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ABORIGINAL OVER-REPRESENTATION AND DISCRETIONARY DECISIONS IN THE NSW JUVENILE JUSTICE SYSTEM

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A REPORT TO THE CRIMINOLOGY RESEARCH COUNCIL

TABLE OF CONTENTS

Acknowledgments

Executive Summary

Preface

INTRODUCTION

- Introduction
- Background
- Ethnic Minority Groups
- Identifying Aboriginal Juveniles in the System
- Variables Available for Analysis
- The relevance of the 1990 data

PART ONE Aboriginal Participation in the NSW Justice System

- Introduction
- Key Points of Participation
- Comparison of Aboriginal and Non-Aboriginal Offenders
  - Age, Sex and Residence
  - Offending Patterns
  - Appearances and Prior Involvement

PART TWO A Comparison of Treatment

- Introduction
- Police Decisions
  - Cautions and the Decision to Prosecute
  - Prosecution by way of Arrest or Summons
  - Bail Refusal and Bail Conditions
  - Discussion
- Court Decisions
  - Outcomes
  - The Use of Detention
  - Community Service Orders
- Discussion

PART THREE Treatment by Geographic Location

- Urban - Rural Differences
- A Closer Look at Intervention Rates
- A Closer Look at Post-intervention decisions
  - The Decision to Prosecute or Caution
  - The Decision to Proceed by Way of Arrest
  - The Police Bail Decision
  - The Court Decision to Incarcerate
- Summary

PART FOUR A Comparison of the Treatment of Aboriginal and non-Aboriginal Girls

Introduction
A Comparison between Aboriginal and non-Aboriginal girls in the System
Offending Patterns
Appearances and Prior Involvement
Police Decisions
Court Decisions
Conclusion

CONCLUSION AND RECOMMENDATIONS

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Introduction

This paper presents the final findings from an analysis of all court appearances and police cautions in NSW during 1990. Using a combination of police, welfare and Aboriginal Legal Service data the authors have identified the Aboriginality of all those with formal police interventions in that year. This has allowed the first analysis of the treatment of Aboriginal children at all stages of the criminal justice system in NSW.

The aims of this research report are:

* to illuminate the causes of over-representation of Aboriginal children in the NSW justice system, at least to the extent that discretionary decision-making affects Aboriginal young people;

* to suggest detailed strategies to reduce this over-representation.

Background

The present study has grown from a lack of comprehensive information about how the police and courts deal with young Aboriginal people. Only one study, by Gale et al (1990), has compared the treatment of Aboriginal and non-Aboriginal people throughout a justice system. This report used official data to look at all young people dealt with in South Australia during the early 1980's. The study also provides important methodological considerations in the study of over-representation.

The context in which the current research was developed was the fact that Aboriginal youth comprise around 25% of juveniles held in NSW juvenile detention centres, and that it had been claimed that NSW had the highest rate for Aboriginal juvenile incarceration in Australia (Wootten, 1989, p.79). More recent research indicates that Western Australia exceeds NSW in the rate of Aboriginal juvenile detentions (Cunneen, 1990, p.15). However the basic point concerning the high level of over-representation of Aboriginal juveniles at the most serious end of the NSW juvenile justice system remains.

In NSW there have been valuable but limited insights into the treatment of Aboriginal juveniles by the criminal justice system (Chisholm, 1984; Luke, 1988a; Cunneen & Robb, 1987; Youth Justice Coalition, 1990). Early research established that some communities in NSW have large numbers of Aboriginal youth appearing before the Children's Court for criminal matters and have relatively high rates of committals to institutions (Chisholm, 1984; Luke, 1988a; Cunneen & Robb, 1987). Chisholm's (1984) research indicated important differences in juvenile criminal charge patterns between different Aboriginal communities (Bourke and Nowra) and argued that one factor involved was the relationship of the particular Aboriginal community to the wider non-Aboriginal community.

There has also been some research which has indicated variations in the treatment of Aboriginal to non-Aboriginal youth. Cunneen (1988) indicated that Aboriginal youth in certain communities were least over-represented at the more informal stages of police intervention (cautioning) and most over-represented in the formal processing through criminal charges. The Gale et al (1990) work in South Australia also supports the view that Aboriginal youth are least over-represented in the least punitive stages of intervention and most over-represented at the point of committal to an institution.

However the absence of Aboriginality in criminology data collections in NSW (it is not recorded by the courts) has prevented any detailed look at the whole system of juvenile justice to date. The result has been a lack of knowledge about differential treatment by the police and courts and the absence of planning and implementation tools for government. This study attempts to remedy this situation by identifying the Aboriginality of every young person who

was formally dealt with by the NSW police in 1990 and then linking this information with criminal record and court and police outcome data.

Ethnic Minority Groups

The nature of the analysis presented in this report has drawn a basic division between indigenous and non-indigenous young people and analysed the data for differential treatment between the two groups. This division is justified on a number of grounds. First, Aboriginal young people as indigenous young people have a specific political status with identifiable status and rights. Secondly, Aboriginal young people have been subjected to specific welfare policies which treated them separately from other young people. Thirdly all the available empirical evidence suggests massive over-representation in juvenile detention centres which is not comparable with any other cultural or ethnic group.

However there has been increasing recognition of the apparent over-representation of specific groups of young people from non-English speaking backgrounds in New South Wales (for example Cain, 1994). At the national level, the Race Discrimination Commissioner of the Human Rights and Equal Opportunity Commission has recently released a discussion paper on young people from non-English speaking backgrounds and their contact with juvenile justice agencies (HREOC 1994). One of the important points noted in the discussion paper is the inadequate level of information available which can be used to formulate policy in the area. Like much of the data available on Aboriginal young people, it identifies ethnicity only at the end point of the system (detention) and is limited because of this.

Many of the issues raised in this report may prove helpful in understanding how specific ethnic minority groups experience contact with juvenile justice agencies. In particular the important questions relating to the favourable or unfavourable exercise of discretion appears to need greater attention given the findings of recent reports (Youth Justice Coalition, 1994).

Identifying Aboriginal Juvenile Offenders

There are two main sources of Aboriginal identity recorded in the official juvenile justice statistics in NSW. The first is the 'racial identity' field recorded on police crime intelligence forms and the second is the information collected by the Office of Juvenile Justice (formerly Department of Family and Community Services) when children are dealt with by any of their services. Aboriginality is not regularly recorded by the court system.

The linking of this Aboriginality information with the Department of Juvenile Justice Children's Court Information System (CCIS) data was a first requirement. The CCIS maintains a range of information on all cautions and final court appearances for children in NSW and this is kept as part of a complete criminal record for each child. This allows analysis of outcomes on the basis of criminal record as well as on the more common demographic and current offence variables.

