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Introduction

This chapter provides an overview of the Australian criminal justice system. Where possible, data are based on national crime and justice statistics, focusing on crime victimisation, crimes reported to police, criminal courts and correctional services. The objective of national crime and justice statistics is to make available comparable data across jurisdictions, and so provide indicators of the level and nature of crime and the activities of criminal justice agencies in Australia.

The criminal justice system

The criminal justice system consists of the State and Commonwealth institutions, agencies, departments and personnel responsible for dealing with persons accused or convicted of committing a crime. The justice system also has a responsibility for dealing with the victims of crime.

The various agencies that comprise the criminal justice system can be seen as acting within a broader process in which criminal incidents and offenders move through a number of stages. Figure 10.1 indicates these broad stages and the points at which the different justice agencies make their contribution.

Police agencies are responsible for the prevention, detection and investigation of crimes. Where an alleged offender is detected by police, charges are then laid before a criminal court. The court, consisting of a judicial officer, the prosecution and defence, is then responsible for determining the guilt or innocence of the defendant.

In addition to the court itself, there are a number of other agencies involved in the court process. These include legal representatives for the prosecution and defence. Police Prosecutors are generally responsible for less serious matters heard before courts of summary jurisdiction, whilst Crown Prosecutors normally handle prosecution of the more serious matters dealt with at the Supreme or intermediate court levels. For the defendant, legal aid may be available to handle their defence.

Following the hearing of the charges, in cases where a finding of guilt is made by the court a sentence may be imposed. Fines and bonds are the most common penalties handed down by the courts. The more serious sentences are administered by correctional services agencies. These may include imprisonment, community work of various kinds and some types of bonds. A number of jurisdictions have also introduced new penalties such as home detention or work camps which are also administered by correctional agencies.

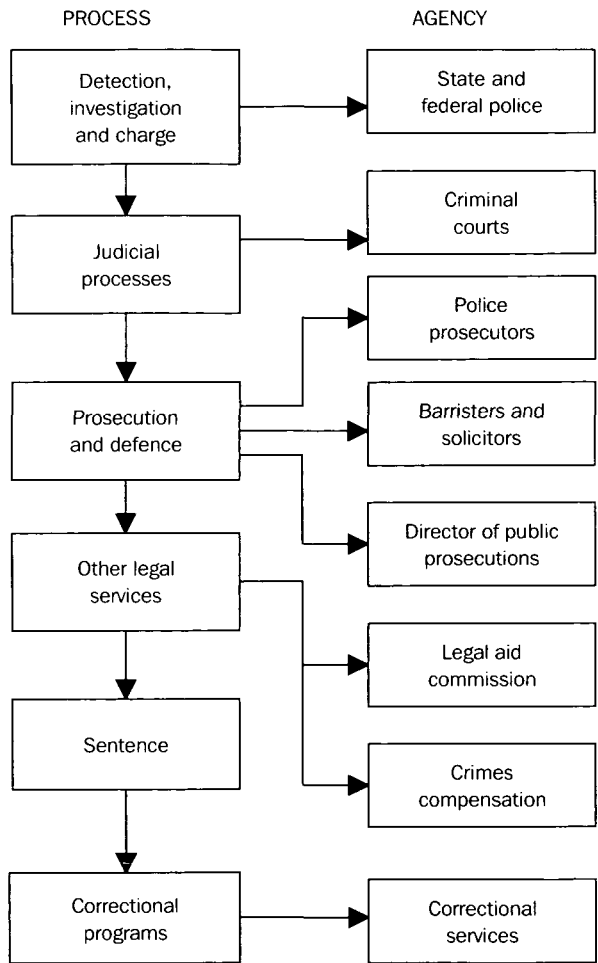
For victims of crime, compensation may be available through the courts, and this is normally handled through a special tribunal. The State provides compensation to victims who can demonstrate an injury or suffering as a result of a criminal incident. The State will then seek these funds from the offender, if they have been identified and convicted.

In all States, two systems of criminal justice exist; the federal criminal justice system, based on offences against Commonwealth laws, and the relevant State system, based on offences against State laws. Criminal law is administered principally through the Commonwealth, State and Territorial police forces, the National Crime Authority, and State and Territorial corrective or penal services. There is no independent federal corrective service, and the relevant State or Territorial agencies provide corrective services for federal offenders.

The Australian States and Territories have independent legislative powers in relation to all matters that are not otherwise specifically vested in the Commonwealth of Australia, and it is the statute law and the common law of the States and Territories that primarily govern the day-to-day lives of most Australians.

The States and Territories have powers to enact their own criminal law, while the Commonwealth has powers to enact laws, including sanctions for criminal offences, in relation to its responsibilities under the constitution. Thus, in effect, there are nine different systems of criminal law in existence in Australia.

10.1 THE CRIMINAL JUSTICE SYSTEM



Source: National Centre for Crime and Justice Statistics Section, ABS.

Expenditure on public order and safety

The government sector of public order and safety covers outlays on administration, supervision, support, operation and review of public order and safety affairs and services. Public order and safety includes police and fire protection services, law courts and legal services, prisons and corrective services, and other services related to public order and safety.

In 1994–95, \$6.25b (equivalent to \$346 per person) was spent by the Commonwealth Government and the State, Territory and local governments on public order and safety (see table 10.2). Compared to 1993–94, this represents an increase of 7.6% in total outlays, or \$21 more per person.

10.2 GOVERNMENT CURRENT AND CAPITAL EXPENDITURE

Offence category	1992-93 \$m	1993-94 \$m	1994-95 \$m
Current outlays	5 211	5 397	5 755
Capital outlays	457	415	496
Total outlays	5 668	5 812	6 251

Source: *Government Finance Statistics, Australia, 1994-95* (5512.0).

The police

Australia is served by eight police forces: one in each State and the Northern Territory, and the Australian Federal Police who are also responsible for policing the Australian Capital Territory. The National Crime Authority also has a policing role.

The principal duties of the police are the prevention and detection of crime, the protection of life and property, and the enforcement of law to maintain peace and good order. They may perform a variety of additional duties in the service of the State, including the prosecution of summary offences, regulation of street traffic, acting as clerks of petty sessions, Crown land bailiffs, mining wardens and inspectors under the Fisheries and other relevant Acts. With the exception of the Australian Federal Police and the National Crime Authority, police forces in Australia are under the control of the State and Northern Territory Governments, but their members perform certain functions on behalf of the Commonwealth Government, such as the registration of aliens, and in conjunction with the Australian Federal Police and other Commonwealth officers they enforce various Commonwealth Acts and Regulations.

Commonwealth policing agencies

Australian Federal Police (AFP)

The AFP is a Commonwealth Statutory Authority brought into existence by the *Australian Federal Police Act 1979*. The AFP has its headquarters in Canberra. Its Criminal Investigations Program is conducted through six Regional Commands, its Headquarters Investigations Department and its numerous Liaison Officers in many overseas countries. In the Australian Capital Territory, the AFP provides a full range of general community policing services, including traffic control, special operations, search and rescue services and conventional crime investigations.

