

Hon Stephanie Key MP



Minister for Employment, Training and Further Education
Minister for Youth
Minister for the Status of Women

MY05/00699

19th June 2005

	A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE
SUBMISSION NUMBER	12
DATE AUTH'D FOR PUBLICATION	26/7/2005



Ms Mary Porter
Chair
Standing Committee on Education,
Training and Young People
Legislative Assembly for the Australian Capital Territory
GPO Box 1020
CANBERRA ACT 2601

Dear Ms Porter

Thank you for your letter of 20 April 2005 seeking information about South Australian initiatives in restorative justice practices in schools and youth justice settings.

The Ministers with primary responsibility for youth justice in South Australia are the Attorney General, the Hon Michael Atkinson MP and Minister for Families and Communities, the Hon Jay Weatherill MP. However my colleague the Minister for Education and Children's Services, the Hon Dr Jane Lomax-Smith and I have an active role in youth justice and sit on the Justice Cabinet Committee.

With regard to your specific request I am advised that Mr Leigh Garrett, Chief Executive, The Centre for Restorative Justice (auspiced by the Offender Rehabilitation Service) and Ms Debbie Laycock would be pleased to speak with your committee. I understand that Mr Garrett and Ms Laycock are considered authorities on restorative justice. They can be contacted on telephone (08)82100850.

Ms Carolyn Doherty, Senior Youth Justice Coordinator, of the Courts Administration Authority also has considerable expertise on this matter and would be pleased to assist you in your inquiry. Ms Doherty can be contacted on telephone (08) 8204 0563.

I am advised that the Department of Education and Children's Services has responded to your request under separate cover.

I have included a copy of the Information Bulletin: Juvenile Justice in South Australia and I trust you find this information useful.

I would sincerely appreciate receiving a copy of the outcome document from your investigation, as this is an area in which further thinking is always helpful.

Yours sincerely


HON STEPHANIE KEY MP



OFFICE OF
CRIME STATISTICS
AND RESEARCH

INFORMATION

JANUARY 2005
NO 40

BULLETIN

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Juvenile Justice in South Australia:

Where are we now?

JOY WUNDERSITZ AND NICHOLE HUNTER

Introduction

Juvenile justice in South Australia has undergone constant change, particularly over the past thirty years or so. To understand the current system and how it is working it is therefore necessary to have some insight into those historical trends. This paper will begin by providing a very brief overview of some of those historical aspects, before presenting some statistics on how the current system is working¹.

South Australia has always been an innovator in juvenile justice in this country. It was one of, if not the first, jurisdiction in the world to establish a separate court for young people with an emphasis on saving rather than punishing the youthful offender. It was the first to embrace the concept of diverting young people from court when, in 1972, it introduced Children's Aid Panels. In 1979, it was the first state to move away from a welfare approach, where the needs of the child were paramount, to a more justice-oriented approach where holding the young person accountable for their actions was balanced by a concern to ensure that young people had access to all of the due process rights of an adult accused, including the right to legal representation and the right to a determinate sentence. And in 1994, it was the first state to legislate for a multi-tiered pre-court diversionary system, based on police cautions and family conferences.

¹ For a more detailed overview, see Wundersitz, J (1999) *Juvenile Justice in Australia: Towards the New Millennium*. In: Chappell, D and Wilson, P (eds) *Crime and the Criminal Justice System in Australia: 2000 and beyond*, Butterworths, Sydney

Looking back over the last 30 years or so, South Australia has tended to revisit its juvenile justice system almost on a ten yearly cycle. Given that the last review was conducted in 1993 by a Parliamentary Select Committee, it is therefore not surprising that we have now embarked on yet another review, again being undertaken by a Parliamentary Select Committee.

The 1993 Select Committee Inquiry into the Juvenile Justice System led to a major revamping of the system, both conceptually and structurally. While the present one may do the same, the circumstances in which the current enquiry is being conducted are notably different from those surrounding the 1993 enquiry.

The 1993 Select Committee was set up in response to major media and public concerns that youth offending was out of control and that something radical needed to be done about it. In part, this was fuelled by events in other states, notably Western Australia where, in early 1991, in response to a series of high speed car chases that resulted in the death of a pregnant female bystander, an estimated 20,000 people turned out on the streets of Perth to protest about the perceived ineffectiveness of the juvenile justice system and its supposedly lenient treatment of young offenders. The publicity from the WA debate filtered into South Australia and fuelled growing concerns in this state.

The other key element in the mix at this time was the very energetic debate then raging amongst academic criminologists and policy makers about the new approach which had just recently been introduced by New Zealand – that of family group conferences and its underpinning concepts of restoration and healing. At a conceptual level, there was a strong divergence of opinion between those who thought restorative justice offered a new and exciting approach to responding to young offenders and those who saw it as a major threat to the due process rights of young people. Even amongst those who supported the concept of conferencing, there was at times heated disagreement about where conferences should be located in the system: notably, whether they should reside with police (as in the Wagga Wagga model) or with the welfare department (as in New Zealand) or whether they should sit outside the justice system entirely.

Overall then, the 1993 Select Committee Inquiry took place in an atmosphere of very vigorous public and professional debate at both a state and a national level, with 'law and order' lobbyists, proponents of family conferencing, and those who continued to argue for a traditional rehabilitative/welfare approach all vying to get their views heard. The only thing that seemed to be generally agreed was that it was time for a change.

And this was the outcome – a new set of laws, a new structure and a re-alignment of the conceptual underpinnings of the system.

