

EFFECT OF THE FIVE WEEK  
PRISON OFFICERS' STRIKE  
IN NEW SOUTH WALES

IN 1984

A study carried out by

Jennifer David

Lecturer, Faculty of Law,  
University of Sydney

and

Paul Ward

Senior Lecturer and Deputy Director,  
Institute of Criminology,  
University of Sydney

1986

364.65  
09944  
F  
DAV  
2

[C. R. C. Grant; 12/84

## TABLE OF CONTENTS

	Page
Preliminary	
Introduction	1
Local Courts' Statistics	6
Higher Court Statistics - District Court	33
- Supreme Court	44
Prison Statistics	
- Receivals	46
- Disposals	80
Police Statistics - Cell Book	94
- Crime rates	106
Conclusions	115
Appendices	122



PRELIMINARY

We wish to give grateful thanks to the Criminology Research Council which kindly gave us a generous grant of funds for research assistance. As a result we employed two final year law students from the University of Sydney to help collect much of the data. Margaret Jones and Randall Olgers helped collect the Local Courts and prisons data and to them we give grateful appreciation for their patient and enthusiastic encoding of data during the hot summer months.

We received every help and co-operation from the government Departments concerned. We would particularly like to thank the following people who smoothed our paths within their Departments: Chief Superintendent Charles Hodges, Don Porritt, Howard Hamilton, Bill Mathieson, Bill Wheeler, Rubie ~~Bergen~~. It would be impossible to name all the officers in each of the Departments who helped us - so to all of them we give our thanks. They helped us enormously with information and with finding files that always managed to be hidden in the dustiest, most out of the way places.

The Bureau of Crime Statistics and Research also contributed statistics and advice which was invaluable, particularly in the setting up of the study. We would like to personally thank Dr. Sandra Eggar and Julie Stubbs for their help and encouragement.

Rob Brien, Law Librarian, University of New South Wales kindly made available a room with a computer for some of the last weeks of writing up of the report. It helped enormously to hide ourselves away and write. To him also, many thanks.

Lastly, we would like to thank David Biles, Deputy Director of the Australian Institute of Criminology, for his encouragement for this study.

## INTRODUCTION

In 1984 New South Wales had the longest prison officers' strike in its history. The strike lasted for 35 days, from 7 February to 12 March (Bathurst Gaol returned to work on 15 March for reasons peculiar to that gaol). Obviously, the whole criminal justice system had to adapt to cope with such a serious and prolonged interruption to its normal operation.

We decided to undertake a statistical study of the effects of the strike upon the criminal justice system because search revealed that there had been no research done on the effects of such a strike, either here or overseas.

### BRIEF HISTORY OF STRIKE

The strike was the culmination of a long period of industrial unrest in the N.S.W. penal system. There had been 37 strikes during the 15 years prior to the 1984 strike.<sup>1</sup> The strike was occasioned by the Corrective Services Commission (C.S.C.) reclassifying Principal Prison Officers to Assistant Superintendents, thus increasing the ranks of Executive Officers in the gaols. The Commission had also indicated that it would give separate recognition to the Executive Officers from the Prison Officers' Vocational Branch of the Public Service Association (P.O.V.B.). By this act the C.S.C. had established conditions that could dissipate the industrial power of the P.O.V.B. since that association had been able to control conditions in the gaols by its ability to render the gaols unworkable by calling strikes.

The actual incident that started the strike was the refusal of the Executive Officers to obey a P.O.V.B. directive to attend a stop-work meeting at Long Bay Gaol on 7 February, 1984. The P.O.V.B. then voted to strike at all N.S.W. gaols. It is interesting to note that the terms of settlement of the strike did not mention the original cause of the dispute.

During the strike, the Executive Officers from the prisons and the police ran the gaols. The police occupied the towers and the perimeters of the gaols and the Executive Officers ran the rest. As a result of lack of "guard power" under this arrangement, movement of prisoners into and between gaols was kept to an absolute minimum. Prisoners were mainly released from gaols on discharge. Every effort was made to allow prisoners with part-heard trials in the higher courts to attend their trials but there were almost no

---

<sup>1</sup> The very brief history of the strike is drawn mainly from a paper by a then student of the University of New South Wales, Michael Bersten, entitled "Notes on Industrial Disputes in N.S.W. Prisons Since 1970" (Unpublished Research Paper, 1984, University of N.S.W.).

prisoners who could attend Local Court hearings. Their cases were adjourned during the period of the strike. Magistrates went to the Long Bay Prison Complex to hear the cases of remand prisoners. The magistrates heard bail applications and the other matters of remand prisoners. We were informed that a duty solicitor from the Public Solicitors Office accompanied the magistrate to the gaol.

Virtually no visits were allowed for prisoners because, obviously, there were no officers available to supervise visits. Most prisoners were unable to leave the gaols to go to work, to go to study courses or on day leave. In the maximum security gaols certain sections were kept locked and prisoners were kept in their cells for the majority of the duration of the strike. As much as possible prisoners were allowed to choose for themselves whether to be locked up. Some, such as those on protective custody and those who did not want to "face" the police, did so choose. In the minimum security gaols there was little difference in daily routine. The exercise programmes in the maximum security gaols were curtailed because there was not adequate staff available to supervise a large number of prisoners congregated in one place.

The Department of Corrective Services granted almost every prisoner a "special strike remission" of 4 days for every one day spent in custody during the strike. This remission also applied to prisoners who spent time in police cells during the strike. The prisoners who did not benefit automatically from this remission were the life prisoners, the prisoners on remand who were later acquitted or for whom the sentencing judge did not commence their sentence from the original date of their remand and those prisoners for whom the Parole Board did not take the remission into account when deciding whether to release them on parole. This special remission did much to keep the gaols calm during the duration of the strike. It meant that prisoners were serving 5 days off their sentence for every day in gaol during the strike. Therefore, they were prepared to cooperate in running the gaols for the extended period of dislocation and the loss of many of their privileges that occurred during the strike.

As Michael Bersten stated in his unpublished Research Paper which dealt with the 1984 strike amongst others:

In sum, it was the loyalty of prisoners and Executive Officers that broke the P.O.V.B. strike. The jails ran smoothly without the Prison Officers. Thus the impetus of a prison strike, usually from the riots it stimulates, deprivation of normal jail amenities to prisoners, and the general unworkability of the jails, was not forthcoming. The strike as a tool for bargaining was neutralised.<sup>2</sup>

---

<sup>2</sup> Ibid at 44.

Bersten summarised the history of industrial disputes in N.S.W. prisons from 1970 to the 1984 strike as follows:

What is apparent is the transformation of the Prison Service from a cohesion of Prison Officers and Executive, into a divided structure of Executive and regular Prison Officers standing separate from the Administration and Government. Through this division of the Service, dissipating the P.O.V.B. power base, the C.S.C. Administration (now)rules (the gaols). It is not open to attack from the P.O.V.B. whilst the Executive can break P.O.V.B. industrial action.<sup>3</sup>

#### STUDY METHOD

Initially we identified the areas within which the system was capable of adjusting to accommodate this lack of prison facilities as:

1. the police,
2. the Local Courts,
3. the higher courts, and
4. the prisons themselves.

A flow chart of the criminal justice system in New South Wales was prepared to show the areas of possible adjustment. It is Diagram 1 on page 5 infra. The possible areas of adjustment are marked as:

"A" the police may have accepted less reports of crime, may have issued cautions more readily and/or may have granted bail more readily. They may have accommodated some prisoners in police cells.

"B" the magistrates may have granted bail more readily, may have remanded cases rather than have dealt with them or may have altered their sentencing patterns to impose less custodial sentences.

"C" the judges may have adjusted in similar ways to the magistrates.

"D" the prisons may have released more prisoners and would not have received prisoners.

We then set out to collect data in these four areas to gauge the effect of the strike. We received willing and helpful cooperation from the government departments concerned (in the order we collected data), the Local Courts' Administration, the Department of Corrective Services, the Office of the Public Solicitor and the Police Department.

We collected data for the strike period and for a control period in 1983 which was from 8 February to 14 March, 1983. The commencing date was fixed one day later in 1983 to ensure that the same days of the week were chosen for each year as the courts carry different case loads on different

<sup>3</sup> Ibid at 47.

year as the courts carry different case loads on different days of the week. As 1984 was a leap year the concluding date for the control period had to be two days after the corresponding date for the end of the strike. Therefore, the control period will carry the same case load as the strike period. Having thus fixed the control period for the courts, the same period was used for the other three areas.

To gauge the short term readjustment after the strike ended we also collected figures for the two weeks immediately after it ended. We did not collect the figures for the similar period after the control period because the two week period in 1984 was only to allow us to observe whether there was any dramatic change immediately after the strike ended.

We experienced obstacles that we had not anticipated because, although we received every assistance from the Departments concerned, we found we had to personally encode all the data we needed from the Local Courts, the Department of Corrective Services and the Office of the Public Prosecutor as the data we needed was not available on computers at that time. Thankfully, the Police Department had much of the data we needed on computer.

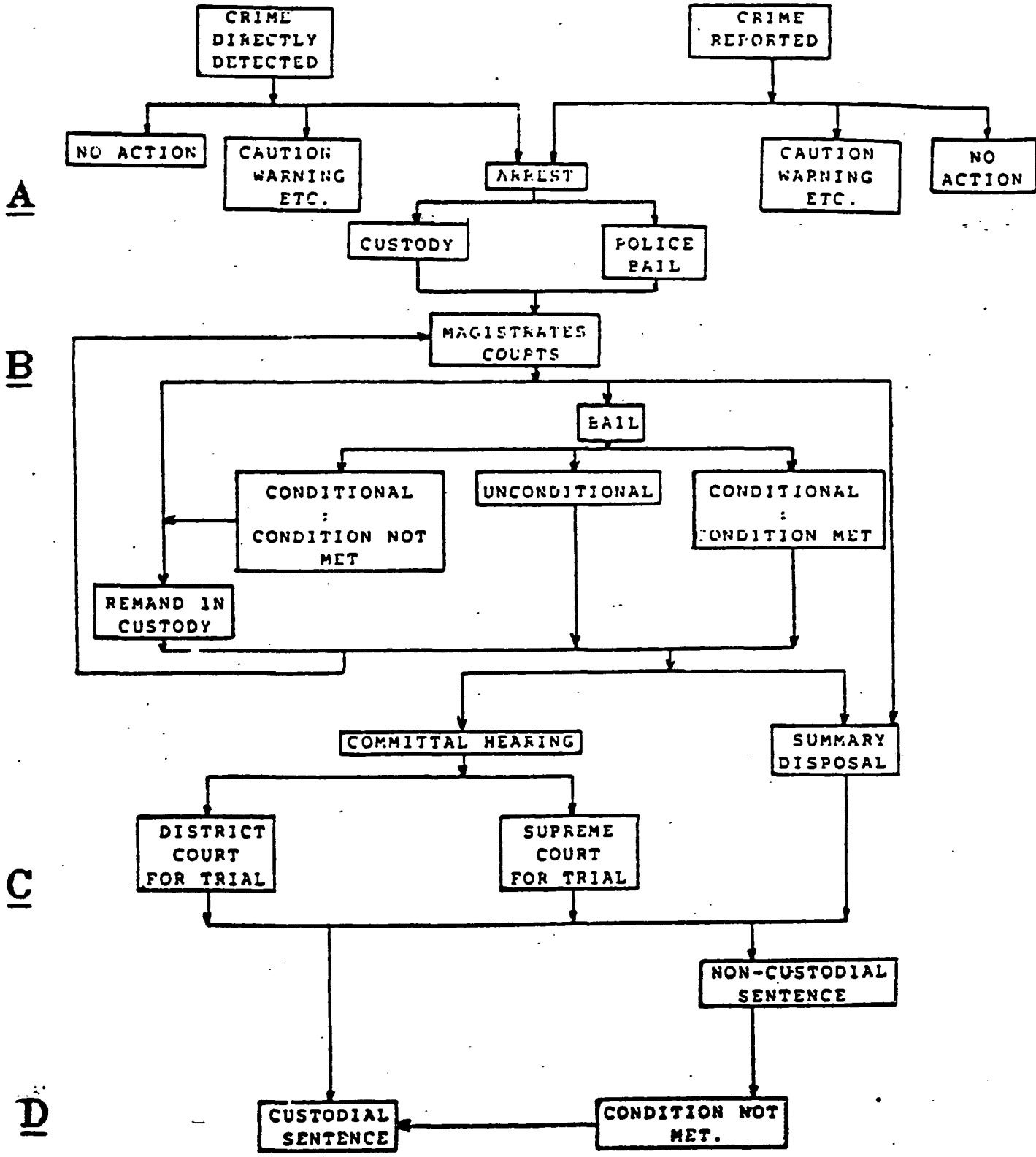
We commenced encoding with the Waverley and Newtown Local Courts. We decided to concentrate on two metropolitan local courts because it was impossible to collect the statistics for all such courts in N.S.W. The Local Courts Administration informed us that those two courts together handled most of the "short custody" cases in the metropolitan area and, therefore, were most likely to show the effects of the strike.

Next the prison statistics were collected. We encoded all the receivals and discharges into and out of all N.S.W. prisons for the three periods. One effect that we couldn't control for was the effect of the new Probation and Parole Act 1983 (N.S.W.) which came into effect during the strike period and was used to help alleviate the situation in the gaols.

Then the District Court statistics were collected for all the Sydney city sittings of this court. These were all collected because the Office of the Public Prosecutor in Sydney had court lists covering the criminal cases heard in all these courts. It was not practicable to collect this material for the country courts.

Lastly, the Police statistics on crimes reported and accepted as genuine, together with clearance figures, were obtained from the Police Department. Data was encoded from the Cell Book of Waverley Police Station to gauge the amount of use of custodial accommodation in police cells during the strike.

Diagram 1  
Flow Chart of Criminal Justice System





CHAPTER 1.THE LOCAL COURTS

We initially anticipated that these courts would have adapted in the following ways:

1. Magistrates may have allowed bail more readily on the basis of the non-availability of prison accommodation. Under s.32(1)(b)(i) of the Bail Act 1978 (N.S.W.) judges are entitled to take into account in their bail decision the availability of accommodation for the offender.

2. Magistrates may also have been affected in the type of sentences they gave and/or they may have adjourned cases likely to result in custodial sentences and released the accused on bail.

We encoded statistics for Waverley and Newtown Local Courts. These courts were selected because it was impossible to collect statistics for all the Local Courts in New South Wales and we were advised that these two courts together handled most of the "short custody" cases in the metropolitan area and, therefore, were the most likely to be affected by the strike.

Statistics were collected for the strike period, the control period and for a two week period after the strike from the Courts' Day Sheets. The encoding categories are in Appendix "A" on page 122 infra.

Difficulties were experienced in collecting the data for cases that were eventually remanded for trial at another court as the papers were forwarded to that other court and so, where there was doubt concerning the information on the Day Sheets, that doubt could not be removed by checking the papers. This meant that the bail information was sometimes unknown and occasionally one of two possible results could not be chosen. Those cases have been listed as "unknown".

It was also sometimes not apparent whether the accused had appeared on a fresh charge or on an existing charge. On the Day Sheets the first alphabetical list of cases was for existing charges, then sometimes there was a list headed "Fresh Charges". However, on other occasions there was another alphabetical list which could or could not have been fresh charges. If the papers had been sent onto another court, it was again not possible to check this. We had hoped to gain reliable information on the fresh charges laid during the strike to ascertain how much the diversion of police resources had altered the charging patterns at the Waverley and Newtown Police Stations. Unfortunately, this information is not as reliable as we would have preferred.

All the criminal cases dealt with by the Waverley and Newtown Local Courts during the periods we were studying were encoded. The statistics were then broken down into two categories of accused: "single appearances" which includes

all accused who appeared before the court a single time during the period - these accused could have appeared before the court prior to the period being studied ("single appearance" does not mean fresh charge); "repeat appearances" includes all accused who had appeared before the court already during the period under study, either for a single appearance or for more than one appearance. Thus within the repeat appearances there may be more than one repeat appearance for an individual offender during the period; that is not possible with the single appearances. Consequently, in many of the following tables for the Waverley Local Court we have used single appearances only, to avoid repetition for each accused.

After editing there were 1608 cases encoded from Waverley Local Court. The bulk of the cases edited from Waverley were from the Long Bay lists. These lists were of cases heard by the magistrate who visited Long Bay Prison Complex on a daily basis during the strike to hear the cases listed for hearing for prisoners who were in that gaol during the strike and who could not, therefore, attend court. The magistrate adjourned the cases of all those accused to whom he did not grant bail. The magistrate came from the Central Local Court but the lists were filed at Waverley Local Court. Unfortunately, some of those lists were so lacking in information that we were unable to identify single appearances from repeat appearances, as there was no identifying birth date, and the information on offences and remand periods was often lacking. As a result many of these records had to be edited out.

We have not separately analysed the Newtown Local Court statistics as we only encoded about 600 cases for that court and we decided that the difficulties involved in editing the data for a sample of that size did not justify including those figures in the report. We considered that these figures would not have significantly contributed to the analysis of the figures for the Waverley Local Court or substantially altered our conclusions.

#### WAVERLEY LOCAL COURT STATISTICS

Tables 1.01 - 1.04 give the gross number of cases encoded from the Day Sheets of Waverley Local Court for the three periods after editing. Tables 1.01 and 1.02 show the figures for the results of single and repeat appearances during the periods including the Long Bay lists. Tables 1.03 and 1.04 show the same figures omitting the Long Bay lists.

Table 1.01

## WAVERLEY COURT STATISTICS

Single Appearance in Period v Result  
(including those held in gaol)

Result	Control Period	Strike Period	After Strike	TOTAL
<b>BAIL</b>				
Uncon. or ctd.	242	282	61	585
Condit. (Released)	118	81	25	224
Condit. (Held)	41	31	10	82
Refused (Held)	86	100	30	216
<b>SUMMARY RESULT</b>				
No Prison Sentence	140	132	25	299
Prison Sentence	23	11	3	37
<b>COMMITTAL</b>				
Bail Continued	22	10	1	33
Bail - Condit. not met	3	1	0	4
Bail Refused	18	3	0	21
<b>RESULT UNCLEAR</b>				
Unknown or Doubtful	20	75*	0	95
<b>NO APPEARANCE</b>				
	12	1	1	14
<b>TOTAL</b>	<b>725</b>	<b>727</b>	<b>156</b>	<b>1608</b>

\* of which 55 were on the Long Bay lists.

Table 1.02

## WAVERLEY COURT STATISTICS

Repeat Appearance in Period v Result  
(including those held in gaol)

Result	Control Period	Strike Period	After Strike	TOTAL
<b>BAIL</b>				
Uncon. or ctd.	68	101	61	230
Condit. (Released)	32	28	5	65
Condit. (Held)	14	28	14	56
Refused (Held)	23	54	22	99
<b>SUMMARY RESULT</b>				
No Prison Sentence	32	33	38	103
Prison Sentence	10	2	3	15
<b>COMMITTAL</b>				
Bail Continued	10	3	1	14
Bail - Condit. not met	2	1	1	4
Bail Refused	8	1	1	10
<b>RESULT UNCLEAR</b>				
Unknown or Doubtful	2	18	3	23
<b>NO APPEARANCE</b>				
	3	0	0	3
<b>TOTAL</b>	<b>204</b>	<b>269</b>	<b>149</b>	<b>622</b>

Table 1.03

## WAVERLEY COURT STATISTICS

Single Appearance in Period v Result  
(omitting those held in gaol)

Result	Control Period	Strike Period	After Strike	TOTAL
<b>BAIL</b>				
Uncon. or ctd.	241	281	61	583
Condit. (Released)	118	74	25	217
Condit. (Held)	41	24	10	75
Refused (Held)	86	40	30	156
<b>SUMMARY RESULT</b>				
No Prison Sentence	140	132	25	297
Prison Sentence	23	11	3	37
<b>COMMITTAL</b>				
Bail Continued	22	10	1	33
Bail - Condit. not met	3	1	0	4
Bail Refused	18	3	0	21
<b>RESULT UNCLEAR</b>				
Unknown or Doubtful	13	8	0	21
<b>NO APPEARANCE</b>				
	12	1	1	14
<b>TOTAL</b>	<b>717</b>	<b>585</b>	<b>156</b>	<b>1458</b>

Table 1.04

## WAVERLEY COURT STATISTICS

Repeat Appearance in Period v Result  
(omitting those held in gaol)

Result	Control Period	Strike Period	After Strike	TOTAL
<b>BAIL</b>				
Uncon. or ctd.	68	101	61	230
Condit. (Released)	32	26	5	63
Condit. (Held)	14	20	14	48
Refused (Held)	23	29	22	74
<b>SUMMARY RESULT</b>				
No Prison Sentence	32	33	38	103
Prison Sentence	10	2	3	15
<b>COMMITTAL</b>				
Bail Continued	10	3	1	14
Bail - Condit. not met	2	1	1	4
Bail Refused	8	1	1	10
<b>RESULT UNCLEAR</b>				
Unknown or Doubtful	2	2	3	7
<b>NO APPEARANCE</b>				
	3	0	0	3
<b>TOTAL</b>	<b>204</b>	<b>218</b>	<b>149</b>	<b>571</b>

## GROSS NUMBER OF CASES

Including the Long Bay lists, there were a total of 2230 cases encoded for the three periods: 1608 single and 622 repeat appearances.

Table 1.05

GROSS NUMBER OF CASES  
(including Long Bay lists)

	1983	1984	After strike	Total
Single appearances	725	727	156	1608
Repeat "	204	269	149	622
Totals	929	996	305	2230

When the figures include the Long Bay lists, there was an increase of 67 cases dealt with by Waverley Local Court in the strike period compared with the control period. This was not expected as, with less police personnel due to police diversion to prison guard duty and with less custodial accommodation available, we had assumed the work load of Waverley would decline during the period.

However, when the Long Bay lists are removed a different picture emerges:

Table 1.06

GROSS NUMBER OF CASES  
(omitting Long Bay lists)

	1983	1984	After strike	Total
Single appearances	717	585	156	1458
Repeat "	204	218	149	571
Totals	921	803	305	2029

There was a significant decrease of 118 cases in the gross number of cases handled by Waverley. This decrease occurred in single appearances, there being 132 fewer in the strike period than in the control period. This was an expected result, given the effects of the strike on police personnel and on custodial accommodation. The repeat appearances increased by 14 after removal of the Long Bay lists. This could be partly explained by the increase in remands observed during the strike.\*

There were 51 repeat appearances in the Long Bay lists, a high proportion of which can be explained by the fact that often during the strike prisoners' cases were remanded for 7 days by the visiting magistrate. If we had been able to include all the cases on the Long Bay lists, the gross

\* See infra at 29-30.

number of repeat appearances during the strike would have been much higher.

#### CASES COMPLETED DURING PERIODS

From Tables 1.01 and 1.02 it can be seen that there were 268 cases dealt with by Waverley Local Court in the control period which resulted in the final disposition of the case either by committal for trial (63 cases : 43 single appearances and 20 repeat) or by summary disposition (205 cases: 163 single appearances and 42 repeat). When we checked our figures against figures made available by the Bureau of Crime Statistics and Research we ascertained that they had only 173 "completed cases"<sup>5</sup> for Waverley Local Court during the control period: 119 "general offences", 37 drug offences and 17 drink driving offences. Further checking with the Bureau established that the "extra" 32 cases we had, represented some of the lesser offences, particularly traffic offences, for which the Bureau does not collect data.

During the strike period there were 197 cases dealt with by the Court which resulted in the final disposition of the case either by committal for trial (19 cases: 14 single appearances and 5 repeat) or by summary disposition (178 cases: 143 single appearances and 35 repeat). There was a similar discrepancy between our figures and the Bureau's for the strike period but, as we did not have the Bureau's final figures for that period, the extent of the discrepancy cannot be indicated.

There was a drop of 71 in the cases finally disposed of by the court during the strike in comparison with the control period: 268 in the control period and 197 in the strike.

#### RESULT OF CASES DISPOSED OF SUMMARILY

Table 1.07

#### RESULT OF SUMMARY CASES

	Control		Strike	
	Single	Repeat	Single	Repeat
Non-custodial sentence	140	32	132	33
Custodial sentence	23	10	11	2
Total	163	42	143	35

Omitting the Long Bay lists, Table 1.03 shows the results for single appearances during the strike, whilst Table 1.04 shows the results for repeat appearances. For single and repeat appearances during the period there were 205 cases

<sup>5</sup> That is, cases dealt with summarily and finally disposed of, in the sense there was nothing further for the court to do - either sentence had been imposed, the accused had been acquitted or the case had been withdrawn.



disposed of summarily during the control period and 178 during the strike. Thus there was no substantial difference in gross numbers between the two periods.

The above Table 1.07 shows that there was a significant drop in the number of accused receiving prison sentences in cases dealt with summarily during the strike period. There were 33 such cases in the control period (23 single and 10 repeat appearances) and 13 in the strike (11 single and 2 repeat appearances). This drop is consistent with expectations of the effect of the strike. Those accused remanded in gaol prior to the strike were unable to attend court during the strike and their cases were adjourned. Assuming that accused who had committed more serious offences were those remanded to gaol, the accused most likely to receive custodial sentences were those whose cases could not be heard. (Apparently, those who did receive custodial sentences were kept in police cells during the period of the strike.)

However, there was no corresponding increase in the number of accused who received non-custodial sentences in summary proceedings. For non-custodial sentences the figures are similar for the two periods. There were 172 non-custodial sentences in the control period (140 single appearances and 32 repeat) and 165 in the strike (132 single appearances and 33 repeat).