The Australian Federal Police is responsible for the prevention, detection and investigation of criminal offences such as drug offences, money laundering, organised crime, identifying the proceeds of crime, and fraud against Commonwealth revenue and expenditure such as social security fraud and taxation fraud.

National Crime Authority (NCA)

The NCA was established by the Commonwealth Government in July 1984 as provided by the *National Crime Authority Act 1984*. Similar legislation was passed in each State, the Northern Territory and subsequently the Australian Capital Territory, to underpin the work of the NCA in those jurisdictions, making the NCA the only law enforcement agency in Australia whose investigations are not limited by jurisdictional or territorial boundaries.

The decision to establish the NCA was taken in response to the findings of several Royal Commissions conducted in the late 1970s and early 1980s, which revealed the extent of organised criminal activity in Australia. The NCA's mission is to counteract organised criminal activity and reduce its impact on the Australian community, working in cooperation and partnership with other agencies.

Size of police forces

The number of sworn police officers in the various Australian police forces is shown in table 10.3. The figures have been supplied by the respective police agencies, and are not directly comparable (e.g., the figures do not differentiate between full-time and part-time officers). In some police forces, unsworn (civilian) staff carry out duties directly connected with policing.

10.3 SIZE OF POLICE FORCES

Offence category	1992-93 no.	1993-94 no.	1994-95 no.
NCA	97	83	113
AFP	677	672	661
NSW	12 945	12 718	13 070
Vic.	9 742	9 794	10 016
Qld	6 377	6 176	6 290
SA	3 639	3 620	3 616
WA	4 122	4 181	4 227
Tas.	1 027	1 063	1 072
NT	682	692	756
Total	39 308	38 999	39 821

Source: *Police annual reports and the Report on Government Service Provision, Steering Committee for the review of Commonwealth/State Service Provision, 1995.*

Further detail on the operations of each force may be found in the police forces' annual reports to their Ministers.

National crime statistics

The aim of national crime statistics is to provide comparable data across jurisdictions (i.e. States and Territories). These statistics are indicators of the level and nature of reported crime in Australia and provide a basis for measuring changes over time.

Two sources of national statistics provide a picture of crime in Australia. Crimes recorded by police relate to offences that have become known to and have been recorded by police. These offences may have been recorded by a victim, witness or other person, or they may have been detected by police. The statistics do not provide a total picture of crime, as not all crimes come to the attention of the police. In addition, care should be taken in interpreting police statistics as fluctuations in reported crime may be a reflection of changes in community attitudes in reporting crime, changes in police procedures or changes in crime reporting systems rather than a change in the incidence of criminal behaviour.

In order to gain a more comprehensive picture of the nature and extent of crime, these statistics are complemented by information from other sources such as crime victimisation surveys. These surveys are usually conducted on a household basis. Not all types of crime are suitable for measurement by household surveys. No reliable information can be obtained about crimes without specific victims, such as trafficking in narcotics. Crimes of which the victim may not be aware cannot be measured effectively: some instances of fraud and attempted crimes of many types may fall into this category. It may also be difficult to obtain information about some crimes, such as sexual offences and assault by other household members. Some of these crimes are not fully reflected in the data collected. Lastly, no reliable data can be collected by household surveys on crimes against commercial establishments.

In essence, crime victimisation surveys are most suitable for measuring crimes against individuals or households with specific victims who are aware of and recall what happened to them and how it happened, and who are willing to relate what they know.

Crime victimisation surveys

In 1993, a national Crime and Safety household survey of persons aged 15 and over was conducted. Similar surveys were conducted in 1995 in all jurisdictions except Tasmania and the Northern Territory. For the purposes of comparing these surveys, national estimates have been calculated for 1993 and 1995 which do not include any Tasmanian and Northern Territory figures.

Household crime

Of the crimes measured by the surveys, the most common household crime was break and enter, affecting 333,700 households (5.3%) in the mainland States and Australian Capital Territory, in the 12 months to April 1995. About 8% of households were victims of either break and enter or an attempted break and enter, and 2% of households experienced at least one motor vehicle theft.

Rates for break and enter offences had increased from 1993 to 1995, principally due to increases in New South Wales and Western Australia. The rate for motor vehicle theft was steady (see graph 10.4 and table 10.6).

Households in rented accommodation had a higher risk of victimisation than households who owned or were purchasing their home. The lowest household victimisation rates were experienced by households comprising a married couple only, whereas the highest rate was for single parent households.

Personal crime

About 540,000 people were victims of personal crimes in the mainland States and Australian Capital Territory in the 12 months to April 1995 (see table 10.5), representing a rate of about 4% of persons aged 15 years and over. The most common crime reported was assault, affecting 2.7% of people. The rates for 1993 and 1995 are similar.

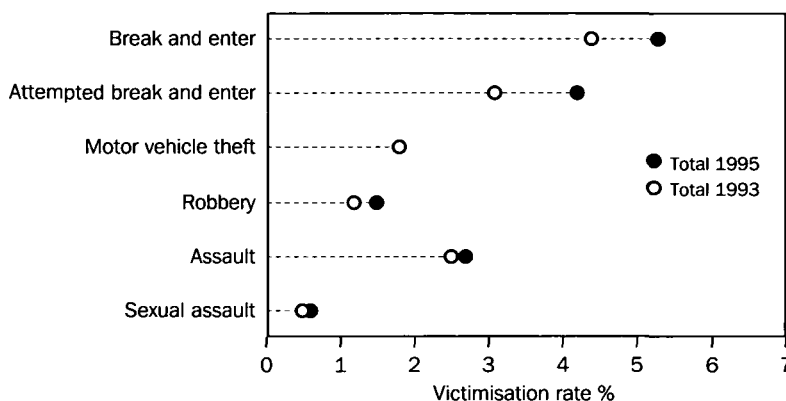
The risk of victimisation through personal crime was highest in the 15–24 year age group, and tended to decrease with increasing age. The victimisation rate (the ratio of victims for an offence category to the total population of households or persons, as appropriate, expressed as a percentage) was generally greater for males than females, with the difference greatest in the 15–24 year age group. The unemployed had the highest personal crime victimisation rate compared with those

employed or not in the labour force. Married people tended to have a lower reported victimisation rate than people who were not married.

While the victimisation rate for all assaults was higher for males than for females, the reverse was the case for assaults occurring inside the

home, where the rate for females was significantly higher than for males. Among female victims of assault who reported the last incident as occurring inside the home, over 90% reported that the offender was known to them, and about 40% of them were victims of assault on three or more occasions in the 12 months prior to the survey.

10.4 VICTIMS OF CRIME, By Type of Offence in the Last 12 Months



Source: *Crime and Safety Survey 1995 for each State publication* (4509.1, 4509.2, 4509.3, 4509.4, 4509.5) and *Crime and Safety, Australia, 1993* (4509.0).

