

Chapter 4

LAW AND ORDER

	<i>Page No.</i>
4.1 Police	50
4.1.1 Criminal Investigation	50
4.1.2 Traffic Control	51
4.1.3 Support Services	52
4.1.4 Crime Prevention	52
4.2 Courts	52
4.2.1 Supreme Court	53
4.2.2 Lower Courts	54
4.2.3 Commonwealth Courts	56
4.3 Sentences	57
4.3.1 Fines	57
4.3.2 Imprisonment	58
4.3.3 Probation and Parole	58
4.4 Bibliography	60

Chapter 4

LAW AND ORDER

Tasmania's laws, legal system and institutions are derived from those of Britain. Indeed, for a time, English law applied directly to the colony and, by Federation in 1901, all Australian States had a legal system firmly based on the Common Law of England. With Federation, Tasmanians also became subject to Commonwealth laws enforced by administratively separate institutions.

The legal system is based on the political and philosophical ideal called *the rule of law*. This means that a person's relations with other people and the State are governed by law, not by force or arbitrary power. The Parliament enacts the law and officers who administer the law are responsible, through parliament, to the people.

Another principle of *the rule of law* is that no person should be deprived of his life, liberty or property except by fair trial in open court presided over by impartial judges. In law, all people are equal.

Australia has two sources of law: case law and legislation or statute law. Case law, also called common law, consists of rules resulting from the decisions of the courts. When a case comes before the courts, the judges generally apply the law as laid down or interpreted by earlier courts that decided similar cases.

The Commonwealth and State parliaments make Australia's laws within powers set out in the Constitution. Often legislation gives power to the Governor-General, Governor or a minister to make rules of law. Such laws, called subordinate, or delegated, legislation are an important part of the law.

State and Commonwealth police are charged with enforcing the law. The police have broad



The Honourable Justice Slicer, who was appointed to the Bench in 1991. Photo: The Mercury

powers to investigate breaches of the law and to arrest people suspected of crimes. Usually, it is the police who institute criminal proceedings. Each State as well as the Commonwealth has its own police force.

After formal charges are laid, guilt or innocence is determined through trial in a court. In Tasmania, this is either the Supreme Court or, for less serious matters, a lower court, with each having jurisdiction in civil, as well as criminal, matters. For civil trials and criminal matters in the lower courts the issue is generally determined by a magistrate. In the Supreme Court, questions of guilt in criminal matters are decided by a jury.

Although the Tasmanian jury system is based on the English system it has, since 1934, embodied the principle of allowing majority decisions in certain circumstances instead of requiring the unanimous decisions once characteristic of juries in England. In criminal cases, a 10-2 decision is accepted in lieu of 12-nil after stipulated periods of deliberation. In the case of murder, 12-nil is necessary to convict, but 10-2 can bring in a verdict of not guilty, or not guilty of murder but guilty of a lesser crime.

Civil litigants may elect to have a seven-member jury and, if after three hours deliberation a seven-nil decision cannot be reached, a five-two decision is accepted. If the minimum five-two decision cannot be reached after four hours, the jury may be discharged.

At present, all people listed on the electoral roll below the age of 65 are liable for service as jurors. However, persons convicted of an offence, bound by a recognizance or subject to a community service order or probation are disqualified from service.

Within limits prescribed in legislation, the presiding officer of the court imposes a sentence: imprisonment, a fine, probation, or a community service order. A term of imprisonment may be suspended on condition of good behaviour.

Crime Frequency, 1989-90

Property crimes	One offence every 16.4 mins.
Theft (excluding motor vehicle theft)	One offence every 31.5 mins.
Burglary (excl. motor vehicles)	One offence every 63.6 mins.
Fraud, forgery, and misappropriation	One offence every 503.5 mins.
Motor vehicle theft	One offence every 392.0 mins.

(Source: Tasmania Police).

4.1 POLICE

Directed by a Police Commissioner answerable to the Minister of Police, the Police Department was composed, as at 30 June 1990 of a force of 1077 officers (one per 424 persons) plus support personnel. The Department consists of four main branches: criminal investigation, traffic control, recruitment and training, and support services.

The duty of a police officer is to serve the community by protecting life and property, preserving the peace and detecting and apprehending offenders. There are few limits however to the variety of tasks police officers are called on to perform.

Tasmania's Commissioner of Police

Mr John Johnson was appointed Tasmania's Commissioner of Police in June 1991. Prior to taking up the appointment he was the Deputy Commissioner (administration) of Australian Federal Police.

