prisoners.<sup>109</sup> Of course, most people will pay their fine, but given the very large numbers involved, even a low rate of noncompliance would have significant consequences for the system.

As stated in chapter 6, for every 100 warrants issued, five fine defaulters were admitted to prison. If this rate remains constant, it is likely that around

<sup>109</sup> A total of 1,016,025 prisoner days, assuming that 71.3 per cent of all fine defaulters are solely imprisoned for fine defaulting, as were those at 3 March 1999, an average of five warrants per offender (53,475 ‘eligible’ offenders) and an average stay of 19 days per offender. Chapter 6 identified a total of 1,323, 125 prisoner days in 1997–98).

30 per cent of the annual prisoner days would be involved.<sup>110</sup>

In an attempt to reduce the number of fine default prisoners, SPER is being introduced. Obviously, this will have some impact, although precisely how much of an impact is difficult to determine. However, assuming that SPER effectively reduces by one-half the number of offenders being admitted to prison for defaulting on payment of a fine, then almost 40 per cent of all prisoner days would still involve fine defaulters if all outstanding warrants of commitment were to be cleared by police. Even if SPER were to achieve a 75 per cent success rate in diverting offenders from prison, around 20 per cent of the total number of available prisoner days would still be required for pure fine defaulters if police were to execute all outstanding warrants of commitment.

Obviously, there are a number of outstanding warrants that involve either quite serious matters or substantial amounts of money. However, one method of reducing the potential impact of warrants on prisoner numbers would entail a moratorium on outstanding warrants where, for example, all warrants for amounts under \$3,000 were deactivated (that is, effectively ‘written off’). Were this to occur, around 70 per cent of the potential fine defaulter backlog would be removed immediately. This one-off event would remove the potential threat of any SPER-related reductions in numbers being (over) compensated for by increased ‘throughput’ associated with increased warrant execution by police.

### *Suspended sentences*

In 1997–98, the number of suspended sentences rose substantially, by almost 45 per cent over the previous year. Growth of this magnitude, when considered with the fact that noncompliance may ultimately result in imprisonment, has the potential to impact on prisoner numbers in the future.

### *Points in the system that do not affect trends*

Not all aspects of the criminal justice system provide scope for policy changes that can impact

upon trends in prisoner numbers. This research has identified four major aspects of the criminal justice system that have not had any substantial impact on the increasing number of prisoners. As a result, no policy changes regarding these factors have been evaluated. However, appropriate policy initiatives adopted in regard to these factors may nevertheless reduce the prisoner population. These four major aspects of the criminal justice system are:

- unsentenced prisoners
- crime and younger people
- the imprisonment of female offenders
- Indigenous over-representation.

### *Unsentenced prisoners*

The issue of remand was examined in detail as part of the Prisoner Numbers Research Project. While the actual number of remandees in prison has continued to increase, their proportional representation has consistently remained at around 12 per cent of the total. As a result, no remand-related policy initiatives were investigated, although any successful policy initiatives aimed at reducing the number of persons held in custody while awaiting sentence will obviously contribute to an overall (albeit modest) reduction in prisoner numbers.

Similarly, the number of persons held in watchhouses was not found to be associated with the growth in prisoner numbers, other than by way of a one-off impact as a result of the ministerial ‘seven day’ directive. While the number held in watchhouses has increased, it is small and thus does not have a great impact.

### *Crime and younger people*

There has been no major growth in the number of prisoners aged between 17 and 24 years. In the early 1990s about 37 per cent of prisoners were in this age group, but since prisoner numbers have been

<sup>110</sup> Five per cent of the 375,000 outstanding warrants would involve 18,750 offenders imprisoned for an average of 19 days. This equates to a total of 356,250 days.

increasing, this proportion has been falling, such that at 30 June 1998, less than a third of adult prisoners were young people. The fact that young people represent around a third of the prisoner population is obviously an issue, and means that policy initiatives aimed at reducing their number are desirable. However, because the rate of increase in this group has been less than the total rate of increase, youth crime has not been a key factor underpinning the rise in prisoner numbers.

### *The imprisonment of female offenders*

The rate of growth of the number of women in prison is greater than that of the total prisoner population, but the number of women involved remains relatively small (214 at 30 June 1998).

Consequently, this also cannot be seen as a contributing factor to the growth in the total prisoner population.

### *Indigenous over-representation*

The continuing high rate of over-representation of Indigenous people in the criminal justice system is a cause for great concern. However, as the proportional level of Indigenous representation in prison has been relatively constant over the period studied, no policy initiatives relating to Indigenous representation were examined. Obviously, policy developments that result in fewer Indigenous prisoners would be highly desirable. This is, however, a separate issue to the question of what factors have propelled the growth in prisoner numbers since 1993.<sup>111</sup>

## SUMMARY

Between 1992–93 and 1997–98, the prisoner population increased by 116 per cent. Several different factors contributed to this increase. Policy initiatives to address these areas of the criminal justice system follow. If successfully implemented, these initiatives would contribute to a reduction in the number of prisoners in Queensland.

- Greater use of community-based orders
- A redistribution of community-based orders with greater use of probation and community service and less use of fine option orders
- Changes to Department of Corrective Services release practices
- Strategies to reduce the number of fine defaulters in prison
- Strategies to reduce recidivism

<sup>111</sup> This particular research project did not involve any regional analyses that might have identified particular localities as associated with either very high or very low levels of Indigenous representation. However, we are aware of initiatives arising from the 1991 Royal Commission into Aboriginal Deaths in Custody that have either been implemented (e.g. the Local Justice Initiatives Program), or are in development (e.g. the Aboriginal English in the Courts Project), which are aimed at reducing the high levels of over-representation.

## PART C: PREVENTING UNANTICIPATED CHANGES IN CRIMINAL JUSTICE SYSTEM DYNAMICS

### A strategy

Perhaps the most surprising aspect of the growth in prisoner numbers is that it did not occur earlier. The post-1993 developments are clearly in large part a result of the uncoordinated operational agendas of the key justice system agencies. Up until 1993, it would seem that ‘pushes’ from one sector were typically balanced by ‘pulls’ from another sector. Paradoxically, then, it is very probably the lack of coordination characterising the justice system agencies that prevented a ‘break out’ in the system before 1993. However, this was obviously a situation that could not be indefinitely sustained. From 1993 onwards, the activities of the key justice system agencies increasingly came to act in concert, thereby propelling prisoner numbers ever higher.

Not only was the surge in prisoner numbers largely unanticipated, it was also initially inexplicable. Throughout this report, we have noted the fragmented nature of the available justice system data. For all agencies directly involved in the delivery of justice system services, this has meant a reduced capacity to identify the downstream impacts associated with the discharge of their particular statutory responsibilities.

As the body required to manage the consequences of the activities of the other key justice system agencies, the Department of Corrective Services is especially affected by any changes in the way bodies such as the legislature, the police and the courts operate. Given the department’s position, it is especially unfortunate that Corrective Services has arguably been the least well-equipped justice system agency to monitor its own operations and the downstream effects of its policies and procedures.<sup>112</sup> However, even if the department were to be sufficiently resourced to allow for an upgrading/replacement of its information management facilities, the uncoordinated data-management processes employed by the other agencies would undermine the department’s best planning efforts.

These critical deficiencies in data-management processes have been recognised by government since at least 1994, at which time Cabinet endorsed the establishment of CJIIS. The guiding principles of CJIIS are to facilitate the effective operations of the criminal justice system by improving the following four aspects of data management:

- data integration
- information flows
- data security and accountability
- uniform data standards and protocols.<sup>113</sup>

While less progress with CJIIS has been achieved than was hoped for in 1994, the importance of the exercise has not diminished. Indeed, the increase in prisoner numbers since that time is a stark reminder of just how pressing the need is for a comprehensive

<sup>112</sup> The CIS was developed as an administrative tool in the early 1990s with considerable enhancements made since. There are a number of features of this system that are problematic for researchers. These include the sheer complexity of the database and the knowledge required to seek and obtain the appropriate information from it, as well as the administrative requirement for numerous staff across the State to actually input the required information. The interpretation of various coding mechanisms also differs substantially according to the role of those involved. An additional issue relates to the available resources within corrective services. The Peach Commission of Inquiry reported that ‘the current level of resources dedicated to research ... is inadequate, given the complex nature of Corrective Services’ (1999:45).

<sup>113</sup> Some of these guiding principles are also shared by the Crime Statistics Unit, specifically:

- to access information held by agencies
- to establish and monitor statistical/data standards
- to manage information technology integration and efficiency.

However, whereas CJIIS is quite explicitly intended as a mechanism to address the underlying causes of the poor quality and uncoordinated nature of justice system data, the Crime Statistics Unit is intended as a means of providing government with the best possible account of what is occurring in the criminal justice system at any given time. This can be seen by noting its other functions as determined by the 1994 Cabinet decision, namely:

- to provide crime statistics
- to undertake state liaison for national statistics
- to circulate draft reports
- to release published reports
- to coordinate crime victim surveys.

and effective integration of justice system information. Another (very much larger) government initiative, the Courts Modernisation Project, which shares some of the key CJIS objectives, is currently also being implemented. This project aims to improve radically the use of information technology to streamline and coordinate court-related justice system data. According to the Department of Justice and Attorney-General, this project is a:

... large scale replacement and upgrade program for the Courts information systems and technology infrastructure. The project is the key strategic initiative of the Department [of Justice and Attorney-General] and it will deliver:

- infrastructure to all Courts that will enable all Courts to communicate with each other on a Wide Area Network
- development of a new criminal case management system which will integrate with a financial management system and be implemented in all Magistrates and Higher Courts' (Courts Division 1997).

Providing that CJIS and the Courts Modernisation Project can realise their objectives, this should result in a substantial improvement in the capacity of government to determine the characteristics of the criminal justice system at any given time. In turn, this will greatly enhance the capacity of government to determine the consequences of any major changes to the operations of the justice system.

A third government initiative being implemented is the Criminal Justice System Modelling Project, which is a cross-agency research exercise aimed at using statistical models to advise government on the nature and functioning of the wider criminal justice system. A central aim of this project is to develop a sophisticated capacity for 'scenario forecasting'; that is, the capacity to pinpoint precisely what and where are the future impacts associated with alternative policy options, which might be enacted by any of the key justice system agencies.

The extent to which this project can prove beneficial to government is limited by the data problems CJIS and the Courts Modernisation Project are intended to resolve. Assuming these are

resolved, the Modelling Project offers a means for government to move towards a similar strategy to that employed by the British Home Office to confront precisely the same issues Queensland has faced since 1993.

## 'Joined up' government

In the United Kingdom, as in Queensland, the prisoner population rose suddenly and dramatically. Also as in Queensland, the ability of the British Government to monitor and manage developments within the criminal justice system was constrained by a lack of coordinated data-management processes across the criminal justice system.

The response of the British Home Office has been to progressively unify and coordinate the data-management systems employed by justice system agencies. As a result, the Economics and Resource Analysis Unit of the Home Office has been able to develop a 'Flows and Costs model' of the justice system, which links data drawn from all the major justice system agencies. The most distinctive feature of this model is that it essentially comprises 10 linked spreadsheets using the off-the-shelf Excel software. Conceptually, the model is very straightforward and relatively uncomplicated. However, this apparent simplicity is the result of very considerable efforts dedicated to coordinating counting methods, recording procedures and data-management strategies.

These linked spreadsheets have given the British Government the capacity to determine accurately the consequences of any particular initiative proposed by any particular justice system agency. Such a capacity in the Queensland context would mean the State Government could determine (prior to Cabinet endorsement) what would be the consequences (and costs) of agency-specific initiatives such as SETONS/SPER, the abolition of remissions or the increased execution of warrants for the overall criminal justice system.

In many ways, the British notion of 'joined up' government is paralleled in the Queensland context by the increasing interest in 'whole of government' strategies. These strategies are based upon the



recognition that large-scale occurrences such as rising prisoner populations are manifestations of ‘system wide’ factors that can only be effectively addressed by ‘system based’ strategies. The unique aspect of the joined-up government concept is its emphasis upon virtually joining up agencies via their data-management processes.

The joined-up government concept is akin to what would be the result in Queensland if CJIIS, the Courts Modernisation Project and the Criminal Justice System Modelling Project were coordinated or merged. In many ways, this would represent a

logical progression of the current interest by government in whole-of-government strategies. A consolidated and better coordinated approach to these three initiatives would undoubtedly provide the basis for movement towards the more unified approach to the delivery of criminal justice services pioneered by the UK Home Office. In turn, this could substantially improve the delivery of justice system services in Queensland. The costs involved in a projected trebling of the number of prisoners within a single decade are of such magnitude that the case for concerted efforts to improve the operations of the justice system is compelling.

## SUMMARY

- The post-1993 increase in prisoner numbers is largely a result of the uncoordinated operational agenda of the key justice system agencies. The lack of coordinated/uniform counting systems across criminal justice agencies (as well as the limited capacity for self-monitoring of corrective services) significantly constrains the capacity of government to identify the consequences of justice system policy options.
- Enhanced, or at least continued, support for the initiatives currently under way with the aim of improving the ability of government to monitor and forecast developments in the Queensland criminal justice system would provide an effective means of progressing a whole-of-government approach to criminal justice in Queensland.

## PART D: FUTURE RESEARCH

This report has identified the extent to which the doubling of prisoner numbers over a five-year period is an aspect of ‘system dynamics’ and has highlighted the need for a less fragmented approach to the administration of the criminal justice system in Queensland.

Concerns with data quality and availability have been highlighted throughout this report. A strategy for addressing the more critical deficiencies in the capacity of the criminal justice system to monitor its operations has been outlined.

We have also identified a number of issues requiring further research if policy development is to take place on the basis of a genuine understanding of the consequences of policy changes.

These issues are:

- factors associated with the reduced use of both probation and community service orders relative to fine option orders
- impact of, and reasons for, the marked growth in enforcement of order offences
- impact of, and reasons for, the increasing use of suspended sentences
- the operations and effectiveness of SPER
- the net-widening and net-thickening effects, if any, of changes in the criminal justice system relating to the imposition of fines, fine defaulting and the imprisonment of fine defaulters
- an economic cost-benefit analysis of escalating levels of fine imposition (with particular



emphasis upon the costs associated with responses to fine defaulting)

- an economic cost-benefit analysis of escalating rates of imprisonment
- the social/demographic characteristics of individuals who breach court orders
- the social/demographic characteristics of fine defaulters
- the social/demographic characteristics of persistent recidivist offenders
- factors associated with the changing patterns of discharge processes, specifically those relating to early release and administrative decisions

- evaluation of correctional programs aimed at reducing the rate of recidivism

- regional trends
- differences between the States.