The intervening years: 1993 to 2003

In the 1990s, most states followed South Australia's lead and revamped their juvenile justice systems. Two key threads were dominant in the early stages of this process. One thread involved a strengthening of the 'law and order' agenda, which reached its extreme expression in the introduction of mandatory sentencing legislation in Western Australia and the Northern Territory. Although ostensibly targeted at both adults and juveniles, these laws impacted specifically on young Indigenous offenders. The other thread – which counterbalanced the law and order agenda – was the move towards restorative justice, with almost every jurisdiction introducing some form of family conferencing as part of an enhanced and extended pre-court diversionary system.

By the end of the decade, though, the relative balance between these two divergent threads had shifted. Mandatory sentencing has been discredited, resulting in the repeal of both the WA and the NT legislation. In contrast, family conferencing and restorative justice had become an integral and accepted part of the system. Moreover, the commitment to diversion – ie to keeping young people out of the formal juvenile justice system for as long as possible – has continued to gain in strength, as exemplified by the introduction in 2001 of the Police Drug Diversion Initiative in South Australia, which directs both young people and adults detected for certain drug offences to assessment and counselling without the need for a formal police apprehension.

The other key shift over this period has been the new (or renewed) focus on early intervention. During the early 1990s, both public and academic debate about youth offending tended to focus on the system itself – ie on trying to determine the most effective State response to offending once it had occurred. Until then, while some lip service was given to early intervention, there was a certain degree of discomfort with this approach.

This lack of interest in or discomfort with early intervention can, to some extent, be attributed to two factors:

- One was a lingering belief in the 'Nothing Works' approach which had currency during of the 1960s and 1970s. As a result, people thought it was easier to tinker with the system than try to develop strategies to respond to 'at risk' young people who had yet to come into contact with police.
- The second was a lingering backlash against the welfare approach of the 1960s and 1970s when offending was used by the system to justify very intrusive and often harmful State intervention in the lives of young people on the grounds that it was in their 'best interests'. Early intervention, as it was conceived in the early 1990s, bore some uncomfortably close similarities with the welfare paradigm.

However, the publication of 'Pathways to Prevention' report (Development Crime Prevention Consortium, 1999) started to change all that. Now, in talking about youth offending, early intervention is beginning to receive equal, if not more, attention than the system itself.

Overall then, in many respects the current Select Committee is operating in a very different environment from that in which the 1993 Committee found itself. Apart from some relatively localised concerns, the media and public concerns about juvenile offending being out of control are largely missing. There are no strong views being expressed that the system itself is not working; the strong law and order lobby is not as prominent as a decade ago, with extremes such as mandatory sentencing being discredited, at least for the time being; and early intervention is now a key element of the debate.

Our current system

The 1993 Select Committee, in making its recommendations, viewed the system as an holistic entity, and accepted that any changes made to one level of the system could potentially impact on other levels of that system. They therefore recommended that the system as a whole be revamped, both at a conceptual and structural level. The result was two separate pieces of legislation: the *Young Offenders Act, 1993* and the *Youth Court Act, 1993*. Issues associated with child protection were not considered by the Select Committee, but were the subject of a separate enquiry and resulted in a quite separate piece of legislation – the *Child Protection Act, 1993*.

Conceptual underpinning

In contrast to the previous legislation (the *Children's Protection and Young Offenders Act, 1979*), Section 3 of the *Young Offenders Act, 1993* gives primacy to the concepts of holding the young person accountable for their behaviour and ensuring the community is protected from that behaviour. It also notes that sanctions should be sufficiently severe to provide an appropriate level of deterrence. The rehabilitative ideals of preserving and strengthening the young person's relationship with his/her family etc. are relegated to a secondary position, to be taken into account only in so far as the circumstances of the individual case allow. This shift in priorities from a welfare to a justice focus reflected the strong influence at that time of the media-driven law and order lobby and as such, is understandable. However, Section 3 has several deficiencies.

- First, it contains no reference to the principles of restorative justice. While it does refer to the fact that "compensation and restitution should be provided, where appropriate, for victims of offences committed by youths", this falls well short of the complex set of values underpinning the restorative justice paradigm.