10.5 VICTIMS OF CRIME, By Offence — 1995

Offence category	NSW '000	Vic. '000	Qld '000	SA '000	WA '000	ACT '000	Total '000
Households							
Break and enter	116.8	52.7	75.5	27.0	56.9	4.8	333.7
Attempted break and enter	88.9	36.6	65.6	23.5	45.3	4.8	264.7
Total break and enter(a)	185.6	81.9	124.0	44.8	86.6	8.3	531.2
Motor vehicle theft	46.2	23.8	16.5	6.6	19.1	1.0	113.2
Total household crime(a)	222.2	103.3	136.9	49.9	100.9	9.0	622.2
Persons							
Robbery	78.7	27.9	46.1	12.5	24.1	2.8	192.1
Assault	125.4	81.8	77.6	33.4	34.3	8.5	361.0
Sexual assault(b)	11.8	4.7	6.6	3.9	4.0	1.4	32.4
Total personal crime(a)	199.9	106.8	116.1	47.2	57.6	11.8	539.4

(a) Because an individual household or person could be a victim of more than one type of offence, figures given for individual offence types do not add to the total. (b) Sexual assault questions were asked only of females aged 18 and over.

Source: *Crime and Safety Survey 1995 for each State publication* (4509.1, 4509.2, 4509.3, 4509.4, 4509.5) and *Crime and Safety Australia, 1993*, (4509.0).

10.6 VICTIMS OF CRIME, By Offence Category

	NSW		Vic		Qld		SA		WA		ACT		Total(a)	
	1993 %	1995 %	1993 %	1995 %	1993 %	1995 %	1993 %	1995 %	1993 %	1995 %	1993 %	1995 %	1993 %	1995 %
Victimisation rate														
Households														
Break and enter	3.7	5.3	3.3	3.2	5.2	6.3	5.0	4.6	7.5	8.9	5.0	4.5	4.4	5.3
Attempted break and enter	2.6	4.1	2.6	2.3	3.2	5.5	3.8	4.0	4.9	7.1	4.9	4.5	3.1	4.2
Total break and enter(b)	5.7	8.5	5.4	5.0	7.5	10.3	8.1	7.7	11.0	13.6	8.9	7.9	6.8	8.4
Motor vehicle theft	2.0	2.1	1.7	1.5	1.3	1.4	1.7	1.1	2.2	3.0	0.8	1.0	1.8	1.8
Total household crime(b)(c)	7.5	10.1	7.0	6.3	8.6	11.4	9.7	8.5	12.8	15.8	9.7	8.6	8.3	9.8
Persons														
Robbery	1.3	1.7	1.0	0.8	1.2	1.9	1.3	1.1	1.3	1.9	1.7	1.3	1.2	1.5
Assault	2.6	2.7	2.2	2.4	2.9	3.2	2.5	2.9	2.2	2.6	3.5	3.8	2.5	2.7
Sexual assault(d)	0.8	0.5	0.5	0.3	0.5	0.6	0.8	0.7	0.3	0.7	0.9	1.3	0.6	0.5
Total personal crime(b)(c)	3.9	4.3	3.2	3.1	4.0	4.7	3.8	4.1	3.5	4.5	4.9	5.3	3.7	4.1

(a) For comparison with the 1995 total, the total for 1993 has been recalculated to exclude the contribution from the Northern Territory and Tasmania as neither conducted a Crime and Safety survey in 1995. (b) Because an individual household or person could be a victim of more than one type of offence, figures given for individual offence types do not add to the total. (c) Of all households/persons. (d) Sexual assault questions were asked only of females aged 18 and over.

Source: *Crime and Safety Survey 1995 for each State publication* (4509.1, 4509.2, 4509.3, 4509.4, 4509.5) and *Crime and Safety Australia, 1993* (4509.0).

Reporting to police

As table 10.7 shows, of the crimes covered by the survey, motor vehicle theft was the crime most reported by the victims, with over 90% of households reporting the last incident to the police. About three-quarters of break and enter offences were reported to police.

For personal crimes, assaults were the least likely to be reported, especially sexual assault. Estimates from the two surveys indicate that

there may have been a decrease in the reporting rate for sexual assault between 1993 and 1995.

As found in 1993, for crimes other than sexual assault, the main reasons for not telling the police about the last incident were typically 'too trivial/unimportant', 'police could not do anything' or 'police would not do anything'. For sexual assault the two most frequently given reasons were 'private matter' or 'afraid of reprisal/revenge'.

10.7 CRIMES RECORDED BY POLICE, By Offence — 1995(a)

Offence category	NSW %	Vic. %	Qld %	SA %	WA %	ACT %	Total 1995(b) %	Total 1993(b) %
Households								
Break and enter	73.5	76.5	77.6	81.5	80.3	87.8	76.9	78.3
Attempted break and enter	31.3	37.4	28.6	32.7	31.2	38.1	31.7	32.0
Motor vehicle theft	91.4	96.5	94.1	96.8	93.7	100.0	92.7	93.8
Persons								
Robbery	52.2	56.7	55.0	54.0	60.5	62.5	54.9	51.7
Assault	30.4	33.2	36.5	38.5	40.9	31.6	34.2	32.2
Sexual assault(c)	n.p.	14.9	16.2	25.6	n.p.	n.p.	10.8	25.6

(a) Where sexual assault has not been published (n.p.) in the table this is due to a high standard error. (b) For comparative purposes with the 1995 total, the total for 1993 has been recalculated to exclude the contribution from the Northern Territory and Tasmania as neither conducted a Crime and Safety survey in 1995. (c) Sexual assault questions were asked only for females aged 18 and over.

Source: *Crime and Safety Survey 1995 for each State publication* (4509.1, 4509.2, 4509.3, 4509.4 and 4509.5).

Crimes recorded by police

Tables 10.8 to 10.10 and graphs 10.11 and 10.12 show various dimensions of crime and crime victims reported to police in 1995. Within the scope of the national collection, the most frequently reported single offence category in Australia in 1995 was *unlawful entry with intent* (equivalent to burglary, break and enter), with 384,897 occurrences recorded by police, followed by *motor vehicle theft*, with 126,919 cases recorded, and *assault*, with 101,149 cases recorded.

Personal crime

The most recorded personal crime was assault. The 101,149 cases recorded equates to a rate of 560 per 100,000 population. There were 12,809 cases of sexual assault recorded, a rate of 71 victims per 100,000 population, and 351 cases of murder/manslaughter, a rate of 20 victims per 100,000.

Men were more likely to be victims of assault and murder, whereas women were much more often the victims of sexual assault. Young men in particular were the most frequent victims of assault. Children were the most likely victims of both sexual assault and kidnapping. For all these personal crimes except kidnapping, the offenders were more likely to be known to the victims than not, and the location was most likely to be a private dwelling.

Homicide

Homicide, the unlawful killing of another person, comprises four subcategories: Murder, Attempted murder, Manslaughter and Driving causing death. The most likely murder victims in 1995 were males aged 20–44 years. Most murders were committed with some type of weapon, a firearm being used in about 20% of cases. The majority of murders were committed by someone known to the victim, and the most common site for the murder was a private dwelling.

Assault

The largest category of offences against the person was assault, which is the direct infliction of force, injury or violence upon a person including attempts or threats.

Most of the victims of assault were male, with the highest rate of assault being to victims aged 20–34 years. Over half of the offenders were

known to their victims. The most frequent locations of assault offences were private dwellings, streets and footpaths, and recreational facilities. About 10% of assaults involved a weapon.

