

THE DIVERSIONARY IMPACT OF COMMUNITY BASED CORRECTIONS

CRIMINOLOGY
RESEARCH
COUNCIL
GRANT 1/86

EVALUATING THE DIVERSIONARY IMPACT OF
COMMUNITY BASED CORRECTIONS

April 1988

This research was conducted by the Policy and Research Division of the Victorian Office of Corrections and was supported by a grant from the Criminology Research Council. The views expressed are the responsibility of the author and are not necessarily those of the Council.

TABLE OF CONTENTS

	PAGE
SUMMARY OF REPORT	i
1. INTRODUCTION : THE DEVELOPMENT OF CORRECTIONAL SENTENCING IN VICTORIA	1
2. LITERATURE REVIEW	7
3. STUDY DESIGN	12
4. TRENDS IN MAGISTRATES' COURT OFFENCES, SENTENCING AND OFFENDER CHARACTERISTICS: 1981 - 1985	17
5. OFFENCE AND SENTENCING TRENDS IN SELECTED MAGISTRATES' COURTS 1984 TO 1986: DATA COLLECTION PROCEDURES	21
6. OFFENCE TRENDS AT SELECTED MAGISTRATES' COURTS	26
7. SENTENCING TRENDS AT SELECTED MAGISTRATES' COURTS	35
8. DISCUSSION OF RESULTS AND CONCLUSIONS	45
9. REFERENCES	57
10. APPENDICES	
APPENDIX 1 : PENALTIES & SENTENCES ACT 1985	
APPENDIX 2 : DANCO OFFENCE CODES	
APPENDIX 3 : SENTENCE CODES	
APPENDIX 4 : CODING PROCEDURES	

LIST OF REPORT TABLES

A.B.S. Court Statistics: 1981-1985.

- TABLE 1 Trends in Offence Type: Criminal Matters Proven
- TABLE 2 Sentencing Trends: Most Severe Penalty for Matters Proven
- TABLE 3 Offender Trends: Criminal Matters Proven by Sex and Age of Offender

Selected Magistrates' Court Statistics: 1984 - 1986.

- TABLE 5 Cases by Region by Study Phase
- TABLE 6 Persons by Region by Study Phase
- TABLE 7A Cases Initiated by Summons or Arrest by Region & Study Phase.
- TABLE 7B Persons Brought Before Court by Summons or Arrest by Study Phase
- TABLE 8 Sex of Offender by Study Phase
- TABLE 9 Cases by Calendar Month
- TABLE 10A Cases by Offence Category by Study Phase (All Offences)
- TABLE 10B Cases by Offence Category by Study Phase (Motor Car Offence excluded)
- TABLE 11 Cases Initiated by Summons or Arrest by Offence Category
- TABLE 12 Average Number of Counts per Offence by Offence Category by Study Phase
- TABLE 13 Specific Offence Codes by Study Phase
- TABLE 14 Sentence Types
- TABLE 15 All Court Dispositions : Summons Cases Only
- TABLE 16 All Court Dispositions : Arrest Cases Only
- TABLE 17A Westernport Region : Summons Cases Only
- TABLE 17B Westernport Region : Arrest Cases Only
- TABLE 18 Gippsland Region : Arrest Cases Only
- TABLE 19A Western Region : Summons Cases Only
- TABLE 19B Western Region : Arrest Cases Only

TABLE 20A Barwon Region : Summons Cases Only

TABLE 20B Barwon Region : Arrest Cases Only

TABLE 21A Southern Region : Summons Cases Only

TABLE 21B Southern Region : Arrest Cases Only

TABLE 22 Specific Drug Offence Types

TABLE 23 Drug Offences : Proportion of Arrest Cases by Phase

Table 24 Sentences for Drug Offences

LIST OF FIGURES

A.B.S. Court Statistics : 1981-1985

- FIGURE 1 Trends in Offence Type : Victorian Magistrates' Courts
- FIGURE 2 Sentencing Trends (Most Severe Penalty) : Victorian Magistrates' Courts

Selected Magistrates' Court Statistics : 1984-1986

- FIGURE 3 Number of Cases & Persons by Study Phase
- FIGURE 4 Persons by Summons/Arrest by Study Phase by Region
- FIGURE 5 Offence Categories by Study Phase (Motor Car Offences Excluded)
- FIGURE 6 Summons/Arrest Cases by Offence Type
- FIGURE 7 Type of Disposition by Study Phase by Summons/Arrest (All Courts)
- FIGURE 8 Type of Disposition by Study Phase by Summons/Arrest (Westernport Region)
- FIGURE 9 Type of Disposition by Study Phase by Summons/Arrest (Gippsland Region)
- FIGURE 10 Type of Disposition by Study Phase by Summons/Arrest (Western Region)
- FIGURE 11 Type of Disposition by Study Phase by Summons/Arrest (Barwon Region)
- FIGURE 12 Type of Disposition by Study Phase by Summons/Arrest (Southern Region)

ACKNOWLEDGEMENTS

This research was carried out by the Policy & Research Division of the Office of Corrections under a grant from the Criminology Research Council. The grant application was prepared by Monika Henderson and Geoff Drury. The data collection was carried out by Trish Edwards and Valda Kluga with the co-operation of court staff in each of the five Regions. The overall supervision of the project, analysis of the data and reporting was done by Stuart Ross.

SUMMARY OF REPORT

1. INTRODUCTION: COMMUNITY BASED SENTENCES IN VICTORIA.

The aim of this study was to determine how two changes to the system of community-based corrections in Victoria affected the overall pattern of correctional sentencing. In particular, it was concerned with whether the availability of a range of intensive community-based corrections sentences resulted in:

- (i) the diversion to those programs of offenders who would otherwise have gone to prison, or
- (ii) netwidening of community corrections sentences to offenders who would otherwise have received a non-correctional punishment such as a fine or a bond.

Community-based sentencing options have been available to Victorian courts since the introduction of Probation Orders in 1958. The first community-based program designed specifically to divert offenders from imprisonment was the Attendance Centre Order (ACO) program, introduced in June 1976 in three metropolitan Regions. This program emphasized stringent attendance and supervision requirements, and participation in personal development activities and community work. By the end of 1984 the ACO program was available in four metropolitan and two country Regions and there were over 300 offenders serving ACO's.

In September 1982 a further community-based sentence option was introduced in the form of the Community Service Order (CSO). This program was based on the performance of community work as a means of restitution and was established on a trial basis in one metropolitan Region. At the end of 1984 there were about 40 offenders serving CSO's.

These programs provided both sentencing flexibility and the opportunity to divert offenders from imprisonment. Nevertheless, before 1985 their impact was restricted because they were only available to courts in some correctional Regions. In conjunction with the establishment of the Office of Corrections as a separate administrative entity, it was decided to make all community-based programs available on a state-wide basis.

The state-wide service began in February 1985 and by the end of June 1985 there were nearly 400 offenders serving ACO's and this increased to nearly 600 by June 1986. Community Service Orders increased even more dramatically; by June 1985 there were over 220 CSO's being served, and by June 1986 there were over 600. During the year 1985/86 there were over 1,000 ACO's and over 1,200 CSO's passed by Victorian courts.

A second major change to the community-based corrections system took place in June 1986 when the three types of Orders were combined into a more general Community Based Order (CBO).

2. STUDY DESIGN

The general aim of this study was to determine the impact of the introduction of community-based corrections sentences on Magistrates' Court sentencing patterns. On the basis of previous work in this area, four hypotheses were proposed:

Hypothesis 1. That the introduction of community-based corrections sentences would result in the diversion of offenders from imprisonment to community-based programs.

Hypothesis 2. That the diversionary impact of community-based alternatives to imprisonment would be greatest in the period immediately after their introduction, and that this diversionary impact would decline over time as the community-based alternatives became sentencing options in their own right.

Hypothesis 3. That the diversionary impact of community-based sentences would vary according to their "severity" : ie. community-based sentences that placed greater demands upon offenders would have greater diversionary impact.

Hypothesis 4. That netwidening occurs across the whole range of sentencing options: that is, netwidening would occur from non-custodial sentencing options to community-based correctional sentences, and also from low supervision community corrections programs to high supervision programs.

The study design needed to take into account a range of methodological problems, including changes in offending patterns, the offending population, sentencing patterns, and criminal-justice laws and administration.

In order to determine the specific impact of the introduction of community corrections sentences in 1985 and 1986, the design of the study needed to control for, or at least estimate the effect of, these extraneous factors. The study was designed to deal with these difficulties in two ways:

- it examined changes in Magistrates' Court sentencing patterns in the context of an experimental design that allowed the impact of individual community-based sentences to be determined.
- it was based on a comprehensive analysis of the total range of sentencing patterns.

Before February 1985 community-based sentences were available only in some Regions. The study examined data from Magistrates' Courts in five Regions selected to allow direct testing of the study hypotheses, as follows:

CBC PROGRAMS IN STUDY PHASE 1	REGION	
	Metro.	Country
1. Attendance Centre Order only.	Western	Barwon
2. Community Service Order only.	Southern	-
3. Neither ACO nor CSO	Westernport	Gippsland

The data collected from selected Magistrates' Courts for this study was organized around four study Phases:

Phase 1 : July - December 1984

Phase 2 : July - December 1985

Phase 3 : June 1986

Phase 4 : July - December 1986

Phase 1 covered the period immediately prior to state-wide introduction of CBC programs, when the Attendance Centre Order and Community Service Order programs were only available in some Regions. Phase 2 covered the period five months after state-wide implementation in February 1985. Phase 3 was the month immediately after conversion to the Community Based Order sentence, and Phase 4 was a six month post-CBO period comparable with Phases 1 and 2.

The equivalent time periods used for Phases 1,2 and 4 allow seasonal trends in arrest rates and court activity to be controlled. The impact of state-wide introduction of the ACO and CSO programs can be determined by comparing data from Phases 1 and 2. The data from Phase 3 allows the immediate effect of changing to the CBO program to be monitored, and comparison of data from Phases 2 and 4 provides measures of the longer-term impact of the CBO program.

3. DATA COLLECTION PROCEDURES.

The source of the data collected for the study was the Court Registers which record the daily business of each Magistrates' Court. These Registers are maintained by the Clerk of Courts and provide a sequential, case-by-case record of the business of the court. Only cases where a conviction and sentence was recorded were collected.

A primary consideration in devising a data collection strategy was to replicate the way that offences and sentences are linked together by the courts. The most commonly used method is to give separate sentences for each type of offence, but concurrency of sentences within each offence type. Accordingly, the data collection procedure was based on 'cases' consisting of all offence and sentencing data

relating to one type of offence, irrespective of the number of counts (ie. separate offence episodes).

A further difficulty was the application of multiple sentence dispositions for the one offence type. Provision was made in the data coding sheets for recording up to four separate dispositions for each case.

The data items collected for each case were:

1. Study Phase
2. Region and Court
3. Month case heard
4. Offender number
5. Sex of offender
6. Summons or arrest
7. Offence number
8. DANCO offence code
9. Number of counts of offence
10. Appeal against sentence
11. Concurrency of sentence
12. Sentence disposition 1 - monetary penalty
 - number of hours (CSO, CBO)
 - length of sentence
13. Sentence disposition 2
14. Sentence disposition 3
15. Sentence disposition 4.

The data collectors encountered a range of problems in the course of extracting the required information from the Court Registers, including inconsistent or inadequate recording of details of dispositions, and inadequate recording of details of offences.

4. STATE-WIDE TRENDS IN MAGISTRATES' COURT OFFENCE, SENTENCING AND OFFENDER CHARACTERISTICS: 1981 to 1985.

The changes to sentencing patterns that resulted from the introduction of community corrections programs took place against a background of longer-term changes in offending and sentencing. The best information about overall sentencing patterns in Victoria is contained in the series of Australian Bureau of Statistics reports on "Court Proceedings Initiated by the Police" (Australian Bureau of Statistics: 1981 to 1985).

4.1 Offence Trends

- * The total number of offences proven before Magistrates' Courts increased fairly steadily over the five year period, from about 63,000 to about 71,000. This is equivalent to an annual rate of increase of 2.5%.
- * Offences Against the Person declined sharply over the five years, from 9.5% of all offences proven down to 6.1%, an overall drop of one-third.

- * Property Damage and Good Order Offences also declined significantly, by about one-third and one-sixth respectively.
- * The number of Burglary and Theft offences increased from 53% to 60% of all offences over the five years, and the number of Drug Offences increased even more rapidly, particularly between 1984 and 1985.

Overall there was an apparent increase in the seriousness of offences heard before Magistrates' Courts.

4.2 Sentencing Trends.

- * There was a large reduction in the use of Fines as a most severe penalty. In 1981 there were nearly 35,000 fines fixed and they made up almost half (48%) of all most severe penalties, but by 1985 the number of fines had declined to 26,000 and they constituted just over one-third (37%) of all most severe penalties.
- * The number of Detention penalties (which include imprisonment, Youth Training Centre and Attendance Centre Order sentences) increased from 13,000 to nearly 16,000; a 21% increase.
- * The number of Recognizance/ Bond/Probation penalties showed an even greater increase in use, from 18,400 to over 25,000; ie. a 36% increase.

In some respects, the period 1981 to 1985 saw a trend in sentencing towards more severe penalties. This is particularly evident in the use of the most severe penalty of imprisonment. However, this trend was balanced by an increase in the use of relatively unintrusive penalties such as bonds and recognizance.

4.3 Offender trends.

- * AGE: The ABS age statistics do not show any consistent trend for offenders relative to their under/over 25-year-old categories.
- * SEX: The sex breakdown of court matters shows a small but fairly steady increase in the proportion of offences committed by females, from about 20% in 1981 to 22% in 1985.

5. OFFENCE TRENDS AT SELECTED MAGISTRATES' COURTS.

The following comments pertain to the data collected from five selected Magistrates' Courts as described above.

5.1 General description of the data base.

- * Approximately 8500 cases involving about 6,000 offenders were collected in each of the three main Phases of the study (Phases 1, 2 & 4).

- * There were large differences between the number of cases collected in the five Regions.
 - Geelong Court (Barwon/Glenelg Region) and Oakleigh Court (Southern Region) had by far the largest flow of cases.
 - The small number of cases from Sunshine Court (Western Region) was principally due to the impact of the new court complex at Broadmeadows, which opened in 1985.
 - Due to time constraints, only cases deriving from an arrest were collected at Moe Court (Gippsland Region) and at Dandenong Court (Westernport Region) in Phase 4.

- * There was remarkable stability between Regions in the average number of cases per offender. The three metropolitan Regions (Western, Southern & Westernport) had averages of 1.41, 1.43 and 1.42 cases per offender respectively. Barwon/Glenelg Region had a slightly lower average of 1.34, while Gippsland Region had a much higher average of 1.78, resulting from the collection of arrest cases only in that Region.

- * In each Region except Gippsland, over 70% of all persons were convicted of only one type of offence (although there may have been several counts of that offence). In Gippsland Region this figure was 52%, and this is also attributable to the collection of arrest cases only.

- * There was a substantial increase in the proportion of cases initiated by arrest over the period of the study. In 1984 only about 40% of all cases were initiated by arrest, but by 1986 this had risen to over 50%. The proportion of persons brought before the courts as the result of an arrest increased from just over one-third in 1984 to just less than one-half in 1986.

Three factors may have contributed to this increasing arrest rate. Firstly, the average 'seriousness' of offences may have increased, leading Police to use arrest more frequently. Secondly, the increasing use of "on-the-spot" fines reduced the number of persons summonsed for traffic offences. Finally, the introduction of Mention Court days may have increased the rate of processing of arrest cases relative to that of summonsed ones.

Summons/Arrest is a critical variable that is strongly related to the type of offence and the sentence handed down. The substantial increase in the use of arrest over the course of this study had a significant influence on sentencing patterns.

- * There was a decline in the total number of women appearing, from 785 in 1984 down to 676 in 1986. This is remarkable because most other indices have shown a steadily increasing involvement of women in the criminal justice system.

The change in the representation of women was closely related to changes in the frequency of their being summonsed or arrested. Women were more likely to be summonsed to court than men, but were about 10% less likely to be arrested than men.

- * There was little month-to-month variation in the number of cases dealt with by the courts.

5.2 Description of Offence Data.

- * Motor Car Offences accounted for about half of all offences over the course of the study, but declined from 54% of all offences in 1984 to 44% in 1986. This change was due to the increasing use of administrative mechanisms (including PERIN warrants) for dealing with minor motor-car and driving offences.
- * The next largest category of offences was that of Good Order Offences, followed by Burglary & Theft Offences.
- * Between 1984 and 1986 the proportion of drug offences more than doubled, from 8% of all non-motor car offences to 17%, and the number of drug offences nearly tripled.
- * There were significant differences in offence patterns between the five Regions.
- * The increase in the use of arrest may be attributed, in part at least, to the increase in the number of Drug Offences between 1984 and 1986.
- * For most offence categories, the average number of counts of each offence remained very stable over the period of the study. The most notable exceptions to this pattern were Offences Against the Person, where the number of counts increased from 1.37 per case in 1984 to 2.03 in 1986 (a 48% increase), and Burglary & Theft Offences, where the average number of counts increased from 1.94 in 1984 to 2.43 in 1986 (a 25% increase).
- * Although there are over 60 different offence codes in the DANCO system, more than three-quarters of all offences were accounted for by just 12 DANCO offence codes. The following changes in the distribution of the most common offence types were evident:

Other Assault offences increased from about 2% of all offences in Phase 1 to about 3% in Phase 4. Since these offences are the least serious type of Offence Against the Person, and since the overall proportion of Offences Against the Person did not change significantly during the period covered by this study it follows that the proportion of more serious forms of assault must have declined. This trend was balanced by an increase in the average number of counts of each offence.

- * In the general category of Property Offences the frequency of Burglary offences increased, from 99 cases (2.8%) to 178 cases (3.7%), however Deception and Motor Car Theft showed no change. Other Theft offences declined slightly, from 18.4% to 15% of cases. These trends could be interpreted as indicating an increase in the average seriousness of Property Offences. Again, there was also an increase in the average number of counts in Property Offences.

- * Of the Good Order offences, Resist Police, Drunkenness Offences, and Possession of Firearms or Offensive Weapons showed no systematic change. The proportion of Breach Bail offences increased from 41 cases (1.1%) to 91 cases (1.9%), while the frequency of Other Offensive Behavior offences decreased from 4.8% to 3.4%.
- * Offences of Possession of Narcotics and Possession of Cannabis showed a substantial increase, from 148 cases (4.1%) in Phase 1 to 371 cases (7.6%) in Phase 2. The more serious drug offences, such as trafficking, manufacture or importing increased at an even greater rate, from 31 cases in Phase 1 (0.9%), to 140 cases in Phase 4 (2.9%).
- * A key issue in assessing changes in sentencing patterns is whether there has been a change in the seriousness of offences that could account for any apparent sentencing trends. The changes described above show apparent increases in the general seriousness of Property and Drug offences, specifically Burglary and the more serious Drug offences. Therefore, any analysis of sentencing trends needs to take these changes into account.

6. RESULTS: COURT SENTENCING PATTERNS.

The primary hypothesis of this study was that the introduction of community-based corrections sentences would result in the diversion of offenders from imprisonment to community-based programs. Diversion from imprisonment might take the form of a reduction in the proportion of sentences of imprisonment handed down by a court, or a systematic shortening of the periods of imprisonment. In either case, a reduction in the daily average number of persons in prison will result. Similarly, netwidening might be indicated by an increase in the proportion of CBC sentences relative to all other non-imprisonment sentences, or by an increase in the average length of CBC sentences.

As the five Regions included in this study had different sentencing options available prior to February 1985, meaningful comparisons between Phases 1 and 2 may only be made within Regions with the same sentence options: that is, Western and Barwon Regions (Attendance Centre Orders only in 1984) and Westernport and Gippsland Regions (neither Attendance Centre nor Community Service Orders in 1984).

When analysing trends in either the type or amount of sentences, one needs to take into account the variables of Region, offence type and summons/arrest.

6.1 Aggregate Sentence Type Trends

- * If the total number of sentences is compared with the total number of cases (see Table 7A), it can be seen that on average, there were 1.3 sentences handed down for each summons case, and 1.2

sentences for each arrest case. This ratio remained quite stable across all Phases of the study.

- * More serious sentences tended to be used more frequently in Arrest cases than in Summons cases - in particular, sentences of imprisonment and community based sentences were used much more frequently in arrest cases, while fines and licence penalties were used more frequently in summons cases.
- * The most frequently applied sentences were fines, followed by licence penalties, bonds and conviction and discharge.
- * There was an overall increase in the use of imprisonment in summons cases between Phases 1 and 4, but there was no change in its use in arrest cases;
- * There was a large increase in the use of suspended sentences of imprisonment, especially in arrest cases.
- * There was an increased use of all types of community based sentences across the study.

The overall trend in sentencing was therefore that of an increase in the use of more severe penalties including community based sentences, mainly at the expense of licence penalties. However, before any firm inferences about netwidening or diversion can be made, one needs to take into account specific Regional offence and sentencing patterns.

When analysing the sentencing data there are two separate comparisons that can be made; between Phase 1 and Phase 2, and between Phase 2 and Phase 4. The number of cases in Phase 3 was too small to draw reliable inferences.

6.2 Regional Sentence Type Trends

Westernport Region.

There were no community based options other than Probation available in Westernport Region in Phase 1 (1984).

Phase 1 vs Phase 2: The use of AOO and CSO sentences increased substantially following their formal introduction in Phase 2, and there was a similar increase in the use of Probation at this time. These changes were balanced by a large drop in the use of fines, and smaller reductions in the use of imprisonment and restitution or compensation orders.

Phase 2 vs Phase 4: The use of imprisonment increased, returning to near its Phase 1 level. In addition, there was a large increase in the use of suspended sentences of imprisonment. There was also an increase in the proportion of community corrections (CBO) sentences in Phase 4. The proportion of fine sentences declined further, and there was a substantial drop in the use of licence penalties.

Gippsland Region.

Like Westernport Region, Gippsland Region did not have formal access to the community based sentences of Attendance Centre and Community Service Orders until 1985.

Phase 1 vs Phase 2: The most striking change between 1984 and 1985 was in the use of community based sentences. In Phase 1 only 3.5% of all sentences were Probation Orders, while in Phase 2 over 20% of all sentences were ACO, CSO or Probation Orders. There was no change in the use of imprisonment, but the proportion of bonds and fines dropped sharply, from a combined 65% in Phase 1 to 43% in Phase 2. The proportion of licence penalties increased by about half.

Phase 2 vs Phase 4: There was a substantial increase in the use of sentences of imprisonment, including suspended sentences. The proportion of community based sentences (CBO's) declined to 11.5%, or about half of the Phase 2 figure. Bonds and fines increased part of the way to their Phase 1 level, while licence penalties declined back to their Phase 1 level.

Western Region.

Sunshine court in Western Region was one of the metropolitan courts where Attendance Centre Orders were first introduced.

Phase 1 vs Phase 2: The proportion of sentences of imprisonment decreased, as did licence penalties, while bonds, fines and poor box penalties all increased. The use of community based penalties remained fairly steady; Probation Orders remained the most commonly used community based sentence, and Community Service Orders were used quite sparingly in 1985.

Phase 2 vs Phase 4: Only about half as many community based sentences were applied in Phase 4 as in Phase 1, and there was also a very small decline in the use of imprisonment, although this was more than compensated for by the use of suspended sentences of imprisonment. The use of licence penalties declined slightly, and the proportion of fine sentences increased.

Barwon Region

Attendance Centre Orders were available at Geelong court in Barwon Region before 1984.

Phase 1 vs Phase 2 : The most significant sentencing changes between 1984 and 1985 were an increase in imprisonment and a decrease in the use of fines. The use of community based penalties also increased, although the proportion of such penalties was well below that of the other four Regions.

Phase 2 vs Phase 4 : There was a further increase in the use of sentences of imprisonment, including suspended sentences of imprisonment. The proportion of community based penalties decreased, returning to near 1984 levels. The proportion of fines applied in arrest cases increased back to 1984 levels, and there was a small decrease in the use of licence penalties.

Southern Region.

Community Service Orders first became available in 1982 to courts in Melbourne's Southern Region. Oakleigh Court apparently saw a significant increase in the average seriousness of cases heard there.

Phase 1 vs Phase 2: There was an increase in the frequency of use of Attendance Centre and Probation Orders, while the use of Community Service Orders fell slightly. There was a substantial increase in the proportion of bonds, and an equivalent decline in the use of licence penalties. There was also a very large decrease in the use of fines in arrest cases, from 52.9% of all penalties down to 42.3%.

Phase 2 vs Phase 4: The use of sentences of imprisonment declined slightly, although there was an increase in the use of suspended sentences of imprisonment. The proportion of community based sentences was quite steady. The most notable change was that the use of fines returned part of the way to their 1984 level.

6.3 Sentence Amount Trends.

Sentencing patterns can also change in terms of the amount or severity of particular types of sentences; the amount of a fine, or the length of a sentence of imprisonment. The index of change used in the following analyses is the median category; that is, when all cases are placed in ascending order, the category which contains the value which subdivides the highest 50% of cases from the lowest 50%. The median is preferred over the average for this analysis as it is less affected by extreme values.

There were few systematic changes in sentence amounts over the course of the study.

- * The median period of sentences of imprisonment remained in the category of 1 to 3 months across all four study phases in all Regions, although in some Regions there was a steady increase in the relative frequency of the longest sentences of imprisonment passed (ie. greater than 12 months).
- * Attendance Centre Orders typically had a median length of 1 to 3 months and Probation Orders had a median of 1 to 2 years. The Community Service Orders given during Phase 2 had a median length of 101-150 hours, and would have taken approximately 2 to 3 months to serve. The Community Based Orders applied during Phase 4 were

typically in the range 101-150 hours, and would also have taken 2 to 3 months to serve.

- * The value of fines remained very steady, with a median value of \$101-\$200. The median value of bonds increased from \$51-\$100 in Phases 1 and 2, to \$101-\$200 in Phase 3, and then to \$201-\$300 in Phase 4.

6.4 Sentences for Drug Offences.

The most notable change in the pattern of offences across the course of the study was the increase in the proportion of Drug Offences. In overall terms, the relative frequency of drug offences doubled between 1984 and 1986, from 8% of cases to 17%. It is appropriate to ask to what extent the observed changes in sentencing can be accounted for by this particular change in offending.

The majority of drug offences heard before Magistrates' Courts were possession or use offences. In addition, the majority of drug possession and use offences involved cannabis, and are therefore in the least serious category of drug offences. On the other hand, the study period saw substantial growth in the number and proportion of drug trafficking offences; from 5% to nearly 11% of all drug offences.

The most significant changes in sentencing or drug offences were the increase in the use of community based penalties after 1985, and the decline in the use of fines over the same period. There was some Regional variation from this pattern; most notably in Barwon Region, where only 6 community based sentences were given for drug offences in 1985, and none in any other year.

7. DISCUSSION OF RESULTS & CONCLUSIONS.

The study's results show that there were a number of important changes in both offending behavior and sentencing patterns that took place between 1984 and 1986. Unfortunately, these changes do not provide any direct indices of diversion or netwidening. The very large inter-Regional differences in offending and sentencing patterns mean that diversion and netwidening must be evaluated on a Region by Region basis.

7.1 Regional Netwidening/Diversion Trends.

Westernport Region.

Phase 1 vs Phase 2: The increase in the use of CBC sentences in Westernport Region is hardly surprising, as only Probation Orders were available to Dandenong Court before 1985. Given the change in the offence profile, one would have expected to see some increase (albeit relatively small) in the average severity of

sentences. In fact, the data shows a decrease in the use of imprisonment, implying that some degree of diversion took place. On the other hand, the fall in the use of fines was the most significant change in sentencing, and this would seem to imply a larger degree of netwidening.

Phase 2 vs Phase 4: Some of the sentencing changes in Westernport Region can be attributed to changes in the offence profile. For instance, the proportion of Motor Car Offences fell sharply, so the decline in licence penalties is not surprising. Drug Offences increased, as did Burglary & Theft Offences, so the overall pattern was for an increase in the seriousness of offences.

The changes in sentencing in Phase 4 appear to show further netwidening, from fines to CBC sentences. The increase in the use of imprisonment can be attributed, in part at least, to the increase in the seriousness of offences. There also appears to have been a much larger degree of netwidening resulting from the use of suspended sentences of imprisonment.

Gippsland Region.

Phase 1 vs Phase 2: Changes in sentencing at Moe Court must be assessed in the context of a substantial increase in the average seriousness of offences dealt with by the court. The apparent stability in the use of imprisonment can be interpreted as indicating a significant degree of diversion of many of the additional offenders were convicted of relatively serious offences. There can be little doubt that most of this diversion is attributable to the use of community based sentences.

Phase 2 vs Phase 4: Unlike the period between 1984 and 1985, there were almost no changes in the profile of offences dealt with by the court. Therefore, one must conclude that there was a drop in the amount of diversion attributable to community based sentences. Nevertheless, when compared with the sentencing pattern of 1984, there was still probably a significant amount of diversion from imprisonment apparent in 1986. On the other hand, the fall and then rise in the use of fines and bonds may indicate that at least part of the impact of community based sentences was in the direction of netwidening.

Western Region.

Phase 1 vs Phase 2: These observed changes in sentencing are more or less what one would expect in view of the decreasing seriousness of the offences dealt with by the court, and there is no evidence for either netwidening or diversion.

The very low rate of use of community based sentences during 1984 and 1985 meant that no conclusion can be drawn about the impact of introducing Community Service Orders on the alternative community based sentences.

Phase 2 vs Phase 4: The changes in sentencing seem to indicate the same sort of withdrawal from the use of community based sentences that was evident in Gippsland Region. The alternative sentences used by the court were apparently fines and suspended sentences of imprisonment, so it is difficult to determine whether the initial impact of community based sentences was diversionary or netwidening. If one accepts that suspended sentences of imprisonment are being used as an alternative to both imprisonment and Community Based Orders, then these suspended sentences are diverting some offenders but netwidening to others.

Barwon Region

Phase 1 vs Phase 2: It seems fairly clear that much of the increase in the use of community based sentences was attributable to netwidening from offenders who would have otherwise been fined. As the use of imprisonment increased at the same time as the use of community based sentences, there is little possibility that the community based sentences contributed to any diversion from imprisonment.

There was no evidence that the introduction of Community Service Orders in 1985 resulted in any relative reduction in the uses of Attendance Centre Orders.

Phase 2 vs Phase 4: This court was by far the lowest user of community based penalties. There were further increases in the use of imprisonment, suspended sentences of imprisonment and fines, with few correlated changes in offences. These trends reinforce the proposition that community based sentences in Barwon Region were the result of netwidening from fines.

Southern Region.

Phase 1 vs Phase 2: The sentencing changes at Oakleigh Court indicate a substantial degree of diversion from imprisonment that is attributable to the use of community based sentences. The drop in the use of fines may indicate netwidening to community based sentences, however it might equally be attributed to the increasing use of bonds.

One feature of the changes in the use of community based sentences was that part of the growth in the use of Attendance Centre Orders was at the expense of Community Service Orders.

Phase 2 vs Phase 4: Given the relative stability in both offence and sentence patterns, few conclusions can be drawn about the diversionary or netwidening impact of Community Based Orders.

7.2 Methodological Conclusions.

One possibility that was examined by this study was that the availability of the different community based sentencing options before 1985 may have influenced how they were used when the complete range of options became available. The study showed that this factor had little impact. One feature that had some generality was that the newly available options, whether ACO or CSO, appear to have 'diverted' some offenders away from the existing ones.