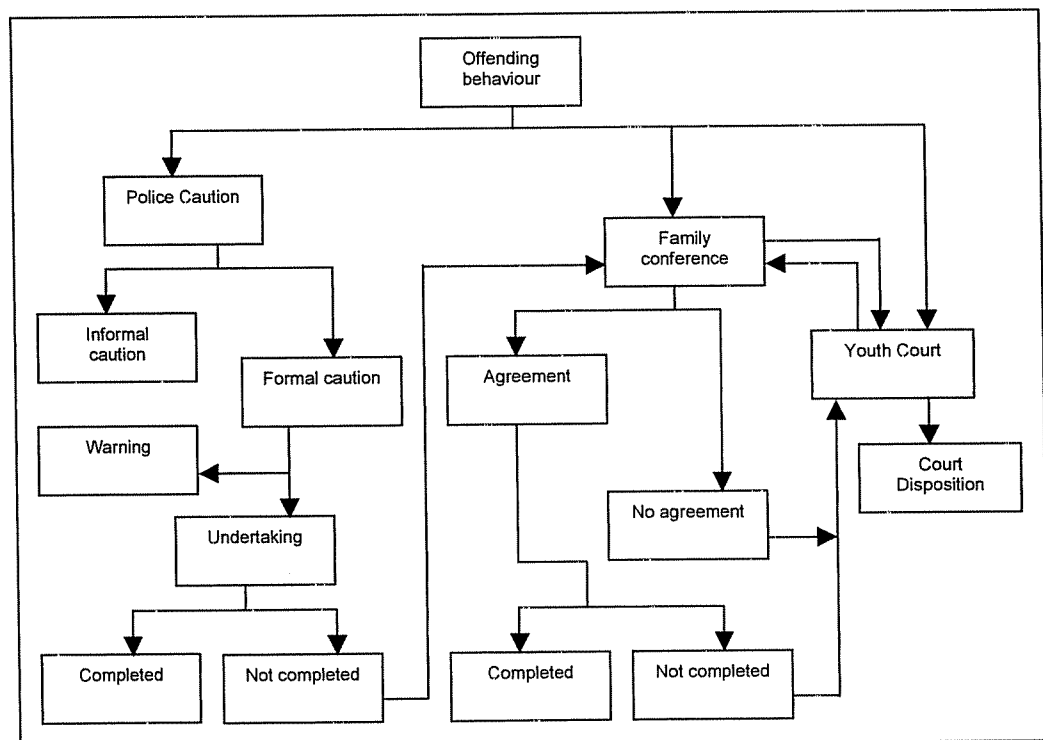
- Second, the criteria outlined in s3 are to be applied across the whole system, despite the fact that they are not necessarily compatible with, and at times are in direct conflict with, some aspects of that system. This is particularly the case for family conferences. Although family conferences are predicated on the notion of restorative justice, as noted above s3 makes no reference to these principles, and so provides no appropriate legislative guidelines under which conferences can operate. More problematic is the fact that, under s3, family conferences are supposed to apply the same set of principles as all other parts of the system, including that of deterrence, which is quite foreign to the concept of restorative justice.

Overall then, the conceptual framework has a number of shortcomings, which need reassessment.

Structural framework

The system now in place in South Australia is outlined in Figure 1.

Figure 1 Structure of the Juvenile Justice System in South Australia



In designing this system, the Select Committee recognised the value of keeping the less serious or first time offenders out of the court system for as long as possible. It therefore introduced a multi-tiered diversionary system, comprising informal and formal police cautions and family conferencing which, in combination, were intended to divert up to 90% of matters from the court. In locating conferences under the umbrella of the Youth Court, the Select Committee opted not to follow the Wagga Wagga model which gave police responsibility for conferences.

To balance this diversionary approach, the Committee also acknowledged that, for serious, repeat offenders, the Court system needed to be retained and its powers strengthened. In line with this, they changed the name from the Children's Court to the Youth Court, introduced tougher penalties (including three years detention and up to 500 hours of community service, with the latter being well in excess of what could be imposed on adults), made it easier for the court to transfer serious repeat young people to the Supreme Court to be dealt with as adults, and introduced greater parity with adult judicial processes and outcomes.

To reflect the greater emphasis on 'law and order' the role of the police was strengthened in a number of ways. In recognition of victims' rights to compensation, at the point of cautioning the Select Committee gave police the power to place young people on undertakings, which could include payment of compensation and performance of community work. Police were also given a legislatively sanctioned role in family conferences, and continued their prosecutorial role at the Youth Court level. Most importantly, though, they were given responsibility for the referral process, determining whether, upon apprehension, a young person should be dealt with by way of a caution, or referred to a family conference or court.

While police powers were increased, FACS's role was commensurately reduced. This agency was removed from participation in the referral process², they had no right to participate in or provide programs at the conference level, and their role in the Youth Court was curtailed, with a FACS representative attending court and providing advice only when invited to do so. The Select Committee's clear intention was that FACS would only become involved once a young person came to court, and would only provide programs for young people sentenced by that court. Some lip service was given to FACS taking on a stronger role in providing early intervention programs, but resources were never made available to facilitate this.

The resultant system, based on cautions, conferences and court, became the blueprint for juvenile justice reform across Australia in the 1990s, with a number of jurisdictions subsequently following South Australia's lead.

² Previously, FACS had been responsible for convening Screening Panels which made the referral decisions.

A statistical overview

This section of the paper presents a brief statistical overview which provides some insight into how the system has operated over the past 10 years.

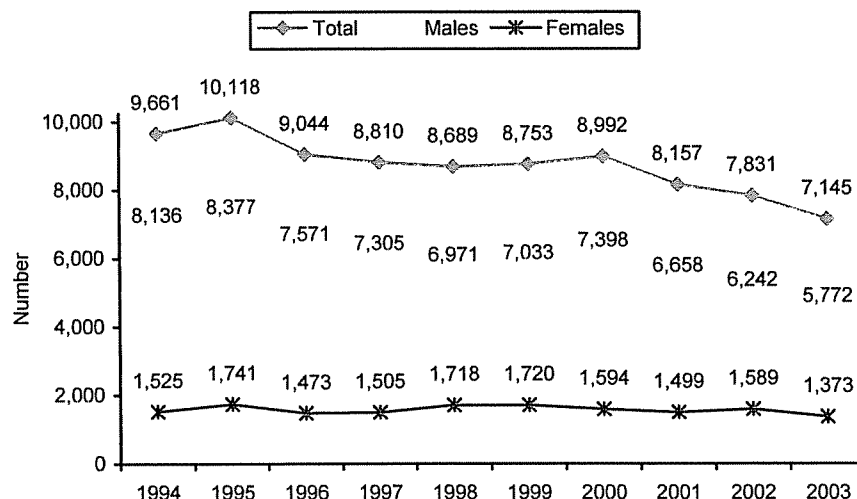
Police Statistics

Number of apprehensions

In 2003, young people aged 10 – 17 years at the time of the offence³ accounted for 7,145 apprehension reports lodged by police. As shown, there has been a steady decline in apprehension numbers since 1995, with the 2003 figure the lowest of the 10 years depicted. The 2003 figure 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 decrease has been particularly marked for males, whereas female apprehensions have remained relatively constant over this period. Nevertheless, females still account for only a minority of apprehensions: 19.2% in 2003.