Mr Johnson's police career began in 1957 in Victoria, he joined the Australian Capital Territory Police in 1959 where he held the positions of Assistant Commissioner and Deputy Commissioner. Mr Johnson took up his new position in Tasmania on 1 July 1991 along with Mr Alan Morris, the State's new Secretary of the Department of Police and Emergency Services. Mr Johnson replaced former Police Commissioner, Mr Bill Horman who resigned to become Director of Investigations with the National Crime Authority.

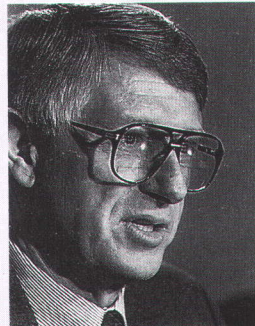


Photo: The Mercury

4.1.1 Criminal Investigation

Tasmania Police has Criminal Investigation Branches in their Divisional Headquarters at Hobart, Launceston and Burnie. The task of each branch is to detect and investigate crime and to offer the public advice on how to prevent crime.

Reported Serious Crime Per Head of Population

1980-81	1 crime per 3.86 persons
1986-87	1 crime per 4.78 persons
1987-88	1 crime per 4.28 persons
1988-89	1 crime per 4.66 persons
1989-90	1 crime per 4.62 persons

(Source: Tasmania Police).

Modern methods of criminal investigation help produce a high rate of reported crime being 'cleared-up'. In 1989-90 the clear-up rate of indictable criminal offences reported was 14.8 per cent.

Uniformed officers from police stations are often the first on the 'scene of a crime' and their reports are sent to the Divisional Criminal Investigation Branch (CIB) for specialist attention. Each crime report is examined by senior officers and allocated to a detective. They can follow hours of telephone calls, general enquiries, interviews, examination of statements and forensic reports in an effort to track down offenders.

Specialist squads within the CIB investigate such matters as major crime, illicit drug activity, vice, gaming, fraud, corporate affairs, arson, breaking and stock theft.

4.1 OFFENCES RECORDED BY TASMANIA POLICE

Offence	1988-89	1989-90
Assault and like offences	1 455	1 741
Homicide and related offences	17	12
Crimes of indecency and like offences	92	109
Other offences against the person	22	33
Offences against property	30 167	31 960
Fraud and similar offences	1 487	1 041
Miscellaneous police offences	4 315	3 394
Licensing Act offences	3 145	2 703
Racing and Gaming Act offences	20	79
Traffic and road safety offences	52 903	54 223
Miscellaneous Acts and offences	3 161	3 596

(Source: Commissioner of Police, Annual Report).

4.1.2 Traffic Control

The aim of traffic police is to keep traffic moving safely on Tasmanian roads. Detection of traffic offenders is the primary role, with parking offences, general road traffic management duties and attendance also important.

The Accident Investigation Squad attends all fatal and serious accidents where serious charges are likely to arise. It is the duty of the first police officer on the scene of an accident to ensure it remains undisturbed until the arrival of the Squad. It is also the duty of the officer to ensure all the drivers of the vehicles involved are given a breath analysis. The officer also has the

Computerised Breathalyser

In June 1988 Tasmania Police introduced a computerised alcotester (breathalyser) which was considered the most accurate and advanced in Australia. Upon blowing into the mouthpiece the driver is given a printout, generated by the machine, of the recorded blood alcohol concentration level. A driver with 0.05 grams of alcohol (or above) in 100 millilitres of blood, is liable to conviction for this offence in Tasmania. A police officer may arrest a driver if the roadside test is positive and take the driver to a police station or other appropriate place where further testing may be done. Under the *Road Safety (Alcohol and Drugs) Act 1970* the maximum penalty for a first offence is \$1000 and/or six months imprisonment with a maximum period of disqualification of three years. For a second offence the maximum penalty is \$2000 and/or 12 months imprisonment with a maximum period of disqualification of six years.

task of ensuring next of kin are notified and of completing the initial Coroners Form. In 1990 there were 1386 road traffic accidents on Tasmanian roads that involved casualties.

The Road Toll

The number of people killed or injured on the roads in recent years has stabilized. The intervention of both blood-alcohol limit and compulsory seat-belt legislation is believed to have mitigated the toll, but alcohol, speed, pedestrian fault, failure to keep left and failure to give way remain as major contributors to the fatality rate.

4.2 THE ROAD TOLL, TASMANIA

Period	Persons killed	Persons injured	Total
1984	84	2 015	2 099
1985	78	2 070	2 148
1986	91	2 060	2 151
1987	77	1 959	2 036
1988	75	1 925	2 000
1989	80	1 997	2 077
1990	71	1 905	1 976

(Source: ABS Catalogue No. 9406.6).