It appears, therefore, accused were "looped"<sup>6</sup> within the system rather than disposed of finally during the period of the strike. This also follows from the increase in remands referred to in Tables 1.26 and 1.27 on pages 28 and 29 infra.

In the after strike period there were 63 accused who received non-custodial sentences in cases disposed of summarily (25 single appearances and 38 repeat) and 6 who received prison sentences. So there was no dramatic increase in accused who received custodial sentences in summary cases directly after the strike ended. The "looping" effect must have been continued further than the 2 week after strike period. Check with the Local Courts Administration established that it was months before the delays in hearing of summary cases caused by the strike were eliminated.

## COMMITTALS

Table 1.08

### COMMITTALS

	Control	Strike
Single appearance	43	14
Repeat "	20	4
Total	63	18

<sup>6</sup> See "B" on Diagram 1 on page 5 supra.

From Tables 1.03 and 1.04 it can also be seen that there was a significantly lesser number of accused committed for trial in the strike compared to the control period, as is shown by Table 1.08 also.

The lesser number of accused committed for trial was expected and could be explained by the fact that accused who were in gaol during the strike could not attend committal hearings during that period, so there would be a backlog at the end of the strike. That backlog was not eliminated immediately after the strike ended. Tables 1.03 and 1.04 show there were only 4 committals in the two-week period immediately after the strike in both single and repeat appearances. Interviews with officers from The Office of the Public Prosecutor and from the Local Courts Administration established that it took months for the backlog to be eliminated. The Long Bay lists did not affect these figures as no accused were committed for trial by the magistrates who sat at Long Bay during the strike.

#### OLD CHARGES

For single appearances on old charges (in the sense of not fresh or new charges laid against the accused during the periods under study) 349 cases were dealt with during the strike and 442 in the control period. The decrease in numbers was apparently due to the fact that magistrates sat in Long Bay Gaol and dealt with 140 cases of old charges (and 2 of new charges). If the 140 Long Bay old charges are added to the old charges heard during the strike period, then the numbers reach closer to the control period. There were also 8 cases in 1983 where the accused did not appear because he or she was in custody, apparently on another charge. So the final figures for the two years are:

Table 1.09

#### OLD CHARGES Single Appearance During Period

	Control	Strike
In Court	442	349
In Long Bay	8	140*
TOTAL	450	489

[\* There were more cases heard at Long Bay Gaol but (as stated on page 7) some of them, were edited out because of lack of data on the sheets kept to record the hearings. As these cases were mainly in the later part of the strike, they should have been composed mainly of repeat appearances and so not have affected the above figures. Also, as the cases normally would have been spread throughout the metropolitan area, it may be that the cases edited out equate with the cases that would normally have been heard in other courts.]

**OLD CHARGES AND DISPOSITION BY THE COURT**

For single appearances on old charges during the period (not including cases heard in Long Bay), there was no substantial difference in the way the court disposed of these, either to bail or into custody, between the two periods as is shown by the following table:

Table 1.10

**OLD CHARGES - DISPOSITION**  
Single Appearance During Period

	Control Number (%)	Strike Number (%)	TOTAL
Released on bail	320 (72.4%)	271 (77.65%)	591
Remanded in custody	122 (27.6%)	78 (22.35%)	200
<b>TOTAL</b>	<b>442</b>	<b>349</b>	<b>791</b>

Chi Square = 2.58 with 1 degree of freedom (not significant)

Less accused were remanded in custody (22.35% compared with 27.6% in the control period). Bail was used more frequently (77.65% compared with 72.4% in the control period). The increase of 5.25% in the use of bail exactly mirrored the 5.25% decrease in the remands to custody, leading to the obvious conclusion that these differences were due to the non-availability of prison accommodation because of the strike.

**NEW CHARGES**

For single appearances there were a total of 246 new charges during the control period and 231 during the strike. We anticipated that there might have been a marked decrease in police activities during the strike due to the diversion of police to guard the gaols. However, this supposition was not borne out by this data.

**NEW CHARGES AND DISPOSITION BY POLICE**

While there was not a great deal of difference in the numbers of new charges in the two periods, there was a substantial difference in the way in which these accused were dealt with as will appear from the table below:

Table 1.11

## NEW CHARGES

PERIOD	Control Number (%)	Strike Number (%)	TOTAL
Released on bail by police	97 (39.43%)	153 (66.23%)	250
Taken to Court in custody of police	149 (60.57%)	78 (33.77%)	227
TOTALS	246	231	477

Chi Square = 33.25 with 1 deg. of freedom,  $P < .001$

It would appear that the increased proportion of people being released on bail by the police (66.23% in the strike compared with 39.43% in the control period) was due to increased crowding of police cells.<sup>7</sup> Police could not keep many accused in the cells overnight at that time, because accused who were committed for trial without bail, who were remanded to custody or who were sentenced, all had to be kept in police cells pending the re-opening of the gaols. There was little room for overnight custody at that time.

## APPEARANCE FROM BAIL

Although there was a marked difference in the proportion of people released by the police after receiving a new charge in the strike compared with the control period there was no significant difference in the proportion of persons who did not appear to face the charges, for either old or new charges:

Table 1.12

## APPEARANCE FROM BAIL

	Old Charges		New Charges	
	Control	Strike	Control	Strike
No appearance	93	64	16	18
Appearance	227	207	81	135
TOTAL	320	271	97	153

Chi-Square = 1.961      Chi-Square = 0.764  
Neither Chi-Square value is significant.

There was a smaller proportion of persons not appearing to face old charges in the strike but once again this was not

<sup>7</sup> See pages 91-97 infra for data on receivals into the Waverley Police Station cells during the strike.

sufficient to reach significance. This indicates that the police could release a greater number of accused on bail without increasing the proportion of people failing to appear to face the charge. There was a decrease in the number of crimes reported in the Waverley Police Station area,<sup>9</sup> so the increased use of police bail did not result in an increased crime rate.

The increased use of police bail did not result in any appreciable increase in non-appearances, even when checked against the offences with which the accused were charged. The following are the offences with which the accused who did not appear were charged together with the numbers of accused who did not appear:

Table 1.13

OFFENCES OF NON-APPEARERS ON NEW CHARGES

	Control	Strike
Assault	1	0
Fraud	1	1
Break enter steal	1	2
Larceny - motor vehicle	0	2
Larceny	6	5
Malicious injury	0	1
Receiving	1	0
Driving without licence	0	2
Driving under influence	1	0
Dangerous driving	1	0
Contempt	1	0
Use possession drugs	2	3
Serious alarm affront	1	0
Unlawful possession of firearm	0	2
TOTALS	16	18

This further adds to the argument that the police may release more people on bail without increasing the proportion of people who do not appear, regardless of the type of offence they are charged with. Of course, other factors such as possible interference with witnesses may influence police not to grant bail in individual cases.

**BAIL DECISIONS**

From Table 1.01 the figures for bail refused by the court on single appearances in the strike showed a substantial increase which was totally unexpected. There were 86 cases of bail refused by the magistrate in the control period and 100 in the strike! We had expected a decline in the strike as obviously with gaol not being available we expected magistrates to grant bail more readily. In fact, some magistrates when interviewed by us, had stated that they did grant bail more readily as they were entitled, under

<sup>9</sup> See infra, p.109.

s.32(1)(b)(i) of the Bail Act 1978 (N.S.W.) to take into account the availability of accommodation for custody when deciding bail applications. However, Table 1.03 shows that 60 of the bail refused cases were for accused who were in prison at Long Bay. Normally, these cases would have been spread throughout the metropolitan area, not concentrated at Waverley though some of them would have been heard at Waverley. So, subtracting those 60 cases from the strike figure resulted in a total of 40 for Waverley in the strike, the expected lesser number and a significant drop of almost 50 percent. The drop would have been less than that, as some of the Long Bay list cases would have been heard at Waverley.

Therefore, ignoring the 60 cases of bail refused where the magistrate sat in Long Bay, bail was apparently refused less readily in the strike than in the control period and magistrates made more bail decisions that resulted in the accused not being remanded in custody. This is shown by the following Table 1.14 where the two sets of figures that show bail decisions resulting in release of the accused are the "bail cont'ed or dispensed with" and the "condit. bail-released" figures:

Table 1.14

BAIL DECISIONS  
(Single appearance during period)<sup>9</sup>

	Control Charge		Strike Charge	
	Old	New	Old	New
Bail cont'ed or dispensed with	170	67	156	124
Condit. bail - released	47	61	34	39
- held	23	17	18	6
Bail refused	37	45	22	17
Total	277	190	230	186

From the above table, it can be seen that the major difference in the granting of bail resulting in the accused's release occurred in the new charges. There were 35 more cases of new charges that resulted in bail decisions where the accused were released in the strike compared to the control period (128 in 1983: 163 in 1984). As stated on page 16 supra, there was not a significant difference in the number of new charges between the two periods, so the increase cannot be explained that way. In the old charges the number of cases where bail did in fact result in release fell by 37 (217 in the control period: 180 in the strike).

<sup>9</sup> The totals in this Table do not equate with the number of cases of bail decisions in Table 1.03, page 9 as there were a number of cases in which it was impossible to ascertain whether the accused was subject to an old or new charge.

This result was to be expected, given the lack of custodial accommodation in the strike. Magistrates were obviously more lenient in granting bail during the strike, as were the police.

When the magistrates' decision on bail is compared with that of the police, it appears that the magistrate is more likely to grant bail to an accused whom the police have released on bail and to refuse bail to those whom the police have held in custody:

Table 1.15

MAGISTRATE AND POLICE BAIL DECISIONS COMPARED  
Single appearance during period

Magistrates' Decision	Police Decision			
	Control		Strike	
	Release	Custody	Release	Custody
Bail cont'd/ dispensed	55	12	111	13
Bail condit. - met	7	54	7	32
- held	0	17	0	6
Bail refused	2*	43	0	17

(\* Not truly bail refused as the accused did not appear and a warrant was ordered to be issued.)

Therefore, in the strike the magistrates had apparently changed the police bail decision in 45 cases and released the accused conditionally or unconditionally. All accused who were released by the police had their bail continued by the magistrate, although in 7 of those cases the magistrate imposed conditions on the bail that the accused could meet. The magistrate agreed with the police custody decisions in 17 cases and again remanded the accused in custody. In the control period there was a larger number of cases where the magistrate released an accused appearing from custody. This may have been due to overnight accommodation being more readily available in the police cells in that period. However, the overall effect was that in the strike period only 23 accused were held compared with 60 in the control period.

#### OFFENCE CHARGED

For single appearances, there were no substantial differences in the types of principal offences with which accused were charged during the strike and the control periods, as appears from the following table:

Table 1.16

OFFENCES CHARGED  
( Old and New Charges )

OFFENCE	Control	Strike	TOTALS
Larceny	155	163	318
Use/possession of drugs	91	72	163
Break, enter, steal	57	54	111
Assault	68	48	116
Driving under influence	41	61	102
Robbery	42	32	74
Unlawful possession of property	34	39	73
Fraud	34	25	59
Selling/importing drugs	19	26	45
Other	176	65	241
Total	717	585	1302

The Bureau of Crime Statistics and Research in their latest published report on N.S.W. court statistics, Court Statistics 1983, also show larceny as the most frequently charged offence (27.7% of total offences excluding drug and drink driving offences), then offences against the person (15.6%), fraud (5.5%), unlawful possession of property (5%) and then break, enter and steal (3.5%).<sup>10</sup> Our figures placed break, enter and steal as 21.62% of the total offences heard at Waverley. This may be a local variation in the Waverley area. The Bureau's figures were for all N.S.W. Local Courts.

The Bureau analysed drug and drink driving offences separately. It stated <sup>11</sup> that in every year between 1978 and 1983 about half of all proven drug offences were for simple possession. Drug use offences declined from 22.7% of all drug offences in 1978 to 15.2% in 1983. Our figures show a preponderance of use and possession charges over selling and importing charges. At Waverley there were less charges of use/possession of cannabis (77 total) than for other "hard" drugs (86). The difference represented a lesser number of charges for use/possession of cannabis during the strike period as the following shows:

Table 1.17

CHARGES OF USE/POSSESSION

	1983 Number	(%)	Strike Number	(%)
Cannabis	50	(54.95%)	27	(37.5%)
Other drugs	41	(45.05%)	45	(62.5%)
Total	91		72	

<sup>10</sup> Court Statistics 1983, (N.S.W. Government Printer, 1985) at 10.

<sup>11</sup> Ibid at 34.



This drop may represent a lessening of police activity due to the effects of the strike. It may, however, have been a random fluctuation. The numbers are small to draw any firm conclusion. However, the police statistics do show a drop in the number of such cases reported and accepted by police as genuine in the strike period. The results of the above table are consistent with this.

#### **FEMALE AND MALE ACCUSED**

There were considerably fewer female accused with single appearances in the control period than in the strike: 104 in the strike and 61 in the control period. There was basically no change in the number of male accused with single appearances in the two periods: 623 in the strike and 664 in the control period.

#### **FEMALE ACCUSED**

The majority of female accused appeared from bail: 64 in the strike (61.54%) and 31 in the control period (50.82%). Those women who appeared from custody were very few in both periods: 20 in the strike and 18 in the control period. The expected drop in female accused appearing from custody in the strike did eventuate as there were 19.23% of female accused who appeared from custody compared with 29.51% in the control period. However, numerically there was virtually no difference between the periods.

#### **MOST FREQUENTLY CHARGED OFFENCES FOR FEMALE ACCUSED**

The proportion of most frequently charged offences for female accused was as close to identical in the two periods as is possible. The two most frequent categories made up almost 55% of the offences charged in each period (54.1% in the control period and 55.77% in the strike). The offences were larceny and drug use. The Bureau of Crime Statistics and Research <sup>12</sup> also reported larceny as the most common offence for female accused, accounting for 57.8% of female accused who were found guilty in N.S.W. Local Courts. Our figures were not confined to cases that resulted in findings of guilt, which could account for our lesser percentage of larceny offences for female accused (36.07% in the control period and 37.5% in the strike). Our figures for the most frequently charged offences are:

<sup>12</sup> Supra footnote 10 at 21.

Table 1.18

**MOST FREQUENTLY CHARGED OFFENCES  
FEMALE ACCUSED**

Control	Larceny	22
	Drug use	11
	Other	28
	TOTAL	61
Strike	Larceny	39
	Drug use	19
	Other	46
	TOTAL	104

**MALE ACCUSED**

There was very little change for male accused with single appearances from bail in the two periods, though there were fewer male accused proportionately who did so: 278 in the strike (44.62%) and 277 in the control period (41.72%). However, for male accused who had single appearances from custody there was a dramatic drop in the strike: 134 in the strike (21.51%) and 257 in the control period (38.7%). The number of such males nearly halved. This was partly because of the magistrate who sat in Long Bay Gaol for 142 cases in the strike. If those 142 cases are added to the 134 who appeared from custody, a total of 276 accused were in custody in the strike (44.3%) which is closer to the 257 in the control period, though a bigger percentage (5.6% more). Again, we had expected a drop in the number of accused who were in custody during the strike period. "Appearing from custody" includes those accused just arrested who appeared and who were immediately granted bail by the magistrate. All those accused who did appear from custody during the strike appeared from police custody as, obviously, no (or very few) prisoners were able to do so.

**MOST FREQUENTLY CHARGED OFFENCES FOR MALE ACCUSED**

A similar picture appears for male accused. The most frequently charged offences are similar, though males were also charged with break, enter and steal. The figures are:

Table 1.19

MOST FREQUENTLY CHARGED OFFENCES  
(Single appearance in period)  
MALE ACCUSED

Control	Larceny	133
	Drug use	80
	Break enter steal	54
	Other	397
	TOTAL	664
Strike	Larceny	124
	Break enter steal	51
	Drug use	53
	Other	395
	TOTAL	623

There was a drop of 27 in the number of new drug use charges between the two periods but the number is not significant (3.54%). It could have been the result of lack of police enforcement due to the diversion of police personnel to the gaols. Again, the Bureau of Crime Statistics and Research also reported <sup>19</sup> larceny as the most common offence for males who were found guilty (24.4%). The Bureau listed the next most common offence as serious driving offences (17.4%), offences against the person (11.4%) and then "other" offences (11.3%). Again, the greater number of break, enter and steal offences at Waverley may be due to a local variation.

#### AGE AT SINGLE APPEARANCE

There was little overall difference in the age of accused at single appearance between the control and strike periods. The youngest accused was 17 in both periods and the oldest 74 in the control period and 77 in the strike. The Table of the age range follows:

Table 1.21

#### AGE AT SINGLE APPEARANCE

Age	Control	Strike
17 - 24	268	297
25 - 34	291	263
35 - 44	95	102
45 -	56	61
Unknown	15	5

There was no significant difference in age distribution between those appearing on old and new charges. This was a

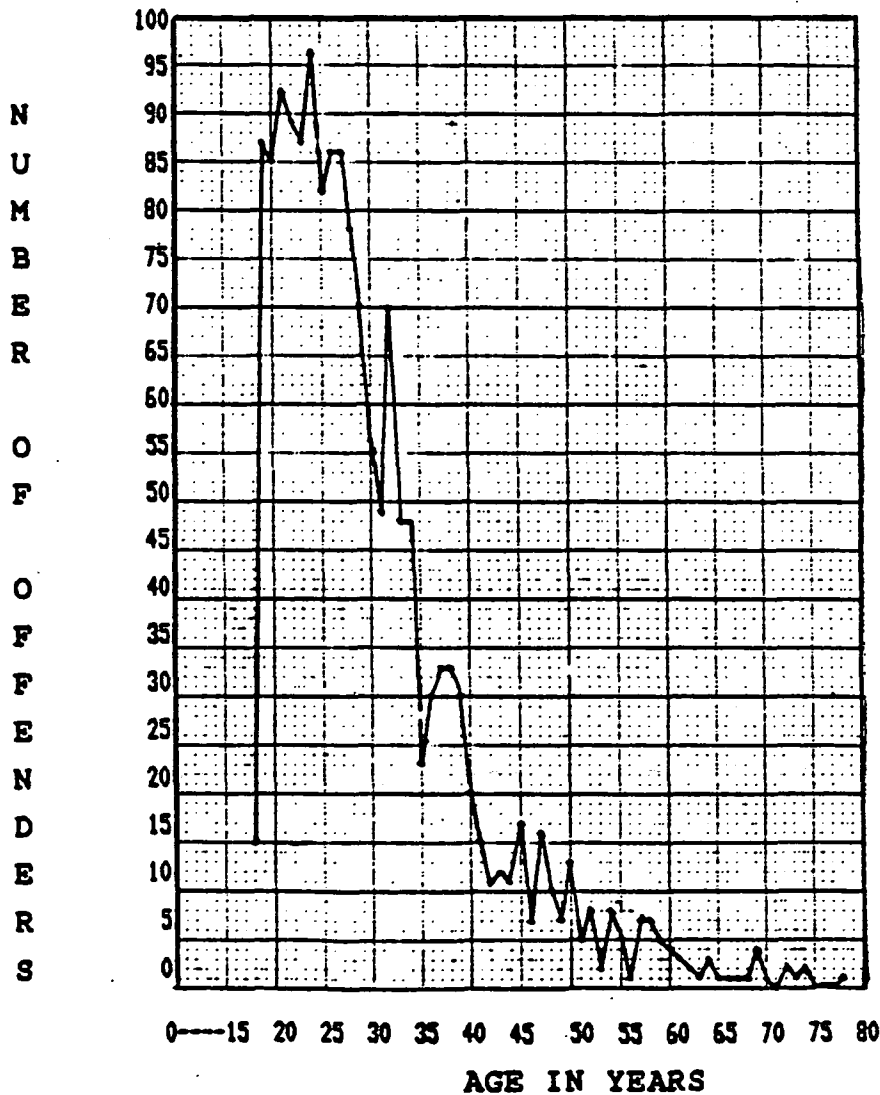
---

<sup>19</sup> Ibid.

little surprising because it was expected that young accused might have been dealt with more expeditiously and that, therefore, more old accused would be in the old charges group. That was not so. The Bureau of Crime Statistics and Research <sup>14</sup> reported that for 1983 accused between 18 and 29 years were responsible for 64.7% of proven offences. The Bureau's age distribution is similar to the findings in this study.

As there was little difference between the age distribution in the two periods, <sup>15</sup> a composite graph was prepared of the age of accused who had single appearances during both periods. It is below:

AGE IN YEARS  
CONTROL AND STRIKE PERIODS COMBINED



(Single appearance only - including Long Bay lists)

<sup>14</sup> Supra footnote 10 at p. 21.

<sup>15</sup> There were 22 more 18-year olds in the strike period and 17 less 27-year olds, otherwise the figures were very similar for all age groups in the two periods.

**SUMMARY CASES AND APPEARANCE**

Of those whose cases were dealt with summarily, the following table shows details of their appearances:

Table 1.22**SUMMARY CASES AND APPEARANCE**

	Control	
	Non-custodial	Custodial
No appearance	27	1
Appearance from bail	93	8
Appeared from custody	20	14
<b>TOTAL</b>	<b>140</b>	<b>23</b>
	Strike	
No appearance	22*	7
Appearance from bail	91	1
Appeared from custody	19	3
<b>TOTAL</b>	<b>132</b>	<b>11</b>

(\*none for new charges)

There was thus similarity between the two periods, except that there was a marked drop in the number of accused who appeared from custody during the strike. The 3 accused who appeared from custody in the strike most probably had committal hearings that had already commenced before the strike began. Every effort was made to allow such accused to attend their committal hearings.

**REPRESENTATION OF ACCUSED**

The following table shows whether the accused was represented on his or her single appearance either by a solicitor or barrister and whether the accused was in gaol (either for that charge or for another charge) in which case in 1984 he or she could not attend court during the strike :

Table 1.23**REPRESENTATION OF ACCUSED**

	Control	Strike
Unrepresented	300	178
Barrister	3	7
Solicitor	406	382
Accused in prison	8	148
<b>Total</b>	<b>717</b>	<b>715</b>

Thus the majority of accused were represented by a solicitor. The figures indicate that there were more unrepresented accused during the strike (24.9% as against 41.84% in the control period). However, one of the magistrates who visited the Long Bay Prison Complex to hear cases informed us that he had arranged for a Duty Solicitor to attend the gaol to represent the prisoners. That information was not recorded on the Long Bay lists and if included in the above figures means that the majority of accused in fact could have been represented (and most probably were) by a solicitor during the strike if they so desired. So, in fact more accused may have been represented by a solicitor in the strike period than in the control period.

#### REPRESENTATION AND RESULT OF CASE

Table 1.24 shows a comparison of the disposition of cases by the magistrate with the representation of the accused for single appearances. Numerically, there were fewer unrepresented accused who received unconditional bail on their single appearance in the strike period than in the control period: 101 in the control period and 82 in the strike. However, proportionately more unrepresented accused received unconditional bail in the strike, compared with the control period (46.07% compared with 33.67%). Again, numerically accused who were represented received unconditional bail more often in the strike period than in the control period: 188 in the strike and 138 in the control period. However, again proportionately less represented accused received unconditional bail in the strike than in the control period (46.07% compared with 49.21%). It appears, therefore, that accused were more successfully represented in the strike period since there were fewer accused represented by a solicitor in that period. Perhaps solicitors were more aware of the effects of the strike and of the magistrates' power to take the lack of custodial accommodation into account when deciding bail applications.

Table 1.24

## REPRESENTATION AND RESULT

RESULT	Control			
	Unrep.	Solr.	Barr. & Solr.	Unknown
<u>Bail</u>				
Uncond. or cont.	101	138	0	3
Cond. - released	32	84	0	2
- held	11	29	0	0
Refused	42	41	0	3
<u>Summary Result</u>				
Non-custodial	70	68	0	0
Custodial	10	13	0	0
<u>Committal</u>				
Bail cont'd - released	11	11	0	0
- held	2	1	0	0
Refused	8	9	1	0
<u>No Appearance</u>	8	4	0	0
<u>Result Unclear</u>				
Unknown or Doubtful	5	8	2	0
TOTAL	300	406	3	8

## Strike

<u>Bail</u>				
Uncond. or cont.	82	188	3	8
Condit. - released	10	61	1	1
- held	3	18	0	0
Refused	11	24	1	0
<u>Summary Result</u>				
Non-custodial	57	72	2	1
Custodial	5	5	0	0
<u>Committal</u>				
Bail cont'd - released	1	9	0	0
- held	0	1	0	0
Refused	1	1	0	1
<u>No Appearance</u>	1	0	0	0
<u>Result Unclear</u>				
Unknown or Doubtful	7	3	1	0
TOTAL	178	382	8	11

Table 1.25 shows that during the strike, there were increases in the number of accused who received conditional bail, who could meet that condition, both for those who were unrepresented and those who were represented by a solicitor:

Table 1.25

## REPRESENTATION AND CONDITIONAL BAIL

	1983	Strike
Unrepresented	10	32
Solicitor	61	84
Total	71	116

(Chi. Square = 3.87 - Degree of Freedom = 1)

The major increase was where the accused was unrepresented. However, it would appear the conditions imposed by the magistrate must have been easier to meet during the strike for both represented and unrepresented accused. This was more than likely due to the lack of gaol accommodation during the strike.