Sexual assault

Sexual assault is physical assault of a sexual nature directed towards another person where that person does not give consent, or gives consent as a result of intimidation or fraud, or is legally deemed incapable of giving consent because of youth or temporary/permanent incapacity. In 1995, over 80% of victims for sexual assault were female and over half were aged under 20 years (40% aged under 15 years). The most common locations for sexual assault were private dwellings. Most offenders were known to their victims.

Kidnapping/abduction

Kidnapping/abduction is the unlawful seizing or taking away of another person by force, deception, against that person's will or against the will of any parent, guardian or other person having lawful custody or care of that person. Most victims of kidnapping were aged under 20 years and females were more often the victim. This is the only personal offence category where available data indicate that most of the offenders were not known by their victims. About half of the offences occurred on the street or footpath, and a further 20% from residential locations.

Robbery

Robbery is the unlawful taking of property, without consent, under confrontational circumstances from the immediate possession, control, custody or care of a person accompanied by force or threat of force or violence and/or by placing the victim in fear. Organisations were the victims in about a quarter of the cases of armed robbery in 1995, and males were about twice as likely to be victims as females. Organisations were much less likely to be victims of unarmed robberies, but again males were twice as likely as females to be victims.

The most common locations for armed robberies were retail locations, whereas most unarmed robberies were from locations such as streets and footpaths. Over 10% of unarmed robberies were from retail locations.

10.8 VICTIMS OF CRIME, Reported to Police

Offence category	1993	1994	1995
NUMBER			
Homicide			
Murder	300	288	321
Attempted murder	369	336	301
Manslaughter	37	32	30
Driving causing death	222	197	314
Assault(a)	n.a.	n.a.	101 149
Sexual assault	12 555	12 722	12 809
Kidnapping/abduction	628	546	469
Robbery			
Armed robbery	5 324	5 046	6 631
Unarmed robbery	7 465	8 922	9 835
Blackmail/extortion	142	156	152
Unlawful entry with intent	382 245	379 505	384 897
Motor vehicle theft	112 578	119 469	126 919
Other theft(a)	n.a.	n.a.	489 785
RATE PER 100 000 POPULATION			
Homicide			
Murder	1.70	1.61	1.78
Attempted murder	2.09	1.88	1.67
Manslaughter	0.21	0.18	0.17
Driving causing death	1.26	1.10	1.74
Assault(a)	n.a.	n.a.	560.26
Sexual assault	71.11	71.32	70.95
Kidnapping/abduction	3.56	3.06	2.60
Robbery			
Armed robbery	30.15	28.29	36.73
Unarmed robbery	42.28	50.02	54.48
Blackmail/extortion	0.80	0.87	0.84
Unlawful entry with intent	2 164.91	2 127.46	2 131.92
Motor vehicle theft	637.6	669.73	703
Other theft(a)	n.a.	n.a.	2 712.89

(a) Assault and Other theft were collected for the first time in 1995.

Source: National Crime Statistics, 1994 and 1995 (4510.0).

10.9 VICTIMS OF CRIME REPORTED TO POLICE, By Sex — 1995

Offence category	Males	Females	Not stated/inadequately described(a)	Total
NUMBER				
Homicide				
Murder	187	122	12	321
Attempted murder	206	93	2	301
Manslaughter	23	7	—	30
Driving causing death	97	49	168	314
Assault	58 568	39 108	3 473	101 149
Sexual assault	2 073	10 515	221	12 809
Kidnapping/abduction	155	309	5	469
Robbery				
Armed robbery	3 068	1 692	1 871	6 631
Unarmed robbery	5 755	3 126	954	9 835
Blackmail/extortion	92	38	22	152
%				
Homicide				
Murder	58.3	38.0	3.7	100.0
Attempted murder	68.4	30.9	0.7	100.0
Manslaughter	76.7	23.3	—	100.0
Driving causing death	30.9	15.6	53.5	100.0
Assault	57.9	38.7	3.4	100.0
Sexual assault	16.2	82.1	1.7	100.0
Kidnapping/abduction	33.0	65.9	1.1	100.0
Robbery				
Armed robbery	46.3	25.5	28.2	100.0
Unarmed robbery	58.5	31.8	9.7	100.0
Blackmail/extortion	60.5	25.0	14.5	100.0

(a) The category of Not stated/inadequately described has been consolidated with the category of Not applicable. For some offences, the sex of the victim is not applicable, such as Blackmail/extortion, Armed robbery, and Unarmed robbery where the victim can be an organisation.

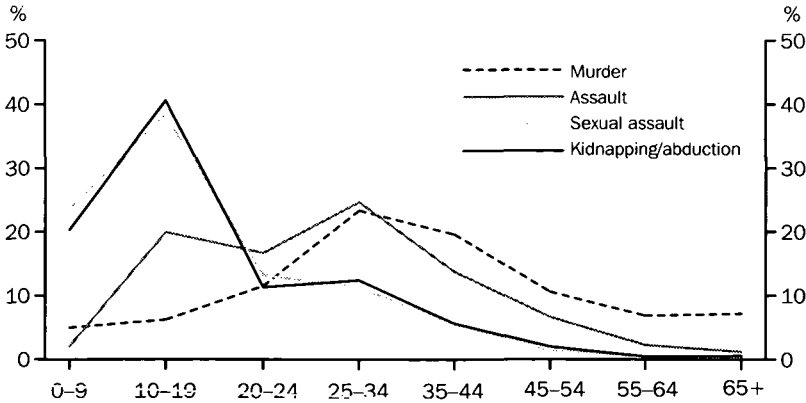
Source: National Crime Statistics, 1995 (4510.0).

10.10 VICTIMS OF CRIME REPORTED TO POLICE, By Age — 1995

Offence category	0-9	10-19	20-24	25-34	35-44	45-54	55-64	65+	Not specified(a)	Total
NUMBER										
Homicide										
Murder	16	20	37	75	63	34	22	23	31	321
Attempted murder	11	32	35	81	47	28	10	6	51	301
Manslaughter	1	6	2	7	6	1	1	2	4	30
Driving causing death	4	35	26	20	24	5	9	9	182	314
Assault	2 058	20 201	16 887	24 948	13 962	6 732	2 294	1 219	12 848	101 149
Sexual assault	2 602	5 202	1 452	1 593	727	259	56	67	851	12 809
Kidnapping/abduction	111	180	62	53	26	7	1	2	27	469
Robbery										
Armed robbery	13	825	779	1 040	704	560	247	116	2 347	6 631
Unarmed robbery	47	2 514	1 256	1 611	1 135	808	460	533	1 471	9 835
Blackmail/extortion	1	12	12	27	34	20	4	4	38	152
%										
Homicide										
Murder	5.0	6.2	11.5	23.4	19.6	10.6	6.9	7.2	9.7	100.0
Attempted murder	3.7	10.6	11.6	26.9	15.6	9.3	3.3	2.0	16.9	100.0
Manslaughter	3.3	20.0	6.7	23.3	20.0	3.3	3.3	6.7	13.3	100.0
Driving causing death	1.3	11.1	8.3	6.4	7.6	1.6	2.9	2.9	58.0	100.0
Assault	2.0	20.0	16.7	24.7	13.8	6.7	2.3	1.2	12.7	100.0
Sexual assault	20.3	40.6	11.3	12.4	5.7	2.0	0.4	0.5	6.6	100.0
Kidnapping/abduction	23.7	38.4	13.2	11.3	5.5	1.5	0.2	0.4	5.8	100.0
Robbery										
Armed robbery	0.2	12.4	11.7	15.7	10.6	8.4	3.7	1.7	35.4	100.0
Unarmed robbery	0.5	25.6	12.8	16.4	11.5	8.2	4.7	5.4	15.0	100.0
Blackmail/extortion	0.7	7.9	7.9	17.8	22.4	13.2	2.6	2.6	25.0	100.0