One of the assumptions underlying the study design was that there would be a great deal of commonality between the five courts in the sample in terms of the number and type of cases handled. In fact there proved to be little similarity between any of the courts.

Therefore, one of the main conclusions of this study was that it is not possible to control in any simple fashion for extraneous factors arising from changes in offending and court administrative practices, and thereby obtain unbiased measures of sentencing changes. One has to understand changes in sentencing patterns in the context of the operations of each court.

Another result which emerged as a confounding issue was the role of suspended sentences of imprisonment. While the study did not pay particular attention to the impact of these sentences, it seems clear that they were quite unsuccessful in reducing or stabilising the use of imprisonment.

CHAPTER 1 : INTRODUCTION - THE DEVELOPMENT OF CORRECTIONAL SENTENCING
- 1983 to 1986.

1.1 Introduction

The period since 1983 has seen a number of important legislative and administrative changes to the Victorian criminal-justice system. Some of these changes reflect new policy perspectives on law, the judiciary and corrections. Others have been made in order to improve the effectiveness of various components of the criminal-justice system or to rectify long-standing problems in the system.

This study was concerned with how two changes to the system of community-based corrections in Victoria affected the overall correctional system. Specifically, it was concerned with whether the availability of a range of intensive community-based corrections sentences resulted in the diversion to these programs of offenders who would otherwise have gone to prison, or conversely, whether it resulted in netwidening of community correctional sentences to offenders who would otherwise have received a non-correctional punishment such as a fine or a bond.

In order to appreciate the aims of this study, one first needs to consider the issues that lay behind the Victorian Government's decision to develop effective sentencing alternatives to imprisonment.

1.2 Sentencing Alternatives to Imprisonment.

The starting point for the development of sentencing alternatives to imprisonment was the recognition that imprisonment is a profoundly negative experience that is neither rehabilitative nor effective in preventing further offending.

Some of the specific problems associated with imprisonment are:

- . imprisonment breaks down offenders' links with family, work and the community, adding to the difficulties that offenders face in trying to re-establish and then maintain a normal lifestyle after their release;
- . imprisonment places offenders in a society of other offenders, where anti-social attitudes tend to be confirmed and criminal behavior is supported;
- . prison conditions are typically degrading and access to genuinely rehabilitative programs is generally poor;

- . imprisonment is a very expensive form of punishment; the average annual cost of imprisonment in Victoria in 1986/87 was about \$32,000 per prisoner.

A further important practical consideration in the development of diversionary programs was the progressive overcrowding of Victoria's prisons that became evident in the early 1980's. Although not as serious as the levels of prison overcrowding in New South Wales or Queensland, the situation in Victoria was exacerbated by the generally low physical standard of the 19th Century prisons which make up over 70% of prison accommodation.

This re-evaluation of the significance of imprisonment has had an important impact on the formulation of judicial and correctional policies and on the administrative practices that derive from them. These policies have been stated in a variety of documents¹ and, while their specific form and wording has changed from time to time, their essential elements have remained unchanged.

These policies may be stated as follows:

- . that imprisonment should be the judicial sanction of last resort, to be used only in cases where the seriousness of the offence or the threat posed to the community requires the total deprivation of liberty of the offender;
- . that effective correctional sanctions can operate in the community if they:
 - encourage offenders to maintain or strengthen their community ties, especially to their family and their work;
 - provide high-quality supervision and personal development programs;
 - require that offenders satisfy strict attendance conditions;
 - and are backed up by a willingness to breach, and if necessary, imprison offenders who refuse to conform to the requirements of their sentence;
- . that restitution is an important component of punishment, whether directly to the victim of the offence or indirectly to the general community.

These policies do not simply reflect a particular philosophical outlook on the nature of correctional sanctions, but also an attempt

1. For example, see the introductory chapter to the Corrections Master Plan (Neilsen Associates;1983), the Office of Corrections submissions to the Victorian Sentencing Committee (1985,1986) and to the Commonwealth Grants Commission (1987). A summary of some important correctional policies agreed at a national level can be found in "Prison Crowding: A National Strategy", a paper presented to the Correctional Administrators Conference (Nov. 1986) and endorsed by Correctional Ministers in May 1987.

to deal with the serious problems associated with the use of imprisonment as a form of punishment.

1.3 The Development of Community-based Corrections.

A community-based sentencing option had been available to Victorian Courts since the introduction of Probation sentences in 1958. However, the Probation program was intended to provide relatively long-term supervision of offenders rather than an alternative to imprisonment. The typical Probationer was young, with a prior history of offending and convicted of a fairly minor offence. Probationers formed the largest group of correctional clients; at the end of 1984 there were over 3,500 under supervision in all Regions.

The first community-based program designed specifically to divert offenders from imprisonment was the Attendance Centre Order (ACO) program, introduced in June 1976 in three metropolitan Regions. This program emphasized stringent attendance and supervision requirements, and participation in personal development activities and community work. By the end of 1984 this program was available in four metropolitan and two country Regions and there were over 300 offenders serving Attendance Centre Orders.

In September 1982 a further community-based sentence was introduced in the form of the Community Service Order (CSO). This program was based on the performance of community work as a means of restitution and was established on a trial basis in one metropolitan Region. At the end of 1984 there were about 40 offenders serving Community Service Orders.

The fourth component of the community corrections system was the provision of Court Advice. This service advised judges and magistrates as to the suitability of offenders for the various community-based sentences. Initially available only at the Melbourne Magistrates' and Higher Courts, by the end of 1984 the Court Advice Service was operating in all Regions with an Attendance Centre or Community Service Order program.

This range of community-based corrections programs made a significant contribution to both sentencing flexibility and the diversion of offenders from imprisonment. Nevertheless, before 1985 their impact was restricted because they were only available to courts in some correctional Regions. In conjunction with the establishment of the Office of Corrections as a separate administrative entity, it was decided to make all the community-based programs available on a state-wide basis.

The state-wide service began in February 1985 and the next fifteen months saw a rapid increase in the number of offenders serving Attendance Centre and Community Service Orders. By the end of June 1985 there were nearly 400 offenders serving Attendance Centre Orders and this increased to nearly 600 by June 1986. Community Service Orders increased even more dramatically; by June 1985 there were over 220 CSO's being served, and by June 1986 there were over 600. In the

year 1985/86 there were over 1,000 ACO's and over 1,200 CSO's handed down by the courts.

The next major change to the community-based corrections system took place in June 1986. In order to simplify the sentencing process, while at the same time providing greater flexibility to sentencers, the three types of Orders were combined into a more general Community Based Order (CBO). These amendments were part of a much larger package of revisions to sentencing legislation in the Penalties and Sentences Act 1985.

The Community Based Order is made up of six mandatory or "core" conditions plus eight optional or "programme" conditions. The core conditions are set out in S.29(1) of the Penalties and Sentences Act 1985 (see Appendix 1), viz:

- (a) That the offender does not commit another offence during the period of the Order,
- (b) That the offender reports to a community corrections centre,
- (c) That the offender reports to and receives visits from a community corrections officer,
- (d) That the offender notifies of any change of address or employment,
- (e) That the offender does not leave the State without permission,
- (f) That the offender obeys all lawful instructions of community corrections officers.

A Community Based Order has attached to it one or more of the optional programme conditions. This allows sentencers to tailor an offender's Order to meet the circumstances of the offence and the offender's needs. The program conditions are set out in S.29(2) of the Penalties and Sentences Act 1985:

- (a) attendance for educational or other programmes for a period of 1 to 12 months, with up to 2 attendances or up to 8 hours per week, and an aggregate period of attendance of between 20 and 400 hours,
- (b) unpaid community work for between 10 and 500 hours, to be performed within 12 months,
- (c) supervision by a community corrections officer,
- (d) assessment or treatment for alcohol or drug addiction, or medical, psychological or psychiatric assessment or treatment,
- (e) testing for alcohol or drug use,
- (f) residence at a specified place,

- (g) non-association with specified persons,
- (h) any other condition that the court considers necessary or desirable.

Two other provisions were included in the Penalties & Sentences Act 1985 to control the use of imprisonment and to maximize the diversionary impact of the new CBO's. Section 11 of the Act required that:

"... a court must not pass a sentence of imprisonment on a person unless the court, having considered all other available sentences, is satisfied that no other sentence is appropriate in all the circumstances of the case."

In addition, Section 12 of the Act required that:

"Where a Magistrates' Court passes a sentence of imprisonment on a person, the Magistrates' Court -

- (a) must state in writing the reasons for its decision; and
- (b) must cause those reasons to be entered in the records of the court.

1.4 Changes in the Criminal Justice System Since 1983.

The changes to the community corrections system described above did not take place in isolation. On the contrary, the period between 1983 and 1986 saw a number of substantial changes to various components of the Victorian criminal justice system. Many of these other changes have also had important impacts on those aspects of the correctional system that are of concern to this study².

Amongst these changes are:

1983/84

- . Establishment of the Office of Corrections as a separate department responsible for the management of corrective services;
- . Establishment of the Office of the Director of Public Prosecutions;
- . Appointment of four additional judges (one to the Supreme Court and three to the County Court), and the provision of four additional courts.

². For more information about changes to the judicial system, see the Law Department publication "The Future Organization and Operation of Courts in Victoria" (1985).

1984/85

- . State-wide introduction of Community Based Corrections programs (Attendance Centre Orders, Community Service Orders, Probation Orders) and the Court Advice Service;
- . Implementation of the Courts Management Change Program to minimise delays, make more effective use of existing services and to expand Court services;
- . Appointment of two additional Supreme Court judges and four additional County Court judges;

1985/86

- . Proclamation of the Penalties and Sentences Act 1986, part of which made provision for;
- . The consolidation of Community Based Corrections sentence types into one general Community Based Order to which a range of optional Conditions may be added;
- . Introduction of the Mention System for Magistrates' Courts.

One of the major problems encountered in designing and conducting this study was that all these changes have a potential impact on sentencing patterns. Moreover, many of them interact with one another. The net result is that it is extremely difficult to assign responsibility for any particular change in sentencing patterns to any one cause. The third section of this report discusses the factors that influence sentencing patterns, and how they affected the design of this study.

Before proceeding to an analysis of the particular methodological problems encountered in this study, it is appropriate to review the results of previous research in this area in order to identify the problems encountered and the methods employed to overcome them.

CHAPTER 2 : LITERATURE REVIEW.

When reviewing the literature on "diversion" and "netwidening", it soon becomes apparent that neither of these terms are particularly rigorously defined. Indeed, a cynic might conclude that desirable outcomes of correctional programs are defined as "diversion" and anything else is "netwidening". This subjectivity is most evident when one considers the various measures and criteria that have been used as indices of netwidening or diversion. This is therefore a selective review of the literature which does not cover those studies where unbridled enthusiasm is a major component of the research design.

This review is also specifically concerned with studies of the diversionary impact of programs aimed at convicted adult offenders. It therefore does not include those studies which are concerned with:

- diversion of juveniles onto non-custodial supervision programs (eg. Decker, 1985; Blomberg, 1980; Burney, 1985; Davidson et al, 1981; Lemert, 1981),
- pretrial diversion for adult offenders (eg. Bevan, 1980; Morris, 1974).

It is of some concern that few studies of diversion/ netwidening give any detailed consideration to what actually constitutes diversion. Cohen (1985) notes that there are really two forms of diversion; "true diversion", where a person is screened right out of the criminal justice system, for instance through an informal reprimand by the police, and "new diversion", where a person is diverted into a nominally less intrusive program within the system.

When, as in this review, one is concerned with studies of the diversion of convicted offenders, the problem of definition is further complicated because one is typically trying to determine how the sentence actually received differs from the hypothetical sentence that would have been applied had the "diversionary" option not existed.

Despite these definitional and methodological problems, the question of the diversionary or netwidening impact of correctional programs remains a key issue for correctional administrators and researchers.

Austin and Krisberg's 1982 review of alternatives to imprisonment suggests that netwidening rather than diversion has been the major outcome of non-custodial programs. However, their main evidence is based on comparisons of the growth in the number of prisoners versus the number of probationers and parolees. For example, they cite a 30% increase in the number of prisoners in custody between 1965 and 1979, compared with a 142% rise in the number of probationers and

parolees, while total arrest rates increased by only 65% over the same period.

Comparisons such as this, based on the raw numbers of offenders on different programs, do not constitute a valid index of netwidening, as they do not take into account the effect of longer sentence lengths that characterize non-custodial programs. The main target group for such programs is typically offenders sentenced to relatively short terms of imprisonment for minor offences. If these offenders are diverted to a non-custodial program that has longer effective sentence lengths, then the total number of persons within the system will inevitably rise.

For instance, if offenders who would otherwise have received a term of imprisonment of 3 months are diverted to a non-custodial program that requires their participation for six months, then the number of offenders within the non-custodial program will effectively be double that of the number who would have been in prison. Indeed, the most common form of non-custodial program in Australia, typically has sentence lengths of one, two or even three years. In addition, offenders sentenced to imprisonment typically receive remission off their sentence and may also be eligible for other early-release programs, while offenders on non-custodial programs almost always serve out the full term of their sentence.

A more valid basis for comparison is that of the number of persons received into custody or onto non-custodial programs. This method has been used by Rook (1978) in his evaluation of the Tasmanian work order scheme. However, his quantitative assessment was based on a direct linear extrapolation of numbers sentenced during previous years. The work of the Australian Institute of Criminology on forecasting of prisoner and offender numbers (Walker, 1986) has shown that a curvilinear model is more appropriate to take into account the changes in the socio-demographic characteristics of the population.

The studies of Austin & Krisberg and Rook attempt to assess netwidening by examining aggregated statistics for correctional populations only, in isolation from any consideration of the wider criminal justice field. However, sentencing practices are influenced by a wide range of factors which can affect the number of offenders sentenced to both custodial and non-custodial programs. For example, the introduction of mandatory imprisonment for certain categories of driving offences that might previously have been dealt with by a fine or a bond might overshadow any diversionary effect of non-custodial programs being established at this time.

One attempt to deal with the full range of sentencing alternatives available is that of Morgan (1983). This study presents a detailed examination of United Kingdom sentencing trends between 1971 and 1981 which allows conclusions to be drawn about the effect of specific sentencing alternatives to imprisonment on the total range of sentencing dispositions. The number of persons sentenced to fine, immediate imprisonment, suspended sentence, probation, community service, detention centre or borstal, or discharged is presented as a percentage of total dispositions.

Morgan's data shows that, for 17 to 21 year-olds, the absolute numbers sentenced increased in all sentence categories. Over the period there was a 9-percent increase in the number of offenders sentenced to community service and decline in the proportion of those sentenced to detention centres, borstals and probation. However, there was also a more marked decline in the proportion sentenced to fines. If correctional statistics were taken in isolation, it would appear that persons receiving community service sentences were derived from those previously sentenced to detention centres, borstals or probation, whereas an examination of total criminal justice statistics shows that they were more likely to have been diverted from those previously fined.

The degree of diversion from imprisonment is affected not only by the introduction or expansion of non-custodial options, but also by the implementation of legislation that prescribes the use of existing options. The effect of formal legislative changes on sentencing have been well documented (eg. Weatherburn & Howie, 1985; McCarthy & Lindquist, 1985; Bottoms, 1981; Sparks, 1971; Doleschal, 1982), including assessments of netwidening.

There are a number of studies which are particularly relevant to this review because they are directly concerned with the community corrections programs operating in Victoria. For instance, Fox and Challenger (1985) examined dispositional outcomes for a sample of 163 Victorian offenders assessed for Attendance Centre Orders but deemed unsuitable by correctional staff. Sixty-four percent of the 135 offenders for whom follow-up information was available received a sentence of imprisonment. Supreme and County Courts sentenced 86% of the 22 cases they dealt with to imprisonment and the remainder to probation, while Magistrates' Courts sentenced 59% to prison, 12% to probation, and 2.9% to fines or bonds.

Bodna (1983), reviewing the first 12 months of operation of the Community Service Order scheme in Victoria estimated that approximately half of offenders placed on CSO's would otherwise have been imprisoned. This estimate was based on Magistrates' comments and the perceptions of offenders and program staff. On the other hand, of 16 offenders assessed as not suitable for a CSO, only 3 were imprisoned, 8 received another form of community based sentence (Probation or Attendance Centre Order) and the remaining 5 were fined. This data suggests that the actual rate of diversion was probably much lower than 50%.

It is notable that at a seminar on Community Service Order programs held at the Australian Institute of Criminology (Bevan, 1983), none of the nine correctional organizations participating was able to offer definitive evidence about the impact of these programs on overall sentencing patterns.

No review of the Australian literature on netwidening and diversion would be complete without reference to Chan and Zdenkowski's (1986a, 1986b) review of trends and issues in the deinstitutionalization of correctional punishment. This two-part paper begins with a review of sentencing patterns across Australia and notes the following trends:

- imprisonment rates across Australia fell fairly steadily between 1850 and 1950, independently of any community corrections alternatives;
- since 1976 the overall Australian imprisonment rate has remained stable, while there has been a slight increase in the rate of parole and rather large increases in the rates of probation and community service orders, suggesting that the use of community based options has had no appreciable effect on the use of imprisonment.

The second part of Chan and Zdenkowski's paper reviews the evaluation of community based corrections and identifies a number of problems of evaluation, including contradictions in explicit and latent program goals, inadequate research design and restrictions in the inferences that can be drawn from such research. They conclude, inter alia, that there are at least three areas of concern arising out of the development of community based corrections programs:

- the expansion and acceleration of control over offenders
- the widening of discretionary powers
- an increase in the stigmatizing impact of imprisonment and the diversion of attention from prison conditions.

Both Chan and Zdenkowski, and Austin and Krisberg, conclude that the quality of research on netwidening and diversion is generally poor and they cite a need for good quality research incorporating controlled experiments and system rate and process analysis. Blumenstein et al's (1983) review of the American literature reports a similar conclusion, and concludes that evaluative studies have failed to provide reliable answers to the question of how often custodial alternatives actually divert offenders from imprisonment.

The studies reviewed above, while in some cases methodologically rigorous, do not provide consistent results on the effect of diversion. They tend to rely on a single- method approach that often fails to adequately address the methodological difficulties that arise in studying such a complex issue.

The exception is Pease (1984), who assessed the diversionary impact of Community Service Orders in the U.K. using four different methodologies, including probation officers' predictions of sentences, alternative dispositions of cases where a CSO was recommended but not received, dispositions where the court requested a social enquiry report considering a CSO, and examination of sentences where CSO's were revoked. Regardless of the method employed, approximately half would have received imprisonment. Pease's review concludes that precise estimates of the diversionary impact of CSO's vary, both locally and nationally, and that while figures as high as 85% have been cited in some localities, the estimate of 45% - 55% consistently emerges in most studies.

CHAPTER 3 : STUDY DESIGN

3.1 Aims and Hypotheses.

The principal aim of this study was to determine the degree of diversion from imprisonment that resulted from the range of community-based corrections (CBC) sentencing options introduced in Victoria in 1985 and 1986. More generally, the study was intended to examine the impact of these community-based sentences on Magistrates' Court sentencing patterns. On the basis of previous work in this area, four hypotheses were proposed:

Hypothesis 1. That the introduction of community-based corrections sentences would result in the diversion of offenders from imprisonment to community-based programs. More specifically, that the proportion of offenders sentenced to imprisonment would decline following the introduction of CBC sentences, and that this decline would be matched by an increase in the proportion of offenders sentenced to CBC Orders.

Hypothesis 2. That the diversionary impact of community-based alternatives to imprisonment would be greatest in the period immediately after their introduction, and that this diversionary impact would decline over time as the community-based alternatives became sentencing options in their own right.

This might be viewed as a "pessimistic" hypothesis, based on the assumption that the judiciary will ultimately incorporate new sentencing alternatives in a form that is consistent with existing sentencing patterns.

The study examined the impact of two separate changes to community-based sentencing which were made in February 1985 and June 1986. Hypotheses 1 and 2 can be applied to the impact of each of these sentencing changes.

Hypothesis 3. That the diversionary impact of community-based sentences would vary according to their "severity" : ie. community-based sentences that placed greater demands upon offenders would have greater diversionary impact.

For the community-based sentences introduced in February 1985, this hypothesis would suggest that Attendance Centre Orders would have greater diversionary impact than Community Service Orders or Probation Orders.

When applied to Community Based Orders, introduced in June 1986, this hypothesis would suggest that CBO's with a larger number of Conditions attached to them would have a greater diversionary impact than those with only few Conditions.

Hypothesis 4. That netwidening occurs across the whole range of sentencing options: that is, netwidening would occur from non-custodial sentencing options (eg. fines or bonds) to community-based correctional sentences, and also from low supervision community corrections programs (eg. Probation) to high supervision programs (eg. Attendance Centre Orders). As a result, netwidening would lead to both increased numbers of correctional offenders, and larger numbers on more highly supervised programs.

3.2 Methodological Issues.

The study design needed to take into account a range of methodological problems which have limited the usefulness of previous work in this field:

- Changes in offending patterns. In the past decade there have been significant changes in the type and frequency of offences committed; for instance burglary and fraud offences are now more common than in the past, and are more frequently associated with drug possession and use charges.
- Changes in the offending population. Long-term socio-demographic changes in the general population have affected crime, arrest and conviction rates. On average, offenders are now older, tend to have committed more serious offences, and have a longer prior history of offending. There have also been significant changes in the offending patterns of women.
- Changes in sentencing patterns. The profile of court sentencing dispositions has shown long-term changes which are apparently unrelated to the introduction of community-based corrections sentences; for instance, the frequency with which fines are imposed has fallen sharply since 1980.
- Changes in criminal-justice laws and administration. A number of significant changes to criminal-justice laws and administration took place during the period covered by this study. The most important of these changes are reviewed in the Introductory chapter of this report. Changes of particular importance to this project include:

- the implementation of the Mention Court system¹,

¹. The Mention Court system was established in mid-1986 in order to make the management of court business more efficient, ensure certainty of hearing dates and reduce waiting periods. One or more of the principal courts in each Law Region operate as Mention Courts on one or more days each week. Every case occurring in that Region is channeled through the Mention Court. If a person pleads guilty at the Mention Court, his/her case is disposed of that day. If there is a plea of not guilty or no appearance, the case is adjourned to a Hearing Court (which may be the same court on another day). Each of the Magistrates' Courts included in this study became a Mention Court at the beginning of Phase 4.

3.4 Study Design.

In order to determine the specific impact of the introduction of community corrections sentences in 1985 and 1986, the design of this study needed to control for, or at least estimate the effect of, these extraneous factors.

The most important measures of diversion from imprisonment are derived from the number and characteristics of persons imprisoned or sentenced to community-based programs. However, the imposition of imprisonment and CBC Orders lies at the end of a long chain of criminal-justice events and involves a tiny proportion of all offenders. Previous studies of diversion which relied on a single research method have been unable to adequately address the methodological complexities inherent in sentencing research.

This study was designed to deal with these difficulties in two ways. Firstly, it examined changes in Magistrates' Court sentencing patterns in the context of an experimental design that allowed the impact of individual community-based sentences to be determined. Secondly, it was based on a comprehensive analysis of the total range of sentencing patterns.

When significant changes are made to sentencing policy and practice, the effects of those changes are likely to be apparent at all levels of the judicial and correctional systems. It follows that, in order to make a comprehensive assessment of their impact, a study needs to evaluate a variety of aspects of those systems, using a range of appropriate methodologies. This research strategy can be described as a "multi-method" approach.

This study examined the following components of the judicial and correctional systems:

- . State-wide Magistrates' Court statistics - 1981 to 1985.

The Australian Bureau of Statistics has compiled statistics for all Victorian Magistrates' Courts for the period 1981 - 1985. These statistics show trends in offending and sentencing for the period immediately preceding the introduction of state-wide community-based sentencing.

- . Offence and sentencing records from selected Magistrates' Courts- 1984 to 1986.

This was the most important component of the study, both in the sense that it absorbed the major part of the study's resources and also in that it provided the best direct tests of the study hypotheses.

Before February 1985 (ie. Phase 1 of the study) community-based sentences were available only in some Regions. This part of the study examined data from Magistrates' Courts in five Regions selected to allow direct testing of the study hypotheses, as follows:

- the development of Broadmeadows Court as the major Western Region court,
- an increase in the monetary limit for cases heard in Magistrates' Courts,
- proclamation of the Penalties and Sentences Act 1986,

All of these factors are likely to have produced systematic changes in court sentencing patterns over the study period. While the influence of some of the more discrete, definable changes (eg. the development of Broadmeadows Court) can be controlled for using conventional research sampling techniques, the more subtle alterations associated with long-term changes in the social environment deserve more detailed consideration.

3.3 Long-term Changes in Offending and Sentencing.

Patterns of offending and sentencing are strongly affected by relatively long-term changes in the demographic profile of the community.

It is well established that young males in the 15 - 25 year age group are responsible for the majority of offences committed in the community. Consequently, when a large proportion of a community's population is within this age group, total offence rates increase. Indeed, it has been argued that a range of administrative, political and judicial responses to changing offence rates are in a sense driven by this demographic engine (Walker, 1985).

The substantial increase in offending that became apparent in Australia in the 1960's was largely attributable to the impact of the post-war "baby boom". On the basis of purely demographic considerations, a further period of increasing offence rates would be expected during the 1980's, and there is considerable evidence that this is the case.

Some indication of the nature and extent of these medium to long-term changes in offending and sentencing can be gained from the Australian Bureau of Statistics series of reports on "Court Proceedings Initiated by the Police" (Australian Bureau of Statistics 1981-1985). These reports show the types of offences heard before Victorian courts (Children's, Magistrates' and Higher Courts) and the dispositions handed down by the courts.

The first part of the Analysis section of this report (Chapter 5) reviews the trends in offence and disposition profiles at Magistrates' Courts from 1981 to 1985.

CBC PROGRAMS IN STUDY PHASE 1	REGION	
	Metro.	Country
1. Attendance Centre Order only.	Western	Barwon
2. Community Service Order only.	Southern	-
3. Neither ACO nor CSO	Westernport	Gippsland

3.5 Phases of the Study.

The data collected from selected Magistrates' Courts for this study covered three equivalent six-month periods over successive years (July to December 1984, 1985, 1986) plus one month immediately following the introduction of Community Based Orders (June 1986).

Each of these periods was considered as a separate Phase of the study:

Phase 1 : July - December 1984

Phase 2 : July - December 1985

Phase 3 : June 1986

Phase 4 : July - December 1986

Phase 1 covered the period immediately prior to state-wide introduction of CBC programs, when the Attendance Centre Order and Community Service Order programs were only available in some Regions (see above). Phase 2 covered the period five months after state-wide implementation in February 1985. Phase 3 is the month immediately after conversion to the Community Based Order sentence, and Phase 4 is a six month post-CBO period comparable with Phases 1 and 2.

The equivalent time periods used for Phases 1,2 and 4 allow seasonal trends in arrest rates and court activity to be controlled. The impact of state-wide introduction of the ACO and CSO programs can be determined by comparing data from Phases 1 and 2. The data from Phase 3 allows the immediate effect of changing to the CBO program to be monitored, and comparison of data from Phases 2 and 4 provides measures of the longer-term impact of the CBO program.

Although these four study Phases are particularly relevant to the analysis of offence and sentencing data from Magistrates' Courts, where possible data from other sources has also been structured into categories consistent with these Phases.

CHAPTER 4 : TRENDS IN MAGISTRATES' COURT OFFENCE, SENTENCING AND OFFENDER CHARACTERISTICS: 1981 to 1985.

4.1 Background

The changes to sentencing patterns that might be expected to result from the introduction of community corrections programs must take place against the background of longer-term changes in offending and sentencing. In order to determine whether any particular change in sentencing patterns is attributable to some specific correctional program changes, one must know the nature and extent of these longer-term trends.

The best information about overall sentencing patterns in Victoria is contained in the series of Australian Bureau of Statistics reports on "Court Proceedings Initiated by the Police" (Australian Bureau of Statistics: 1981 to 1985).

The information in these reports was collected from Victoria Police records and the statistical tables were compiled using the classifications, definitions, counting rules and core data items developed by the ABS as a basis for uniform national court statistics.

These statistics do not include proceedings initiated by authorities other than the Police (eg the Taxation Department or the Transport Regulation Board) or by private citizens. Drunk and disorderly, motor vehicle, traffic and related offences are not shown either.

4.2 Offence Trends.

Changes in the number and type of offences heard before Magistrates' Courts over the period 1981 to 1985 are shown in Table 1 (see also Figure 1). Each "matter proven" is a separate offence which was found by the court to be proven. Offences have been grouped into seven general categories. It should be noted that "criminal matters proven" is not an measure of the number of offenders who appeared before the courts.

The first thing to note is that the total number of offences proven before Magistrates' Courts increased fairly steadily over the five year period, from about 63,000 to about 71,000. This is equivalent to an annual rate of increase of 2.5%. However, the omission of any traffic and motor vehicle offences from the ABS court statistics places a significant limitation on any inferences that can be drawn in relation to total court activity over the period.