Figure 2 Number of police apprehension reports involving juveniles, 1994 to 2003



³ However, they may have been aged over 17 years at the time they were apprehended and/or processed through the juvenile justice system.

The one constant which does not seem to change, no matter how much we restructure the system, is the extent of over-representation of Indigenous youth. In 2003, persons identified by police as Aboriginal in appearance accounted for 21.3% of apprehensions where this information was recorded. As in previous years, however, this over-representation was more pronounced for females than males, with Aboriginals accounting for 28.8% of all apprehensions involving young women compared with 19.6% of all apprehensions involving young men where relevant information on Aboriginal status was recorded.

While it is acknowledged that these figures do not include the increasingly large number of youths who are dealt with outside of the formal criminal justice system (eg through informal cautions and PDDI), it does indicate that Aboriginal youth continue to be over-represented in terms of their formal contact with the system.

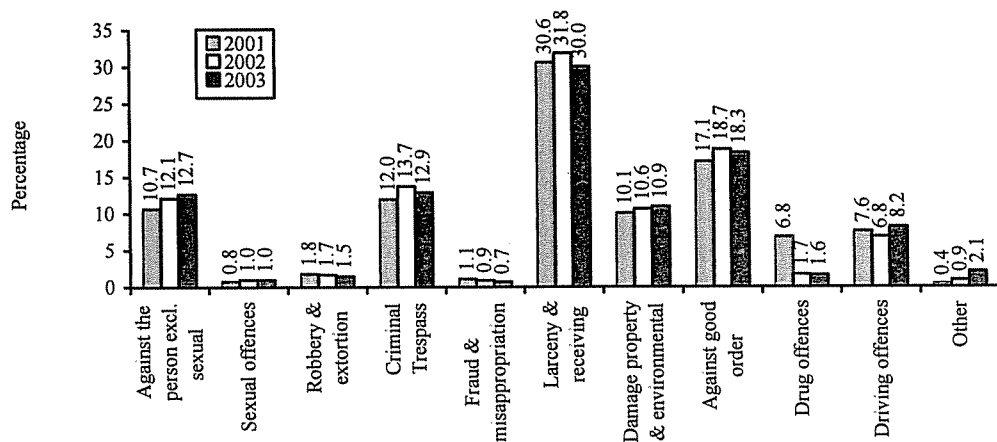
Most serious charge per apprehension

Figure 3 presents a breakdown of police apprehensions by the major offence alleged. This shows that in 2003 *larceny and receiving* was the most prominent offence, followed by *good order offences*, *criminal trespass*⁴ and *offences against the person (excluding sexual offences)*. There were relatively few apprehension reports in which *fraud and misappropriation*, *sexual offences* or *robbery and extortion* were listed as the most serious offence alleged.

This offence profile is very similar to that observed in previous years. The only change has been a drop in the number of apprehensions involving a drug offence – from 6.8% in 2001 to 1.7% in 2002 and 1.6% in 2003. While this can be largely attributed to the introduction of the Police Drug Diversion Initiative in September 2001 it should be noted that the proportion of apprehensions involving this offence was already decreasing before PDDI became operational (dropping from 13.7% to 6.8% across the period 1997 to 2001).

⁴ The *Criminal Law Consolidation (Serious Criminal Trespass) Amendment Act*, which came into effect on 25th December 1999, replaced *break and enter* offences with *criminal trespass* offences. However, persons apprehended in 2002 would be charged with *break and enter* if the offences had been committed prior to 25 December 1999.

Figure 3 Police apprehension reports: major offence alleged, 2001 to 2003



Method of apprehension

In 2003, in 44.0% of apprehensions police opted to arrest rather than report the young person. This represents a small increase in the use of arrest compared with the previous year (42.9%). It should also be noted that there has been a steady increase in the use of arrest over the previous six years (from 27.3% in 1996 to 36.5% in 2001).

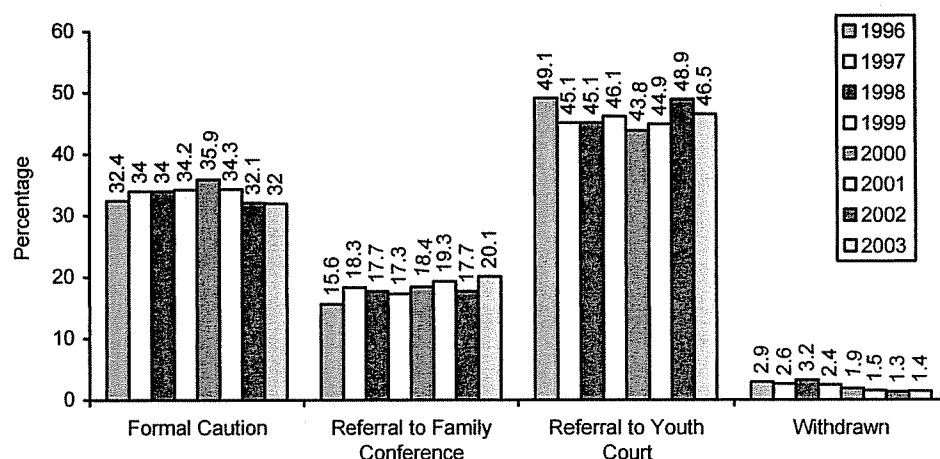
As in the past, Aboriginal youths were the most likely to be arrested. In 2003, as was the case in previous years, six in ten Aboriginal apprehensions (60.0%) were arrest-based compared with one in four non-Aboriginal apprehensions (44.0%). Stated differently, Aboriginals accounted for 27.0% of all arrest-based apprehensions but only 16.2% of report-based apprehensions where racial appearance was recorded.