The CJC can assist with some aspects of this research agenda. However, the primary responsibility for collecting and analysing the data required should lie with the key criminal justice agencies and central agencies such as Treasury. The Chief Executive Officers Steering Committee on Prisoner Numbers, convened by the Department of Premier and Cabinet, is well placed to coordinate research activities directed towards the issues we have identified here as priority areas.

# Appendix A: Data sources and issues

## DATA SOURCES

### Corrective Services data

Data relating to Corrective Services were published in one of the following:

- annual reports of the QCSC (now the Department of Corrective Services)
- the annual publications released by the ABS or the AIC as a result of the National Prisoner Census conducted annually at 30 June
- the January 1999 report of the Commission of Inquiry *Corrections in the Balance: A Review of Corrective Services in Queensland*.

Extensive unpublished data were also obtained from the CIS database. Concerted efforts were made to ensure accurate interpretation of this often highly technical data; however, some concerns were identified during the research process and these are discussed further here.

### Court data

Court data relating to the four financial years 1994–95 to 1997–98 inclusive were obtained from Qstats, which produces court data for JAG. These data may differ from those provided to other agencies by Qstats as they have been extracted from a database that is continually validated. This means annual figures are often revised and will result in slight variances in overall totals. There are currently no final annual data that remain static for research purposes.

Historical data for the years 1989–90 to 1993–94 inclusive were extracted either from Law and Order catalogues published by the ABS or from unpublished data retained by JAG from the same collection as those published by the ABS.

Benchmark data relating to the time taken to finalise matters were accessed from the Case Register System of JAG.

### Police data

Data were extracted either from published Statistical Reviews or from unpublished data provided by the QPS during the compilation of this report. Also included in this category are Recorded Crime

Statistics published by the ABS. The counting rules used by the QPS in the collection and collation of crime statistics are based on the guidelines published in the National Crime Statistics Manual, published by the ABS. This counting rule is that for each victim within a distinct criminal incident, the most serious offence (MSO) per subdivision of the Australian National Classification of Offences (ANCO) is counted. The national data do not include ‘victimless’ offences such as those detailed in the QPS division of ‘other’ offences.

### Population data

Estimated resident population data at either 30 June or 31 December, as published by the ABS, were accessed during the compilation of this report. Population data relating to the period 1949–50 to 1963–64 are currently available only for every fifth year — that is, 1949–50, 1954–55 etc. For the intervening years, the population was calculated based on the average growth factor for the previous period, and hence may either be overstating or understating the actual population figure. This was not considered a major issue, however, as rates per 100,000 were used and the variation caused by the inaccuracy of the population data would be minimal. Data for 30 June 1998 are preliminary.

### Watchhouse data

These data are derived from daily returns (for the last Monday of each month), from a number of watchhouses in the south-east corner of Queensland or from monthly returns from the 11 major watchhouses in Queensland. Data from these returns are collated and disseminated by the CJC.

## MATHEMATICAL CALCULATIONS

### Average annual change

This report extensively uses the concept of average annual growth rates for the majority of data reported. The concept is used to smooth the often divergent trends associated with some data. The formula used in this calculation is:

$$(EXP ((LN (final\ year/base\ year)) / number\ of\ years\ between\ final\ and\ base) - 1) \text{ multiplied by } 100.$$

## Median

Median figures used within this document differ from those previously published by the relevant authority. This relates to the median duration of the expected time to serve as well as the median duration of sentences imposed by the courts. Since 1994, the ABS has included a median figure in the Prisoners in Australia publications. The Australian Prisoners publications (the forerunner to the ABS publication) did not publish a median figure for the years 1990 to 1993. Similarly, data relating to the median duration of imprisonment imposed by courts were published for 1996–97 but not for previous or subsequent years. Accordingly, the following formula was applied to published aggregated statistics for all relevant years:

Median figures calculated using the formula

$[M_e = L + ((n/2 - C)/f) * i]$  where:

$M_e$  = median  
 $L$  = the real lower limit of the median class  
 $n$  = the total frequency in the given data  
 $C$  = the cumulative frequency to the class just before the median class  
 $f$  = frequency of the median class  
 $i$  = size of the class interval in the median class

Note: application of this formula assumes a normal distribution of scores within the median class.

As a result of the application of this formula to aggregated data, different figures to those published were calculated. For example, the published median figure for 1997 for the expected time to serve was 39 months while the calculated figure was higher, at 45 months. In contrast, the published figure for 1988 was 28 months while the calculated figure was lower, at 20 months. The reason for this discrepancy can be attributed to the use of aggregated data rather than individual data at a much finer level than was accessible for this process and perhaps the use of an alternative formula. There are other formulas which may have been used to calculate the median, thereby resulting in slight variations in the final figure calculated. However, for this exercise, the trends were most relevant, rather than the actual figures.

## Mode

The mode is that most frequently recorded in a set of data. In this report, this measure of central tendency was used only with the total amounts of outstanding fines for which offenders were imprisoned at 3 March 1999. In the interests of accuracy and increased exploratory power, both the modal and mean figures were used to portray the amounts outstanding.

## Regression trend lines

Three types of regression analysis have been applied to various data in this report to produce trend lines which are added to a series of data in a chart to show the direction of the data. They are also frequently used to show moving averages, which smooth fluctuations in data to show the pattern or trend more clearly. In this report, linear, polynomial and moving average trend lines have been applied/derived. Microsoft Excel was used in these calculations.

Linear trend lines plot the relationship between a lower and an upper value in a series of data and are derived using the equation  $y = mx + b$ .

Polynomial trend lines calculate the least squares fit through a number of points using the equation  $y = b + c_1x + c_2x^2 + c_3x^3 + \dots + c_nx^n$  where  $b$  and  $c_1 \dots c_n$  are constants.

A moving average indicates a sequence of averages that is computed from parts of the data series.

Figure 8.5 used a five-month moving average, and was derived using the equation  $F_t = A_t + A_{t-1} + \dots + A_{t-n+1} / n$ .

## DATA QUALITY ISSUES

### Duration of stay data

Various data were extracted from the CIS relating to admissions and discharges. To determine the actual period that prisoners spent in prison prior to discharge, data were requested on the duration of stay. As all movements of prisoners are recorded on the CIS, extraction of appropriate data for time spent in prison is difficult to obtain. Unless an extremely complex script is written to interrogate information archived daily, this information is effectively unavailable. This then affects data relating to sentence length at admission, from which researchers should be capable of determining whether prisoners are receiving additional sentences after their original admission that extends their date of release. Similar problems were associated with attempts to obtain complete information on the release of prisoners from secure prisons.

The two sets of data on duration of stay received from the Department of Corrective Services gave different information, one indicating that the average duration of stay had decreased (from 4.7 months in 1993 to 2.6 months in 1998), the other that it had increased (from 4.0 months in 1993 to 5.4 months in 1998). After discussions with the department, it was agreed that the second set of data was the more accurate.

## Discharges from prison

There are three fields on the CIS in which discharge details are stored, each of which may contain different information. Table A1 provides information from the three fields for a snapshot of discharges over a small period to illustrate the differences that may be encountered. This research has used information from the 'Text reason' field.

As can be seen in the table, no data have been coded as 'early release' for discharges under the 'Stat. reason' code. Included in this category in the table are both early release and administrative decisions.

Under legislation, 'early release' is a process of discharge whereby general managers may release prisoners serving sentences of up to 12 months. A discharge by way of an 'administrative decision' was intended for use when general managers exercised their discretion to release early prisoners serving sentences of over 12 months.

During the development of the 'Stat. reason' code, departmental staff investigated the usage patterns of this release mechanism on other fields on the CIS. It was found that, in a number of situations, the code was used inappropriately, usually because the early release code was used with sentences longer than 12 months. As a result of this inappropriate code allocation in other fields on the CIS, there is no comparable 'Stat. reason' code.

Table A1 — Discharges from prison by reason recorded on CIS, Qld (July 1998 to Jan. 1999)

Reason for discharge	No. discharges according to:		
	Reason code	Stat. reason code	Text reason
Remission	355	357	351
Expiry, no remission	440	442	439
Payment of fine*	453	448	454
Post release order†	19	31	19
Early release‡	44	—	44
Orders from court	13	11	13
Other§	1	26	6
Missing	1	11	—
Total	1,326	1,326	1,326

Source: Department of Corrective Services unpublished data.

Notes: \* Includes fine option order.

† Includes home detention, parole, release to work and community corrections.

‡ Includes early release and administrative decisions.

§ Includes hospital admission, medical/psychiatric appointment, to hospital, eligible to move to lower security, accommodation requirements, compassionate grounds (not LOA), initial placement, to extradition and other.

To identify data integrity issues, a cross-classification of the text reason codes with the 'Stat. reason' codes was undertaken. The results are shown in table A2. During this data integrity check, other codes were found to contain similar inconsistencies, although not to the same extent. In some instances, all three codes contained the same information (for example, remission), but again data were inaccurate as the discharge type was inappropriate for the length of sentence.

Table A2 — Selected discharges from prison by reason recorded on CIS, Qld (July 1998 to Jan. 1999)

Stat. reason code	Text reason code	
	Early release	Admin. decision
Remission (code 3501 or 4501)	8	..
Expiry of sentence — no remission (code 3502 or 4502)	6	..
From s. 69 (code 2502)	..	12
Eligible to move to lower security (code 4006)	..	1
Accommodation requirements (code 4010)	..	10
Compassionate grounds not LOA (code 4011)	..	1
Initial placement (code 4016)	..	2
Other (code 4590)	..	4
<b>Total</b>	<b>14</b>	<b>30</b>

Source: Department of Corrective Services unpublished data.

.. Not applicable

Department of Corrective Services staff have said that to obtain more accurate discharge data the offenders' location at the time of discharge, or where they were discharged to, should also be considered. This was not possible during the course of this particular research exercise; however, data have become available since then that shed further light on the issues associated with examining discharge data.

Data show, for example, that in 1997–98 almost two-thirds of discharges involving administrative decisions were to the WORC program and the remainder to community corrections centres. For those discharged to early release, over 80 per cent were discharged from the correctional system while the remainder were referred to community corrections offices, most likely because they have an outstanding **community-based** order. Where appropriate, footnotes have been included that draw attention to particular concerns.

## Recidivism — Court data

Details of all finalised court appearances involving adult offenders in Queensland have been recorded by Qstats since 1994–95, including the name, gender and age range of the offender in most cases. The CJC requested data relating to the number of offenders who reappeared in court and their conviction status to determine recidivism levels among the general population. Special database interrogations were developed from which only very limited data were available for this project. This section of the appendix discusses the method of data extraction and limitations of this data interrogation.

### Method

Data are based on the outcome of the most serious offence for each conviction. Thus it is an offender count rather than a count of charges heard by the courts.

A subgroup of cases was created from the database (either higher or lower court) on which the recidivism search would be conducted by searching the database for the most recent sentence of imprisonment (including those that were suspended or involved an intensive correction order) imposed on an offender in a given year. For each person in the subgroup, a search was conducted back through the database to find cases where that person had been convicted before. To determine a ‘match’, the two cases must have the same name (both given names and surname), gender and appropriate age range.

In some instances it was not possible to ‘match’ a case due to insufficient information. For example, in the lower courts the full name of the offender is often not recorded. Instead, the record provides only the initials and surname. These cases were excluded from the analysis. Overall, the ‘match rate’ in the lower court was around 80 per cent, while the ‘match rate’ in the higher court was around 99 per cent.

A distinction was made between cases that resulted in imprisonment for previous convictions (recorded as ‘Prior Conviction: Prison’) and cases that resulted in some other form of punishment, for example, a fine, probation, or community service order (recorded as ‘Prior Conviction: Other’).

Once one ‘match’ was found, the search would continue back looking for additional prior convictions and recording them in the same way.

Where no prior convictions were found, the person was recorded as ‘No Prior Conviction’ against their most recent offence.

### Limitations

- Searches were conducted only within each database. As a result any prior history for offenders in higher courts would reflect only the history in the higher court jurisdiction.
- Searches were able to locate only prior convictions that were recorded in the Courts database. This database has been in operation only since 1 June 1994. Thus, a recording of ‘No Prior Conviction’ may simply mean that there have been no priors recorded since this date.
- Despite strict matching criteria, the data may overstate prior convictions. While all efforts were made to avoid this, two cases that match on all criteria may still relate to different people.
- Where a prior conviction was found for a person, the offence details in the database related only to the most recent appearance.
- As a result of these limitations, only very limited use has been made of the data in this report. However, the process of this data extraction has potential to provide valuable empirical information for future research projects.

## Appearances resulting in imprisonment

Data relating to the outcome of court appearances are recorded on the Department of Justice and Attorney-General’s Queensland Criminal Court Collection. With imprisonment sentences, there are several codes applicable, namely:

- imprisonment (including intensive correction orders)
- cumulative imprisonment
- suspended sentence (either full or partial).

A recent audit of this database has revealed that the allocation of codes for suspended sentences is sometimes done inappropriately. The problem is that suspended sentences are being coded in a manner that allows identification in some instances and not in others. As a result, the court outcome data relating to both imprisonment and suspended sentences as detailed in this report are problematic. As a result of this problem, partially suspended sentences are included in higher court data, but excluded in that relating to lower courts. What this means is that ‘imprisonment’ in the lower court relates only to imprisonment and cumulative imprisonment while ‘imprisonment’ in the higher court includes partially suspended sentences as well as the two imprisonment codes. In all counts, imprisonment excludes fully suspended sentences.



## Appendix B: Methodology for assessing impact of policy options

### Quantifying impacts

Where data suggested that a substantial change either in patterns or numbers had occurred that was contributing to the increasing prisoner numbers, we attempted to quantify the magnitude of this impact. We recognise the ‘rubbery’ nature of such a process as, for example, transplanting to 1998 the situation as it was in 1993 assumes all else has remained constant. Obviously, this is rarely so. However, to obtain some indication of the magnitude of the effects associated with particular factors, this process was unavoidable. The methodology adopted for each of the policies, as discussed in chapter 9, follows.

### Decline in the use of community corrections

Data relating to the number of offenders (whether prisoners, parolees or those serving court-ordered community supervision) at the beginning of relevant months were obtained. These were averaged for the June to July period for both 1992–93 and 1997–98 (and years between) to determine the proportional representation of each component of the total.

This showed that in 1992–93, 72.5 per cent of the total were serving court orders. By 1997–98, the comparable proportion was 66.8 per cent. To gauge the impact of this decline, an assumption was applied that the 1992–93 rate remained constant. Thus, the 1992–93 proportion of 72.5 per cent was applied to the 1997–98 total figure — that is, all those for whom the Department of Corrective Services had responsibility (19,836). The resulting number of prisoners (3,440) was then subtracted from the 1997–98 average number of prisoners (4,575). The resultant figure of 1,135 was apportioned to the prisoner number (4,575) and the outcome of 24.8 per cent assessed as the impact of the declining use of court-ordered community-based orders.