4.1.3 Support Services

Tasmania Police is assisted by various support services which are administered and developed by the Management Services District which has six specific areas of operation: Planning and Research Section; Search and Rescue Section; Transport Section; Communications (Technical) Section; Information Bureau; and Scientific Bureau. Of special assistance to Criminal Investigation and Traffic Branches is the Scientific Bureau.

In recent times, drug trafficking has spread throughout the world. Since 1984 specialised personnel highly qualified in their respective fields have worked closely together in the investigation of drug related crime. Their forensic duties are performed in co-operation with the Government Pathologist and Analyst.

4.1.4 Crime Prevention

A vigilant, well informed public can take an active role in crime prevention. Making people responsible for their own safety and the security of their property is the aim of officers who work in the Crime Prevention Bureau of Tasmania Police.

With the objective of reducing preventable crime, advice is readily available to householders, businesses, government and other police officers. Many lectures and workshops are given every year to schools, service clubs and businesses. The Neighbourhood Watch Program is supported by police who attend neighbourhood meetings and provide information, where needed, on local crime rates and help available. They also test many anti-crime devices, such as locks and payroll protection, offered by commercial firms.

Police Staffing

The basic requirements for entry to the police force are Australian or British citizenship, age and education and entrants must pass an exam and physical fitness test. The candidates are interviewed by a selection board and medically examined before a final selection of recruits is made. In 1990, 22 recruits were inducted into the force.

The training course for recruits is a 32 week fully residential course conducted at the Police Academy at Rokeby, near Hobart. There is a full study schedule of academic and practical subjects, and physical training and sport. Recruits

get a chance to work in police stations, with community groups and to develop survival skills in the bush. The curriculum is based on the modern thematic modular approach to specific problem areas which face police officers. Legal procedures, social and practical policing techniques of each area are taught at the same time.

4.2 COURTS

Courts are tribunals set up to hear arguments to resolve allegations that offences have been committed, and to resolve disputes. Where offences are proven the courts impose a penalty or penalties; where matters in dispute are decided the court can impose appropriate conditions of settlement.

As in the other Australian States, Tasmanian courts derive from British traditions. Thus the basic hierarchy of courts is similar between States, except that in Tasmania there are no intermediate courts. The Higher courts are titled Supreme Courts and deal with matters of a major nature. Civil matters brought before the Supreme Court will usually be heard by a judge alone and in criminal cases by a judge and jury. It also hears appeals from lower courts at which the case will be heard by a single judge. Appeals from the Supreme Court will be heard by several judges, referred to as the Full Court of the Supreme Court or the Court of Criminal Appeal.

Lower courts in Tasmania are known as Courts of Petty Sessions or Magistrates Courts and deal with minor civil or criminal matters. Civil matters involving amounts of less than \$5000 are heard in Courts of Requests.

Cases involving children are heard by the Children's Courts and may involve either a criminal matter or an allegation under child or community welfare legislation relating to a child being in need of care, control or protection.

In addition, inquests concerning certain deaths or the cause of fires are held as required in Coroners Courts.

Although not strictly courts, there are also a number of tribunals set up under particular statutes to act as specialised courts. An example is the Wardens' Court constituted under the

Mining Act 1929 to hear matters involving mining licences.

Tasmanians, like the residents of the other States, are subject to Commonwealth laws, for which there is a system of Commonwealth Courts. The most prestigious is the High Court of Australia constituted by the Chief Justice and six other Justices to resolve inter-state disputes and disputes between the Commonwealth and the States. If there is sufficient business, the High Court may sit in Hobart.

With the passing of the *Family Law Act*, in 1975, the Family Court of Australia was established to deal with divorce and the custody of children. The sole ground for divorce became irretrievable breakdown of marriage.

4.2.1 Supreme Court

The Supreme Court of Tasmania is constituted by the Chief Justice and six puisne judges. Regular sittings of the court are held at Hobart, Launceston and Burnie, although the court is authorised to sit and act at any time and at any place in the exercise of the jurisdiction and business of the court.

The court has jurisdiction over all cases, both civil and criminal, except those reserved for other courts under the Australian Constitution. It

The Supreme Court of Tasmania

Chief Justice

Sir Guy Green, appointed 1973.

Puisne Judges

The Hon. Mr Justice William Cox,
appointed 1982.

The Hon. Mr Justice Peter Underwood,
appointed 1984.

The Hon. Mr Justice Christopher Wright,
appointed 1986.