(a) The category of Not specified has been consolidated with the category of Not applicable. For some offences, the age of the victim is not applicable, such as Blackmail/extortion, Armed robbery, and Unarmed robbery where the victim can be an organisation.
Source: National Crime Statistics, 1995 (4510.0).

10.11 CRIMES RECORDED BY POLICE, By Age — 1995

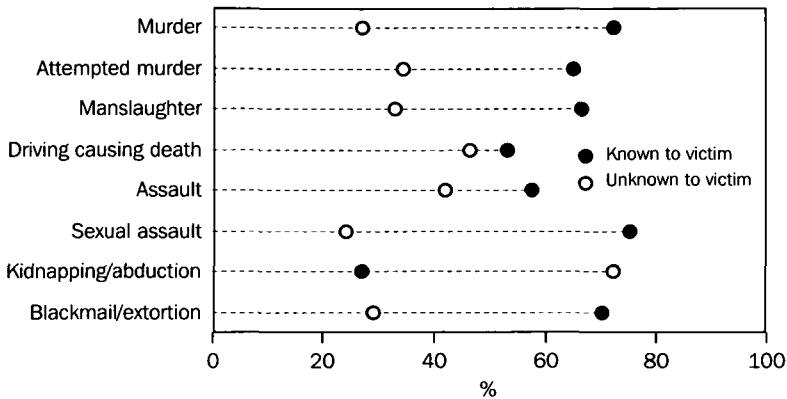


Source: National Crime Statistics, 1995 (4510.0).

Sexual assault and Kidnapping/abduction have a very high incidence of offences for victims aged 0-9 and 10-19. Graph 10.11 indicates that victims of sexual assault represent 40% of all

victims in the 10-19 year age group compared to kidnapping/abduction 38%; assault 20%; and murder 6%.

10.12 CRIMES RECORDED BY POLICE — 1995



Source: National Crime Statistics, 1995 (4510.0).

Firearms

As shown in table 10.13 and graph 10.14, a weapon was involved in 66% of reported murders in 1995, an increase of 3% over 1994. Firearms were used in 18% of murders and 27% of attempted murders in 1995, an increase of 2% and 3% over 1994. Although the use of firearms

increased for attempted murder in 1995, overall the use of all weapons decreased by nearly 4% to 75%. The use of a firearm was relatively uncommon in sexual assaults and assaults, with less than 1% for each category.

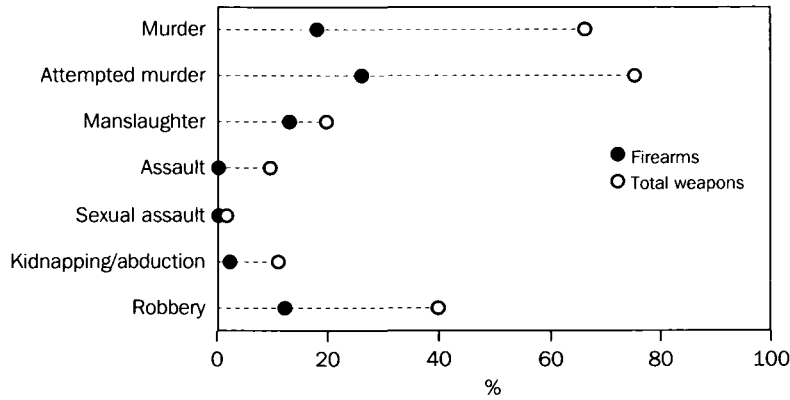
10.13 VICTIMS OF REPORTED CRIME(a), By Use of Weapon in Commission of Offence — 1994 and 1995

Offence category	Firearm %	Other weapon %	Weapon n.f.d. %	Total weapons %	No weapons %	Total %
1995						
Homicide						
Murder	18.4	43.3	4.7	66.4	33.6	100.0
Attempted murder	26.6	48.5	0.3	75.4	24.6	100.0
Manslaughter	13.3	6.7	—	20.0	80.0	100.0
Assault(b)	0.6	8.9	0.3	9.8	90.2	100.0
Sexual assault	0.2	1.7	0.1	2.0	98.0	100.0
Kidnapping/abduction	2.6	7.7	1.1	11.3	88.7	100.0
Robbery	12.5	22.8	4.9	40.3	59.7	100.0
1994						
Homicide						
Murder	17.0	43.1	3.5	63.5	36.5	100.0
Attempted murder	23.7	51.8	3.6	79.0	21.0	100.0
Manslaughter	9.4	15.6	—	25.0	75.0	100.0
Assault(b)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Sexual assault	0.1	1.2	—	1.3	98.7	100.0
Kidnapping/abduction	3.8	9.3	0.7	13.9	86.1	100.0
Robbery	13.0	19.9	3.3	36.2	63.8	100.0

(a) Victims of robbery refers to individual persons or organisations. All other offence categories used in this table refer to individual persons. (b) Assault was collected for the first time in 1995.

Source: National Crime Statistics, 1995 (4510.0).

10.14 CRIMES RECORDED BY POLICE — 1995



Source: National Crime Statistics, 1995 (4510.0).

Drug offences

To combat the perceived serious and growing threat posed by the traffic in and abuse of drugs of dependence, there is close cooperation between the Commonwealth Government, State and Territory Governments, the various police forces and other agencies. In addition to other law enforcement agencies, the Australian Customs Service has responsibility for the enforcement of laws controlling the illicit importing and exporting of drugs.

Information on the widespread problems arising from drug abuse in Australia, and on how these problems are being approached, is in the *Australian Illicit Drug Report*, produced by the Australian Bureau of Criminal Intelligence (ABCI). A total of 54,815 arrests were made for drug related offences in Australia during 1994. Table 10.15 shows that by far the largest category of drug arrests was for cannabis, with 46,391 arrests (85% of the national total).