As it is impractical to suggest that the 1992–93 rate should remain constant, we developed an alternative scenario, which involved an examination of short-term prisoners. Two series of data were examined. For sentenced prisoners at 30 June, both the aggregate sentence length and the expected time to serve were investigated.

At 30 June 1998, there were 811 sentenced prisoners in Queensland who expected to serve less than six months. This represents 20.8 per cent of all sentenced prisoners at that date (3,908). If all 811 were to be diverted to community corrections, the total prisoner population, including those remanded in custody, would be reduced by 18.2 per cent (that is, 811 as a proportion of 4,466).

Another indication may be provided by examining the change in the actual number of prisoners with shorter sentences. It is not unreasonable to consider aggregate sentences of less than two years in these calculations. At 30 June 1998, approximately 1,077 prisoners had an aggregate sentence of less than two years. The comparable figure in 1993 was 503. The difference between the two figures is 574 and represents 12.9 per cent of the total prisoner population at 30 June 1998. The contribution of fine defaulters should not be ignored in this equation as they comprise a large proportion of the prisoners with these short aggregate sentences. In the 1998 calendar year, there was an average of about 225 pure fine defaulters in prison at the beginning of any month. Thus, if these prisoners are deducted from the 574 already calculated, the prisoner population might be reduced by 349 persons (7.8 per cent of the total prisoner population).

### Redistribution of community-based orders

Since 1993, there has been substantial growth in the number of offenders with fine option orders. As a result, the average number of offenders with a fine option order in 1992–93 and 1998–99 (10 months) was calculated from the number at the beginning at each month in the relevant period. The outcome was that, in the earlier period, 3,714 offenders were involved but in the 1998–99 period, the average number was 10,765, an increase of 190 per cent. In contrast, the average number of offenders serving a community service order fell by 40 per cent and the number on probation fell by 24 per cent.

It is, therefore, illuminating to examine the impact of a return to the 1992–93 proportional distribution of these types of orders. Table B1 provides the data on which this calculation is based. It is worthy of note that not all direct-from-court community-based



Table B1 — Impact of return to 1992–93 proportional distribution of selected direct-from-court community-based orders on 1998–99 data, Qld

Type of direct-from-court community-based order	Actual proportional distribution		Actual numbers involved		Number if 1992–93 % achieved	Possible number imprisoned in 1998–99 as result of breach	
	1992–93	1998–99	1992–93	1998–99	1998–99	Actual	Scenario
	%	%	No.	No.	No.	No.	No.
Probation	51.9	30.7	7,377	5,607	9,480	66	111
Community service	21.9	10.3	3,114	1,883	4,002	37	78
Fine option	26.1	59.0	3,714	10,765	4,773	465	206
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>14,205</b>	<b>18,255</b>	<b>18,255</b>	<b>568</b>	<b>395</b>

Source: Department of Corrective Services unpublished data.

Note: Figures have been calculated using exact proportional distribution figures. Rounded figures presented in this table will give slightly different results.

orders are considered in this scenario. For example, no consideration has been given to intensive correction orders. Additionally, no consideration has been given to the possibility of offenders on more than one type of order. The object is simply to examine the three types of orders selected.

The table presents both actual and scenario data based on the average numbers of offenders with community service, probation or fine option orders in 1992–93 and 1998–99 (10 months). From those figures, the proportional distribution for both periods was calculated and the 1992–93 rate applied to 1998–99 data. The breach rate and the rate at which breaches resulted in imprisonment were then applied to both series of data and the difference calculated.

The data show that in 1998–99, almost 570 offenders who breached their order might have been imprisoned; however, if the distribution had remained as it was in 1992–93, around 400 offenders would have done so. The difference is 173 persons, which represents 3.9 per cent of the prisoner population at 30 June 1998 (4,466 persons).<sup>114</sup> If this return to the 1992–93 distribution of community-based orders were to occur as an aspect of a longer shift towards the 1992–93 levels of use of direct-from-court community-based orders, then a proportional reduction in the prisoner population on any given day of 6 to 7 per cent might reasonably be anticipated.

### Stretching sentence lengths

We examined data relating to discharge mechanisms and the changing patterns in the number of longer

sentences to determine the impact of correctional policies and procedures on sentence lengths.

On the basis of the data currently available, it is not possible to calculate the precise extent to which correctional policies have increased the number of prisoners on hand (stock) by changing the rate of flow via changes in release practices. To obtain a measure of the extent to which correctional policies have increased stock, two different calculations are employed, each of which represents an alternative method of deriving a stock figure on the basis of flow data. Neither of these methods is particularly satisfactory, and the second is especially susceptible to criticism. However, in the absence of a better alternative there is merit in using more than one technique.

While each of these calculations generates a unique estimate of impact upon stock, they jointly point to an overall impact of correctional policies upon stock of about 20 per cent.

#### Method 1: Administrative discretion and post-release calculation

In 1993, 31.7 per cent of discharges were coded to release mechanisms involving administrative

<sup>114</sup> The breach rate used in the calculation was the average rate at which orders were terminated as shown in chapter 5. Therefore, the breach and imprisonment rates used in the calculation are as follows:

- probation: breach rate 35.6 per cent of which 3.3 per cent result in imprisonment
- community service: breach rate 35 per cent of which 5.6 per cent result in imprisonment
- fine option orders: breach rate 33 per cent of which 13.1 per cent result in imprisonment.

discretion, but by 1998, only 13.8 per cent of the discharges involved this release process. To assess the impact of this change, a forecast was made based on the 1993 rate remaining constant. If 31.7 per cent of the 9,805 discharges in 1998 were released through this process instead of the actual 1,358, then 3,108 persons would have been involved (that is, an additional 1,750 persons). A similar process was used for discharges to post-release orders. In 1993, 19.9 per cent of all discharges involved this process, but by 1998, the comparable figure was 11.8 per cent. In applying the 1993 proportion to the 9,805 discharges in 1998, it was determined that a total of 1,951 discharges could have been to post-release orders. Instead, 1,155 were discharged, a difference of 796 persons.

Based on these figures, a calculation can be made to provide an alternative measure of the effect of stretching sentence lengths. This involves calculating a ratio of the number of discharges in comparison with the average number of prisoners at any time over the same 12-month period and then applying this ratio to the number who could have been released early if 1993 rates had remained constant. Over the years 1993 to 1998, the result was an average of 1.95 discharges for every prisoner (average number) on hand during the year. If this ratio is then used to convert the flow data to a stock measure, a figure of 27.8 per cent is derived. The formula used in this calculation is:

$$(((ni+nii)/niii)/(niv) * 100$$

where:

*ni* is the difference in the number of discharges to administrative discretion (1,750)

*nii* is the difference in the number of discharges to post-release orders (796)

*niii* is the ratio of discharges to prisoners (1.95) and

*niv* is the average daily number of prisoners in 1997–98 (4,700)

i.e.  $(1750 + 796) / 1.95 / 4,700 * 100 = 27.8$ .

The 27.8 per cent figure that results from this calculation is admittedly a *pseudo* stock figure inasmuch as it obscures the fact that what we are dealing with are *delayed* discharges and not *denied* discharges. The calculation is also very clearly an overestimation as it takes no account of actual duration of stay and effectively assumes (given its use of annual data) that all prisoners serve a full year. Clearly, this is not the case; however, the potential for overestimation is perhaps not quite as large as might be expected because the (stock)

proportion of prisoners expected to serve a full year has consistently ranged between two-thirds and three-quarters.

#### Method 2: Growth rates associated with sentences of more than five years

We examined data relating to the number of longer term prisoners. In the first instance, sentencing data were examined to determine whether there had been any increase in the median duration of sentences imposed by the courts that may have resulted in individuals remaining in prison for longer periods. Between 1993 and 1998, the median aggregate sentence decreased annually by just under 1 per cent, falling from 50 months in 1993 to 48 months in 1998. Any growth in the number serving longer sentences can thus not be immediately explained by increased sentences from courts.

To determine the effect of any stretching of sentences, we examined both the number of admissions for sentences of more than five years duration (flow) and the number of prisoners at 30 June who had an aggregate sentence of a similar length (stock). If correctional practices operate appropriately, both figures should increase at a similar rate. The data, however, show that the stock has increased annually by 18 per cent over the period 1993 to 1998, while the flow (admissions) actually decreased by 6.8 per cent each year.

Importantly, prior to this period there was no dramatic increase in the number of long-term sentences from the courts which would then take time to ‘play out’ (that is, the lag effect). Although there was a degree of volatility in the intervening period, there were 211 higher court sentences of five years or more in 1988–89 and 207 sentences of five years or more in 1992–93. This means that any very substantial increase in stock in later years cannot be a result of increased sentences in earlier years. That is, given the level of admissions from earlier years and the resultant magnitude of the lag factor, the number of longer-term prisoners should have tracked the downward trend in admissions, rather than increasing by an average of 18 per cent each year.

An additional factor that can contribute to longer periods of imprisonment is the number of breaches of orders, particularly those post-prison, and the resultant return of the offender to prison for a longer sentence. However, data reported in table 7.1 indicate that the number of such admissions (where the breach was the most serious offence at the time

of admission) has remained relatively stable over three 12-month periods. In addition, the proportion of these admissions involving long sentences is declining. Between November 1995 and October 1996, 45 per cent of these admissions involved sentences of two years or more, but in the same 12-month period of 1997–98, less than 20 per cent did so. Accordingly, while breaches are undoubtedly contributing to the stretching of sentences, they do not appear to be the major factor.

In 1993, the difference between the number of long-term admissions and those serving these longer aggregate sentences was 80 persons, but in 1998 the difference was 1,151 persons. If the difference between the two (1,071) is apportioned to the total prisoner population at 30 June 1998 (4,466), a figure of 24.0 per cent is derived. Thus, the change of correctional policies and practices in relation to the retention of longer-term prisoners can be assessed as having increased the 1998 stock number of this group by 24 per cent. Given (i) that this group consistently represents around 39 per cent of the total stock, (ii) is the group most affected by any stretching of sentences and (iii) the data reported in figure 8.2, this estimate of 24 per cent appears reasonable.

### Conclusion

While these two methods of calculation are fairly robust in their own way, neither is singularly suitable as the basis for estimating impacts upon stock. Both approaches are likely to overestimate the impact of stretching the duration of stay. Accordingly, the impact upon stock of correctional practices stretching sentences by slowing flow is estimated at around 20 per cent. This figure not only represents an appropriately conservative interpretation of the data, but is also consistent with the data reported in figure 8.2.

Notwithstanding the extent to which these calculations entail a degree of overestimation (impossible to quantify), it is important to recognise that each of these two methods of calculation focuses on only a *part* of the population/flow, leaving other flows and their associated effects uncalculated/undetermined. This means any overestimation involved is at least to some extent counterbalanced by the fact that the impact of other delayed discharges has not been factored into the estimates at all.

When we consider the flow-based effects on stock as indicated by these calculations, together with the

recognition that additional flow-based effects on stock have not been determined, the estimate of 20 per cent suggests itself as an appropriately conservative figure. This extrapolation from analyses of *parts* of the system is obviously less than ideal; however, the quality of the currently available criminal justice system data renders it impossible to move beyond a focus on key parts of the system on which inferences may be based. It is simply not possible at this point to apply the necessary calculations to the system as a whole.

Finally, it is worth noting that the necessity to use calculations of the type described here constitutes a powerful argument for the importance of CJIIS, the Courts Modernisation Project and, in particular, the Criminal Justice System Modelling Project. The progressing of these three exercises is essential if more statistically defensible estimates are to be obtained.

### SPER

Since late 1998, fine defaulters have represented around 7 per cent of the entire prisoner population. Until then, at least since early 1995, they comprised around 4 per cent of the population. Assuming fine defaulters consistently represent an average of around 5 per cent of the prisoner population, the implementation of SPER, in the unlikely event it should prove 100 per cent effective, is therefore likely to reduce the prisoner population by around 5 per cent.

### Recidivism

The Prisoner Census conducted on 30 June 1987 showed that 54 per cent of the prisoners had previously been sentenced to imprisonment. By 30 June 1998, this proportion had risen to be 62 per cent. To determine the impact of this increase on the prisoner population, the earlier rate of 54 per cent was applied to the 4,466 prisoners (excluding WORC and other community custody) at 30 June 1998 and a figure of 2,456 derived. The actual number at 30 June 1998 who were recidivists was 2,784. The difference between the two figures was 328, which would represent 7.3 per cent of the total of 4,466 prisoners. Thus, a 7 per cent reduction in the number of prisoners might have been achieved if the level of recidivism recorded in 1994 was that experienced at 30 June 1998, assuming that custodial outcomes are typically employed when non-custodial options have been exhausted.

## Appendix C: Fines and fine option order processes

### Court-ordered fines

A fine is imposed by a court (usually a Magistrates Court) under section 44 of the Penalties and Sentences Act. The maximum fine a Magistrates Court may currently impose on an individual is \$12,375 (165 penalty units). The District Court maximum is \$313,125 (4,175 penalty units). There is no Supreme Court maximum.

At the same time as the court imposes a fine, the court also orders that, if the offender fails to pay the fine within the time allowed, the offender is to be imprisoned for a term calculated under section 182A(2)(a).<sup>115</sup>

If the offender is before the court when the fine is imposed, the offender must be told that s/he can immediately apply in person to the court for a fine option order (see s. 53). In this case, the application will be heard by the magistrate or judge who imposed the fine. If the offender is not before the court when the fine is imposed, the court must notify the offender of his/her right to apply for a fine option order (see s. 54). If an application for a fine option order is made after the fine was imposed, it will generally be determined by the Clerk of the Court (that is, Registrar) or the Clerk's delegate(s).

The court may make a fine option order for the offender if satisfied that:

- the offender is unable to pay the fine in accordance with the original order or, if the offender were to pay the fine in accordance with the original order, the offender or the offender's family would suffer economic hardship, and
- the offender is a suitable person to perform community service (see s. 57).

With one exception, an offender can make only one application for a fine option order. A second application may be made only if the offender can show that the first application was rejected on the basis that the offender

could afford to pay the fine and that his/her financial position has since worsened (see ss. 57 and 58).

If the date for payment of the fine has passed and the offender has not paid the fine or applied for a fine option order, the court that imposed the fine must send the offender a 'Notice to offender of failure to pay a court ordered penalty' (Form 17), together with an 'Application for a fine option order' (Form 16) (see s. 56). The Form 17 notice informs the offender that s/he 'now has four options':

- to pay the amount outstanding within 15 business days from the date of the notice; or
- to apply for a fine option order within 15 business days from the date of the notice; or
- to apply for the postponement of the issue of the warrant within 15 business days from the date of the notice; or
- to do nothing — in which case a warrant will be issued.

If the offender fails to respond to the Form 17 notice, a warrant is issued by the Clerk of the Court (or the Clerk's delegate) under section 182B.