The Hon. Mr Justice Ewan Crawford,
appointed 1988.

The Hon. Mr Justice William Zeeman,
appointed 1990.

The Hon. Mr Justice Pierre Slicer,
appointed 1991.

The Hon. Mr Justice Neasey retired in 1990 after 27 years as a Tasmanian Supreme Court judge.

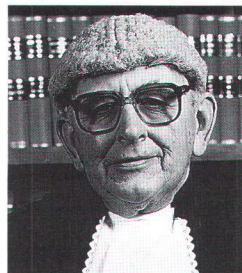


Photo: Tasphoto Services

also exercises federal jurisdiction in particular matters; for example all criminal matters (including those covered by the *Commonwealth Crimes Act*) are heard in State courts. Its civil jurisdiction extends to all cases of action, whatever the amount involved, and its criminal jurisdiction includes the trial of all indictable offences.

The jurisdiction of the court is usually exercised by one judge of the court. From his decision there is a right of appeal to the Full Court of the Supreme Court of Tasmania. A Full Court usually consists of three or more judges of the court. The Full Court is also a Court of Criminal Appeal under the Criminal Code. Appeals may be brought to the Supreme Court by the prosecution or by the defendant from conviction or sentence in a Court of Petty Sessions, or from many administrative tribunals.

Unlike a Children's Court, the Supreme Court is in no way inhibited in imposing a penalty on a child. In addition to its ordinary sentencing powers, it may make supervision or wardship orders, and commit a child to an institution. If a child is sentenced to imprisonment, the Minister responsible may direct that the sentence be served in a place other than a gaol.

4.3 OFFENCES, TASMANIAN SUPREME COURT, 1990

<i>Offence</i>	<i>Finalised Proven</i>	
Offences against the person	435	365
Robbery and extortion	25	25
Breaking and entering, fraud and other offences involving theft	1 048	887
Property damage and environmental offences	48	33
Offences against good order	45	38
Drug offences	97	78
Motor vehicle, traffic and related offences	11	6
Total	1 709	1 432

(Source: ABS Catalogue No. 4508.6).

In 1990, 84 per cent of matters finalised in the Supreme Court were proven. Most of the matters proven, 87 per cent, involved males.

4.2.2 Lower Courts

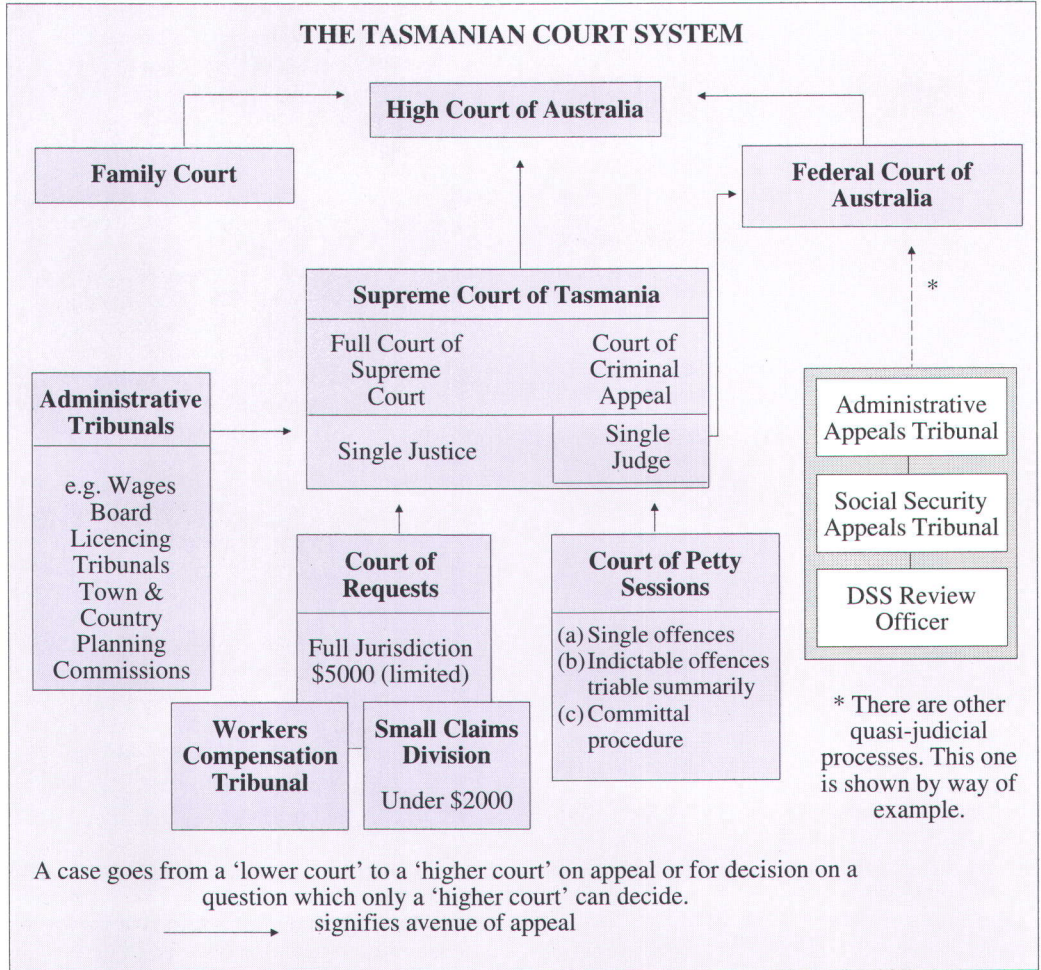
The lower courts are presided over by magistrates or justices of the peace and exercise both criminal and civil jurisdiction in minor matters. Both jurisdictions are kept separate although the same magistrate or justice of the peace may preside over both types of case.