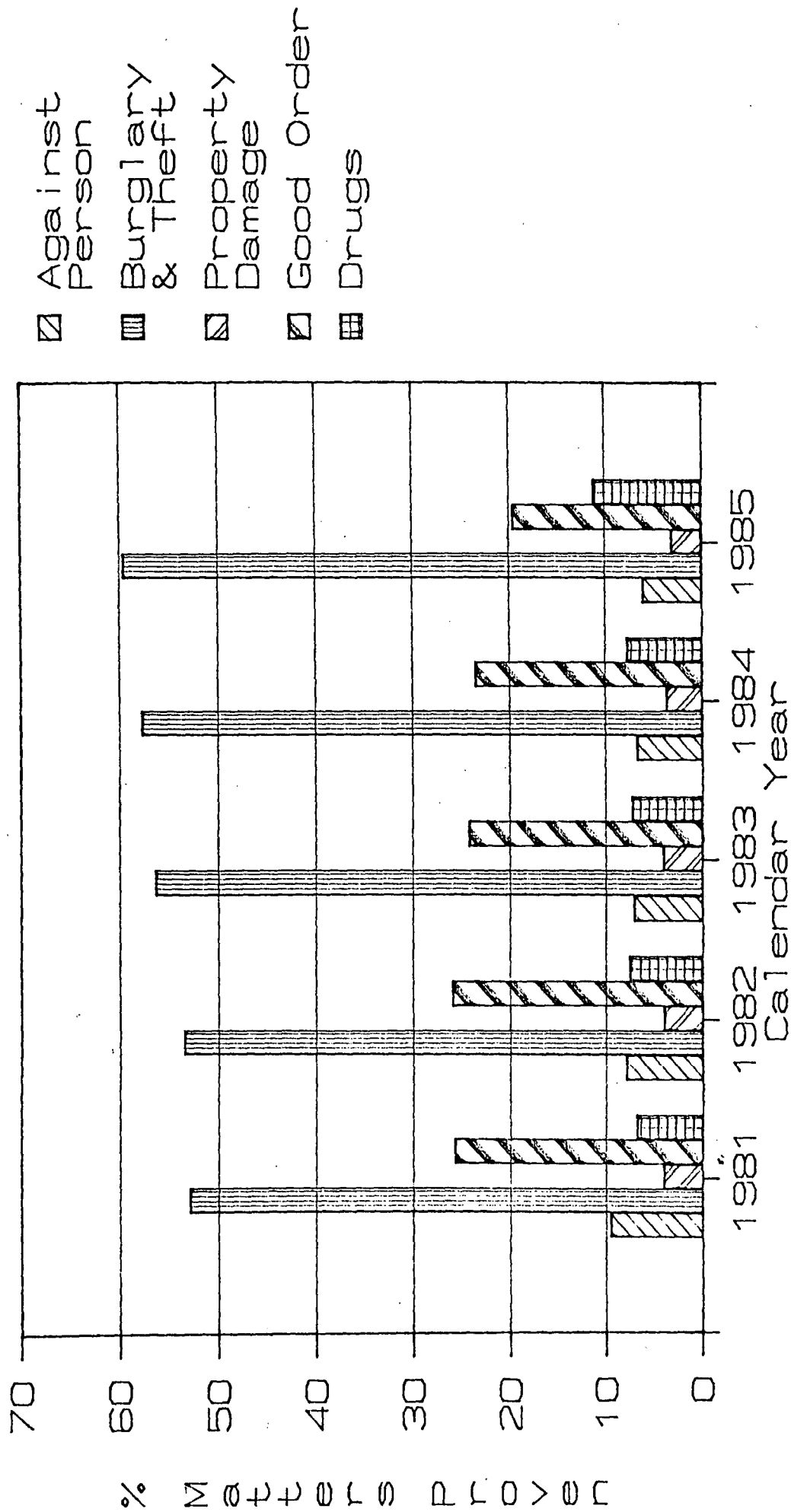
If one considers specific offence categories, a number of trends are evident. Offences Against the Person declined sharply over the five years, from 9.5% of all offences proven down to 6.1%, an overall drop of one-third. Property Damage and Good Order Offences also declined significantly, by about one-third and one-sixth respectively. On the

TABLE 1
TRENDS IN OFFENCE TYPE: CRIMINAL MATTERS PROVEN
VICTORIAN MAGISTRATES' COURTS 1981 - 1985

OFFENCE TYPE		CALENDAR YEAR				
		1981	1982	1983	1984	1985
Against Person	No. %	6000 9.5%	4850 7.9%	4594 7.1%	4365 6.7%	4303 6.1%
Robbery & Extortion	No. %	4 0.0%	8 0.0%	7 0.0%	8 0.0%	9 0.0%
Burglary & Theft	No. %	33398 52.9%	32823 53.5%	36366 56.4%	37740 57.7%	42195 59.6%
Property Damage	No. %	2585 4.1%	2430 4.0%	2665 4.1%	2396 3.7%	2220 3.1%
Good Order Offences	No. %	16218 25.7%	15904 25.9%	15587 24.2%	15344 23.5%	13791 19.5%
Drug Offences	No. %	4274 6.8%	4613 7.5%	4659 7.2%	5049 7.7%	7836 11.1%
Other	No. %	653 1.0%	721 1.2%	585 0.9%	502 0.8%	448 0.6%
TOTAL OFFENCES	No.	63132	61367	64463	65404	70802

FIGURE 1

TRENDS IN OFFENCE TYPE
Victorian Magistrates' Courts



other hand, the number of Burglary and Theft offences increased from 53% to 60% of all offences over the five years, and the number of Drug Offences increased even more rapidly, particularly between 1984 and 1985.

These offence trends do not necessarily reflect changes in actual offending behavior. Changes in the frequency with which offenders are convicted of particular offences at court may result from changes in law enforcement policies (for instance, a variety of Good Order offences are now much less likely to be prosecuted by the Police), or in the frequency with which charges result in convictions. Nevertheless it seems likely that the increase in Property Offence convictions does result from an actual increase in offending behavior.

While these trends are somewhat contradictory, overall there appears to have been an increase in the seriousness of offences heard before Magistrates' Courts. There has been a decline in relatively minor offences (especially Good Order offences such as offensive behavior and prostitution) and an increase in Property and Drug Offences. On the other hand, the most serious offences of all, Offences Against the Person, have declined steadily.

Further evidence for changing offence rates is available from Police records of offences reported and cleared. A recent report on rates of serious offences by the Australian Institute of Criminology ("The Size of the Crime Problem in Australia", Mukherjee et al, 1987) showed that the rate of serious assaults reported to the Police increased by about 50% between 1980/81 and 1984/85, and that the clearance rate for these offences has remained quite stable. Reports of property offences (Burglary, Motor Vehicle Theft & Fraud) also increased dramatically over the same period, although clearance rates for Burglary and Motor vehicle theft declined slightly.

Although there are some problems of comparability between Police reporting and clearance rates and the ABS Magistrates' Court data, the same trend of increasingly serious offending is apparent in both.

4.3 Sentencing Trends.

Changes in the sentences fixed for offences at Magistrates' Courts over the period 1981 to 1985 are shown in Table 2 (see also Figure 2). The definition of "matters proven" is the same as that used above, and Table 2 shows the most severe penalty fixed for each of the offences included in Table 1. Unfortunately, in the 1981 and 1982 tabulations, the ABS included multiple penalties for some offences, which limits the comparability of pre-1982 and post-1982 data.

A number of significant trends are evident in the frequency of use of specific penalties. The most obvious is the large reduction in the

TABLE 2
SENTENCING TRENDS: MOST SEVERE PENALTY FOR MATTERS PROVEN
VICTORIAN MAGISTRATES' COURTS 1981 - 1985

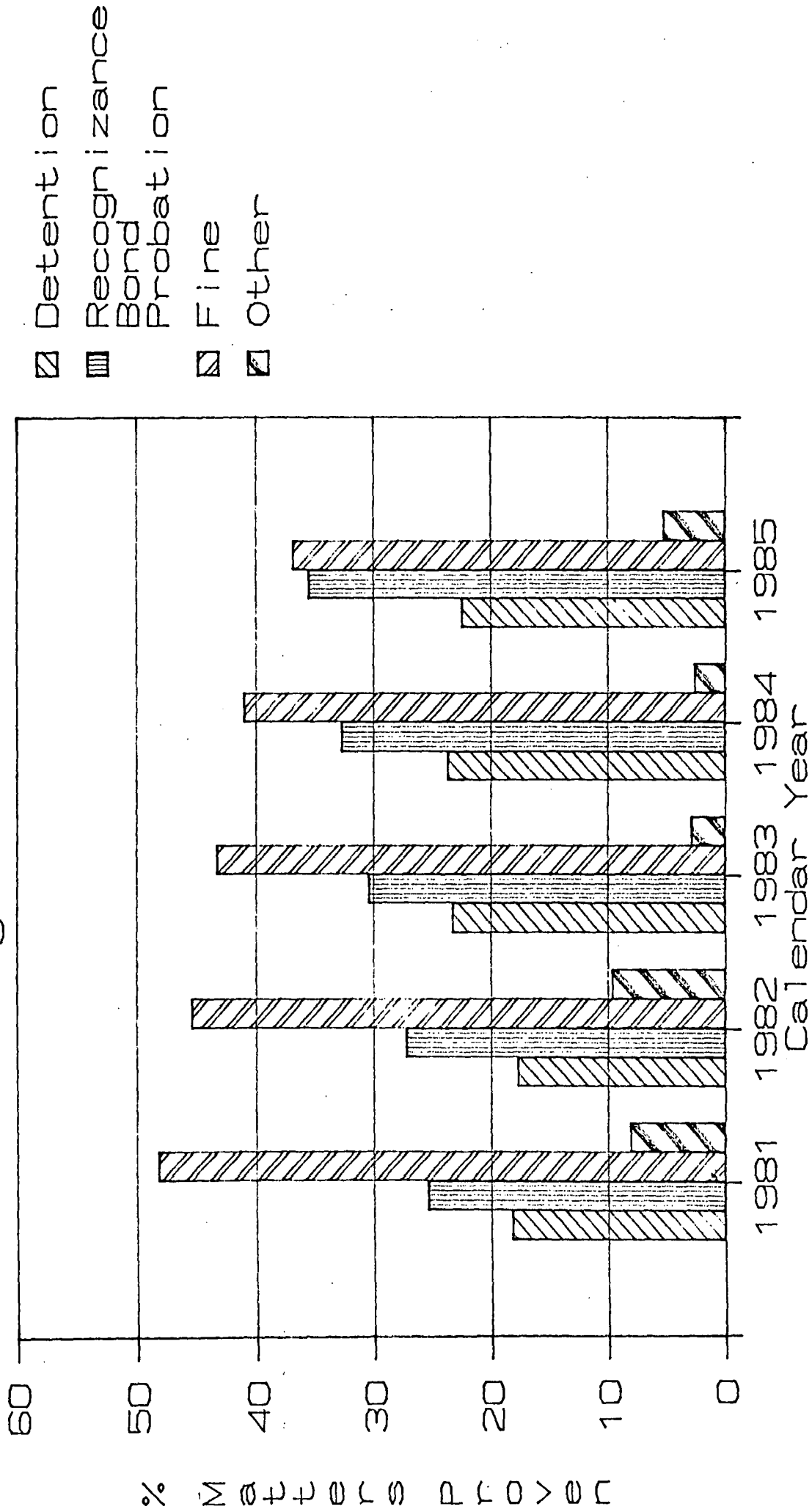
SENTENCE TYPE		CALENDAR YEAR				
		1981	1982	1983	1984	1985
Detention ¹	No.	13167	12598	15040	15509	15939
	%	18.2%	17.7%	23.3%	23.7%	22.5%
Recognizance/ Bond/ Probation	No.	18441	19297	19627	21370	25122
	%	25.4%	27.2%	30.4%	32.7%	35.5%
Fine/ Compensation	No.	34980	32239	27939	26798	26044
	%	48.2%	45.4%	43.3%	41.0%	36.8%
Other Penalty ²	No.	5902	6852	1857	1727	3697
	%	8.1%	9.6%	2.9%	2.6%	5.2%
<hr/>						
TOTAL PENALTIES	No.	72490	70986	64463	65404	70802

Notes

1. Detention includes sentences of imprisonment and Attendance Centre Orders.
2. Other Penalties include Community Service Orders.
3. 1981 and 1982 penalties include some multiple penalties imposed for single offences.

FIGURE 2

SENTENCING TRENDS
(MOST SEVERE PENALTY)
Victorian Magistrates' Courts



use of Fines as a most severe penalty¹. In 1981 there were nearly 35,000 fines fixed and they made up almost half (48%) of all most severe penalties, but by 1985 the number of fines had declined to 26,000 and they constituted just over one-third (37%) of all most severe penalties. As this trend is evident both before and after 1982, it cannot be attributed simply to the use of fines in conjunction with other, more serious penalties after 1982.

The number of 'Other' penalties, which include licence cancellation and Community Service Orders, also declined over the period. On the other hand, Office of Corrections reception statistics show that the number of Community Service Order penalties increased steadily after their introduction in 1982.

The penalty categories of Detention and Recognizance/Bond/ Probation both showed significant increases in use over the five years. The number of Detention penalties (which include imprisonment, Youth Training Centre and Attendance Centre Order sentences) increased from 13,000 to nearly 16,000; a 21% increase. The number of Recognizance/Bond/Probation penalties showed an even greater increase in use, from 18,400 to over 25,000; ie. a 36% increase.

In the case of Detention sentences, these being the most severe penalties in the A.B.S. hierarchy of severity, the increase apparent between 1981 and 1985 reflects a real increase in their use. The number of persons sentenced to Attendance Centre Orders remained fairly stable at 549 to 587 between 1981/82 and 1983/84, increasing to 739 in 1984/85 (see OOC reception statistics). Therefore, this trend must be attributed to an increase in sentences of adult or YTC imprisonment.

It is difficult to know what to make of the increase in the Recognizance/Bond/Probation category, as it is such an odd combination of penalties. In addition, it is second in the A.B.S. hierarchy of severity, a position it presumably owes to the inclusion of Probation Orders in the category. Office of Corrections reception statistics show that the number of offenders who received Probation Orders increased from 1,513 in 1980/81 to 1,942 in 1983/84 and then to 3,137 in 1984/85. However, this accounts for only about one-quarter of the over 6,500 additional penalties recorded in this category between 1981 and 1985. Therefore, one must conclude that there were also significant increases in the use of bond and recognizance penalties.

In some respects, the period 1981 to 1985 saw a trend in sentencing is towards more severe penalties. This is particularly evident in the use of the most severe penalty of imprisonment. However, this trend was balanced by an increase in the use of relatively unintrusive penalties such as bonds and recognizance.

¹. Note that this category does not include the vast numbers of fines that were levied directly by local government (especially parking tickets) or any traffic or other motor vehicle offence fines.

One possible explanation for these sentencing trends is that, in addition to increasing their use of imprisonment, Magistrates' Courts also increasingly used multiple penalties of fines plus bonds or recognizance. This sentencing pattern, while representing a clear increase in the average severity of sentences, would show up in Table 2 as an apparent increase in the number of bonds and recognizances and a decrease in the number of fines.

4.4 Offender Trends.

The ABS reports include breakdowns of court matters according to two offender characteristics: age and sex (see Table 3). While these two variables do not constitute a particularly satisfactory description of offenders, they do show some of the changes in the offender population between 1981 and 1985.

AGE: The ABS age statistics do not show any consistent trend for offenders relative to their under/over 25-year-old categories. This is unfortunate, as other sources (Walker, 1985; Mukherjee, 1987) have shown a general increase in the average age of offenders. It may be that the ABS age categories are insufficiently sensitive to detect this change.

SEX: The sex breakdown of court matters shows a small but fairly steady increase in the proportion of offences committed by females, from about 20% in 1981 to 22% in 1985.

TABLE 3
OFFENDER TRENDS: CRIMINAL MATTERS PROVEN
BY SEX AND AGE OF OFFENDER
VICTORIAN MAGISTRATES' COURTS: 1981 - 1985

SEX & AGE OF OFFENDER	1981	1982	1983	1984	1985
MALE					
Under 25	28790	28844	28614	27513	30651
Over 25	21878	20073	22395	23283	24624
Total Males	50670	48923	51015	50796	55275
% Males	80.2%	79.7%	79.1%	77.7%	78.1%
<hr/>					
FEMALE					
Under 25	5494	5429	5988	6487	6831
Over 25	6968	7012	7363	8113	8696
Total Females	12462	12441	13352	14601	15527
% Females	19.8%	20.3%	20.7%	22.3%	21.9%
<hr/>					
TOTAL UNDER 25					
No.	34284	34273	34602	34000	37482
%	54.3%	55.8%	53.7%	52.0%	52.9%
TOTAL OVER 25					
No.	28846	27088	29758	31396	33320
%	45.7%	44.2%	46.3%	48.0%	47.1%
<hr/>					
TOTAL	63132	61367	64463	65404	70802

CHAPTER 5 : OFFENCE & SENTENCING TRENDS IN SELECTED MAGISTRATES' COURTS: 1984 - 1986 : DATA COLLECTION PROCEDURES.

The most important component of this study was the analysis of sentencing trends at five selected Magistrates' Courts. This chapter reviews the data collection procedures used to extract offence and sentencing details from the Court Registers and describes some of the problems encountered in this process.

5.1 Data Source

The source of the data collected for this part of the study was the Court Registers which record the daily business of each Magistrates' Court. These Registers are maintained by the Clerk of Courts and provide a sequential, case-by-case record of the business of the court. Each court maintains a separate Register, so at a large court complex such as Geelong there may be several Registers being used concurrently. In some courts separate Registers are maintained for summons and arrest cases.

As the Court Registers are working documents which need to be consulted from time to time in relation to the outcome of previous cases or details of sentencing, they cannot be removed from the court. Therefore, all data coding had to be conducted within the court precincts.

Only cases where a conviction and sentence was recorded were included in the study. Cases recorded as adjourned to a later date, adjourned sine die¹, withdrawn, struck out or entered in error were not recorded.

5.2 Data Collection Strategy.

A primary consideration in devising a data collection strategy was to replicate the way that offences and sentences are linked together by the courts. There are three possible ways of relating sentences to offences, which may be illustrated using the following example:

A person is convicted of 3 counts of Theft of a Motor Vehicle and 1 count of Driving While Disqualified.

Sentence Type 1: 1 month imprisonment plus a fine of \$100 on each count of Motor Vehicle Theft, and 3 months imprisonment for Driving While Disqualified, all sentences of imprisonment to be served cumulatively;

Sentence Type 2: 3 months imprisonment and a fine of \$300 for the Motor Vehicle Theft offences, plus 3 months imprisonment for Driving While Disqualified.

¹. ie. to a date to be fixed.

Sentence Type 3: 6 months imprisonment and a fine of \$300 for all offences.

In each case the 'total' sentence is the same; 6 months of imprisonment and a \$300 fine. On the other hand, the sentence for each charge of motor vehicle theft can be interpreted differently in each case.

A review of Court Registers showed that the second form of sentencing was the most commonly used; that is, separate sentences for each type of offence, but concurrency of sentences within each offence type. Accordingly, the data collection procedure was based on 'cases' consisting of all offence and sentencing data relating to one type of offence, irrespective of the number of counts (ie. separate offence episodes).

Court Registers also contain a significant number of sentences of Types 1 and 3. Sentences of Type 1 can be aggregated according to offence type to give a Type 2 sentence, however Type 3 sentences ('combined' sentences) must be disaggregated by offence type. In these cases, the Court Register rarely provides any information as to whether the sentence should be subdivided by offence types or offence counts. For consistency with the rest of the data base, disaggregation of combined sentences was done on the basis of offence type. The Type 3 sentence above would have been coded as 3 month's imprisonment and a \$150 fine for the Motor Vehicle Theft offences and a 3 month's imprisonment and a \$150 fine for the Drive While Disqualified offence.

Another way for Magistrates to specify a sentence is where separate sentences are applied to each offence type, but the Magistrate directs that some sentences should be served concurrently with others. Taking the example above, one might have the following sentence:

Sentence Type 4: 6 months imprisonment on each count of Motor Vehicle Theft, counts 2 & 3 to be served concurrently with count 1, plus a \$300 fine, plus 6 month imprisonment for Driving While Disqualified, also to be served concurrently with count 1.

In this type of sentence the intended link between offence type and sentence is apparent, however it would be inappropriate to conclude that four 6-month sentences had been handed down. As with combined sentences, these concurrent sentences were disaggregated by offence type.

A further issue that was considered in devising the data collection strategy for the study was the application of multiple sentence dispositions for the one offence type. In some cases several separate dispositions may be applied to a single offence type; for instance, a suspended sentence of imprisonment, a fine, a Good Behavior Bond and licence cancellation. Therefore provision was made in the data coding sheets for recording up to four dispositions for each case. A special case of multiple dispositions occurred for Community Based Order sentences, where a number of Order conditions

may be specified in the sentence. In these cases, each Order condition was coded as a separate disposition.

Finally, in almost all cases where a fine is imposed by the court, a sentence of imprisonment to be served in default of payment of the fine is also specified. As virtually all fines are paid, the period of fine-default imprisonment was ignored.

5.3 Data Items and Coding Procedures

The following data items were extracted from the Magistrates' Court Registers and entered directly onto coding sheets:

1. Study Phase : (see Section 3.4)
2. Region & Court : Provision was made for the recording of data from more than one court in each correctional Region.
3. Month : The month during which the case was heard was determined from the case date.
4. Person number : Each separate offender was assigned a sequential person number. When Items 1 to 4 are concatenated they constitute a unique identifier for each case.
5. Sex : The sex of the offender was determined by reference to the offender's first name. If the offender was a company, this was also recorded under this item.
6. Summons/Arrest : The means by which the case was brought to court was identified by information in the Register regarding the summons or in the case of an arrest, the name of the informant or the arrest warrant.
7. Offence number : For each separate person, each offence or group of identical offences was assigned a sequence number.
8. Offence code : Each offence or group of offences was specified according to the Draft Australian National Code of Offences (see Appendix 2).
9. Counts of offence : For each offence type, the total number of offences was recorded. Only those counts where a conviction occurred and a disposition made were included.
10. Appeal : If the Register showed an Appeal against either conviction or sentence, this was recorded. No record of the result of the appeal was made.

11. Concurrent/Combined sentences: If the sentence recorded was either concurrent or combined (see 5.2 above), this was recorded.
12. Disposition 1 : The most serious penalty imposed by the court was recorded first. Seriousness was determined according to a hierarchy of dispositions (see Appendix 3). Concurrent and combined dispositions were determined as described above.

For this first disposition, one of the following amounts was recorded.

13. Monetary Penalty : If the disposition was a fine, bond or included a monetary component, the amount was recorded (to the nearest \$10).
14. Number of hours : If a community-based sentence was specified in terms of a number of hours, this was recorded.
15. Sentence length : Where appropriate, the length of the sentence in years and months (to the nearest 1/10th month) was recorded.

Provision was made for up to three additional dispositions (including an amount specification) to be recorded. For some dispositions, such as a Good Behavior Bond, both the amount of the Bond and the length of time for which the Bond was to apply were recorded.

A more detailed listing of item specifications and data coding procedures, including an example of the data coding sheets used is contained in Appendix 4.

5.4 Data Collection Problems.

The data collectors encountered a range of problems in the course of extracting the required information from the Court Registers. These problems included:

- . Inconsistent or inadequate recording of details of dispositions.

For instance, some courts recorded the amount of money specified in a Bond but not the period for which the Bond was to apply. Similarly, in some cases where a suspended sentence was given, the length of the sentence of imprisonment was specified but not the period for which it was to be suspended. Sometimes so little information about the sentence was present in the Register that coding was extremely difficult. For instance, one disposition was recorded as "Community Based Order for 12 months with the usual conditions".

- . Inadequate recording of details of offences.

In some cases the information entered in the Court Register was insufficient to determine the appropriate DANCO offence code. For instance, a Court Register entry of the offence "Use a drug of dependence" does not allow one to determine whether DANCO code 611 (Possession/Use of Narcotics) or code 612 (Possession/Use of Cannabis) or code 613 (Possession/Use of Other Drugs) is appropriate.

Given the complexity of the data coding procedures, it was necessary for the two research assistants who were employed to collect the data to have regular meetings with the study managers in order to resolve ambiguities in offence and sentence definitions and other coding problems.

CHAPTER 6 : OFFENCE TRENDS AT SELECTED MAGISTRATES' COURTS.

6.1 General Description of Data-base.

The data collected for this study covered three equivalent six-month periods over successive years (July to December 1984, 1985, 1986) plus one month immediately following the introduction of Community Based Orders (June 1986). Each of these periods was considered as a separate Phase of the study:

- Phase 1 : July - December 1984
- Phase 2 : July - December 1985
- Phase 3 : June 1986
- Phase 4 : July - December 1986.

The data was extracted from the Magistrates' Court Registers held at the principal Court in each of five Office of Corrections Regions:

- Western Region - Sunshine Court¹
- Southern Region - Oakleigh Court
- Westernport Region - Dandenong Court
- Barwon-Glenelg Region - Geelong Court
- Gippsland Region - Moe Court

Each case in the data-base included information relating to one or more counts of a single type of offence committed by a single offender. Data was only collected on offences which resulted in a conviction. A more detailed description of the data coding procedures is given in Chapter 5 of this report.

Large quantities of relatively detailed information were collected during the course of this study. In order to keep the presentation of the study's results clear and fairly concise, only the most important data tables are included in the main body of this report. A number of additional tables have been placed in a Supplementary Tables appendix, and, where appropriate, are referred to in the text. They are identified by Supplementary table numbers; S1, S2, etc.

6.1.1 Number of Cases by Region & Study Phase.

One of the primary data dimensions of this study is that of 'cases', each of which may be thought of as equivalent to an individual offence or a number of offences of the same type.

¹. Broadmeadows Court (established in 1985) carries a larger number of cases than Sunshine Court, however as it accepts cases from two Office of Corrections' Regions (Western and North-Western), data from Broadmeadows could not be used in this study.

Table 5 shows the number of cases that were collected from each Region for each Phase of the study (see also Figure 3).

Approximately 8500 cases were collected in each of the three main Phases of the study (Phases 1,2 & 4). There was a small amount of variability (+/- 7%) in the total number of cases across these Phases. There were 1734 cases collected in Phase 3, which is rather more than the monthly average of the other Phases, possibly reflecting seasonal changes in court work-loads (see below).

There were quite large differences between the number of cases collected in the five Regions. Geelong Court (Barwon/Glenelg Region) and Oakleigh Court (Southern Region) had by far the largest flow of cases. The relatively small number of cases from Sunshine Court (Western Region) is principally due to the impact of the new court complex at Broadmeadows, which opened in 1985. Only cases deriving from an arrest were collected at Moe Court (Gippsland Region), so the total workload of this court is larger than indicated. Similarly, due to time constraints, only arrest data was collected at Dandenong Court in Phase 4. It should be noted that the number of cases collected in each Region does not constitute an index of the total amount of offending in that Region, as each Region was also serviced by a number of alternative courts.

The number of cases collected in each Phase reflects the changing status of some of the courts. The decline in Sunshine Court's caseload after 1984 (Phase 1), as a result of diversion of cases to Broadmeadows, is evident. In June 1986 all of the courts in the study became Mention Courts, which probably accounts for the most of the increase in the number of cases heard at Moe, Geelong and Dandenong² Courts in Phase 4.

6.1.2 Number of Persons by Region & Study Phase.

The second principal data dimension of this study was that of "offenders"; that is, the number of separate persons who were convicted of offences³. Table 6 shows the number of separate persons included in the data-base for each Phase (see also Figure 3).

Offence and disposition data was collected for an average of just over 6,000 persons in each of the three six month Phases. Again, the number of persons included in Phase 3 of the study (1163) was greater than the monthly average for the other Phases.

2. Comparison of Arrest cases only.

3. Note that a person who committed two offences (or sets of offences) which led to two court appearances within a single study Phase would be counted as two separate offenders.

TABLE 5
NUMBER OF CASES BY REGION AND STUDY PHASE

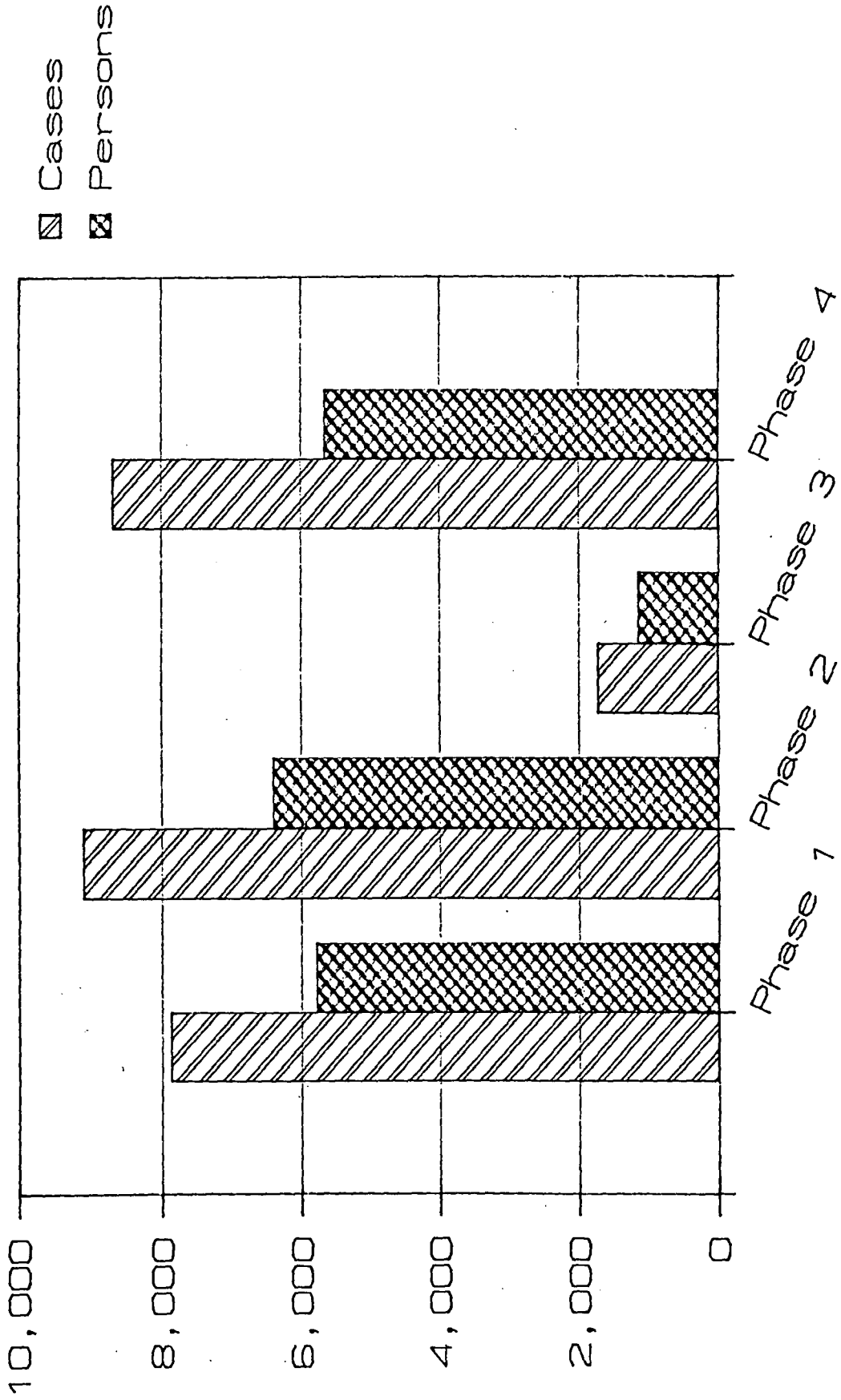
<u>REGION</u>	<u>PHASE 1</u>	<u>PHASE 2</u>	<u>PHASE 3</u>	<u>PHASE 4</u>	<u>TOTAL</u>
WESTERN	1397	659	128	631	2815
SOUTHERN	1752	2930	482	2836	8000
WESTERNPORT	1742	1930	348	1087	5107
BARWON	2782	2963	639	3238	9622
GIPPSLAND	217	636	137	899	1889
TOTAL	7890	9118	1734	8691	27433

TABLE 6
NUMBER OF PERSONS BY REGION & STUDY PHASE

<u>REGION</u>	<u>PHASE 1</u>	<u>PHASE 2</u>	<u>PHASE 3</u>	<u>PHASE 4</u>	<u>TOTAL</u>
WESTERN	980	485	74	451	1990
SOUTHERN	1392	2066	317	1818	5593
WESTERNPORT	1284	1403	224	685	3596
BARWON	2116	2252	471	2292	7131
GIPPSLAND	149	357	77	477	1060
TOTAL	5921	6563	1163	5723	19370

FIGURE 3

NUMBER OF CASES & PERSONS
BY STUDY PHASE



If the aggregate data base only is considered, there was a clear annual trend for offenders to be convicted of more offence cases. The average number of cases per person increased from 1.33 in Phase 1 (1984), to 1.39 in Phase 2 (1985) and then to 1.52 in Phase 4 (1986). However, this apparent increase is almost wholly attributable to the increasing proportion of arrest cases in the data base in the later Phases of the study. This trend does not take into account differences between Phases in the number of 'counts' of any one offence (see 6.2.3).

There was remarkable stability between Regions in the average number of cases per offender. The three metropolitan Regions (Western, Southern & Westernport) had averages of 1.41, 1.43 and 1.42 cases per offender respectively. Barwon/Glenelg Region had a slightly lower average of 1.34, while Gippsland Region had a much higher average of 1.78, resulting from the restriction of data collected in that Region to arrest cases only.

In each Region except Gippsland, over 70% of all persons were convicted of only one type of offence (although there may have been several counts of that offence). In Gippsland Region this figure was 52%, and this is also attributable to the collection of arrest cases only.

Supplementary tabulations of the distribution of the number of offenders per month and the number of cases per offender may be found in tables S1 to S5, and S6 to S10 respectively.