If the offender obtains a fine option order but fails to comply with the terms of the order (for example, fails to perform community service work), an officer from the Department of Corrective Services can apply to a court for an order revoking the offender's fine option order. If the court revokes the order, it will also issue a warrant for the arrest of the offender (see ss. 74 and 78).

The warrant is executed by the police, who take the offender to a police watchhouse where s/he is given another opportunity to pay the fine or apply for a fine option order. If the offender does neither, s/he is transferred to a correctional centre where a final opportunity is given. The offender serves all or part of the default period of imprisonment.

<sup>115</sup> Under s. 182A(2)(a) the default period of imprisonment cannot exceed 14 days imprisonment for each penalty unit (a penalty unit currently equals \$75). In practice, the courts generally impose default imprisonment periods that are around four days per \$100 worth of fines.

## SETONS infringement notices

An infringement notice is served by an authorised person from an administering authority (for example, a Queensland Transport official) under section 98C of the Justices Act.

If the offender does not pay the fine or elect to have the matter dealt with by a court, a reminder notice is sent by an authorised person from the authority under section 98N.

If the offender does not then pay the fine or elect to have the matter dealt with by a court, an enforcement notice is issued by an authorised person from the authority to the SETONS clerk under section 98O.

The enforcement notice states that:

- an infringement notice was, on a specified day, served on the offender
- a reminder notice was, on a specified day, served on the offender
- at the time of issuing the enforcement notice:
  - the time for payment specified in the reminder notice has elapsed
  - the amount owing has not been paid
  - written notice that the offender requires the offence to be dealt with by a court has not been given to the authority
  - a proceeding has not been started against the offender for the offence.

The enforcement notice is registered by the SETONS clerk under section 98O and an ‘Enforcement order notice’ (Form 51) is sent by the SETONS clerk to the offender, together with:

- a notice (to be filled out by the offender) electing to have the offence dealt with by a court
- an application (to be filled out by the offender) for a fine option order (see ss. 98P and 98Q).

The enforcement order states that, if the offender fails to pay the amount owing to the SETONS clerk within a specified period, the offender will be imprisoned for a specified number of days.

The Form 51 notice informs the offender that a warrant may be issued against the offender if:

- payment is not made
- the offender does not elect, pursuant to section 98V, to have the offence dealt with by a court order
- the offender does not apply for a fine option order.

If the SETONS clerk receives a court election notice, the clerk arranges for the offence to be dealt with by a magistrate and withdraws the enforcement order.

Applications for fine option orders are made to the SETONS clerk. The clerk may make a fine option order for the offender if the clerk is satisfied that:

- the offender is unable to pay the fine in accordance with the original order or, if the offender were to pay the fine in accordance with the original order, the offender or the offender’s family would suffer economic hardship, and
- the offender is a suitable person to perform community service under a fine option order (see s. 57).

With one exception, an offender can make only one application for a fine option order. An offender is entitled to make a second application if the offender can show that the first application was rejected on the basis that the offender could afford to pay the fine and that his/her financial position has since worsened (see ss. 57 and 58).

If there is no response to the Form 51, the SETONS clerk must send the offender a ‘Notice to offender of failure to pay a court ordered penalty’ (Form 17), together with an ‘Application for a fine option order’ (Form 16) (see s. 56).

The Form 17 notice informs the offender that s/he ‘now has four options’:

- to pay the amount outstanding within 15 business days from the date of the notice; or
- to apply for a fine option order within 15 business days from the date of the notice; or
- to apply for the postponement of the issue of the warrant within 15 business days from the date of the notice; or
- to do nothing — in which case a warrant will be issued.

If the offender fails to respond to the Form 17 notice, a warrant is issued by the SETONS clerk pursuant to section 98S.

If the offender obtains a fine option order but fails to comply with the terms of the order (e.g. fails to perform community service work), an officer from the Department of Corrective Services can apply to a court (**not** the SETONS Clerk) for an order revoking the offender’s fine option order. If the court revokes the fine option order, the court will also issue a warrant for the arrest of the offender (see ss. 74 and 78).

The warrant is executed by the police, who take the offender to a police watchhouse where s/he is given another opportunity to pay the fine or apply for a fine option order. If the offender does neither, s/he is transferred to a correctional centre where a final opportunity is given. The offender serves all or part of the default period of imprisonment.



## Appendix D: Additional data

The following tables and diagrams provide supporting documentation for those in the body of the report. They are arranged according to chapters.

### Chapter 2: Setting the scene

Table D1 — Number of adult prisoners\* and population, Qld (at 30 June 1990 to 1998)

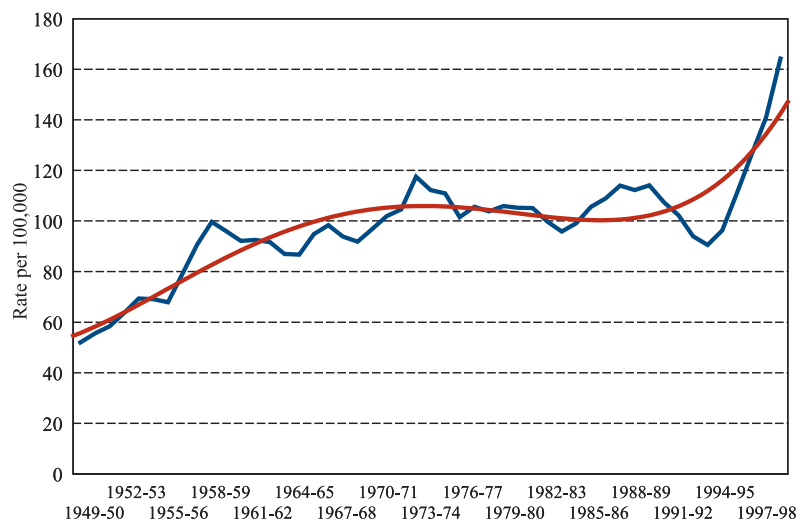
At 30 June	Adult prisoners		Adult population aged 17 years and over	
	No.	Change over previous year (%)	No.	Change over previous year (%)
1990	2,296	-3.9	2,142,795	3.0
1991	2,094	-8.8	2,195,087	2.4
1992	2,017	-3.7	2,254,424	2.7
1993	2,068	2.5	2,320,189	2.9
<b>Average annual change 1990–1993</b>	<b>-3.4</b>	<b>..</b>	<b>2.7</b>	<b>..</b>
1993	2,068	2.5	2,320,189	2.9
1994	2,491	20.5	2,383,466	2.7
1995	2,870	15.2	2,446,213	2.6
1996	3,528	22.9	2,505,647	2.4
1997	3,839	8.8	2,558,992	2.1
1998	4,466	16.3	2,607,613	1.9
<b>Average annual change 1993–1998</b>	<b>16.6</b>	<b>..</b>	<b>2.4</b>	<b>..</b>

Source: *Prisoners in Australia* and *Population by Age and Sex*, ABS.

Note: \* Excludes WORC and other community custody.

.. Not applicable.

Figure D1 — Rate of imprisonment\* per 100,000 population, Qld (1949–50 to 1997–98)

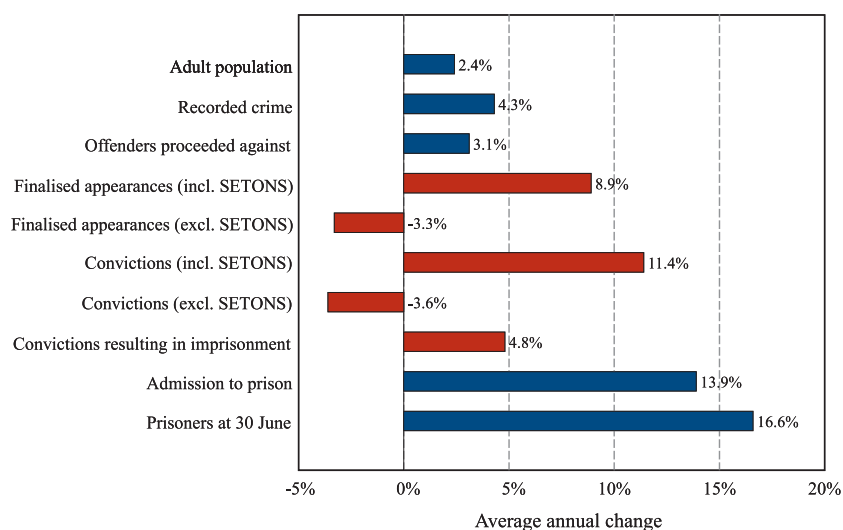


Source: Department of Corrective Services unpublished data.

Note: \* Prison custody excluding WORC and other community custody.

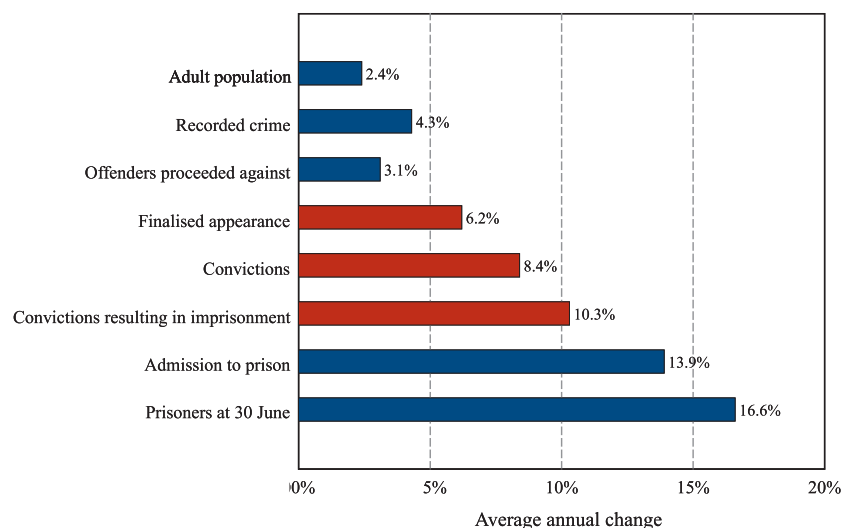


Figure D2 — Average annual growth rates across the criminal justice system with lower courts highlighted in red, Qld (1992–93 to 1997–98)



Source: Population: *Population by Age and Sex*, ABS.  
 Recorded crime and offenders: QPS unpublished data.  
 Appearances and convictions: ABS unpublished data and JAG unpublished data.  
 Admissions and prisoners: Department of Corrective Services unpublished data.

Figure D3 — Average annual growth rates across the criminal justice system with higher courts highlighted in red, Qld (1992–93 to 1997–98)



Source: Population: *Population by Age and Sex*, ABS.  
 Recorded crime and offenders: QPS unpublished data.  
 Appearances and convictions: ABS unpublished data and JAG unpublished data.  
 Admissions and prisoners: Department of Corrective Services unpublished data.

## Chapter 3: Recorded crime and police activities

Table D2 — Number of offences reported to or cleared by police, Qld (1989–90, 1992–93 and 1997–98)

Particulars	1989–90	1992–93	Av. annual change 1989–90 to 1992–93 (%)	1997–98	Av. annual change 1992–93 to 1997–98 (%)
<b>All offences reported to police</b>	<b>252,659</b>	<b>313,398</b>	<b>7.4</b>	<b>387,450</b>	<b>4.3</b>
Person and property offences	193,619	248,632	8.7	293,630	3.4
Against the person	15,430	22,378	13.2	28,249	4.8
Against property	178,189	226,254	8.3	265,381	3.2
Other offences	59,040	64,766	3.1	93,820	7.7
<b>Person and property offences cleared</b>	<b>58,100</b>	<b>67,301</b>	<b>5.0</b>	<b>93,685</b>	<b>6.8</b>
Against the person	10,748	14,988	11.7	20,098	6.0
Against property	47,352	52,313	3.4	73,587	7.1

Source: QPS Statistical Reviews 1990–91 to 1997–98.

Table D3 — Clearance rates for offences against the person and property offences, Qld (1989–90 to 1997–98)

Offence Type	1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98
Homicide	97.6	97.4	96.7	93.3	95.6	116.0	125.5	100.8	95.5
Sexual assault	78.1	75.6	68.5	71.7	71.3	82.8	71.2	80.7	77.7
Other assault	70.4	69.4	70.6	68.8	65.8	74.2	77.7	72.0	72.8
Robbery and extortion	32.1	29.1	35.2	37.2	33.0	38.7	36.6	38.4	40.4
<b>Total personal</b>	<b>69.7</b>	<b>67.7</b>	<b>67.6</b>	<b>67.0</b>	<b>64.6</b>	<b>73.0</b>	<b>73.7</b>	<b>71.3</b>	<b>71.1</b>
Break and enter	16.0	13.0	13.5	14.0	13.5	17.4	14.7	16.3	16.5
Other steal	25.4	22.4	22.3	22.2	21.9	24.6	24.0	22.8	23.2
Property damage	23.6	18.7	18.9	17.3	18.6	19.9	20.5	21.8	20.7
Fraud	69.1	69.3	69.8	75.8	62.0	90.2	79.8	77.0	83.2
Other	73.6	65.5	90.2	85.5	79.2	110.4	114.5	97.2	97.9
<b>Total property</b>	<b>26.6</b>	<b>22.7</b>	<b>22.1</b>	<b>23.1</b>	<b>21.5</b>	<b>26.0</b>	<b>25.2</b>	<b>26.6</b>	<b>27.7</b>
<b>Total</b>	<b>30.0</b>	<b>26.0</b>	<b>25.8</b>	<b>27.1</b>	<b>25.6</b>	<b>30.4</b>	<b>29.8</b>	<b>30.8</b>	<b>31.9</b>

Source: QPS Statistical Reviews 1990–91 to 1997–98.

Note: Clearance rates are the number of matters cleared as a proportion of the number of matters reported. Rates may be greater than 100 per cent since 'Cleared' offences relate to those cleared within the reporting year. The offence may have been reported in the same year, or reported previously.

## Chapter 4: Courts and sentencing

Table D4 — Selected court appearances: average annual change, Qld (1992–93 to 1997–98)

	Lower court		Higher court (%)	Total higher and lower court	
	Incl. SETONS (%)	Excl. SETONS (%)		Incl. SETONS (%)	Excl. SETONS (%)
Appearances	8.9	–3.3	6.2	8.8	–2.9
Charges	9.4	2.1	15.0	9.8	3.2
Convictions	11.4	–3.6	8.4	11.3	–3.2
Custodial sentences (convictions resulting in)	4.8		10.3	6.9	

Source: ABS unpublished data for 1992–93; JAG unpublished data for 1997–98.