Civil cases include minor disputes in the 'common law' area such as landlord and tenant disputes and hire purchase; magistrates generally try cases alone, without a jury. In their criminal jurisdiction the courts have power to try and impose sentence in summary offences. Magistrates preside over Children's Courts.

Courts of Petty Sessions

There are Courts of Petty Sessions sitting in Hobart, Launceston, Devonport and Burnie, as well as temporary courts in other country centres. The court is constituted by a magistrate (who must have been a legal practitioner or barrister for not less than five years) or by two or more lay justices. In major centres of population, a court sits regularly; in smaller centres a court sits less frequently or is convened as occasion requires.

A Court of Petty Sessions has jurisdiction over all summary offences and also over certain indictable offences at the option of the defendant, including escape, facilitating escape and related offences; stealing, fraud and receiving stolen property of a value between \$500 and \$5000; unarmed breaking into a building other



than a dwelling where the value of the property involved does not exceed \$5000; and forgery and uttering of a cheque for not more than \$5000.

Courts of Request

These are constituted as courts with civil jurisdiction for particular municipalities in accordance with the authority given by the *Local Courts Act 1896*. Courts are held before a commissioner who is usually a magistrate. Every court has jurisdiction throughout the State but a plaintiff may have his action struck out if he brings it in a court other than the court nearest to which the cause of action arose.

The current jurisdiction of a Court of Requests covers all personal actions where the debt or damage claimed does not exceed \$5000.

The Small Claims Division of the Magistrates Court was established to deal with claims of up to \$2000. The primary function of the magistrate hearing the claim is to attempt to bring the parties to a dispute to an acceptable settlement but, if he cannot do so, he may determine the matter in dispute. Proceedings in this jurisdiction are private, straightforward and informal. Legal practitioners are excluded as a general rule, and the magistrate may proceed as he sees fit.

Matters finalised in the lower court may be finalised by referral to the Supreme Court. In 1990, 1706 matters were finalised by this method. Most were in relation to the more serious crimes of offences against the person and breaking, entering, fraud and other theft. About 84 per cent of matters finalised involved males,

4.4 OFFENCES, TASMANIAN LOWER COURTS, 1990

<i>Offence</i>	<i>Finalised</i>	<i>Proven</i>
Offences against the person	2 008	818
Robbery and extortion	23	-
Breaking and entering, fraud and other offences involving theft	5 693	4 854
Property damage and environmental offences	784	687
Offences against good order	7 321	6 714
Drug offences	2 181	2 053
Motor vehicle, traffic and related offences	5 902	5 798
Other offences	939	816
Total	24 851	21 740

(Source: ABS Catalogue No. 4508.6).

a similar percentage to that for higher courts. In terms of age the majority of matters coming before the courts relate to young offenders; males in the age bracket 15–24 account for about 50 per cent of male matters finalised. (Males in this age group comprise only 21 per cent of the male population aged 15 years and over.) A similarly high proportion of female matters finalised relate to women in this same age bracket.

Children's Courts

A 'child' in this jurisdiction is one under the age of 17 years. The court before finally disposing of the case, must receive a report from a child welfare officer (the representative of the Director of Community Welfare), unless the court considers the offence trivial or the Director decides not to provide one. A child's parent has the right to be heard and to examine and cross-examine witnesses, or to be represented by counsel; also a parent can be compelled to attend the hearing if this imposes no unreasonable inconvenience.