Name and date of birth formed the basis of the linking but the use of different names, spellings and dates of birth as well as the need for many checks means that the process of identifying the Aboriginality of those on the CCIS is a particularly time consuming process.

In the end it was possible to identify, using the official statistics, some 83% of formal interventions (cautions and appearances) finalised during 1990. Cross checking of the police and DJJ data revealed only about 5% disagreement and helped validate the usefulness of the police data. The police information comes from a crime intelligence form which asks officers about the 'racial appearance' of the alleged offender. While it may not be a useful measure for identifying different non-Aboriginal groups the concurrence with the DJJ data (which is provided either by the child or by staff with a fairly detailed knowledge of the child's background) has led us to believe that the police information is a useful source of Aboriginal

identifying information. The accuracy of police identification was probably facilitated by the fact that the majority of Aboriginal young people came from rural areas and small communities. Because of the greater likelihood of under-identifying the number of Aboriginal children, we have recorded a child as Aboriginal if either data source had indicated this.

Names and localities of the remaining 17% of individuals were given to relevant Aboriginal Legal Services in NSW to identify the children from their area. Those that were not identified by the ALS as Aboriginal were assumed to be not Aboriginal.

Variables Available for Analysis

The combined data sources enabled the use of a large number of variables relating to young people who had come into contact with juvenile justice agencies during 1990. These variables included the following socio-demographic data: Aboriginality, sex, age, date of birth, and local government area of residence of offender. Variables relating to juvenile justice process by police included caution, charge or summons and bail. Offender data included offence, number of previous appearances, number of previous cautions, number of previous community service orders, and most serious previous court outcomes. Variables relating to the Children's Court included location of court, specialist or non-specialist court, date of finalised appearance, outcome and severity.

The Relevance Of The 1990 Data

The data in this report is now four years old but it has unfortunately maintained its relevance to NSW today. In 1994 the number and proportion of Aboriginal people in custody is still very similar to that in 1990.

A look at all admissions to institutions during 1993/94 fiscal year showed that 29% of all control order admissions were Aboriginal. This is very similar to the 1990 figure of 26.6% for the proportion of control orders that were Aboriginal.

The geographic source of those sentenced to detention also shows considerable consistency. The following local government areas, with 65% of orders, were the main source of Aborigines sentenced to detention in 1993/94: Blacktown, South Sydney, Tamworth, Guyra, Auburn, Great Lakes, Campbelltown, Bankstown, Narrabri, Gosford, Gilgandra, Orange, Penrith, Wollongong, Moree Plains, Bourke, Fairfield, Kempsey, Leichhardt, Walgett, Wentworth, Wyong. These areas contributed 52% of Aboriginal control orders in 1990.

PART ONE ABORIGINAL PARTICIPATION IN THE NSW JUSTICE SYSTEM

Introduction

There are a number of points at which key decisions are made concerning Aboriginal young people coming into contact with juvenile justice agencies. These include discretionary decisions made by police to proceed by way of caution, to arrest and charge a young person or to proceed by way of summons (or court attendance notice). If the decision is made to arrest and charge the young person further decisions are made by police concerning bail. A number of further key decisions are made by the court concerning bail and remand in custody. Finally the court may decide when sentencing to impose a detention order. These decisions can be thought of in terms of an ascending scale of intervention by the juvenile justice system with each stage representing the potential for further loss of liberty. These decisions represent stages in the severity of possible response to a young person. The least severe decision at the point of formal intervention by police is to caution a young person. The most severe possible outcome is for the court to order a period of detention. The different processing options in the NSW juvenile justice system are summarised in Figure 1.1 below.

FIGURE 1.1

Schematic representation of the NSW Juvenile Justice System

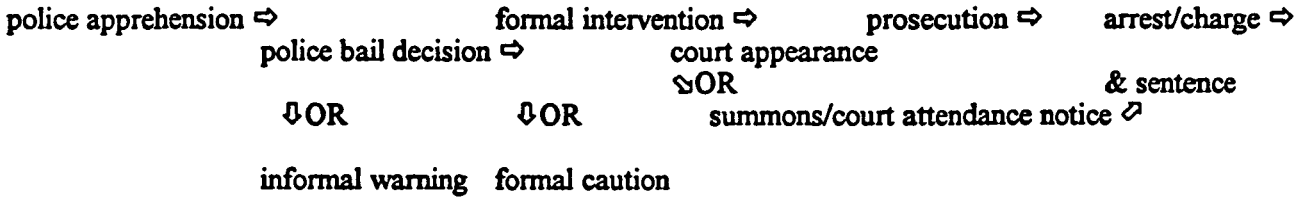


Table 1.1 below looks at key points identified above and shows the level of Aboriginal participation at each level in NSW during 1990. The percentage figure is the number of Aboriginal young people as a percentage of the total at each discretionary stage..

TABLE 1.1
Proportions of Aboriginal Participation
Key Discretionary Stages
1990

Point of Discretion	Male %	Female %	Total %
Aboriginal population 10-17 yrs	1.9	1.9	1.9
Police cautions	7.1	7.1	7.1
Total interventions (police cautions plus court app)	13.9	18.3	14.6
Court appearances	14.7	20.9	15.6
Prosecutions by way of charge	15.9	21.7	16.7
Police bail refusals	22.3	21.0	22.1
Final bail refusals	20.8	21.0	20.8
Detention orders	26.7	25.0	26.6

According to the 1991 Census Aboriginal young people comprise 1.9% of the population aged from 10 to 17 years in NSW. As can be seen Aboriginal children are over-represented in contacts with police and this over-representation increases as they pass further into the system. Thus Aboriginal young people comprise 7.1% of police cautions, 15.6% of court appearances and 26.6% of detention orders.

In relation to differences between males and females, it is worth noting that Aboriginal females make up a greater proportion of female interventions, prosecutions by way of arrest and charge, and overall court appearances than Aboriginal males. Bail refusals and detention orders are roughly the same.

The information provided in Table 1.1 is for the state of NSW overall. The research has been particularly interested in identifying more specifically the areas which contribute to Aboriginal over-representation. An initial step in this analysis was to break down the state into divisions between the Sydney metropolitan area, combined data for Wollongong/Newcastle as major urban areas outside of Sydney, and the rest of NSW defined as country. Table 1.2 shows the overall pattern in these three major geographic areas.

