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PREFACE

Crime and Justice in South Australia is published annually by the Office of Crime Statistics and Research as a three volume set. This particular volume deals exclusively with young offenders and the juvenile justice system. Statistics in this report cover the period 1 January 2003 to 31 December 2003 and incorporate five main areas:

- police apprehensions of juveniles and actions taken (source of data: South Australia Police);
- formal cautions administered by police (source of data: South Australia Police);
- attendance by juveniles at family conferences (source of data: Courts Administration Authority);
- appearances by juveniles before the Youth Court (source of data: Courts Administration Authority); and
- juveniles held in custody in the Youth Training Centres (source of data: Family and Youth Services).

Through its statistical monitoring of the juvenile justice system, the Office of Crime Statistics and Research seeks to provide an overview of how the system is currently operating, and by so doing, contribute to the ongoing public, political and academic interest in and debate about issues associated with youth offending and the State's response to it.

We trust that readers will find this report useful and informative.

Joy Wundersitz
Director
Office of Crime Statistics and Research

November 2004

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1

INTRODUCTION

INTRODUCTION

The *Young Offenders Act* 1993, which came into operation on 1 January 1994, provides the legislative framework for dealing with young people alleged to have committed a criminal offence in South Australia. The objects and statutory policies of the Act are set out in s 3, which states:

- "3.(1) The object of this Act is to secure for youths who offend against the criminal law the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential.
- (2) The powers conferred by this Act are to be directed towards that object with proper regard to the following statutory policies:
- (a) a youth should be made aware of his or her obligations under the law and of the consequences of breach of the law;
- *****
- (c) the community, and individual members of it, must be adequately protected against violent or wrongful acts.
- (2a) In imposing sanctions on a youth for illegal conduct –
- (a) regard should be had to the deterrent effect any proposed sanction may have on the youth; and
- (b) if the sanctions are imposed by a court on a youth who is being dealt with as an adult, regard should also be had to the deterrent effect any proposed sanction may have on other youths.
- (3) Effect is to be given to the following statutory policies so far as the circumstances of the individual case allow:
- (a) compensation and restitution should be provided, where appropriate, for victims of offences committed by youths;
- (b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened;
- (c) a youth should not be withdrawn unnecessarily from the youth's family environment;
- (d) there should be no unnecessary interruption of a youth's education or employment;

- (e) a youth's sense of racial, ethnic or cultural identity should not be impaired."

To translate these guiding principles into practice, the *Young Offenders Act* 1993 introduced a multi-tiered system of pre-court diversion designed to deal with all 'minor' offences. It also established the Youth Court of South Australia to deal with more serious and/or repeat offenders. More specifically, this new system of juvenile justice, which applies to youths who at the time of the alleged offence are aged 10 to 17 years inclusive, provides four processing options.

- If a youth commits an offence which, according to police guidelines, can be classed as 'trivial' an operational police officer may administer an *informal caution*. These are given 'on the spot' and are not formally recorded. (Although an ancillary report is completed for the purposes of intelligence gathering no statistical data on informal cautions are included in this report.)
- Alternatively, a police officer may decide that the offence warrants a *formal police caution*. This is usually delivered either by a cautioning officer or a specially appointed Youth and Community Officer in the presence of either a parent or guardian, or an adult closely involved with the youth. As part of a formal caution, a cautioning officer has the power to require the young person to enter into a formal undertaking. This may involve apologising to the victim, completing up to 75 hours of community work, paying compensation or performing any other tasks considered appropriate. In determining the nature of the undertaking, police are required to take into account the needs of the victim and to consult with the parents. The youth also has the right to refuse an undertaking, but such a refusal may result in the original allegations being referred to a family conference for resolution. (Details of formal police cautions are included in Section 2 of this report.)
- Offences which are considered too serious for a caution may be referred to a *family conference*. This constitutes the next diversionary level in the South Australian system. As is the case with a police caution, family conferences occur only if the youth admits to the commission of the offence. If the young person denies the allegations, (s)he is sent to court. Each conference is convened by a specialist Youth Justice Coordinator, whose task is to bring together in an informal setting those people most directly affected by the young person's offending behaviour. The young offender, the Coordinator and a police representative are statutorily required to be present. Other participants may include the offender's parents, family or friends, the victim and his/her supporters and any other person whom it is considered could make a contribution to the conference. The aim of the conference is to give all participants the opportunity to discuss the offending behaviour, to identify the harm that has been caused and to decide on an appropriate outcome which is acceptable to the victim,

the young person and the police. In most instances, the young person agrees to enter into an undertaking which may involve various conditions, such as apologising to the victim, paying compensation, performing community work or anything else that the conference participants consider appropriate. If the conference cannot reach an agreement, the matter is referred to the Youth Court where a Judge or magistrate will convene a second conference. (Statistical information on family conferences are detailed in Section 3 of this report.)