## REMAND PERIODS

Finally, on the Waverley Local Court data, Table 1.26 shows the periods for which accused were remanded (where known) during the control, strike and after strike periods:

Table 1.26  
PERIOD OF REMAND  
(Single appearances)

Remand period	Number of accused			Total
	Control	Strike	After strike	
0 days	4	3	1	8
1 - 7 days	143	186	40	369
8 - 14 "	136	67	14	217
15 - 21 "	95	118	34	247
22 - 28 "	30	76	17	123
1 - 3 months	79	39	14	132
3 - 6 "	34	23	5	62
6 - 12 "	2	5	2	9
Not applicable	202	210	29	441
Total	725	727	156	1608

There was a rise of 43 in the 1 to 7 day remands for single appearances during the strike and a marked fall of 69 in 8 to 14 day remands. This may have been due to the uncertainties of timing which resulted from everyone's lack of knowledge of when the strike would end. When the remand periods for all appearances (single and repeat) in the periods studied are looked at there is a dramatic rise of 113 in the 1 to 7-day remands and still a marked fall of 57 in 8 to 14 day remands as is illustrated by Table 1.27 below:



Table 1.27  
PERIOD OF REMAND  
Single and repeat appearances

Period of remand	Number of accused			Total
	Control	Strike	After strike	
0 days	5	3	2	10
1 - 7 days	168	281	54	503
8 - 14 "	170	113	43	326
15 - 21 "	123	146	61	330
22 - 28 "	39	99	26	164
1 - 3 months	115	65	32	212
3 - 6 "	47	26	12	85
6 - 12 "	2	6	2	10
Not applicable	260	257	73	590
Total	929	996	305	2230

It would appear that those accused who were "looped" within the system during the strike were mostly given 1 to 7 day remands as there were an additional 70 of those remands in the repeat appearances. This is confirmed by our initial impression whilst encoding the data that accused were remanded for shorter periods, particularly at the beginning of the strike, awaiting its end. For the accused in the Long Bay lists, there was a noticeable tendency to remand their cases for 7 days. If all the Long Bay list cases had been able to be taken into account no doubt the number of 7 day remands would have been even further increased.

The large number of "inapplicables" included cases where the case had been disposed of summarily or where sentence had been imposed and, thus, no remand had been given. Tables 1.26 and 1.27 include all the cases heard by Waverley Local Court during the periods, not just those where remands had been made. There were relatively few "unknown" remands in the periods.

#### SUMMARY OF FINDINGS FOR WAVERLEY LOCAL COURT

(The following summary omits the Long Bay lists unless otherwise indicated.)

During the strike the overall workload of Waverley Local Court was less than during the control period as during the strike there was a marked decrease of 118 cases in the gross number of cases handled by Waverley Local Court compared to the control period (803 compared with 921 in the control period). This overall decrease was made up of a decrease of 132 in single appearances during the strike period and an increase of 14 in repeat appearances.

There was also a decrease of 71 in the number of cases finally disposed of by the Court, either by committal for

trial or by summary disposition, between the two periods (268 in the control period and 197 in the strike).

Whilst there was no substantial difference in the gross numbers of cases disposed of summarily between the two periods, during the strike there was a substantial drop in the number of accused who received prison sentences in cases dealt with summarily compared with the control period (33 to 13). There was no corresponding increase in the number of accused who received non-custodial sentences. It appears accused were "looped" within the system rather than disposed of finally during the strike and that there was no marked change in the sentencing practices of the court during the strike.

There was a significant decrease in the number of accused committed for trial during the strike compared to the control period (63 to 18). Again, accused were "looped" within the system. The effect of this "looping" lasted a long time. There was no dramatic increase in the number of committals immediately after the strike ended and interviews with officers from the Office of the Solicitor for Public Prosecutions and from the Local Court Administration established that it took months for the "backlog" to be eliminated and for the court lists to return to normal.

There was little difference in the number of single appearances on old charges during the two periods when the Long Bay lists are taken into account. Omitting those lists, there was a 5.25% drop in the number of accused on old charges who were remanded to custody during the strike period. This was exactly mirrored by a 5.25% increase in the number of accused who were released on bail during the strike. Thus there was a difference in the bail decisions for accused on old charges during the strike.

Unexpectedly, there was not a decrease in the number of new charges between the two periods. We had expected there to be such a decrease due to lack of police personnel during the strike. However, there was a significant increase (26.8%) in the numbers of accused on new charges who had been granted police bail (66.23% in the strike compared with 39.43% in the control period). There was an exactly similar significant decrease (26.8%) in the number of accused who police retained in custody before their court appearance. Thus the police must have made more decisions granting bail to accused on new charges during the strike.

There was no substantial increase in the number of accused not appearing in court to answer the charges against them. Therefore, it would appear the police could continue to release a greater number of accused to bail without any adverse results in relation to their appearance at court.

Overall, in new and old charges the magistrates did not make significantly different bail decisions during the strike period though they did grant bail somewhat more readily to accused on old and new charges. In both periods the

magistrates tended to grant bail to accused whom the police had released on bail and to refuse bail to accused to whom the police had refused bail.

There was no substantial difference in the types of principal offences with which accused, either male or female, were charged between the two periods. There was a marked drop (from 54.95% of drug offences in the control period to 37.56% in the strike) in charges for the use/possession of cannabis between the two periods. Also there was not any substantial variation in the age ranges of accused appearing in the two periods.

There was a substantial increase in the number of female accused with single appearances during the strike period, the majority of whom (61.54%) appeared from bail. There was an almost 10% drop in the number of female accused appearing from custody, 19.23% in the strike compared with 29.51% in the control period. This was to be expected since accused who were in gaol during the strike were unable to attend court.

There were more male accused who appeared from bail (44.62% in the strike compared with 41.72% in the control period) and a predicted dramatically lesser percentage who appeared from custody (21.51% in the strike and 38.7% in the control period) when the Long Bay lists are not taken into account. If those lists are included, the percentage appearing from custody increases to 44.3% (a 5.6% increase) which was not expected.

The majority of accused were represented by a solicitor at court in both periods. The figures indicated that there may have been more unrepresented accused during the strike, but this may be accounted for by the fact that the Long Bay lists did not indicate that there was a duty solicitor available at the gaol whilst the visiting magistrate sat.

## CHAPTER 2.

### THE DISTRICT COURT

We anticipated that this court would not have had to adapt as much as the Local Courts did to the effects of the strike as it handles lesser numbers of cases. Also, we had been informed that the Office of the Solicitor for Public Prosecutions, to minimise loss of court time, had rearranged the lists for the District Court during the strike to ensure that the trials of the accused who had been released on bail were scheduled to replace trials of accused who were in gaol during the strike.

Therefore, we anticipated that this court would have adapted in ways similar to those anticipated for the Local Courts, though not as noticeably, that is:

1. The judges may have adjusted the type of sentence they gave and/or they may have adjourned cases likely to result in custodial sentences and released the accused on bail:
2. The judges may have allowed bail more readily.

We encoded statistics for the sittings of the District Court in the Sydney city area. There were 21 individual courts sitting in the control period and 14 in the strike period. It was not possible logistically to encode statistics for country divisions of the District Court as there were no accessible data sheets for the country divisions in Sydney. Again we encoded statistics for the control and strike periods. We encoded the data from the Court Lists of the Office of the Solicitor for Public Prosecutions. Our encoding categories are in Appendix "B" on page 123 infra.

### METROPOLITAN DISTRICT COURT STATISTICS

We encoded 627 cases for the control period in 1983 and 850 cases for the strike period in 1984. Tables 2.01 and 2.02 give the gross figures for the two periods: Table 2.01 contains all appearances in the periods (which may include repeat appearances for the accused) and Table 2.02 contains the gross figures for single appearances by each accused in the two periods. Table 2.02 does not include repeat appearances in the period.

### RESULTS FOR GROSS NUMBERS

From Tables 2.01 and 2.02 it would appear that there was a significant increase in the total number of cases handled by the District Court in the strike period. There were 850 appearances in the strike compared with 627 in the control period and there were 661 single appearances in the strike compared with 516 in the control period.

However, there were 219 cases in Table 2.01 and 152 cases in Table 2.02 where the accused did not appear due to the prison strike. There was no such result in 1983 in the control period. If these non-appearance cases are deducted from the gross numbers of cases handled, there is little difference between the two periods: for all appearances, the total number of cases drops from 850 to 631 during the strike and remains at 627 for the control period; for single appearances the total number of cases remains at 516 in the control period and drops from 661 to 509 in the strike period. It would thus appear that the policy of the Public Solicitor's Office in rescheduling cases in which the accused had been remanded to bail for hearing during the strike was successful. The 219 appearances and the 152 single appearances where the accused did not appear due to the strike were all cases for the taking of a plea or for mention and so were not hearings days lost.

Table 2.01  
DISTRICT COURT STATISTICS  
All Appearances in Period v. Result

Result	Control	Strike
<u>Acquitted</u>	28	18
<u>Remanded - Bail given</u>		
for plea or mention	93	182
" trial	79	105
" sentence	83	74
<u>Remanded to custody</u>		
for plea or mention	45	5
" trial	27	9
" sentence	75	10
" hearing of appeal	0	3
<u>No appearance</u>	30	70
in custody because of strike	0	219
<u>Sentenced</u>		
non-custodial	82	133
custodial	83	14
<u>Appeal allowed/dismissed</u>		
non-custodial	1	4
custodial	1	1
<u>Unknown</u>	0	3
Total	627	850

Table 2.02  
DISTRICT COURT STATISTICS  
Single Appearance in Period v. Result

Result	Control	Strike
<u>Acquitted</u>	28	18
<u>Remanded - Bail given</u>		
for plea or mention	61	107
" trial	74	85
" sentence	59	60
<u>Remanded to custody</u>		
for plea or mention	20	4
" trial	23	6
" sentence	54	8
" hearing of appeal	0	3
<u>No appearance</u>	30	64
in custody because of strike	0	152
<u>Sentenced</u>		
non-custodial	81	132
custodial	83	14
<u>Appeal allowed/dismissed</u>		
non-custodial	0	4
custodial	1	1
<u>Unknown</u>	0	3
Total	516	661

Comparison of these figures with those of the Waverley Local Court in Tables 1.01 and 1.02 (on pages 8 and 9 supra) show the difference in the case loads of the Local Courts and the District Court. For Waverley Local Court we encoded 929 cases for control period and 996 cases for the strike, making a total of 1925 cases for the two sittings of that court in the two periods. For the District Court we only encoded 627 cases in the control period and 850 cases for the strike, making a total of 1477 for the two periods for the 35 sittings of that court in the two periods. Overall, therefore, the Local Court dealt with about one third more cases than the District Court sittings that we encoded.

#### BAIL DECISION

From Table 2.02 it can be seen that, for single appearances where the accused did appear, there was a significant increase during the strike in the number of cases where bail was given when the accused was remanded for plea or mention: 61 in the control period and 107 in the strike period. At first sight this would appear to represent a real departure by the District Court from its previous practice. It seems to have granted bail more readily, or on conditions more likely to be met by the accused, to accommodate the effects of the strike.

This increase is even greater if all appearances are looked at. Table 2.01 shows that the number of cases where the accused was given bail when remanded for plea or mention almost doubled in the strike (182 in the strike compared with 93 in the control period). However, this may again represent an effect of the changed workload of the court since only accused who had been remanded to bail or at large could have their cases heard by the court during the strike and they were much more likely to be again granted bail than accused from custody. There was also an increase in the number of cases of remands for trial where bail was granted. However, this latter increase was not so dramatic: 74 in the control period and 88 in the strike.

#### REMANDS TO CUSTODY

There was a significant decrease in the numbers of accused who were remanded to custody during the strike period compared with the control period. This occurred regardless of the type of hearing the remand was for, whether it was for a plea, mention, trial or sentence. The following Table gives the figures:

Table 2.03  
Remands to Custody - Control and Strike Periods

Remand type	Number of Cases	
	Control	Strike
For plea or mention	20	4
" trial	23	6
" sentence	54	8
" hearing of appeal	0	3
Total	97	21

This would be consistent with there being less number of cases where the accused had been remanded to custody prior to the hearing of the case during the strike, as in those cases the accused would have been unable to attend court during the strike and, as stated, we had been informed that the Public Prosecutor's Office had rescheduled cases where the accused was on bail to take the place of those accused who were in custody. In other words the lesser number of remands to bail may not represent a difference in the sentencing patterns of the court but in its workload.

This is borne out by the figures in Table 2.04. Those figures showed the numbers of the accused who were in custody or on bail prior to the hearing in the period under study who were remanded to custody as a result of their appearance in the period:

Table 2.04  
Appearance from Bail or Custody for Remands to Custody

Remand type	Number of cases			
	Control		Strike	
	Appearance from Bail	Appearance from Custody	Appearance from Bail	Appearance from Custody
For plea or mention	1	19	1	3
" trial	1	22	1	5
" sentence	8	46	1	7
" hearing of appeal	0	0	0	3
Total	10	87	3	18

Table 2.04 thus supports the fact that it was the workload of the court that changed, not the sentencing pattern. There were almost similar percentages of cases remanded to bail (10.31% in the control and 14.29% in the strike periods) and to custody (89.69% in the control and 85.71% in the strike periods) for accused appearing from custody or from bail in the periods.

Normally when the accused are in custody, their cases are given priority in hearing but due to the effects of the strike, the cases of those in custody could not be heard and those of accused on bail were substituted. The total numbers of accused appearing from bail in the strike period were 474 and from gaol 187 whereas in the control period there were 348 accused who appeared from bail and 168 from custody. Of those 187, 151 were in custody in gaol and only 35 must have appeared from the police cells. If those 151 were to be subtracted from the 474 cases in the strike period, that would leave 323 which is similar to the work load of the court during the control period.

#### COMPLETED CASES

For single appearances during the periods, Table 2.05 gives the results for cases that were completed:

Table 2.05  
CASES COMPLETED DURING PERIODS

Result	Number of Cases	
	Control	Strike
Acquittal	28	18
Sentenced		
non-custodial	81	132
custodial	83	14
Appeal allowed/dismissed		
non-custodial	1	4
Appeal dismissed		
custodial	1	1
Total	194	169



Therefore, there were a significantly lesser number of cases completed which resulted in a custodial sentence (14 or 8.28% in the strike period and 83 or 42.78% in the control period) whereas there was an increase (not of the same proportion as the decrease) in the cases which resulted in non-custodial sentences (132 or 78.11% in the strike period and 81 or 41.75% in the control period). This is consistent with more cases of accused on bail (supposedly the less serious cases) being heard. It is also consistent with the fact that accused who would be likely to receive custodial sentences having been remanded to custody and, therefore, being unable to have their cases completed in the period of the strike. Again, it appears more likely that the workload of the court changed than that the court's sentencing pattern changed radically due to the strike.

#### AGE AND SEX OF ACCUSED

As the court lists in the Public Prosecutor's Office did not contain the date of birth of the accused, we were unable to gather data from which to calculate the age of the accused. As the sex of the accused was also not separately encoded, and as it was not possible to accurately encode this data from name only, no data on the sex of the accused appearing before the District Court was encoded.

#### APPEARANCE FROM BAIL AND REMAND RESULT

For single appearances of accused who appeared from bail or custody, the results in terms of whether the accused was further remanded to bail, or was remanded, to custody are as follows:

Table 2.06  
APPEARANCE FROM BAIL/GAOL AND REMAND RESULT

Result	Appearance from			
	Control		Strike	
	Bail	Custody	Bail	Custody
Remanded -to bail				
for plea or mention	53	8	103	4
" trial	69	5	82	3
" sentence	57	2	57	3
Total	179	15	242	10
Remanded - to custody				
for plea or mention	1	19	1	3
" trial	1	22	1	5
" sentence	8	46	1	7
Total	10	87	3	15

The accused who appeared from custody during the strike must have appeared from the police cells, unless they were some of the few who had part-heard cases when the strike began in which case every effort was made to ensure they could attend their case.

There was no increase, in fact there was a 50% decrease, in the number of accused who appeared from custody and were remanded to bail between the two periods (15 in the control period and 10 in the strike period). This decrease may be due to the lesser number of cases in which accused appeared from custody. However, those accused who did appear during the strike most probably appeared from the crowded police cells. We had expected a rise in the number of accused who would be released from custody through being granted bail because, as stated earlier, the judges were entitled to take into account the unavailability of gaol accommodation, or the type of accommodation, when making their decision whether to grant bail under s.32(1)(b)(i) of the Bail Act 1978 (N.S.W.), but this did not occur on our figures.

#### NON-APPEARANCE OF ACCUSED

From Table 2.02 it can be seen that there was a marked increase in the number of non-appearances by accused during the strike: 64 in the strike and 30 in the control period. This was so even when not taking into account the non-appearance of those accused who were in gaol and unable to appear. Of the 30 non-appearances in the control period and the 64 in the strike, only 1 in each period was of an accused who had been remanded in custody. All other non-appearing accused had been granted bail or were at large.

It may be that lack of police personnel resulted in this increase of non-appearances because the police were unable to provide police officers to ensure accused appeared. It may also be that accused took advantage of the effects of the strike to abscond or to not appear in the expectation that no action would be taken against them. Another possible explanation is that the rescheduling of cases carried out by the Public Prosecutor's Office caused some confusion to accused who may have been unaware of the need to appear at court because they were not informed in time or were given, perhaps, conflicting information. For all of the 94 non-appearsers warrants were ordered to be issued for their apprehension.

#### REPRESENTATION OF ACCUSED

For single appearances in the periods the following is a breakdown of the figures for representation of the accused:

Table 2.07  
REPRESENTATION OF ACCUSED

Representation	Number of Appearances			
	Control		Strike	
	From Bail	Custody	From Bail	Custody
Barrister	53	33	39	4
Solicitor	151	62	170	53
Accused alone	107	68	192	78
No appearance	30	7	60	50
Unknown	5	0	13	2
Total	346	170	474	187

The same table as Table 2.07 but for the strike period alone omitting those accused who were in gaol and, therefore, unable to appear follows:

Table 2.08  
REPRESENTATION OF ACCUSED - STRIKE PERIOD ONLY  
OMITTING ACCUSED IN GAOL

Representation	Number of Appearances	
	From Bail	From Custody
Barrister	39	2
Solicitor	170	15
Accused alone	190	16
No appearance	60	4
Unknown	13	0
Total	472	37

This demonstrates again the shift in workload of the Court - from 32.26% of cases in the strike were the accused appeared from custody to 7.27% in the control period. Once the non-appearances from gaol are omitted there was no marked difference between the two periods in the percentage of accused represented by a barrister (8.26% in the strike and 14.85% in the control), by a solicitor (36.01% in the strike and 42.3% in the control) or not appearing (9.8% in the strike and 12.71% in the control).

## OFFENCES

For single appearances during the periods Table 2.09 gives the breakdown of the offences with which the accused were charged:

Table 2.09  
OFFENCES

Type of offence	Number of cases	
	Control	Strike
	Totals	Totals
Offences against person	55	70
Homicide	1	4
Assaults	41	61
Other	13	5
Sexual offences	11	14
Offences against property	292	322
Robbery	67	94
Fraud	55	40
Larceny	159	160
Other	11	28
Driving/traffic offences	25	24
Breach of release/recogn.	74	97
Drug offences	48	77
Other	11	14
Unknown	0	41
Total	516	661

Larceny (159 in control and 160 in strike) was again the most frequently charged offence in both periods, followed by breach of release condition offences (74 in control and 97 in strike)<sup>1</sup> and robbery (67 in control and 94 in strike). There was thus an almost exact similarity between the control and strike periods in the types of offences with which the accused were charged.

In the control period there were 74 breach of recognisance/conditions of release cases which were dealt with in the following ways by the courts:

<sup>1</sup> Which included escape from lawful custody.

Table 2.10  
BREACH OF CONDITIONS OF RELEASE v. RESULT  
CONTROL PERIOD

Result	Number of cases
Acquitted	11
Remanded - to bail	
for plea or mention	10
" trial	5
" sentence	12
Remanded - to custody	
for plea or mention	12
" trial	1
" sentence	6
Warrant to issue	16
Sentenced - non-custodial	8
custodial	4
Unknown	1
Total	74

#### REMAND PERIODS

For single and all appearances during the periods Table 2.11 gives the remand periods for accused who were remanded either to custody or to bail:

Table 2.11  
REMAND PERIODS

Period	Number of cases		All appearances	
	Single appearances	Control Strike	Control	Strike
1 - 7 days	20	9	65	85
8 - 14 "	8	27	41	92
15 - 21 "	20	29	37	63
22 - 28 "	20	58	29	77
29 or more	180	201	182	217
Unknown or not set	43	56	48	67
Total	291	380	402	607

For the all appearances category in the control period the most popular remand period was for 1 day (20) followed by 3 and 7 days (16 for both). However, during the strike period the most popular period was of 14 days (41 compared to 9 in the control period), followed by 22 days (37 compared with 7), then 28 days (33 compared with 8) and 8 days (30 compared to 7 in the control period). This may have been due to the strike and the court's desire to postpone dealing with cases likely to result in a custodial outcome, or its inability to deal with cases where the accused was in gaol. This is different adaptation to the Waverley Local Court where the most popular remand periods during the strike were for 1 - 7 days.<sup>2</sup>

<sup>2</sup> See page 30. supra.

For the single appearances understandably the most popular periods were for longer. The most popular period was for 32 days (38) followed by 28 days (31). In the control period the remand periods for single appearances tended to be longer with the most popular period being 30 days (63) followed by 31 days (36).

#### LENGTH OF CUSTODIAL SENTENCE IMPOSED

Table 2.12 gives the length of custodial sentence imposed by the court during the control and strike periods:

Table 2.12  
LENGTH OF SENTENCE IMPOSED

Length	Number of prisoners			
	Control		Strike	
	Appeared from Bail	Appeared from Gaol	Appeared from Bail	Appeared from Gaol
Under 1 year	5	5	1	0
1 - 2 years	5	9	1	1
2 - 3 "	7	11	4	0
3 years	4	5	2	0
4 "	2	3	0	0
5 "	2	6	1	0
6 "	1	6	1	0
7 - 10 years	2	6	1	0
11- 15 "	0	2	0	0
Unknown	2	0	2	0
Totals	30	53	13	1

The longest sentences imposed in the control period were 10 years for the accused who appeared from bail and 15 for those who appeared from custody. In the strike the longest sentence imposed was 9 years for an accused who appeared from bail. There was only one prisoner sentences during the strike - to a 2 year sentence. There were almost no accused who had been remanded to custody who were sentenced during the strike compared with 53 during the control period. This was a dramatic decrease and again can be attributed to the effect of the changed workload of the court - there being less accused appearing from custody during the strike.

#### SUMMARY OF THE EFFECT OF THE STRIKE ON THE DISTRICT COURT

Whereas the District Court normally gives priority to the hearing of the cases of accused who have been remanded to custody, during the strike the workload of the Court changed. The Solicitor for Public Prosecutions rescheduled the hearings of the cases of accused who had been remanded to bail to replace the cases of accused in custody who because of the strike were unable to attend court.

Consequently, though the workload of the court increased by 219 cases in which there were no appearances by the accused due to the strike, the cases actually dealt with

by the court remained almost the same. This was true both for total appearances ( 631 in the strike period and 627 in the control period ) and for single appearances ( 509 in the strike and 516 in the control period ).

So the strike had little effect upon the overall workload of the metropolitan sittings of the District Court.

Although the workload of the District Court remained the same in overall numbers, because the accused were mainly those who had been remanded to bail, the outcomes of the cases dealt with changed markedly. There were more decisions granting bail ( 107 compared to 61 in the control period ), less remands to custody ( 21 compared to 97 ), more non-custodial sentences ( 132 compared to 81 ) and less custodial sentences ( 14 compared to 83 ).

There was an increase in the periods of remand given to accused during the strike, from less than one week as the most popular period during the control period to 14 days and over in the strike period. This appeared to be a distinct effect of the strike and may have been due to the Court's desire to postpone cases more likely to result in a custodial outcome or to its inability to judge the length of time in which it would be unable to deal with cases where the accused was in gaol.

#### SUPREME COURT OF N.S.W.

Again, we anticipated that the Supreme court would have had to adapt even less than the other two courts since it handles comparatively few criminal trials because it only handles the more serious trials. Again, we had been informed that the Office of the Solicitor for Public Prosecutions had rearranged the Supreme Court lists as much as possible to ensure that trials of accused who had been released on bail were re-scheduled to replace any trials of accused who were in gaol and whose trials could not, therefore, go ahead.

We encoded statistics for the sittings of the Supreme Court during the strike period only as there was no useful purpose which could be served by comparing its workload during that period to the control period since the numbers are so small. There were only 11 trials during the strike - 2 for murder, 1 for wounding with intent to murder, and the rest for various sexual assaults under Ss. 61A-D of the Crimes Act 1900 (N.S.W.). In those 11 trials 8 accused appeared from bail and only 3 appeared from custody. The trial of one of the accused who appeared from custody had commenced before the beginning of the strike and his trial continued with him present in court. The trial was for murder and, we presume, the accused was housed in the police cells during the trial which lasted until February 17th. when the accused was found guilty and sentenced to life imprisonment. Whether that prisoner was then received into prison or continued to be

housed in police cells until the end of the strike is not known.

Another prisoner whose trial lasted 4 days at Newcastle during the strike was found not guilty of murder and was released. That trial started on March 1st and the accused appeared from custody. This confirms the information given to us by the Department of Corrective Services that every effort was made for prisoners to attend their trials, particularly in the higher courts.