Type of action taken

In 2003, of those apprehensions where the type of action taken was recorded, 32.0% resulted in a referral to a formal caution with a further 20.1% being diverted to a family conference. Youth Court referrals accounted for 46.5%, while police withdrew 1.4% of the allegations.

As indicated in Figure 3, the distribution of cases across the main referral categories in 2003 was much the same as in the preceding years, with referrals to the Youth Court remaining the most frequently used option.

Figure 4 Police apprehensions: type of action taken, 1996 to 2003*



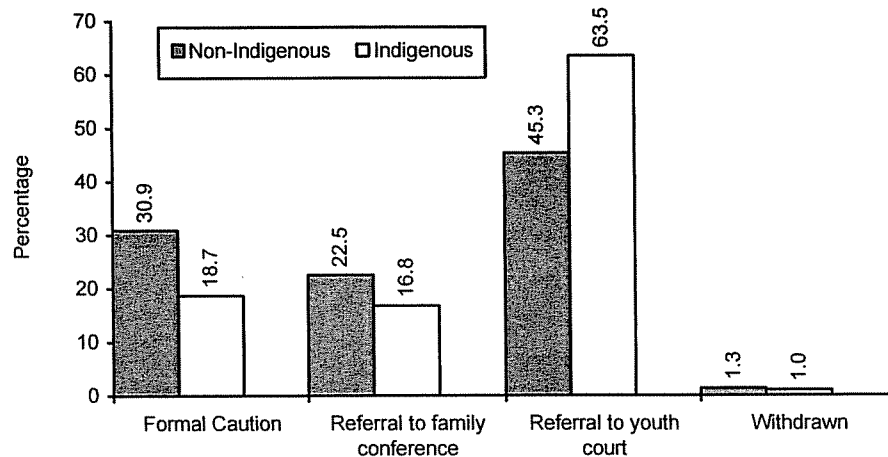
* In calculating the percentages, apprehensions for which the type of action taken was not recorded have been excluded.

As in previous years, the referral outcome varied depending on a range of factors: such as,

- the type of charge involved (for example, nine in ten apprehensions involving *robbery and extortion* were ultimately referred to court compared with only one in five apprehensions where the major allegation was *fraud and misapprehension*);
- the method of apprehension;
- the age of the young person; and
- Indigenous status.

As in previous years, a substantially higher proportion of Aboriginal than non-Aboriginal apprehensions resulted in a referral to the Youth Court. Where relevant information was recorded, over six in ten (63.5%) Aboriginal apprehensions were referred to court compared with less than half (45.3%) of the non-Aboriginal apprehensions. Conversely, only 18.7% of Aboriginal apprehensions received a formal caution compared with 30.9% of non-Aboriginal apprehensions. Differences between the two groups were less pronounced in relation to referrals to a family conference but even here, the proportion of Aboriginal cases thus referred was still lower than that recorded for non-Aboriginal apprehensions (16.8% compared with 22.5% respectively).

Figure 5 Type of action taken by Indigenous status, 2003



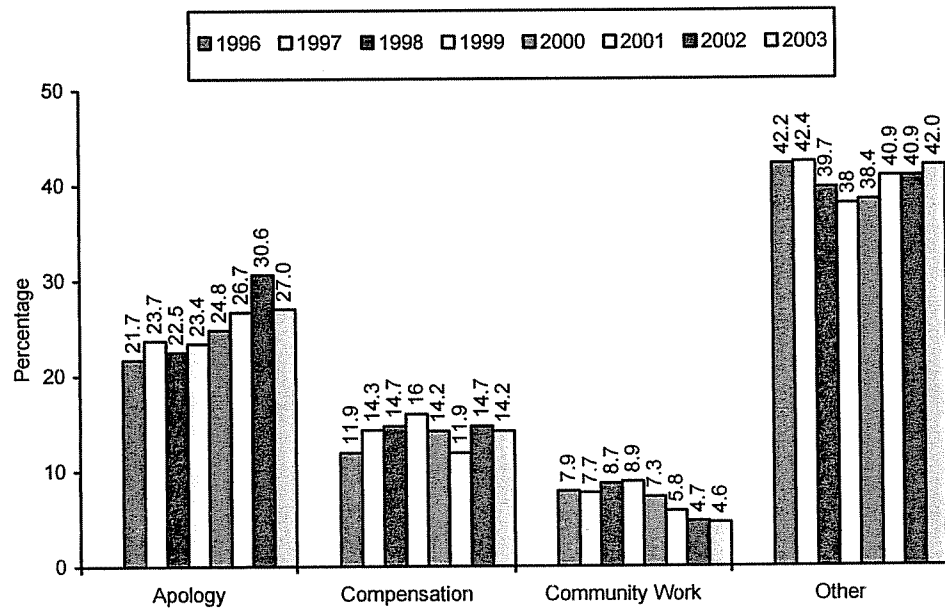
Stated differently, for those cases where racial appearance and type of referral was recorded, Aboriginal young people accounted for 14.6% of all formal caution referrals, 17.4% of all family conference referrals and 28.3% of all court referrals. Given that Aboriginal youth accounted for 21.3% of all apprehension reports, these figures indicate that they are under-represented in terms of the numbers receiving a formal caution and, albeit to a lesser degree, those referred to a family conference. Conversely, Aboriginal youth are over-represented amongst those referred to the Youth Court.