Table D5 — Selected lower court indicators,\* Qld (1989–90, 1992–93 and 1997–98)

Particulars	1989–90	1992–93	Av. annual change 1989–90 to 1992–93 %	1997–98	Av. annual change 1992–93 to 1997–98 %
Total appearances (incl. SETONS)	213,302	168,300	–7.6	258,006	8.9
Total appearances (excl. SETONS)	213,302	166,274	–8.0	140,825	–3.3
Offences against the person	6,331	7,733	6.9	9,633	4.5
Offences against property	15,513	17,247	3.6	16,485	–0.9
Driving/traffic (incl. SETONS)	128,066	91,650	–10.6	168,614	13.0
Driving/traffic (excl. SETONS)	128,066	89,624	–11.2	61,631	–7.2
Other (incl. SETONS)	63,392	51,670	–6.6	63,272	4.1
Other (excl. SETONS)	63,392	51,670	–6.6	53,076	0.5
Total convictions (incl. SETONS)	165,301	130,759	–7.5	224,420	11.4
Total convictions (excl. SETONS)	165,301	128,733	–8.0	107,243	–3.6
Appearances resulting in imprisonment†	2,841	2,994	1.8	3,782	4.8
Offences against the person	278	358	8.8	433	3.9
Offences against property	1,093	1,077	–0.5	1,095	0.3
Driving/traffic (excl. SETONS)	690	643	–2.3	567	–2.5
Other (excl. SETONS)	780	916	5.5	1,687	13.0
Total charges (incl. SETONS)	279,425	251,784	–3.4	394,779	9.4
Total charges (excl. SETONS)	279,425	249,758	–3.7	277,598	2.1

Source: ABS unpublished data for 1989–90 and 1992–93; JAG unpublished data for 1997–98.

Notes: \* The shaded cells provide court data excluding SETONS, while the unshaded cells show data including SETONS.

† Excluding fully suspended sentences or ‘orders of suspended imprisonment’ in 1997–98, a sentencing option that became available in November 1992. It was not possible to exclude fully suspended sentences from the 1992–93 figures.

As the SETONS court was not established till 1992, there are no SETONS data for 1989–90.

Table D6 — Selected higher court indicators, Qld (1989–90, 1992–93 and 1997–98)

Particulars	1989–90	1992–93	Av. annual change 1989–90 to 1992–93 %	1997–98	Av. annual change 1992–93 to 1997–98 %
Total appearances	4,343	5,228	6.4	7,062	6.2
Offences against the person	1,577	1,798	4.5	2,481	6.7
Offences against property	2,104	2,538	6.5	3,057	3.8
Driving/traffic	70	35	–20.6	98	22.9
Other	592	857	13.1	1,426	10.7
Total convictions	3,213	3,815	5.9	5,698	8.4
Appearances resulting in imprisonment*	1,332	1,679	8.0	2,736	10.3
Offences against the person	574	682	5.9	1,097	10.0
Offences against property	524	666	8.3	983	8.1
Driving/traffic	13	14	2.5	48	27.9
Other	221	317	12.8	608	13.9
Total charges	15,309	17,739	5.0	35,692	15.0

Source: ABS unpublished data for 1989–90 and 1992–93; JAG unpublished data for 1997–98.

Notes: \* Excluding fully suspended sentences or ‘orders of suspended imprisonment’ in 1997–98, a sentencing option that became available in November 1992. It was not possible to exclude fully suspended sentences from the 1992–93 figures.

Table D7 — Lower court convictions resulting in imprisonment: offence category by number, proportion of total and imprisonment rate, Qld (1989–90 to 1997–98)

Particulars		1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98
Assault etc.	No.	278	300	356	358	425	521	524	520	433
	%	9.8	10.6	11.2	12.0	13.7	15.9	14.8	14.3	11.4
	Rate	7.7	7.8	9.1	7.3	8.1	8.6	9.0	8.8	7.9
Fraud and misappropriation	No.	170	144	135	151	141	134	156	184	155
	%	6.0	5.1	4.2	5.0	4.6	4.1	4.4	5.1	4.1
	Rate	8.8	8.1	6.8	6.7	7.1	4.7	5.6	6.6	7.5
Theft, breaking and entering etc.	No.	785	782	914	790	725	664	716	714	790
	%	27.6	27.6	28.6	26.4	23.4	20.2	20.2	19.6	20.9
	Rate	9.4	8.8	10.4	8.9	8.9	8.4	9.0	9.0	10.1
Property damage	No.	138	112	144	136	147	131	128	122	150
	%	4.9	4.0	4.5	4.5	4.8	4.0	3.6	3.4	4.0
	Rate	7.0	5.8	7.2	5.8	6.6	5.7	6.0	5.6	6.8
Driving/traffic etc.	No.	690	651	688	643	595	620	644	589	567
	%	24.3	23.0	21.6	21.5	19.2	18.9	18.1	16.2	15.0
	Rate	0.6	0.6	0.7	0.8	1.0	1.0	1.1	1.0	1.0
Other	No.	780	846	955	916	1059	1217	1382	1511	1687
	%	27.5	29.8	29.9	30.6	34.2	37.0	38.9	41.5	44.6
	Rate	2.6	3.2	4.1	3.3	3.5	4.0	4.4	4.4	5.0
Total	No.	2,841	2,835	3,192	2,994	3,092	3,287	3,550	3,640	3,782
	%	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Rate	1.7	1.9	2.3	2.3	2.9	3.0	3.3	3.3	3.5

Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Table D8 — Lower court convictions resulting in imprisonment for 'other' offences: offence by number, proportion of total and imprisonment rate, Qld (1989–90 to 1997–98)

Particulars		1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98
Drug offences	No.	158	156	218	201	214	253	307	359	381
	%	5.6	5.5	6.8	6.7	6.9	7.7	8.6	9.9	10.1
	Rate	2.9	2.4	2.4	1.8	1.9	2.1	2.4	2.6	2.7
Weapons offences	No.	32	28	30	32	27	30	35	24	30
	%	1.1	1.0	0.9	1.1	0.9	0.9	1.0	0.7	0.8
	Rate	6.0	5.8	4.9	3.5	3.0	3.6	4.0	2.7	2.7
Enforcement of order offences	No.	490	584	649	625	758	879	969	1,041	1,208
	%	17.2	20.6	20.3	20.9	24.5	26.7	27.3	28.6	31.9
	Rate	24.5	23.5	24.0	19.0	16.7	15.9	15.6	15.0	16.6
Other	No.	100	78	58	58	60	55	70	83	68
	%	3.5	2.8	1.8	1.9	1.9	1.7	2.0	2.3	1.8
	Rate	0.4	0.5	0.5	0.5	0.5	0.4	0.6	0.7	0.6
Total	No.	780	846	955	916	1,059	1,217	1,381	1,508	1,687
	%	27.5	29.8	29.9	30.6	34.2	37.0	38.9	41.4	44.6
	Rate	2.6	3.2	4.1	3.3	3.5	4.0	4.4	4.4	5.0

Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Table D9 — Higher court convictions resulting in imprisonment: offence category by number, proportion of total and imprisonment rate, Qld (1989–90 to 1997–98)

Particulars		1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98
Homicide etc.	No.	79	43	65	51	53	81	62	55	85
	%	5.9	3.4	4.1	3.0	2.4	3.8	2.7	2.1	3.1
	Rate	83.2	68.3	80.2	77.3	84.1	86.2	83.8	82.1	84.2
Assault etc.	No.	384	331	400	455	592	521	563	652	771
	%	28.8	26.5	25.3	27.1	26.6	24.4	24.3	25.3	28.2
	Rate	43.3	41.6	42.2	48.9	59.5	48.3	51.4	56.7	55.1
Robbery and extortion	No.	111	124	178	176	240	211	242	217	241
	%	8.3	9.9	11.2	10.5	10.8	9.9	10.4	8.4	8.8
	Rate	73.0	61.7	67.9	66.7	74.8	72.0	72.9	69.6	77.0
Fraud and misappropriation	No.	94	106	94	117	182	153	186	205	188
	%	7.1	8.5	5.9	7.0	8.2	7.2	8.0	8.0	6.9
	Rate	33.1	37.5	31.2	35.7	48.7	33.2	34.4	36.1	37.5
Theft, breaking and entering etc.	No.	394	330	469	493	658	636	704	781	731
	%	29.6	26.4	29.6	29.4	29.5	29.8	30.4	30.4	26.7
	Rate	35.9	31.6	36.7	37.3	43.9	37.4	39.6	38.3	41.7
Property damage	No.	36	45	36	56	57	66	63	60	64
	%	2.7	3.6	2.3	3.3	2.6	3.1	2.7	2.3	2.3
	Rate	22.0	31.7	21.1	34.8	35.0	27.8	26.9	25.5	28.4
Driving/traffic etc.	No.	13	7	6	14	16	21	29	38	48
	%	1.0	0.6	0.4	0.8	0.7	1.0	1.3	1.5	1.8
	Rate	24.5	25.9	40.0	45.2	61.5	36.8	58.0	54.3	56.5
Other	No.	221	265	336	317	429	445	470	565	608
	%	16.6	21.2	21.2	18.9	19.3	20.9	20.3	22.0	22.2
	Rate	45.8	46.2	44.6	44.5	50.8	49.1	47.4	48.6	46.1
Total	No.	1,332	1,251	1,584	1,679	2,227	2,134	2,319	2,573	2,736
	%	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Rate	41.5	40.0	41.6	44.0	52.0	44.2	45.5	45.9	48.0

Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Table D10 — Higher court convictions resulting in imprisonment for 'other' offences: offence by number, proportion of total and imprisonment rate, Qld (1989–90 to 1997–98)

Particulars		1989–90	1990–91	1991–92	1992–93	1993–94	1994–95	1995–96	1996–97	1997–98
Drug offences	No.	130	145	171	168	249	223	234	288	259
	%	9.8	11.6	10.8	10.0	11.2	10.4	10.1	11.2	9.5
	Rate	51.2	49.8	49.9	50.8	60.3	47.6	49.2	51.2	42.3
Weapons offences	No.	3	3	1	2	3	5	10	7	3
	%	0.2	0.2	0.1	0.1	0.1	0.2	0.4	0.3	0.1
	Rate	25.0	60.0	20.0	20.0	13.6	38.5	40.0	35.0	30.0
Enforcement of order offences	No.	82	117	152	144	169	205	211	264	332
	%	6.2	9.4	9.6	8.6	7.6	9.6	9.1	10.3	12.1
	Rate	46.6	43.8	41.8	42.9	43.8	53.9	50.7	47.8	50.4
Other	No.	6	0	12	3	8	12	15	6	14
	%	0.5	0	0.8	0.2	0.4	0.6	0.6	0.2	0.5
	Rate	14.6	0	28.6	8.3	34.8	26.1	20.3	22.2	37.8
Total	No.	221	265	336	317	429	445	470	565	608
	%	16.6	21.2	21.2	18.9	19.3	20.9	20.3	22.0	22.2
	Rate	45.8	46.2	44.6	44.5	50.8	49.1	47.4	48.6	46.1

Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Table D11 — Lower court convictions resulting in imprisonment by duration, Qld (1994–95 to 1997–98)

	Under 12 months	1 yr and under 2 yrs	2 yrs and under 5 yrs	5 yrs and under 10 yrs	10 yrs and over	Total
1994–95	3,056	209	22	–	–	3,287
1995–96	3,314	220	16	–	–	3,550
1996–97	3,410	214	16	–	–	3,640
1997–98	3,441	299	42	–	–	3,782
Average annual change (%)	4.0	12.7	24.1	–	–	4.8

Source: JAG unpublished data.

Table D12 — Higher court convictions resulting in imprisonment by duration, Qld (1994–95 to 1997–98)

	Under 12 months	1 yr and under 2 yrs	2 yrs and under 5 yrs	5 yrs and under 10 yrs	10 yrs and over	Total
1994–95	632	459	672	282	89	2,134
1995–96	707	525	763	255	69	2,319
1996–97	901	600	729	258	85	2,573
1997–98	936	554	827	321	98	2,736
Average annual change (%)	14.0	6.5	7.2	4.4	3.3	8.6

Source: JAG unpublished data.



Table D13 — Outcome of court conviction,\* Qld (1989–90 to 1997–98)

Year	Imprisoned† %	Community service %	Probation %	Fine/restitution %	Other‡ %
1989–90	6.9	8.3	4.8	74.2	5.7
1990–91	7.3	12.1	6.1	69.1	5.4
1991–92	9.2	17.2	7.3	61.6	4.7
1992–93	8.7	17.1	6.2	64.0	4.2
1993–94	11.3	11.9	4.3	68.4	4.1
1994–95	10.8	6.0	4.2	72.4	6.7
1995–96	11.7	5.6	4.2	72.7	5.9
1996–97	12.1	5.0	3.7	73.9	5.4
1997–98	14.1	5.3	3.7	72.6	4.4

Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–5 to 1997–98.

Notes: \* Excluding lower court appearances for driving/traffic matters and juveniles in higher courts.

† Including imprisonment, suspended imprisonment and intensive correction orders.

‡ Including good behaviour orders.

Table D14 — Criminal cases finalised,\* jurisdiction by length, Qld (1994–95 to 1997–98)

Jurisdiction by length	1994–95		1995–96		1996–97		1997–98	
	No.	%	No.	%	No.	%	No.	%
<b>Magistrates Courts†</b>	189,257	100.0	180,146	100.0	169,119	100.0	164,928	100.0
3 months or less	176,920	93.5	168,486	93.5	150,799	89.2	148,587	90.1
More than 3 and up to 6 months	7,942	4.2	7,743	4.3	7,609	4.5	8,389	5.1
More than 6 months	4,395	2.3	3,917	2.2	10,711	6.3	7,952	4.8
<b>SETONS Court</b>	44,248	100.0	63,535	100.0	76,127	100.0	139,882	100.0
3 months or less	44,248	100.0	63,535	100.0	72,908	95.8	139,263	99.6
More than 3 and up to 6 months	–	–	–	–	573	0.8	60	–
More than 6 months	–	–	–	–	2,646	3.5	559	0.4
<b>District Courts</b>	6,468	100.0	7,255	100.0	7,503	100.0	6,493	100.0
3 months or less	3,624	56.0	4,472	61.6	4,973	66.3	4,196	64.6
More than 3 and up to 6 months	1,244	19.2	1,487	20.5	1,414	18.8	1,175	18.1
More than 6 months	1,600	24.7	1,296	17.9	1,116	14.9	1,122	17.3
<b>Supreme Courts</b>	752	100.0	688	100.0	819	100.0	811	100.0
3 months or less	433	57.6	451	65.6	489	59.7	517	63.7
More than 3 and up to 6 months	169	22.5	115	16.7	193	23.6	155	19.1
More than 6 months	150	19.9	122	17.7	137	16.7	139	17.1

Source: JAG unpublished data.

Notes: \* Excludes appeal cases. A case is finalised once a decision is made on the matters before the court.

† Data were extrapolated based on the 11 busiest courts which are connected to the electronic Case Register System. SETONS, which is considered a Magistrates Court, is shown separately.

– Nil or rounded to zero.