- If a youth commits a serious offence, is a repeat offender or fails to comply with a family conference undertaking, then (s)he may be formally charged and sent to the *Youth Court*. This court is presided over by a Judge of District Court status and, although it functions as a court of summary jurisdiction, it has the authority to hear all but a few major indictable offences. If the allegations are proved, the Youth Court may convict the young offender and impose a range of penalties including fines, community service and obligations. It may also impose a period of detention in a secure care facility for up to three years. Alternatively, the *Young Offenders Act 1993* allows the court to order a period of home detention, to be served either as a stand-alone option or as a joint secure care/home detention order. Responsibility for organising community work and for providing appropriate supervision for youths placed on an obligation by the court rests with Family and Youth Services (FAYS), which is also required to provide pre-sentence and bail reports as requested by the court. FAYS also runs the State's two detention centres and operates a home detention program. (Statistical information relating to cases finalised by the Youth Court, together with data on community service supervision undertaken by FAYS, is contained in Section 4 of this report. Occupancy data for South Australia's two secure care facilities are presented in Section 5.)

The decision regarding the type of action taken against a youth – ie whether (s)he will receive a caution, be referred to a conference or be directed to the Youth Court – rests primarily with police and, in particular, with specialist Community Programs Unit Managers. However, the Youth Court does have some gate-keeping powers. It can, for example, overturn any court referral decision made by a Community Programs Unit Manager and send the matter back for either a caution or conference. It also exercises a referral role in the case of those youths who have been arrested but not granted police bail. Youths held under police custody (usually at the Magill Training Centre) must be brought before the court within a specified time following their arrest and at this court hearing, the presiding Judge or Magistrate may decide to deal with the case themselves or refer it back to a caution or conference. While this report provides details on the referral outcomes (see Section 2), it does not identify whether the referring agent is the police or the Youth Court.

Under some circumstances, a matter involving a young person who, at the time of offending, was aged under 18 years may be transferred to the District or Supreme Court either for trial or sentence, and that court may choose to deal

with him or her as an adult. Youths who are charged with homicide are automatically transferred to a higher court if a committal hearing in the Youth Court finds that there is a case to answer. The Director of Public Prosecution or a police prosecutor may also apply for the youth to be dealt with in a higher court either because of the gravity of the offence or because the offence is part of a pattern of repeat offending. Finally, a youth charged with an indictable offence may request a hearing in an adult court. No details regarding cases referred to a higher court are contained in this report.

Summary of juvenile justice statistics for the year 2003

Police statistics

Police apprehensions

- During 2003 there were 7,145 police apprehension reports involving young people aged 10 to 17 at the time of the offence, which was 8.8% lower than the 7,831 reports in 2002 and 29.4% lower than the peak of 10,118 recorded in 1995.
- The majority of juvenile apprehensions in 2003 involved males (80.8%) and youths aged 16 and over (49.8%).
- Racial appearance of the juvenile was recorded in 92.8% of all apprehensions. Aboriginal youths accounted for 21.3% of those apprehension reports where this information was recorded. A higher proportion of Aboriginal than non-Aboriginal apprehensions involved relatively young individuals (with over six in ten (63.6%) Aboriginal youth aged 15 years and under compared with less than half (44.6%) of non-Aboriginals.)
- *Larceny and receiving* constituted the major allegation in 30.0% of all apprehensions, with the most prominent being *larceny from shops* (11.9%) and *larceny/illegal use of vehicle* (motor vehicle and other) (6.8%). *Offences against good order* accounted for 18.3% of all apprehensions while *criminal trespass* accounted for a further 12.9%. This offending profile was similar to that recorded in previous years.
- Of the 7,145 juvenile apprehensions in 2003, 44.0% were brought about by way of an arrest rather than a report. The figure was higher for those apprehensions involving Aboriginal youths, with 60.0% being arrest-based.
- For those 6,474 apprehension reports where the type of action taken was recorded, 32.0% resulted in a referral to a formal police caution, while 46.5% were directed to the Youth Court. A further 20.1% were referred to a family conference while 1.4% were withdrawn. These referral patterns were comparable with those recorded in previous years.
- The level of referrals to the Youth Court varied depending on the nature of the charge involved, as well as the age and racial appearance of the young person. Older youths and Aboriginal youths were more likely to be referred to court and less likely to be diverted to a police caution. Over six in ten Aboriginal apprehensions (63.5%) were directed to court compared with just over four in ten non-Aboriginal

apprehensions (45.3%).