Of the accused whose trials took place or who were sentenced during the strike, 1 received a life sentence, 4 were found not guilty and 4 were given non-custodial sentences. Those who received custodial sentences received sentences ranging from 3 to 9 years. The remainder of the accused who were found guilty were remanded for sentence and their sentence hearings were outside the strike period.

It appeared that at least 7 trials did not proceed due to the strike - 3 for murder, 1 for poisoning with intent to murder and 2 for sexual assault category 3. Two accused who had been remanded to custody for sentence prior to the strike had their sentence hearings postponed and two S.437 applications were also postponed because of the strike. The Office of the Solicitor for Public Prosecutions informs us that altogether there was a nett loss of 12 sitting days due to the strike as the trials of accused remanded to bail were able to be substituted for most of the aborted trials of the accused who had been remanded to custody.

There were 62 cases in which the accused appeared for pleas, mentions or for sentence during the strike. In most of those cases the accused only appeared once in the period. There were only 15 accused who had repeat appearances of which one had 4 repeats and one had 3. The rest only had two appearances during the strike. There were 47 cases in which accused had single appearances in the period. These were spread throughout the period but were more numerous after 27 February when the Newcastle and Orange sittings of the Court commenced.

There were only 3 female accused who appeared within the period. All of them were remanded for trial outside the period. One was charged with manslaughter and 2 with murder.

The male accused who were tried or who appeared during the period were charged with murder, wounding with intent to murder, indecent assault on a male and with various categories of sexual assault including two trials for rape. There was one poisoning with intent to murder and 1 of arson. The most common charge was sexual assault category 3. There were 4 charges of sexual assault of minors.

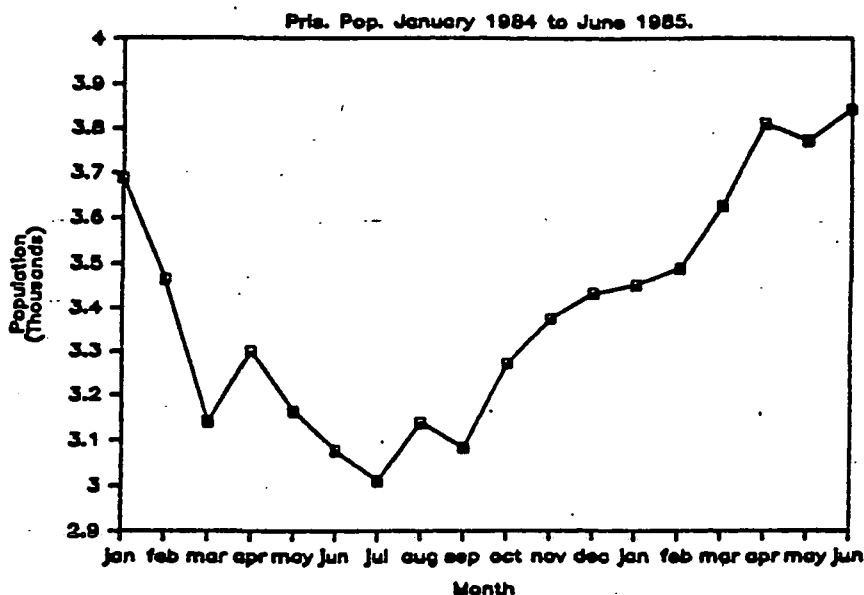
From all of the above, it can be seen that the strike had minimal affect on the Supreme Court. The most noticeable effect was that 12 sitting days were lost.



## CHAPTER 3

### PRISON RECEIVALS

Since the strike occurred in the gaols, we anticipated that they would be the worst affected section of the criminal justice system. We had been informed that, at the end of the strike, there were about 740 less prisoners in gaol under sentence and 42 less on remand. So a total of 782 prisoners had disappeared from the system. A graph of the total prison receivals for 1984 in New South Wales prepared by Don Weatherburn of the Bureau of Crime Statistics and Research shows the dramatic fall in prison numbers at the time of the strike<sup>1</sup>:



We anticipated the areas of prison adjustment would be:

1. As many prisoners as could be discharged would be. We wanted to find out what categories of prisoners were discharged, how many of them and for what reasons.

2. There would be almost no receivals into gaols during the period. If there were any, for what categories of prisoners, how many and for what reasons.

3. We had been informed that, within a week after the strike ended, there were 213 additional prisoners back in gaol under sentence and 179 additional on remand. Again we wanted to know what were the categories of those prisoners and for what reasons they were gaoled. Had they been sentenced during the strike? If so, for what offences and were their sentences any different to the sentences received for similar offences during the control period?

4. We also wanted to study fine defaulters to ascertain whether they were mainly responsible for the enormous drop in prison inmate numbers. If possible we also wanted to know whether they were held in police lock-ups during the strike or had they been at large.

<sup>1</sup> D. Weatherburn, "Reducing the N.S.W. Prison Population: Sentencing Reform and Early Release" (1986) 10 Crim. L. J.

5. The "special strike remission" was made available to all prisoners, except lifers and remand prisoners who later were acquitted or got a bond. In the case of some prisoners who were eligible for parole, apparently the Parole Board did not necessarily take the remission into account when granting parole. We were interested to find out how many prisoners were released due to the special remission during the period.

We encoded the prison receivals and discharges for all New South Wales gaols during the strike period, a ten day period thereafter and during the control period. We separated the prisoners into three categories: sentenced, remands and fine defaulters. The "remands" included breach of parole, breach of recognisance, breach of licence and deportation prisoners. As the numbers for all those categories were so small for all three periods, a separate analysis was impracticable.

For the prisons, because they started to receive prisoners in large numbers on the day the strike ended, we included Monday, 12 March (the day the strike ended) in the after strike period. Thus there are only 34 days in the strike period in the figures for the prisons, unless otherwise indicated.

### PRISON RECEIVALS

#### GROSS NUMBERS RECEIVED

There was a total of 1397 prison receivals during the control period compared with 212 during the strike. This was a dramatic and entirely expected drop due to the strike. In the ten day period after the strike ended there were 868 prisoners received, four times more than in the entire period of the strike. The total number of receivals during the strike and the 10 day after strike periods combined was still less than would have been expected from the figures received in the corresponding period for 1983 (making the reasonable assumption that the pattern of receivals during the 5 week control period continued over the following 10 days in 1983). See pages 73-77 infra for a comparison of the 1984 periods combined with the control period. The gross numbers of receivals during the control, the strike and the after strike periods are as follows:

Table 3.01  
GROSS NUMBERS OF RECEIVALS

	1983	1984	
		Strike	After Strike
Prisoners under sentence	375	111	304
" on remand	521	64	365
Fine defaulters	501	37	199
Total	1397	212	868

## RECEIVALS AFTER STRIKE

The total of 868 prisoners received into New South Wales prisons in the 10 day period after the strike included prisoners who had been dealt with by the courts before, during and after the strike period. A break-down of the 868 into the three categories indicating when they were dealt with by the courts follows. "Outside" includes being dealt with by the courts both before and after the strike unless otherwise indicated.

Table 3.02  
NUMBERS OF RECEIVALS AFTER STRIKE

Fine defaulters - outside	173
- during	26
Remands - outside - before	10
- after	265
- during	90
Sentenced - outside	166
- during	138
Total	868

So there were 254 prisoners received into gaols after the strike who had been dealt with by the courts during the strike: 158 sentenced, 90 remands and 26 fine defaulters. These 254 prisoners were received in the following numbers on each of the 10 days after the strike ended:

Table 3.03  
DAY OF RECEIVAL AFTER STRIKE

Day	Number of prisoners
1 (Day strike ended)	50
2	93
3	64
4	6
5	28
6	2
7	6
8	0
9	2
10	3
Total	254

The majority were received during the first 3 days. It is likely these prisoners all spent some time in police cells during the strike. As all these prisoners had been dealt with during the strike, the fine defaulters must not have been given time to pay.

AGE OF PRISONERS RECEIVED

The age distribution of the prisoners received during the control period and during the strike - so far as their age was known - was not significantly different. The following Table gives the age distribution for the two periods;

Table 3.04  
AGE FOR ALL PERIODS

Age in Years	1983	1984.	
		Strike	After
17	12	0	2
18	95	11	63
19	107	10	71
20	96	13	53
21	114	19	61
22	89	11	56
23	86	14	50
24	98	9	39
25-29	281	40	195
30-34	159	17	117
35-44	164	28	94
45-54	62	11	19
55+	25	2	12
Unknown	90	27	36
Total	1397	212	868
Chi Square = 9.112	Degree of freedom = 12		n.s.

The oldest prisoner received during the three periods was 66.

SEX OF PRISONERS RECEIVED

During the control period there were 1307 male prisoners received and 90 (6.4%) female prisoners. Of the 90 female prisoners, there were 23 sentenced prisoners, 39 remand prisoners and 28 fine defaulters. During the strike period there were 208 male prisoners and 4 (1.92%) female prisoners received, a significantly lesser number of female prisoners. In the after strike period there were 790 male prisoners and 78 female prisoners (9.87%) received.

**PERIOD BETWEEN COURT DECISION<sup>2</sup> AND RECEIVAL IN PRISON****CONTROL PERIOD**

For the control period the largest number of prisoners (560) were received into prison on the day of the court decision ordering them to be held in custody. In fact, some of these were already in custody upon another court order, either of remand in relation to the same charges or under an order in respect of unrelated charges. There were another 298 who were received within 7 days of the court order. Then there was a substantial drop in numbers for those received within 2 weeks (69), 3 weeks (11), 4 weeks (17), 3 months (71), 6 months (129), 1 year (139) and over a year (108). The prisoners who were received 6 months or more after the court decision were most probably all fine defaulters or breach of parole/licence prisoners.

When cross-tabulated with age of prisoner, there was no major discernible difference in the length of time between court decision and receipt, though the youngest offenders - the 17 and 18 year olds - were usually received into prison within a week after the court decision: 75% of 17 year olds and 69.5% of 18 year olds. In the 25-29 age group there were only 43% who were received within 7 days after the court decision. In the 30-34 group 63% were so received, and in the 35-54 group 64% were so received. In the over 55 age group, only 44% were received within 7 days after the court decision. The high percentage for 17 year olds is to be expected as they must have been charged with a more serious crime to be in the adult system and are therefore more likely to have been in custody prior to their being sentenced.

In the case of some sentenced prisoners, the longer periods between sentence and receipt may not mean that they have spent all of that period out of prison. If they appealed and spent overnight in police cells awaiting their hearing, they will be readmitted on arrival back at prison. The sentence date may represent the date from which the sentence is to start, which is often different from the date of passing of sentence. This practice makes it easier to calculate the date of release but makes it impossible to really say when the prisoner had their "day in court". This should not apply to those sentenced in the strike period as they were not in the prison system and would, therefore, be unlikely to have back-dated sentences.

**STRIKE PERIOD**

In the strike period 53 prisoners were received into prison on the day of the court decision ordering them to be held in custody. Some of these may have been in custody upon

<sup>2</sup> The "court decision" being one that results in custody. For instance, it may be one of sentence, remand, or for a warrant or deportation order to be issued.

another court order, either relating to the same charge or to an unrelated charge. 89 of the prisoners received into gaol in the strike were received within 7 days of the court order, 24 were received within 2 weeks, 10 within 3 weeks, 3 within 4 weeks and 33 were received more than 4 weeks after the court order.

During the strike the largest number of prisoners (89) were received into prison within 7 days of the court decision, whereas in the control period the largest number were received on the day of the court decision (40%). The difficulties of having any person admitted to prison during the strike period could account for the rise in the numbers being admitted only within 7 days (21.33% in the control period, 42.% in the strike) and the fall in the same day admissions (40.08% in the control period and 25.00% in the strike period).

#### AFTER STRIKE PERIOD

In the after strike period 228 prisoners were received into prison on the day of the court decision ordering them to be held in custody. Some of these may have been in custody upon another court order, either relating to the same charge or to an unrelated charge. 283 of the prisoners received into gaol in the strike were received within 7 days of the court order, 51 were received within 2 weeks, 55 within 3 weeks, 33 within 4 weeks and 218 were received more than 4 weeks after the court order.

The low proportion (26.27%) of those received on the day of sentence during the after strike period is to be expected because during this period 254 prisoners were received who had probably been held for some time in police cells. When these 254 cases are omitted the proportion of those received on the day of sentence is 37.13% which is not significantly different from the proportion in the control period.

#### OFFENCES OF PRISON RECEIVALS

##### CONTROL PERIOD

Table 3.05

##### OFFENCES OF RECEIVALS IN CONTROL PERIOD

Offence category	Number of prisoners	%	Cumulative	
			Number of prisoners	%
Homicide and assault	108	7.73	108	7.73
Sexual assault	39	2.79	147	10.52
Robbery, larceny, fraud	488	34.93	635	45.45
Driving and traffic	477	34.14	1112	79.60
Breach of release/recogn	80	5.73	1192	85.33
Drugs and offensive	190	13.60	1382	98.93
Other	15	1.07	1397	100.00
TOTAL	1397	100.00		

## STRIKE PERIOD

The following Table shows the offences for which the 212 prisoners received during the strike period were imprisoned. Because of the small numbers, the offences were combined into more general categories:

Table 3.06  
OFFENCES OF RECEIVALS DURING STRIKE

Offence Category	Number of Prisoners	Percentage
Homicide and Assault	28	13.21%
Sexual offences	8	3.77%
Robbery, larceny, fraud	99	46.71%
Driving and traffic	42	19.81%
Breach of release/recogn.	12	5.66%
Drugs and offensive behav.	23	10.84%
Total	212	100.00%

## AFTER STRIKE PERIOD

Using the same categories of offences used for the strike period receivals, the following are the offences for which the 868 prisoners received in the after strike period were imprisoned:

Table 3.07  
OFFENCES OF RECEIVALS IN AFTER STRIKE

Offence categories	Number of prisoners	Percentage
Homicide and assault	78	8.99%
Sexual offences	37	4.26%
Robbery, larceny, fraud	380	43.78%
Driving and traffic	194	22.35%
Breach of release/recogn.	67	7.71%
Drugs and offensive behav.	108	12.44%
Care of children offences	1	0.12%
Unknown	3	0.35%
Total	868	100.00%

Overall, there was a distinct similarity between the offences for which the prisoners received during the strike and control periods were imprisoned. A breakdown of offences for each of the three categories of prisoners (sentenced, remands and fine defaulters) appears in the individual sections on each category.

## SENTENCED PRISONERS RECEIVED

As stated, there was a total of 790 sentenced prisoners received into New South Wales prisons in the three periods: 375 in the control period, 111 in the strike period and 304 in the 10 day after strike period. An analysis of the length of sentence for the prisoners received in each of the 3 periods follows. Then a separate analysis of the length of sentence of the prisoners dealt with by the courts during the strike was done to see if a different sentencing pattern emerged for cases dealt with during the strike.

## LENGTH OF SENTENCE

## CONTROL PERIOD

The following Table shows the period of sentence for the prisoners received during the control period:

Table 3.08  
LENGTH OF SENTENCE IN CONTROL PERIOD

Period	Number of prisoners
2 months	14
3 "	78
4 "	35
5 "	1
6 "	107
7 "	0
8 "	4
9 "	20
1 year	32
15 months	2
18 "	19
19-23 months	6
2 years	18
30 months	6
3 years	14
42 months	3
4 years	4
54 months	3
5 years	5
6 "	2
7 "	1
90 months	1
Total	375

From those figures the percentage of prisoners who received sentences of less than one year was 69.06% (259), those who received one year but less than two was 15.73% (59), two but less than three was 6.4% (24), three but less than four was 4.53% (17) and four or more but less than 5 was 1.9% (7) and four or more was 4.26% (16).



## STRIKE PERIOD

The 111 sentenced prisoners received into prison during the strike period were sentenced for periods that were similar to the control period, though there was a drop of 9.60% for sentences for less than 1 year. There was an increase of 8.59% for sentences of one but less than 2 years in the strike period. These sentences may not all have been imposed during the strike as some of the prisoners received during the strike had been sentenced prior to the strike.

Table 3.09  
LENGTH OF SENTENCE IN STRIKE PERIOD

Period	Number of prisoners	Percentage
Under 1 year	66	59.46%
1 - 2 years	27	24.32%
2 - 3 "	8	7.22%
3 - 4 "	5	4.50%
4 years or more	5	4.50%
Total	111	100.00%

## AFTER STRIKE RECEIVALS - DEALT WITH DURING STRIKE

Of the total of 868 prisoners received in the after strike period, there were 138 who had been dealt with by the courts and received their prison sentences during the strike. A table of the length of the sentences they received follows:

Table 3.10  
LENGTH OF SENTENCE DURING STRIKE  
PRISONER RECEIVED AFTER STRIKE DEALT WITH DURING

Period	Number of prisoners	Percentage
Under 1 year	77	55.81%
1 - 2 years	30	21.74%
2 - 3 "	15	10.87%
3 - 4 "	8	6.80%
4 years or more	8	6.80%
Total	138	100.00%

Just over fifty-five percent (55.81%) received sentences of less than one year in the strike period. This was a significant drop (13.25%) in the proportion of sentences for less than 1 year from the control period. We assume that Magistrates gave non-custodial sentences to convicted persons to whom they might normally have given a short sentence. However, from the data we encoded we cannot tell what sentences were actually received by these accused who were not given prison sentences. This percentage drop is consistent with our finding that there was a significant drop in the number of accused who received prison sentences

in cases dealt with summarily during the strike period in Waverley Local Court.<sup>3</sup>

Twenty-four percent (21.74%) of these prisoners received sentences of one year but less than two, which represents an increase of 10.57% over the percentage who received such sentences in the control period. There was no marked difference in the proportions of longer sentences from the control period.

#### AFTER STRIKE RECEIVALS - DEALT WITH AFTER STRIKE

There were 137 prisoners who were received after the strike and who had been dealt with in that after strike period. They received sentences for the following periods:

Table 3.11  
LENGTH OF SENTENCE AFTER STRIKE PERIOD

Period	Number of prisoners
2 months	2
3 "	10
4 "	11
5 "	1
6 "	33
7 "	1
8 "	0
9 "	9
1 year	18
15 months	5
18 "	8
2 years	17
30 months	3
3 years	4
42 months	5
4 years	0
5 "	5
6 "	2
7 "	0
8 "	0
9 "	1
114 months	1
10 years	1
Total	137

Thus 48.91% received sentences of less than 1 year (67), 22.63% for 1 but less than 2 years (31), 14.60% for 2 but less than 3 years (20), 6.57% for 3 but less than 4 years (9) and 7.30% for 4 or more years (10)

<sup>3</sup> See page 13. of this report.

LENGTH OF SENTENCE COMPARED FOR CONTROL AND AFTER STRIKE  
RECEIVAL PERIODS

When the sentencing figures for the two periods (the control and after strike receival) are compared, there was no significant difference between the sentences given during the strike period and after strike periods for the prisoners received in the after strike period, but there was a big difference between those for the whole of the after strike period and the control period. The following table shows a comparison of the length of sentences for the three periods studied:

Table 3.12  
COMPARISON OF LENGTH OF SENTENCE  
CONTROL AND AFTER STRIKE PERIODS

Period Received:	Control	After strike	
Period when sentenced:		Strike	After
Under 1 year	259	77	67
1 - <2 years	59	30	31
2 - <3 "	24	15	20
3 - <4	17	8	9
4 years and over	16	8	10
Totals	375	154	128

(Chi Square = 22.094, D.F. = 8, Prob. =  $4.876 \times 10^{-3}$ )

In the control period 69.06% of sentenced prisoners received sentences of less than 1 year whereas of those received in the after strike period and dealt with by the courts in the strike period only 55.81% received such sentences ( a drop of 13.25%, as stated). Of those received in the after strike period and dealt with in that period only 48.91% received such a sentence (a further drop of 6.55%). (There was a total of 403 prisoners who received sentences of less than 1 year in all the periods combined.) The fact that the proportion of less than one year sentences did not rise, and in fact dropped further, after the strike ended gives additional support to the assumption that alternative sentences were found for at least some of the group who would normally have received such a sentence.

LENGTH OF SENTENCE COMPARED FOR CONTROL, STRIKE AND AFTER  
STRIKE RECEIVAL PERIODS

The following Table shows a comparison of the sentences received in all three periods for all sentenced prisoners received during those periods irrespective of when they were sentenced

Table 3.13  
COMPARISON OF LENGTH OF SENTENCE  
CONTROL, STRIKE AND AFTER STRIKE

Period	Control	Strike	After strike
Under 1 year	259 (69.06%)	66 (59.46%)	160 (52.63%)
1 - 2 years	59 (15.73%)	27 (24.32%)	70 (23.03%)
2 - 3 "	24 ( 6.40%)	8 ( 7.20%)	36 (11.84%)
3 - 4 "	17 ( 4.53%)	5 ( 4.51%)	17 ( 5.59%)
4 or more years	23 ( 6.13%)	5 ( 4.51%)	21 ( 6.91%)
Totals	375	105	282

Chi Square = 20.572, d.f.=8, Prob.=8.375 x 10<sup>-3</sup>

Whilst there was not such a significant drop as noted between the control and after strike periods between the control and strike periods for prisoners receiving a sentence of less than one year, there was a drop of 9.06%. There was an increase, however, of 8.08% in the sentences of 1 year but less than 2 between the control and strike periods. Between the strike and after strike periods, the percentage of sentences of 1 but less than 2 years was almost constant. There was a rise of 4.44% in sentences of 2 but less than 3 years between the strike and after strike periods, but no real difference between the control and strike periods in such sentences.

The proportion of prisoners who received long sentences of 4 or more years was similar for the control, the strike and the after strike receivals: 4.26% in the control period, 3.81% in the strike and 5.67% for the after strike periods. It appears, therefore, that the strike had no effect on the sentencing patterns for more serious offences.

**SENTENCED PRISONERS AND TIME SPENT IN POLICE CELLS**

The 154 prisoners who had been sentenced during the strike must have been held in police cells during the strike and transferred to gaol after the strike. The following is a table of the periods between sentencing and receipt into prison for these prisoners. These periods must represent the time these prisoners spent in police cells.

Table 3.14  
PERIOD BETWEEN SENTENCE AND RECEIVAL  
DURING STRIKE PERIOD

Period	Number of prisoners
3- 5 days	10
6-10 "	32
11-15 "	22
16-20 "	23
21-25 "	20
26-30 "	15
31-35 "	9
36-39 "	7
Total	138

Thus the average length of time spent in the police cells was 17.4 days. The 138 prisoners were spread throughout the state's prisons, there did not appear to be a concentration in any one particular area.

These prisoners were received into the prisons on the days indicated in the following table after the strike ended. The majority (112) were received within the first 3 days (including the actual day it ended).

Table 3.15  
DAYS OF RECEIVAL OF PRISONERS DEALT WITH  
DURING THE STRIKE AND RECEIVED AFTER

Period	Number of prisoners
Day strike ended	18
2	58
3	36
4	0
5	19
6	0
7	5
8	0
9	1
10	1
Total	138

#### REMAND PRISONERS RECEIVED

As stated, there was a total of 521 prisoners received on remand during the control period and there were 62 remand prisoners received during the strike period. In the control period 38 of the prisoners received on remand were female. In the strike period only 1 remand was female and she was a life prisoner sent back by the Parole Board. In the after strike period there were 444 remand prisoners received: 90 of whom had been remanded during the strike (78 male prisoners and 12 female); 100 of the remands had been remanded before the strike started and 254 had been remanded after the strike ended - in the after strike period itself.

Of the 90 remand prisoners received after the strike who had been dealt with during the strike, nearly all were received into the gaols within the three days after the strike ended. There were 31 received on the day the strike ended, 34 the next day, 21 the next and the last 4 were received on the fourth day.

#### WEEKLY RECEIVAL NUMBERS OF REMANDS

##### CONTROL PERIOD

In the control period the remand prisoners were received in the following numbers during the five weeks:

Table 3.16  
NUMBERS OF REMAND PRISONERS RECEIVED IN WEEK

Week	Total	Max. per day	Min. per day	Average per day
1	85	21	2	12.14
2	112	28	*0	16.00
3	120	26	*0	17.14
4	122	25	3	17.42
5	82	28	*0	11.71
Total	521			

(\* Sundays)

The maximum number of prisoners received on any one day in the control period was 28 and the minimum actually received on any one day was 2. The asterisked nil receivals were all on Sundays.