6.1.3 Cases Initiated by Summons or Arrest.

Cases brought before a Magistrates' Court may be initiated either by summons (ie. a notice to attend the court) or by arrest (ie. apprehension of the defendant by the Police). The number and percentage of cases initiated by summons or arrest is shown in Table 7A. The distribution of summons and arrest cases in the data base was significantly influenced by the collection of data on arrest cases only in Gippsland Region (All Phases) and Westernport Region (Phase 4), and Table 7A shows the distribution of cases with this influence separated out.

It is clearly apparent that there was a substantial increase in the proportion of cases initiated by arrest over the period of the study. In 1984 only about 40% of all cases were initiated by arrest, but by 1986 this had risen to over 50%.

If one considers the number of persons brought before the courts by summons or arrest, this trend is even more apparent. Table 7B shows that the proportion of persons brought before the courts as the result of an arrest increased from just over one-third in 1984 to just less than one-half in 1986 (see also Figure 4).

A comparison of Tables 7A and 7B also shows that, on average, arrested persons were convicted of more offences than those summonsed; 1.5 offences per arrested person versus 1.3 offences per summonsed person.

TABLE 7A
NUMBER OF CASES INITIATED BY SUMMONS OR ARREST
BY STUDY PHASE

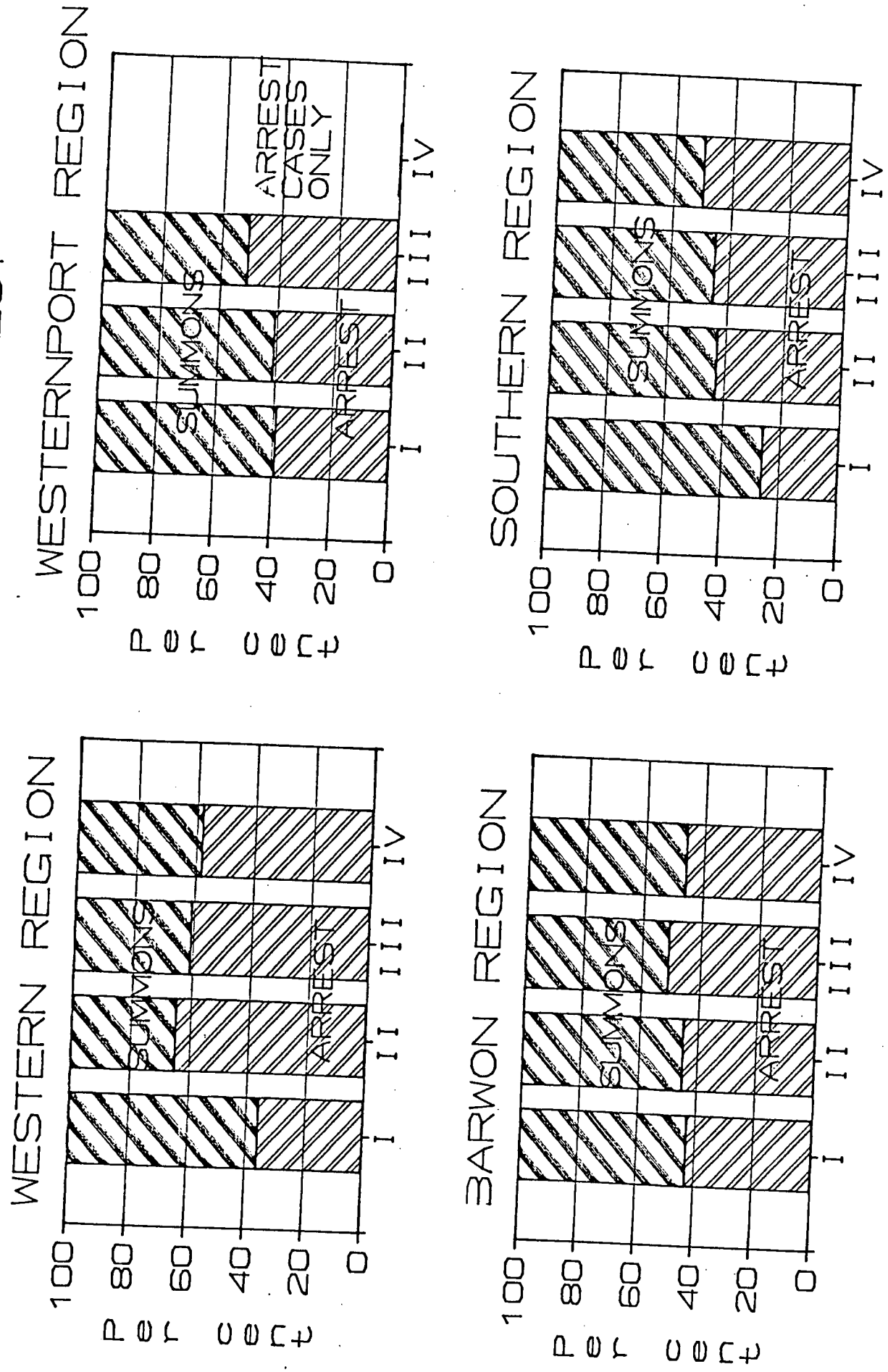
		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
<hr/>						
All Regions excluding Gippsland (All Phases) & Westernport (Phase 4 only)						
SUMMONS	No.	4646	4303	751	3226	12936
	%	60.6%	50.8%	47.1%	48.1%	50.7%
ARREST	No.	3017	4174	845	3476	12589
	%	39.4%	49.2%	52.9%	51.9%	49.3%
<hr/>						
Gippsland (All Phases) & Westernport (Phase 4 only)						
ARREST	No.	217	636	137	1986	1889
<hr/>						
TOTAL CASES	No.	7880	9113	1733	8688	27414
<hr/>						

TABLE 7B
NUMBER OF PERSONS BROUGHT BEFORE COURT BY SUMMONS OR ARREST

		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
<hr/>						
All Regions excluding Gippsland (All Phases) & Westernport (Phase 4 only).						
SUMMONS	No.	3544	3275	535	2270	9631
	%	63.8%	54.1%	49.9%	50.6%	55.8%
ARREST	No.	2096	2776	537	2218	7620
	%	36.4%	45.9%	50.1%	49.4%	44.2%
<hr/>						
Gippsland & Westernport Regions						
ARREST	No.	149	357	77	1162	1745
<hr/>						
TOTAL PERSONS		5789	6408	1149	5650	18996
<hr/>						

FIGURE 4

PERSONS BY SUMMONS / ARREST



There are three factors which may have contributed to this increase. Firstly, the average 'seriousness' of offences may have increased, leading Police to use arrest more frequently as a means of initiating court proceedings. Secondly, the increasing use of PERIN warrants reduced the number of persons summonsed to court for traffic offences (see Section 6.2). Finally, the introduction of Mention Court days at each of the courts may have increased the rate of processing of arrest cases relative to that of summonsed ones.

Summons/Arrest is a critical variable that is strongly related to the type of offence and the sentence handed down. It follows that the substantial increase in the use of arrest over the course of this study had a significant influence on the changing patterns of sentencing described in subsequent sections of this report.

6.1.4 Sex of Offenders

The sex of each person was determined from their first name. As noted above, this is not an absolutely accurate method of determining sex, however the proportion of cases where the data coders felt unable to determine sex was relatively low; less than one percent. In a small proportion of cases, the offender was a company.

The distribution of persons across the four Phases of the study is shown in Table 8. This table also shows the number of men and women who were summonsed and arrested. The most interesting feature of this table is the decline in the total number of women from 785 in 1984 down to 676 in 1986. This is remarkable because most other indices have shown a steadily increasing involvement of women in the criminal justice system.

If one considers the top part of Table 8, it is apparent that there are in fact two opposing influences at work: while the number of women summonsed to court fell sharply from 524 in 1984 down to 310 in 1986 (ie. a 40% drop), the number who were arrested increased almost as much; from 261 to 366, a 40% increase. Hence, the change in the representation of women in the sample is closely related to changes in the frequency of their being summonsed or arrested.

Women were more likely to be summonsed to court than men, although the difference was not as great as one might have expected. Throughout the study, women were about 10% less likely to be arrested than men; that is, the average women offender's probability of appearing as a result of an arrest was about 0.42, versus male offenders' probability of 0.50.

6.1.4 Number of cases by Month.

Seasonal variations in court activity may have a significant effect on the interpretation of results. The number of cases

TABLE 8
SEX OF OFFENDER BY STUDY PHASE

<u>REGION</u>	PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL	
FEMALES						
No. Summons	524	493	56	310	1383	
% Summons	66.7%	61.7%	41.8%	45.9%	57.8%	
No. Arrest	261	306	78	366	1011	
% Arrest	33.3%	38.3%	58.2%	54.1%	42.2%	
MALES						
No. Summons	3020	2782	479	1967	8248	
% Summons	60.3%	49.6%	47.2%	39.5%	49.7%	
No. Arrest	1984	2827	536	3007	8354	
% Arrest	39.7%	50.4%	52.3%	60.5%	50.3%	
TOTAL						
Total Females	785	799	134	676	2394	
% Females	13.3%	12.2%	11.5%	11.8%	12.3%	
Total Males	5004	5609	1015	4974	16602	
% Males	84.5%	85.5%	87.3%	87.0%	85.8%	
Total Company	82	93	9	64	248	
% Company	1.4%	1.4%	0.8%	1.1%	1.3%	
Total Unknown	48	60	5	1	114	
% Unknown	0.8%	0.9%	0.4%	0.0%	0.6%	
TOTAL PERSONS	No.	5921	6563	1163	5723	19370

dealt with each month (totalled over Phases 1,2 and 4) is shown in Table 9. It can be seen that there is little monthly variability from July to November, and that the number of cases dealt with in December is about 20% less as a result of the decline in court activity over the Christmas - New Year period.

6.2 Description of Offence Data.

Each offence in the data-base was classified according to the offence codes specified in the Draft Australian National Code of Offences (DANCO). As there are several hundred individual DANCO offences it is convenient to group them into eight general categories:

1. Offences Against the Person
2. Robbery & Extortion
3. Burglary & Theft
4. Property Damage
5. Good Order Offences
6. Drug Offences
7. Motor Car Offences
8. Other Offences

Table 10A shows the number of offences in each of the above categories that were collected in each Phase of the study. This crosstabulation has several interesting features. Firstly, Motor Car Offences accounted for about half of all offences over the course of the study. The next largest category of offences was that of Good Order Offences, followed by Burglary & Theft Offences. A number of offence categories showed significant changes in their relative frequencies over the four study Phases, most notably Motor Car Offences which declined from 54% of all offences in 1984 to 44% in 1986. This change was due to the increasing use of administrative mechanisms (PERIN warrants) for dealing with minor motor-car and driving offences.

As Motor Car Offences make up such a large proportion of all offences, the change in their relative frequency over the study period tends to obscure changes in some of the other offence categories. Accordingly, Table 10B shows the percentage distribution of offences when Motor Car Offences are removed from the data-base (see also Figure 5). This Table is also similar in its scope to the offence categories shown in the Australian Bureau of Statistics' tables presented in Chapter 4.

The distribution of non-motor car offences in Table 10B shows that, while there was a general increase in the total number of offences recorded in each category, the proportion of offences in each category remained virtually static. The notable exception to this pattern was Drug Offences. Between 1984 and 1986 the proportion of drug offences more than doubled, from 8% to 17%, and the number of drug offences nearly tripled.

TABLE 9

NUMBER OF CASES BY CALENDAR MONTH

<u>REGION</u>		MONTH ¹					
		JULY	AUG.	SEP.	OCT.	NOV.	DEC.
WESTERN	No.	551	526	412	481	419	298
	%	20%	20%	15%	18%	16%	11%
SOUTHERN	No.	1266	1315	1252	1393	1288	1004
	%	17%	17%	17%	19%	17%	13%
W'PORT	No.	850	830	716	851	751	761
	%	18%	18%	15%	18%	16%	16%
BARWON	No.	1520	1625	1532	1487	1534	1285
	%	17%	18%	17%	17%	17%	14%
GIPPSLAND	No.	306	280	353	351	211	251
	%	18%	16%	20%	20%	12%	14%
TOTAL	No.	4493	4576	4265	4563	4203	3599
	%	17%	18%	17%	18%	16%	14%

¹. Total over three years; 1984, 1985, 1986.

TABLE 10A
OFFENCE CATEGORIES BY STUDY PHASE
(ALL OFFENCES)

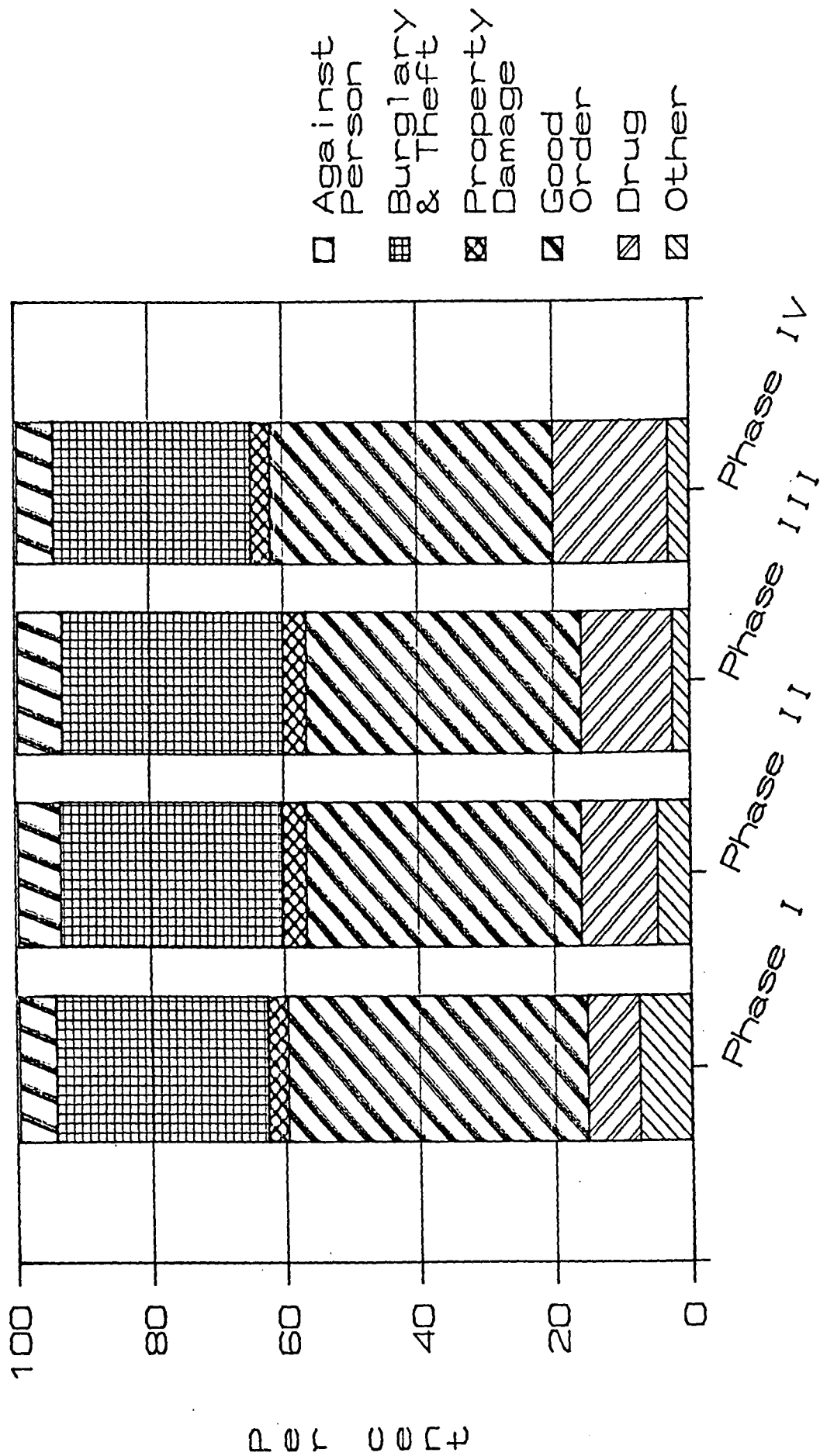
<u>OFFENCE</u> <u>CATEGORY</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
Against Person	No. %	197 2.5%	286 3.1%	61 3.5%	269 3.1%	813 3.0%
Robbery	No. %	4 0.0%	7 0.0%	0 0.0%	7 0.0%	18 0.0%
Burglary & Theft	No. %	1139 14.3%	1505 16.5%	301 17.3%	1430 16.5%	4375 16.0%
Property Damage	No. %	111 1.4%	174 1.9%	33 1.9%	147 1.7%	465 1.7%
Good Order	No. %	1590 20.5%	1844 20.2%	370 21.4%	2038 23.5%	5842 21.3%
Drug Offences	No. %	281 3.5%	513 5.6%	123 7.1%	819 9.4%	1736 6.3%
Motor Car Offences	No. %	4298 54.4%	4568 50.1%	820 47.4%	3836 44.1%	13522 49.3%
Other	No. %	269 3.4%	217 2.4%	23 1.3%	144 1.7%	653 2.4%
TOTAL OFFENCES	No.	7889	9114	1731	8690	27424

TABLE 10B
OFFENCE CATEGORIES BY STUDY PHASE
(MOTOR CAR OFFENCES EXCLUDED)

<u>OFFENCE</u> <u>CATEGORY</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
Against Person	No. %	197 5.5%	286 6.3%	61 6.7%	269 5.5%	813 5.8%
Robbery	No. %	4 0.1%	7 0.1%	0 0.0%	7 0.1%	18 0.0%
Burglary & Theft	No. %	1139 31.7%	1505 33.1%	301 33.0%	1430 29.5%	4375 31.5%
Property Damage	No. %	111 3.1%	174 3.8%	33 3.6%	147 3.0%	465 3.3%
Good Order	No. %	1590 44.3%	1844 40.6%	370 40.6%	2038 42.0%	5842 42.0%
Drug Offences	No. %	281 7.8%	513 11.3%	123 13.5%	819 16.9%	1736 12.5%
Other	No. %	269 7.5%	217 4.8%	23 2.5%	144 3.0%	653 4.7%
TOTAL OFFENCES	No.	3591	4546	911	4854	13902

FIGURE 5

OFFENCE CATEGORIES BY STUDY PHASE (Motor Car Offences Excluded)



6.2.1 Regional Differences in Offence Categories.

There were a number of differences between the five Regions in offence patterns. When the distributions of offences in each Region were compared with the total offence distribution shown in Table 10A, the following Regional differences were evident:

- | | | |
|------------------------------|---|--|
| Western Region had | - | more Good Order Offences
(28.6% vs 21.3% overall) |
| | - | fewer Drug Offences
(4.9% vs 6.3% overall) |
| | - | fewer Motor Car Offences
(42.7% vs 49.3% overall) |
|
Westernport Region | - |
fewer Drug Offences
(4.1% vs 6.3% overall) |
|
Southern Region | - |
fewer Good Order Offences
(13.0% vs 21.3% overall) |
| | - | more Traffic Offences
(54.7% vs 49.3% overall) |
|
Barwon/Glenelg
Region | - |
fewer Burglary & Theft
Offences
(11.2% vs 16.0% overall) |
| | - | more Good Order Offences
(24.2% vs 21.3% overall) |

The distribution of offences in Gippsland Region cannot fairly be compared with those in other Regions as they relate only to arrest cases.

The general decline in the proportion of Motor Car Offences and the increase in Drug Offences was apparent in each of the Regions. Supplementary Tables S16 to S20 show the distribution of offence categories for each Region.

6.2.2 Offences by Summons & Arrest.

There is a strong interaction between the type of offence committed and the likelihood of arrest. Table 11 shows the number of cases in each offence category that were initiated by summons and arrest (see also Figure 6). There are two important features of this table. Firstly, over two-thirds of Motor Vehicle Offence cases were initiated via a summons. At first sight, it seems unusual that nearly one-third of Motor Vehicle Offences are initiated by Arrest. However, it should be remembered that a significant number of motor vehicle cases are brought to court in conjunction with other, more serious offences which may have been the direct cause of the arrest.

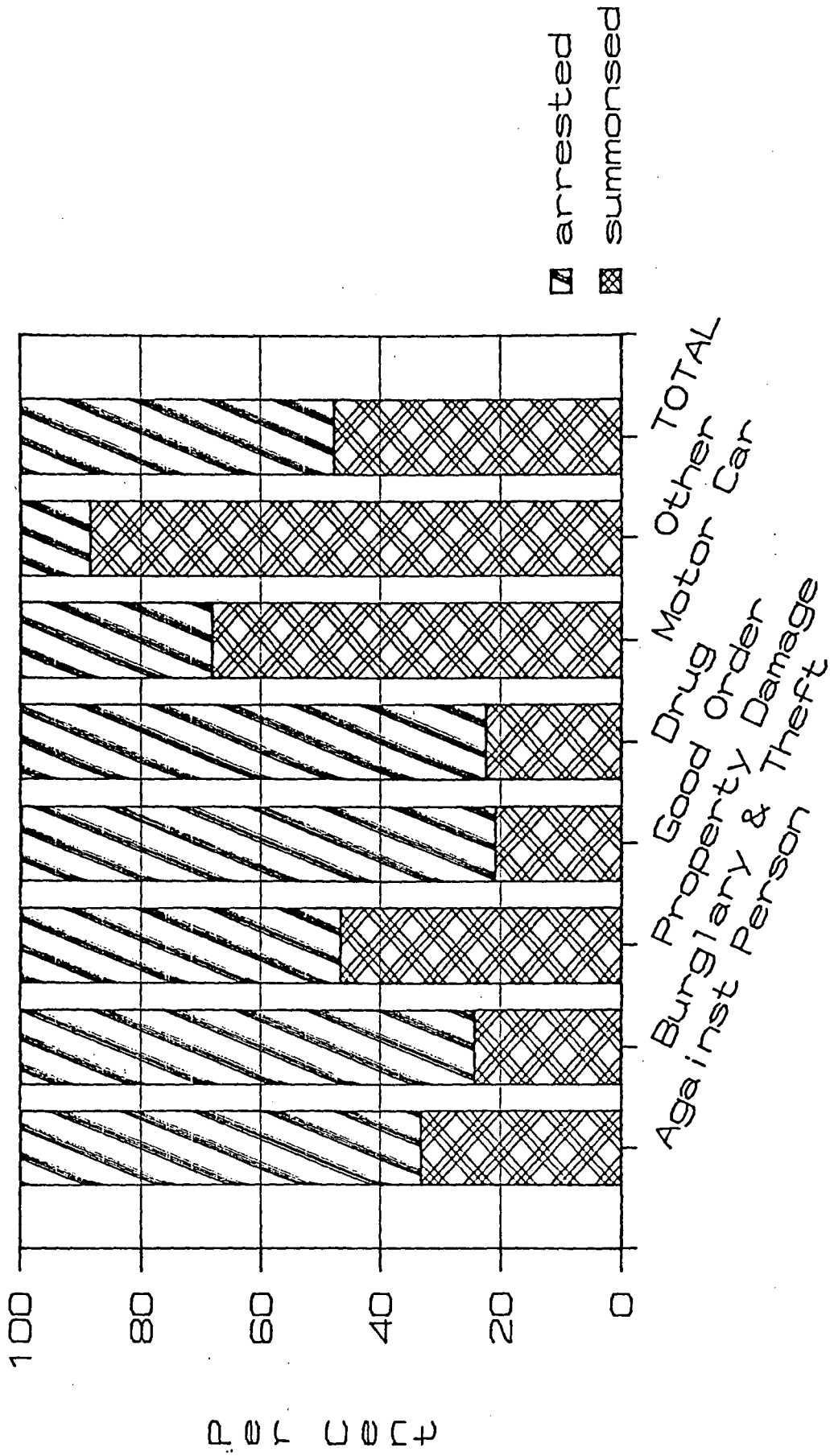
The second feature to note is that over three-quarters of Drug Offence cases were initiated by an arrest. Therefore, the increase in the use of arrest that was noted in Section 6.1.3 may

TABLE 11
SUMMONS/ARREST BY OFFENCE CATEGORY
(ALL REGIONS)

<u>Offence Category</u>	SUMMONED	ARRESTED	TOTAL
AGAINST PEOPLE	271 33.3%	542 66.7%	813
ROBBERY & EXTORT	2 11.1%	16 88.9%	18
THEFT OFFENCES	1069 24.4%	3305 75.6%	4374
PROPERTY DAMAGE	212 45.6%	253 53.4%	465
GOOD ORDER	1219 20.9%	4622 79.1%	5841
DRUG OFFENCES	391 22.5%	1343 77.5%	1734
TRAFFIC OFFENCES	9218 68.2%	4300 31.8%	13518
OTHER OFFENCES	578 88.5%	75 11.5%	653
UNKNOWN	5	4	9
TOTAL OFFENCES	12692 47.7%	13902 52.3%	26594

FIGURE 6

SUMMONS/ARREST BY OFFENCE TYPE



be attributed, in part at least, to the decline in the number of Traffic Offences and the increase in the number of Drug Offences between 1984 and 1986.

6.2.3 Number of Offence Counts.

A third source of variability in offence patterns lies in the number of counts of each offence: that is, the number of separate offences of a given type. For instance, while two offenders might both be convicted of burglary and theft, one may be convicted of only one count of each offence, or two offences in total, while the other may be convicted of five counts of burglary and three counts of theft, or eight separate offences in all.

While it is clear that the severity of sentences does not bear a linear relationship to the "amount" of offending in each case, it seems reasonable to hypothesize that an increase in the average number of offence counts of which persons are convicted will lead to an increase in the average severity of sentences.

Table 12 shows the average number of counts per case in each offence category for each Phase of the study. For most offence categories, the average number of counts remained very stable over the period of the study. The most notable exceptions to this pattern were Offences Against the Person, where the number of counts increased from 1.37 per case in 1984 to 2.03 in 1986 (a 48% increase), and Burglary & Theft Offences, where the average number of counts increased from 1.94 in 1984 to 2.43 in 1986 (a 25% increase).

6.2.4 Specific Offences Types.

Thus far, offence data has been considered only in relation to general categories. Although there are over 60 different offence codes in the DANCO system, more than three-quarters of all offences are accounted for by just 12 DANCO offence codes. Note that a single DANCO code may encompass a large number of specific offence types; for instance, Code 565 (Other Offences Against Good Order) includes such diverse offences as bigamy, unlawful assembly, riotous or disorderly behavior, obstructing traffic, possessing housebreaking tools, evading fares and hawking.

The twenty most common DANCO codes in the data-base were:

DANCO 129	Other assault
314	Burglary
325	Deception
391	Motor Car Theft
399	Other Theft
412	Other Property Damage
524	Resist Police
531	Breach Bail
541	Offences Involving Drunkenness
542	Other Offensive Behavior

TABLE 12

AVERAGE NUMBER OF COUNTS BY OFFENCE CATEGORY & PHASE.

<u>Offence Category</u>	PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
AGAINST PEOPLE	1.37	1.68	1.39	2.03	1.83
ROBBERY & EXTORT	3.50	2.00	0.00	1.71	2.22
THEFT OFFENCES	1.94	2.11	2.94	2.43	2.27
PROPERTY DAMAGE	1.24	1.63	1.45	1.27	1.44
GOOD ORDER	1.13	1.13	1.10	1.15	1.13
DRUG OFFENCES	1.08	1.06	1.02	1.09	1.06
TRAFFIC OFFENCES	1.11	1.14	1.11	1.14	1.12
OTHER OFFENCES	1.36	1.68	1.69	1.76	1.60

570	Possession of Firearms/Offensive Weapons
611	Possess or Use Narcotics
612	Possess or Use Cannabis
711	Exceed 0.05% BAC
713	Other Driving Offences
721	Dangerous Driving
731	Unlicensed Driving
733	Unroadworthy Vehicle
750	Unregistered Vehicle
799	Other Motor Vehicle Offences

It was noted in Section 6.2 that, with the exception of Motor Vehicle and Drug Offences, there had been no substantial changes in the distribution of general offence types across the four Phases of the study. However, this apparent stability may mask significant changes in the distribution of specific offence types.

Table 13 shows the distribution of the 12 most common, non-motor vehicle offences. The following changes in the distribution of specific offence types are evident:

Other Assault offences increased from about 2% of all offences in Phase 1 to about 3% in Phase 4. Since Other Assault offences are the least serious type of Offence Against the Person, and since the overall proportion of Offences Against the Person did not change significantly during the period covered by this study (see Table 10B, 6.2), it follows that the proportion of more serious forms of assault must have declined. For instance, Assault Occasioning Actual Bodily Harm (DANCO 122) declined from 26 cases in Phase 1 (0.7% of cases) to 17 cases in Phase 4 (0.4% of cases). On the other hand, the average number of counts in each case increased by about half (see 6.2.3), so it might be incorrect to conclude that the average seriousness of cases of Offences Against the Person declined between 1984 and 1986.

The frequency of Burglary offences increased, from 99 cases (2.8%) to 178 cases (3.7%), however Deception and Motor Car Theft showed no change. Other Theft offences declined slightly, from 18.4% to 15% of cases. These trends could be interpreted as indicating an increase in the average seriousness of Burglary and Theft Offences. Again, there was also an increase in the average number of counts in each case of Burglary and Theft.

Of the Good Order offences, Resist Police, Drunkenness Offences, and Possession of Firearms or Offensive Weapons showed no systematic change. The proportion of Breach Bail offences increased from 41 cases (1.1%) to 91 cases (1.9%), while the frequency of Other Offensive Behavior offences decreased from 4.8% to 3.4%.

Given the difficulty in interpreting Court Register entries in regard to drug possession and use offences, it is appropriate to consider the DANCO offences of Possession of Narcotics (611) and Possession of Cannabis (612) together. They show a substantial increase, from 148 cases (4.1%) in Phase 1 to 371 cases (7.6%) in

TABLE 13

SPECIFIC OFFENCE CODES BY STUDY PHASE.

<u>OFFENCE TYPE</u>	PHASE 1	PHASE 2	PHASE 3	PHASE 4
129 Other Assault	67 1.9%	102 2.2%	22 2.4%	139 2.9%
314 Burglary	99 2.8%	176 3.9%	41 4.5%	178 3.7%
325 Deception	70 1.9%	106 2.1%	21 2.3%	102 2.1%
391 Motor Car Theft	120 3.3%	144 3.2%	32 3.5%	155 3.2%
399 Other Theft	660 18.4%	872 19.2%	150 16.5%	726 15.0%
412 Other Prop. Damage	79 2.2%	230 5.1%	29 3.2%	125 2.6%
524 Resist Police	176 4.9%	192 4.2%	42 4.6%	222 4.6%
531 Breach Bail	41 1.1%	77 1.7%	14 1.5%	91 1.9%
541 Drunkenness	806 22.4%	969 21.3%	188 20.6%	1105 22.8%
542 Other Off. Behavior	174 4.8%	151 3.3%	30 3.3%	165 3.4%
570 Possess Off. Weapons	62 1.7%	102 2.2%	28 3.2%	93 1.9%
611/612 Poss/Use Narcotics/ Cannabis	148 4.1%	260 5.7%	43 4.7%	371 7.6%
TOTAL OFFENCES	3591	4546	911	4854

Phase 2. Although this is a large absolute increase in the number of drug possession offences, the more serious drug offences, such as trafficking, manufacture or importing increased at an even greater rate, from 31 cases in Phase 1 (0.9%), to 140 cases in Phase 4 (2.9%).