- The 7,145 apprehension reports submitted in 2003 involved 4,365 discrete individuals. This gives an average of 1.6 apprehensions per youth which is the same as that recorded in 2002. On average, males recorded 1.7 apprehensions in 2003 while females recorded 1.5.

Formal cautions

- *Larceny and receiving* was listed as the major allegation in one in three (33.3%) of the apprehensions referred to a formal caution in 2003, followed by *offences against good order* (30.5%) and *damage property and environment offences* (13.9%).
- In total, the 2,073 referrals to a caution in 2003 resulted in 2,054 formal cautions being administered.
- In just over one quarter of these formal cautions (27.0%), the young person was required to apologise to the victim while 14.2% involved the payment of compensation, 4.6% required the young person to perform community work, and 42.0% involved some 'other' condition.
- Over four in ten (43.6%) of the compensation payments were for \$50 or less, while only 3.8% were for amounts in excess of \$500. The maximum amount which a young person agreed to pay as part of a cautionary undertaking was \$1,223.
- Almost two thirds (64.9%) of community work agreements involved 10 hours or less, while the highest was 30 hours.

Family Conferences

Case referrals finalised by the Family Conference Team

- In 2003, 1,543 case referrals were finalised by the Family Conference Team. This is 9.2% lower than the 1,700 cases finalised in 2002.
- For the majority of these referrals (88.6%), a conference was successfully convened and an agreement was reached. (Note that this figure does not take account of whether any undertakings entered into at a conference were subsequently completed.)
- In a small number of cases (1.7%), a conference was held but no

resolution was achieved.

- In a further 9.4% of cases, no conference was held, primarily because the youth failed to attend the scheduled meeting or could not be located.
- As in previous years, referrals involving Aboriginal youths were proportionately less likely to result in a 'successful' conference than those involving non-Aboriginal youths. Over eight in ten (82.6%) Aboriginal referrals were resolved at a conference compared with 89.9% of non-Aboriginal referrals. The main contributor to this difference was the higher level of 'non-attendance' or 'unable to locate youth' recorded for Aboriginal youths (15.2% compared with 6.4% for non-Aboriginal youths.)

Cases dealt with at a family conference

- There were 1,398 cases for which a conference was actually held in 2003. The majority of these involved males (81.0%) and young people aged 15 years and under (63.5%). Aboriginal youths accounted for 16.5% of those cases for which racial identity was recorded.
- *Larceny and receiving* dominated the offence profile. It was listed as the major allegation in 34.3% of cases dealt with at a conference, followed by *criminal trespass* (16.6%), *offences against good order* (16.2%) and *offences against the person, excluding sexual offences* (15.2%).
- Just over half of the cases (55.7%) involved one offence only while very few (4.4%) involved five or more allegations.
- Of the 1,161 cases dealt with in 2003 which resulted in the young person agreeing to enter into an undertaking, almost two thirds (63.7%) involved an apology or letter of regret, while two thirds (67.3%) entailed 'other' conditions (such as agreement not to associate with certain peers, participate in counselling sessions etc). A further 18.9% of undertakings involved community work while 25.0% required the payment of compensation.
- Undertakings agreed to by Aboriginal youths were less likely than non-Aboriginal undertakings to involve apologies, letters of regret, compensation or community work, but were more likely to involve 'other' conditions.
- Of the 290 cases that resulted in a compensation agreement, just over one half (54.5%) were for amounts of \$100 or less. The average

amount agreed to was \$180 while the maximum was \$1,925.

- The average number of hours of community work agreed to was 24 (six hours lower than the previous year), while the maximum was 100 (compared with 200 in 2002).
- Of the 1,161 conference cases finalised in 2003 by way of an undertaking, information on undertaking compliance was available for 1,005 (86.6%). In 90.5% of these cases all undertakings were listed as having been complied with, while 9.5% were referred back to police for non-compliance.
- While the level of compliance for Aboriginal youths was relatively high, a slightly greater proportion of Aboriginal than non-Aboriginal cases were referred back to police for non-compliance (11.6% compared with 9.1% respectively). However, the level of non-compliance by Aboriginal youths has decreased over the past four years, from 25.7% in 1997 to 11.6% this year.
- When information on undertaking compliance is combined with information on conference outcomes for all referrals, a more accurate measure of the level of positive resolution achieved by the conference process is obtained. Of the 1,543 conference referrals recorded in 2003, by the end of the survey period 72.3% were positively finalised, with all undertakings having been complied with. In a further 10.1% of cases, compliance data for undertakings were not available at the time the data-base was closed off, and so these matters still had the potential to be positively resolved at this level. In contrast, 17.3% of referrals were not resolved, either because the conference had not gone ahead (9.4%) or, if held, had not reached agreement (1.7%) or the resultant undertaking had not been subsequently complied with (6.2%).
- The level of positive finalisation was lower for Aboriginal than non-Aboriginal referrals (68.5% compared with 73.1% respectively) largely because of the higher level of non-compliance with undertakings and the higher proportion of cases where no conference was convened because the youth failed to attend or could not be located.