4.5 OFFENCES, TASMANIAN CHILDREN'S COURTS, 1990

<i>Offence</i>	<i>Finalised</i>	<i>Proven</i>
Offences against the person	98	89
Robbery and extortion	3	2
Breaking and entering, fraud and other offences involving theft	2 192	2 139
Property damage and environmental offences	185	178
Offences against good order	1 427	1 345
Drug offences	50	49
Motor vehicle, traffic and related offences	51	49
Other offences	24	23
Total	4 030	3 874

(Source: ABS Catalogue No. 4508.6).

In summary proceedings, the court is compelled not to enter a conviction against a child unless it imposes a sentence of imprisonment or there are special circumstances which indicate that a conviction should be recorded.

Children under 16 years cannot be sentenced to imprisonment and children of 16 years cannot be sentenced for more than two years, in aggregate. Minimum penalties imposed by statute do not apply to children; for those under 14 years the maximum fine is \$20, and for those over 14

years, \$100. The court may impose a supervision order to bring the child under the guidance of a child welfare officer or, if over 15 years, of a probation officer. Alternatively, the court may declare the child a ward of the State, placing him or her under the control of the Director for Community Welfare until his or her eighteenth birthday, unless released sooner; it may also direct that a ward be committed to an institution. In cases where further investigation appears necessary the Court may issue a remand for an observation order before it makes a final decision. Remands for observation orders are for short periods and usually provide for intensive supervision. Neglected or uncontrolled children are also in the Court's jurisdiction.

Coroner's Court

Coroners are appointed by the Governor and have jurisdiction throughout the State. Under the *Coroners Act 1957*, a coroner may hold an inquest:

- concerning the manner of death of any person who has died a violent or unnatural death, who died suddenly without cause being known, or from 'sudden infant death syndrome' or 'cot death', or who died in a prison, or mental institution. At the direction of the Attorney-General, he may also be required to hold an inquest concerning any death; and
- concerning the cause of any fire if the Attorney-General has directed, or has approved a request by the owner or insurer of the property; or at the request of the State Fire Authority or the Rural Fires Board.

The duty of the court is to determine who the deceased was, and the circumstances by which death occurred. Medical practitioners and other persons may be summoned to give evidence. In the case of the death of an infant in a nursing home, the coroner may also inquire generally into the conditions and running of the institution. On the evidence submitted at the inquest, the coroner can order a person to be committed to the Supreme Court and can grant bail. In the case of murder, a coroner can issue a warrant for apprehension.

The coroner, in holding an inquest, usually acts alone, but either the Attorney-General or the relatives of the deceased may request that a four or six-person jury be empanelled. After considering a post-mortem report the coroner may dispense with an inquest, unless the

circumstances of death make an inquest mandatory under the Act.

The *Coroners Amendment Act 1985*, brought forward two significant innovations; the tape recording of depositions to speed up the hearing of inquests, and new provisions dealing with the care, custody and control of exhibits which may prove useful to those persons who need the use of exhibits pending the hearing of inquests or who seek possession of exhibits when the inquest is over.

4.2.3 Commonwealth Courts

The High Court of Australia

The High Court has original jurisdiction under the *Commonwealth of Australia Constitution Act 1901* in cases concerning treaties, consuls, the Commonwealth of Australia as a party, residents in different States and matters arising under the Constitution.

It is the final court of appeal for Commonwealth and State Courts; it hears appeals from State Supreme Courts and the Federal Court of Australia, and in some circumstances, from the Family Court of Australia.

The Family Court

The Family Court of Australia was set up by the *Family Law Act 1975*. It hears petitions for divorce and has jurisdiction in the welfare and custody of children and in disputes as to maintenance and property of marriage.

Summary of Divorces, Tasmania, 1990

Divorces granted	1 170
Crude divorce rate (per 1000 population)	2.6
Median duration of marriage (years)	10.1
Median interval between marriage and final separation (years)	7.6
<i>Divorces involving children -</i>	
Number	721
Percentage of total divorces	61.6
Average issue	2.0

(Source: ABS Catalogue No. 3307.0).

In 1989, 1269 divorces were granted, an increase of 49 on the number granted in the previous year. About 57 per cent of the petitioners are females.

Family Violence

Organisations and agencies specifically dealing with domestic violence issues have been established in recent years, not only to increase awareness of formal legal rights and responsibilities, but also to raise community awareness of the problem and to offer alternative solutions. The primary aim of such organisations is to suggest practical steps that may avert the worst effects of domestic violence at the point of crisis.