TABLE 1.2
Proportions of Aboriginal Participation
Key Discretionary Stages
City and Country

	Sydney %	Newc/ Wgong %	Country %	NSW %
Aboriginal population 10-17 yrs	1.0	1.6	4.1	1.9
Police cautions	3.1	4.6	14.5	7.1
Total interventions	8.0	7.1	31.7	14.6
Court appearances	8.6	7.5	34.4	15.6
Prosecutions by way of charge	9.8	9.2	38.9	16.7
Police bail refusals	14.3	12.1	47.3	22.1
Final bail refusals	13.6	11.4	48.8	20.8
Detention orders	17.8	13.8	53.4	26.6

The Sydney area comprises these LGAs: Leichhardt, Marrickville, Randwick, South Sydney, Sydney, Waverley, Woollahra, Ashfield, Burwood, Concord, Drummoyne, Strathfield, Bankstown, Botany, Canterbury, Hurstville, Kogarah, Rockdale, Sutherland, Camden, Campbelltown, Liverpool, Wollondilly, Auburn, Baulkham Hills, Blacktown, Blue Mountains, Hawkesbury, Fairfield, Holroyd, Parramatta, Penrith, Hornsby, Hunters Hill, Kuringai, Lane Cove, Manly, Mosman, North Sydney, Ryde, Warringah, Willoughby, Gosford
The Newcastle/Wollongong area comprises: Wyong, Cessnock., Lake Macquarie, Maitland, Newcastle,Port Stephens, Dungog, Gloucester, Great Lakes, Merriwa, Murrurundi, Muswellbrook, Scone, Singleton, Kiama, Shellharbour, Wollongong, Shoalhaven, Wingercarribee. The Country area is made up of all other NSW LGAs

Country regions are shown in Table 1.2 as having the highest participation rates. Some 14.5 % of cautions in country areas are given to Aboriginal young people. At the most extreme point of intervention, over half of all detention orders (53.4%) from country areas were of Aboriginal young people.

It is worth comparing these proportions of intervention from apprehension to detention with the results from the South Australian study by Gale et al (1990). The Gale study covered the period 1979-84 and showed an even greater level of increasing participation by Aboriginal children as they passed through the system. While making up 1.2% of the youth population in South Australia (1.9% in NSW), Aboriginal children formed 7.8% of total formal interventions (14.6% in NSW) and 28.1% of detention orders (26.6% in NSW).

Gale et al found that the major causes of the increasing over-representation in the system were the more extensive criminal histories of Aboriginal children, the negative assessment by police of certain social characteristics (unemployment and one-parent families) common amongst Aborigines and the reinforcement of negative police decisions by uncritical Screening Panels which decided whether the young person should be sent to court. They found little statistical evidence of 'direct' discrimination in formal police interventions but rather that the negative decisions made by officers were influenced by a range of factors not always related to the original reason for apprehension. These factors (such as unemployment and single-parent family structure) were generally ones which disadvantaged Aboriginal young people. The Gale study did not deal extensively with the reasons for police apprehension and intervention in the first instance. However their observational studies of police behaviour in Adelaide found that 'case after case emerged which brought into question the equity of police treatment of Aboriginal youth at the point of apprehension' (Gale et al, 1990, p 65).

Various studies have suggested a range of contributing causes for Aboriginal over-representation including:

* higher levels of offending (Walker, 1987);
* high police numbers in areas of Aboriginal population (Cunneen & Robb, 1987);
* a greater likelihood of detection for Aboriginal children;
* conflict between Police and Aboriginal youth;
* more frequent group arrests of Aboriginal children (Gale et al, 1990);
* very high levels of apprehension of a small number of Aboriginal children;
* direct and indirect discrimination by the police and courts (Gale et al, 1990);and
* high levels of Aboriginal arrest for less serious offences and street offences (Cunneen & Robb, 1987; ICJ, 1992).

It is important to note that these arguments are not mutually exclusive. In fact it seems that a more realistic way of understanding the over-representation of Aboriginal young people in the system is one which acknowledges the complex and dynamic interaction between a range of factors including the level of offending, the level of policing, and community relations between Aboriginal and non-Aboriginal peoples (Cunneen and Robb 1987; Cunneen, 1992).

The current study is not an analysis of Aboriginal young people's offending per se (although it hopefully will help to shed some light on this issue). Rather what we are concerned to analyse is the way in which discretion is used at various key points in the system to see if that discretion is used in a way which disadvantages Aboriginal young people compared to non-Aboriginal youth. In other words, do police and the courts treat Aboriginal and non-Aboriginal

young people similarly when the circumstances are similar? If discretion is being used adversely then it should be amenable to policy changes and improved management structures which ensure equity. Such changes would not directly affect the actual offending levels of Aboriginal young people, but they would impact on Aboriginal over-representation in the system to the extent that the over-representation is caused by inequitable treatment.

Below we have constructed an abbreviated flow chart to show how Aboriginal and non-Aboriginal young people progressed through the justice system in 1990.

FIGURE 1.2
Progression Through The NSW Juvenile Justice System
1990

NON-ABORIGINES	ABORIGINES
670,000 non-Aboriginal children between the ages of 10 and 17 in NSW	12,400 Aboriginal children between the ages of 10 and 17 in NSW
⇩	⇩
15,598 interventions for 11606 individuals apprehended by the Police. This is 1.7 % of the population	2667 interventions for 1,597 individuals apprehended by the Police. This is 12.9% of the population
⇩ ⇘ 2012 police cautions (12.9% of the total)	⇩ ⇘ 153 police cautions (5.7% of the total)
⇩	⇩
13586 go to court	2514 go to court
⇩	⇩
Of these 8893 or 65% are prosecuted by way of charge	Of these 1784 or 71% are prosecuted by way of charge
⇩	⇩
and 939 or 6.9% are refused bail by the police and held in custody	and 267 or 10.6% are refused bail by the police and held in custody
⇩	⇩
In 725 cases for 520 individuals the courts make a control order and send the young person to custody. Thus 0.08% of the youth population is given a control order each year.	In 262 cases for 168 individuals the courts make a control order and send the young person to custody. Thus 1.4% of the youth population is given a control order each year.

The enormous difference between the proportions of Aboriginal young people compared to non-Aboriginal young people coming into the system is shown by the probability of apprehension or detention for an Aboriginal young person. Aborigines have an eight times greater chance of being apprehended and eighteen times greater chance of being given a detention order.

A comparison of Aboriginal and non-Aboriginal offenders

To gain a clearer picture of which factors are operating within the juvenile justice system it is necessary to analyse more closely the Aboriginal and non-Aboriginal populations who are apprehended and proceeded against for an offence. The following information is based on Aboriginal and non-Aboriginal children who were formally dealt with during 1990. The sample size is 18,265 made up of 2,165 cautions and 16,100 finalised court appearances. This is all formal interventions in NSW recorded during the year.