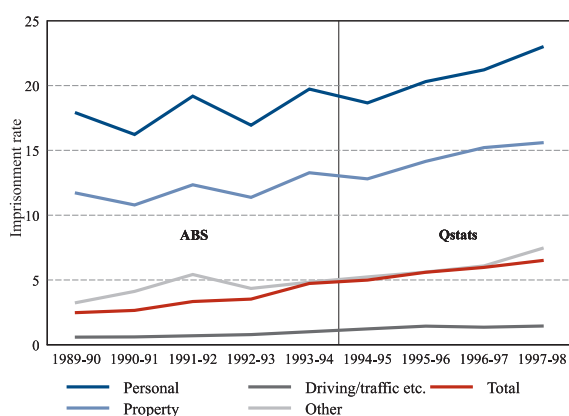
Table D15 — Department of Corrective Services  
warrant prisoners held in selected police  
watchhouses, Qld (Jan. 94 to Oct. 98)

Length of time in watchhouse	Jan. 94 to Feb. 96		Mar. 96 to Oct. 98		Total (Jan. 94 to Oct. 98)	
	No.	%	No.	%	No.	%
1 week or under	926	76.5	1,502	96.5	2,428	87.7
1 day	41	3.4	59	3.8	100	3.6
2 days	162	13.4	384	24.7	546	19.7
3 days	205	16.9	413	26.5	618	22.3
4 days	208	17.2	327	21.0	535	19.3
5 days	133	11.0	168	10.8	301	10.9
6 days	104	8.6	106	6.8	210	7.6
7 days	73	6.0	45	2.9	118	4.3
More than 1 week	284	23.5	55	3.5	339	12.3
<b>Total</b>	<b>1,210</b>	<b>100.0</b>	<b>1,557</b>	<b>100.0</b>	<b>2,767</b>	<b>100.0</b>
Av. no. days	6.0	..	3.7	..	4.7	..

Source: QPS unpublished watchhouse returns.

Note: .. Not applicable

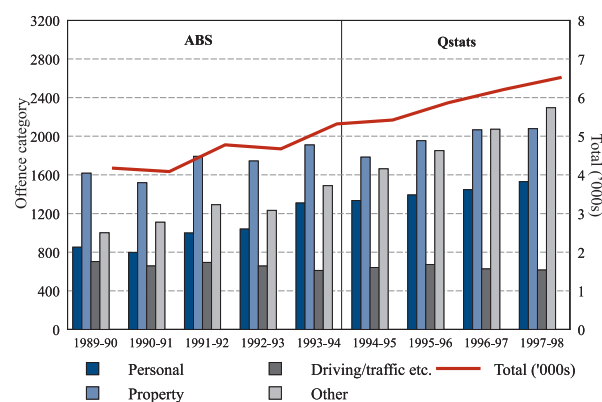
Figure D5 — Imprisonment rate\* by offence category,  
Qld courts (1989–90 to 1997–98)



Source: ABS unpublished data to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

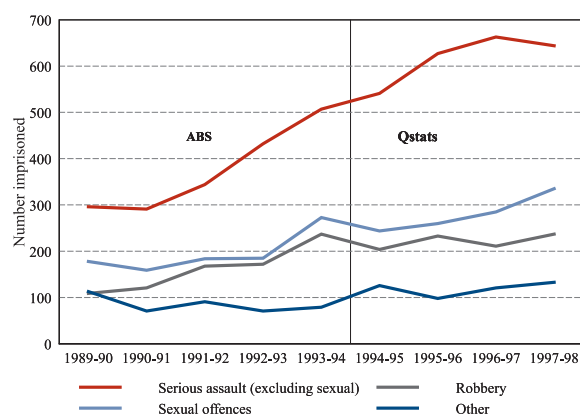
Note: \* SETONS are excluded as these matters cannot result in imprisonment in the first instance.

Figure D4 — Convictions resulting in imprisonment by  
offence category, Qld courts (1989–90 to 1997–98)



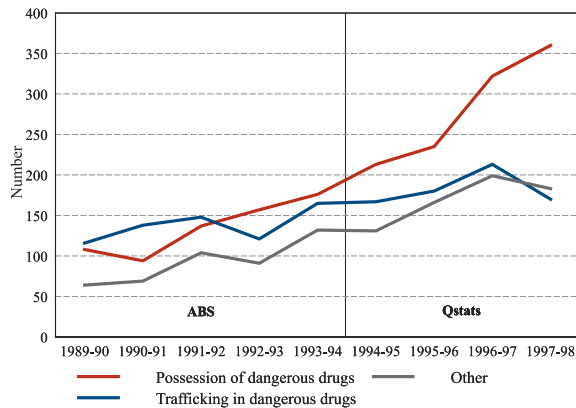
Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Figure D6 — Convictions resulting in imprisonment  
for offences involving serious personal violence, by  
offence category, Qld courts (1989–90 to 1997–98)



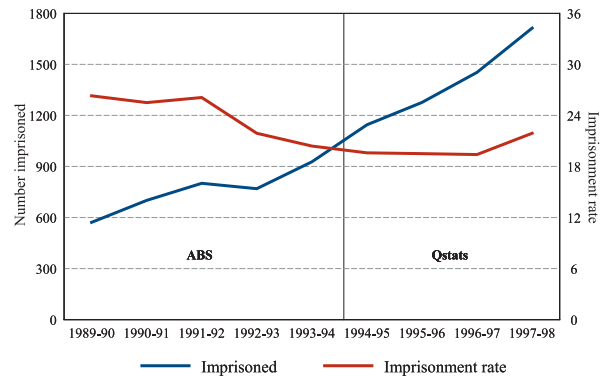
Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Figure D7 — Court convictions resulting in imprisonment for drug offences, Qld (1989–90 to 1997–98)



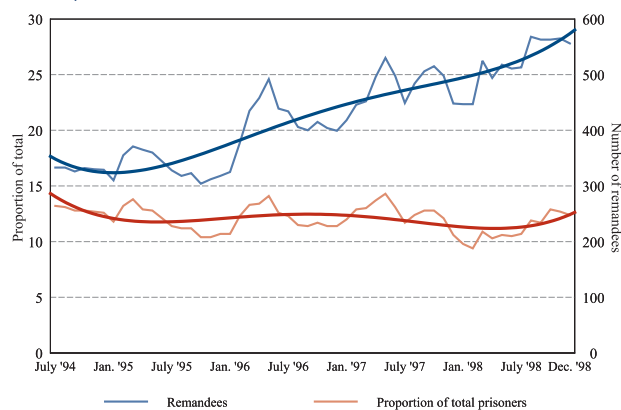
Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Figure D8 — Court convictions resulting in imprisonment for enforcement of order offences, Qld (1989–90 to 1997–98)



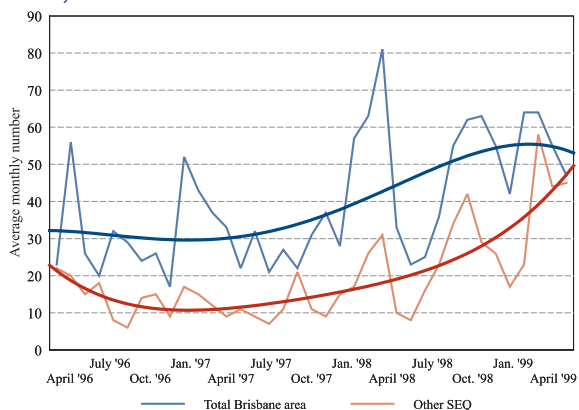
Source: ABS unpublished data for 1989–90 to 1993–94; JAG unpublished data for 1994–95 to 1997–98.

Figure D9 — Unsented prisoners as a proportion of all prisoners, Qld (July 1994 to Dec. 1998)



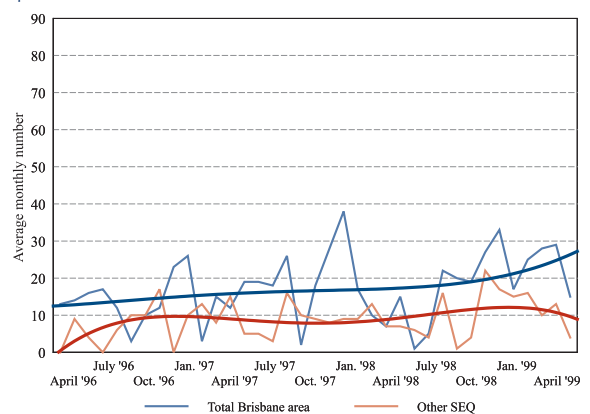
Source: National Correctional Statistics: Prisons, Corrective Services Australia.

Figure D10 — Average number of Department of Corrective Services' prisoners detained in selected watchhouses each month, Qld (April 1996 to March 1999)



Source: QPS unpublished watchhouse returns.

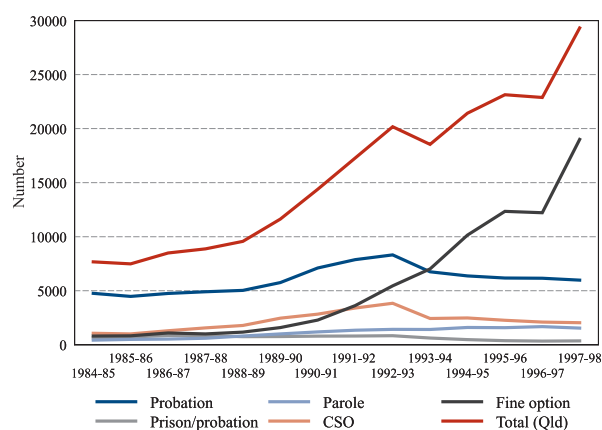
Figure D11 — Average number of QPS prisoners detained in selected watchhouses each month, Qld (April 1996 to March 1999)



Source: QPS unpublished watchhouse returns.

## Chapter 5: Use of community-based orders

Figure D12 — Offenders with selected community-based orders,\* Qld (at 30 June 1985 to 1998)



Source: Law & Order Catalogue No. 4502.3 (1986–87 to 1988–89)  
ABS, QCSC annual reports from 1989–90 onwards.

Note: \* Includes an estimate of the number on release to work/  
LOA for 30 June 1994 to 1997 (based on earlier and later  
years' data).

## Chapter 6: Fine defaulters in prison

Table D16 — Number of warrants by type and outcome, Qld (Dec. quarter 1996 to March quarter 1999)

Particulars	1996 Dec.	1997 Mar. Jun. Sep. Dec.	1998 Mar. Jun. Sep. Dec.	1999 Mar.
<b>Warrants of commitment</b>				
Executed	9,351	7,597 6,926 8,812 10,405	14,566 13,671 18,742 29,416	22,227
Satisfied	5,025	4,752 4,272 4,733 5,272	6,588 7,997 10,342 13,830	10,957
<b>Total warrants</b>				
Executed	12,460	11,009 10,245 13,206 14,976	18,896 17,528 22,914 33,766	26,991
Satisfied	6,314	6,070 5,294 6,457 7,100	8,109 9,224 11,520 14,940	12,169
Recalled	8,192	4,386 3,747 3,901 3,367	3,222 3,318 3,899 3,472	2,746
<b>Proportion of those executed or satisfied which were executed (%)</b>				
Commitment	65.0	61.5 61.9 65.1 66.4	68.9 63.1 64.4 68.0	67.0
Other	70.7	72.1 76.5 71.8 71.4	74.0 75.9 78.0 79.7	79.7

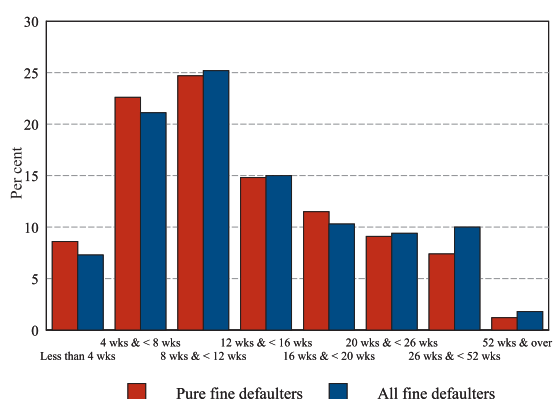
Source: QPS unpublished data.

Table D17 — Admissions involving pure fine defaulters and discharges by way of either a fine option order or payment of a fine/recognisance, Qld (1995 to 1998)

Period	Admissions	Discharges	Discharges as % of admissions	Discharges as % of all discharges
1995	1,632	420	25.7	6.9
1996	2,189	1,260	57.6	16.5
1997	1,860	962	51.7	13.0
1998	3,361	1,092	32.5	11.1

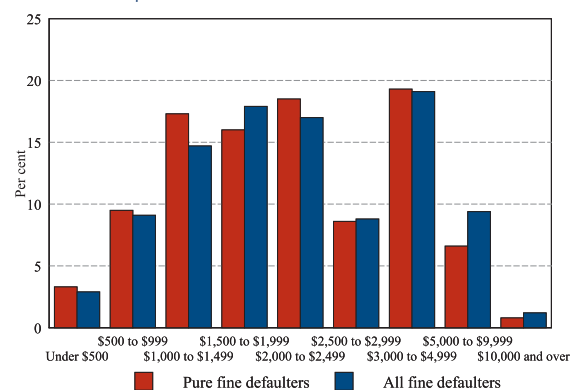
Source: Department of Corrective Services unpublished data.

Figure D13 — Fine defaulters by maximum time to serve (cumulative total), Qld (at 3 March 1999)



Source: Department of Corrective Services unpublished data.