Practical measures against family violence usually involve seeking immediate protection for the victims. The police are an obvious source of assistance and have a range of powers to investigate and guard against breaches of the peace, although police action often depends upon the request of a victim. The Crisis Intervention Unit of the Department of Community Services offers advice and assistance in obtaining alternative accommodation or enhanced security and communications facilities to persons at risk.

Women's Refuges provide crisis accommodation to women and children until a threatening situation has abated. Counselling services are available to parties, including advice in specific areas such as alcohol abuse and through self-help groups for violent men. Child Protection is specifically catered for under the *Child Protection Act* which includes mandatory reporting of suspected child abuse cases by medical practitioners, and wide powers for officers to investigate and act upon any reports of child abuse.

Legal remedies available include the laying of charges of assault or of more serious indictable offences. If an alleged assailant is granted police bail, conditions such as that the defendant not approach, harass or molest the victim, or telephone or directly contact them, may be applied.

Restraint Orders, specifically designed under the *Justices Act*, are also available to provide victims of domestic violence with legal protection. Similar provisions are also included in the *Family Law Act* where parties are involved in Family Court proceedings.

4.6 DIVORCES GRANTED BY SEX OF PETITIONER

Year	Males	Females	Joint (a)	Total
1985	450	695	24	1 169
1986	464	736	45	1 245
1987	415	660	40	1 115
1988	455	688	77	1 220
1989	471	728	70	1 269
1990	448	654	68	1 170

(a) Under the *Family Law Act* joint applications for divorce became possible from 1 December 1984.

(Source: ABS Catalogue No. 3307.0).

The Federal Court of Australia

Established in 1976 to replace the former Australian Industrial Court and the Federal Court of Bankruptcy, it sits in two divisions; Industrial and General.

4.3 SENTENCES

Statutes creating offences in criminal law often prescribe a penalty for the crime. It is, however, a maximum penalty. The magistrate or judge may exercise discretion in deciding what is appropriate, taking into consideration the particular offender, and the circumstances of the offence.

The death sentence was abolished in Tasmania in December 1968 having last been imposed in 1946. Punishment has been regarded as preventive, exercised to avoid further trouble from the offender. In all forms of punishment, deterrence, the imposition of a severe sentence on the offender as an example to the community, is a strong element.

Although fines and terms of imprisonment remain frequently imposed penalties, the modern trend has been toward avoiding the use of imprisonment. This is the basis for such sentences as community service orders and probation.

4.3.1 Fines

A fine is the penalty most frequently imposed by the courts. In 1990 fines provided just on 35 per cent of all penalties imposed by all courts, with the majority being handed down by magis-

trates. More than three quarters of all fines imposed related to just two offence categories, motor vehicle offences and offences against good order. Forty-one per cent of fines imposed were for amounts less than \$100 in 1990; only 17 per cent of fines were for amounts in excess of \$250.

4.3.2 Imprisonment

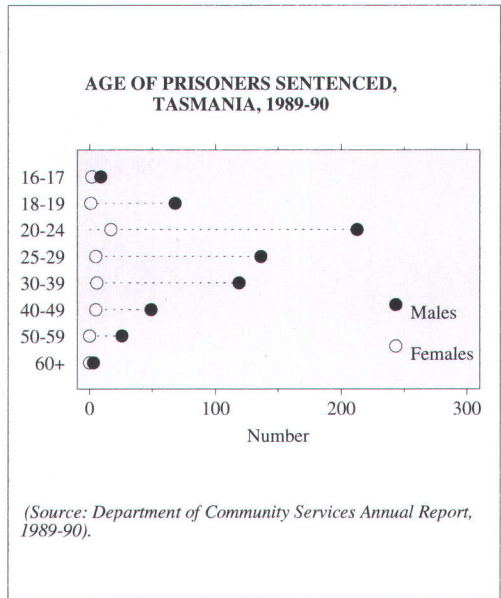
Tasmania's main prison is at Risdon, near Hobart, which has, as an outstation a prison farm at Hayes in the Derwent Valley. A prison at the Police Headquarters building in Launceston is a temporary holding centre where prisoners are held prior to being transferred to Risdon.

Approximately 95 per cent of people sentenced to gaol are males. In 1989-90, 564 prisoners were received—533 males and 31 females. However, there were 653 imprisonments during the period. A number of prisoners, almost entirely males, therefore had more than one prison sentence during the year. Almost 62 per cent of the people sentenced to gaol in 1990 had been imprisoned previously. Of the 361 people (60 per cent) with previous prison sentences, 49 per cent had been to prison at least three times before.