Age, Sex and Residence

There are a number of initial characteristics which are of relevance including sex, age, age at the time of first intervention and area of residence.

TABLE 1.3
Sex and Age of Formal Interventions
By Indigenous Status
1990

	non-Aboriginal %	Aboriginal %
Sex		
Female	15.3	20.1
Male	84.7	79.9
	100.0	100.0
($\chi^2 = 37.7$, $p < 0.05$)		
Age		
10 years	0.3	1.3
11	0.7	1.9
12	2.2	3.6
13	5.0	6.8
14	10.4	12.8
15	16.9	15.5
16	24.4	21.3
17	31.0	28.1
18 years or more	9.1	8.9
	100.0	100.0
($\chi^2 = 139.8$, $p < 0.05$)		

The relationships between Aboriginality and sex, and Aboriginality and age are statistically significant. The Aboriginal group has a greater proportion of females than males compared to the non-Aboriginal group. The age of the Aboriginal group is also significantly younger. When we collapse the age breakdowns into broader groupings we find that 26.4% of Aboriginal young people were 14 years or younger compared to 18.6% of non-Aboriginal young people in the same group. The younger age of Aboriginal youth in the group has important ramifications for factors relating to the development of a criminal record and later treatment by the juvenile justice system.

We also analysed age in relation to those young people who were formally dealt with by the juvenile justice system for the first time in 1990. Table 1.4 shows the age groupings of young people who first came into contact with the system in 1990.

TABLE 1.4

Age at First Formal Intervention
By Indigenous Status
1990

Age of First Intervention	non-Aboriginal %	Aboriginal %
10 years	0.6	3.4
11	1.2	4.1
12	3.5	6.8
13	6.9	9.3
14	13.3	17.9
15	17.8	17.2
16	23.9	17.8
17	26.4	19.7
18 years or more	6.3	3.8
	100.0	100.0
($\chi^2 = 163.5$, $p < 0.05$)		

The information from 1990 shows that there is a statistically significant relationship between age at first intervention and Aboriginality. Aboriginal young people have there first formal intervention at a younger age than non-Aboriginal young people. Some 41.5% of Aboriginal youth were 14 years or younger at the time of their first intervention compared to 25.5% of the non-Aboriginal group. The average age for first intervention was 14 years and 8 months for Aboriginal young people compared to 15 years and 5 months for non-Aboriginal young people.

Various other studies have shown that intervention occurs earlier with Aboriginal young people. As a result Aboriginal young people receive a criminal record at an earlier age (Cunneen and Robb 1987:141; Gale et al, 1990:56). For instance in Western Australia, Aboriginal over-representation is greatest among younger age groups. Indeed three out of every four girls under 14 years arrested by police are Aboriginal, and two out of every three boys under 14 years arrested were Aboriginal (adapted from Broadhurst, Ferrante and Susilo 1991:44-46).

We were also concerned to see if there were differences between Aboriginal and non-Aboriginal young offenders in terms of their residential location in city or country areas. Table 1.5 shows area of residence divided between Sydney, Newcastle/Wollongong and country NSW.

TABLE 1.5
Area of Residence
By Indigenous Status
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	60.2	30.2
Newcastle/Wollongong	16.4	7.2
Country NSW	23.4	62.6
	100.0	100.0
($\chi^2 = 1645.3, p < 0.05$)		

The difference in the proportions in each region of residence were also statistically significant. Aboriginal young people were about two and a half times more likely to come from country areas in NSW and approximately half as likely to come from the Sydney area or Newcastle/Wollongong regions. Nearly two out of three Aboriginal young people who had a formal intervention in 1990 were from rural NSW.

Offending Patterns

There has been considerable discussion in the literature concerning the different offence patterns for which Aboriginal and non-Aboriginal young people are brought into the juvenile justice system (Gale et al, 1990; Cunneen, 1992). The relevant data from NSW in 1990 is shown below in Table 1.6, which shows the number of offences, the rate per 1000 of the relevant population and the proportion of offences. The table includes all offences which resulted in a formal intervention (police caution or finalised court appearance).

TABLE 1.6

Offences By Indigenous Status
1990

Offences	non-Aboriginal			Aboriginal		
	N	Rate	%	N	Rate	%
Homicide/Manslaughter	16	0.02	0.1	3	0.24	0.1
Armed Robbery	35	0.05	0.2	3	0.24	0.1
Sexual Assault	83	0.12	0.5	9	0.73	0.3
Drug Trafficking	56	0.08	0.4	0	0	0.0
Unarmed Robbery	47	0.07	0.3	8	0.65	0.3
Grievous Assault/Malicious Wound	918	1.37	5.9	192	15.48	7.2
Other Assault	1002	1.50	6.4	277	22.34	10.4
Break & Enter	2020	3.01	13.0	561	45.24	21.0
Steal M V/Carried in Convey	1663	2.48	10.7	237	19.11	8.9
Shoplifting	948	1.41	6.1	99	7.98	3.7
Other Theft	5027	7.50	32.2	679	54.76	25.5
Justice Offences	357	0.53	2.3	84	6.77	3.2
Good Order	2157	3.22	13.8	425	34.27	15.9
Rail Offences	66	0.10	0.4	5	0.40	0.2
Other Drug Offences	594	0.89	3.8	27	2.18	1.0
Traffic Offences	455	0.68	2.9	38	3.06	1.4
Other Offences	154	0.23	1.1	20	1.61	0.8
Total	15598	23.3	100	2667	215.1	100

Rate is calculated per 1,000 relevant youth population.
There is a statistically significant relationship between the proportion of offences and Aboriginality ($\chi^2 = 328.0$, $p<0.05$).

Table 1.6 shows some of the complexities when discussing the nature of offences for which Aboriginal and non-Aboriginal young people are drawn into the juvenile justice system. Table 1.6 provides the data on offending as measured by the actual number of offences (shown as *N* in the Table), as well as the rate of offences per 1000 of the juvenile population (shown as *Rate* in the Table), and the proportion which each offence category contributes to the total number of offences for both groups (shown as *%* in the Table).