Number of actual conferences held

- In 2003, 1,251 discrete conferences were held, which was 8.2% lower than in the previous year.
- The vast majority of these conferences (92.2%) involved one young

offender only, while at the other end of the scale, only three conferences dealt with five or more young offenders.

- Over three in ten (32.9%) had at least one victim present.

Youth Court

Cases finalised

- The Youth Court finalised 2,746 cases in 2003, which was 9.0% less than the 3,019 finalised in 2002.
- Males accounted for 84.3% of the finalised court cases for which sex was recorded, while 59.7% of juveniles for whom age was listed were 16 years and over. Aboriginal youths comprised 24.0% of those defendants for whom racial appearance was recorded.
- As at the cautioning and conferencing level, *larceny and receiving* offences dominated, being listed as the major charge in 23.5% of all cases.
- In the majority of cases (68.9%) the major charge was proved. In a further 200 appearances (7.3%), the major charge was not proved but there was a finding of guilt to a lesser or other charge. In total then, of the 2,746 cases finalised in 2003, 76.2% resulted in at least one charge being proved.
- Obligations were listed as the major penalty in 26.1% of the cases where at least one charge was proved. Fines accounted for 17.1% of cases and licence disqualification for 13.5. A further 15.5% of cases with at least one guilty finding were dismissed without penalty.
- The number of 'proved' cases resulting in a detention order was relatively low (4.5%) while a further 10.1% received a suspended sentence.
- The likelihood of receiving a detention order varied according to the seriousness of the charge involved. At one end of the scale, 14.0% of proven *robbery and extortion* cases resulted in detention, while at the other end, only 0.8% of cases involving a proven *offence against good order* had this outcome.
- Of the 357 fines imposed as the major penalty, the average amount payable was \$126 while the maximum was \$800. Of the 209 community service orders listed as the major penalty, the average duration was 50 hours while the maximum was 240.

- Of the 95 cases where detention constituted the most serious penalty imposed, the majority (83.2%) involved detention in a secure care facility while 16 (16.8%) were home detentions. None of the 95 cases involved a combined secure care/home detention order.
- Of the 79 secure detention orders, the average duration was 23 weeks (higher than the five previous years), while the maximum was 91 weeks. For home detention orders the average was 18 weeks and the maximum 26 weeks.
- Only 13.9% of all secure detention orders were of less than eight weeks duration. The most frequently imposed duration was that of two to less than six months, with this category accounting for 49.4% of all secure care orders. Longer orders of six to 12 months accounted for 24.1% of all secure detention orders.

Juveniles in custody

Admissions

- In 2003, there were 1,184 admissions to the State's two youth training centres. This figure was 3.1% lower than the 1,222 admissions recorded in 2002 and 22.7% lower than in 1993, the year preceding the introduction of the *Young Offenders Act*.
- The majority of admissions involved males (81.6%) and juveniles aged 16 years or over (48.6%). There were 92 admissions involving young persons aged 12 years or under.
- Aboriginal youths comprised over one third admissions (37.6%) where racial identity was known. The 2003 figure was higher than any recorded in the previous eight years. Of all females admitted into secure care in 2003, 42.5% were Aboriginal. Similarly, Aboriginals accounted for 36.5% of all male admissions.

Census figures

- There were 81 young people who spent at least some time in secure care on the 30 June 2003. This figure is 50.0% higher than the 54 recorded as being present one year earlier, on 30 June 2002, and is higher than both the 2001 and 2000 figures (72 and 67 respectively).
- Thirty-two (39.5%) of those youths in custody on 30 June 2003 were serving a detention order while 44 (54.3%) were on remand. A further

four youths (4.9%) were in policy custody.

- Of those in custody, only ten were female, while 42.0% were Aboriginal.