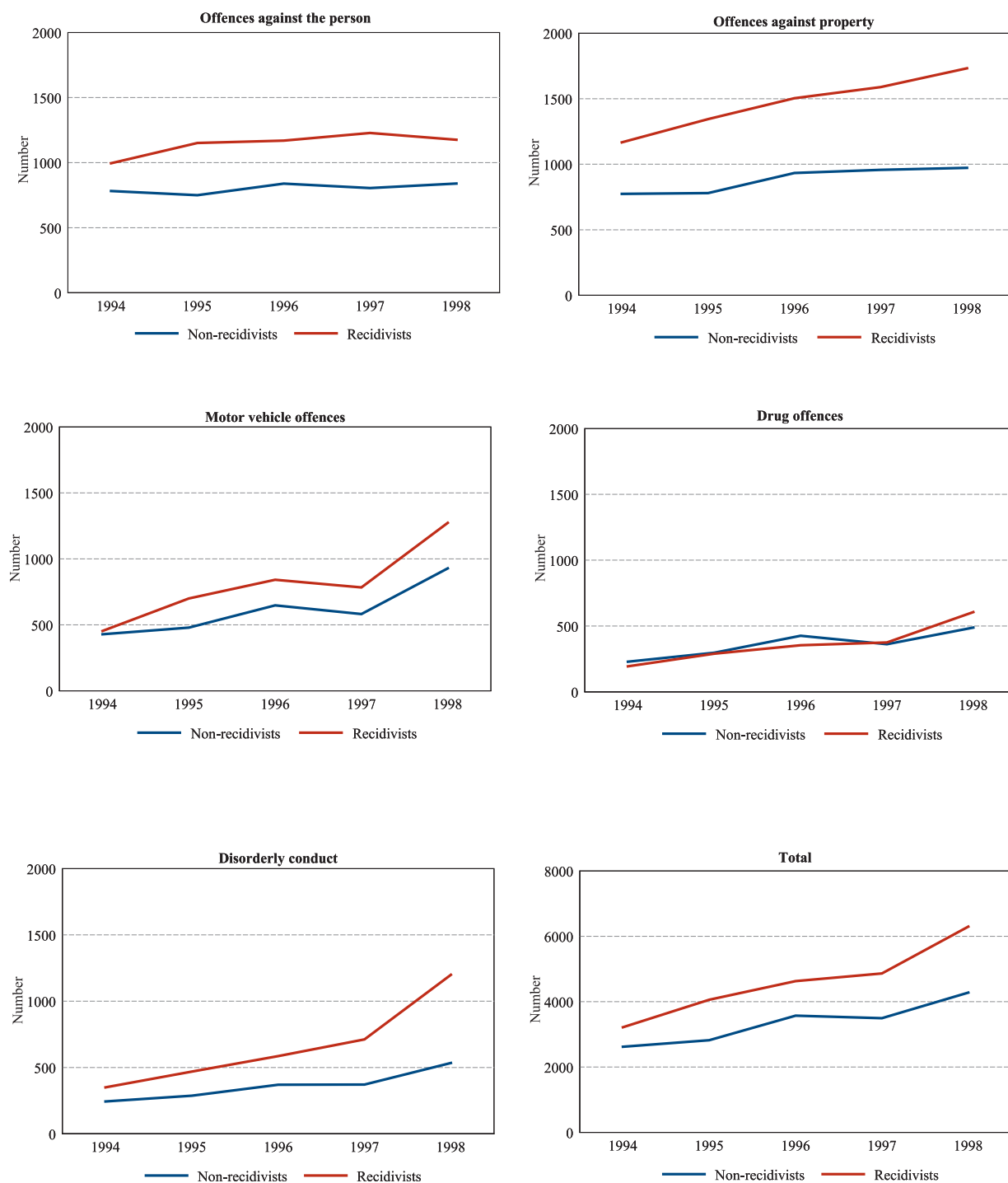
Figure D14 — Total amount of fines defaulted on by fine default prisoners, Qld (at 3 March 1999)



Source: Department of Corrective Services unpublished data.

## Chapter 7: Recidivism

Figure D15 — Admissions to prison by whether previously imprisoned by selected offence type at this admission, Qld (1994 to 1998)



Source: Department of Corrective Services unpublished data.



## Chapter 8: Impact of the corrections system

Table D18 — Selected data relating to admissions, Qld (1993 to 1998)

Particulars	1993 No.	1994 No.	1995 No.	1996 No.	1997 No.	1998 No.	Average annual change (%)
<b>Adult population at 30 June</b>							
Estimated resident population aged 17 years or over ('000s)	2,320	2,383	2,446	2,506	2,559	2,608	2.4
<b>Police activities (financial year)</b>							
Recorded crime ('000s)	313	334	339	365	385	387	4.3
No. of offenders proceeded against* by police ('000s)	134	135	139	158	139	156	3.1
<b>Court activities (financial year)</b>							
Total finalised appearances ('000s)	174	193	198	211	219	265	8.8
Number of convictions ('000s)	135	158	160	177	187	230	11.3
Number of SETONS convictions ('000s)	..	46	44	64	72	117	26.3
Number of convictions resulting in imprisonment	4,673	5,319	5,419	5,868	6,213	6,518	6.9
<b>Admissions (calendar year)</b>							
Number of admissions during year	5,513	5,841	6,879	8,198	8,355	10,573	13.9
Number of admissions where the offender has previously been imprisoned	n.a.	3,219	4,058	4,628	4,863	6,296	18.3
Number of admissions by pure fine defaulters	n.a.	n.a.	1,632	2,189	1,860	3,361	27.2
<b>Number of prisoners at 30 June</b>	<b>2,068</b>	<b>2,491</b>	<b>2,870</b>	<b>3,528</b>	<b>3,839</b>	<b>4,466</b>	<b>16.6</b>

Source: *Population by Age and Sex*, ABS; QPS published and unpublished data; ABS, JAG and Department of Corrective Services unpublished data.

Notes: \* QPS data are not a count of individuals; they could be said to be more a count of charges.

.. Not applicable.

n.a. Not available.

Table D19 — Admissions to and discharges from prison, Qld (1993 to 1998)

Year	Admissions		Discharges		Difference between admissions and discharges
	No.	Change over previous year (%)	No.	Change over previous year (%)	
1993	5,513	..	5,168	..	345
1994	5,841	5.9	5,197	0.6	644
1995	6,879	17.8	6,127	17.9	752
1996	8,198	19.2	7,626	24.5	572
1997	8,355	1.9	7,403	-2.9	952
1998	10,573	26.5	9,805	32.4	768

Source: Department of Corrective Services unpublished data.

Note: .. Not applicable.

Table D20 — Adult offenders sentenced to imprisonment:\* selected offence type by duration of sentence, Qld (1997–98)

Offence type	Under 1 year	1 year and under 2 yrs	2 years and under 5 yrs	5 years and over (incl. life)	Total	Median duration (months)
Homicide	6	6	11	37	60	114
Major assault	509	118	116	22	765	6
Sexual assault — rape	1	—	18	43	62	84
Sexual assault — other†	66	67	75	45	253	18
Other violation of persons	40	19	12	2	73	9
Robbery	27	37	79	83	226	47

Source: *Imprisonment in Sentencing*, Government Statistician's Office, 1999.

Note: \* Includes intensive correction orders, suspended sentences and imprisonment.

† Other sexual offences as described in the Glossary.

— Nil or rounded to zero

Table D21 — Sentenced prisoners by expected time to serve, Qld (at 30 June 1990 to 1998)

Year	Under 1 year	1 year and under 5 years	5 years and over	Total*	Calculated median sentence†	Published mean sentence
1989	783	897	492	2,183	22.3	40.9
1990	736	826	530	2,094	24.0	41.3
1991	621	731	339	1,884	28.2	35.7
1992	489	884	476	1,849	31.1	46.3
1993	428	893	488	1,809	35.7	46.6
Gross change 1989–1993 (%)	–45.3	–0.4	–0.8	–17.1	65.4	13.9
Average annual change (%)	–14.0	–0.1	–0.2	–4.6	13.4	3.3
1993	428	893	488	1,809	35.7	46.6
1994	556	1,082	499	2,165	29.9	33.2
1995	698	855	983	2,538	37.5	50.8
1996	1,189	765	1,120	3,088	22.4	44.3
1997	1,069	852	1,460	3,386	46.0	54.7
1998	1,307	1,728	872	3,908	24.5	32.9
Gross change 1993 to 1998 (%)	205.4	93.5	78.7	116.0	–31.1	–29.4
Average annual change (%)	25.0	14.1	12.3	16.7	–7.2	–6.7

Source: *Australian Prisoners*, AIC and *Prisoners in Australia*, ABS.

Notes: \* Including those where the expected time to serve is unknown and which are excluded elsewhere in the table.

† Calculated using the formula  $[Me = L + ((n/2 - C)/f) * i]$ . The median figures differ from those published in a number of the years as only aggregate information was available for this exercise. Access to finer level data will alter the median figure.

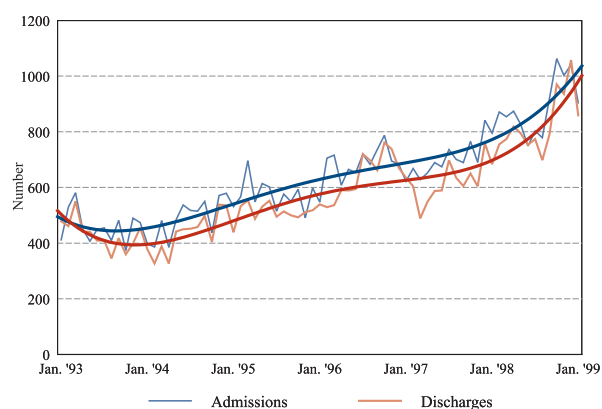
Table D22 — Average number of incidents per month by type in secure prisons, Qld (1996–97 and 1997–98)

Type of incident	1996–97	1997–98	Proportional increase (%)
Assault/death	1.4	6.4	357.1
Damage property	29.5	30.0	1.7
Possess drugs/prohibited article	4.4	6.4	45.5
Escape	12.2	27.8	127.9
Attempted suicide/self-mutilation	19.4	22.1	13.9
Other*	27.8	66.6	139.6
<b>Total</b>	<b>94.7</b>	<b>159.3</b>	<b>68.2</b>
<b>No. prisoners at 30 June</b>	<b>3,839</b>	<b>4,466</b>	<b>16.3</b>

Source: Department of Corrective Services unpublished data.

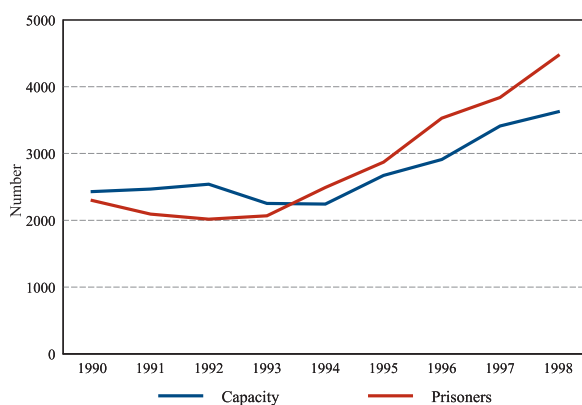
Notes: \* Including major disturbances, threats, offensive behaviour, hunger strikes.

Figure D16 — Admissions to and discharges from Qld prisons (Jan. 1993 to Jan. 1999)



Source: Department of Corrective Services unpublished data.

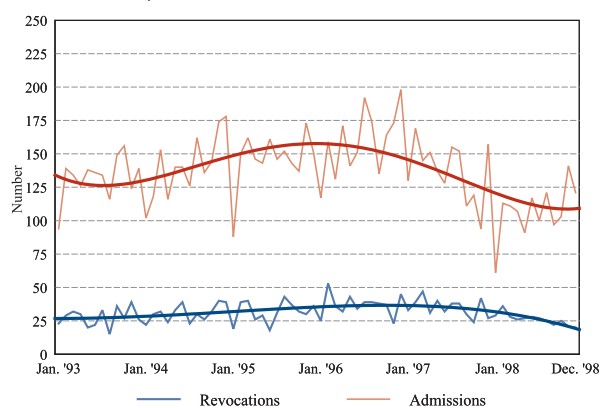
Figure D17 — Number of prisoners and prison capacity, Qld (at 30 June 1990 to 1998)



Source: Department of Corrective Services unpublished data and QCSC annual reports from 1989–90 to 1997–98.

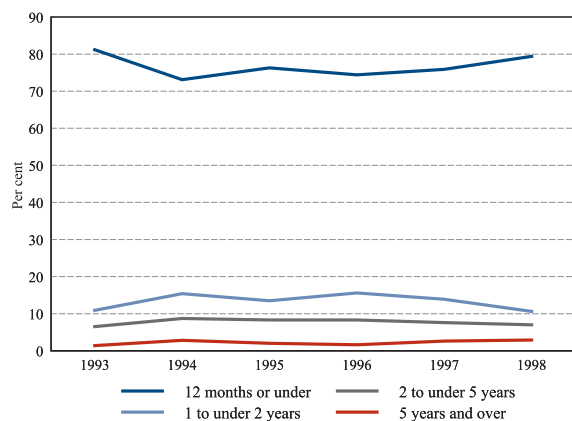
Note: The (now) Arthur Gorrie Correctional Centre with a capacity of 380 opened in June 1992, shortly before the decommissioning of the Brisbane Male (Boggo Road) centre in October, thus there were many more beds available at 30 June than shortly after. Boggo Road had capacity for 380 but was accommodating only 250, the figure used in this year.

Figure D18 — Admissions to and revocations of parole or home detention by month, Qld (Jan. 1993 to Dec. 1998)



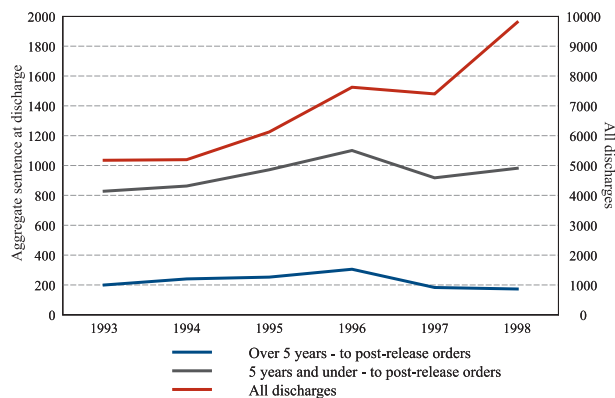
Source: Department of Corrective Services unpublished data.

Figure D19 — Discharges to remission as a proportion of discharges for selected aggregate sentence lengths at discharge, Qld (1993 to 1998)



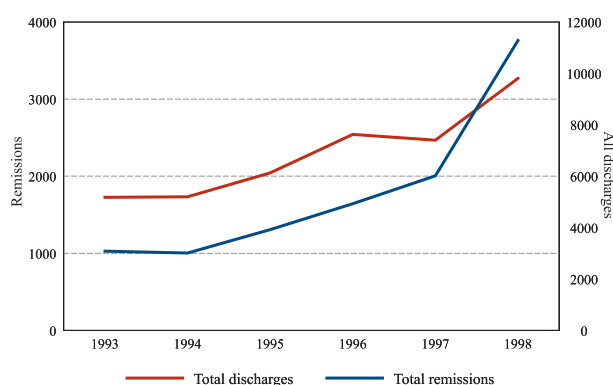
Source: Department of Corrective Services unpublished data.

Figure D20 — Discharges to post-release orders by aggregate sentence length at discharge, Qld (1993 to 1998)



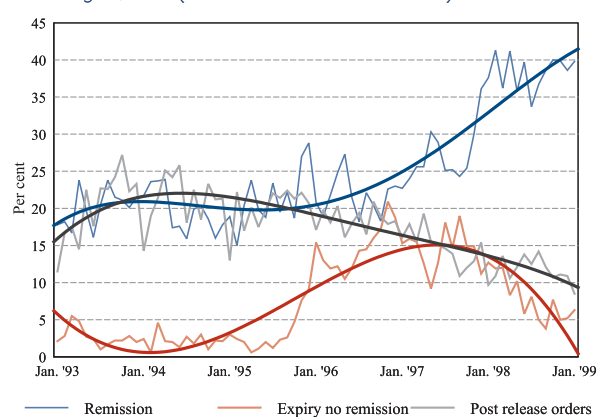
Source : Department of Corrective Services unpublished data.