When comparing offending patterns between two groups it is usual to compare the proportion which each offence category contributes to the overall pattern for each group (as in Gale et al 1990, pp44-49). For example Table 1.6 shows that homicide/manslaughter comprise 0.1% of offences for both Aboriginal and non-Aboriginal young people. By looking at the proportion of offences for both Aboriginal and non-Aboriginal young people the greatest emphasis is on property offences including break and enter, stealing motor vehicles, shoplifting and other forms of theft (59% of Aboriginal offences and 62% of non-Aboriginal offences). However there are significant differences between the two groups in terms of the nature of the property offences. Aboriginal young people have a significantly greater proportion of more serious break and enter offences (21% compared to 13%) and a smaller proportion of shoplifting (3.7% compared to 6.1%) and more minor 'other theft' such as larceny (25.5% compared to 32.2%). There are a number of possible explanations for the difference.

In commenting on the South Australian experience, Gale and her colleagues note, "it is not clear to what extent Aborigines actually commit more serious property offences or whether other factors and, in particular, police discretion in charging are at work" (1990:46). The authors cite examples of police discretion in charging where less serious offences such as being unlawfully on premises and larceny could be substituted for the more serious charge of break, enter and steal. Similarly Cunneen and Robb (1987:96) found that of all property offences, it was arrests for ***break and enter with intent to steal*** for which Aboriginal people were most over-represented. In such circumstances there is a range of possible resolutions available to police officers including the use of diversion or other less serious charges. Offences such as break, enter and steal also have very low clear-up rates. The information on the few offenders who get caught is particularly susceptible to policing practices, reporting levels in particular areas, and the relative sophistication or otherwise of the offenders. For these reasons the greater proportion of Aboriginal young people in this category of offences may tell us more about ***detection by police***, than levels or degrees of criminality.

The issue of reporting and police detection is also connected to the issue of environmental opportunities. Gale and her colleagues argue that even if it could be shown that Aboriginal young people do commit more serious property offences, it would not demonstrate any greater 'criminality' in the sense of a dedication to serious criminal activity, because environmental opportunities and pressures influence the nature of property crime. In particular urban-rural differences structure opportunities and pressures differently. Simple theft and shoplifting are primarily urban offences particularly associated with large shopping complexes. The opportunities for these types of offences are considerably constrained in the environment of small rural communities. Similarly there is increased likelihood of being detected either breaking into or attempting to break into a dwelling in a small country town or remote community.

The second significant group of offences are those which involve violence. Aboriginal and non-Aboriginal young people have roughly the same proportion of offences at the more serious end of the scale (murder/manslaughter, armed robbery, sexual assault, grievous assault and malicious wounding). Aboriginal young people have a greater proportion in the less serious 'other assault' category (10.4% compared to 6.4%). Similar results are apparent in South Australia where differences in the proportion of Aboriginal juveniles compared to non-Aboriginal juveniles are related to [the less serious] common assault. Gale et al argue that the differences might support the argument that poor living conditions lead to a greater degree of violence in Aboriginal communities. Or "it may reflect nothing more than the well-documented fact that violence in an Aboriginal community is often an open and public event to which police are readily called" (Gale et al 1990:48).

The third group of offences are those related to good order. Table 1.6 shows 15.9% of Aboriginal young people have formal intervention by the juvenile justice system as a result of these offences. Similar findings have been repeated in other studies. In north-west New South Wales, Aboriginal over-representation for offences like assault police, hinder police, resist arrest and offensive behaviour was high (Cunneen and Robb 1987). In South Australia a greater proportion of Aboriginal young people were charged with street offences than non-Aboriginal young people (Gale et al 1990:48). In the current study although the proportion of Aboriginal people is higher (15.9% compared to 13.8%), the difference is not great. These offences often involve groups of young people and they are also the ones most dependent on direct police intervention with the potential for selective enforcement and the adverse use of police discretion.

Table 1.6 also shows the rate of offences for Aboriginal and non-Aboriginal young people based on their population size. The most immediate point is that the only offence category where the Aboriginal rate is lower than the non-Aboriginal rate is for drug trafficking (0.0 compared to 0.08). In all other offence categories the rate of offences by Aboriginal young people is higher. These rates are, of course, based on detection and intervention by police. For the reasons we have outlined above, and in the early part of this report, it is not possible to say exactly how much of the higher rates are a function of the greater commission of offences and

how much are the result of institutional practices. Nevertheless there are extreme differences between the two groups of young people as measured by the different offence rates. The highest rate for non-Aboriginal young people is 7.50 per 1000 for 'other theft'; for the same offence category the Aboriginal rate is 54.76 per 1000. Similarly we might compare 'good order offences' where the non-Aboriginal rate is 3.22 compared to the Aboriginal rate of 34.27. The differences in these 'offending rates' will be discussed more fully later in the report.

Appearances and Prior Involvement

Previous research has analysed differences in sentencing patterns between the specialist Children's Court and the non-specialist magistrates who convene a Children's Court at the Local Court when appropriate. The earlier research indicated that non-specialist courts were more likely to use detention at an earlier stage in a young person's offending history than was the case with the specialist courts (Luke, 1988b).

The current research indicates that there were significant differences in the proportion of Aboriginal young people appearing before the specialist and non-specialist courts as shown below in Table 1.7. The Specialist Children's Courts at the time of the research were Yasmar, Minda, Royleston, Bidura, Cobham, Worimi, Woy Woy, Gosford, Wyong, Camden, Port Kembla, Hornsby and Sutherland.

TABLE 1.7
Specialist or Non-Specialist Court
By Indigenous Status
1990

Type of Court	non-Aboriginal %	Aboriginal %
Non-specialist	32.6	64.0
Specialist Children's Court	67.4	36.0
	100.0	100.0

($\chi^2 = 893.5$, $p < 0.05$)

The large proportion of Aboriginal young people who appear before the non-specialist Children's Courts is perhaps not surprising when we remember that the majority of Aboriginal young offenders who come into the system are from rural areas in NSW. Whether the appearances before the non-specialist courts seriously affect sentencing outcomes is an issue we will address in a later section.

It is generally recognised that many young people who appear before the court are there for a first offence and do not reappear. It is also recognised that diversionary processes such as police cautioning are a useful procedure for diverting minor offenders out of the formal system. We were interested therefore to analyse any differences between Aboriginal young people and non-Aboriginal young people concerning any earlier involvement with police or the courts prior to their intervention in 1990. Table 1.8 below shows the percentage of young people who had received one or more police cautions prior to their intervention in 1990.