Formal police cautions

In 2003, there were 2,054 formal cautions given by police. As noted earlier, as part of that caution, police may require the young person to enter into an undertaking, involving a range of conditions. The extent to which this option is used by police is outlined in Figure 6.

As shown, the most frequently imposed condition was 'other', while relatively few cautions involved community work or compensation payments.

Figure 6 Formal police cautions: proportion involving apologies, compensation, community work or 'other' conditions, 1996 to 2003



Over four in ten (43.6%) of the compensation payments agreed to as part of a police caution in 2003 were for \$50 or less, while only 3.8% involved amounts of more than \$500. The maximum amount agreed to was \$1,223.

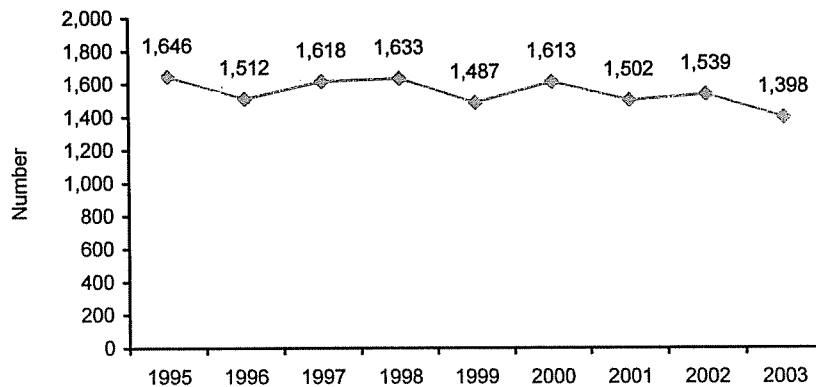
The majority of community work agreements involved a relatively small number of hours, with over six in ten (64.9%) being for 10 hours or less. Only 17.0% involved more than 20 hours of work. The maximum number of community work hours attached to a caution was 30.

Family Conferences

Case referrals finalised by the Family Conference Team

In 2003, of the 1,543 referrals finalised by the Family Conference Team, 1,398 resulted in a conference being held. Longitudinal trends in the number of cases where a conference was actually held (see Figure 7) indicate a decrease of 9.2% on the number of cases conferenced in 2002.

Figure 7 Cases for which a family conference was held, 1995 to 2003



The offence profiles of males and females revealed some differences. In particular, a higher proportion of female than male cases had *other assault* listed as the major allegation (18.0% compared with 8.2% respectively). The same applied to *larceny from shops* (22.9% of female cases compared with only 11.0% of male cases). However, proportionately fewer female than male cases involved *criminal trespass* (7.9% compared with 18.6% respectively) or *damage property and environmental offences* (7.5% compared with 12.9% respectively).

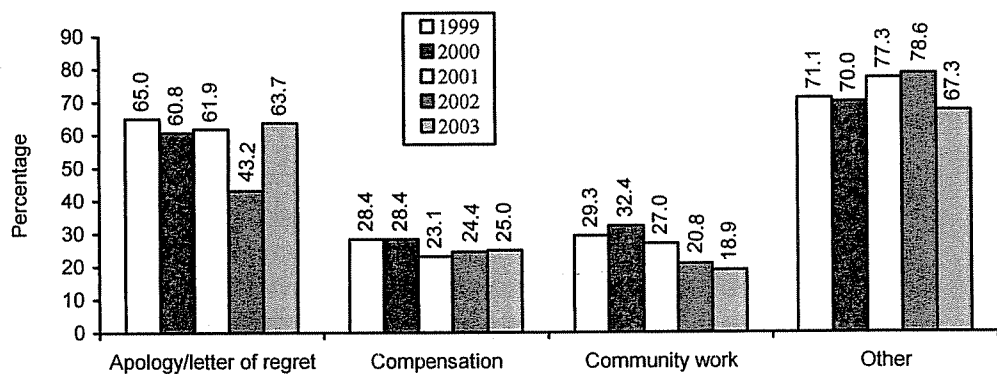
While the offence profiles of Aboriginal and non-Aboriginal cases were generally similar, some small differences were evident. In particular, *good order offences* were more prominent for Aboriginal than non-Aboriginal youth (22.9% compared with 14.9% respectively).

There were 1,161 cases dealt with at a family conference that resulted in the young person agreeing to enter into an undertaking. The conditions associated with the undertakings are outlined in Figure 8⁵. As in previous years, the condition most frequently agreed to was 'other', which was included in almost seven out of ten cases (67.3%) where an undertaking resulted. This condition of 'other' could include a wide range of requirements, such as agreement to attend school or a counselling session, adhere to a curfew or not associate with certain peers. The second most frequently invoked condition was an apology or letter of regret. This featured in 63.7% of cases. Compensation was part of an undertaking in 25.0% of cases while community work was agreed to in 18.9%.

⁵ It should be noted, that prior to 2002, apologies included both verbal and written apologies. However, following a review of the *Young Offenders Act, 1993* by the Chief Justice, this was changed. A 'letter of regret' was introduced which was deemed the same as a written apology for processing purposes. Verbal apologies can still occur, but are now regarded as different from the 'letters of regret'.