6.2.5 Seriousness of Offences.

A key issue in assessing changes in sentencing patterns is whether there has been a change in the seriousness of offences that could account for any apparent sentencing trends. Unfortunately, the seriousness of an offence, as judged by the court, may not be ultimately determinable without access to the same information about the details of the case that the court has. On the other hand, changes in the profile of specific offence types do constitute an acceptable index of seriousness.

In the context of the overall seriousness of the offences in the study data-base, the changes described above show apparent increases in the general seriousness of Property and Drug offences, specifically Burglary and the more serious Drug offences. Therefore, any analysis of sentencing trends needs to take these changes into account.

It is also important to recognize that these changes do not necessarily reflect changes in the total population of offences; some of the more serious Offences Against the Person may simply have been diverted to the higher courts. Nevertheless, the offence trends identified here are generally in accord with those that can be inferred from the Australian Bureau of Statistics' state-wide Magistrates' Court statistics (see Section 5.1).

CHAPTER 7 : RESULTS - COURT SENTENCING PATTERNS.

7.1 Indices of Diversion and Netwidening

The primary hypothesis of this study was that the introduction of community-based corrections sentences would result in the diversion of offenders from imprisonment to community-based programs. Before proceeding with a detailed analysis of court sentencing patterns, it is appropriate to consider what sort of changes in sentencing patterns need to be identified in order to say that diversion has taken place.

A judicial sentence may be considered to consist of two components:

- the type of the disposition; for example imprisonment, Community Based Order, fine or Good Behavior Bond, and
- the amount of the disposition; for example, 6 months imprisonment, 250 hours of community work, a fine of \$500 or a 12-month bond.

Thus, diversion from imprisonment might take the form of a reduction in the proportion of sentences of imprisonment handed down by a court. Alternatively, it might also be indicated by a systematic shortening of the periods of imprisonment. In either case, a reduction in the daily average number of persons in prison will result. Similarly, netwidening might be indicated by an increase in the proportion of CBC sentences relative to all other non-imprisonment sentences, or by an increase in the average length of CBC sentences.

It was noted in the previous chapter that there were a number of significant changes in offence patterns over the period of the study. In particular, there were large increases in convictions for burglary and drug offences, and similarly substantial reductions in convictions for driving and traffic offences. These changes in offending patterns were accompanied by an increase in the use of arrest as a means of initiating cases. It seems likely that there were also other changes in the population of offenders which this study was not able to measure but which may have had a significant impact on court sentences; for instance, the number and type of offenders' prior convictions.

One source of variation that can be controlled for is that of the use of Convicted & Discharged sentences. While these sentences make up a substantial proportion of all sentences passed on arrest cases (13.6% across all Regions), they are used almost solely in relation to drunkenness offences. The only region where less than 95% of these sentences were applied to drunkenness offences was Southern Region (88%). Moreover, these sentences are always the only sentence applied to a particular case. It can be argued that drunkenness offences are qualitatively different from other forms of offending, and that their presence introduces a source of

inappropriate variation in sentencing statistics. For this reason, all Convicted & Discharged sentences have been eliminated from the following analyses.

A further consideration is that, because the five Regions included in this study had different sentencing options available prior to February 1985, meaningful comparisons between Phases 1 and 2 may only be made within Regions with the same sentence options: that is, Western and Barwon Regions (Attendance Centre Orders only in 1984) and Westernport and Gippsland Regions (neither Attendance Centre nor Community Service Orders in 1984).

Therefore, when analysing trends in either the type or amount of sentences, one needs to take into account the variables of Region, offence type and summons/arrest.

7.2 Aggregate Sentence Type Trends

There are at least 20 distinct sentence types available to Victorian courts (see Table 14), however for ease of analysis some disposition categories, principally bonds and driving licence penalties, have been aggregated.

Tables 15 and 16 show the total number of sentences of each type for both summons and arrest cases (see also Figure 7). If the total number of sentences is compared with the total number of cases (see Table 7A), it can be seen that on average, there were 1.3 sentences handed down for each summons case, and 1.2 sentences for each arrest case. This ratio remained quite stable across all Phases of the study.

As noted above, the differences between Regions in the availability of community based corrections sentences during Phase 1 limit the conclusions that one can draw from aggregated sentence data. Nevertheless, the following general comments may be made:

- more serious sentences tended to be used more frequently in Arrest cases than in Summons cases - in particular, sentences of imprisonment and community based sentences were used much more frequently in arrest cases, while fines and licence penalties were used more frequently in summons cases;
- the most frequently applied sentences were fines, followed by licence penalties, bonds and conviction and discharge;
- there was an overall increase in the use of imprisonment in summons cases between Phases 1 and 4, but there was no change in its use in arrest cases;
- there was a large increase in the use of suspended sentences of imprisonment, especially in arrest cases;

TABLE 14

SENTENCE TYPES

Sentences of detention: Imprisonment (Adult)
Youth Training Centre
Suspended imprisonment

Community corrections: (pre-June 1986)
Probation
Attendance Centre Order
Community Service Order
(post-June 1986)
Community Based Order

Bonds: Alcohol & Drug Dependant Persons Bond
Good Behavior Bond

Monetary Penalty: Fine
Poor Box
Restitution*
Compensation*
Forfeit Recognizance

Licence Penalty: Licence Suspended
Licence Cancelled/Disqualified

Other Dispositions: Convicted and Discharged
Committed to a Higher Court
Adjourned - PreSentence Report
Adjourned - ADDP Assessment
Adjourned - Court ADvice

* Restitution and Compensation may be in the form of return of goods or the performance of some service. In most cases the penalty is solely monetary.

TABLE 15
ALL COURT DISPOSITIONS
SUMMONS CASES ONLY

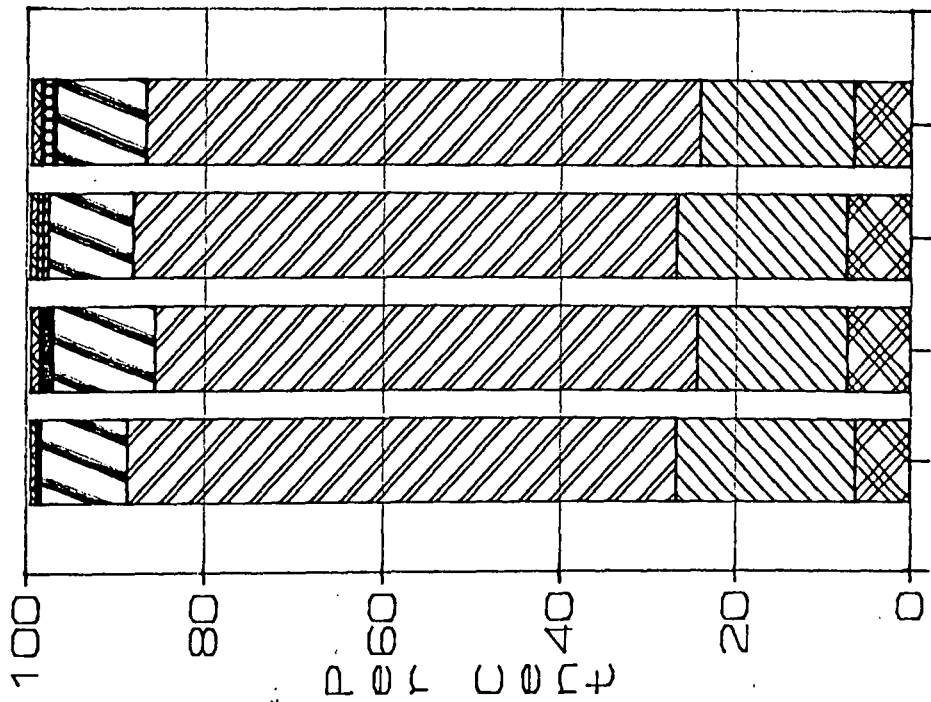
<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	44 0.7%	67 1.1%	9 0.9%	52 1.2%	172
SUSPENDED SENTENCE	No. %	1 0.0%	3 0.0%	9 0.9%	22 0.5%	35
ACO	No. %	20 0.3%	35 0.6%	N/A	N/A	55
CSO	No. %	2 0.0%	23 0.4%	N/A	N/A	25
PROBATION	No. %	24 0.3%	34 0.6%	N/A	N/A	58
CBO	No. %	N/A	N/A	13 1.3%	76 1.8%	89
BOND	No. %	619 9.8%	653 11.5%	97 9.6%	429 10.1%	1798
FINE	No. %	3899 61.9%	3475 61.2%	617 61.3%	2650 62.5%	10641
REST'N or COMPEN'N	No. %	36 0.6%	44 0.8%	4 0.4%	34 0.8%	118
POOR BOX	No. %	323 5.1%	339 6.0%	58 5.7%	209 4.9%	929
LIC. DISQ OR SUSP	No. %	1289 20.5%	979 17.2%	196 19.5%	748 17.6%	3212
OTHER	No. %	40 0.6%	27 0.5%	4 0.4%	19 0.4%	90
TOTAL DISPOSITIONS	No. %	6297 100%	5679 100%	1007 100%	4239 100%	17222

TABLE 16
ALL COURT DISPOSITIONS
ARREST CASES ONLY

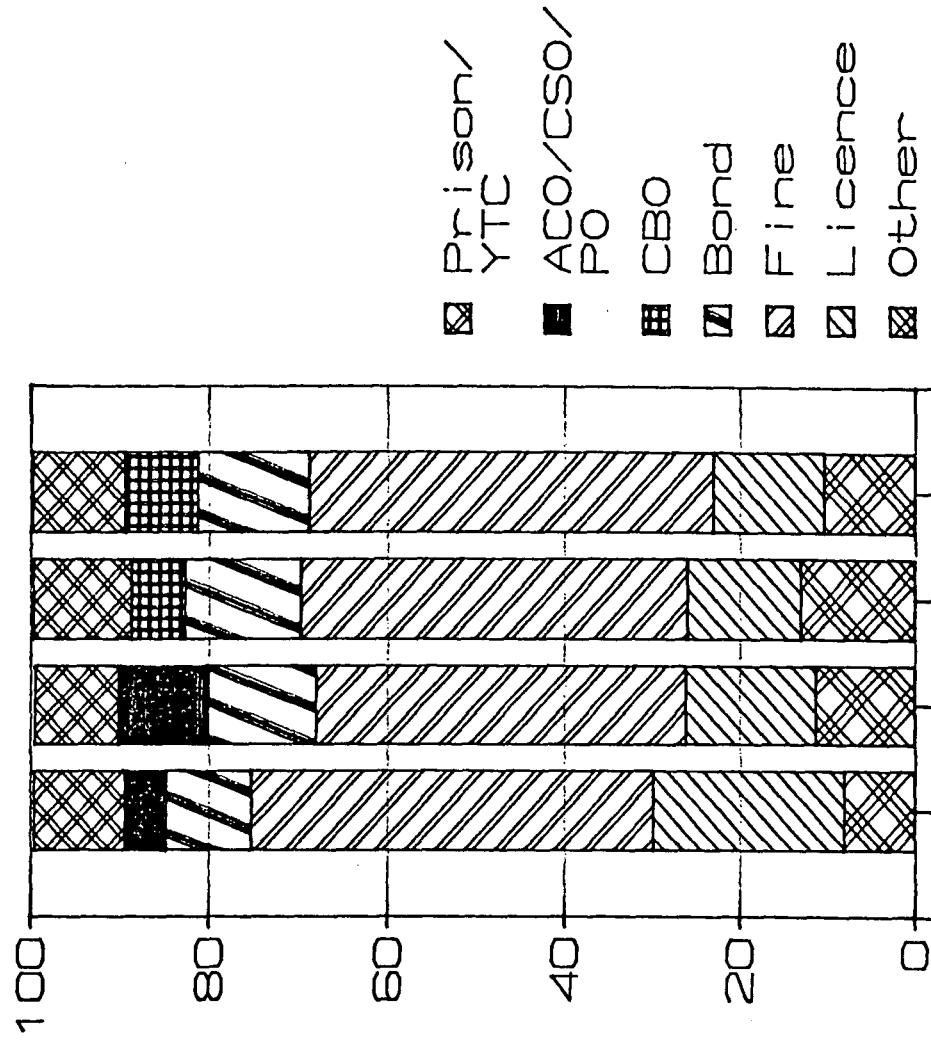
<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	374 10.3%	497 9.5%	115 11.1%	608 10.5%	1594
SUSPENDED SENTENCE	No. %	7 0.2%	28 0.5%	37 3.6%	142 2.4%	214
ACO	No. %	53 1.5%	169 3.2%	N/A	N/A	222
CSO	No. %	12 0.3%	135 2.6%	N/A	N/A	147
PROBATION	No. %	101 2.8%	221 4.2%	N/A	N/A	322
CBO	No. %	N/A	N/A	62 6.0%	473 8.1%	535
BOND	No. %	350 9.6%	633 12.1%	135 13.0%	724 12.5%	1749
FINE	No. %	1657 45.4%	2183 41.9%	454 43.8%	2656 45.8%	6950
REST'N or COMPEN'N	No. %	96 2.6%	137 2.6%	25 2.4%	145 2.5%	403
POOR BOX	No. %	115 3.1%	232 4.4%	56 5.4%	255 4.4%	658
LIC. DISQ OR SUSP	No. %	799 21.9%	778 14.9%	135 13.0%	738 12.7%	2111
OTHER	No. %	81 2.2%	203 3.9%	18 1.7%	61 1.1%	363
TOTAL DISPOSITIONS	No. %	3645 100%	5216 100%	1037 100%	5802 100%	15361

FIGURE 7

ALL COURT
Summons Cases Only



DISPOSITIONS
Arrest Cases Only



Phase I
Phase II
Phase III
Phase IV

Phase I
Phase II
Phase III
Phase IV

- . there was an increased use of all types of community based sentences across the study;
- . there was an increase in the use of bonds for arrest cases;
- . the use of fines in summons cases remained remarkably steady across the period of the study;
- . the use of sentences involving licence cancellation or suspension declined significantly.

The overall trend in sentencing was therefore that of an increase in the use of more severe penalties including community based sentences, mainly at the expense of licence penalties. However, one cannot infer from this that the impact of the wider use of community corrections sentences was primarily one of netwidening. Before any firm inferences can be made, one needs to take into account both specific Regional sentencing patterns and the changes in offending that were identified in Chapter 6.

When analysing the sentencing data there are two separate comparisons that can be made; between Phase 1 and Phase 2, and between Phase 2 and Phase 4. As the number of cases in Phase 3 is relatively small, it will only be referred to if the data shows some notable deviation from the general trends.

7.3 Regional Sentence Type Trends.

7.3.1 Westernport Region.

It is appropriate to start with a consideration of the sentences passed in the two Regions where no community based options other than Probation were available in Phase 1; that is Westernport and Gippsland Regions. In theory, the impact of introducing the Attendance Centre Order and Community Service Order should be most apparent in the courts servicing these Regions.

The distribution of sentences at Dandenong Court (Westernport Region) is shown in Tables 17A and 17B (see also Figure 8). The proportion of arrest cases in Westernport Region increased from 43% in Phase 1 to 56% in Phase 3, and only arrest cases were collected in Phase 4, so separate consideration of summons and arrest cases is warranted.

Two comparisons can be made:

Phase 1 vs Phase 2. The first point to note is that, although Attendance Centre Orders were not technically available in this Region during 1984, Dandenong court nevertheless handed down 7 such orders during Phase 1. The use of ACO and CSO sentences increased substantially following their formal introduction in Phase 2, the majority of such orders (80%) being given in arrest cases. Although Parole Orders were available before 1985, there was a

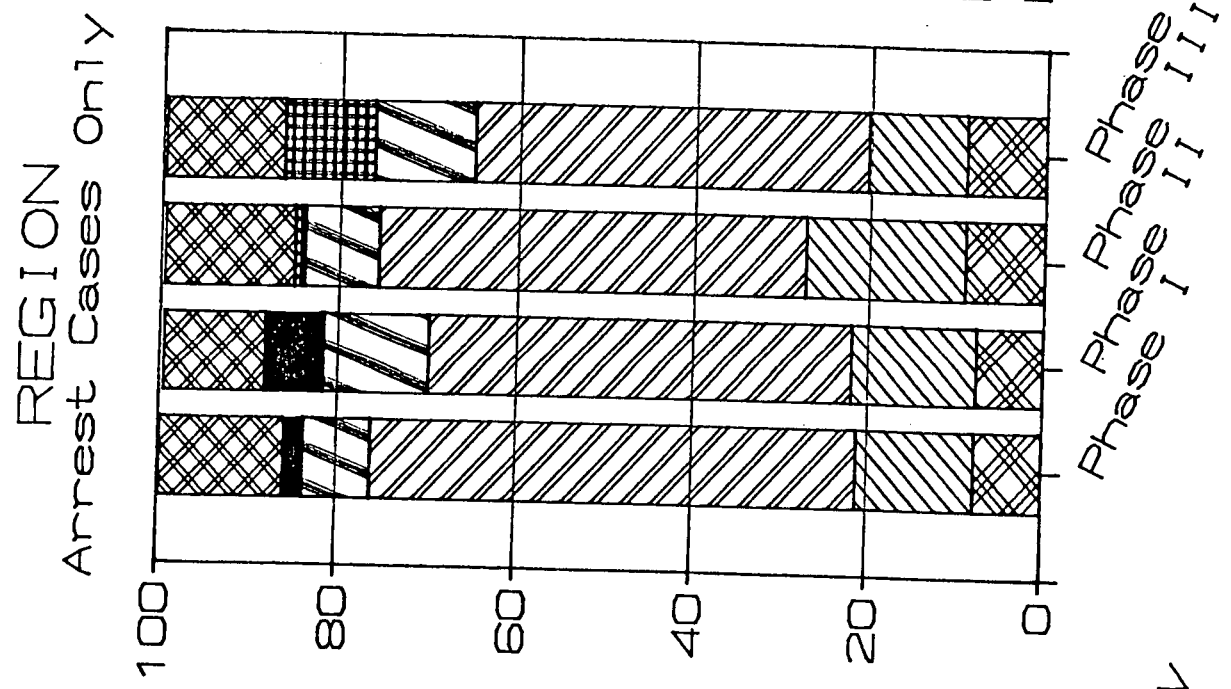
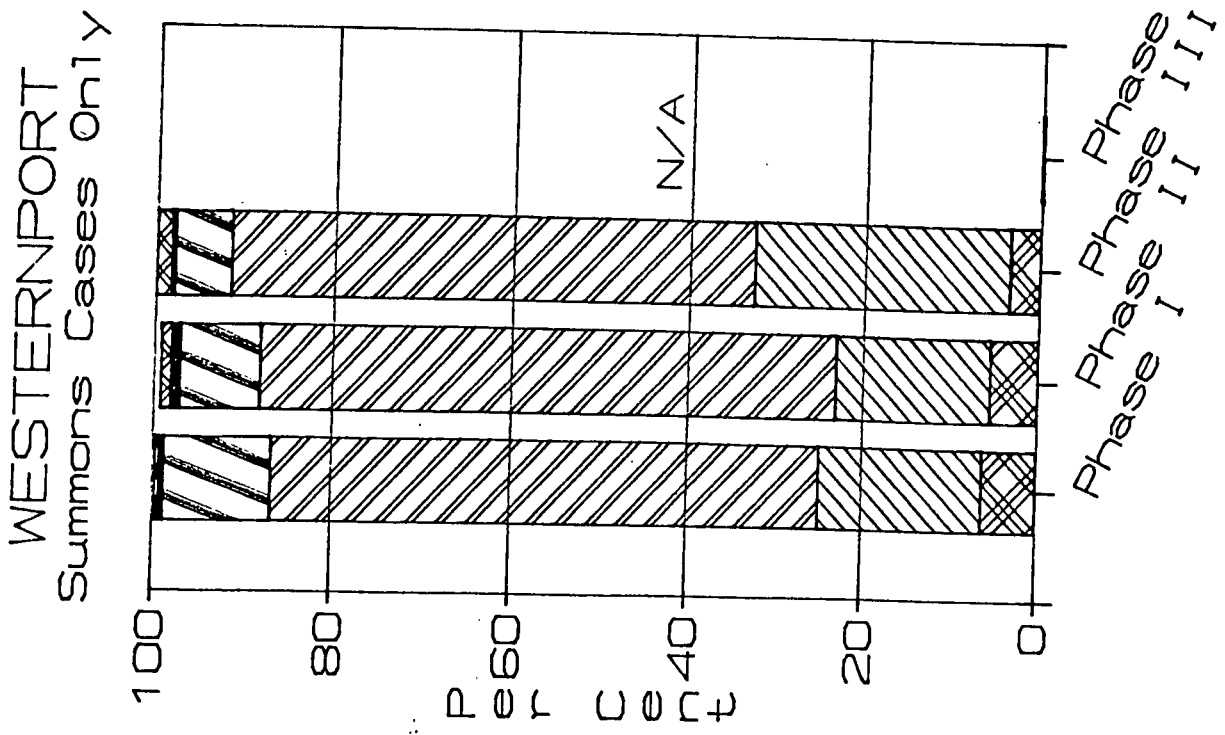
TABLE 17A
WESTERNPORT REGION
SENTENCES: SUMMONS CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON	No. %	7 0.5%	18 1.3%	4 1.8%	-	29
ACO	No. %	N/A	5 0.3%	N/A	N/A	5
CSO	No. %	N/A	3 0.2%	N/A	N/A	3
PROBATION	No. %	8 0.6%	7 0.5%	N/A	N/A	15
CBO	No. %	N/A	N/A	1 0.4%	-	1
BOND	No. %	156 12.0%	122 9.0%	14 6.3%	-	292
FINE	No. %	805 61.9%	882 65.1%	131 59.0%	-	1818
POOR BOX	No. %	54 4.2%	48 3.5%	5 2.2%	-	107
LIC. DISQ OR SUSP	No. %	244 18.8%	241 17.8%	65 29.3%	-	550
OTHER	No. %	26 2.0%	27 2.0%	3 1.3%	-	57
TOTAL DISPOSITIONS	No. %	1300 100%	1353 100%	222 100%	-	2876

TABLE 17B
WESTERNPORT REGION
SENTENCES: ARREST CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	115 13.9%	109 11.3%	35 14.6%	151 13.4%	410
SUSPENDED SENTENCE	No. %	2 0.2%	10 1.0%	9 3.8%	35 3.1%	56
ACO	No. %	7 0.8%	23 2.4%	N/A	N/A	30
CSO	No. %	N/A	18 1.9%	N/A	N/A	18
PROBATION	No. %	18 2.1%	37 3.8%	N/A	N/A	55
CBO	No. %	N/A	N/A	3 1.2%	114 10.1%	117
BOND	No. %	62 7.5%	113 11.7%	20 8.3%	127 11.3%	322
FINE	No. %	450 54.3%	452 47.0%	116 48.3%	504 44.7%	1522
REST'N or COMPEN'N	No. %	29 3.5%	21 2.2%	3 1.2%	33 2.9%	86
POOR BOX	No. %	8 1.0%	21 2.2%	7 2.9%	33 2.9%	69
LIC. DISQ OR SUSP	No. %	112 13.5%	137 14.2%	44 18.3%	128 11.3%	421
OTHER	No. %	25 3.0%	21 2.2%	3 1.2%	2 0.1%	51
TOTAL DISPOSITIONS	No. %	828 100%	962 100%	240 100%	1127 100%	3550

FIGURE 8



- Prison/YTC
- ACO/CSO/PO
- CBO
- Bond
- Fine
- Licence
- Other

substantial increase in their use during Phase 2. This was accompanied (for arrest cases) by a large drop in the use of fines, and smaller reductions in the use of imprisonment and restitution or compensation orders. There were few significant changes in the sentences applied to summons cases.

Phase 2 vs Phase 4. The use of imprisonment in arrest cases increased, returning to near its Phase 1 level. In addition, there was a large increase in the use of suspended sentences of imprisonment. The proportion of Community Based Order sentences in Phase 4 (10.1%) was slightly greater than the combined amount of ACO, CSO and Probation sentences in Phase 2 (8.1%). The proportion of fine sentences declined further, and there was also a substantial drop in the use of licence penalties.

7.3.2 Gippsland Region.

Like Westernport Region, Gippsland Region did not have formal access to the community based sentences of Attendance Centre and Community Service Orders until 1985. Only arrest cases were collected at Moe Court, and the number of such cases heard at the court increased greatly between Phase 1 and Phase 4. The profile of offences presented to the court also changed substantially over the course of the study, with large increases in the proportion of Burglary & Theft and Motor Car offences, and a correspondingly large drop in the proportion of Good Order offences, especially Drunkenness.

Table 18 shows the distribution of sentence types in Gippsland Region (see also Figure 9).

Phase 1 vs Phase 2. The most striking change between 1984 and 1985 was in the use of community based sentences. In Phase 1 only 3.5% of all sentences were Probation Orders, while in Phase 2 over 20% of all sentences were ACO, CSO or Probation Orders. There was no change in the use of imprisonment, but the proportion of bonds and fines dropped sharply, from a combined 65% in Phase 1 to 43% in Phase 2. The proportion of licence penalties increased by about half.

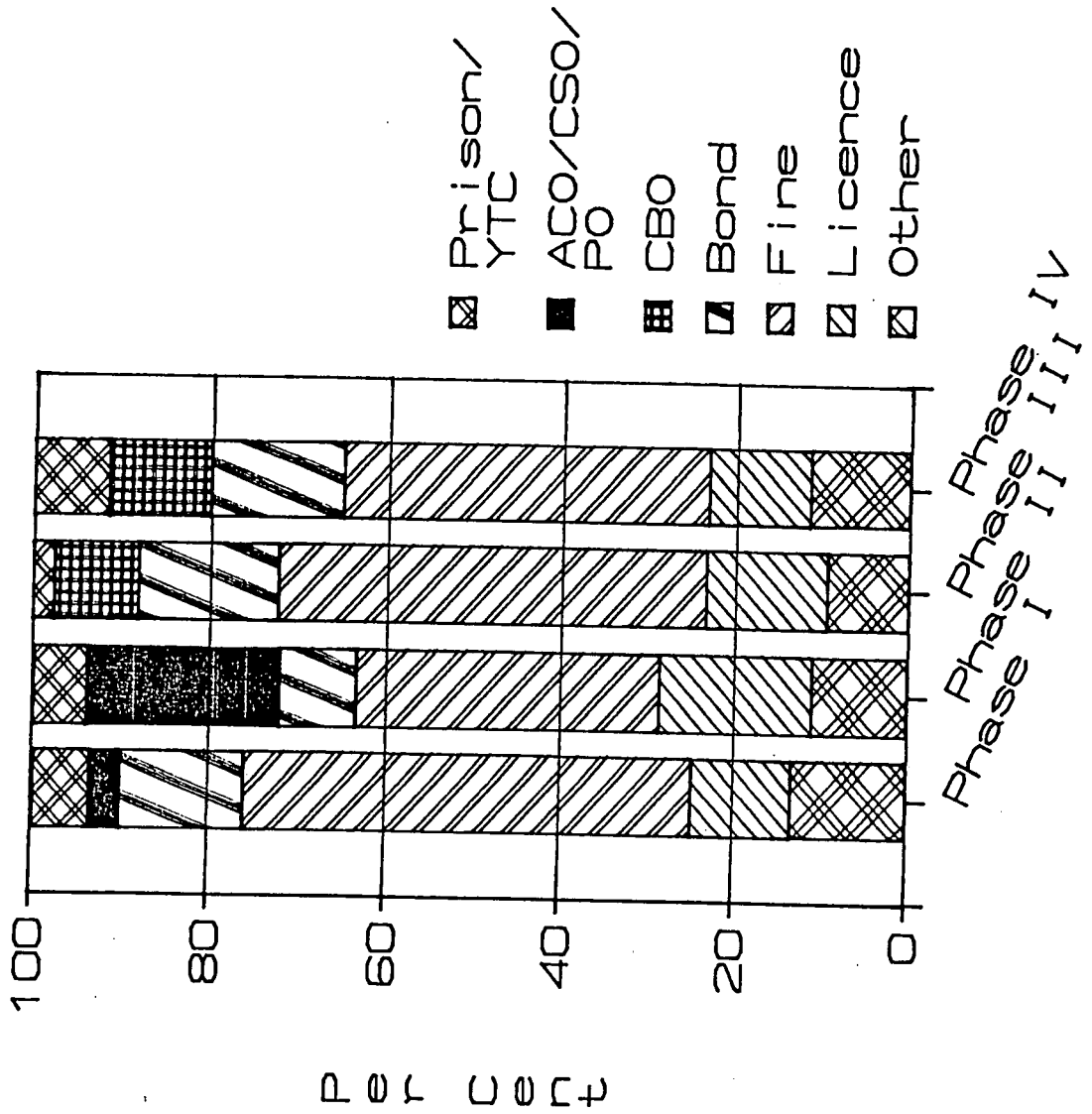
Phase 2 vs Phase 4. There was a substantial increase in the use of sentences of imprisonment, including suspended sentences. The proportion of community based sentences (CBO's) declined to 11.5%, or about half of the Phase 2 figure. Bonds and fines increased part of the way to their Phase 1 level, while licence penalties declined back to their Phase 1 level.

TABLE 18
GIPPSLAND REGION
SENTENCES: ARREST CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	11 6.4%	46 6.1%	4 2.5%	88 8.6%	149
SUSPENDED SENTENCE	No. %	-	-	8 5.0%	24 2.3%	32
ACO	No. %	N/A	49 6.5%	N/A	N/A	49
CSO	No. %	N/A	80 10.6%	N/A	N/A	80
PROBATION	No. %	6 3.5%	36 4.7%	N/A	N/A	42
CBO	No. %	N/A	N/A	15 9.6%	118 11.5%	133
BOND	No. %	24 14.0%	66 8.7%	25 15.9%	155 15.1%	270
FINE	No. %	88 51.2%	264 34.8%	76 48.4%	423 41.3%	851
REST'N or COMPEN'N	No. %	10 5.8%	38 5.0%	3 1.9%	34 3.3%	85
POOR BOX	No. %	10 5.8%	12 1.6%	4 2.5%	51 5.0%	77
LIC. DISQ OR SUSP	No. %	20 11.6%	134 17.7%	22 14.0%	121 11.8%	295
OTHER	No. %	3 1.7%	33 4.4%	0 0.0%	10 0.9%	46
TOTAL DISPOSITIONS	No. %	172 100.0%	758 100.0%	157 100.0%	1024 100.0%	2109

FIGURE 9

GIPPSLAND REGION Arrest Cases Only



7.3.3 Western Region.

Attendance Centre Orders were available to some Victorian courts on a trial basis from as early as 1976. Sunshine court in Western Region was one of the metropolitan courts where Attendance Centre Orders were first introduced. In 1985 this form of community corrections sentence was supplemented by the Community Service Order, so Western Region provides an opportunity to see how the introduction of CSO's influenced sentencing patterns.

The number of cases heard at Sunshine court declined greatly over the course of the study, from 1397 in Phase 1 down to 631 in Phase 4, with most of the decline occurring between Phases 1 and 2. The cause of this decline was the opening of the large court complex at Broadmeadows in 1985. Much of the drop was in Motor Car Offences, although Offences Against the Person and Burglary & Theft Offences also declined. The only categories of offences that increased over the study period were Good Order and Drug Offences, and the increase in the latter category was much smaller than that in any other Region. Overall, there was a clear decrease in the average seriousness of offences presented in Western Region between 1984 and 1986.

Tables 19A and 19B show the distribution of sentences for summons and arrest cases in Western Region (see also Figure 10).