TABLE 1.8
Number of Previous Cautions
By Indigenous Status
1990

Number of Previous Cautions	non-Aboriginal %	Aboriginal %
0 previous cautions	80.5	71.8
1	16.2	21.1
2	2.7	6.2
3-5	0.5	0.8
6 or more	0.1	0.0
	100.0	100.0

($\chi^2 = 173.3$, $p < 0.05$)

Table 1.8 shows that there were proportionally fewer Aboriginal young people who had not received a prior police caution. However a further significant point about Table 1.8 is that eight in ten non-Aboriginal young people and seven in ten Aboriginal young people had not been previously cautioned. Given that cautioning has been the major diversionary option available in NSW, this data raises serious questions concerning utilisation.

We were also able to analyse the number of previous court appearances for the young people who came in contact with juvenile justice agencies during 1990. Table 1.9 shows the number of previous proven court appearances by Aboriginality.

TABLE 1.9
Number of Previous Court Proven Appearances
By Indigenous Status
1990

Number of Previous Proven Court Appearances	non-Aboriginal %	Aboriginal %
0 previous	55.6	31.8
1	16.3	17.5
2	9.2	12.8
3-5	12.1	20.5
6 or more	6.9	17.4
	100.0	100.0

($\chi^2 = 699.1$, $p < 0.05$)

A significantly greater proportion of non-Aboriginal young people had no previous prior proven court appearance. Over half (55.6%) the non-Aboriginal young people had no prior record of offending when they came into contact with the juvenile justice system in 1990. Conversely the majority (70.2%) of Aboriginal young people who came into contact with the juvenile justice system had at least one prior proven court appearances, and one in two had two or more prior proven appearances. It is clear that in any year the majority of Aboriginal young

people coming before the system will have been formally involved on at least one prior occasion.

We can combine the previous data in Tables 1.8 and 1.9 to provide information on the number of previous interventions, that is both cautions and previous proven court appearances. Table 1.10 shows the number of previous formal interventions which both groups of youth had experienced prior to contact in 1990.

TABLE 1.10
Number of Previous Formal Interventions
By Indigenous Status
1990

Number of Previous Formal Interventions	non-Aboriginal %	Aboriginal %
0 previous	50.1	27.5
1	17.6	17.4
2	10.1	12.6
3-5	14.1	22.7
6 or more	8.1	19.9
	100.0	100.0

($\chi^2 = 698.5$, $p < 0.05$)

Table 1.10 shows that there are proportionally fewer Aboriginal young people (27.5% compared to 50.1%) who came into contact with juvenile justice agencies in 1990 without some previous formal contact prior to that year. Conversely about half of the non-Aboriginal group had no prior formal contact. In particular it is important to note that almost one in five (19.9%) of the Aboriginal group have had six or more previous formal interventions. The figures in Table 1.10 also need to be understood within the context of the information provided in Tables 1.8 and 1.9. Although nearly three quarters (72.5%) of Aboriginal young people had previous formal contact prior to the intervention in 1990, most of this prior contact was by way of court appearance and conviction. The majority of Aboriginal young people had not had the benefits of a police caution. Thus a high level of prior formal contact and a low level of cautioning are not mutually exclusive. In other words from the time of the first intervention Aboriginal young people were brought before the courts and received a criminal record. This point has particular importance when we go on to consider the role of prior record in later court decisions in relation to sentencing.

Similarly there is a large difference between the non-Aboriginal and Aboriginal groups when we consider the proportion who had been previously institutionalised by the courts through a control order.

TABLE 1.11
Proportion of Young People Previously Institutionalised
By Indigenous Status
1990

	non-Aboriginal %	Aboriginal %
Previously institutionalised	8.1	19.2
($\chi^2 = 315.7, p < 0.05$)		

Table 1.11 shows that a significantly greater proportion of Aboriginal young people had been institutionalised. Of those who had a formal intervention (court appearance or caution in 1990) nearly one in five Aboriginal young people had been previously institutionalised compared to about one in twelve non-Aboriginal young people.

Finally we looked at the number of interventions that the two groups experienced during 1990 to get some idea of the frequency of intervention and to identify any differences in the number of interventions per person.

TABLE 1.12
Number of Formal Interventions per Person
By Indigenous Status
1990

Number of interventions per individual during 1990	non-Aboriginal %	Aboriginal %
1	79.4	64.4
2	13.8	19.9
3	4.1	8.5
4	1.6	4.4
4	0.6	1.4
6	0.3	0.8
7	0.1	0.4
8 or more	0.1	0.1
	100.0	100.0

Note: Multiple matters from the one apprehension may result in more than one final court appearance, and thus inflate apprehension numbers for individuals. To correct for this only interventions with unique apprehension dates have been counted in this section.

On average non-Aboriginal youth had 1.32 formal interventions during the year compared with 1.63 for Aboriginal youth.

In summary, the previous comparisons of Aboriginal and non-Aboriginal young people can be stated as follows.

* The population of Aboriginal offenders is much younger and has their first formal contact with juvenile justice agencies at an earlier age. As a result Aboriginal young people have the opportunity of accumulating a more extensive prior record than non-indigenous youth.

* There is a higher proportion of females among the Aboriginal group.

* The Aboriginal population is much more rural.

* Aboriginal young people were more likely to appear before non-specialist Children's Courts.

* Aboriginal young people have much higher apprehension rates for almost all offences.

* Aboriginal young people were slightly more likely to have received a police caution, although the vast majority of both groups appeared in the Children's Court in 1990 without having received a prior police caution.

* Aboriginal young people had much longer criminal records.

* Aboriginal young people had a higher rate of previous institutionalisation.

* Aboriginal children had a higher average frequency of apprehension but this alone does not account for the over-representation of Aborigines.

* The pattern of offences is similar for the groups although the types of theft offences vary considerably. The proportion of good order and justice offences for Aboriginals is slightly higher than for non-Aboriginals (19% compared to 16%). Nonetheless for both groups such offences are significant.

There are a number of important policy implications which flow from each of the characteristics referred to above. The earlier age at which Aboriginal young people first come into contact with juvenile justice agencies has implications for diversion and sentencing. It raises the question of what policy initiatives need to be developed that specifically deal with the younger age of Aboriginal offenders. For instance, should we be considering affirmative action in relation to diverting Aboriginal young people because of their younger age and should we be strengthening the role of Aboriginal organisations in dealing with these essentially very young teenagers? Similar policy questions are raised by the prior offending record of Aboriginal young people, especially when it is apparent that the majority of Aboriginal young people do not receive a police caution but are instead brought before the courts.

Given the greater proportion of young Aboriginal women involved in the juvenile justice system, we need to consider what recognition there is of the special needs of this group. How similar and how different are the needs of Aboriginal young women compared to young women in general? The rural background of the majority of Aboriginal young people raises issues of the provision of adequate legal representation, the nature and location of facilities for holding Aboriginal young people who are refused bail, separation from family support and appearance before a non-specialist court. The greater likelihood of appearance before a non-specialist court raises issues related to sentencing and the availability of non-custodial sentencing options.