Average daily occupancy

- On average, 62.09 youths were held in custody per day during 2003 compared with 66.16 in 2002.
- In 2003, on average there were 31.11 youths serving a detention order. This figure was 5.2% lower than the average of 32.84 recorded in 2002 and 49.0% lower than the peak of 61.05 recorded in 1996. The remand daily average of 27.87 was lower than in 2002 (30.25).
- Aboriginal daily occupancy numbers in 2003 were 22.02, which was slightly lower than the 24.61 recorded in 2002. In contrast, the non-Aboriginal daily average of 40.01 was the lowest recorded in the ten year period. In 2003 Aboriginals accounted for 35.5% of the average daily occupancy, compared with 37.4% in 2002, 27.6% in 2002, 36.2% in 1999 and 33.0% in 1998.

Using crime and justice reports

As with all quantitative data, the tables in this publication can give rise to misunderstanding and confusion unless interpreted carefully. The notes that follow are designed to assist understanding of the data in this *Crime and Justice in South Australia: Juvenile Justice* report. Readers are also urged to read the footnotes appended to the individual tables and the detailed explanatory notes in the Appendix.

Comprehensiveness

In using this report it is important to understand that, although it encompasses all major areas of the juvenile justice system, it does not purport to provide a comprehensive picture of the nature or level of youth offending in the community. The statistics presented here relate only to those young people who have actually been apprehended by police and have therefore come within the purview of the formal criminal justice system. The statistics do not include offences which were never reported to police or, if reported, were never cleared by way of an apprehension. Nor does this publication include those young people dealt with by way of an informal police caution (see Appendix for further discussion) or through the Police Drug Diversion Initiative. Moreover, because of resource constraints, it does not include prosecutions for minor traffic offences, breaches of local government by-laws, etc.

Another factor which should be borne in mind in assessing these *Crime and Justice* figures is that, because they derive from operational records, they are affected by changes to the criminal law or justice administration. For example, the number of youths apprehended for drug offences in a given year may rise significantly if the South Australia Police dedicates more resources to enforcing the laws applying to this type of criminal behaviour. Changes in police recording practices also impact on the statistics. In 1999, for example, a modification to SAPOL work practices altered the way in certain driving related offences (notably *licencing*, *motor registration* and *dangerous or reckless driving*) were entered onto the data base, with the result that more of these offences were counted than previously (see Appendix for a more detailed explanation). Any observed increase in these categories between 1998 and subsequent years may therefore be due, not to an increase in the actual number of persons caught for these offences, but to a change in data recording practices.

In many ways then, official crime statistics do not provide a reliable insight into what crimes are being committed and by whom. However, they do provide a valuable source of information about how the criminal justice system itself operates.

Before attempting to derive conclusions from the tables contained in Sections 2 to 5 of this report, readers should review the relevant explanatory text provided in the Appendix and take careful note of the scope of each collection.

‘Snapshot’ rather than ‘flow’ statistics

Readers should not see this report as a source of information about the ‘flow’ of business through the juvenile justice system. It would be tempting, for example, to try to link police apprehension figures (Section 2) with figures relating to finalised Youth Court cases (Section 4) in an attempt to estimate the extent to which young persons apprehended for a particular offence are subsequently sentenced to detention. However, this would not be a valid exercise. Many young offenders who came to the attention of police in 2003 may not have had their cases finalised by the end of the year, and so would not appear in the caution, conference or court statistics for 2003. Conversely, the conference and court data will contain cases which commenced in the previous year. Similarly, statistics relating to the number of youths held in a detention centre will contain persons apprehended and/or sentenced in 2003 or earlier. In other words, this publication provides a ‘snapshot’ of the relevant operations at each level of the system, rather than a ‘tracking’ system which follows the same group of offenders from the point of apprehension to final disposition.

Differences between agencies

Counting and classification differences between agencies also affect the statistics. For example, the main counting unit used in the police section is the apprehension report. In the family conference section, two counting units are used: the number of cases referred to and dealt with at a conference as well as the number of actual conferences held. Here, the term ‘case’ does not equate with a police apprehension report because, if the Conference Team receives several apprehension reports relating to the one offender, they may consolidate these into the one case. At the Youth Court level, the counting unit used is also described as a ‘case’ but the way in which the term is defined here differs from that at the conference level. In the final set of statistical tables, which relate to youths in secure care, three counting units are used: the number of admissions; the number of youths in custody on a particular date; and average daily occupancies.

Detailed explanations of counting rules and definitions employed in each section of the report are outlined in the Appendix. Readers who wish to make proper use of this publication are again urged to read that section and take account of footnotes to tables.