#### AFTER STRIKE PERIOD

Of the 254 remanded and received in the after strike period, 149 were received into prison the same day as they were remanded by the court, 79 were received the day after they were remanded and 16 were received 2 days after. The longest period between remand and receipt was 8 days

#### PERIOD OF REMAND

##### CONTROL PERIOD

Of the 521 remands, there were 31 cases where either the period is unknown or they were detained for balance of licence or parole or for deportation. For the remaining 491 remands the average remand period was 11.66 days for all remands and 8.53 for female remands. The most usual remand periods were from 2 - 9 days (318). The most frequently used period was 8 days. There were twice as many remands for 8 days as for any other period (88). The longest period for a male prisoner was for 165 days; for a female prisoner it was for 44 days. The following is a table of the periods in seven day blocks:

Table 3.17  
REMAND PERIODS IN 1983

Period	Number of prisoners			Percentage
	Male	Female	Total	
Up to 7 days	186	1	187	35.89
8 - 14 days	158	16	174	33.40
15 - 21 "	67	2	69	13.24
22 - 28 "	25	0	25	4.80
29 days or more	33	2	35	6.72
Unknown or inapplicable	31	0	31	5.95
Total	500	21	521	100.00

## DURING STRIKE

Table 3.18  
PERIOD OF REMANDS DURING STRIKE

Period	Number of prisoners	Percent	Cumulative.	
			Number of prisoners	Percent
1 - 7 days	13	23.21	13	23.21
8 - 14 "	20	35.71	33	58.93
15 - 21 "	11	19.64	44	78.57
22 - 28 "	6	10.71	50	89.29
1 - 3 months	6	10.71	56	100.00
Total	56	100.00		

## AFTER STRIKE

## REMANDED DURING - RECEIVED AFTER

Some caution needs to be used with these figures, as for the breach of recognisance prisoners received after the strike the warders who entered the information on the prison receipt sheets varied somewhat in the date they entered for the court decision on the breach. Some entered the date the breach was dealt with and others the date of the original sentence. Thus, it was difficult in some cases to ascertain whether the prisoner was dealt with by the court during the strike. Our figures showed only 6 breach of recognisance prisoners received after the strike who had been dealt with during the strike. There were most probably more. There were other prison receipts we suspect were breach of recognisance cases because of the long period between the original offence and the receipt, but the record showed what we suspect was the original offence as the offence received for. As the number of breach of recognisance cases we encoded was so small, we did not analyse these cases separately. We included them with the remands, as we did in the control and strike periods.

Of the 90 prisoners received on remand after the strike ended who had been dealt with during the strike, the remand periods are only known for 61 of them. The periods show a marked difference to the remand periods in the control period. The periods for the 90 prisoners started at 7 days. The short remand periods were not present, most probably because the prisoners with short remands were returned to court without being transferred to prison. The longest remand period given during the strike to a male prisoner was 99 days. For a female prisoner it was 64 days. The following are the periods:

Table 3.19  
REMAND PERIODS FOR RECEIVALS AFTER STRIKE  
DEALT WITH DURING STRIKE

Period	Number of prisoners		
	All	Female	Male
0 - 7 days	1	0	1
8 - 14 "	18	0	18
15 - 21 "	20	6	14
22 - 28 "	7	1	6
29 days or more	15	5	10
Unknown or inapplicable	29		
Total	90	12	49

**AFTER STRIKE  
ALL RECEIVALS**

Of the 365 prisoners received in the after strike period the remand periods are only known for 304 as this information sometimes was not filled in in the prison receipt sheets, particularly in the hectic immediate after strike periods with its high numbers of prison receipts. Table .18 gives the figures:

Table 3.20  
PERIOD OF REMAND FOR AFTER STRIKE RECEIVALS

Period	Number of prisoners	Percent	Cumulative	
			Number of prisoners	Percent
1 - 7 days	169	55.59	169	55.59
8 - 14 "	55	18.09	224	73.68
15 - 21 "	30	9.86	254	83.54
22 - 28 "	18	5.92	272	89.46
1 month or more	32	10.53	304	100.00
TOTAL	304	100.00		

**PERIOD BETWEEN COURT DECISION AND RECEIVAL IN PRISON FOR PRISONERS REMANDED DURING AND RECEIVED AFTER STRIKE**

The following table gives the period between the date the court dealt with the prisoner and ordered his or her detention and the date the prisoners were received into prison:



Table 3.21.  
PERIOD BETWEEN COURT DECISION AND PRISON RECEIVAL

Period	Number of prisoners	
	Male	Female
3 - 7 days	42	4
8 - 14 "	12	7
15 - 21 "	18	0
22 - 33 "	6	1
Total	78	12

Therefore, the average number of days between remand decision and receipt was 10.65 days. The periods ranged from 3 to 33 days. As these prisoners were all received into the prisons within 3 days after the end of the strike, it is obvious many of them spent quite long periods in police cells during the strike. This is corroborated by the figures gained from the Cell Book from the Waverley Police Station, which figures are on pages 99-101 infra.

#### OFFENCES REMANDS WERE CHARGED WITH

##### STRIKE PERIOD

The offences that the 64 remands received into gaol during the strike were charged with were as follows:

Table 3.22  
OFFENCES OF REMANDS  
STRIKE PERIOD

Offences	Number of prisoners
Homicide and assaults	10
Sexual offences	6
Robbery, larceny, fraud	27
Driving, traffic	3
Breach of release/recogn.	7
Drugs and offensive behav.	11
Total	64

This follows the pattern found in the figures for all receipts during the period which is demonstrated in Table 3.06 on page 52. Again the largest percentage of offences is the property offences, 42.18% for remands as compared with 47.55% for all receipts during the control period.

##### AFTER STRIKE PERIOD

In the after strike period, the offences of the 365 remands received into prison were charged with were as shown in the next table :

Table 3.23  
OFFENCES OF REMANDS  
AFTER STRIKE PERIOD

Offences	Number of prisoners
Homicide and Assaults	47
Sexual offences	24
Robbery, larceny, fraud	194
Driving, traffic	8
Breach of release/recog.	38
Drugs & offensive behav.	54
Total	365

Once again the largest percentage of offences were property offences with 53.15 % falling into this category. Overall there were 51.51% of property offences in 1984 which was slightly but not significantly higher than 1983.

#### AGE RANGE OF REMANDS

#### STRIKE PERIOD

The following is the age range of the 62 remands received during the strike period:

Table 3.24  
AGE OF REMANDS  
STRIKE PERIOD

Age	Number of prisoners
18	5
19	1
20	3
21	6
22	0
23	3
24	4
25 - 29	16
30 - 34	5
35 - 44	9
45 - 54	6
61	1
Unknown	3
Total	62

This is a similar age pattern to the age range of the total prison receivals during the strike period shown in Table 3.04 on page 49.

Similar tables for the control and after strike periods for the age of the remands received were not prepared as it was obvious that the age ranges were virtually the same as those for the total receivals during the period.

## FINE DEFAULTERS RECEIVED

There were a total of 501 fine defaulters received in the control period, 37 were received during the strike and 222 in the 10 day period after the strike. Of the 222 received in the after strike period, 25 had been dealt with by the courts during the strike and 197 had been dealt with outside that period, either before or after it.

## DAY OF WEEK RECEIVED

## CONTROL PERIOD

The total number of 503 fine defaulters were mostly received on week days in the control period, particularly on Wednesdays and Fridays:

Table 3.25.  
DAYS OF RECEIVAL OF FINE DEFAULTERS  
CONTROL PERIOD

Weekday	Number received					Total
	Weeks					
	1	2	3	4	5	
Sunday	0	3	1	3	9	16
Monday	16	16	19	15	19	85
Tuesday	20	20	28	14	17	99
Wednesday	11	15	22	22	23	93
Thursday	9	9	15	19	16	68
Friday	21	23	21	14	13	92
Saturday	12	9	10	8	9	48
Total	89	95	116	95	106	501

Chi-Square = 34.515 Degree of Freedom = .0759

There were between 1 and 28 fine defaulters received on any one day during the control period, with none being received on one Sunday. There was an average daily receipt of 14.34 fine defaulters in that period. The most that were received on any Sunday was 9 and 12 on a Saturday. The average weekly receipt was 100.2.

A report on fine defaulters imprisoned in N.S.W. prepared by the Bureau of Crime Statistics and Research<sup>4</sup> indicated that the average number of fine defaulters received per month into N.S.W. prisons during 1983 was 412 which was an increase of 38.8% over 1982 when the average was 296 per month. For the period between January, 1983 and May, 1983, the average number of receipts per month rose to 385. Our

<sup>4</sup> Preliminary Report of a Study of Persons Imprisoned for Non-Payment of Fines (Bureau of Crime Statistics and Research, 1984). The figures were prepared by the Department of Corrective Services.

figures would be similar for a full month of 30 - 31 days (423 for the first 30 days of the control period)

#### DURING STRIKE

During the 34 days of the strike there were 37 fine defaulters received who had been either sentenced before or during the strike. There were no more than 4 received on any one day. Their receivals were spread throughout the strike period, with 12 being received in the first week, 9 in the second, 4 in the third, 8 in the fourth and 4 in the fifth week. On 15 days there were no receivals of fine defaulters at all. This was a marked contrast to the control period where there was only one Sunday on which no fine defaulters were received.

#### AFTER STRIKE

During the 10 day period after the strike, there were 25 fine defaulters received for whose arrest warrants had been ordered to be issued during the strike. There were also 174 fine defaulters received for whose arrest after warrants had been issued during that 10 day after strike period or prior to the strike, that is outside the strike period. So there were a total of 199 fine defaulters received during the 10 day period.

The 25 fine defaulters who were received in the 10 day period after the strike whose arrest had been ordered during the strike were more than likely at large during the strike. We had been informed that, due to the overcrowding in police cells due to sentenced prisoners and prisoners on remand, the police had "turned away" fine defaulters who had presented themselves at police stations to "work off" their fines during the strike, when the special strike remission of 4 days for every 1 day spent in custody applied. It was a reasonable assumption, therefore, that these 25 fine defaulters were not arrested until after the strike ended. However, when the Cell Book at Waverley Police Station was examined, it showed that some fine defaulters were accepted into the Police cells during the strike and so it is impossible to say whether or not these 25 offenders were or were not in police custody during the strike.

The 25 fine defaulters received after the strike whose arrest had been ordered during the strike, were received in the following numbers in the 10 day period after the strike ended: first 7 days - 22, next 3 days - 3.

#### 1984 COMBINED FIGURES

Combining fine defaulters received during the strike and after the strike, the days of the week on which they were received were;

Table 3.26 \*  
DAYS OF WEEK OF RECEIVAL  
1984 COMBINED FIGURES

Sunday	3
Monday	33
Tuesday	43
Wednesday	55
Thursday	45
Friday	39
Saturday	18
Total	236

\* As the whole 1984 period covered 44 days there was one more Wednesday and one more Thursday than the other days of the week included in this period. Thirty four (34) defaulters were received on the last two days compared with an average of 32 days in a Wednesday - Thursday period during the 1983 Control period.

The following table compared the numbers of prisoners received on each day of the week for the control period in 1983 with the combined periods for 1984:

Table 3.27  
DAYS OF WEEK OF RECEIVAL OF FINE DEFAULTERS  
CONTROL AND 1984 COMBINED FIGURES

Day of week	1983	1984	Total
Monday*	85	33	118
Tuesday	99	43	142
Wednesday	93	55	148
Thursday	68	45	113
Friday	92	39	131
Saturday	48	18	66
Sunday	16	3	19
Total	501	236	737

Because the number of days in each period are different and because of the wide variation between admissions in the strike and after strike period, a Chi Square test on this Table would be invalid.

**OFFENCES OF FINE DEFAULTERS**

**CONTROL PERIOD**

The offences for which the 501 fine defaulters received into prison during the control period were eventually imprisoned were:

Table 3.28.  
OFFENCES OF FINE DEFAULTERS  
CONTROL PERIOD

	Number	Percentage
Offences against the person	15	2.99%
Soliciting	1	0.19%
Offences against property		
fraud	10	2.00%
larceny	47	9.38%
other	26	5.18%
Traffic offences		
driving	165	32.93%
licence	172	34.33%
Drug	29	5.79%
Offensive behaviour	10	2.00%
Other	26	5.12%
Total	501	

It is obvious from the above table that the majority of fine defaulters (67.26%) in the control period were imprisoned for non-payment of traffic fines.<sup>a</sup> In fact, there would be more traffic offences involved than appears above in the total of 337 driving and licence offences as prisoners are sometimes imprisoned for more than one offence and "work off" an accumulated number of fines. However, the Fine Defaulters Report on the study of fine defaulters<sup>b</sup> stated that 70.9% of fine defaulters in that study were "working off" only one fine. So the number of multiple fines would not be very great. Multiple offenders include some commercial operators who appear to treat traffic fines as another business expense and attempt to reduce these expenses by serving a short period in prison rather than paying up.

#### OFFENCES OF FINE DEFAULTERS RECEIVED IN 1984

Because of the small number of fine defaulters who were received during the strike (37) or who were received after but dealt with during the strike (25), all the fine defaulters received into gaol during 1984 were combined to ascertain the offences for which they were ultimately fined. The 174 fine defaulters who were received after the strike and who were dealt with after the strike were also included, making a total of 236 fine defaulters for 1984.

As in the control period, the most frequent offences for which fine defaulters were imprisoned were traffic offences.

<sup>a</sup> This supports the finding, in the Preliminary Report, *ibid* at p.24, that 67.2% of fine defaulters who were imprisoned were imprisoned for "driving offences", a category which was similar to our category of traffic offences.

<sup>b</sup> *Ibid* at 27. Only 20.0% were "working off" 2 to 4 fines and less than 10% were "working off" more than 4 fines - though in cases involving more than 4 fines these usually were traffic offences including multiple parking offences.

There were a total of 146 fine defaulters imprisoned for driving or licence offences in 1984. This represents 61.87% of the total prisoners received in 1984. Again, there were most probably many more offences involved than the number of 146 prisoners received. Some of the prison receipt sheets indicated there were fines totalling over \$1,000 being "worked off" by a single prisoner.

The offences for which fine defaulters were imprisoned in the 1984 periods combined were:

Table 3.29  
OFFENCES OF FINE DEFAULTERS  
1984

Offences against the person	12
Soliciting	4
Offences against property	
fraud	6
larceny	30
other	7
Traffic offences	
driving	69
licence	77
Drug	23
Other	8
Total	236

Traffic offences, therefore, represented 61.87% of the offences for which fine defaulters were imprisoned. This was a small drop from the 66.04% that traffic offences represented in the control period.

The 37 fine defaulters who were received during the strike were fined for a range of offences - from the trivial to the serious. What criteria were used to select them for admission to prison during the strike was not obvious from the prison receipt sheets. They were received mainly into country prisons throughout the state and often from towns distant from the town in which the prison was located.

#### AGE OF FINE DEFAULTERS

#### CONTROL PERIOD

The fine defaulters received in the control period ranged in age as follows:

Table 3.30.  
AGE OF FINE DEFAULTERS  
CONTROL PERIOD

Age	Number	Number Combined Total	Percentage
17 - 19 years		64	12.77%
17	5		
18	23		
19	36		
20 - 24 years		195	38.92%
20	47		
21	53		
22	36		
23	21		
24	38		
25 - 29 years		95	18.96%
30 - 34 "		58	11.58%
35 - 44 "		53	10.58%
45 - 54 "		22	4.39%
55 - "		2	0.4%
	Total	501	

**AFTER STRIKE - DEALT WITH DURING STRIKE**

The ages of fine defaulters received in the after strike period who had either been dealt with during the strike or dealt with after were as follows

Table 3.31.  
AGES OF FINE DEFAULTERS  
RECEIVED AFTER AND DEALT WITH DURING STRIKE

Age	Number of defaulters
18-19	3
20-24	11
25-29	8
30-34	2
35 +	1
	Total 25



## AFTER STRIKE - ALL RECEIVALS

Table 3.32  
AGES OF FINE DEFAULTERS  
ALL RECEIVALS AFTER STRIKE

Age	Number
18	15
19	14
20	21
21	18
22	17
23	20
24	11
25-29	48
30-34	36
35-44	23
45-54	4
55+	3
Total	236

## PERIOD BETWEEN SENTENCE AND IMPRISONMENT FOR FINE DEFAULTERS

## CONTROL PERIOD

Table 3.33  
PERIOD BETWEEN COURT ORDER AND RECEIVAL  
CONTROL PERIOD

Period	Number
Same Day	39
1-7 Days	24
8-14 Days	3
15-21 Days	4
22-28 Days	14
1-3 Months	65
3-6 Months	119
6-12 Months	134
1 Year+	99
Total	501

## STRIKE PERIOD

The fine defaulters received during the strike had the following periods between the court order resulting in their imprisonment and their actual reception in prison:

Table 3.34  
PERIOD BETWEEN COURT ORDER AND RECEIVAL  
STRIKE PERIOD

Period	Number of defaulters
Same day	5
1 - 7 days	3
8 - 14 "	2
15 - 28 "	0
29 - 91 "	9
3 - 6 months	9
6 - 12 "	4
Over 1 year	3
Total	37

This indicated that at least 16 fine defaulters (those where the period was 3 months or over) were arrested for offences for which they had been fined prior to the strike period (which was only 35 days). The data on the prison receival sheets did not indicate when the warrant for apprehension issued. It may be that in some of these receivals the warrant of apprehension was issued (and the police executed it) during the strike. It is difficult to be definite on these numbers as there was some variation in the practice of filling in the date of court decision in the prison receival sheets. We suspect that, sometimes, the original court decision imposing the fine was entered as the court decision date and at other times the date of ordering of the warrant to issue was entered. However, even allowing for such variations, it appears some warrants for fine defaulters were executed during the strike. Again, this is borne out by the data from the Cell Book from Waverley Police Station.

Some of the fine defaulters received in the strike and after strike periods may have served some of their time in police cells. The Cell Books revealed that there were quite a few fine defaulters who spent periods of time in the cells during the strike. Some of these were transferred to the gaols at the end of the strike<sup>7</sup>. The study on fine defaulters by the Bureau of Crime Statistics and Research already referred to<sup>8</sup> showed that over 20% of fine defaulters were held in police lockups for more than 1 night. During the period from January to June, 1982, 575 fine defaulters were detained and served their period of imprisonment for the default in the lockups in the 17 country towns visited. Extrapolating from that figure to the whole state, the Report estimated that around 2000 fine defaulters would be detained and serve the whole period of their "sentence" in police cells during a full year. The highest rate of detention in lockups was in the country towns of Bourke,

<sup>7</sup> The Waverley cell book showed that some fine defaulters were transferred immediately after the strike and probably most of those received into prison in the first 4 days after the strike had been transferred from cells but the exact number is impossible to ascertain.

<sup>8</sup> Supra footnote 4. , p 64.

Walgett and Moree, "aboriginal towns" which were also the most distant from any prison.

#### AFTER STRIKE

Table 3.35  
PERIOD BETWEEN COURT ORDER AND RECEIVAL  
AFTER STRIKE PERIOD

Period	Number
Same Day	7
1-7 Days	22
8-14 Days	2
15-21 Days	5
22-28 Days	7
1-3 Months	40
3-6 Months	41
6-12 Months	39
1 Year+	36
Total	199

#### SEX OF FINE DEFAULTERS

During the Control Period, there were 472 male and 28 female fine defaulters (in one case the prisoner's sex was not recorded). There were 36 male and 1 female fine defaulters received into prison during the strike. After the Strike, there were 176 male and 23 female fine defaulters received. Thus there were wide fluctuations in the proportion of female fine defaulters received in the three periods i.e. 5.6% in the control period, 2.7% during the strike, and 11.6% after the strike. Although these differences are too large to be reasonably ascribed to chance, it is difficult to give an adequate explanation of why they occurred.

## ESTIMATION OF THE EFFECTS OF THE STRIKE

Simply comparing the receivals into prison during the strike with the corresponding days in the control period is, of course, no real way of estimating the effect of the strike. If all the people who would normally have been received into prison had been "warehoused" in the police cells and taken to prison after the strike was over then one could say that the strike had had no over-all effect on the criminal justice system. On the other hand, if all the people who would have been sent to prison in the strike period received non-custodial sentences there would have been a large effect.

In fact, the real effect lay between these two extremes. One of the major aims of this study was to discover just what did happen, as far as this was possible and practicable. To do this the receivals into prison were followed up for the ten day after strike period to see how far the increase in receivals in this period would cancel out the decrease in receivals in the strike period. Ideally, a longer follow-up period of the unfinished cases in the system at the time of strike would have been useful in making a judgment concerning the effects of the strike. However, the complexity and time involved in collecting such information made it a practical impossibility.

We found that by the Sunday after the strike receivals had fallen back to the levels of the corresponding day in the preceding year. This is borne out by the data encoded from the Waverley Police Station Cell Book.<sup>9</sup> If there still remained any effect of increased receivals after this period, more than likely it would have been only a very small one and have required the collection of many months of receivals data to detect it. We, therefore, decided not to extend the follow-up beyond the period we had arbitrarily chosen originally.

The method of comparison involved calculating the average number of receivals on each day of the week during the control period. Chi square tests indicated that there were no significant differences between the numbers of persons received per week over these five weeks although there were of course highly significant differences between the various days of the week especially between weekdays and the weekends. Using this method of comparison, we were able to compare the numbers of sentenced prisoners, fine defaulters and "remands" who were received in the strike and follow-up periods with the estimated number who would have been received if the same rates as during the control period had applied. No attempt was made to estimate what expected

<sup>9</sup> The Waverley Cell Book indicated that all prisoners in their cells on overnight stays at the end of the strike were transferred to gaol on the day the strike ended. In country areas, this transfer would probably take longer.

increase there might have been due to increase in the New South Wales population or due to any changes in the law or in practice.

As an example there were 37 fine defaulters received during the strike period and 197 during the follow-up period, making a total of 234. When we calculated the numbers of fine defaulters who might have been expected to be received during these periods, based on the average daily receivals in the control period, we found that we would have expected at least 464 receivals in the strike period and 168 in the follow-up period, making a total of 632. Over the combined 1984 periods a total of 234 fine defaulters were actually received. For this particular group most of the nearly 400 fewer receivals will, in the course of time, filter into the prison system. Apart from a few accused sentenced during the strike period who might have been given some other form of non-custodial sentence rather than a fine, and possibly some who served their time in police cells, the rest would still be subject to the execution of warrants for non-payment of fine or fines. Different considerations apply to other types of prisoner. These will be considered in more detail below.

#### FINE DEFAULTERS

We arbitrarily divided fine defaulters into three groups before making comparisons between the actual and expected numbers of receivals in the control and follow-up periods. These three groupings were based on the amount of time between the court decision that resulted in the fine defaulter being imprisoned (the "sentence") and their receipt into prison:

- (a) No time to pay - Those whose period between sentence and receipt was less than 4 days:
- (b) "New warrants" - Those whose period between sentence and receipt was 4 to 44 days: and
- (c) "Old warrants" - Those whose period was greater than 44 days.

Group (a) by and large consisted of those fine defaulters who were not allowed time to pay. Group (b) were a group allowed time to pay but who might in 1984 have had their sentence affected by the strike, such as being given more time to pay or by being allowed time to pay in circumstances where, had there been no strike, they would not have been given time at all. In group (c) the period between sentence and receipt should be too long for there to have been any effect on the sentence by the strike.

(However, it must be realized that fine defaulters can, and sometimes do, serve sentences concurrently for several fines received at different times. Only the date of sentence of the greatest fine will be recorded as this determines the period spent in prison. Some receivals in groups (b) and (c) may, therefore, have received fines at later dates than the recorded one and could possibly be in group (a) for the

latest offence. This could not be ascertained from the data we collected.)

The results of the comparison between the actual and expected numbers of receivals of fine defaulters in the combined strike and after strike periods in 1984, extrapolating from the 1893 control period figures for the expected numbers, are as follows:

Table 3.36  
COMPARISON OF NUMBER OF RECEIVALS AND EXPECTED NUMBER  
FINE DEFAULTERS

Group	Period	Number of prisoners	
		Received	Expected
(a) No time to pay	Strike	8	56
	After strike	28	17
	Total	36	73
(b) "New warrants"	Strike	8	45
	After strike	28	18
	Total	36	63
(c) "Old warrants"	Strike	21	363
	After strike	143	133
	Total	164	496
Totals	Strike	37	464
	After strike	199	168
	Total	236	632

It appears from the above table that there was a marked increase in the numbers of fine defaulters who were given no time to pay, or only a short time, in the follow-up period. This would seem to indicate that there was a group of cases magistrates deferred till the strike was over for issuing warrants that would result in imprisonment. Also, in the week after the strike, police may have executed fresh warrants which arrived during and just after the strike. Old warrants, on the other hand seem to have largely been ignored during the strike and treated as "business as usual" after the strike as the slight rise in number received over number expected is obviously not significant. The data encoded from the Waverley Police Station Cell Book did not contain the date of the issue of the warrant for apprehension and so was not of assistance in evaluating this supposition.

The long term effect of the strike upon fine defaulters would appear to be that most of the 396 difference between the expected number of receivals of fine defaulters and the number actually received will eventually appear as prison receivals when the police execute the old warrants. It is likely that old warrants are only executed when the fine defaulter is detected committing another (probably traffic) offence and that when they are received into prison they

would be likely to have at least one more charge (even a conviction) which could result in another fine.

#### SENTENCED PRISONERS.

As the period between sentence and receipt was generally very short and as the strike could be expected to alter the length of the periods substantially compared with the periods in the control period, it was decided to analyse these cases by examining which court passed sentence. There were four (4) groups of courts namely :

- (a) Local Courts.
- (b) District Courts.
- (c) Supreme Courts (including Appeals).
- (d) Other "Courts" (in the main , the Parole Board)

The first three groups of courts might be expected to pass different numbers of sentences growing progressively fewer as we go down the list. Although because of the long sentences they impose the District and Supreme Courts have sentenced the bulk of the prisoners who would be found in prison on any particular day on which one might visit a prison, the majority of receipts into prison are short-term prisoners sentenced by magistrates.

It turned out that the numbers of cases from the Supreme & Other Courts were so small that they were insufficient for analysis and these two categories were combined.