PART TWO A COMPARISON OF TREATMENT AT DIFFERENT POINTS IN THE SYSTEM

Introduction

There are many points in the juvenile justice system where decisions are made which fundamentally affect whether a young person will be diverted from the system completely or whether they will continue to be processed. Even the way in which young people proceed through the system (assuming diversion has been denied) will be affected by particular decisions. The research in this section of the report was concerned to analyse police and court decisions in terms of any differences between the way Aboriginal and non-Aboriginal young people were treated. Furthermore if there are differences in treatment, a central question is to what extent can we illuminate the explanatory factors for those differences. Is different treatment the result of valid differences in offender profiles? Or is it the result of less tangible factors not related to principles of criminal justice administration?

Police decisions

To a large extent police determine which young people will enter the juvenile justice system as well as the terms on which they enter. Police must continually decide whether to intervene and how to intervene. Police have the power to issue a formal caution against a young person as an alternative to charging him or her with a criminal offence. If a caution is issued the young person is not prosecuted and the matter does not proceed to court. Various studies have indicated how Aboriginal young people do not receive the benefits of cautions. Luke (1989) found in a regional NSW study that of those apprehended by police for shoplifting, some 91% of non-Aboriginal youth were cautioned compared to 74% of Aboriginal youth. Similarly there were differences in the treatment of first offenders, where 49% of non-Aboriginal first offenders were cautioned compared to 29% of Aboriginal young people who were first offenders.

Our research on participation rates indicates that Aboriginal children overall have a lower chance of receiving a formal caution than do non-Aborigines. They also have a higher chance of being charged rather than given a court attendance notice and have a higher likelihood of being refused bail. Table 2.1 shows the proportion of Aboriginal and non-Aboriginal young offenders who are proceeded against by way of various discretionary decisions.

TABLE 2.1
Proportion of Young People Proceeded Against
By Method and Indigenous Status
1990

	non-Aboriginal %	Aboriginal %
Cautioned by police	12.9	5.7
Prosecuted by police	87.1	94.3
	100.0	100.0
Summonsed/court attendance notice	35.5	29.0
Prosecutions by way of charge and arrest	65.5	71.0
	100.0	100.0
Prosecutions bail refused by police	6.9	10.6

Table 2.1 suggests that Aboriginal young people are less likely to receive a caution than non-Aboriginal offenders (5.7% compared to 12.9%) and are thus more likely to be brought before the Children's Court (94.3% compared to 87.1%). Again it should be noted that cautioning is used relatively infrequently for both groups.

Table 2.1 also shows that after the decision has been made to proceed against a young person, Aboriginal young people are more likely to be proceeded against by way of arrest and charge than non-Aboriginal young people (71% compared to 65.5%). It should also be noted that police proceed against both groups in the majority of cases by way of arrest and charge rather than by the legislatively favoured option of summons or court attendance notice.

Police bail refusal is also higher for Aboriginal young people (10.6% compared to 6.9%).

The data in Table 2.1 shows that Aboriginal young people are more likely to receive the more punitive options available. This could be due to overt police bias against Aboriginal children and/or due to differences in the offences, prior records, a range of social and economic characteristics which may influence police decisions (such as unemployment or family structure), or due to cultural and historical factors which might influence the interaction between Aboriginal young people and police at the time of apprehension.

Cautions and the Decision to Prosecute

In order to illuminate these issues, the following section focuses on those children who have no prior record of either court appearance or caution. Thus we are able to effectively remove from the discussion any influence which prior record might have in determining particular police decisions. The outcomes of police decisions for these *first offenders* are compared for Aboriginal and non-Aboriginal children as is their area of residence and type of offence. Of the 18,265 interventions for 1990, first offenders comprised 8551 interventions.

Table 2.2 below shows the percentage of *first offenders* prosecuted by police (rather than cautioned) for city and rural areas and NSW overall.

TABLE 2.2
Proportion of First Offenders Prosecuted
By Indigenous Status and Region
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	80.2	88.6
Newcastle/Wollongong	74.5	77.2
Rural NSW	74.6	88.2
NSW overall	78.2	87.4
	n= 7819	n= 732

(χ^2 test for NSW total = 42.58 $p < 0.05$ - all regional figures are also significant at the 0.05 level)

Overall it was found that Aboriginal *first offenders* throughout NSW had a greater chance of being prosecuted by police and thus a lower chance of receiving a police caution. This is particularly so in rural NSW where 88.2% of Aboriginal young were prosecuted (11.8% cautioned) compared to 74.6% of non-Aboriginal young people prosecuted (25.4% cautioned). Such a finding is particularly important because two thirds of Aboriginal interventions occur in rural NSW (see Table 1.5).

This pattern of differential treatment is maintained when the offence type is held constant for first offenders. Table 2.3 below shows *first offenders* whose intervention was for the offence of ***break, enter, and steal*** (which contributes one in five Aboriginal apprehensions) and whether they were proceeded against by way of prosecution or received a police caution.

TABLE 2.3
Proportion of First Offenders Prosecuted
For Break, Enter and Steal Offences
By Indigenous Status and Region
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	85.5	85.4
Newcastle/Wollongong	77.8	83.3
Rural NSW	81.0	95.2
NSW overall	83.0	91.2
	n= 918	n= 160

(χ^2 test for NSW total = 6.97, $p < 0.05$)

The difference is most marked in rural NSW where 95.2% of Aboriginal young people who were first offenders apprehended for an offence of break, enter and steal were proceeded against by way of prosecution, conversely 4.8% received a caution. This figure compares to 81% of the non-Aboriginal group prosecuted and 19% cautioned.

With the exception of steal motor vehicle/carried in conveyance which had a higher level of cautioning for Aboriginal youth, all the major offence categories showed a similar pattern of less cautions for Aborigines.

In order to check these findings a logistic regression was carried out. Logistic regression is analogous to linear regression but is appropriate where the variable of interest has two possible outcomes eg. caution or prosecution. This allows us to test which factors are associated with the probability of the outcome being one or the other, for example: is Aboriginality associated with a higher or lower probability of receiving a caution? It also allows us to control for other factors to see if Aboriginality has an effect itself or is merely associated with some other significant factor.

In the regression analysis the variables considered were Aboriginality, sex, age, region, type of offence, percentage of the local population which is Aboriginal, and whether the offender has been in prior custody, had previous cautions, appearances or community service orders.