The biggest proportion of imprisonments was for offences against good order and offences relating to breaking and entering, fraud and other offences involving theft. Offences relating to motor vehicle and traffic were also relatively high. Only about 11 per cent of gaol sentences

were for periods of one year or more. Most prison sentences were for a period of one to three months.

A large proportion of prisoners consists of young offenders. Forty-seven per cent of those sentenced to imprisonment during 1989-90 were under 25 years of age. The proportion of young prisoners has steadily declined over the past 20 years. In 1970, 60 per cent of all prisoners were aged less than 25 years. In 1985 the percentage was 52 per cent.



4.7 INSTITUTIONS FOR ADULTS, TASMANIA, 1989-90

Institution	Capacity	Average occupancy	Staff positions
Risdon prison (male)	320	179	} 215
Risdon prison (female)	23	8	
Risdon special institution (security hospital)	29	14	
Medium security unit	36	-	-
Hayes prison farm	70	33	16
Total	478	234	231

(Source: Department of Community Services Annual Report 1989-90).

The decline is attributed to an increase in the use of non-custodial sentencing options and a decline in the proportion of young people in the population, which fell by nine per cent over the same period.

4.3.3 Probation and Parole

Although fines and imprisonment are the most common sentences for offences, there has been a growing view that harsh punishments are not necessarily effective in reducing offences. The result is a growing move towards imposing custodial sentences, such as probation orders with supervision, that aim to reform the offender and community service orders. In Tasmania, the Probation and Parole Service is responsible for administering these sentences.

Legal Aid Services

Legal Aid is intended to provide access to the law to people who would otherwise be unable to afford it. The solicitors and others who provide legal aid are salaried or funded by government. Services provided include legal advice and assistance in legal procedures concerning civil or criminal matters ranging from small legal problems to appeals to the High Court.

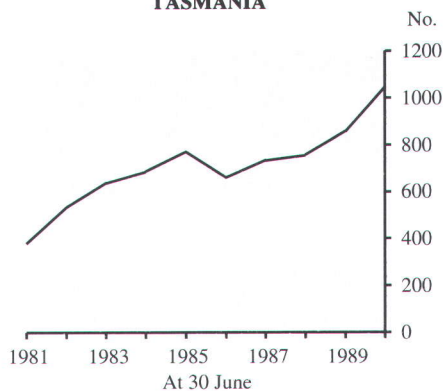
Legal advice, covering legal rights and problems including appropriate referral and sources of further advice, is provided free of charge by government and government-funded agencies. Legal assistance most often involves representation in court but may also cover drafting of documents, legal negotiation and a range of complementary and other services.

Legal assistance is generally subject to means testing and to the merits of the prospective case. The primary provider is the Legal Aid Commission of Tasmania, through its salaried solicitors or via private practitioners. A basic function of the scheme is the provision of duty solicitors at magistrates courts and the prison.

Community Legal Centres (CLSs) provide alternatives to mainstream legal aid. Voluntary lawyers and community workers offer advice to clients, primarily during evening sessions. Referral and assistance with self-help are the primary forms of assistance given. Because of the high level of demand on their services, CLSs have become involved in community legal education and in advocating specific law reform issues. The release in 1988 of the *Law Handbook*, a comprehensive but non-technical guide to the law and legal services in Tasmania, is an example of the educational role of the CLSs.

Other agencies which provide more specialised legal aid services include the Aboriginal Legal Service, the Human Rights and Equal Opportunities Commission and the Child Support Agency.

COMMUNITY SERVICE ORDERS, TASMANIA



(Source: Department of Community Services, Annual Report 1989-90).

The service has a total complement of 54 permanent officers, 34 of whom are field officers. It works closely with officers of the Mental Health Services Commission, the Department of Community Welfare, the Prison Service and the Police and is essentially a community-based operation involving close liaison with families, private relief agencies, public departments concerned with human problems and law enforcement.

While there is a significant component of welfare work involved, the Service conducts over 200 prosecutions annually against persons failing to discharge satisfactorily, the conditions and obligations set down in their Supervision or Community Service Orders.

During 1989-90, 1463 persons (1274 males and 189 females), were subject to supervision orders. The majority of supervisions were either community service orders (48 per cent) or single probation orders (44 per cent). Forty-nine per cent of female supervisions related to single probation orders, while 43 per cent related to community service orders. The majority of male supervisions, on the other hand related to community service orders (48 per cent) with single probation orders accounting for 43 per cent. Almost 60 per cent of all orders relate to persons under 25 years of age.

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