Figure D21 — All discharges and discharges to remission, Qld (1993 to 1998)



Source: Department of Corrective Services unpublished data.

Figure D22 — Discharges where remission was granted or not granted as a proportion of all discharges, Qld (Jan. 1993 to Jan. 1999)



Source: QCSC unpublished data.

Note: Post-release orders include parole, home detention, leave of absence, release to work, to community corrections and to suspended sentences.

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# Glossary of terms and abbreviations

<b>ABS</b>	Australian Bureau of Statistics.
<b>Admissions</b>	The number of times an offender is admitted to prison, either in the first instance or following a previous discharge.
<b>Adult</b>	A person aged 17 years or over.
<b>Aggregate sentence</b>	The longest period that the offender may be detained under sentence in the current episode (i.e. from being taken into custody until discharge).
<b>AIC</b>	Australian Institute of Criminology.
<b>Appearance</b>	An appearance is counted once each time a person appears in a court and any matters being heard are finalised in that court on that particular day. A person appearing more than once in the period is counted once for each appearance.
<b>Average annual change</b>	The proportional increase or decrease over a number of periods, averaged for each year in the period. (Also referred to as ‘average annual growth rate’.) See also appendix A.
<b>Bench warrant</b>	Issued by judges of the District, Supreme and Circuit courts and the Court of Appeal against accused persons for a range of reasons. All bench warrants authorise a police officer to arrest the person and place the person before a court.
<b>Cases finalised</b>	The ultimate finalisation and clearing of all matters to do with a defendant and incident in the court system, i.e. by conviction and sentence, discharge or withdrawal or by committal to another court.
<b>CIS</b>	Correctional Information System — the database maintained by the Department of Corrective Services (formerly the QCSC) on which details of prisoners are recorded and from which much of the information in this report was obtained.
<b>CJC</b>	Criminal Justice Commission.
<b>CJIS</b>	Criminal Justice Information Integration Strategy.
<b>Cleared offences</b>	<p>An offence is deemed to be cleared under the following circumstances:</p> <ul style="list-style-type: none"> <li>the offender has been arrested, summonsed or information laid with a view to the issue of a process for the purpose of bringing an offender before court, e.g. a warrant</li> <li>the offender has been dealt with in accordance with QPS policy, e.g. cautioning</li> <li>the offender has admitted guilt but will not be charged due to circumstances such as diplomatic immunity</li> <li>the offender has died before the charge can be made</li> <li>the offender has been committed to a psychiatric institution</li> <li>the offender is serving a term of imprisonment and no useful purpose would be served by prosecution</li> </ul>



	<ul style="list-style-type: none"> <li>the victim or an essential witness is deceased, or</li> <li>the victim has requested that the police take no further action.</li> </ul>
<b>Community corrections centre</b>	A place that provides accommodation and supervision for prisoners who have been transferred from a correctional centre to attend approved programs. These centres also provide accommodation and supervision for offenders who are on leave of absence including release to work, home detention or parole.
<b>Community custody</b>	Prisoners either in a community corrections centre or in the WORC program (including outstations).
<b>Community service order (CSO)</b>	A supervision penalty requiring an offender to perform a specified number of hours of unpaid community work.
<b>Concurrent sentences</b>	Two or more sentences imposed on an offender to be served at the same time.
<b>Community supervision orders</b>	<p>Community-based orders that are:</p> <ul style="list-style-type: none"> <li>made by the courts and for which no period of imprisonment is initially involved (including probation, community service, fine option and intensive correction orders), or</li> <li>made by the courts to be served after a period of imprisonment (i.e. prison-probation), or</li> <li>made by departmental/board decisions and served after a period of imprisonment (i.e. parole and home detention).</li> </ul>
<b>Conviction</b>	An appearance at which the most serious offence charged resulted in a finding of guilt, whether a conviction was recorded or not.
<b>Correctional centre</b>	Any premises or place declared to be a prison under the <i>Corrective Services Act 1988</i> .
<b>Cumulative sentences</b>	Two or more sentences imposed on an offender that are to be served one after the other.
<b>Duration of stay</b>	The period a prisoner had served at the time of discharge from custody.
<b>Early release mechanisms</b>	Discharges to either early release or by way of an administrative decision. (Refer to appendix A for problems associated with this term.)
<b>Enforcement of order</b>	Offences that involve some misdemeanour which contradicts a condition of a civil, community or custodial order. For court data this includes breaches of maintenance and <i>Domestic Violence (Family Protection) Act 1989</i> orders, breaches of home detention, leave of absence, probation or recognisance, parole, community service and suspended sentence, as well as escaping from custody, other offences against justice procedures and other offences against good order. In terms of corrective services data, it also includes breaches of the <i>Bail Act 1980</i> .
<b>Episode</b>	The period from an offender's date of reception into custody for a particular offence/charge to the time when all warrants holding the person in custody, on remand or under sentence, expire and the person is discharged from custody.
<b>Executed warrants</b>	Those where the offender named in the warrant has been subjected to arrest and transportation to a watchhouse or correctional centre. The offender may then be

	<p>released:</p> <ul style="list-style-type: none"> <li>• after serving the full default period, or</li> <li>• when a fine option order has been granted by the court on the fine, or</li> <li>• when monies are received on a pro rata basis (i.e. the amount owing is reduced for each day of imprisonment served).</li> </ul>
<b>Expected time to serve</b>	<p>The period of imprisonment that a convicted prisoner is expected to serve and refers to the elapsed time between the date of reception for this episode and the earliest date of release. With the exception of sentences of indefinite length (i.e. life), calculations are based on the date an offender was eligible for parole. Release dates are calculated as follows:</p> <ul style="list-style-type: none"> <li>• Unless otherwise specified by the court the parole eligibility date is at one-half of the aggregate sentence length.</li> <li>• Where the parole date has passed, the date eligible for remission (two-thirds aggregate sentence) is used to calculate the release date. If this date has passed, the full-term expiry date is used to determine a release date.</li> <li>• Prisoners given a life sentence must serve 13 years in prison before being eligible for parole.</li> </ul>
<b>Fine</b>	<p>A sum of money payable to the Crown by an offender as punishment. The court may order the fine with default execution (where failure to pay the fine will result in the issue of a warrant enabling police to recover money to the value of the fine) or with default imprisonment (where failure to pay may result in the issue of a warrant for the arrest and imprisonment of the offender).</p>
<b>Fine default</b>	<p>Failure to pay a fine resulting in the alternative sentence or term of imprisonment being imposed.</p>
<b>Fine option</b>	<p>A court order that allows an offender to do community service instead of paying a fine. This order is made after an application is lodged once the court has passed an original sentence of a fine with a default period of imprisonment.</p>
<b>FOO</b>	<p>Fine option order.</p>
<b>Good order offences</b>	<p>Includes indecent behaviour, language offences and disorderly conduct.</p>
<b>Home detention</b>	<p>Order by the Department of Corrective Services, with the approval of the Community Corrections Board, which allows offenders to serve part of their sentence at home or some other approved place.</p>
<b>Imprisonment</b>	<p>The placement of a person in prison (i.e. a correctional centre). Court data that show this outcome include intensive correction orders.</p>
<b>Incident</b>	<p>An event that is prejudicial to the good order or security of a correctional centre or the safety or well-being of offenders or staff. 'Notifiable incidents' include events such as: escapes, assaults, deaths, serious accidents, attempted suicides, self-mutilation, fires, drugs (possession/supply), prohibited articles, riots, demonstrations, strikes, bomb threats or security breaches.</p>
<b>Incident rate</b>	<p>Number of incidents divided by the average daily number of prisoners times 100.</p>
<b>Indigenous</b>	<p>A person of Aboriginal or Torres Strait Islander descent or both.</p>

<b>Intensive correction</b>	A court order that an offender serve a prison sentence under intensive supervision in the community rather than in a prison.
<b>JAG</b>	Department of Justice and Attorney-General.
<b>Leave of absence (LOA)</b>	The first step in the community release process. LOAs may be granted under s. 61 of the <i>Corrective Services Act 1988</i> by way of application to a Community Corrections Board. LOAs may also be granted under s. 69 of the Act to transfer a person to a place to undertake approved programs. More stringent eligibility criteria to that already in existence were introduced in 1995, which focused on risk to the community, institutional behaviour and program participation.
<b>Mean</b>	The average value of a set of data.
<b>Median</b>	The middle value in a set of data, such that half of the sentences, for example, were for periods below the median figure and half were above. This often gives a more representative picture than the mean, which is subject to skewing by atypical, outlying values or abnormal distributions. (See also appendix A.)
<b>Mesne warrant</b>	Issued by justices under the <i>Justices Act 1886</i> for the apprehension of an offender where a summons for a breach of duty, simple offence or indictable offence has been disobeyed. All mesne warrants authorise a police officer to arrest the person and place the person before a court.
<b>Most serious offence</b>	The offence that carries the highest sentencing penalty.
<b>Net thickening</b>	This term refers to the process whereby it is made more difficult for persons to avoid prosecution for offences. An example of net thickening is the increasing use of information technologies to ensure unpaid parking fines are pursued via the SETONS process rather than eventually being ‘written off’.
<b>Notice to Appear (NTA)</b>	A document issued by police in relation to any type of offence, whether minor or more serious. The notice (which looks like an infringement notice) contains brief details about the alleged offences and states when and where the recipient must appear in court. NTAs may be issued ‘on the spot’ or after a person has been arrested or otherwise taken into custody, as an alternative to charging and then bailing the person.
<b>Offender</b>	A person who has been found guilty of an offence. Note: for QPS statistical purposes, ‘offender counts’ are based on offence counts, and do not refer to an individual.
<b>Order</b>	This generic term is used throughout the report. It may relate to an order of the court or include such post-release mechanisms as home detention where an offender is released ‘by instrument’ rather than ‘by order’.
<b>Other sexual offences</b>	These comprise: <ul style="list-style-type: none"> <li>• sexual assault — other (including indecent assault)</li> <li>• unlawful carnal knowledge</li> <li>• incest</li> <li>• indecently dealing with a child under 16</li> <li>• other sexual offences (consent prohibited, e.g. sodomy)</li> <li>• wilful exposure (intent to insult).</li> </ul>

<b>Outstanding warrants</b>	Those that remain unexecuted, unsatisfied and are still current at a specified date.
<b>Parole</b>	Conditional release of an offender from custody by a Community Corrections Board. The offender is subject to post-release supervision, normally for the remainder of the sentence originally imposed.
<b>Post-release orders</b>	Includes parole, home detention, leave of absence, release to work, to community corrections and to suspended sentences. Discharges to probation following a period of imprisonment, where the initial sentence of the court was prison-probation, are also included.
<b>Prison-probation</b>	A sentence comprising a period of imprisonment of up to six months and probation up to three years on release from prison.
<b>Probation</b>	A penalty allowing freedom under supervision for a specified period, conditional on good behaviour and compliance with direction.
<b>QCCB</b>	Queensland Community Corrections Board.
<b>QCSC</b>	Queensland Corrective Services Commission. The Commission was disbanded in May 1999 when the Department of Corrective Services commenced operations.
<b>QCSC prisoners</b>	Those persons held in watchhouses awaiting transfer to a custodial correctional centre. Prisoners in this category may be: <ul style="list-style-type: none"> <li>• serving time in custody in default of payment of fines, or</li> <li>• remanded in custody by a court, or</li> <li>• sentenced to a term of imprisonment by a court.</li> </ul>
<b>Qstats</b>	The commercial arm of the Office of Economic and Statistical Research within Queensland Treasury.
<b>QPS</b>	Queensland Police Service.
<b>QPS prisoners</b>	Those persons held in watchhouses who have been arrested but not given bail by police and who are being held until their first court appearance.
<b>OSM</b>	Office of Sentence Management.
<b>Recalled warrants</b>	Those that are requested by issuing courts to be returned to that court for any reason, including: <ul style="list-style-type: none"> <li>• payment of outstanding amounts</li> <li>• issue of a fine option order</li> <li>• detection of an error in issue, or</li> <li>• by the offender entering into an arrangement to pay outstanding amounts.</li> </ul>
<b>Recidivist</b>	A person who has experienced more than one episode of imprisonment.
<b>Release to work (RTW)</b>	Leave of absence granted by the Department of Corrective Services with the approval of the Community Corrections Board for a period of more than seven days where the offender is required to live in a prescribed place and, where possible, obtain paid employment.

<b>Remandee</b>	A person held in custody under a remand warrant issued by a court either because bail has not been granted or the person was unable to meet bail conditions set by the court. A remandee has not been convicted of the offence specified on the warrant.
<b>Reported offences</b>	All offences reported to or becoming known to the police within the relevant reference period. Unsubstantiated offences are excluded.
<b>Restitution</b>	A form of monetary penalty requiring an offender to make a payment by way of reparation or loss or damage to property.
<b>Satisfied warrants</b>	Those that are paid in full to the police officer on detection or interception.
<b>Security classification</b>	The grading of an offender (custodial) based on the assessment of escape and institutional or public risk.
<b>Serious personal violence</b>	Offences relating to homicide, serious or major assault, sexual assault including rape and attempted rape, robbery (both armed and unarmed), kidnapping and abduction as well as other violation of persons offences. As such, this definition does not accord with that of serious violent offences, as defined in the <i>Penalties and Sentences Act 1992</i> .
<b>SETONS</b>	Self-Enforcing Ticketable Offence Notice System: a court (with powers of a Magistrates Court) for the computerised processing of offences that are subject to prosecution by infringement notice or 'tickets'.
<b>SPER</b>	State Penalties Enforcement Registry.
<b>Warrant of apprehension</b>	Issued by a court in one State for the arrest of a person in another State. Such a warrant is issued when a fine has been imposed on the person named in the warrant and the person has failed to pay all or some of the fine.
<b>Warrant of apprehension and conveyance to prison</b>	Issued as a result of a person's parole being cancelled or suspended authorising a police officer to arrest the person and convey that person to the specified prison or any other prison that is more accessible or convenient.
<b>Warrant of commitment</b>	Issued as the result of nonpayment of a penalty imposed by a court. The warrant authorises a police officer to demand full payment of the outstanding amount and to arrest the person if the amount is not forthcoming.
<b>Warrant of execution</b>	Issued by justices for the enforcement of decisions requiring payment of a penalty or compensation or sum of money or costs.
<b>WORC</b>	Work Outreach Camps program — a mobile prison concept whereby prisoners who would normally be held in secure custody are involved in intensively supervised community projects in western Queensland. The program officially commenced in June 1991 as a flow-on from the flood relief program that operated in Charleville throughout 1990 and the early part of 1991.