Phase 1 vs Phase 2. The most significant changes in sentencing that took place between 1984 and 1985 were those relating to arrest cases; the proportion of sentences of imprisonment decreased, as did licence penalties, while bonds, fines and poor box penalties all increased. The use of community based penalties remained fairly steady; Probation Orders remained the most commonly used community based sentence, and Community Service Orders were used quite sparingly in 1985.

Phase 2 vs Phase 4: Overall, there were few significant changes in sentencing patterns. Only about half as many community based sentences were applied in Phase 4 as in Phase 1, virtually all of them in arrest cases. There was also a very small decline in the use of imprisonment, although this was more than compensated for by the application of suspended sentences of imprisonment. The use of licence penalties in summons cases declined slightly, and the proportion of fine sentences increased for both summons and arrest cases.

7.3.4 Barwon Region

As with Western Region, Attendance Centre Orders were available at Geelong court in Barwon Region before 1984. The number of cases heard at Geelong court increased fairly steadily (7 - 9% per year) over the study period, with most of the additional work-load being due to Drug, Good Order and Offences Against the Person. The proportion of Burglary & Theft Offences declined slightly, as did Motor Car Offences.

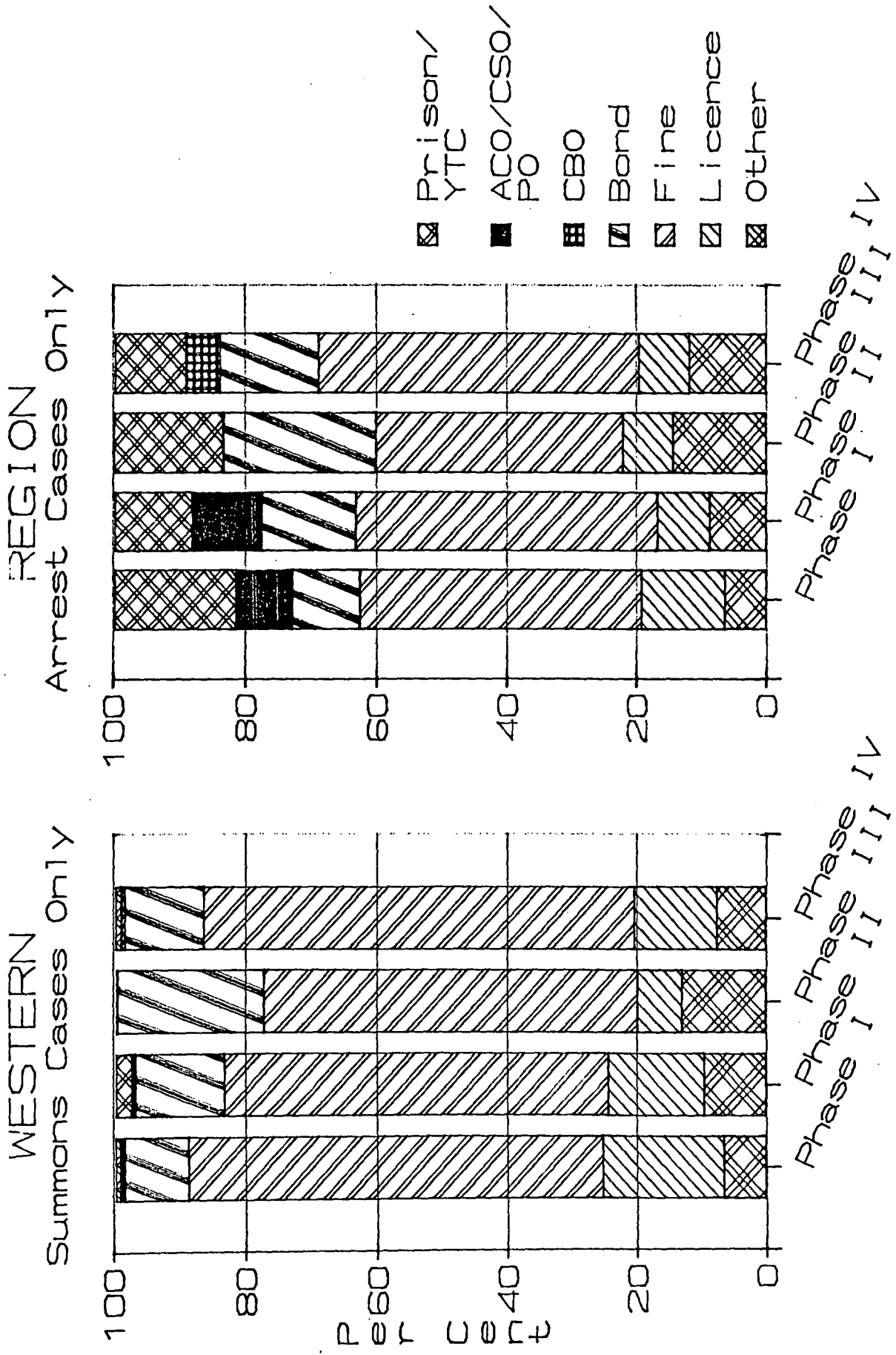
TABLE 19A
WESTERN REGION
SENTENCES : SUMMONS CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	9 0.8%	7 2.4%	-	3 1.0%	19
SUSPENDED SENTENCE	No. %	-	-	-	1 0.3%	1
ACO	No. %	1 0.1%	-	N/A	N/A	1
CSO	No. %	N/A	1 0.3%	N/A	N/A	1
PROBATION	No. %	7 0.6%	1 0.3%	N/A	N/A	8
CBO	No. %	N/A	N/A	-	2 0.6%	2
BOND	No. %	108 9.7%	39 13.5%	12 22.2%	37 11.9%	196
FINE	No. %	704 63.4%	170 58.8%	31 57.4%	206 66.0%	1111
REST'N or COMPEN'N	No. %	8 0.7%	1 0.3%	-	2 0.6%	11
POOR BOX	No. %	61 5.5%	26 9.0%	7 13.0%	20 6.4%	114
LIC. DISQ OR SUSP	No. %	209 18.8%	43 14.9%	4 6.9%	40 12.8%	296
OTHER	No. %	3 0.3%	1 0.3%	-	1 0.3%	5
TOTAL DISPOSITIONS	No.	1110	289	54	312	1765
		100.0%	100.0%	100.0%	100.0%	

TABLE 19B
WESTERN REGION
SENTENCES : ARREST CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	111 18.4%	48 11.8%	15 16.6%	41 10.8%	215
SUSPENDED SENTENCE	No. %	-	-	3 3.3%	15 3.9%	18
ACO	No. %	11 1.8%	6 1.5%	N/A	N/A	17
CSO	No. %	N/A	7 1.7%	N/A	N/A	7
PROBATION	No. %	41 6.8%	30 7.3%	N/A	N/A	71
CBO	No. %	N/A	N/A	-	20 5.2%	20
BOND	No. %	62 10.3%	59 14.4%	21 23.3%	57 15.0%	199
FINE	No. %	262 43.4%	190 46.4%	34 37.7%	188 49.3%	674
REST'N or COMPEN'N	No. %	22 3.6%	10 2.4%	2 2.2%	5 1.3%	39
POOR BOX	No. %	17 2.8%	25 6.1%	8 8.9%	25 6.7%	75
LIC. DISQ OR SUSP	No. %	78 12.9%	33 8.1%	7 7.8%	30 7.9%	148
OTHER	No. %	-	1 0.2%	-	-	1
TOTAL DISPOSITIONS	No.	604 100.0%	409 100.0%	90 100.0%	381 100.0%	1484

FIGURE 10



Tables 20A and 20B show the distribution of sentences in summons and arrest cases for Barwon Region (see also Figure 11).

Phase 1 vs Phase 2 : The most significant sentencing changes between 1984 and 1985 were the increase in imprisonment, from 8% of all penalties in arrest cases, to 12.5%, and the decrease in the use of fines, from 49% of arrest case penalties to 40%. The same trends were evident for summons cases, but the size of the changes were much smaller. The use of community based penalties also increased, with greater use of all types of Orders, although the proportion of such penalties remained well below the average for all Regions. The relatively large proportion of "Other" penalties was mainly due to transfers of cases to higher courts.

Phase 2 vs Phase 4 : There was a further increase in the use of sentences of imprisonment in arrest cases, with 14% of all cases receiving this type of penalty. In addition, a further 2.3% of arrest cases were dealt with by a suspended sentence of imprisonment. The proportion of community based penalties decreased in both summons and arrest cases, returning to near 1984 levels. The proportion of fines applied in arrest cases increased back to 1984 levels, and there was a small decrease in the use of licence penalties.

7.3.5 Southern Region.

Community Service Orders first became available in 1982 to courts in Melbourne's Southern Region, and until 1985 this Region remained the only one where Community Service Orders could be applied. Therefore the sentencing patterns at Oakleigh Court in Phase 1 and 2 provide an index of the effect of introducing Attendance Centre Orders to the range of sentencing options.

The number of cases heard at Oakleigh Court increased by two-thirds between 1984 and 1986, from 1752 cases in Phase 1 to 2836 cases in Phase 4. The profile of offences also changed, with a substantial increase in the proportion of Burglary & Theft offences, from 12.2% to 18.4%, and an even larger relative increase in drug offences, from 4% to 9.3%. At the same time, the proportion of Motor Car Offences declined from 61.9% to 53.1%. Virtually all of these additional cases were initiated by arrest. Therefore, Oakleigh Court apparently saw a significant increase in the average seriousness of cases heard there.

Tables 21A and 21B show the distribution of sentences in summons and arrest cases for Southern Region (see also Figure 12).

Phase 1 vs Phase 2. Despite being technically unavailable, a small number of Attendance Centre Orders were passed in Southern Region in 1984, though they accounted for less than 0.5% of all sentences. There was an increase in their frequency of use in Phase 2, up to 2% of arrest cases. At the same time there was also a small increase in the use of

TABLE 20A
BARWON REGION
SENTENCES : SUMMONS CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	12 0.5%	35 1.7%	3 0.7%	30 1.3%	80
SUSPENDED SENTENCE	No. %	-	2 0.1%	1 0.2%	15 0.7%	18
ACO	No. %	17 0.8%	26 1.2%	N/A	N/A	43
CSO	No. %	1 0.1%	14 0.7%	N/A	N/A	15
PROBATION	No. %	5 0.2%	12 0.6%	N/A	N/A	17
CBO	No. %	N/A	N/A	1 0.2%	43 1.9%	44
BOND	No. %	213 9.9%	214 10.1%	41 9.9%	222 9.8%	690
FINE	No. %	1330 62.0%	1264 59.8%	266 63.9%	1398 61.6%	4258
REST'N or COMPEN'N	No. %	11 0.5%	15 0.7%	1 0.2%	26 1.1%	53
POOR BOX	No. %	121 5.6%	119 5.6%	26 6.3%	112 4.9%	378
LIC. DISQ OR SUSP	No. %	416 19.4%	403 19.0%	73 17.5%	408 18.0%	1300
OTHER	No. %	19 0.9%	11 0.5%	4 1.0%	14 0.6%	48
TOTAL DISPOSITIONS	No.	2145	2115	416	2268	6944
		100.0%	100.0%	100.0%	100.0%	

TABLE 20B
BARWON REGION
SENTENCES : ARREST CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	84 7.9%	151 12.5%	40 15.9%	184 14.0%	459
SUSPENDED SENTENCE	No. %	-	-	3 1.2%	30 2.3%	33
ACO	No. %	30 2.8%	54 4.5%	N/A	N/A	84
CSO	No. %	N/A	10 0.8%	N/A	N/A	10
PROBATION	No. %	16 1.5%	13 1.0%	N/A	N/A	29
CBO	No. %	N/A	N/A	10 4.0%	50 3.8%	60
BOND	No. %	137 13.0%	137 11.3%	34 13.5%	148 11.2%	456
FINE	No. %	516 48.8%	483 39.9%	111 44.0%	611 46.4%	1721
REST'N or COMPEN'N	No. %	16 1.5%	22 1.8%	7 2.8%	26 2.0%	71
POOR BOX	No. %	58 5.5%	69 5.7%	17 6.7%	57 4.3%	201
LIC. DISQ OR SUSP	No. %	155 14.7%	176 14.5%	23 9.1%	167 12.7%	521
OTHER	No. %	45 4.3%	97 8.0%	7 2.8%	43 3.3%	192
TOTAL DISPOSITIONS	No.	1057	1212	252	1316	3837
		100.0%	100.0%	100.0%	100.0%	

FIGURE 11

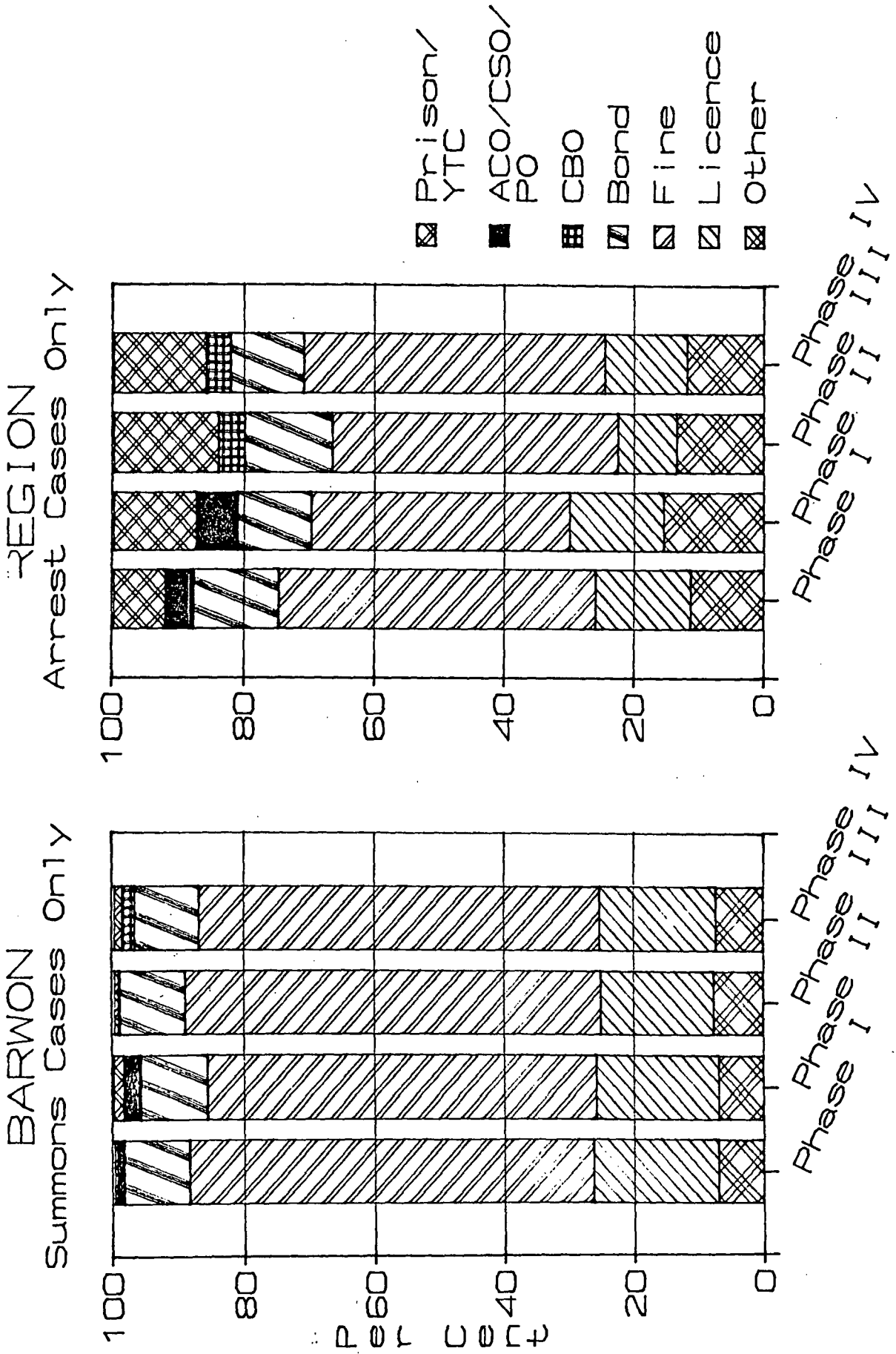


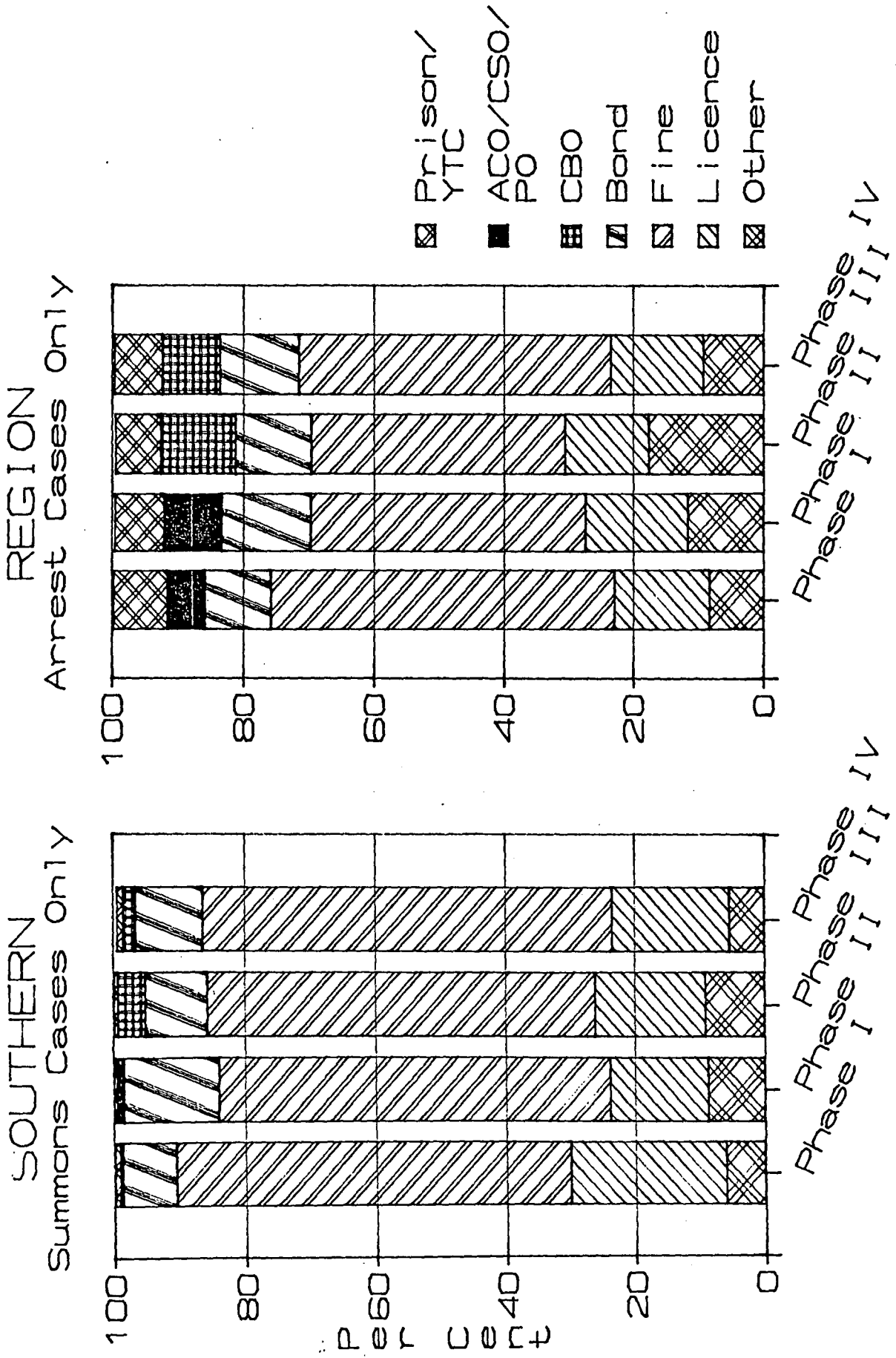
TABLE 21A
SOUTHERN REGION
SENTENCES: SUMMONS CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	16 0.9%	7 0.4%	2 0.6%	19 1.1%	44
SUSPENDED SENTENCE	No. %	1 0.1%	1 0.1%	6 1.9%	6 0.3%	14
ACO	No. %	2 0.1%	4 0.2%	N/A	N/A	6
CSO	No. %	1 0.1%	5 0.3%	N/A	N/A	6
PROBATION	No. %	4 0.2%	14 0.7%	N/A	N/A	18
CBO	No. %	N/A	N/A	13 4.1%	31 1.9%	44
BOND	No. %	142 8.1%	278 14.4%	30 9.5%	170 10.2%	620
FINE	No. %	1060 60.6%	1159 60.2%	189 59.7%	1046 63.0%	3454
REST'N or COMPEN'N	No. %	11 0.6%	10 0.5%	3 0.9%	6 0.3%	30
POOR BOX	No. %	87 5.0%	146 7.6%	20 6.3%	77 4.6%	330
LIC. DISQ OR SUSP	No. %	420 24.0%	292 15.2%	54 17.1%	300 18.1%	1066
OTHER	No. %	5 0.3%	9 0.5%	-	4 0.2%	18
TOTAL DISPOSITIONS	No.	1749	1925	317	1659	5650
		100.0%	100.0%	100.0%	100.0%	

TABLE 2B
SOUTHERN REGION
SENTENCES : ARREST CASES ONLY

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4	TOTAL
PRISON & YTC	No. %	53 8.2%	143 7.6%	21 7.0%	144 7.4%	361
SUSPENDED SENTENCE	No. %	5 0.8%	18 1.0%	14 4.7%	38 2.0%	75
ACO	No. %	5 0.8%	37 2.0%	N/A	N/A	42
CSO	No. %	12 1.9%	23 1.2%	N/A	N/A	35
PROBATION	No. %	20 3.1%	105 5.6%	N/A	N/A	125
CBO	No. %	N/A	N/A	34 11.4%	171 8.8%	205
BOND	No. %	65 10.1%	258 13.7%	35 11.7%	235 12.1%	593
FINE	No. %	341 52.9%	794 42.3%	117 39.1%	930 48.0%	2182
REST'N or COMPEN'N	No. %	19 2.9%	46 2.4%	10 3.3%	47 2.4%	122
POOR BOX	No. %	22 3.4%	105 5.6%	20 6.7%	89 4.6%	236
LIC. DISQ OR SUSP	No. %	95 14.7%	298 15.9%	39 13.0%	278 14.3%	710
OTHER	No. %	8 1.2%	51 2.7%	9 3.0%	6 0.3%	74
TOTAL DISPOSITIONS	No.	645 100.0%	1878 100.0%	299 100.0%	1938 100.0%	4760

FIGURE 12



Probation Orders. Conversely, the use of Community Orders fell slightly. In summons cases there was a substantial increase in the proportion of bonds, and an equivalent decline in the use of licence penalties. The use of bonds also increased in arrest cases, but for these cases there was also a very large decrease in the use of fines, from 52.9% of all penalties down to 42.3%.

Phase 2 vs Phase 4. The use of sentences of imprisonment declined slightly across the study period, although there was an increase in the use of suspended sentences of imprisonment. The proportion of community based sentences was quite steady, at just under 9% of all arrest cases. The most notable change was that the use of fines in arrest cases returned part of the way to their 1984 level.

7.4 Regional Sentence Amount Trends.

Sentencing patterns can also change in terms of the amount or severity of particular types of sentences; the amount of a fine, or the length of a sentence of imprisonment. This section of the report examines changes in the severity of the main sentence types (fines, bonds, licence penalties, terms of imprisonment and community based sentences) across each of the five Regions.

Unfortunately, no direct comparisons can be drawn between the lengths of Attendance Centre and Probation Orders and the more recent Community Based Orders, as both of the older type orders are specified in weeks, months or years, whereas CBO's are specified in terms of hours to be served. A rough equivalence can be established if one uses the estimate of 12 hours of time served in each week on an order.

The index of change used in the following analyses is the median category; that is, when all cases are placed in ascending order, the category which contains the value which subdivides the highest 50% of cases from the lowest 50%. The median is preferred over the average for this analysis as it is less affected by extreme values. As all sentence types tend to have most of their cases at relatively low values (ie. terms of imprisonment of below six months or fines of less than \$250) with a few very high values (ie. terms of over two years or fines of over \$2,000), this is an important consideration.

7.4.1 Westernport Region.

The median period of sentences of imprisonment remained in the category of 1 to 3 months across all four study phases. During Phases 1 and 2, Attendance Centre Orders had a median length of 1 to 3 months and Probation Orders had a median of 1 to 2 years. The Community Service Orders given during Phase 2 had a median length of 101-150 hours, which would have taken approximately 2 to 3 months to serve. The Community Based Orders applied during Phase 4 were considerably shorter, with a median

value in the range 51-100 hours, and would have taken 1 to 2 months to serve. A relatively high proportion of CBO's (30%) were much longer, in the category of 151-300 hours.

The value of fines remained very steady, with a median value of \$101-\$200 across the study period. The median value of bonds increased from \$51-\$100 in Phases 1 and 2, to \$101-\$200 in Phase 3, and then to \$201-\$300 in Phase 4.

7.4.2 Gippsland Region.

As in Westernport Region, the median period of imprisonment remained in the category of 1 to 3 months across all four study phases. On the other hand, there was a regular increase in the longest sentences of imprisonment passed; from 9 months in Phase 1, to 2 years in Phase 2, and to over 3 years in Phase 4. By Phase 4 nearly 20% of all sentences of imprisonment were longer than 12 months.

There were too few community based sentences passed during Phase 1 to give any accurate index of length. The median length of Attendance Centre Orders in Phase 2 was in the range of 3 to 6 months, while Probation Orders had a median length of 2 to 3 years. In Phase 4, the median length of Community Based Orders was in the range 150 to 300 hours, which is roughly equivalent to 3 to 6 months of time served.

There was no change in the value of fines levied across the study; in all Phases the median value was in the range \$101-\$200. On the other hand, the value of bonds increased from a median of \$201-\$300 in Phase 1 to \$301-\$500 in Phases 2 and 4.

7.4.3 Western Region.

The median length of sentences of imprisonment applied by Sunshine Court remained steady, in the range 1 to 3 months, although there was a slight decrease in the use of medium to long (> 12 month) sentences.

Attendance Centre Orders had a median length of 1 to 3 months in Phases 1 and 2, while Probation Orders had a median length of 1 to 2 years. Many of the Court Register entries for Community Based Orders given in Phase 4 did not include a specification of the number of hours to be served, so no direct comparison is possible.

There was no change in the value of fines levied across the study; in Phases 1, 2 and 4 the median value was in the range \$101-\$200. On the other hand, the value of bonds increased from a median of \$101-\$200 in Phase 1 to \$201-\$300 in Phase 4.

7.4.4 Barwon Region.

The median length of sentences of imprisonment remained between 1 and 3 months across all four study Phases, although there was an increase in the proportion of sentences of greater than 12 months from 3% in Phase 1, to 8% in Phases 2 and 4.

Attendance Centre Orders had a median length of 1 to 3 months in Phases 1 and 2, while Probation Orders had a median length of 1 to 2 years. The median length of both Community Service Orders in Phase 2 and Community Based Orders in Phase 4 was 51 to 100 hours, which is equivalent to a term of 1 to 2 months.

The median values of both fines and bonds remained steady across the study, at \$101-\$200 and \$51-\$100 respectively.

7.4.5 Southern Region.

The median length of sentences of imprisonment remained between 1 and 3 months across all four study Phases, although there was an increase in the proportion of sentences of greater than 12 months from 3% in Phase 1, to 9% in Phases 2 and 12% in Phase 4.

Attendance Centre Orders had a median length of 1 to 3 months in Phase 2. The median length of Probation Orders was 2 to 3 years, which was significantly longer than those given in other Regions. The median length of both Community Service Orders in Phase 2 and Community Based Orders in Phase 4 was 51 to 100 hours, which is equivalent to a term of 1 to 2 months. Over 25% of CBO's were over 150 hours, or about 3 months.

The median values of both fines and bonds remained steady across the study at \$101-\$200.

7.5 Sentences for Drug Offences.

The most notable change in the pattern of offences heard at Magistrates' Courts across the course of the study was the increase in the proportion of Drug Offences. In overall terms, the relative frequency of drug offences doubled between 1984 and 1986, from 8% of cases to 17%. In considering sentencing trends, it is appropriate to ask to what extent the observed changes in sentencing can be accounted for by this particular change in offending.

7.5.1 Offence Characteristics.

The general category of "drug offences" includes a variety of specific offence types which may be subdivided according to whether they involve possession, use, growing, manufacturing, trafficking, or importing of drugs. Drug offences may be further subdivided by the type of drug involved; the major categories are narcotics, cannabis, and other drugs. Some drug offences, such as possession of cannabis, are relatively minor offences and

typically attract light penalties. Other drug offences, such as importation of narcotics, are very serious and may attract a lengthy prison sentence. The most serious drug offences are almost always dealt with by the higher courts and do not play any role in this study.

The distribution of specific drug offence types is shown in Table 22. It can be seen that the great majority of drug offences heard before Magistrates' Courts are possession or use offences. There is a strong tendency for these offence types to be complementary; a person charged with using a drug is often also charged with possession, and vice versa. It is also notable that the majority of drug possession and use offences involve cannabis, and are therefore in the least serious category of drug offences.

On the other hand, the study period saw substantial growth in the number and proportion of drug trafficking offences; from 5% to nearly 11% of all drug offences.

Another index of the seriousness of drug offences is the proportion which were initiated by arrest. Table 23 shows the changes in the use of arrest in drug cases¹. It can be seen that in Western and Southern Regions there was an increase in the use of arrest, while in Barwon and Westport, no such trend is evident.

7.5.2 Drug Offence Sentence Types

The range and frequency of sentences passed on drug offences are shown in Table 24. While there was a small increase in the use of imprisonment for these offences, the most significant changes were the increase in the use of community based penalties after 1985, and the decline in the use of fines over the same period. There was some Regional variation from this pattern; most notably in Barwon Region, where only 6 community based sentences were given for drug offences in 1985, and none in any other year.

¹. All cases collected in Gippsland Region and Westport Phase 4 were arrest cases.

TABLE 22
SPECIFIC DRUG OFFENCE TYPES

<u>OFFENCE TYPE</u>	PHASE 1	PHASE 2	PHASE 3	PHASE 4
611 Possess Narcotic	25 8.9%	131 25.5%	17 13.8%	24 2.9%
612 Possess Cannabis	123 43.8%	129 25.1%	26 21.1%	347 42.4%
613 Use Narcotic	15 5.3%	93 18.1%	16 13.0%	24 2.9%
614 Use Cannabis	82 29.2%	58 11.3%	23 18.7%	262 32.0%
621 Traffick Drug	14 5.0%	37 7.2%	15 12.2%	88 10.8%
631 Make/ Grow Drug	16 5.7%	54 10.5%	23 18.7%	52 6.4%
Other drug Offences	6 2.1%	11 2.1%	3 2.4%	21 2.6%
TOTAL OFFENCES	281	513	123	818

TABLE 23
DRUG OFFENCES : PROPORTION OF ARREST CASES BY PHASE

<u>REGION</u>	PHASE 1	PHASE 2	PHASE 3	PHASE 4
Western	62.5%	100.0%	100.0%	85.4%
Southern	68.1%	72.7%	94.6%	81.4%
Barwon	65.2%	67.1%	60.9%	65.8%
Westernport	80.8%	87.7%	80.0%	N/A

TABLE 24
SENTENCES FOR DRUG OFFENCES

<u>SENTENCE TYPE</u>		PHASE 1	PHASE 2	PHASE 3	PHASE 4
PRISON & YTC	No. %	11 3.5%	22 3.6%	6 4.2%	41 4.4%
ACO, CSO & PO	No. %	1 0.3%	24 4.0%	N/A	N/A
CBO	No. %	N/A	N/A	7 4.9%	53 5.7%
BOND	No. %	149 47.7%	273 45.1%	64 45.1%	428 45.7%
FINE	No. %	119 38.1%	172 28.4%	43 30.3%	271 28.9%
POOR BOX	No. %	30 9.6%	87 14.4%	19 13.4%	118 12.6%
OTHER	No. %	2 6.4%	27 4.5%	3 2.1%	26 2.8%
TOTAL DISPOSITIONS	No.	312	605	142	937

CHAPTER 8 : DISCUSSION OF RESULTS & CONCLUSIONS.