10.15 TOTAL ARRESTS BY DRUG TYPE, Excluding Steroids and Other Drugs — 1994

Offence category	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT	Aust.
NUMBER									
Cannabis	14 008	10 303	7 422	2 435	9 427	1 658	1 041	97	46 391
Cocaine	225	49	13	7	5	—	—	—	299
Heroin	1 448	843	279	201	114	24	69	14	2 992
Amphetamine	1 328	1 677	515	282	694	45	43	9	4 593
LSD	149	66	72	111	122	5	11	4	540
Total	17 158	12 938	8 301	3 036	10 362	1 732	1 164	124	54 815
%									
Cannabis	81.6	79.6	89.4	80.2	91.0	95.7	89.4	78.2	84.6
Cocaine	1.3	0.4	0.2	0.2	—	—	—	—	0.5
Heroin	8.4	6.5	3.4	6.6	1.1	1.4	5.9	11.3	5.5
Amphetamine	7.7	13.0	6.2	9.3	6.7	2.6	3.7	7.3	8.4
LSD	0.9	0.5	0.9	3.7	1.2	0.3	0.9	3.2	1.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Australian Illicit Drug Report, 1994 — Australian Bureau of Criminal Intelligence.

Courts

Courts exist in all Australian States and Territories for the hearing of both criminal and civil cases. A criminal case arises from a charge laid by police or other prosecuting authorities, and is an allegation of a breach of the law. A civil case, by contrast, is a dispute between two or more individuals or corporations, in which one side is seeking a legal remedy for an injury or loss from the other party who is alleged to be liable.

The courts are arranged in a hierarchy, with the bulk of less serious matters being heard before magistrates and more serious matters being heard before judges. In the civil context, the seriousness of a case is usually determined through the amount of money sought in compensation, while for criminal matters seriousness is determined by the nature of the offence alleged. Figure 10.16 shows the arrangement of the court system in Australia.

The hierarchy of courts also applies to the system of appeals. Appeals are available to the losing side in a civil matter, and to the defendant in a criminal matter, from all levels of court. The High Court of Australia is the highest court of appeal for both criminal and civil cases.

While they are an important aspect of the justice system, there is little national statistical information on the activities of the civil courts. The section which follows is therefore restricted to the criminal jurisdiction.

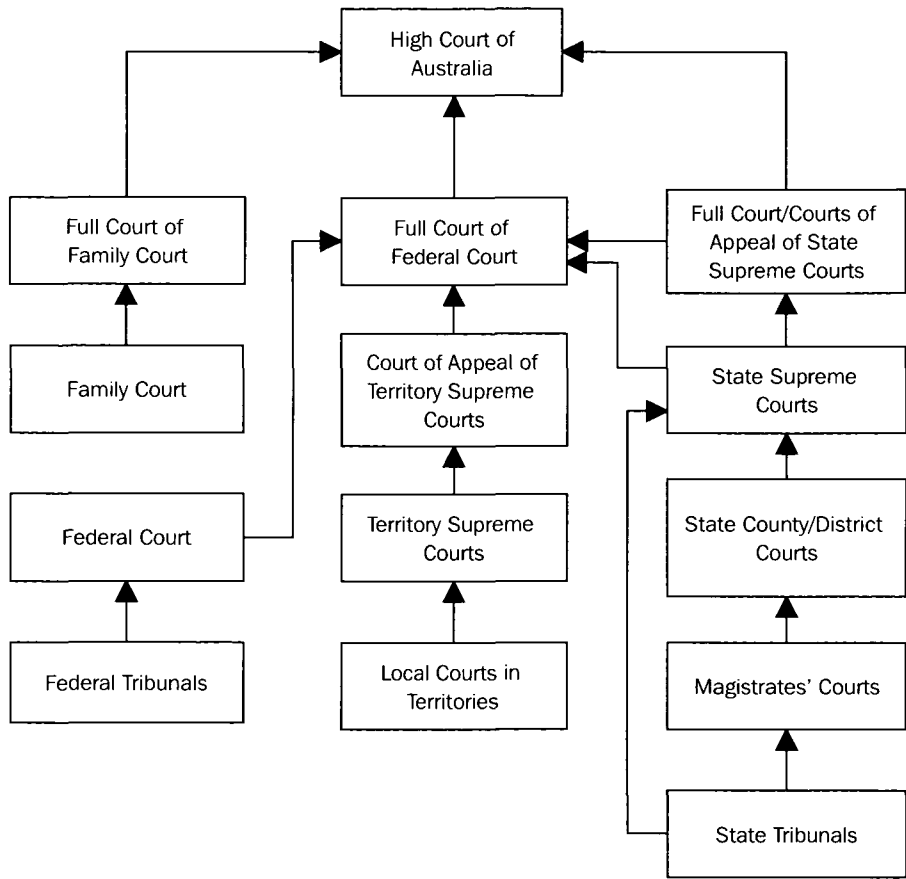
Criminal courts

All Australian States and Territories have a system of courts for the hearing of criminal matters. Once charges are laid by police, the court will hear evidence by both prosecution and defence, and will make a decision as to the guilt or innocence of the defendant. In cases where the defendant is found guilty, the court may also record a conviction and impose a penalty.

The courts in Australia are arranged in a hierarchical manner (figure 10.16). The lowest level of criminal court is the Magistrate's Court or court of summary jurisdiction. The majority of all criminal cases are heard in these courts. Cases heard in Magistrates' Courts do not involve a jury; the magistrate acts to determine the guilt of the defendant. This is known as a summary proceeding. Only relatively minor offences can be dealt with in this way. More serious offences are dealt with by the higher levels of court. All States and Territories have a Supreme Court, which can deal with all criminal matters. The larger jurisdictions also have an intermediate level of court, known as the District or County Court, which deals with the less serious offences. All offences which are dealt with by the higher courts have an automatic entitlement to a trial before a judge and jury. In some jurisdictions, the defendant may elect to have the matter heard before a judge alone. Offences which must be heard before a judge and jury are known as indictable offences. These include offences such as murder and drug importation as well as serious sexual offences, robberies and assaults.

The defendant in a criminal matter is entitled to appeal against the conviction or the severity of penalty imposed. Under some circumstances, the prosecution is also entitled to appeal against the leniency of the penalty. The States and Territories differ in the ways in which appeals are dealt with. Some appeals from Magistrates' Courts may be heard before the intermediate courts. In other jurisdictions the Supreme Court may hear these appeals. In most jurisdictions, an appeal court or Court of Criminal Appeal may be constituted to hear appeals from the Supreme or intermediate courts. In Australia, the highest court of appeal from all jurisdictions is the High Court of Australia.

10.16 HIERARCHY OF COURTS



Source: Industry Commission Report on Government Service Provision, Steering Committee for the Review of Commonwealth/State Service Provision, 1995.

National criminal courts statistics

There are no detailed national statistics on the operation of the criminal courts. A National Criminal Courts Statistics Unit (NCCSU), which is funded jointly by the ABS, the Commonwealth Attorney-General's Department, and the Attorney-Generals' departments of the eight States and Territories, has recently been set up with the task of providing a more comprehensive set of statistics.

Table 10.17 shows the number of judicial officers in each court type in the various jurisdictions. Slightly more than half of all judicial officers are assigned to the Magistrates' court in all States.

Of all criminal matters filed in Australia, 98% were filed in the Magistrates' Court, with New South Wales and Victoria contributing 60% to the national total (table 10.18).