While these results are broadly comparable with those recorded in each of the years 1999 to 2002 (see Figure 8), it can be seen that there has been a decrease in the proportion of undertakings involving compensation or 'other' conditions. After a decrease in the proportion of undertakings resulting in an apology in 2002, the 2003 figure was more comparable with previous years. This suggests that the decrease recorded in 2002 was probably the result of a temporary change in recording processes, associated with the introduction of 'letters of regret'.

Figure 8 Cases dealt with at a conference which resulted in an undertaking: proportion involving an apology/compensation/community work/other condition, 1999 to 2003



Of the 290 cases where the young person agreed to pay compensation, the average amount of compensation agreed to was \$180 while the maximum was \$1,925. The average number of community work hours was 24 while the maximum was 100.

Proportion of cases resolved by way of conferencing

The availability of information on undertaking compliance, when combined with the details on conference outcomes, gives a more accurate insight into the level of positive resolution achieved by the conference system.

Table 1 Case referrals received by the Family Conference Team: finalised outcome taking into account levels of undertaking compliance, 2003

Case outcome	No.	%
Cases positively finalised		
conference held, undertaking complied with	910	59.0
conference held, undertaking waived	0	0.0
conference held, formal caution	206	13.4
conference held, no further action	0	0.0
case not proceeded with	14	0.9
Sub-total	1,130	73.2
Not yet classified		0.0
conference held, compliance data not available	156	10.1
Cases not positively finalised		0.0
conference held, undertaking not complied with - referred back to police	95	6.2
conference held, not finalised*	27	1.7
conference not held, not resolved	135	8.7
Sub-total	257	16.7
Total	1,543	100.0

* This category includes conferences where the police or youth disagrees with the proposed outcome, where the youth elects to have the matter dealt with by a court, or where the youth does not admit the allegation.

As shown in Table 1, of the 1,543 cases referred to a conference in 2003, 73.2% were positively finalised. In a further 10.1% of cases, compliance data for the undertakings were not available at the time the database was closed off for this report, and so these matters still had the potential to be appropriately resolved at this level. In contrast, 16.7% of referrals were not resolved at the conference level, either because the conference had not gone ahead (8.7%) or, if held, had not been able to finalise the matter (1.7%), or the resultant undertaking had not subsequently been complied with (6.2%).

Youth Court

All finalised appearances before the Youth Court

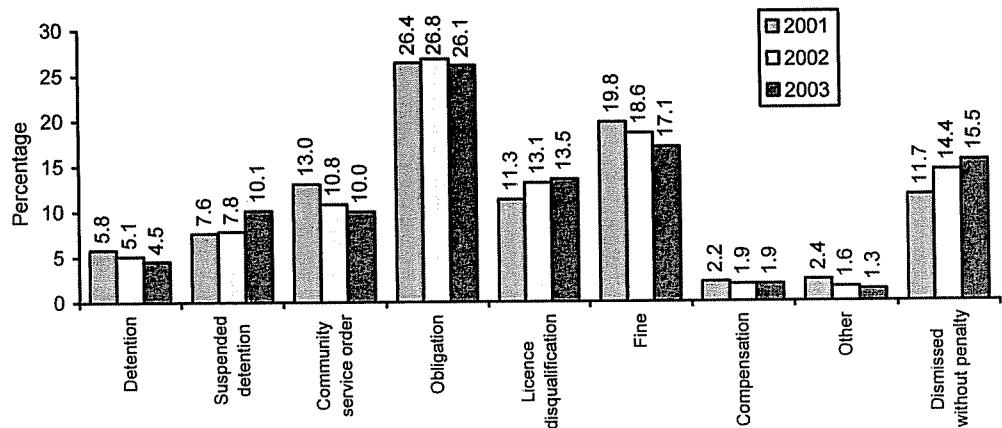
In 2003, there were 2,746 cases finalised in the Youth Court in South Australia. In the majority of cases (68.9%) the major charge was proved. In a further 200 appearances (7.3% of the total), the major charge was not proved but there was a finding of guilt to a lesser or other charge. In total then, of the 2,746 cases finalised in the Youth Court in 2003, 2,093 (76.2%) resulted in at least one charge being proved. Of the 653 cases where neither the major charge nor another or lesser charge was proved, six resulted in an acquittal, while in the remainder, the charges were either withdrawn or dismissed for want of prosecution.

Finalised appearances where at least one charge was proved

As noted earlier, in 2,093 of the 2,746 cases finalised by the Youth Court in 2003, at least one charge was proved. Details on the major or most serious penalty imposed in the 2,093 cases where at least one charge was proved are outlined in Figure 9. As shown, in 2003, as in previous years, an obligation was the most frequently imposed penalty, featuring in just over one quarter of cases (26.1%). In a further 17.1% of cases, a fine was recorded as the major penalty. In 15.5% of cases, despite a finding of guilt, the matter was dismissed without penalty. The number of detention orders imposed was relatively low (4.5%).

The proportion of cases involving an outcome of dismissed without penalty has increased over the three years depicted, while the proportion involving either a community service order or a fine has decreased. There has also been a slight decrease in the proportion of cases involving a detention order, which has been partly offset by increases in suspended orders.