8.1 Review of Main Findings

In the introductory chapter of this report the principle concern of the study was stated as being to determine whether the availability of a range of intensive community-based corrections sentences resulted in the diversion to these programs of offenders who would otherwise have gone to prison, or conversely, whether it resulted in netwidening of community correctional sentences to offenders who would otherwise have received a non-correctional punishment such as a fine or a bond.

The study's results have shown that there were indeed a number of important changes in both offending behavior and sentencing patterns that took place between 1984 and 1986. Unfortunately, these changes do not provide any direct indices of diversion or netwidening. On the contrary, the changes in sentencing patterns between 1984 and 1986 were the result of a series of complex interactions between factors operating at all levels of the criminal justice system. Therefore, any assessment of diversion or netwidening requires an appreciation of the total pattern of change within the system.

Many readers who have diligently waded through this report's results may be feeling a little inundated in detail at this point. An appropriate starting point for a discussion of the existence or otherwise of diversion and netwidening might therefore be a brief review of the study's main findings.

The principle methodological problem in this study was to try to disentangle the effects of the factor of specific interest (ie. changes in the range of community corrections sentences) from the effects of a range of other factors which affect sentencing patterns. Therefore, the first part of the study was concerned with describing the nature of, and the changes in a variety of factors which influence the sentencing process.

The basis of sentencing is offending; if offending patterns change, one would expect to see a consequent change in sentencing patterns. There are good reasons to expect changes in overall offending patterns. On the basis of purely demographic considerations, one would expect a period of increasing offence rates during the 1980's. Even without changes in the base population, offence distributions tend to vary over time due to other socio-legal factors. For instance, the growth in the use of the motor car as a form of transport brought with it a concomitant growth in motor car offences. In more recent times, the dramatic rise in drug-related offending appears to be strongly related to changes in the social structure of the community.

An examination of offence trends in Victorian Magistrates' Courts between 1981 and 1985, using statistical data collected and analysed by the Australian Bureau of Statistics, shows the following:

- . an increase in the total number of offences (excluding motor car/traffic offences) heard before Magistrates' Courts,
- . increases in Burglary & Theft and Drug Offences,
- . decreases in Offences Against the Person, Property Damage and Good Order Offences.

Offence data for the period 1984 to 1986 that was collected during this study was substantially in agreement with the ABS trends. There was an overall increase in the number of cases heard at the courts in the study sample over the three years. The number of drug offences increased markedly, and while the total number of property offences showed only a small rise, there was a substantial increase in the proportion of burglary offences. On the other hand, the categories of Offences Against the Person, Property Damage and Good Order Offences showed little change.

Two additional important changes were identified in this study:

- . a large decrease in the proportion of motor car and traffic offences, and
- . a large increase in the proportion of cases which were brought to the court via an arrest.

It would be wrong to conclude from these changes that they result directly from changes in people's offending behavior. On the contrary, these changes can in part be attributed to changes in the criminal justice system. For instance, the drop in the proportion of motor car offences heard before Magistrates' courts largely results from an increase in the use of 'on-the-spot' penalties rather than a sudden outbreak of conformity with the law on Victoria's roads. The increase in the proportion of Arrest cases may be principally due to a change in the way courts are managed, through the introduction of the Mention Court system.

These changes in the structure and operations of the criminal justice system constitute another set of determinants of sentencing patterns. They are particularly important in this study where only a small sample of Victorian courts was studied. At the beginning of this study a number of significant criminal justice system changes were identified, including the appointment of additional higher court judges, changes in the way that cases are presented to the court, and other changes in the courts' managements system.

It seems likely that all the courts in the study sample were affected to some degree by these system changes, but whether they were all affected to the same degree is unknown. Certainly, some

of these system changes were implemented with the object of producing specific changes in court activity; for instance the Mention Court system was introduced to speed up the processing of uncontested cases.

A third important source of sentencing variability is the characteristics of the offenders appearing before the courts. As this study was limited to analysis of the data appearing in court registers, the only offender characteristics that were collected were sex and number of offences (cases) per person. While the latter measure remained remarkably stable both across Regions and across study Phases, the former showed a fall in the total number of women appearing before the courts over the study period.

The sentencing data collected can be considered either in overall terms or as Region-specific data. As noted below, the Region-specific data is much more pertinent to the central issue of the study. Nevertheless, consideration of the overall sentencing data-base reveals a number of significant trends:

- . more serious sentences, such as imprisonment or community based sentences, were used much more frequently in arrest cases than in summons cases, where lesser penalties such as fines and bonds were more common,
- . in the context of the total distribution of sentences, imprisonment and community based sentences were used relatively infrequently. Imprisonment made up about 1% of sentences in summons cases and about 10% of arrest case sentences. Community based sentences constituted between 0.6% and 2% of summons cases and 5% to 8% of arrest cases.
- . the most frequently applied sentences were fines, followed by licence penalties, bonds and conviction and discharge;
- . there was an overall increase in the relative use of imprisonment in summons cases between Phases 1 and 4, but this was balanced by a decrease in its use in arrest cases;
- . there was a large increase in the use of suspended sentences of imprisonment, especially in arrest cases;
- . there was an increased use of all types of community based sentences across the study;
- . there was a small increase in the use of bonds for arrest cases;
- . the use of fines in summons cases remained remarkably steady across the period of the study, while there was a small decrease in arrest cases;

- the use of sentences involving licence cancellation or suspension declined significantly.

The overall trend in sentencing was therefore that of an increase in the use of more severe penalties including community based sentences, mainly at the expense of licence penalties. The decline in the use of licence penalties can be attributed principally to the decline in motor-car offences. Between 1984 and 1986 motor-car offences declined from 54% of all cases to 44%. Over the same period the use of licence penalties declined from 22% of all penalties to 15%.

However, one must be careful in drawing conclusions from this aggregated sentencing data. The presentation of sentencing data in this aggregated form ignores a further important finding of the study; that is, that there was considerable variation between Regions in the number and type of cases presented to the courts, and the profile of sentences passed. The next section reviews these Region-specific trends in the context of other aspects of inter-Region variability.

8.2 Regional Sentencing Trends

Although the sample of courts included in this study were all selected as the major court in their correctional Region, there were important differences between them. For instance, over the course of the study the number of cases heard at Sunshine Court in the Western Region declined by half due to the opening of the new court complex at Broadmeadows. The work-load of Moe Court in Gippsland Region increased by a factor of four over the same period. The other courts all showed small increases in their work-load.

The profile of offences that were heard before the courts also showed considerable variation. The most notable inter-Region differences in offence distributions were:

- Western Region
 - more Good Order Offences (28.6% vs 21.3% overall)
 - fewer Drug Offences (4.9% vs 6.3% overall)
 - fewer Motor Car Offences (42.7% vs 49.3% overall)
- Westernport Region
 - fewer Drug Offences (4.1% vs 6.3% overall)
- Southern Region
 - fewer Good Order Offences (13.0% vs 21.3% overall)
 - more Traffic Offences (54.7% vs 49.3% overall)
- Barwon/Glenelg Region
 - fewer Burglary & Theft Offences (11.2% vs 16.0% overall)

- more Good Order Offences
(24.2% vs 21.3% overall)

The distribution of offences in Gippsland Region cannot fairly be compared with those in other Regions as only data on arrest cases were collected.

The following sections review the changes in sentence distributions across each Region.

8.2.1 Westernport Region.

Phase 1 vs Phase 2.

Between 1984 and 1985 Westernport Region saw a large increase in the use of community corrections sentences, from 1.5% of all cases to 4%, with virtually all of this growth being in arrest cases. This was accompanied (for arrest cases) by a large drop in the use of fines, and smaller reductions in the use of imprisonment and restitution or compensation orders.

The only significant changes in the profile of offences heard before Dandenong Court over this period were increases in Offences Against the Person and Drug Offences, and a small decrease in Burglary & Theft Offences. These changes were also associated with a small increase in the proportion of arrest cases.

The increase in the use of CBC sentences in Westernport Region is hardly surprising, as only Probation Orders were available to Dandenong Court and other courts in this Region before 1985. Given the change in the offence profile, one would have expected to see some increase (albeit relatively small) in the average seriousness of sentences. In fact, the data shows a decrease in the use of imprisonment, implying that some degree of diversion took place. On the other hand, the fall in the use of fines was the most significant change in sentencing, and this would seem to imply a larger degree of netwidening.

Phase 2 vs Phase 4.¹

In 1986, following the introduction of Community Based Orders, there was a further increase in the use of CBC sentences, from 8% to 10% of cases. At the same time, the use of imprisonment increased, returning to near its Phase 1 level. In addition, there was a large increase in the use of suspended sentences of imprisonment. The proportion of fine sentences declined further, and there was also a substantial drop in the use of licence penalties.

Some of these changes can be attributed to changes in the offence profile. For instance, the proportion of Motor Car Offences fell sharply, so the decline in licence penalties is not surprising. Drug Offences increased, as did Burglary & Theft Offences, so the

¹. Phase 2 & 4 comparisons concern arrest cases only.

overall pattern was for an increase in the seriousness of offences.

The changes in sentencing in Phase 4 appear to show further netwidening, from fines to CBC sentences. The increase in the use of imprisonment can be attributed, in part at least, to the increase in the seriousness of offences. Interestingly, there also appears to have been a much larger degree of netwidening resulting from the use of suspended sentences of imprisonment.

8.2.2 Gippsland Region.

Phase 1 vs Phase 2.

The introduction of the complete range of community based sentences in Gippsland Region resulted in a dramatic increase in the frequency with which they were used; in Phase 1 only 3.5% of all sentences were Probation Orders, while in Phase 2 over 20% of all sentences were ACO, CSO or Probation Orders. There was no change in the use of imprisonment, but the proportion of bonds and fines dropped sharply, from a combined 65% in Phase 1 to 43% in Phase 2. The proportion of licence penalties increased by about half.

Changes in sentencing at Moe Court need to be understood in the context of the changing nature of offences heard by the court. Between 1984 and 1985 the total number of cases initiated by arrest tripled, from 217 cases to 636. Moreover, there were a number of significant changes in the type of offences dealt with: the proportion of Burglary & Theft Offences doubled, from 14% to 28% of cases, Drug Offences increased by an even greater amount, from 3% to 7%, Motor Vehicle Offences doubled, from 16% to 32%, and Good Order Offences fell from 58% to 24% of cases.

Thus, many of the observed changes in sentencing reflect the court's need to deal with a much more serious profile of offences. The apparent stability in the use of imprisonment can in fact be interpreted as indicating a significant degree of diversion of many of the additional offenders convicted of relatively serious offences. There can be little doubt that most of this diversion is attributable to the use of community based sentences.

Phase 2 vs Phase 4.

Between 1985 and 1986 there was a substantial increase in the use of sentences of imprisonment at Moe Court, including suspended sentences. The proportion of community based sentences (CBO's) declined to 11.5%, or about half of the Phase 2 figure. Bonds and fines increased part of the way back to their Phase 1 level, while licence penalties declined back to their Phase 1 level.

Again, any consideration of changes in sentencing patterns in Gippsland Region needs to take into account the rapid growth in the number of arrest cases heard. Between 1985 and 1986 the number of cases increased by half, from 636 to 899. However,

unlike the period between 1984 and 1985, there were almost no changes in the profile of offences dealt with by the court.

Therefore, one must conclude that there was a drop in the amount of diversion attributable to community based sentences. It may be that the court did not feel that Community Based Orders were as appropriate for more serious offences as the previously available Attendance Centre Orders and Community Service Orders. Another possible explanation is that, after the enthusiastic acceptance of the newly available community based sentences in 1985, the court felt it appropriate to reconsider their use in regard to more serious offences. Nevertheless, when compared with the sentencing pattern of 1984, there was still probably a significant amount of diversion from imprisonment apparent in 1986.

On the other hand, the fall and then rise in the use of fines and bonds may indicate that at least part of the impact of community based sentences was in the direction of netwidening. Certainly, the change in sentencing patterns between 1985 and 1986 would seem to indicate a mix of both diversionary and netwidening impacts.

8.2.3 Western Region.

The overall trend in the number of cases dealt with in Western Region was the reverse of that in Gippsland, declining from 1397 in Phase 1 down to 631 in Phase 4, with most of the decline occurring between Phases 1 and 2. Much of the drop was in Motor Car Offences, although the proportion of Offences Against the Person and Burglary & Theft Offences also fell. The only categories of offences that increased over the study period were Good Order and Drug Offences, and the increase in the latter category was much smaller than that in any other Region. Overall, there was a clear decrease in the average seriousness of offences presented in Western Region between 1984 and 1986.

Phase 1 vs Phase 2.

Although Sunshine Court passed a relatively high proportion of community based sentences in 1984, the introduction of Community Service Orders in 1985 had little impact on sentencing. Probation Orders remained the most commonly used community based sentence, and the small increase in the use of Community Service Orders was matched by an equivalent drop in the use of Attendance Centre Orders. The most notable changes in sentencing between 1984 and 1985 were those relating to arrest cases; the proportion of sentences of imprisonment decreased, as did licence penalties, while bonds, fines and poor box penalties all increased.

These changes in sentencing are more or less what one would expect in view of the decreasing seriousness of the offences heard, and there is no evidence for either netwidening or diversion.

The very low rate of use of community based sentences during 1984 and 1985 meant that no conclusion can be drawn about the impact of introducing Community Service Orders on the alternative community based sentences.

Phase 2 vs Phase 4.

Compared with the changes in offences between 1984 and 1985, the profile of offences heard at Sunshine Court showed little change between 1985 and 1986. Similarly, there were few significant changes in sentencing patterns. Only about half as many community based sentences were passed in Phase 4 as in Phase 2 (3.2% of cases vs 6.2%). There was also a very small decline in the use of imprisonment, although this was more than compensated for by the application of suspended sentences of imprisonment. The use of licence penalties in summons cases declined slightly, and the proportion of fine sentences increased for both summons and arrest cases.

These changes would seem to indicate the same sort of withdrawal from the use of community based sentences that was evident in Gippsland Region. However, since the alternative sentences used by the court were apparently fines and suspended sentences of imprisonment, it is difficult to determine whether the initial impact of community based sentences was diversionary or netwidening. If one accepts that suspended sentences of imprisonment are being used as an alternative to both imprisonment and Community Based Orders, then these suspended sentences are diverting some offenders but netwidening to others.

8.2.4 Barwon Region

Of all the courts included in this study, Geelong Court in Barwon Region showed the least change in its total case load and the profile of offence types heard there. The number of cases heard at Geelong court increased fairly steadily (7 - 9% per year) over the study period, with most of the additional work-load being due to Drug, Good Order and Offences Against the Person. The proportion of Burglary & Theft Offences declined slightly, as did Motor Car Offences. Geelong Court was also notable in that the overall use of community based sentences was lower than in any other court.

Phase 1 vs Phase 2.

There was a small increase in the use of community based sentences following the introduction of Community Service Orders in 1985, from 2.1% of all cases to 3.9%. Other significant sentencing changes were an increase in imprisonment, and a decrease in the use of fines.

There was little overall change in the offence distribution over this period. Moreover, in at least one offence category where there was some change, Drug Offences, community based sentences were hardly used at all. Therefore, it seems fairly clear that much of the increase in the use of community based sentences was attributable to netwidening from offenders who would have otherwise been fined. As the use of imprisonment increased at the same time as the use of community based sentences, there is little possibility that community based sentences contributed to any diversion from imprisonment.

There was no evidence that the introduction of Community Service Orders in 1985 resulted in any relative reduction in the uses of Attendance Centre Orders.

Phase 2 vs Phase 4.

Between 1985 and 1986 the use of community based sentences at Geelong Court fell, returning to near the level of 1984, and making this court by far the lowest user of these penalties. There was a further increase in the use of sentences of imprisonment and, there was also an increase in the use of suspended sentences of imprisonment. The proportion of fines increased back to 1984 levels, and there was a small decrease in the use of licence penalties.

Again, the only significant changes in offending over this period were in Drug Offences, which increased from 6% to 9% of cases, and a decrease in Motor Car Offences. As no community based sentences were passed on drug offences, these trends reinforce the proposition that community based sentences were the result of netwidening from fines.

8.2.5 Southern Region.

Oakleigh Court was another example of a court which experienced a substantial increase in workload across the course of the study. The profile of offences also changed, with large increases in Burglary & Theft and Drug Offences, and a similar drop in the proportion of Motor Car Offences

Phase 1 vs Phase 2.

Most of the change in the distribution of offences took place between 1984 and 1985. Despite the apparent increase in the seriousness of offences heard, the use of imprisonment declined slightly, while the proportion of community based sentences nearly doubled. Other significant changes in sentencing included a substantial increase in the proportion of bonds, and an equivalent decline in the use of licence penalties. For arrest cases there was also a very large decrease in the use of fines.

These changes would seem to indicate a substantial degree of diversion from imprisonment that is attributable to the use of community based sentences. The drop in the use of fines may indicate netwidening to community based sentences, however it might equally be attributed to the increasing use of bonds.

One feature of the changes in the use of community based sentences was that part of the growth in the use of Attendance Centre Orders was at the expense of Community Service Orders.

Phase 2 vs Phase 4.

Other than a small drop in the proportion of Burglary & Theft Offences, there were few changes in offence types between 1985 and 1986. Similarly, sentencing patterns remained fairly stable: the use of sentences of imprisonment declined slightly, although this

was balanced by an increase in the use of suspended sentences of imprisonment, and the proportion of community based sentences was quite steady. The most notable change was that the use of fines increased part of the way back to their 1984 level.

Given this relative stability, few conclusions can be drawn about the diversionary or netwidening impact of Community Based Orders.

8.3 Conclusions.

The conclusions of this study may be usefully subdivided into those that concern the primary study question, that of whether community based sentences have a diversionary or netwidening impact, and those that concern the design of the study itself.

Probably the conclusion that has the greatest significance for the overall study was that it is inappropriate the attempt to specify a single diversionary or netwidening trend; the variation between courts in the way that they used community based sentences was so great that one might almost have been studying five separate programs. In summary, one can characterize the trends evident in each Region as follows:

- Westernport : Between 1984 and 1985 both netwidening and diversion were apparent, while after 1985 the major trend was that of netwidening from fines.
- Gippsland : Initially there was substantial diversion from imprisonment plus a lesser amount of netwidening, but this was followed by a lessening in the degree of both diversion and netwidening.
- Western : No conclusions could be drawn from sentencing changes over any of the study Phases.
- Barwon : The apparent trend over the whole study period was that of netwidening from fines.
- Southern : A strong diversionary trend was evident between 1984 and 1985, but no conclusions could be drawn during the latter part of the study.

Thus, the study showed a range of trends varying from strong diversion in Southern Region to almost equally strong netwidening in Barwon Region. The question which arises directly from this is why should there be such large differences between courts which are all operating within the same judicial and sentencing frameworks ?

One possibility that was examined by this study was that the availability of the different community based sentencing options before 1985 may have influenced how they were used when the complete range of options became available. The study showed that this factor had little impact; for instance both Westernport and Gippsland Regions had access only to Probation Orders in 1984, but

the changes in their sentencing patterns in 1985 were quite different. Similarly, there were no common features in the trends evident in Geelong Region and Western Region, where Attendance Centre Orders were available before 1985. The one feature that had some generality was that the newly available options appear to have 'diverted' some offenders away from the existing ones.

The principle methodological problem in this study was to try to disentangle the effects of a variety of "extraneous" factors such as changes in offence rates and criminal justice system changes from the effects of the factor of specific interest - changes in the range of community corrections sentences.

One of the assumptions underlying the study design was that there would be a great deal of commonality between the courts in the sample in terms of trends in the number and type of cases handled. At the very least, one might have assumed that there would have been considerable similarity between the three metropolitan courts. In fact the study revealed this assumption to be quite unfounded: there proved to be little similarity between any of the courts. Some courts, such as Moe Court, experienced large increases in both the number of cases heard and the relative seriousness of the offences involved. At the other extreme, Sunshine Court experienced a decline in both work-load and the seriousness of offences.

Therefore, one of the main conclusions of this study was that it is not possible to control for these extraneous factors and obtain unbiased measures of sentencing changes. One has to understand changes in sentencing patterns in the context of the operations of each court.

The study design proved to be too "optimistic" in another respect as well. It had been hoped that data collected in the month immediately following the introduction of Community Based Orders (Phase 3) would give some indication of how this sentencing option was accepted by the courts. Unfortunately, the considerable variation that was apparent between courts, and between study Phases, meant that the Phase 3 data was of little value.

Another result which emerged as a confounding issue was the role of suspended sentences of imprisonment. This sentencing option was apparently introduced in order to divert from imprisonment persons convicted of relatively serious offences but who might be expected not to reoffend if their sentence of imprisonment were suspended. While the study did not pay particular attention to the impact of these sentences, it seems clear that they were quite unsuccessful in reducing or stabilising the use of imprisonment.

If one can draw a conclusion from all of these conclusions, it is that it is extremely difficult to study something as dynamic and ephemeral as diversion and netwidening through the use of relatively static indices of court activity.

CHAPTER 8 : DISCUSSION OF RESULTS & CONCLUSIONS.

8.1 Review of Main Findings

In the introductory chapter of this report the principle concern of the study was stated as being to determine whether the availability of a range of intensive community-based corrections sentences resulted in the diversion to these programs of offenders who would otherwise have gone to prison, or conversely, whether it resulted in netwidening of community correctional sentences to offenders who would otherwise have received a non-correctional punishment such as a fine or a bond.

The study's results have shown that there were indeed a number of important changes in both offending behavior and sentencing patterns that took place between 1984 and 1986. Unfortunately, these changes do not provide any direct indices of diversion or netwidening. On the contrary, the changes in sentencing patterns between 1984 and 1986 were the result of a series of complex interactions between factors operating at all levels of the criminal justice system. Therefore, any assessment of diversion or netwidening requires an appreciation of the total pattern of change within the system.

Many readers who have diligently waded through this report's results may be feeling a little inundated in detail at this point. An appropriate starting point for a discussion of the existence or otherwise of diversion and netwidening might therefore be a brief review of the study's main findings.

The principle methodological problem in this study was to try to disentangle the effects of the factor of specific interest (ie. changes in the range of community corrections sentences) from the effects of a range of other factors which affect sentencing patterns. Therefore, the first part of the study was concerned with describing the nature of, and the changes in a variety of factors which influence the sentencing process.

The basis of sentencing is offending; if offending patterns change, one would expect to see a consequent change in sentencing patterns. There are good reasons to expect changes in overall offending patterns. On the basis of purely demographic considerations, one would expect a period of increasing offence rates during the 1980's. Even without changes in the base population, offence distributions tend to vary over time due to other socio-legal factors. For instance, the growth in the use of the motor car as a form of transport brought with it a concomitant growth in motor car offences. In more recent times, the dramatic rise in drug-related offending appears to be strongly related to changes in the social structure of the community.

An examination of offence trends in Victorian Magistrates' Courts between 1981 and 1985, using statistical data collected and analysed by the Australian Bureau of Statistics, shows the following:

- . an increase in the total number of offences (excluding motor car/traffic offences) heard before Magistrates' Courts,
- . increases in Burglary & Theft and Drug Offences,
- . decreases in Offences Against the Person, Property Damage and Good Order Offences.

Offence data for the period 1984 to 1986 that was collected during this study was substantially in agreement with the ABS trends. There was an overall increase in the number of cases heard at the courts in the study sample over the three years. The number of drug offences increased markedly, and while the total number of property offences showed only a small rise, there was a substantial increase in the proportion of burglary offences. On the other hand, the categories of Offences Against the Person, Property Damage and Good Order Offences showed little change.

Two additional important changes were identified in this study:

- . a large decrease in the proportion of motor car and traffic offences, and
- . a large increase in the proportion of cases which were brought to the court via an arrest.

It would be wrong to conclude from these changes that they result directly from changes in people's offending behavior. On the contrary, these changes can in part be attributed to changes in the criminal justice system. For instance, the drop in the proportion of motor car offences heard before Magistrates' courts largely results from an increase in the use of 'on-the-spot' penalties rather than a sudden outbreak of conformity with the law on Victoria's roads. The increase in the proportion of Arrest cases may be principally due to a change in the way courts are managed, through the introduction of the Mention Court system.

These changes in the structure and operations of the criminal justice system constitute another set of determinants of sentencing patterns. They are particularly important in this study where only a small sample of Victorian courts was studied. At the beginning of this study a number of significant criminal justice system changes were identified, including the appointment of additional higher court judges, changes in the way that cases are presented to the court, and other changes in the courts' managements system.

It seems likely that all the courts in the study sample were affected to some degree by these system changes, but whether they were all affected to the same degree is unknown. Certainly, some

of these system changes were implemented with the object of producing specific changes in court activity; for instance the Mention Court system was introduced to speed up the processing of uncontested cases.

A third important source of sentencing variability is the characteristics of the offenders appearing before the courts. As this study was limited to analysis of the data appearing in court registers, the only offender characteristics that were collected were sex and number of offences (cases) per person. While the latter measure remained remarkably stable both across Regions and across study Phases, the former showed a fall in the total number of women appearing before the courts over the study period.

The sentencing data collected can be considered either in overall terms or as Region-specific data. As noted below, the Region-specific data is much more pertinent to the central issue of the study. Nevertheless, consideration of the overall sentencing data-base reveals a number of significant trends:

- . more serious sentences, such as imprisonment or community based sentences, were used much more frequently in arrest cases than in summons cases, where lesser penalties such as fines and bonds were more common,
- . in the context of the total distribution of sentences, imprisonment and community based sentences were used relatively infrequently. Imprisonment made up about 1% of sentences in summons cases and about 10% of arrest case sentences. Community based sentences constituted between 0.6% and 2% of summons cases and 5% to 8% of arrest cases.
- . the most frequently applied sentences were fines, followed by licence penalties, bonds and conviction and discharge;
- . there was an overall increase in the relative use of imprisonment in summons cases between Phases 1 and 4, but this was balanced by a decrease in its use in arrest cases;
- . there was a large increase in the use of suspended sentences of imprisonment, especially in arrest cases;
- . there was an increased use of all types of community based sentences across the study;
- . there was a small increase in the use of bonds for arrest cases;
- . the use of fines in summons cases remained remarkably steady across the period of the study, while there was a small decrease in arrest cases;

- the use of sentences involving licence cancellation or suspension declined significantly.

The overall trend in sentencing was therefore that of an increase in the use of more severe penalties including community based sentences, mainly at the expense of licence penalties. The decline in the use of licence penalties can be attributed principally to the decline in motor-car offences. Between 1984 and 1986 motor-car offences declined from 54% of all cases to 44%. Over the same period the use of licence penalties declined from 22% of all penalties to 15%.

However, one must be careful in drawing conclusions from this aggregated sentencing data. The presentation of sentencing data in this aggregated form ignores a further important finding of the study; that is, that there was considerable variation between Regions in the number and type of cases presented to the courts, and the profile of sentences passed. The next section reviews these Region-specific trends in the context of other aspects of inter-Region variability.

8.2 Regional Sentencing Trends

Although the sample of courts included in this study were all selected as the major court in their correctional Region, there were important differences between them. For instance, over the course of the study the number of cases heard at Sunshine Court in the Western Region declined by half due to the opening of the new court complex at Broadmeadows. The work-load of Moe Court in Gippsland Region increased by a factor of four over the same period. The other courts all showed small increases in their work-load.

The profile of offences that were heard before the courts also showed considerable variation. The most notable inter-Region differences in offence distributions were:

- Western Region
 - more Good Order Offences (28.6% vs 21.3% overall)
 - fewer Drug Offences (4.9% vs 6.3% overall)
 - fewer Motor Car Offences (42.7% vs 49.3% overall)
- Westernport Region
 - fewer Drug Offences (4.1% vs 6.3% overall)
- Southern Region
 - fewer Good Order Offences (13.0% vs 21.3% overall)
 - more Traffic Offences (54.7% vs 49.3% overall)
- Barwon/Glenelg Region
 - fewer Burglary & Theft Offences (11.2% vs 16.0% overall)

- more Good Order Offences
(24.2% vs 21.3% overall)

The distribution of offences in Gippsland Region cannot fairly be compared with those in other Regions as only data on arrest cases were collected.

The following sections review the changes in sentence distributions across each Region.

8.2.1 Westernport Region.

Phase 1 vs Phase 2.

Between 1984 and 1985 Westernport Region saw a large increase in the use of community corrections sentences, from 1.5% of all cases to 4%, with virtually all of this growth being in arrest cases. This was accompanied (for arrest cases) by a large drop in the use of fines, and smaller reductions in the use of imprisonment and restitution or compensation orders.

The only significant changes in the profile of offences heard before Dandenong Court over this period were increases in Offences Against the Person and Drug Offences, and a small decrease in Burglary & Theft Offences. These changes were also associated with a small increase in the proportion of arrest cases.

The increase in the use of CBC sentences in Westernport Region is hardly surprising, as only Probation Orders were available to Dandenong Court and other courts in this Region before 1985. Given the change in the offence profile, one would have expected to see some increase (albeit relatively small) in the average seriousness of sentences. In fact, the data shows a decrease in the use of imprisonment, implying that some degree of diversion took place. On the other hand, the fall in the use of fines was the most significant change in sentencing, and this would seem to imply a larger degree of netwidening.

Phase 2 vs Phase 4.¹

In 1986, following the introduction of Community Based Orders, there was a further increase in the use of CBC sentences, from 8% to 10% of cases. At the same time, the use of imprisonment increased, returning to near its Phase 1 level. In addition, there was a large increase in the use of suspended sentences of imprisonment. The proportion of fine sentences declined further, and there was also a substantial drop in the use of licence penalties.

Some of these changes can be attributed to changes in the offence profile. For instance, the proportion of Motor Car Offences fell sharply, so the decline in licence penalties is not surprising. Drug Offences increased, as did Burglary & Theft Offences, so the

¹. Phase 2 & 4 comparisons concern arrest cases only.

overall pattern was for an increase in the seriousness of offences.

The changes in sentencing in Phase 4 appear to show further netwidening, from fines to CBC sentences. The increase in the use of imprisonment can be attributed, in part at least, to the increase in the seriousness of offences. Interestingly, there also appears to have been a much larger degree of netwidening resulting from the use of suspended sentences of imprisonment.

8.2.2 Gippsland Region.

Phase 1 vs Phase 2.

The introduction of the complete range of community based sentences in Gippsland Region resulted in a dramatic increase in the frequency with which they were used; in Phase 1 only 3.5% of all sentences were Probation Orders, while in Phase 2 over 20% of all sentences were ACO, CSO or Probation Orders. There was no change in the use of imprisonment, but the proportion of bonds and fines dropped sharply, from a combined 65% in Phase 1 to 43% in Phase 2. The proportion of licence penalties increased by about half.