Table 3.37.  
COMPARISON OF NUMBER OF RECEIVALS AND EXPECTED NUMBER  
SENTENCED PRISONERS

Group	Period	Number of Prisoners	
		Received	Expected
(a) Local Courts.	Strike	70	210
	After Strike	189	54
	Total	259	264
(b) District Courts.	Strike	39	131
	After Strike	89	33
	Total	128	164
(c) Supreme & Other.	Strike	2	34
	After Strike	26	9
	Total	28	43
TOTAL	Strike	111	375
	After Strike	304	96
	Total	415	471

It can be seen from the above Table that the smaller numbers of receipts than expected in 1984 are the result of fewer sentenced prisoners coming from the Higher Courts. This is

explicable because there would be numbers of prisoners awaiting trial in Long Bay who would normally have been expected to have been sentenced by these courts. The trials which filled the gaps in the workload in the District Courts could be expected to contain a greater number of cases which would not result in a prison sentence as the accused involved were not remanded in custody.

#### REMANDS

The prisoners received on remand were classified in the same way as the prisoners received under sentence i.e. according as to from which type of court they came. The results for the remandees are shown in the Table below.

Table 3.38.  
COMPARISON OF NUMBER OF RECEIVALS AND EXPECTED NUMBER  
REMANDS

Group	Period	Number of Prisoners	
		Received	Expected
(a) Magistrates Courts.	Strike	47	471
	After Strike	309	128
	Total	356	599
(b) District Courts.	Strike	11	32
	After Strike	32	8
	Total	43	40
(c) Supreme & Other.	Strike	6	18
	After Strike	24	5
	Total	30	23
TOTAL	Strike	64	521
	After Strike	365	141
	Total	528	662

The remands show the reverse picture to the sentenced prisoners, it is the Local Courts which show a substantial drop in receivals rather than the Higher Courts. This indicates that the practice of being more liberal in the granting of bail which we found in Waverley Court must have been generally applied.

The overall picture therefore appears to be that the strike had a far greater effect upon those persons charged with less serious offences which were likely to be dealt with summarily than upon those facing more serious charges. The accused facing a serious charge who was not already in Long Bay on remand appears generally to have been held in the cells at the police station resulting in a rush of admissions after the strike which replaced the gap occurring during the strike by the expected amount. The cases of those prisoners facing serious charges do not appear to have been dealt with during the follow up period resulting in the drop in numbers of sentenced prisoners from the Higher Courts below the expected number.



## SUMMARY OF EFFECT OF STRIKE ON PRISON RECEIVALS

In summary, therefore, we found the expected dramatic drop in prison receivals during the strike. There were only 212 in the strike compared with 1397 in the control period. In the after strike period there was the anticipated increase in receivals (868 in the 10 days) but this increase did not bring the total receivals for the 1984 period up to what would have been expected if a similar receival rate had occurred in 1984 as occurred in 1983.

Extrapolating from the 1983 figures we would have expected a total number of receivals in the 1984 period to be 1765, made up of 632 fine defaulters, 471 sentenced prisoners and 662 remands. Only 1080 prisoners were actually received. They were made up of 236 fine defaulters, 415 sentenced prisoners and 429 remands. In Table form the figures are:

Table 3.39  
COMPARISON OF TOTAL ACTUAL RECEIVALS IN 1984  
WITH EXPECTED RECEIVALS

Type of prisoner	Actually received	Expected
Fine defaulters	236	632
Sentenced	415	471
Remands	429	662
Totals	1080	1765

Thus, there was a drop of 685 in the total number of prisoners received from the total number expected. The drop occurred mainly in the fine defaulters (down 376) and secondly in the remands (down 233). There was only a small drop in sentenced prisoners (down 56). The drop in the number on fine defaulters received came mainly in the area we defined as "old warrants" - those that had more than 44 days between the court decision that resulted in the fine and their receival into prison. As stated, it is expected that all the "old warrants" will eventually be executed by the police. Their execution was merely deferred by the strike. The drop in the number of remands received was mainly in the number coming from the Local Courts (243 down). There were, in fact, 10 more remands than expected received from the higher courts. They were received in the after strike period. This indicated that the observed increase in remands to bail which we found in the Waverley Local Court figures was a general trend in Local Courts during the strike.

The after strike receivals occurred mainly in the first three days after the strike ended, then "levelled out" thereafter. Some of these receivals would have been held in police cells during some or all of the strike.

The age range of prisoners did not vary between the three periods. The range contained the following gross numbers:

Table 3.40  
AGE RANGE FOR THREE PERIODS  
ALL RECEIVALS

Age group	Total number received
Under 20	371
20 - 24	808
25 - 29	516
30 - 34	293
35 - 44	286
45 - 54	92
Over 55	39
Unknown	72
Total	2477

This is similar to the Local Court age range, in that the age range concentrates in the under 25 end and falls off steadily thereafter.

There was a similarity between the three periods for the offences for which prisoners received were imprisoned. There was also a similarity in the proportion of prisoners received in the three periods who were serving sentences of 4 years or more. However, there was a significant difference between the control and the after strike periods in the number of prisoners received who had received sentences of less than 1 year. In the control, period 69.06% of prisoners had been sentenced for terms of less than 1 year whereas only 48.91% of prisoners received in the after strike period received such sentences. The proportion of prisoners receiving such sentences in the strike period was 55.81%. All this indicates that some form of alternative sentence must have been imposed for at least some of the prisoners who normally would have received such sentences during 1984. The percentage of sentences of 1 or more years remained constant for all the periods.

It would appear, therefore, there was a tendency for the courts to give longer remand periods during the strike. The most usual period during the strike were from 8 - 14 days where as during the control period they were from 2 - 9 days. This may have been due to lack of information about when the strike would end or to the fact that prisoners with shorter remand periods were kept in the police cells and not received in the gaols during the strike. The remand periods for these latter prisoners did not appear in any of the figures we encoded.

## CHAPTER 4

### PRISON DISPOSALS

#### GROSS NUMBERS OF DISCHARGES

We encoded the gross numbers of disposals/discharges from all prisons in New South Wales during both the strike and control periods, together with an 11 day after strike period. The gross numbers of prisoners discharged from all the New South Wales prisons during the three periods were 1474 in the control period, 1181 in the strike and 408 in the after strike. Thus, there was an unexpected dramatic drop of 293 in the number of prisoners disposed of from the gaols during the strike compared with the control period. This represents an almost 20% (19.88%) decrease in discharges from the control period. Considering the dramatic drop in prison numbers by the end of the strike and the efforts we had been informed were made to ensure all prisoners who could be were discharged - this drop in receivals came as one of the most unexpected effects (or non-effects!) of the strike.

#### GAOLS FROM WHICH PRISONERS DISCHARGED

The following is a table of the number of prisoners discharged from each gaol during the two periods, together with the difference in numbers between the periods.

Table 4.01  
GAOLS FROM WHICH PRISONERS DISCHARGED

Gaols	Number of prisoners		
	Control	Strike	Change between
Long Bay complex	526	328	-198
Parramatta	170	44	-126
Maitland	62	35	- 27
Bathurst	65	76	+ 11
Goulburn	75	112	+ 37
Grafton	46	81	+ 35
Cooma	9	30	+ 21
Broken Hill	18	14	- 4
Emu Plains	39	13	- 26
Glen Innes A.C.	23	32	+ 9
Oberon "	11	35	+ 24
Mannus "	37	57	+ 20
Kirkconnell "	0	21	+ 21
Silverwater	229	112	-117
Mulawa	72	55	- 17
Cessnock	76	107	+ 31
Norma Parker	6	11	+ 5
Other	10	18	+ 8
Total	1474	1181	

There was a big increase in the number of prisoners discharged from most country gaols and a marked decrease in the number of discharges from metropolitan gaols. The Long Bay Complex, Parramatta and Silverwater gaols recorded the biggest decreases (198, 126 and 117 respectively) with Parramatta discharging only 25% of the number discharged in the control period.

The following numbers of prisoners were discharged from the gaols indicated in the after strike period:

Table 4.02  
GAOLS FROM WHICH PRISONERS DISCHARGED  
AFTER STRIKE PERIOD

Gaol	Number of prisoners
Long Bay complex	145
Parramatta	35
Maitland	32
Bathurst	13
Goulburn	24
Silverwater	56
Mulawa	38
Cessnock	28
Other	34
Unknown	3
Total	408

There were 11 days in the after strike period and extrapolating from average number of discharges from all the prisons in the control period (the total of 1474 in 34 days gives an average number of 43.35 discharges per day) we would have expected 476.85 discharges from all the prisons in the after strike period. There was thus a 68.85 decrease in the expected number. Thus, there was no overall increase to compensate for the overall decrease in discharges during the strike.

There was no marked increase in the number of discharges from the metropolitan gaols which would have neutralised the decrease in the discharges from those gaols during the strike. There were 145, 35, 56 and 38 from the Long Bay complex, Parramatta, Silverwater and Mulawa respectively. These numbers did not equate with the decrease in numbers during the strike - 198, 126, 117 and 17 respectively. They did exceed the expected numbers extrapolating from the figures for the control period for the male gaols, but not for the female gaol at Mulawa. The extrapolation figures meant that there would have been 170, 55, 73.7 and 23 expected for each of the four gaols respectively.

#### SEX OF DISCHARGES

There were 78 female (72 from Mulawa, 6 from Norma Parker) and 1396 male discharges in the control period compared with 66 female and 1115 male in the strike period. Comparison of

the percentage that the numbers discharged for each sex in the strike represent compared to the control period shows an almost exactly similar percentage drop (15.38% for females and 15.21% for males). There were 38 female and 370 male prisoners discharged in the after strike period. Extrapolating from the figures in the control period, we would have expected a daily average of 2.2 female and 41.1 male discharges, making the expected totals 24.2 and 452.1 respectively. The number of female discharges in the after strike period exceeded that expected number by 57% but the number of male discharges did not - they were down by 82, an 18.14% decrease.

#### YEAR IN WHICH DISCHARGED PRISONERS RECEIVED IN GAOL

Table 4.03 shows the year in which the prisoners who were discharged were received into the New South Wales gaols. The earliest year was 1974, showing that the longest sentence served by a prisoner discharged during the strike was for approximately 10 years.

Table 4.03  
YEAR IN WHICH DISCHARGED PRISONERS RECEIVED

Year	Number of prisoners		
	Control	Strike	After strike
1974	1	1	0
1975	2	3	1
1976	3	0	0
1977	0	2	0
1978	1	2	3
1979	14	5	0
1980	9	3	1
1981	37 (2.51%)	15	1
1982	403 (27.34%)	66 (5.59%)	16
1983	1004 (68.11%)	674 (57.07%)	100
1984	-	404 (34.21%)	284
Unknown	0	6	2
Total	1474	1181	408

Thus in the control period 68.11% of prisoners (1004) discharged were received that year whereas only 34.21% of those discharged in the strike period were received in the year of the strike. This was a significant drop of 33.9%. In the control period 27.34% (403) of prisoners discharged were received the year before or in the year previous to that. In the strike period 57.07% of prisoners discharged (674) were received in the year before. These proportions most probably reflect the lesser number of prison receipts in the strike period itself<sup>1</sup> rather than the effect of the special strike remission enabling prisoners to serve out their sentences more quickly though the disposal sheets did indicate that the special strike remission had operated in 551 cases of discharges during the strike. It was not obvious whether that reason had been entered every time it applied or at the discretion of the officers who filled in

<sup>1</sup> See page 47. Table 3.01. supra.

the sheets. We suspect the latter since for all prisoners who were discharged because their sentence had expired the remission must have also operated. This would add another 140 to the cases in which the remission operated (see Table 4.04).

## TYPES OF DISCHARGES

Table 4.04  
TYPE OF DISCHARGE - ALL PRISONERS

Discharge type	Number of discharges	
	Control	Strike
Transfer to other gaol	11	94
Sentence served	437	140
Remission	184	551
Parole/probation	73	151
Licence	77	6
Fine paid or "worked out"	118	19
To bail	167	60
To police/court	317	86
Deported/extradited	12	6
Escaped	5	4
Other	21	8
Unknown	52	56
Total	1474	1181

Table 4.04 represents the types of discharges during the strike, not the type of prisoners discharged. For sentence served discharges there was a dramatically significant decrease between the two periods - from 437 in the control period to 140 in the strike. This was mirrored by a similarly dramatic increase in remission discharges - from 184 to 551 in the strike. Proportionately there was a 67.96% decrease in the number of sentence served discharges and a 66.61% increase in remission discharges. This indicates that the special strike remission enabled sentences to be served more quickly and, therefore, discharges to occur earlier than normal. The special strike remission was 4 days for every 1 day spent in custody during the strike, so prisoners who spent the whole of the strike in custody were entitled to 175 extra days off their sentence. This would amount to almost 6 months. Thus there would have been an acceleration of discharges for many prisoners since Table 3.11 shows that 69.06% percent of prisoners received had sentences of less than 1 year in the control period, 60% in the strike and 53.19% in the after strike period.

Table 4.05  
SENTENCE SERVED DISCHARGES  
WEEKLY TOTALS IN STRIKE

Week	Number of discharges
Week 1	54
" 2	25
" 3	23
" 4	26
" 5	11 (6 days only)
Unknown	1
Total	140

The daily average number of sentence served discharges during the control period was 13.55. Extrapolating to the strike period, we would have expected 464 sentence served discharges. Thus, there was a drop of 324 between the actual numbers discharged and the expected number. This was a 69.83% drop.

There was a doubling of the number of discharges to probation or parole. This was expected as the new Probation and Parole Act 1983 (N.S.W.) came into effect in February, 1984 and its provisions were implemented as quickly as possible to help overcome the effects of the strike. There was a sudden upsurge of discharges to parole on 28 and 29 February and a further upsurge on 5, 6 and 7 March. The average number of such releases other than on those five days was 2.45 per day. On those five days respectively there were the following number of discharges, making an average of 16 per day:

Table 4.06  
DISCHARGES TO PROBATION/PAROLE

Upsurge dates	Number of discharges
February 28	11
" 29	10
March 5	15
" 6	24
" 7	20
Total	80

There was another dramatically significant increase in the number of prisoners transferred between gaols during the strike. There were 94 in the strike period compared with 11 in the control. This was unexpected. Thirty-five of these occurred on the first day of the strike and altogether 47 transfers were made in the first week. There were only 6 transfers in the second week, and 15, 17 and 11 in the third, fourth and fifth weeks respectively. No such large numbers of transfers occurred in the control period. These transfers may have been used to keep peace in the gaols during the strike.

An interesting effect of the strike was that there was a significant decrease in the number of discharges to bail; 60 in the strike compared with 167 in the control period. This can be explained by the fact that police and magistrates granted bail more readily or on more favourable conditions during the strike (see Tables 1.14 and 1.15 supra). Thus there were lesser numbers of prisoners remanded to custody and also those that were remanded were not received into the gaols but were mainly detained in the police cells.

The numbers of discharges to bail in each week of the two periods are shown in Table 4.07:

Table 4.07  
WEEKLY NUMBERS OF DISCHARGES TO BAIL

Week	Number of discharges	
	Control	Strike
Week 1	39	4
" 2	30	18
" 3	43	13
" 4	36	18
" 5	19	7 (6 days only)
Total	167	60

Weeks one and five of the strike were the ones in which there were lesser numbers of discharges to bail. We were unable to ascertain any reason for this.

In the strike there were 86 discharges to the police for escort to court, compared with 317 in the control period. This was an expected result and the only remarkable feature is the actual number of prisoners who were enabled to attend their cases in court during the restricted conditions of "guard-power" prevailing during the strike. The 86 were spread throughout the 5 weeks of the strike and the 317 through the control period as follows:

Table 4.08  
WEEKLY NUMBERS OF DISCHARGES TO COURT

Week	Number of discharges	
	Control	Strike
Week 1	68	23
" 2	82	17
" 3	60	8
" 4	65	25
" 5	42	13
Total	317	86

The numbers were significantly down for each week of the strike. The average number of discharges each day in the control period was 9.91, extrapolating to the strike period we would have expected there to have been 337 discharges to court. Thus there was a drop of 251 from the expected number, which is a percentage drop of 74.48%.



There were 4 escapes during the strike compared with 5 in the control period. Considering the restricted conditions in the gaols and the lack of "guard-power", this was an interesting feature of the strike which could have caused, but obviously did not, a higher escape rate as a reaction by the prisoners.

#### DISCHARGES IN THE AFTER STRIKE PERIOD

In the after strike period there were the following types of discharges:

Table 4.09  
TYPES OF DISCHARGES - AFTER STRIKE

Discharge type	Number of discharges
Transfer to other gaol	12
Sentence served	83
Remission	43
Parole/probation	56
Fine paid or "worked out"	26
To bail	32
To police/court	134
Other	22
Total	408

There was thus a dramatic increase in the number of discharges to court: 134 compared to 86 in the whole of the strike period. Extrapolating from the 9.91 average in the control period, we would have expected 109 such discharges in the 11 day after strike period. So there was an additional 25 such discharges compared to what would have been expected. This is not a markedly increased number and is consistent with our information that it took months for the back-log of cases caused by the strike to be heard by the courts. Not all prisoners could be brought before the courts immediately after the strike ended and, in fact, some would have been remanded for periods that expired later than the 11 days of the after strike period anyway.

#### SENTENCES OF PRISONERS DISCHARGED ALL PERIODS

There was little information on the sentences which the discharged prisoners had been serving and none for the offences with which they had been found guilty. Our figures indicate that just over half of the prisoners who were discharged in the control period, for whatever reason, had been serving sentences of less than one year: 759 out of 1474; being 51.5%). The numbers who had had longer sentences are shown in Table 4.10 below. The longest sentence was for 16 years in the control period. In the strike period also the majority (519) of the discharged prisoners had been serving sentences of less than one year. This was 57.2% which is a drop of 5.7% from the percentage

in the control period. The longest sentence in the strike was 14 years. The longest sentence in the after strike period was 16 years.

Table 4.10  
LENGTH OF SENTENCES OF DISCHARGED PRISONERS  
ALL PERIODS

Years	Number of prisoners		
	Control	Strike	After strike
Under 1 year	759	519	142
1 - 2 years	67	172	23
2 - 3 "	36	78	21
3 - 4 "	33	46	15
4 - 5 "	23	35	4
Over 5 "	49	57	18
Total	967	907	223

The other types of "sentences" of the prisoners who were discharged were as follows:

Table 4.11  
OTHER TYPES OF "SENTENCES" OF DISCHARGES

"Sentence"	Number of prisoners		
	Control	Strike	After
Appeal lodged	14	3	6
Bal. of licence	1	15	1
" " parole	13	86	4
Committal for sent.	21	5	1
" " trial	74	15	7
Deportation	7	1	0
Life	4	4	0
Remanded by magistrate	373	138	163
Other	0	7	3
Totals	507	267	182

The enormous number of prisoners discharged who had been remanded by the magistrates most probably only reflects the greater working load in the Local Courts compared to the higher courts.

#### EFFECT OF THE STRIKE ON PRISON DISPOSALS

As with Prison Receivals, it is necessary to make some assessment of the numbers of various types of prisoner who were discharged during the strike and after-strike periods comparing these with the numbers who might be expected to be discharged if the strike had not occurred. This is more difficult in the case of discharges than it is for receivals because of the relative lack of information in discharge sheets compared to receival sheets. There are also a wider variety of types of discharge than of receival including such rare events as escape, death, deportation and extradition. There were also a small number of cases in which the type of discharge information was missing or seemed to be a type of discharge incompatible with that type

of prisoner, e.g. a sentenced prisoner recorded as being released after paying a fine or a fine defaulter granted parole. Such cases are omitted from subsequent tables which therefore will differ slightly from previous tables in this chapter.

The prisoners were divided into the following four groups:

- (a) Fine Defaulters.
- (b) Remandees (Including those committed for trial or sentence and those sentenced prisoners awaiting the hearing of their appeal.)
- (c) Prisoners serving the balance of their sentence after being returned to prison after breaching the conditions of their parole or licence.
- (d) Prisoners serving fixed sentences.

Table 4.12.

COMPARISON OF OBSERVED AND EXPECTED  
NUMBERS OF DISPOSALS.

Type of Prisoner	<u>** PERIOD **</u>			
	Strike		After-strike	
	Observed	Expected	Observed	Expected
Fine Defaulter	140	519	106	171
Remandee	153	480	171	163
Balance of Sentence	105	18	11	5
Fixed Sentence	881	550	118	123
Total	1170	1467	406	462

**FINE DEFAULTERS**

The data on prison receipts previously reported indicated that the numbers of fine defaulters discharged during the strike would have to fall dramatically. As fine defaulters were not entering the prison system in anything like their usual numbers and as they serve very short sentences, it was obvious that as the strike was prolonged there would be fewer and fewer fine defaulters left in the system to be discharged.

During the control period, the numbers of fine defaulters released on any one day varied from a minimum of 8 to a maximum of 31 with an average of 15 per day. Although for some reason it appeared that slightly fewer fine defaulters were released on Sunday than on other days there were no substantial differences between the average number released

on other days or in different weeks during the control period. In the strike period, on the other hand, 100 of the total of 140 were released within the first 9 days of the 5 week period. From then until the end of the strike only between zero and four fine defaulters were released each day.

When the strike ended, only the fine defaulters with the shortest sentences would be released before our after strike follow-up period was completed. Thus only 106 fine defaulters were discharged in the follow-up period compared with an expected number of 171.

Fine defaulters may be released normally in a number of ways, they may serve their whole sentence in lieu of paying the fine, they may pay the remaining part of the fine owing after serving some part of the sentence or they may be occasionally released early having received some remission of the sentence. On rare occasions, a fine defaulter might be have to be taken to court to face some fresh charge. In Table 4.13 we see the type of discharge for fine defaulters in those cases where this could be ascertained.

Table 4.13

TYPE OF RELEASE OF FINE DEFAULTERS

Type of release	PERIOD		
	Control	Strike	After strike
Sentence Served	376	86	75
Remission	9	20	3
Fine (part) Paid	118	19	26
To Court	5	0	0
Total	508	125	104

It appears that more than the average number of fine defaulters received some remission during the strike period as was expected. Most however were either on such short sentences or so near the end of their sentence anyway that they served their full period in prison.

**PRISONERS ON REMAND**

Apart from rare events such as escape or death, prisoners on remand are usually only released to go to court or when some person who is willing to guarantee bail and/or surety obtains their release. In the strike period, magistrates sat at Long Bay and may occasionally have reduced or waived bail requirements but the documents available to us do not indicate how often this may have occurred.

Table 4.14TYPE OF RELEASE OF REMAND PRISONERS

Type of release	PERIOD		
	Control	Strike	After strike
On Bail	156	59	32
To Court	308	85	129
Total	464	144	161

It is difficult to see how the 85 prisoners on remand could have been released to go to court although the records are so marked. It may mean that those prisoners in Long Bay who actually appeared before the magistrate (from our examination of the Waverley records it appears that most failed to appear) were "booked out" as going to court.

It seems that in normal periods something like one quarter of those remanded in custody manage to obtain their release on bail. The smaller proportion in the follow-up period is the result of a larger than usual number of people being sent to court rather than a smaller number achieving release on bail.

## PRISONERS SERVING THE BALANCE OF SENTENCE

This group usually makes up a very small proportion of releases and because of the small numbers involved would not have been dealt with separately. However during the strike period the numbers of this type of release were so different from the other periods that we decided to deal with them as a separate group. These prisoners are usually released with some kind of remission of sentence or granted parole or licence once more.

TABLE 4.15  
TYPE OF RELEASE OF  
BALANCE OF SENTENCE PRISONERS

Type of release	PERIOD		
	Control	Strike	After strike
Sentence Served	1	14	0
Remission	2	51	2
Parole or Licence	6	19	0
To Court *	3	0	2
Total	12	84	4

\* Presumably to face a new charge.

Why there should be such a marked difference in the numbers of this type of prisoner released in the strike period is hard to explain. The remissions given to prisoners during the strike seems hardly sufficient to explain the sevenfold increase in the strike period compared to the control period. A possible explanation is that as different, more senior officers were presumably recording the discharges during the strike it may simply be that they were more careful to record prisoners serving the balance of their sentence and not merely record them with other sentenced prisoners. In any case it does not appear that there was a huge increase in releases on parole since only 19 of the 84 cases in this group were re-released in this way.

#### PRISONERS UNDER SENTENCE

This group of prisoners are usually released on completion of their sentence the majority of these having gained some remission. About one third are granted parole or licence and a few are temporarily discharged to presumably face new charges in court.

TABLE 4.16

#### TYPE OF RELEASE OF SENTENCED PRISONERS

Type of release	PERIOD		
	Control	Strike	After strike
Sentence Served	60	38	7
Remission	173	480	38
Parole or Licence	144	139	56
To Court	4	1	3
Total	391	658	104

The change in numbers of releases with remission during the strike does appear feasible for this group for instead of those due to go out in one month being released the extra remission policy during the strike would mean that most of those due for release in the succeeding 4 months should be released. The numbers released on licence or parole in the control and strike periods indicate that any changes in the guidelines for release on parole do not appear to have had any effect upon the rate of processing of cases by the Parole Board.

## SUMMARY OF THE EFFECT OF THE STRIKE ON PRISON DISPOSALS

The dramatically unexpected finding in this area of the survey as that there was a 19.88% drop in the number of prisoners discharged from gaol during the strike period compared to the control period. This decrease occurred predominantly in the metropolitan gaols as there was an increase in discharges from country gaols during the strike compared to the control period. Long Bay Prison Complex, Parramatta and Silverwater recorded the biggest decreases. For instance, Parramatta only discharged 25% of the number of prisoners during the control period.

Close examination showed that the drop in the prison disposals was the result of the great decrease in receivals of short sentence fine defaulters. Normally there would be considerable numbers of these short term prisoners being discharged. Also, more prisoners serving sentences without the option of bail were discharged as was expected. This indicates the great amount of work done in the prisons in normal times in processing the admission and discharge of short term prisoners, particularly fine defaulters.