10.17 COURT TYPE, By Number of Judicial Officers — 1995

Offence category	NSW no.	Vic. no.	Qld no.	SA no.	WA no.	Tas. no.	NT(a) no.	ACT(a) no.	Total no.
Supreme court	44	27	21	14	16	7	6	3	138
District/County court	58	54	32	17	19	n.a.	n.a.	n.a.	180
Magistrates' court	121	97	71	33	37	12	10	7	388
Total	223	178	124	64	72	19	16	10	706

(a) The Northern Territory, the Australian Capital Territory and Tasmania do not have District/County courts.

Table 10.17 excludes Judges and Magistrates assigned specifically to Childrens' Courts, Coroners' Courts, Courts of Appeal and Family Law Courts.

Source: Unpublished ABS data.

10.18 CRIMINAL MATTERS FILED, By Court Type — 1993–94

Offence category	NSW '000	Vic. '000	Qld '000	SA '000	WA '000	Tas. '000	NT(a) '000	ACT(a) '000	Total '000
Supreme court	1.0	0.8	1.3	0.5	0.4	0.4	0.1	0.2	4.7
District/County court	10.6	4.3	5.7	2.3	2.3	n.a.	n.a.	n.a.	25.2
Magistrates' court	400.0	522.5	219.1	142.7	181.6	25.9	15.7	8.0	1 515.5
Total	411.6	527.6	226.1	145.5	184.3	26.3	15.8	8.2	1 545.4

(a) The Northern Territory, the Australian Capital Territory and Tasmania do not have District/County courts.

Source: Report on Government Service provision, Steering Committee for the Review of Commonwealth/State Service Provision, 1995.

Correctional services

Correctional services are responsible for administering those penalties handed down by the criminal courts which require some form of supervision of the offender. This may include imprisonment on either a full or part-time basis, community service and other forms of supervised work, home detention or good behaviour bonds under supervision.

All States and the Northern Territory operate prisons and other correctional services. Separate provisions exist in each State and Territory for dealing with juvenile offenders. Convicted adult prisoners from the Australian Capital Territory serve their sentences in New South Wales prisons, but local provision is made for the short-term custody of remand prisoners, and for probation and parole services. The Commonwealth Government does not operate any prisons or other correctional services, and federal offenders (that is, persons convicted of offences under Commonwealth laws) fall within the jurisdiction of State agencies for correctional purposes.

A number of jurisdictions have established or are examining the possibility of establishing privately operated prison facilities. These prisons 'compete' with State operated facilities for the governments' business and are monitored by the Correctional Services

authorities in a similar manner to State operated prisons. There is likely to be an increasing trend towards this type of arrangement in future.

Prisoners in Australia

The total prison population in Australia has grown from 9,826 in 1982 to 16,944 in 1994. The unsentenced prisoner population, that is, prisoners awaiting their court trial, has grown from 996 in 1982 to 1,946 in 1994, while the population of sentenced prisoners has grown from 8,830 to 14,998 in 1994. Factors influencing the size of the prison population over this period have included legislative changes in some jurisdictions affecting the length of time prisoners spend in gaol, significant court delays in some jurisdictions leading to an increase in unsentenced prisoners, and changes to the ways in which minor offences are dealt with, particularly fine default.

In December 1995, the prison population in Australia averaged 16,059, a rate of 117.5 per 100,000 adult population (table 10.19). By far the majority of prisoners in Australia were male (95%). Prisoners also tended to be relatively young (median age of 31 years). As imprisonment is the most serious penalty which can be imposed by Australian courts, those convicted of more serious offences, or repeat offenders, comprise the majority of the prison

population. Violent and sexual offences account for around 47% of the offences for which persons were in gaol in 1994. Property offences also account for a relatively high proportion of the offences for Australian prisoners with around 28% of all prisoners in gaol for some form of property offence in 1994.

There is variation in the types of offences for which men and women are sentenced to imprisonment, reflecting the differences in the patterns of offending between men and women. The most common offences for males in 1994 were sexual offences, break and enter, robbery and assault. For women, the most common offences were fraud and misappropriation, dealing and trafficking in drugs, and break and enter.

New South Wales accounts for the majority of Australian prisoners, with 45% of the total. The next largest jurisdiction is Victoria, with only 15% of the total. This represents a marked difference in the imprisonment rates in Australia's two largest jurisdictions.

Overall imprisonment rates also vary between jurisdictions (graph 10.20). The average daily prison population rate for the Northern Territory is over twice that of the next largest jurisdiction, Western Australia.

There are three different indices used to measure Indigenous imprisonment in Australia: the number of Indigenous prisoners; the number as a proportion of the adult Indigenous population (rate per 100,000 adult Indigenous population); and the comparison (ratio) of Indigenous to non-Indigenous rates of imprisonment. Imprisonment rates per 100,000 adult Indigenous population enable the comparison of Indigenous imprisonment across the States and Territories, while the ratio indicates the extent to which the imprisonment rates of Indigenous persons exceed the imprisonment rates of non-Indigenous persons.

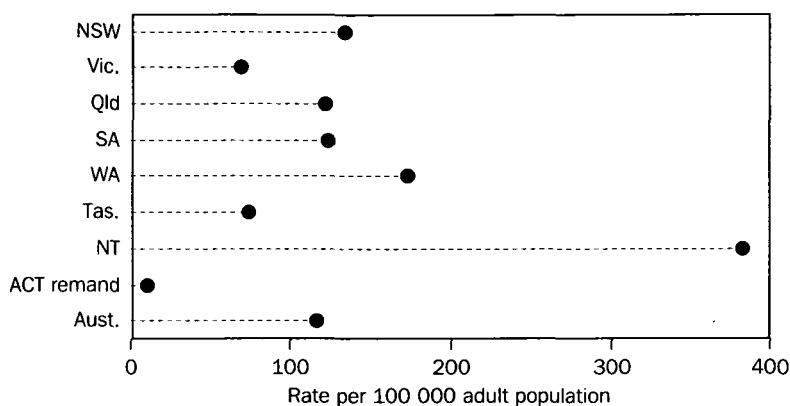
Based on counts taken on or near the first day of the month, in the June quarter 1996 the number of Indigenous persons in prison in Australia averaged 3,136, (19% of all prisoners in Australia). The national Indigenous imprisonment rate for the quarter was 1,768 per 100,000 adult Indigenous population and the ratio of Indigenous to non-Indigenous rates of imprisonment was around 18:1, that is, the national rate of Indigenous imprisonment was 18 times greater than the rate of non-Indigenous imprisonment.