Figure 9 Youth Court appearances where at least one charge is proved: major penalty imposed per case, 2001 -2003

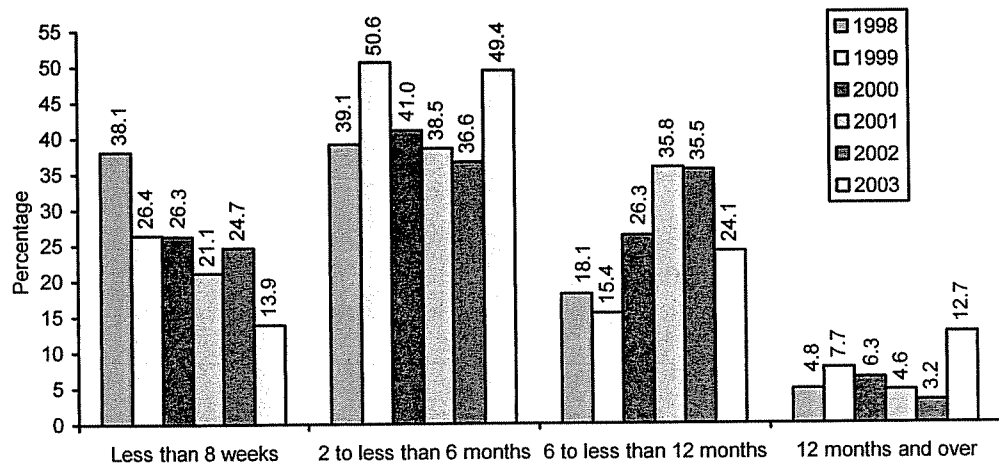


As might be expected, the likelihood of receiving a detention order varied according to the seriousness of the charge involved. Of the 43 *robbery and extortion* cases proved in 2003, six (14.0%) received a detention order. This figure was lower than in 2002 (19.2%), 2001 (28.6%), 2000 (31.1%) and 1999 (15.3%). Detention was also imposed in 41 (12.9%) of the 318 cases involving *criminal trespass offences*. In contrast, a detention order was rarely given when the major offence proved involved an *offence against good order* (0.3%) or a *driving offence* (0.4%). Of the 19 cases where the major offence proved was a *sexual offence*, two received a detention order.

Further details about the length of the secure detention orders imposed as the major penalty in 2003 are provided in Figure 10. Prior to the introduction of the *Young Offenders Act* 1993, the minimum length of detention which could be imposed by the then Children's Court was two months, while the maximum was two years. The new legislation removed the minimum requirement, while increasing the maximum to three years. From 1998 to 2002, the Youth Court made fairly extensive use of its ability to impose short orders. However, in 2003 this declined markedly from 24.7% in 2002 to 13.9% in 2003. The proportion of orders of 6 to less than 12 months in duration also decreased while those of 12 months and over increased.

Of the 79 secure detention orders imposed in 2003 the average duration was 23 weeks. This was higher than the figures recorded in the previous five years (19 weeks in 2002, 21 weeks in 2001, 19 weeks in 2000 and 1999 and 15 weeks in 1998).

Figure 10 Youth Court appearances where at least one charge is proved: length of the longest secure detention order imposed per case, 1998 - 2003

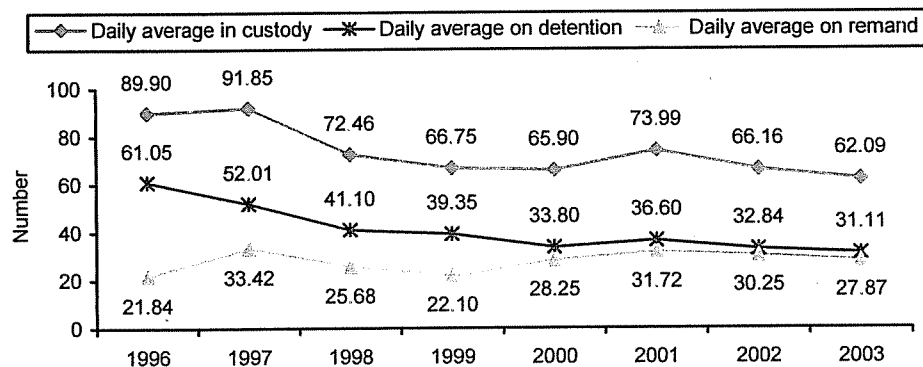


Juveniles in custody

Average daily occupancy

On average, 62.09 young people were held in custody per day during 2003. As shown in Figure 11, this is lower than the daily average recorded in 2002 (66.16) and is substantially lower than the 1997 peak.

Figure 11 Average daily occupancy by custodial status, 1996 to 2003



On average on any given day in 2003, there were 31.11 youths serving a detention order. This was 5.2% lower than the average of 32.84 recorded in 2002 and 49.0% lower than the peak recorded in 1996 (average of 61.05).

While there has been an overall decline in daily averages for detention, remand daily averages have remained relatively stable, despite the inevitable short term fluctuations. The remand daily average in 2003 was slightly lower than that recorded in 2002 (27.87 compared with 30.25 respectively), but was still higher than in 1996.

Figure 12 shows that the Aboriginal daily average in 2003 was lower than that recorded in 2002 (22.02 compared with 24.61), but higher than recorded in 2001 and 2000 (20.15 and 19.05 respectively). After recording a substantial decrease in 2002, in 2003 the non-Aboriginal daily average recorded another slight decline, with the 2003 figure of 40.01 being the lowest recorded in the ten year period. In 2003, Aboriginals accounted for 35.5% of the average daily occupancy, compared with a high of 37.4% in 2002.

Figure 12 Average daily occupancy by racial identity, 1994 to 2003