There was a further overall decrease in the number of prisoners discharged in the after strike period (down 68.85 prisoners to what would have been expected extrapolating from the control period). There was, however, a slight increase over the expected number of discharges from the metropolitan gaols in the after strike period. This increase did not equate with the decrease in the strike period.

Interestingly, in the strike period 57.07% of prisoners who were discharged had been received in the year previous to the strike whereas in the control period 68.11% of prisoners discharged had been received during that year. It would appear that the lower number of receivals during the strike meant that there were less discharges of prisoners who had been received that year. That is, the decrease in discharges of prisoners received in that year of the strike was a direct result of the lesser number received during the year because of the effect of the strike.

The "special strike remission", of 4 days for every day spent in custody during the strike, was shown as the reason for 551 prisoners being discharged during the strike. These 551 prisoners served out their time in gaol more quickly as a result of the remission and, thus, of the strike. This figure may in fact be more as there were an additional 140 prisoners who were discharged during the strike who may have benefited from the remission.

The actual number of fine defaulters discharged during the strike period was 140 whereas extrapolating from the 1983 figures we would have expected 519 to be discharged. This is explicable by the fact that there was a dramatic fall in the number of fine defaulters received into prison during

the strike. As fine defaulters usually spent short times in prison (an average of 10.9 days on our figures) it is likely that there were fewer and fewer left in the gaols to discharge during the strike. This is born out by the fact that the majority of fine defaulters discharged during the strike were discharged during the earlier part of the period.

There was a dramatic increase in discharges of balance of sentenced prisoners in the strike period, from 12 in the control period to 84 in the strike. It was not really possible to satisfactorily explain this adjustment to the strike. The number of sentenced prisoners who were released in the strike almost doubled compared to the control period (658 compared with 391). This represented 480 who had been released through remissions granted (more than likely the special strike remission). The workings of the new Parole Board did not affect the rate of discharge of sentenced prisoners in the strike compared with the control period (139 compared to 144).

Another unexpected result of the strike was the higher number of prisoners transferred between gaols (94 in the strike compared with 11 in the control period). Almost one third of these transfers occurred on the first day of the strike. It would appear these transfers may have been used to keep peace in the gaols during the strike.

There was only 1 "extra" escape during the strike compared with the control period (5 in the strike and 4 in the control periods).

In the after strike period there was a dramatic increase in the number of prisoners discharged to court (134 compared with 86 in the whole of the strike period) but this was not significantly more than would have been expected extrapolating from the control period figures. It is doubtful whether all those "released to court" during the strike period itself were really so released. This figure could include some remands who chose to appear before the visiting magistrate at the gaol itself to apply for bail.



## CHAPTER 5

### POLICE STATISTICS

We initially anticipated that the areas of police adjustment would be:

1. As the immediate effect was to divert police personnel to supervise the prisons, this may have affected the number of crimes detected by the police and the number of arrests made by them. Were other responses, such as cautions, used more often? Did the public, knowing that the police had been diverted to the prisons, report less crime to the police? If so, what types of offences were so affected?

2. The police also had to provide accommodation for accused who were arrested, remanded in custody or sentenced during the strike period. We wanted to know if that resulted in more police bail being granted. Also, were more adjournments sought in cases likely to result in custodial sentences with bail being allowed to offenders.

3. With less personnel and full police cells, police may have accumulated warrants during the strike and executed them at its end. Fine defaulters may not have been arrested during the period.

We received statistics on crimes reported or observed by the police and accepted as genuine by the police for the control period and the strike period from the Police Department. They also gave us the clear-up figures for those crimes. We had planned to encode information from the Charge Books from Waverley Police Station for both periods, however, we were unable to do so due to time constraints. We were able to briefly encode information from the Cell Book at Waverley Police Station for the strike period and a two week period thereafter to ascertain the effect of the strike on accommodation numbers in the police cells at that station. The Cell Book for the control period had been destroyed in the normal course of events, so no comparison period was encoded.

#### WAVERLEY POLICE CELLS STATISTICS

A total of 720 occupations of the cells were encoded: 620 in the period of the strike and another 118 in the first week after it ended. Some of these were for a short part of the day only and some were for overnight stays. So those classifications were used: "part day" included all prisoners who occupied the cells for a short time only and who left the cells on the day they arrived: "overnight" included all prisoners who occupied the cells during the night, regardless whether they also occupied them during the days. In fact, except for intoxicated persons, nearly all the overnights occupied the cells for over one whole day during the strike.

The prisoners were also classified according to the sort of custody they were subject to, in the sense there were basically remanded, sentenced, fine defaulting and intoxicated prisoners with some few others which we classified as "others". That latter category included deportation, extradition and two protection prisoners as well as the "unknown" category.

#### GROSS NUMBERS OF PRISONERS IN CELLS

Table 5.01 gives the gross numbers of each type of prisoner occupying the cells, on a daily basis, for the strike and for the first week after the strike. The table does not distinguish individual prisoners, so if a prisoner occupied a cell for, say, 7 nights that prisoner would appear seven times in the table. The table is designed to show the total number of prisoners occupying the cells each day.

There were 513 remand prisoners (70.56% of the total number), 44 sentenced prisoners (6.05%), 124 fine defaulters (17.06%) and 31 intoxicated persons (4.26%) occupying the cells during the strike. The lack of sentenced prisoners in the cells was an unexpected finding as we had presumed that the sentenced prisoners who had to be kept in custody until the strike ended would be kept in police cells. Most of the sentenced prisoners who passed through Waverley police cells had received non-custodial sentences. Those who had received custodial sentences were transferred to Central Police Station cells within 2 days of their receipt at Waverley.

The 124 fine defaulters were completely unexpected. We had been informed that fine defaulters had been turned away in the strike as numbers of them had presented at police stations to take advantage of the special strike remission in working off their fines. In fact, 17.06% of the total occupancy of the cells was by fine defaulters. Some of the fines must have been for large amounts since one defaulter spent a total of 30 nights (in two separate periods) in the cells during the strike.

The gross number of occupations in the second week after the strike was 68, which is back to the normal usage of the cells as holding places for prisoners coming to and from gaol, for intoxicated persons and for accused arrested too late at night to be transferred to gaol. A brief study of the Cell Book entries for the next 2 months showed that the number of occupations varied but was nearer to a 68 per week average than the 82.8 average which occurred during the strike. It would appear that it took about a week for the occupation of the cells to return to normal after the strike ended.

Table 5.01  
Gross numbers and types of prisoners  
STRIKE AND 1 WEEK AFTER THE STRIKE  
 (Overnight and part-day combined)

Date	Number of Prisoners					Total per day
	Remands	Sentenced	Fine Defaults	Intox. Persons	Other	
Feb. 6	9	2	0	0	4	15
" 7	9	0	2	0	0	11
" 8	5	0	3	0	1	9
" 9	13	0	2	0	0	15
" 10	8	0	4	0	0	12
" 11	10	0	8	0	1	19
" 12	6	2	6	0	0	14
" 13	13	4	3	0	1	21
" 14	10	0	3	0	2	15
" 15	10	0	2	3	0	15
" 16	13	0	2	0	0	15
" 17	12	1	2	1	1	17
" 18	12	1	3	1	0	17
" 19	12	1	3	0	0	16
" 20	17	3	3	0	0	23
" 21	9	2	4	0	0	15
" 22	10	4	3	1	1	19
" 23	6	2	1	0	0	9
" 24	11	2	2	0	0	15
" 25	10	0	1	0	6	17
" 26	8	0	1	1	0	10
" 27	9	1	3	1	0	14
" 28	13	0	2	2	0	17
" 29	13	1	5	2	0	21
Mar. 1	14	1	4	0	0	19
" 2	16	1	6	0	0	23
" 3	18	1	5	0	0	24
" 4	14	1	3	2	0	20
" 5	21	3	3	1	0	28
" 6	15	3	5	0	0	23
" 7	14	0	4	0	0	18
" 8	15	0	5	0	0	20
" 9	16	1	5	0	2	24
" 10	13	0	4	0	0	17
" 11	10	0	4	1	0	15
" 12#	13	0	3	1	0	17
" 13	15	0	4	1	0	20
" 14	20	4	0	1	0	25
" 15	19	0	0	1	0	20
" 16	16	0	1	2	0	19
" 17	14	0	0	3	0	17
" 18	2	0	1	0	0	3
Totals	513	44	124	31	16	727

(# The end of the strike. The total number of occupations during the strike was 670.)

he weekly totals for the various types of prisoners occupying the cells during the strike and a one week period after the strike follows:

Table 5.02  
WEEKLY TOTALS OF ALL TYPES OF PRISONERS IN CELLS

Week	Remands	Sent'ed.	Fine Default	Intox. Person	Other	Total
Week 1	60	4	25	0	6	95
" 2	82	7	18	5	4	116
" 3	71	13	15	2	7	108
" 4	97	6	28	7	0	138
" 5	104	7	32	1	3	147
End of strike	427	40	118	23	16	621
Week 1 after*	99	4	9	9	0	121

(\* includes last day of strike.)

The above table shows that the number of remands occupying the cells rose steadily during the strike, with the exception of week 3 in which an incident must have occurred in the cells as on 23 February all the prisoners then in the cells at Waverley were transferred to other places. The number of sentenced prisoners did not reach sufficient proportions to allow for any useful analysis of trends. The number of fine defaulters who occupied the cells each week remained relatively constant, with an average of 23.6 per week.

The number of intoxicated persons occupying the cells varied considerable between the weeks in the strike. There were 9 intoxicated persons in the week after the strike ended. This is treble the average number of 3 per week in the strike. The highest number in any week of the strike was 7. It may be that the police did not detain intoxicated persons as readily during the strike due to the obvious lack of cell accommodation.

#### OVERNIGHT PRISONERS

The following table gives the breakdown of the types of prisoners who stayed overnight in the cells during the strike. As most of these prisoners stayed over more than one night, these tend to be the long stayers during the strike. The numbers do not indicate individual prisoners but the number of occupations on each day of the strike and after strike periods. The individual prisoners are dealt with in Table 5.03 infra.

The dramatic drop in the number of overnight stays immediately after the strike again demonstrates that the cells are usually not used for long term overnight accommodation, but only for intoxicated persons who need to be detained until they are sober, and for those people taken into custody too late in the day to be transferred to gaol on that day. The latter are usually transferred to gaol the following day. This is supported by the figures for the

second week after the strike ended. In that week there were only 2 overnight remand prisoners, 1 fine defaulter and 1 intoxicated person who occupied the cells overnight, a total of 4 persons. On 4 days of that week (22-25 March inclusive) there were no overnight stays. That was the more normal pattern observed in a very brief study of the Cell Book entries for the following two months.

The cells returned to their usual overnight use the day after the strike ended, that is on 13 March. The dramatic fall from an average total occupancy of 11.03 per day in the strike to an average of less than 1 per day immediately after it ended shows that the extensive use of the cells for overnight accommodation during the strike was a direct effect of the strike which ended immediately the strike ended and prisoners could again be accommodated in the gaols. The 13 prisoners in the cells on 12 March, the day the strike ended, were transferred to Long Bay Prison Complex on 13 March.

As the strike progressed the number of overnight stays increased, from an average of 3.57 per night in the first week to an average of 11.29 in the last week of the strike. Prisoners on remand made up the majority of overnight stays (71.43% of the total), with fine defaulters next (21.3%). There were very few sentenced prisoners (4.26%) which, as stated, was unexpected. There had been 11 accused on whom a custodial sentence had been imposed by the Waverley Local Court (See Table 1.03 on page 9 supra.). We had expected to find them detained in the Waverley Police Station cells. Only 3 actual sentenced prisoners are represented by the overnight figures for the strike period as is shown in Table 5.04 below. Most of the sentenced prisoners were transferred to the cells at other police stations, particularly Central Police Station, and did not stay long at Waverley.

Table 5.03  
NUMBERS OF OVERNIGHT PRISONERS  
ALL TYPES

Date	Remand	Sentenced	Fine Default.	Other	Total per Day
Feb. 6	0	0	0	0	0
" 7	2	0	2	0	4
" 8	3	0	2	0	5
" 9	4	0	2	0	6
" 10	5	0	3	0	8
" 11	5	0	8	0	13
" 12	6	0	3	0	9
" 13	7	1	3	0	11
" 14	7	0	1	2	10
" 15	9	0	2	0	11
" 16	10	0	2	0	12
" 17	8	0	2	1	11
" 18	11	1	3	0	15
" 19	8	1	3	0	12
" 20	8	1	2	0	11
" 21	7	2	3	0	12
" 22	7	2	1	0	10
" 23	5	2	1	0	8
" 24	8	2	1	0	11
" 25	8	0	1	0	9
" 26	6	0	1	0	7
" 27	5	0	3	0	8
" 28	7	0	2	0	9
" 29	9	1	3	0	13
Mar. 1	10	1	4	0	15
" 2	10	1	4	0	15
" 3	13	1	3	0	17
" 4	13	1	2	0	16
" 5	15	0	2	0	17
" 6	11	0	3	0	14
" 7	12	0	2	0	14
" 8	11	0	3	0	14
" 9	10	0	3	0	13
" 10	10	0	3	0	13
" 11	10	0	2	1	13
" 12#	11	0	2		13
					(386)
" 13	1	0	0	0	1
" 14	1	0	0	1	2
" 15	2	0	0	0	2
" 16	1	0	0	1	2
" 17	0	0	0	0	0
" 18	0	0	1	0	0
Totals	296	17	88	6*	407

(\* 4 were intoxicated persons and 1 was a deportation.)

The weekly totals of overnight stays in the cells during the strike and the one week after the strike are as follows:

Table 5.04  
WEEKLY TOTALS FOR OVERNIGHT STAYS  
ALL TYPES OF PRISONERS

Week	Remands	Sent'ed	Fine Default.	Other	Total
Week 1	25	0	20	0	45
" 2	60	3	16	3	82
" 3	49	9	10	0	68
" 4	67	5	21	0	93
" 5	79	0	18	1	98
End of strike	285	17	85	4	399
Week 1 after	16	0	3	2	21
Totals	296	17	88	6	407

As stated, it was surprising to find that so many fine defaulters had "worked out" their fines in the police cells during the strike when custodial accommodation was in such short supply.

The average number of overnight stays for remand prisoners during the strike was 56. There were only 16 remands in the week after the strike, 11 of which were on the night the strike ended and were transferred to Long Bay the next day. There were only 5 other overnight stays during the rest of that week and only 2 in the following week.

There was also an enormous increase in fine defaulters detained in the cells during the strike. Usually fine defaulters work off their fines in the gaols, but during the strike they were detained in the cells. There was an average of 17 per week during the strike, whereas there were only 3 in the week after the strike ended, 2 of whom were there on the night it ended and were transferred to Long Bay the next day. In the second week after the strike ended there was only 1 fine defaulter detained in the cells overnight.

#### PART DAY PRISONERS

The following table gives the number of part day stays in the cells during the strike and the week after the strike ended. Prisoners who only spent a very short part of a day are included. It was surprising to find that the short stays, normally the more numerous, were just over one third of the total number of occupations during the strike. There were 222 part day stays (35.75%) out of the 620 total occupations.

Table 5.05  
NUMBER OF PART DAY PRISONERS  
ALL TYPES

Date	Number of Prisoners						Total per Day
	Remands	Sent'ed	Fine Default	Intox. Person	Other		
Feb. 6	9	2	0	0	4	15	
" 7	7	0	0	0	0	7	
" 8	2	0	1	0	1	4	
" 9	9	0	0	0	0	9	
" 10	3	0	1	0	0	4	
" 11	5	0	0	0	1	6	
" 12	0	2	3	0	0	5	
" 13	6	3	0	0	1	10	
" 14	3	0	2	0	0	5	
" 15	1	0	0	3	0	4	
" 16	3	0	0	0	0	3	
" 17	4	1	0	1	0	6	
" 18	1	0	0	1	0	2	
" 19	4	0	0	0	0	4	
" 20	9	2	1	0	0	12	
" 21	2	0	1	0	0	3	
" 22	3	2	2	1	1	9	
" 23	1	0	0	0	0	1	
" 24	3	0	1	0	0	4	
" 25	2	0	0	0	6	8	
" 26	2	0	0	1	0	3	
" 27	4	1	0	1	0	6	
" 28	6	0	0	2	0	8	
" 29	4	0	2	2	0	8	
Mar. 1	4	0	0	0	0	4	
" 2	6	0	2	0	0	8	
" 3	5	0	2	0	0	7	
" 4	1	0	1	2	0	4	
" 5	6	3	1	1	0	11	
" 6	4	3	2	0	0	9	
" 7	2	0	2	0	0	4	
" 8	4	0	2	0	0	6	
" 9	6	1	2	0	2	11	
" 10	3	0	3	0	0	6	
" 11	0	0	2	0	0	2	
" 12#	2	0	1	1	0	4	
" 13	14	0	4	1	0	19	
" 14	19	4	0	0	0	23	
" 15	17	0	0	1	0	18	
" 16	15	0	1	1	0	17	
" 17	14	0	0	3	0	17	
" 18	2	0	0	0	0	2	
Totals	217	24	39	22	16	318	

(# The end of the strike. The total number of occupations during the strike was 222.)



There was a dramatic increase in the number of remands on part day stays in the cells in the week immediately after the strike ended as prisoners were again transferred from prison to court, via the cells. The courts gave preference to hearing the short cases of prisoners who had been unable to attend court during the strike. Hence, there was an increase in the number of prisoners attending court and, therefore, requiring part day stays in the cells. The average number of remands per week in the strike was 26.2. There were 83 remands in the week after the strike ended.

The weekly figures for part day occupations of the cells during the strike and the 1 week after strike period are as follows:

Table 5.06  
WEEKLY TOTALS OF ALL TYPES OF PART DAY PRISONERS

Week	Remand	Sent'ed.	Fine Default	Intox. Person	Other	Total
Week 1	35	4	5	0	6	50
" 2	22	4	2	5	1	34
" 3	22	4	5	2	7	40
" 4	30	1	7	7	0	45
" 5	25	7	14	1	2	49
End of strike	134	20	33	15	16	222
Week 1 after	83	4	6	7	0	100
Totals	217	24	39	22	16	318

In the second week after the strike ended the same pattern emerges - a dramatic increase in the number of remands staying for short periods in the cells whilst they are transferred between gaol and the courts. There were 67 part days in the second week. A brief look at the other weeks in the Cell Book indicated that this was the normal pattern of use of the cells and that the low number of part days during the strike was unusual and obviously an effect of it. Prisoners would not have been transferred to the cells during the strike as they were unable to attend their hearings in court and their cases had to be adjourned. This accounts for the lesser number of remands received in the period of the strike.

Fine defaulters do not appear to have been similarly affected by the strike and continued to have short stays in the cells as usual. The average number per week in the strike was 6.6 and there were only 7 in the week after the strike ended.

#### LENGTH OF STAY

The longest overnight stay in the cells in the strike for a remand prisoner was 18 days and for a fine defaulter was 16 days. The longest for a sentenced prisoner was only 6 days.

Almost forty-five percent (44.82%) of fine defaulters stayed for 2 nights, which was also the shortest period for fine defaulters. Twenty-five fine defaulters (86.2%) stayed less than seven days. Only 4 fine defaulters stayed longer than 7 days.

For remanded prisoners 27 of them (60%) stayed for 7 days or less, with 18 staying for more than 7 days. The most numerous period was for 2 days (9 stayed for that period).

Table 5.07  
LENGTH OF STAY - OVERNIGHT PRISONERS

Length of Stay	Number of prisoners		
	Fine defaults	Remands	Sentenced
1 day	0	1	0
2 days	13	9	0
3 "	3	3	0
4 "	6	4	0
5 "	2	4	1
6 "	1	2	2
7 "	0	4	0
8 "	1	1	0
9 "	0	1	0
10 "	0	4	0
11 "	0	3	0
12 " #	0	3	0
13 "	0	0	0
14 "	1	2	0
15 "	1	1	0
16 "	1	1	0
17 "	0	1	0
18 "	0	1	0
Total	29	45	3

Mostly the longest stays were by prisoners who had two separate stays in the strike period, though there was one fine defaulter who spent 16 days in the cells during the strike and was transferred to the Long Bay Prison Complex at the end of the strike to complete his "working off".

Two prisoners on remand each spent two stays totaling 26 and 24 days respectively in the cells during the strike. Both were finally released to bail after the strike had ended. One prisoner spent a total of 25 days on remand in the cells at Waverley during two separate stays during the strike. The charges against him were subsequently dropped on 19 March, 1984.

It was noted in the Cell Book that two of the remanded prisoners who had spent more than a week in the cells during the strike had their bail conditions varied by the courts and so were released. It is possible that this happened to more of the remand prisoners who spent extended periods in the cells and who subsequently were released during the strike. However, that reason was only noted on those two entries.

One fine defaulter worked off two separate warrants during the strike, one required a 14 day stay and the other only a 2 day stay. The two longest stays for fine defaulters were 23 and 30 days respectively.

#### AGE OF PRISONERS OCCUPYING CELLS

The age of prisoners occupying the cells during the strike was only encoded for the part day stays on the basis they were the individual prisoners as there were few repeat stayers in that category.

Table 5.08  
AGE OF PART DAY PRISONERS

Age	Number of prisoners
18 - 19	27
20 - 24	74
25 - 29	36
30 - 34	41
35 - 39	13
40 - 44	13
45 - 49	4
Over 50	14
Total	222

The ages ranged from 18 to 71 years. The oldest prisoner was on remand for the unlawful possession of dangerous articles. He was released on bail within 2 days, though originally bail had been refused. The second oldest prisoner was 68 years and spent only a part day in the cells for a fraud offence before he was released on bail.

The youngest prisoners had some of the longest stays in the cells. They were on remand and spent 21, 24 and 26 days respectively. They were aged 19, 22 and 18 years.

#### OFFENCES FOR WHICH PRISONERS SPENT TIME IN CELLS

The offences for which prisoners spent time in the cells were not analysed in detail due to time constraints. The impression gained was that the offences reflected the position given in Table 1. .... for the Waverley Local Court. There were no prisoners remanded for traffic offences and the most common offence for remands was larceny. The offences for fine defaulters were not entered in the Cell Book.

#### SUMMARY OF EFFECT OF STRIKE ON WAVERLEY POLICE CELLS

Normally the cells are used for part day stays by prisoners who are being transferred between gaol and court, for intoxicated persons who need to sober up and for offenders arrested too late in the day to be transferred to gaol. During the strike the cells were used for overnight stays,

that is as custodial accommodation to take the place of the gaols. As the strike progressed the number of overnight stays increased, from an average of 3.57 per night in the first week to an average of 11.29 in the last week.

The major effect of the strike was to significantly increase the use of the cells for overnight stays for remand prisoners and for fine defaulters. There was a total of 399 prisoners who occupied the cells overnight during the strike, of which 71.43% were remands (285 prisoners) and 21.3% were fine defaulters (85). In the two weeks after the strike ended there were only 16 and 2 remands and 3 and 1 fine defaulters respectively for overnight stays. These latter figures are the more normal use of the cells.

There were fewer remands who occupied the cells during the strike on a part day basis. Only 134 did so out of a total of 222 part day occupations during the strike, making them 60.36% of the total. At the end of the strike there was a dramatic increase in the number of part day occupations of the cells by prisoners who were being transferred between gaol and court. From an average of 26.8 part day occupations per week in the strike, there was a jump to an occupation of 83 in the week after the strike ended. There were 67 part day stays in the second week after the strike ended. The latter was closer to the normal average number of such stays per week.

One of the unexpected non-effects of the strike on the police cells was that there was not a marked increase in the number of sentenced prisoners who had overnight stays in the cells. It had been expected that any accused sentenced by the Waverley Local Court during the strike would have to serve out their sentences in the Waverley cells until the strike ended. However, only 4.26% of the overnight occupations were by sentenced prisoners who were apparently transferred to Central Police Station Cells during the strike.

### CRIME RATES DURING STRIKE & CONTROL PERIODS

One of the main objects of this study was to see if any change in the rate of crimes reported to the police could be observed during the strike period. It might be expected by people unfamiliar with studies cited in the concluding chapter<sup>1</sup> that the extra use of bail during the strike (thus allowing more potential offenders free) and the diversion of police resources to custodial duties would have resulted in a greater number of crimes in the strike period. The only statistics available to us to examine this question were the records of the N.S.W. Police Force which they kindly made available to us.

Police statistics suffer from the disadvantage that they record more of the changes in public attitudes to reporting crimes and to changes in police policies and methods than they do to the actual rate of crime in the community. However although any findings based on police statistics must be treated with extreme caution they are the only guide available to us of the state of crime in New South Wales apart from the infrequent victim surveys carried out by the Australian Bureau of Statistics.

### CRIMES REPORTED DURING CONTROL & STRIKE PERIODS

Tables 5.09. to 5.12. show the numbers of crimes reported and accepted as genuine by the police. The percentage change in the number of reported crimes in each period in the table has also been calculated. The percentage change column in these tables has been calculated by dividing the difference between the number of crimes in the two periods by the average of the two numbers (the result being then converted into a percentage).

Tables are presented not only for the control and the strike periods but also for the two whole years (1983 and 1984) in which the control and strike periods occurred. This is to prevent us from concluding that an observed difference between the control and strike periods is an effect of the strike when in fact the difference is simply the result of some change in numbers of reports occurring in 1983 and 1984.