10.19 AVERAGE DAILY PRISONER POPULATION, By Sex — December 1995

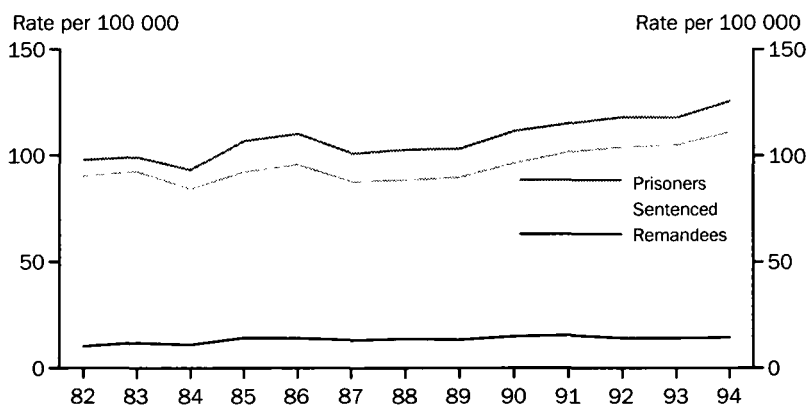
Offence category	NSW	Vic.	Qld	SA	WA	Tas.	NT	ACT in NSW(a)	ACT remand	Aust.
NUMBER										
Males	5 927	2 293	2 905	1 332	2 138	252	458	77	22	15 327
Females	316	118	108	74	112	12	6	3	2	748
Persons	6 412	2 458	2 848	1 392	2 213	240	473	79	24	16 059
RATE PER 100 000 ADULTS										
Males	258.8	136.2	237.6	239.0	331.5	145.3	735.6	67.1	19.4	227.1
Females	13.4	6.7	8.7	12.8	17.3	6.8	9.8	2.6	2.0	10.8
Persons	134.2	70.1	122.4	123.9	173.8	74.8	384.3	34.9	10.7	117.5

(a) Prisoners sentenced in the Australian Capital Territory are held in New South Wales prisons and are included in the New South Wales figures. Australian Capital Territory in New South Wales represents a subset of the New South Wales total. They are not included in the Australian total as this would result in double counting.

Source: *National Correctional Statistics: Prisons, March Quarter 1996, Issue No. 3 — Report by the ABS to the Corrective Services Ministers' Council.*

10.20 AVERAGE DAILY IMPRISONMENT RATES — December 1995

Source: *National Correctional Statistics: Prisons, March Quarter 1996, Issue No. 3 Report by the ABS to the Corrective Services Ministers' Council.*

10.21 PRISONERS, Adult Population(a)

(a) The data is a snapshot of the prison population as at 30 June of every year.

Source: *Australian Prisoners Results of the National Prison Census, Australian Institute of Criminology, 1982 to 1994.*

10.22 INDIGENOUS IMPRISONMENT — June Quarter 1996

	NSW(a)	Vic.	Qld	SA	WA	Tas.	NT	ACT(a)	Aust.
Number	857	110	800	255	739	26	341	1	3 129
Rate	1 828.0	947.4	1 716.8	2 309.6	2 721.9	442.7	1 256.2	89.6	1 763.6
Ratio(b)	15.8	13.8	15.6	21.2	23.4	6.0	7.6	1.6	17.6

(a) The number of Indigenous prisoners sentenced in the Australian Capital Territory and held in New South Wales prisons has been subtracted from the New South Wales figures and added to the Australian Capital Territory remand figures to provide total figures for the Australian Capital Territory. (b) Ratio of Indigenous to non-Indigenous rates of imprisonment.

Source: *National Correctional Statistics: Prisons, June Quarter 1996 — A report prepared for the Corrective Services Ministers' Council by the National Correctional Services Statistics Unit.*

Table 10.23 shows the proportion of sentenced prisoners for each State and for Australia as a whole. For example, the national figure for sentenced prisoners with driving offences is 3.9%, compared to Tasmania and the Northern Territory with 11% and 9% respectively. Similarly, 7% of prisoners in Tasmania, and 6% in the Northern Territory are in prison due to licence/registration offences, compared to New South Wales with a negligible percentage.

South Australia has the greatest proportion of prisoners with break and enter offences (18%), compared to Tasmania which has the lowest proportion with 7%.

In New South Wales, 11% of prisoners are in prison due to deal/traffic in drug offences, compared to the Northern Territory with less than 1%.

10.23 SENTENCED PRISONERS, By Most Serious Offence(a) — 1994

Offence category	NSW %	Vic. %	Qld %	SA %	WA %	Tas. %	NT %	ACT(b) %	Aust. %	Aust. no.
Homicide										
Murder	4.0	8.8	8.3	5.7	5.6	15.8	5.6	—	5.9	881
Other homicide	2.8	3.4	4.0	1.7	2.2	2.7	7.6	—	3.0	453
Assault	10.5	7.2	12.7	13.0	12.6	8.1	13.6	—	10.8	1 625
Sex offences	10.1	14.8	19.4	9.3	17.9	7.7	16.2	—	13.2	1 977
Other against person	0.6	1.8	0.7	1.9	1.5	—	2.3	—	1.0	154
Robbery	13.9	10.1	15.2	14.0	12.6	9.0	5.8	—	13.1	1 965
Extortion	0.3	0.2	0.2	0.2	0.1	—	—	—	0.2	37
Break and enter	13.4	11.8	14.2	17.5	13.7	6.8	9.3	—	13.4	2 014
Fraud and misappropriation	5.3	4.5	3.3	7.4	3.8	2.7	1.5	—	4.7	709
Receiving	2.2	1.1	0.8	2.4	0.9	2.3	0.8	—	1.7	251
Other thefts	7.4	10.8	4.9	2.9	4.6	7.2	5.3	—	6.8	1 016
Property damage(c)	1.1	1.4	1.3	0.9	1.4	1.8	2.0	—	1.3	189
Government security(d)	5.0	7.5	3.6	9.0	9.6	16.2	10.9	—	6.4	958
Possession of weapon	0.6	0.1	—	—	—	0.5	—	—	0.3	42
Other against good order	0.4	0.9	0.1	0.2	0.6	0.5	0.8	—	0.4	65
Possession/use drugs	0.9	0.5	1.4	1.4	1.2	—	0.5	—	1.0	145
Deal/traffic drugs	11.3	9.1	2.8	3.5	6.4	0.9	0.3	—	8.1	1 211
Manufacture/grow drugs	2.2	0.5	0.8	1.5	0.6	0.5	1.8	—	1.4	213
Driving offences	5.1	1.1	2.7	2.9	2.6	10.8	9.1	—	3.9	579
Licence/registration offences	—	3.4	2.2	4.2	1.5	6.8	6.1	—	1.6	238
Other traffic offences	—	—	—	0.2	0.1	—	—	—	—	4
Other offences	2.8	1.1	1.2	0.4	0.8	—	0.8	—	1.8	269
Offences in custody	—	—	0.1	—	—	—	—	—	—	3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	—	100.0	14 998

(a) The most serious offence is the offence with the longest sentence a prisoner has received. For unsentenced prisoners, the most serious offence is the charge which carries the longest statutory maximum penalty. (b) Persons sentenced to imprisonment in the Australian Capital Territory are held in New South Wales prisons as the Australian Capital Territory does not have the facilities to hold sentenced prisoners. Thus, statistics relating to the Australian Capital Territory sentenced prisoners are included with New South Wales figures. (c) Property damage also includes Environmental Offences. (d) Government security also includes Justice Procedures.

Source: *Prisoners in Australia, 1994 — Results of the 1994 National Prison Census — Report by the ABS to the Corrective Services Ministers' Council.*

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