Changes in sentencing at Moe Court need to be understood in the context of the changing nature of offences heard by the court. Between 1984 and 1985 the total number of cases initiated by arrest tripled, from 217 cases to 636. Moreover, there were a number of significant changes in the type of offences dealt with: the proportion of Burglary & Theft Offences doubled, from 14% to 28% of cases, Drug Offences increased by an even greater amount, from 3% to 7%, Motor Vehicle Offences doubled, from 16% to 32%, and Good Order Offences fell from 58% to 24% of cases.

Thus, many of the observed changes in sentencing reflect the court's need to deal with a much more serious profile of offences. The apparent stability in the use of imprisonment can in fact be interpreted as indicating a significant degree of diversion of many of the additional offenders convicted of relatively serious offences. There can be little doubt that most of this diversion is attributable to the use of community based sentences.

Phase 2 vs Phase 4.

Between 1985 and 1986 there was a substantial increase in the use of sentences of imprisonment at Moe Court, including suspended sentences. The proportion of community based sentences (CBO's) declined to 11.5%, or about half of the Phase 2 figure. Bonds and fines increased part of the way back to their Phase 1 level, while licence penalties declined back to their Phase 1 level.

Again, any consideration of changes in sentencing patterns in Gippsland Region needs to take into account the rapid growth in the number of arrest cases heard. Between 1985 and 1986 the number of cases increased by half, from 636 to 899. However,

unlike the period between 1984 and 1985, there were almost no changes in the profile of offences dealt with by the court.

Therefore, one must conclude that there was a drop in the amount of diversion attributable to community based sentences. It may be that the court did not feel that Community Based Orders were as appropriate for more serious offences as the previously available Attendance Centre Orders and Community Service Orders. Another possible explanation is that, after the enthusiastic acceptance of the newly available community based sentences in 1985, the court felt it appropriate to reconsider their use in regard to more serious offences. Nevertheless, when compared with the sentencing pattern of 1984, there was still probably a significant amount of diversion from imprisonment apparent in 1986.

On the other hand, the fall and then rise in the use of fines and bonds may indicate that at least part of the impact of community based sentences was in the direction of netwidening. Certainly, the change in sentencing patterns between 1985 and 1986 would seem to indicate a mix of both diversionary and netwidening impacts.

8.2.3 Western Region.

The overall trend in the number of cases dealt with in Western Region was the reverse of that in Gippsland, declining from 1397 in Phase 1 down to 631 in Phase 4, with most of the decline occurring between Phases 1 and 2. Much of the drop was in Motor Car Offences, although the proportion of Offences Against the Person and Burglary & Theft Offences also fell. The only categories of offences that increased over the study period were Good Order and Drug Offences, and the increase in the latter category was much smaller than that in any other Region. Overall, there was a clear decrease in the average seriousness of offences presented in Western Region between 1984 and 1986.

Phase 1 vs Phase 2.

Although Sunshine Court passed a relatively high proportion of community based sentences in 1984, the introduction of Community Service Orders in 1985 had little impact on sentencing. Probation Orders remained the most commonly used community based sentence, and the small increase in the use of Community Service Orders was matched by an equivalent drop in the use of Attendance Centre Orders. The most notable changes in sentencing between 1984 and 1985 were those relating to arrest cases; the proportion of sentences of imprisonment decreased, as did licence penalties, while bonds, fines and poor box penalties all increased.

These changes in sentencing are more or less what one would expect in view of the decreasing seriousness of the offences heard, and there is no evidence for either netwidening or diversion.

The very low rate of use of community based sentences during 1984 and 1985 meant that no conclusion can be drawn about the impact of introducing Community Service Orders on the alternative community based sentences.

Phase 2 vs Phase 4.

Compared with the changes in offences between 1984 and 1985, the profile of offences heard at Sunshine Court showed little change between 1985 and 1986. Similarly, there were few significant changes in sentencing patterns. Only about half as many community based sentences were passed in Phase 4 as in Phase 2 (3.2% of cases vs 6.2%). There was also a very small decline in the use of imprisonment, although this was more than compensated for by the application of suspended sentences of imprisonment. The use of licence penalties in summons cases declined slightly, and the proportion of fine sentences increased for both summons and arrest cases.

These changes would seem to indicate the same sort of withdrawal from the use of community based sentences that was evident in Gippsland Region. However, since the alternative sentences used by the court were apparently fines and suspended sentences of imprisonment, it is difficult to determine whether the initial impact of community based sentences was diversionary or netwidening. If one accepts that suspended sentences of imprisonment are being used as an alternative to both imprisonment and Community Based Orders, then these suspended sentences are diverting some offenders but netwidening to others.

8.2.4 Barwon Region

Of all the courts included in this study, Geelong Court in Barwon Region showed the least change in its total case load and the profile of offence types heard there. The number of cases heard at Geelong court increased fairly steadily (7 - 9% per year) over the study period, with most of the additional work-load being due to Drug, Good Order and Offences Against the Person. The proportion of Burglary & Theft Offences declined slightly, as did Motor Car Offences. Geelong Court was also notable in that the overall use of community based sentences was lower than in any other court.

Phase 1 vs Phase 2.

There was a small increase in the use of community based sentences following the introduction of Community Service Orders in 1985, from 2.1% of all cases to 3.9%. Other significant sentencing changes were an increase in imprisonment, and a decrease in the use of fines.

There was little overall change in the offence distribution over this period. Moreover, in at least one offence category where there was some change, Drug Offences, community based sentences were hardly used at all. Therefore, it seems fairly clear that much of the increase in the use of community based sentences was attributable to netwidening from offenders who would have otherwise been fined. As the use of imprisonment increased at the same time as the use of community based sentences, there is little possibility that community based sentences contributed to any diversion from imprisonment.

There was no evidence that the introduction of Community Service Orders in 1985 resulted in any relative reduction in the uses of Attendance Centre Orders.

Phase 2 vs Phase 4.

Between 1985 and 1986 the use of community based sentences at Geelong Court fell, returning to near the level of 1984, and making this court by far the lowest user of these penalties. There was a further increase in the use of sentences of imprisonment and, there was also an increase in the use of suspended sentences of imprisonment. The proportion of fines increased back to 1984 levels, and there was a small decrease in the use of licence penalties.

Again, the only significant changes in offending over this period were in Drug Offences, which increased from 6% to 9% of cases, and a decrease in Motor Car Offences. As no community based sentences were passed on drug offences, these trends reinforce the proposition that community based sentences were the result of netwidening from fines.

8.2.5 Southern Region.

Oakleigh Court was another example of a court which experienced a substantial increase in workload across the course of the study. The profile of offences also changed, with large increases in Burglary & Theft and Drug Offences, and a similar drop in the proportion of Motor Car Offences

Phase 1 vs Phase 2.

Most of the change in the distribution of offences took place between 1984 and 1985. Despite the apparent increase in the seriousness of offences heard, the use of imprisonment declined slightly, while the proportion of community based sentences nearly doubled. Other significant changes in sentencing included a substantial increase in the proportion of bonds, and an equivalent decline in the use of licence penalties. For arrest cases there was also a very large decrease in the use of fines.

These changes would seem to indicate a substantial degree of diversion from imprisonment that is attributable to the use of community based sentences. The drop in the use of fines may indicate netwidening to community based sentences, however it might equally be attributed to the increasing use of bonds.

One feature of the changes in the use of community based sentences was that part of the growth in the use of Attendance Centre Orders was at the expense of Community Service Orders.

Phase 2 vs Phase 4.

Other than a small drop in the proportion of Burglary & Theft Offences, there were few changes in offence types between 1985 and 1986. Similarly, sentencing patterns remained fairly stable: the use of sentences of imprisonment declined slightly, although this

was balanced by an increase in the use of suspended sentences of imprisonment, and the proportion of community based sentences was quite steady. The most notable change was that the use of fines increased part of the way back to their 1984 level.

Given this relative stability, few conclusions can be drawn about the diversionary or netwidening impact of Community Based Orders.

8.3 Conclusions.

The conclusions of this study may be usefully subdivided into those that concern the primary study question, that of whether community based sentences have a diversionary or netwidening impact, and those that concern the design of the study itself.

Probably the conclusion that has the greatest significance for the overall study was that it is inappropriate the attempt to specify a single diversionary or netwidening trend; the variation between courts in the way that they used community based sentences was so great that one might almost have been studying five separate programs. In summary, one can characterize the trends evident in each Region as follows:

- Westernport : Between 1984 and 1985 both netwidening and diversion were apparent, while after 1985 the major trend was that of netwidening from fines.
- Gippsland : Initially there was substantial diversion from imprisonment plus a lesser amount of netwidening, but this was followed by a lessening in the degree of both diversion and netwidening.
- Western : No conclusions could be drawn from sentencing changes over any of the study Phases.
- Barwon : The apparent trend over the whole study period was that of netwidening from fines.
- Southern : A strong diversionary trend was evident between 1984 and 1985, but no conclusions could be drawn during the latter part of the study.

Thus, the study showed a range of trends varying from strong diversion in Southern Region to almost equally strong netwidening in Barwon Region. The question which arises directly from this is why should there be such large differences between courts which are all operating within the same judicial and sentencing frameworks ?

One possibility that was examined by this study was that the availability of the different community based sentencing options before 1985 may have influenced how they were used when the complete range of options became available. The study showed that this factor had little impact; for instance both Westernport and Gippsland Regions had access only to Probation Orders in 1984, but

the changes in their sentencing patterns in 1985 were quite different. Similarly, there were no common features in the trends evident in Geelong Region and Western Region, where Attendance Centre Orders were available before 1985. The one feature that had some generality was that the newly available options appear to have 'diverted' some offenders away from the existing ones.

The principle methodological problem in this study was to try to disentangle the effects of a variety of "extraneous" factors such as changes in offence rates and criminal justice system changes from the effects of the factor of specific interest - changes in the range of community corrections sentences.

One of the assumptions underlying the study design was that there would be a great deal of commonality between the courts in the sample in terms of trends in the number and type of cases handled. At the very least, one might have assumed that there would have been considerable similarity between the three metropolitan courts. In fact the study revealed this assumption to be quite unfounded: there proved to be little similarity between any of the courts. Some courts, such as Moe Court, experienced large increases in both the number of cases heard and the relative seriousness of the offences involved. At the other extreme, Sunshine Court experienced a decline in both work-load and the seriousness of offences.

Therefore, one of the main conclusions of this study was that it is not possible to control for these extraneous factors and obtain unbiased measures of sentencing changes. One has to understand changes in sentencing patterns in the context of the operations of each court.

The study design proved to be too "optimistic" in another respect as well. It had been hoped that data collected in the month immediately following the introduction of Community Based Orders (Phase 3) would give some indication of how this sentencing option was accepted by the courts. Unfortunately, the considerable variation that was apparent between courts, and between study Phases, meant that the Phase 3 data was of little value.

Another result which emerged as a confounding issue was the role of suspended sentences of imprisonment. This sentencing option was apparently introduced in order to divert from imprisonment persons convicted of relatively serious offences but who might be expected not to reoffend if their sentence of imprisonment were suspended. While the study did not pay particular attention to the impact of these sentences, it seems clear that they were quite unsuccessful in reducing or stabilising the use of imprisonment.

If one can draw a conclusion from all of these conclusions, it is that it is extremely difficult to study something as dynamic and ephemeral as diversion and netwidening through the use of relatively static indices of court activity.

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(8) The fact that an offence was taken into account under this section may be proved in the same manner as the conviction or convictions in relation to which it was taken into account may be proved.

PART 3—IMPRISONMENT

Division 1—General

Restriction on imposing sentences of imprisonment.

11. Subject to section 13, a court must not pass a sentence of imprisonment on a person unless the court, after having considered all other available sentences, is satisfied that no other sentence is appropriate in all the circumstances of the case.

No. 9554 s. 13B.

Magistrates' Courts to state and record reasons for imposing sentences of imprisonment.

12. (1) Where a Magistrates' Court passes a sentence of imprisonment on a person, the Magistrates' Court—

No. 9554 s. 13C.

- (a) must state in writing the reasons for its decision; and
- (b) must cause those reasons to be entered in the records of the court.

(2) The failure of a Magistrates' Court to comply with this section does not invalidate any sentence imposed by it but nothing in this sub-section prevents a court on an appeal against sentence from reviewing the appropriateness of a sentence imposed by a Magistrates' Court without complying with this section.

Offences to which sections 11 and 12 do not apply.

13. (1) Sections 11 and 12 do not apply in relation to an offence that is punishable only by imprisonment.

No. 9554 s. 13D.

(2) For the purposes of sub-section (1) an offence is to be regarded as punishable only by imprisonment if the court has power to pass a sentence of imprisonment for the offence but does not have power to impose a fine on a natural person for the offence or has power to impose a fine on a natural person for the offence only as a condition of an order discharging or releasing the person from imprisonment.

Commencement of sentences.

14. (1) Subject to this section and sections 15 and 16, sentences of imprisonment shall commence—

No. 8089 s. 122
(1) (2) (3) (4) (5)
(6) and (7).

- (a) if the offender is in custody at the time the sentence is imposed—the day the sentence is imposed; or
- (b) if the offender is not in custody at the time the sentence is imposed—the day the offender is apprehended in pursuance

No. 6231 s. 47B
(1).

offender be brought before the court by which the order was made.

(10) If under sub-section (9) (b) an offender is brought before the Supreme Court or the County Court and it is proved to the satisfaction of the judge that the offender will not be discharged from custody by due course of law within 3 months after the day on which the community-based order was made, the court may cancel the order and deal with the offender for the offence in respect of which the order was made in any manner in which the court could deal with the offender if it had just convicted the offender of the offence.

(11) A notice in the prescribed form and purporting to be signed by the Director-General or a person authorized by the Director-General to sign such notices is, in any proceedings under sub-section (8), (9) or (10), evidence and, in the absence of evidence to the contrary, conclusive evidence of the facts and matters stated therein unless the offender gives notice in writing to the Director-General a reasonable time in the circumstances before the hearing that the offender requires the person giving the first-mentioned notice to be called as a witness.

(12) A certificate purporting to be signed by the Director-General that a person named therein is authorized by the Director-General to sign notices given for the purposes of sub-section (8), (9) or (10) is admissible in evidence of the authority of that person.

(13) Section 129 of the *Community Welfare Services Act 1970* applies to an order made under sub-section (8) or (9) with respect to a prisoner in the same manner as it applies to an order made under that section.

(14) This Part does not apply to a person who is convicted of an offence punishable by imprisonment and who, on the date of conviction, is a child within the meaning of the *Children's Court Act 1973*.

Conditions of community-based order.

29. (1) A community-based order shall have the following core conditions attached to it:

- (a) That the offender does not commit another offence during the period that the order is in force;
- (b) That the offender reports to the specified community corrections centre within 2 clear working days of the order coming into force;
- (c) That as directed by the order the offender reports to and receives visits from a community corrections officer;
- (d) That the offender notifies an officer of the specified community corrections centre of any change of address or employment within 48 hours of the change;

- (e) That the offender does not leave the State without having first obtained the permission of an officer of the specified community corrections centre;
 - (f) That the offender obeys all lawful instructions and directions of community corrections officers.
- (2) A community-based order shall have attached to it such one or more of the following programme conditions as is specified by the court:
- (a) That the offender attend for educational and other programmes as directed by the Regional Manager for a period of not less than one month or more than one year commencing on the date that the order comes into force but so that—
 - (i) the number of attendances in any one week does not exceed 2;
 - (ii) the total period of attendance in any one week does not exceed 8 hours;
 - (iii) the aggregate period of attendance during the period that the order is in force is not less than 20 hours and not more than 400 hours;
 - (b) That the offender perform unpaid community work as directed by the Regional Manager for not less than 10 or more than 500 hours but so that—
 - (i) the work is performed within one year of the order coming into force;
 - (ii) the total number of hours worked in any one week is not more than 20;
 - (c) That the offender be under the supervision of a community corrections officer;
 - (d) That the offender undergo assessment and treatment for alcohol or drug addiction or submit to medical, psychological or psychiatric assessment and treatment as directed by the Regional Manager;
 - (e) That the offender submit to testing for alcohol or drug use, as directed by the Regional Manager;
 - (f) That the offender reside in premises specified in the order;
 - (g) That the offender does not associate with a person or persons specified in the order;
 - (h) Any other condition that the court considers necessary or desirable.

Community-based orders in respect of several offences.

30. (1) Where a court makes community-based orders in respect of two or more offences, the court may direct that the conditions of any of those orders shall be concurrent with or additional to those of any

APPENDIX 2 : DANCO OFFENCE CODES.

TABLE 22	CODE	MNEMONIC	DESCRIPTION
111	111		MURDER
112	112	ATT. MURDER	ATTEMPTED MURDER
113	113	CON.MURDER	CONSPIRACY TO MURDER
114	114	MANSLAUGHT	MANSLAUGHTER
115	115	CULP.DRIVE	CULPABLE DRIVING CAUSING DEATH
121	121	ASS.GBH	ASSAULT OCC.GBH/MALIC.WOUNDING
122	122	ASS.ABH	ASSAULT OCCASIONING ACTUAL BODILY HARM
124	124	MAL.WOUND	MALICIOUS WOUNDING
125	125	WOUND	UNLAWFUL WOUNDING
126	126	ASS.POLICE	ASSAULT POLICE
127	127	ASS.WEAPON	ASSAULT WITH A WEAPON
128	128	ASS. I. CO.	ASSAULT IN COMPANY
129	129	ASSAULT.OT	OTHER ASAULTS/NON-SEXUAL
131	131	RAPE	RAPE
132	132	SEX.PEN	SEXUAL PENETRATION
133	133	INCEST	INCEST
134	134	INDEC.ASS	INDECENT ASSAULT FEMALE
136	136	INDEC.ASSM	INDECENT ASSAULT ON MALE/BUGGERY
137	137	EXPOSE	WILFUL/INDECENT EXPOSURE
138	138	G. INDEC	GROSS INDECENCY
139	139	SEX.OT	OTHER SEXUAL OFFENCES
191	191	KIDNAP.ABD	KIDNAPPING AND ABDUCTION
192		CH.ABUSE	ABUSE/ILLTREATMENT OF CHILDREN
194	194	UNLAW.IMP	UNLAWFUL IMPRISONMENT
199	199	PERSON.OT	OTHER OFFENCES AGAINST PERSON/THREAT ETC
211	211	A.ROBBERY	ARMED ROBBERY
212	212	ROBBERY	OTHER ROBBERY
213	213	INT.ROB	ASSAULT WITH INTENT TO ROB
221	221	EXTORTION	EXTORTION
222	222	BLACKMAIL	BLACKMAIL
314	314	BURGLARY	BURGLARY
315	315	AGG. BURG	AGGRIVATED BURGLARY
319	319	BREAKING	BREAK AND ENTER
321	321	FRAUD	FRAUD
322	322	MISAPPROP	MISAPPROPRIATION
323	323	F.UTTER	FORGERY AND UTTERING
324	324	F.PRET	FALSE PRETENCES
325	325	DECEPTION	DECEPTION
326	326	IMPOSITION	IMPOSITION
327	327	EMBEZZ	EMBEZZLEMENT
328	328		SECRET COMMISSION
331	331	RECEIVING	RECEIVING
332	332	UNLAW.POSS	UNLAWFUL POSSESS STOLEN GOODS
333	333	HANDLE.SG	HANDLING STOLEN GOODS
391	333 ³⁹¹	THEFT.MV	THEFT MOTOR VEHICLE
392	392	STEALING	STEALING FROM PERSON
393	393	SHOPLIFT	SHOPLIFTING
399	399	THEFT.OT	OTHER THEFT/STEALING
411	411	ARSON	ARSON
412	412	CRIM.DAM	CRIMINAL/PROPERTY DAMAGE
413	413		CAUSE EXPLOSION
421	421	POLLUTION	POLLUTION
422	422	ENVIOR	§ ENVIRONMENTAL/FLORA/FAUNA OFFENCES

TABLE 22	CODE	MNEMONIC	DESCRIPTION
511	511	GOVT.OFFS	BRIBERY/IMPERSONATION/GVT.SECURITY OFFS
521	521	BRCH.MAINT	BREACH OF MAINTENANCE
522	522	CONTEMPT	CONTEMPT OF COURT
523	523	PERJURY	PERJURY/PERVERT COURSE OF JUSTICE
524	524	RESIST	RESIST POLICE/HINDER POLICE
525	525	ESCAPE.P	ESCAPE FROM PRISON
526	526	ESCAPE.OT	OTHER ESCAPES/ATTEMPTS
527	527	B.PAROLE	BREACH OF PAROLE
528	528	B.PROB	BREACH OF PROBATION
529	529	B.PERM	BREACH OF PRE-RELEASE PERMIT
531	531		BREACH BAIL
532	532		BREACH ATT CEN.
533	533		FAIL TO APPEAR
534	534		FORFEIT RECOGNICANCE
535	535		YTC
541	541	DRUNK	OFF.INVOLVING DRUNKNESS
542	542	OFF. BEHAV	OFFENSIVE BEHAVIOUR/INDECENT LANGUAGE
550	551	PROSTITUTE	PROSTITUTION AND RELATED OFFENCES
570	570	WEAPON	POSSESS FIREARMS/OFFENSIVE WEAPONS
591	591	LIQUOR.LIC	LIQUOR/LICENSING OFFENCES
592	592	BETTING	BETTING/GAMING OFFENCES
593	593	OITER	LOITER WITH INTENT
594	594	UNLAW.PREM	UNLAWFUL ON PREMISES/TRESPASS
595	595	RIOT	RIOT/UNLAWFUL ASSEMBLY/AFFRAY
596	596	HERK.IMPS	POSSESSION OF HOUSEBREAKING IMPLEMENTS
597	597	CONSPIRE	CONSPIRACY UNSPECIFIED
611	611	NARCOTICS	POSSESSION OF NARCOTICS
612	612	CANN. MARIJ	POSSESSION OF CANNIBIS/MARIJUANA
613	613		USE NARCOTICS
614	614		USE CANNABIS
618	618		USE OTHER DRUGS
619	619	POSS. DRUGS	POSSESSION OF OTHER DRUGS
621	621	TRAFF. DRUG	DEALING/TRAFFICKING IN DRUGS
622	622	IMP.DRUGS	IMPORT/CONSPIRE DRUGS
631	631	MAKE.DRUGS	MANUFACTURE/GROW/CULTIVATE DRUGS
690	690	DRUG.OT	OTHER DRUG OFFENCES
711	711	EX.05	EXCEED .05BAC
712	712		REFUSE BREATH TEST
713	713	DRIVE .OT	OTHER DRIVING OFFENCES
714	714	U.INFL	DRIVE UNDER INFLUENCE OF OTHER DRUGS
715	715		EXCEED .00
721	721	DANG.DRIVE	DANGEROUS/RECKLESS/NEGLIGENT DRIVING
731	731	UNLIC	UNLICENSED DRIVING
732	732	D.W.DISQ	DRIVING WHILST DISQUALIFIED
733	733	RWTHY	ROADWORTHINESS OFFENCES
750	750	REGO.INS	REGISTRATION/INSURANCE OFFENCES
799	799	TRAFFIC	OTHER MOTOR VEHICLE/TRAFFIC OFFENCES
831	831	TAX	TAXATION OFFENCES
834	834	IMMIG	PROHIBITED IMMIGRANT
880	880	OTHER	OTHER OFFENCES

TABLE 22	CODE	MNEMONIC	DESCRIPTION
910	910	25.A	THREATEN ASSAULT OR INJURY
911	911	25.B	WILFULLY INJURE HIMSELF
912	912	25.C	MAKES/ALTERS/REMOVES ANY MARKS/TATOOS
913	913	25.D	SET ALIGHT ARTICLE
914	914	25.E	ENGAGES IN GAMBLING
915	915	25.F	SMOKES W/O PERMISSION
916	916	25.G	WRITES LETTER W/O PERMISSION
917	917	25.H	POSSESS ARTICLES ETC W/O PERMISSION
918	918	25.I	TRAFFICKING
919	919	25.J	QUARRELLING
920	920	25.K	LEAVE PLACE OF LABOUR/RECREATION
921	921	25.L	MAKES UNNECESSARY NOISE
922	922	25.M	ENTERS ANOTHER CELL W/O PERMISSION
923	923	25.N	MAKES FALSE ALLEGATION
924	924	25.O	GROUNDLESS COMPLAINTS
925	925	25.P	INDECENT/ABUSIVE ACT OR GESTURE
926	926	25.Q	REFUSE/CARELESS WORK
927	927	25.R	DAMAGE OR ATTEMPT DAMAGE ARTICLES
928	928	25.S	FAIL OBEY LAWFUL ORDER
929	929	25.T	ATTEMPTS ANY REGULATION 25A/25S
999	999	UNKNOWN	UNKNOWN/NOT STATED

APPENDICES 3 & 4

NETWIDENING DIVERSION STUDY CODING MANUAL

PHASE PH

Refers to the time periods specified for the data collection

PHASE 1 = JULY - DECEMBER 84

PHASE 2 = JULY - DECEMBER 85

PHASE 3 = JUNE 1ST - JUNE 30TH 86

PHASE 4 = JULY - DECEMBER 86

REGION/COURT - R/C

Region refers to the Office of Corrections Designated Regions.

Court refers to the magistrates courts within these designated OOC regions.

Both are coded numerically and the codes are combined to give a double digit identifying code.

eg. Southern Region / Courts Oakleigh - 1
Sandringham - 2
Mordialloc - 3

∴ Southern Region / Oakleigh Court - 11
Southern Region / Sandringham Court - 12
Southern Region / Mordialloc Court - 13

<u>REGION</u>	<u>COURT 2</u>	<u>REGION</u>	<u>COURT</u>
Southern 1	Oakleigh 1 Sandringham 2 Mordialloc 3	Westernport 2	Frankston 1 Springvale 2 Dandenong 3 Berwick 4
Western 3	Sunshine 1 Moonee Ponds 2 Werribee 3 Melton 4 Williamstown 5 Bacchus Marsh 6		Cranbourne 5 Dromana 6 Mornington 7 Hastings 8 Pakenham 9
Gippsland 4	Moe 1 Morwell 2 Traralgon 3 Bairnsdale 4 Sale 5 Warragul 6 Korumburra 7 Yarram 8 Leongatha 9	Barwon 5	Geelong 1 Warrnambool 2 Portland 3 Colac 4 Hamilton 5 Camperdown 6 Port Fairy 7

MONTH - MTH

Month refers to the individual months within the phases specified

July = 1
August = 2
September = 3
October = 4
November = 5
December = 6
June = 7

PERSON NUMBER PNO

Refers to the numerical consecutive identification of individual offenders as they are listed in the court register. This recording applies only to those cases recognised as relevant to this study. Cases recorded in the registers as adjourned to a later date, adjourned sine die, withdrawn, struck out or entered in error are not recorded or identified.

All applications to the court either by police or members of the public are also ignored.

SEX - SX

Identifies the offender by sex and is ascertained by the christian names. Where uncertainty exists the sex is recorded as unknown. Companies are identified separately in this category.

Female = 1
Male = 2
Unknown = 3
Companies = 4

SUMMONS/ARREST - SA

Refers to the means by which the case was brought to court. This is ascertained either by separate court registers being kept or by a comment next to the name in the same register. Summons indicates a summons was issued whilst information/informant or warrant indicates an arrest occurred.

Summons = 1
Arrest = 2

OFFENCE NUMBER - ON

Each offence or group of identical offences (eg several courts of burglary) for which a disposition(s) was imposed.

DANCO - DC

Refers to the offence as coded by the "Draft Australian National Classification of Offences".

COUNTS - CT

Is the recording of the total number of times the same offence

was committed by the one offender.

As for offence number this total only includes those counts where a conviction occurred and a disposition was imposed.

APPEAL - AP

Refers to the recording and acknowledgement of an appeal being lodged. No record is made of the appeal outcome even if this is known and recorded on this register.

Appeal Lodged = 4

CONCURRENT/COMBINED SENTENCES - CC

Refers to the magistrate's direction about the serving of the penalty imposed. A concurrent sentence is when the magistrate directs that two or more sentences or dispositions be served at the same time. This may apply to prison sentences or community based orders. Eg. an offender may be directed to serve two prison sentences of three months concurrently. This would be recorded as a concurrent sentence of three months.

Concurrent is only recorded where such a direction is actually written in the court register. It is understood dispositions such as fines, good behaviour bonds or poor box penalties are always served concurrently and do not need to be recorded as such.

A combined sentence is when the magistrate imposes a single disposition or set of dispositions for a number of convictions. Eg. an offender may be directed to serve a twelve month sentence at an attendance centre for three separate convictions (burglary, theft and possession of stolen goods) this would be recorded as a combined sentence of twelve months.

Concurrent = 1

Combined = 2

DISPOSITION - DP

Refers to the court outcome. Where the one type of disposition (eg. a prison sentence or fine) is imposed for more than one count of the same offence the disposition is recorded once only. The time or monetary penalties involved are added together and the total then recorded.

Separate codes are recorded for all possible outcomes.

10 - Prison

11 - Y.T.C.

12 - Suspended Sentence

CBC

21 - A.C.O.

22 - C.S.O.

23 - P.O.

24 - Fine conversion to CBO

30 - C.B.O. - Unspecified

31 - C.B.O. - Attendance Specified

- 32 - C.B.O. - Community Work Specified
- 33 - C.B.O. - Supervision of Community Corrections Officer Specified
- 34 - C.B.O. - Assessment and treatment for alcohol or drug addiction of submit to medical, psychological or psychiatric treatment as directed by regional manager specified
- 35 - C.B.O. - Submit to testing for alcohol or drug use as directed by the regional manager specified.
- 36 - C.B.O. - To reside in premises specified
- 37 - C.B.O. - Not to associate with person/s specified
- 38 - C.B.O. - With any other condition specified
- 39 - C.B.O. - With prison sentence

NON OCC

- 50 - A.D.D.P. (section 13)
- 51 - G.B. Bond
- 52 - FINE
- 53 - RESTITUTION
- 54 - COMPENSATION
- 55 - POOR BOX
- 56 - LIC. DISQUALIFIED
- 57 - LIC. SUSPENDED
- 58 - PROB. LIC. CANCELLED
- 59 - PROB. LIC. SUSPENDED
- 60 - CONVICTED AND DISCHARGED
- 61 - COMMITTAL TO A HIGHER COURT
- 70 - ADJOURNMENT PSR
- 71 - ADJOURNMENT ADDP ASSESSMENT
- 72 - COURT ADVICE SERVICE
- 73 - FORFEIT RECOGNIZANCE

MONETARY PENALTY - MP

Refers to the amounts of money involved in the various dispositions. These amounts are recorded as written in the registers minus the last digit. eg. \$500 would be recorded as 50

HOURS - HRS

Is the literal recording of the total number of hours an offender is sentenced to perform in any community based order where such a component is indicated.

YEARS - Y & MONTHS - (MM)

Is the literal recording of the number of years or months involved in any one disposition.

PART OF MONTH - PM

Is the recording of the proportion of one month involved in any one disposition. This is done on a breakdown of 3 day units.

Individual dispositions may involve a combination of years months and part of a month and would be recorded as such. eg. An offender may receive a combined sentence of one year six months and three days. This would be recorded as

Y	M	M	P/M
1	0	6	1

3 DAYS OR LESS = 1

7 DAYS = 2

10 DAYS = 3

14 DAYS = 5

18 DAYS = 6

21 DAYS = 7

25 DAYS = 8

28 DAYS = 9