Looking for example at the reports for the control and strike periods at the reports of "steal with violence", it can be seen that there was a rise of 1.6% in the number of reports of this offence in the strike period compared with the control period. However, when we look at the years 1983 and 1984 we see that there was a rise of 5.6% so that the strike period actually did slightly (but in fact not significantly better) than would be expected.

It is possible to compare the numbers of reports in the control and strike periods with the numbers of reports

<sup>1</sup> See pages 112-114

occurring during the rest of their respective years using a Chi Square Test in a simple 2x2 contingency table. The validity of the conclusions one might draw from such an analysis are questionable because the Chi Square Test assumes that the numbers occurring in the contingency table are counts of independent events. Now, if one has a fracas at a sporting fixture for example, then one will probably add a fair-sized number of reports to the category "Offences against the person" but one can hardly say that these represent statistically independent reports. The positive correlation between some of the events in the contingency tables will cause wider fluctuations between the various periods under review than would be expected by chance. (The shorter the period, the larger the proportion of fluctuation.) The most that can be said is that if the Chi Square Test fails to reach significance then it is practically a certainty that there is no difference other than chance operating but, when a difference which ordinarily would be regarded as significant is found, one must realise that the level of significance is certainly far lower than that indicated by the test.

#### STATE - WIDE REPORTS

On a State-wide basis, the total number of reports of serious crime received and accepted by the police rose by 1.6% when the strike period is compared with the control period. This rise is less than the overall rise in numbers of reports between 1983 and 1984 which was 3.1%. The difference between 1.6% and 3.1% is not statistically significant, so the strike does not appear to have affected the overall rate of reports.

When we examine the changes in individual types of crime reported, however, it is obvious that there are huge differences between these in the amount of change associated with each type of crime, both in respect of changes between years and between the strike and control periods. Some of the changes occurring between the control and strike periods are far higher and some are much smaller than the corresponding changes between 1983 and 1984 thus resulting in the previously mentioned lack of significant difference referred to in the previous paragraph. Can these differences be reasonably ascribed to the effect of the strike?

There are two types of offence which show a large rise between 1983 and 1984 accompanied by an even larger rise when the strike period is compared with the control period. These two types of offence are "offences against the person" and "drug offences". Before one concludes that this indicates a rise in crime of these two types because of the strike a more thorough analysis should be undertaken.

Both of these two types of offence share the characteristic that they have a clear-up rate well above the average for other types of crime. The clear-up rate for "offences against the person" is around 75% while that of "drug

offences" is over 99%. This indicates that the majority of incidents giving rise to reports of such offences must be "police initiated" i.e. situations arising from direct contact between the police and the offenders arising from patrols or investigations of the police rather than arising from reports emanating from the public.

Thus, both of these types of crime could be expected to contain a high proportion of multiple incidents in which several reports are generated upon the one occasion. For example, groups of people fighting or using drugs may well generate a series of reports at the same time. As explained above such multiple reports will result in wider fluctuations between one period and another, particularly in short periods, than could be explained by chance. For example, if the Milperra incident, which resulted in almost 280 charges of murder being laid, occurred in one of our periods, then obviously, there would have been a huge difference in the number of crimes quite unrelated to the effect we are seeking to observe.

With drug offences, variations greater than those predicted assuming that arrests are independent events will occur not only because several people will often be detected at the one time but also the availability of drugs and thus the number of persons at risk of detection will vary from one period to another. If a new supply of drugs reached the market just before the strike period, for example, there would be likely to be a larger number of arrests during the strike period itself.

It would require a considerable number of manhours and access to much more detail concerning these crimes, to eliminate the possible effects due to the strike from the other non-random effects described. At the moment therefore, all we can conclude is that during the strike period there was a higher number of reports for offences against the person and for drug offences, but that it is not clear that these differences can be ascribed to the fact that the strike occurred or to other causes.

The other group of offences which exhibit differences from the expected number are "break, enter and steal" and "larceny from property". These offences are almost exclusively reported to the police by members of the public and have low clear-up rates. The effects of correlations between events upon variations between periods is hence going to be much smaller than in the case of the crimes previously discussed. Only incidents where a number of flats in one building or houses in one area at the same time are likely to be correlated events. Thus any differences between the control and strike periods are not as likely to have been affected by correlated incidents.

It would be reasonable to suppose that both "break, enter and steal" and "larceny from property" would be committed by the same people to a large extent and that therefore if there were a rise in the one type of offence then there

should be a corresponding rise in the other. In fact the reverse is true.

In 1984 (compared to 1983) the number of "break, enter and steal" reports fell while the number of "larceny from property" reports rose. The reverse is the case when one compares the strike and control periods. When we add together the two sets of property offence reports we find that the totals show a slight rise between 1983 and 1984 which is matched almost exactly by the rise between the strike and control periods. The differences in the figures for the separate offences seem to be more reasonably explained by a difference in police recording practices than by a real difference in their rates of occurrence.

The likely explanation of these results is that sometime in 1984 after the strike period, police officers were required to be more certain that a break-in had actually occurred and if not to simply record the incident as one of larceny. Such a change would explain both the inverse relationship observed in the rates of reporting of these two similar offences, and the fact that the total number of offences show the expected slight rise from one year to the next and no differences beyond expectation between the strike and control periods.



Table 5.09

## NEW SOUTH WALES POLICE CRIME STATISTICS

\*\* STATE - WIDE \*\*

CRIME CLASSIFICATION	** PERIOD **		%age CHANGE
	8-2-83- 14/3/83	7/2/84- 12/3/84	
OFFENCES AGAINST PERSON	861	1152	+28.9
STEAL WITH VIOLENCE	956	971	+1.6
BREAK ENTER & STEAL	8385	8681	+6.8
LARCENY FROM PROPERTY	10023	9797	-2.3
FALSE PRETENCES etc.	2664	1835	-36.9
SEXUAL OFFENCES	329	317	-7.6
DRUG OFFENCES	1659	2495	+40.3
ARSON	159	125	-23.9
MISCELLANEOUS	3287	3410	+3.7
	-----	-----	
	28323	28783	+1.6
	-----	-----	

Table 5.10

NEW SOUTH WALES POLICE CRIME STATISTICS  
 \*\* STATE - WIDE \*\*

CRIME CLASSIFICATION	1983 REPORTS	1984 REPORTS	% CHANGE
OFFENCES AGAINST PERSON	10157	10856	+6.7
STEAL WITH VIOLENCE	9895	10446	+5.6
BREAK ENTER & STEAL	101023	98189	-2.8
LARCENY FROM PROPERTY	103866	107882	+3.8
FALSE PRETENCES etc.	17882	18773	+4.9
SEXUAL OFFENCES	3011	2979	-1.1
DRUG OFFENCES	15574	21582	+32.3
ARSON	1595	1583	-0.8
MISCELLANEOUS	38549	38885	+0.9
	-----	-----	
	301552	311175	+3.1
	-----	-----	

SYDNEY METROPOLITAN AREA

Only three types of offence i.e. false pretences, sex offences and arson showed marked differences between the change in the metropolitan area and state as a whole in rate of reporting. False pretence reports rose far more in 1983 compared to 1984 in the Sydney Metropolitan Area than in the State as a whole, while the other two types of offence fell more than expected.

Generally speaking, the pattern of crime reporting differences between the control and strike periods were similar to the state-wide pattern with a tendency for the metropolitan differences to be somewhat less than the state differences. The same general arguments applying to the state statistics would apply to the metropolitan area statistics and will not be repeated here.

This is not to say that the pattern of reporting was uniform throughout the metropolitan area, we were supplied with figures for the Waverley area and found that in contrast to the rest of the state cases, of drug offences in this area dropped by about 25% from 1983 to 1984. Possible explanations for this drop may be either migration of addicts away from an area perceived to be highly policed, the removal perhaps of one of the area's larger suppliers or simply a change in allocation in police time in Waverley to some other area of crime. The numbers of offences reported in a limited area like Waverley in 5 weeks are too small to make meaningful inferences about changes in reporting patterns.

Table 5.11

NEW SOUTH WALES POLICE CRIME STATISTICS  
 \*\* SYDNEY METROPOLITAN AREA \*\*

CRIME CLASSIFICATION	** PERIOD **		%age CHANGE
	8/2/83 -14/3/83 REPORTS	7/2/84 -12/3/84 REPORTS	
OFFENCES AGAINST PERSON	582	660	+12.6
STEAL WITH VIOLENCE	830	819	-1.3
BREAK ENTER & STEAL	8565	8753	+2.2
LARCENY FROM PROPERTY	6730	6486	-3.7
FALSE PRETENCES etc.	1290	1270	-1.6
SEXUAL OFFENCES	244	200	-19.8
DRUG OFFENCES	991	1543	+43.6
ARSON	123	85	-36.5
MISCELLANEOUS	2195	2229	+1.5
	-----	-----	
	19550	20066	+2.6
	-----	-----	

Table 5.12

NEW SOUTH WALES POLICE CRIME STATISTICS  
 \*\* SYDNEY METROPOLITAN AREA \*\*

CRIME CLASSIFICATION	** PERIOD **		%age CHANGE
	1983 REPORTS	1984 REPORTS	
OFFENCES AGAINST PERSON	6272	6529	+4.0
STEAL WITH VIOLENCE	8659	9063	+4.6
BREAK ENTER & STEAL	80127	76435	-4.7
LARCENY FROM PROPERTY	68900	71812	+4.1
FALSE PRETENCES etc.	11398	12527	+9.4
SEXUAL OFFENCES	2129	1940	-9.3
DRUG OFFENCES	9297	12616	+30.3
ARSON	1204	1120	-7.2
MISCELLANEOUS	25297	25450	+0.6
	-----	-----	
	213283	217492	+2.0
	-----	-----	

## CHAPTER 6 .

### CONCLUSIONS

Given that we could only encode the figures for some of the courts whereas we encoded the receivals and discharges to and from all the prisons and the Police Department supplied statistics for the whole state, overall the survey found that there was surprisingly little change in the criminal justice system due to the effect of the strike, even though it was the longest strike of prison officers in New South Wales prison history. The criminal justice system proved remarkably resilient to the strains placed upon it.

It appears the higher courts, the District and Supreme Courts, experienced little difference in their operations. Their workloads changed rather than any significant difference occurring in their sentencing patterns or overall workloads. The trials of accused who had been remanded to bail being substituted for those of accused remanded to custody who could not attend court due to the effects of the strike. They were affected the least by the strike. Waverley Local Courts, and by inference the other Local Courts were more affected by the strike. In Waverley Local Court accused were apparently "looped" within the system (mostly on 1 - 7 day remands) there being a substantial drop in the number of accused committed for trial and in the number of accused who received prison sentences in cases disposed of summarily during the strike compared with the control period. Also bail appears to have been granted more readily by the police to accused on new charges and by magistrates to accused on old charges during the strike. Also, magistrates imposed less custodial sentences during the strike but this can be accounted for by the fact that accused who had been remanded to custody could not attend court and so their cases were not heard and they would be the accused more likely to receive prison sentences.

The prison receiptal figures indicated that a lesser percentage of prisoners received in the combined 1984 periods were serving custodial sentences of less than 1 year than in the control period. Alternative sentences must have been found for some of these convicted accused. The data we encoded did not include details of what these alternative sentences were. So at least for some accused convicted of lesser offences, the courts' sentencing patterns must have adjusted to the strike and alternative sentences were imposed. Since Local Courts handle the "short custody" summary matters it seems likely that it was the Local Courts' sentencing patterns that adjusted to the effects of the strike in this manner.

The effect of the strike was much more dramatic on the prisons. Only 212 prisoners were received into the prisons during the strike compared with 1397 in the control period. Even with the 868 prisoners received in the 10 day after strike period the total number of prisoners received in the combined 1984 periods did not amount to the number which would have been expected if a similar receival rate to the control period had occurred in 1984. There were 1080 prisoners received in the combined 1984 periods compared with the 1765 that would have been expected extrapolating from the control period figures. Prison receivals fell back to the levels in the control period within a week after the strike ended. The bulk of the receivals in the after strike period occurring in the first 3 days after the strike ended. It was virtually "business as usual" thereafter.

The drop in prison receivals occurred mainly in fine defaulters (down 396) and secondly in remands (down 233). The drop in fine defaulters received occurred mostly in the category we defined as "old warrants", those that had more than 44 days between the court decision that resulted in their being imprisoned and their receival into prison.

The special strike remission of 4 days for every day spent in custody during the strike was stated as the reason for the discharge of 551 prisoners during the strike. These prisoners served out their time in gaol more quickly as a result of the remission and, therefore, as a result of the strike. The remission also was a key factor in keeping peace in the gaols where prisoners suffered from restricted privileges, visiting rights and the curtailment of what physical freedom they normally are allowed. Another method of keeping the peace in the gaols during the strike was the transfer of prisoners between the gaols which was over eight times as numerous during the strike as during the control period.

Overall, during the strike there was a drop of 19.88% in the actual numbers of prisoners discharged from prisons compared to the control period. This decrease occurred predominantly in the metropolitan gaols. There was also a decrease in the numbers of prisoners discharged in the after strike period compared to what would have been expected extrapolating from the control period figures. It appeared this decrease in discharges was a direct result of the decreased receivals during the strike. The majority of the decreased numbers of prisoners discharged were fine defaulters. There was 73.03% less fine defaulters discharged than would have been expected extrapolating from the control period figures. As the drop in receivals during the strike also included 376 fine defaulters compared with the control period, it was to be expected that there would be considerably less fine defaulters in the gaols and thus less to be discharged during the strike and after strike periods since usually they are only short stay prisoners.

There were only 5 escapes during the strike period. As there were 4 escapes during the control period, it can safely be said that security was successfully maintained in the gaols during the trying strike conditions.

The Waverley Police Cells were used quite extensively to accommodate remand and fine default prisoners during the strike. They accommodated prisoners overnight which is not usual except for intoxicated persons and accused arrested too late to transfer them to gaol that day. There were very few sentenced prisoners accommodated in these Cells during the strike. Most sentenced prisoners were transferred to Central Police Station cells. It is reasonable to assume that where there were police cells at other police stations they would have been similarly used during the strike

Even though there were thus hundreds of offenders at large during the strike who would "normally" have been in custody, and there were many sentenced prisoners released earlier than they would normally would have been due to the effects of the special strike remission, the statistics on the crimes reported and accepted as genuine for the whole of New South Wales made available by the Police Department did not disclose any marked change in the overall crime rate during the period of the strike compared to the control period. There were large rises in "offences against the person" and in "drug offences" during the strike compared to the control period, however, to ascribe these increases to the effect of the strike is highly problematical as there were other non-random effects which could have easily produced such results.

The police statistics for crimes reported and accepted as genuine in the Sydney metropolitan area during the strike showed a marked increase in drug offences. This was not supported by our findings in the Waverley Local Court statistics that there were fewer drug use and possession charges in the strike compared to the control period. The police statistics for the Waverley police area, which area does not completely equate with the Waverley Local Court area, supported our findings that drug offences decreased during the strike in that area. Whether this was an effect of the strike cannot really be decided because of the number of non-random effects which could have produced such a result.

Recently, there has been a number of reports in Australia that have argued for a reduction in the number and length of prison sentences on the grounds that imprisonment rates do not significantly affect crime rates.<sup>1</sup> The Australian Law Reform Commission argued in 1980 that "neither the history of the use of imprisonment nor contemporary research lends any support to the persistent belief that the use of

<sup>1</sup> Australian Law Reform Commission Report No.15 Sentencing of Federal Offenders (1980) at 105,111. Women in Prison, Report of the NSW Task Force on Women in Prison (1985) at 40-41,124,129-130.



imprisonment leads to the diminution of crime either by way of deterrence or rehabilitation.<sup>2</sup> Our study does not negate that conclusion nor the argument that imprisonment rates do not significantly affect crime rates.

The Australian Law Reform Commission referred <sup>3</sup> to an analysis of serious crime and imprisonment rates for Australian jurisdictions in 1973-74 which showed only a very low correlation between these rates. The Commission agreed that the results of that analysis tended to refute the suggestion that "communities which imprison high proportions of their populations thereby gain high levels of public safety". The Commission went on to say that a study<sup>4</sup> over a ten year period of the mean rates per one hundred thousand of population for each state and territory in Australia, of the offences of robbery, breaking and entering and motor theft, revealed that New South Wales and Victoria have much higher rates of these types of crime than most other Australian jurisdictions although these two States had very different rates of imprisonment, New South Wales having the higher imprisonment rate.

Another study, commissioned by that Commission, of the use of imprisonment in New South Wales and Victoria between 1975 and 1977 found that New South Wales used imprisonment more often than Victoria in all major offence categories, except serious assault. This use ranged from a 6% greater frequency in the case of offences of theft to a 20% greater frequency in sex offences. There was also a marked tendency for N.S.W. courts to sentence offenders to longer prison terms than Victorian courts. The average length of sentence ranged from 21% higher in New South Wales for robbery to 144% higher in offences of fraud.

The above two studies and the Report of the New South Wales Task Force on Women in Prison establish that the N.S.W. courts are more severe in their sentencing practices than Victorian Courts without there being any marked lesser crime rate in New South Wales. As the A.L.R.C. stated<sup>5</sup> more research is needed to identify the factors which account for the different attitudes of the judiciary in the two states.

The New South Wales Task Force on Women in Prison <sup>6</sup> argued that it is "crucial to recognise that imprisonment rates do not reflect some "natural" or "inevitable" connection between levels of crime on the one hand and imprisonment on the other, a connection perceived as mediated by the "neutral" or "technical" processes of the operation of the legal system which therefore cannot be significantly altered". The Task Force argued that imprisonment rates are

---

<sup>2</sup> Ibid.

<sup>3</sup> Australian Discussion Paper Topic 4, U.N. Congress, 4-7 referred to note ..... supra..

<sup>4</sup> D. Biles, The Size of the Crime Problem in Australia (1979) at 9.

<sup>5</sup> Ibid Report No.15 at 111.

<sup>6</sup> Women in Prison, note ..... supra.

"the effects of the mediating definitions, political, police and legal processes - processes which can be changed to produce different outcomes and to lower imprisonment rates".

That Task Force referred to the shorter sentences imposed by the Dutch criminal justice system and pointed out that the common conception that shorter prison sentences will result in a rise in the crime rates is not borne out by the evidence. During the period since 1970 Holland has kept steady the percentage of its prisoners receiving sentences of less than one month, whereas New South Wales has had a steady reduction in prisoners receiving such a short sentence to 35% of prisoners in New South Wales yet both countries have experienced similar rises of 300% in their crime rates from 1965 to 1977. The greater length of sentences in New South Wales has not affected its crime rate in any more positive way than the lesser sentences of the Dutch system. Again, imprisonment length is not directly related to the crime rate.

Petersilia and Greenwood <sup>7</sup> designed a study to estimate the effect mandatory prison sentences would have on adult crime rates in Denver, Colorado by estimating the extent to which the offenders who had been convicted of violent crimes would have been prevented from committing the violent crimes if they had received the mandatory sentence for their preceding conviction and thus have been in gaol at the time of committing the current offence. They estimated that <sup>8</sup>:

A sentencing policy which would impose a five-year sentence for any person previously convicted of at least one adult felony would have prevented 16.0 percent of violent crimes and increased prison population by 190 percent.

As Sherman and Hawkins argue <sup>9</sup>, "this study shows graphically that long sentences have undramatic incapacitation benefits with unthinkable prison population costs.

Our survey and the results we found support the above research and writings. The large number of accused or convicted offenders who were at large during the strike and who "normally" would have been in custody did not significantly affect the overall crime rate for New South Wales nor for the metropolitan area. There may have been an effect for particular offences, but we were unable to eliminate other non-random effects that could have produced the changes and so are unable to draw any firm conclusions in this area.

<sup>7</sup> J. Petersilia and P. Greenwood, "Mandatory Prison Sentences: Their Projected Effects on Crime and Prison Populations" 69 Journal of Criminal Law and Criminology (1978) 606.

<sup>8</sup> Ibid, referred to in M. Sherman and G. Hawkins, Imprisonment in America, (1982, University of Chicago Press) at 119

<sup>9</sup> Ibid.

It has to be admitted that the results of this study regarding the effects of the strike upon the crime rate in certain areas are equivocal and that it is unlikely that further clarification in these areas will be obtained unless there should be another strike of similar magnitude (an event which we view with not a little trepidation). Notwithstanding this, the fact that the overall crime rate showed no change implies that the fluctuations in specific crime areas might well be effects having no relevance to the strike.

We have observed throughout this study clear evidence of a tendency for various sections of the criminal justice system to adapt to try as far as possible to have a "business as usual" situation. There appears to be an innate conservatism within each group which aims at preserving the institutionalised goal of processing around about the same number of cases in a given time period. Such a goal is not necessarily of benefit either to the person being "processed" or to the community at large.

If the police can release more people on bail when restrictions on accommodation compel them to, without any noticeable overall increase in crime, then it is obvious that it is cheaper to apply such a policy in times when there is no strike and so no restrictions on accommodation. Also if magistrates can grant bail more often or on conditions more likely to be met by accused, and there be no increase in the number of non-appearances by accused at court hearings, then it is again obvious that such a policy could be implemented during non-strike times. If the Local Courts can give a greater proportion of non-custodial sentences while a prison strike is occurring, then just as obviously they can pass such sentences in "normal" times. We would recommend that the police and the magistracy seriously consider new guidelines so that their normal operations more closely follow the procedures which they were forced to follow during the strike.

Another major finding was the indication of the large numbers of admissions to and discharges from prison of fine defaulters in "normal" times. Presumably, the assumption is that some sanction must be employed against those persons who do not pay fines in order to ensure that others will not be tempted to default but it seems obvious to us that some equally effective alternative form of sentence could be devised. One possible form of sanction would be to enable persons unwilling or unable to pay fines to cancel the debt by a number of hours work for an authorised charitable organisation. Such work might include such things as repairs to homes for aged people, being rostered to accompany volunteers who patrol the city streets seeking to assist homeless persons or helping to keep in repair walking or fire trails in National Parks.

Such work would be made a more attractive option if the present alternative of "working off" a number of fines concurrently were abolished. Although they are few in

number, some people make a mockery of the fine as a penalty by accumulating many small fines and then cutting them all out at once with one short sentence. If some people wish to go to prison as a protest against paying the fine they should retain that privilege but otherwise the community would be better served if a successful alternative were used.

We are not claiming that these proposals will make any substantial difference to the prison population. These proposals refer to those large number of prisoners whose stay in prison is short. On any particular day they will only represent a small number of those in prison notwithstanding that they make up the majority of admissions and discharges. However, if one considers the waste of resources in recording the details of admission and discharge and of providing such things as a cleaned uniform, etc. for a prisoner who is only staying a few days the potential saving in wasted effort must be great. With most of the short sentences eliminated more energy might be applied to finding if there are any programs which could reduce the chances of recidivism of the longer term prisoners.

APPENDIX ALOCAL COURTS DATA - ENCODING

Date of Birth (Day,Month,Year)

Date of Appearance (Day,Month,Year)

Major Offence (Coding based on A.B.S. Code)

Defended ?

- 0 = No solicitor or barrister.
- 1 = Solicitor only.
- 2 = Solicitor & Barrister.
- 3 = In prison.
- 4 = Unknown.

Type of Appearance.

- | <u>Old Charge</u>       | <u>New Charge</u>      |
|-------------------------|------------------------|
| 1 = No appearance       | 5 = No appearance      |
| 2 = Appearance on bail  | 6 = Appearance on bail |
| 3 = From/in Custody     | 7 = From/in Custody    |
| 4 = Magistrate at gaol. | 8 = Magistrate at gaol |

Result.

- Proceedings - Committal or Summary
- 1 = Bail continued or dispensed with (no condit's)
- 2 = Conditional Bail - met - released.
- 3 = Conditional Bail - not met - held in custody.
- 4 = Dealt with summarily - penalty not gaol.
- 5 = Dealt with Summarily - penalty gaol.
- Committed for Trial or Sentence
- 7 = Bail granted - condition met - released.
- 8 = Bail granted - condition not met - held.
- 9 = Bail refused - held.
- 10 = Miscellaneous including not before court.

APPENDIX B

DISTRICT COURT — ENCODING

Date of Hearing  
(Day,Month,Year)

On Bail or Remand ?  
1 = On Bail.  
2 = On Remand.

Public Prosecutor's Case No.  
(Needed to check duplications and to refer back to  
check anomalies)

Type of Representation  
0 = Accused appeared alone.  
1 = Barrister - with or without the accused.  
2 = Solicitor - with or without the accused.  
3 = No appearance of counsel or accused.

Judge (Name recorded)

Offence Code (See Local Court Coding)

Result  
1 = Acquitted.  
2 = Remanded for plea or mention - bail given.  
3 = Remanded for trial - bail given.  
4 = Remanded for sentence - bail given.  
5 = Remanded for plea or mention - bail refused.\*  
6 = Remanded for trial - bail refused.\*  
7 = Remanded for sentence - bail refused.\*  
(\* and/or bail not asked for)  
8 = No appearance - warrant to issue.  
9 = Sentenced - non-custodial.  
10 = Sentenced - prison.  
11 = Appeal - Non-custodial result.  
12 = Appeal - Prison.  
13 = In custody - No appearance - relisted.  
14 = Remanded for Appeal hearing - bail refused.  
15 = Periodic Detention.  
16 = Changed Plea.

Next Appearance Date ( zeros if not applicable)

Court Number.