After controlling for the above factors, there is a strong statistically significant association between Aboriginality and the probability that the police will prosecute rather than caution. That is, Aboriginal offenders are more likely than non-Aboriginal offenders to be prosecuted regardless of sex, age, region, type of offence or previous record - all of which themselves have an association with the likelihood of being cautioned. For example girls of both groups are more likely to be cautioned than boys, offenders in Sydney are less likely to be cautioned and those with a previous record are less likely to be cautioned. The likelihood of a caution also decreases with age.

It has been suggested that the lower rates of cautioning for Aboriginal children could be due to a failure to admit the offences, thus obliging police to refer the matters to court. This seems unlikely as earlier research (Luke, 1988a) found that police rarely reported this on Crime Intelligence Forms as a reason for failure to caution.

Prosecutions by Way of Arrest or Summons

The use of a summons or court attendance notice is a less punitive way of bringing a young person before the courts on a criminal charge. For instance it does not involve detention at the police station and the issue of setting bail. The picture presented in this report is consistent with the information from other States. In Western Australia it was found that Aboriginal people (both adults and juveniles) were about half as likely as non-Aboriginal people to be proceeded against by way of summons (13% of Aboriginal people summonsed compared to 24% of non-Aboriginal) (Broadhurst, Ferrante and Susilo, 1991, p.33). In South Australia Gale et al, (1990, p.31) note that after having decided to proceed against a young person, police in South Australia have the choice of either apprehending by way of arrest or filing a report which results in the issuing of a summons. Aboriginal youth were much more likely to be arrested than non-Aboriginal youth. Indeed the authors note that:

> In recent years there has been a general reduction in the use of arrest by police as a means of apprehension, but whilst this has led to an overall improvement for youth generally, the relative position of Aboriginal youth has deteriorated. In 1972-73, young Aborigines accounted for 10.6% of all appearances brought about by way of arrest, but by 1985-86 this has risen to 19% (Gale, Bailey-Harris and Wundersitz, 1990, p.31).

In NSW we also found that prosecutions of Aboriginal youth were more likely to be by way of arrest although the differences are not as great as in the other states.

Table 2.4 summarises all prosecutions and shows that Aboriginal young people were more likely to be proceeded against by way of arrest and charge rather than by less intrusive methods of summons or court attendance notice throughout NSW.

TABLE 2.4
Proportion of Prosecutions by way of Arrest
All Offenders
By Indigenous Status and Location
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	71.0	82.8
Newcastle/Wollongong	59.6	74.0
Rural NSW	52.6	63.8
	65.5	71.0
NSW overall	n=13586	n=2514

(χ^2 test overall = 28.7 $p < 0.05$ - all regions also significant at the 0.05 level)

When we look at prosecutions of *first offenders* the pattern is maintained but the differences are reduced. While there are large differences within regions the overall difference is not statistically significant.

TABLE 2.5
Proportion of First Offender Prosecutions
By way of Arrest
By Indigenous Status and Location
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	61.0	67.0
Newcastle/Wollongong	48.6	65.9
Rural NSW	44.2	50.9
NSW overall	55.5	57.2
	n= 6116	n= 640

(χ^2 test overall = 0.69 $p > 0.05$)

Logistic regression was used once again to test these results . The outcome of the regression indicates that the probability of being arrested is possibly associated with Aboriginality. After

controlling for age, sex, prior record, region and offence, Aboriginality is just statistically significant at the 0.05 level. However in this case there appears to be an interactive effect with the percentage of the population who are Aboriginal such that a young person is more likely to be charged if he or she is Aboriginal and lives in an area with a comparatively low Aboriginal population. Age, prior record, type of offence and region (but not sex) all have a statistically significant association with the likelihood of arrest.

In summary the overall differences in use of arrest for Aboriginal and non-Aboriginal offenders is not large even though there are significant differences within regions. The lower rate of arrest in rural areas, where most Aboriginal youth live, means that the state total for both groups is similar. The generally high level of arrest for both groups - with over half of all first offender prosecutions arrested - is noteworthy.

Bail Refusal and Bail Conditions

One of the most significant outcomes of being proceeded against by way of arrest and charge is that there is a need for bail to be determined. Our research identified statistically significant differences in rates of overall police bail refusal for Aborigines and non-Aborigines.

TABLE 2.6
Proportion of Prosecutions with Police Bail Refused
All Offenders
By Indigenous Status and Location
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	6.2	11.1
Newcastle/Wollongong	6.0	10.1
Rural NSW	5.4	9.3
NSW overall	6.9	10.6
	n = 13586	n= 2514

(χ^2 overall = 42.1, $p < 0.05$, all regions also significant at the 0.05 level)

The difference is no longer significant when first offenders are compared. The proportion of prosecutions of Aboriginal and non-Aboriginal *first offenders* and were refused bail is shown below in Table 2.7.

TABLE 2.7
Proportion of Prosecutions with Police Bail Refused
For First Offenders
By Indigenous Status and Location
1990

Area of residence	non-Aboriginal %	Aboriginal %
Sydney	2.5	1.7
Newcastle/Wollongong	2.8	0.0
Rural NSW	2.4	4.8
NSW overall	3.4	4.2
	n = 6116	n= 640

(χ^2 overall = 1.3, $p > 0.05$ but rural NSW is significant)

On a superficial reading it would appear that there are differences between the level of bail refusal between Aboriginal young people and non-Aboriginal young people (4.2% compared to 3.4%). However the overall numbers are small and the difference is not statistically significant. Perhaps this reflects the strong emphasis on avoiding police custody that has grown as a result of the Royal Commission into Aboriginal Deaths in Custody.

The logistic regression indicates that the probability of being refused bail is not associated with Aboriginality once prior record is controlled for. The apparent association is due to the fact that Aboriginal offenders are more likely to have a previous record. As prior record in itself should not be grounds for refusing bail it may be that this is working as an indirect bias against Aboriginal children, or it may reflect appropriate bail assessments by the police based on previous experience of the young people involved. Further information would be required to determine this.

Our research has not been able to comment on the setting of bail conditions as this is not recorded by the Childrens Court Information System. However it should be recognised that various studies have identified bail conditions as being an important issue because the conditions which are set may lead to further criminalisation. The Royal Commission into Aboriginal Deaths in Custody identified numerous problems with bail. Commissioner Wootten stated that:

> Unreal conditions are regularly broken meaning that young people are recycled through the courts. Breaches are common because often the kids were elsewhere and either could not get to court or got there late, and would then be arrested for another series of offences. Available evidence shows that police are more likely to refuse bail to an Aboriginal than a non-Aboriginal in similar circumstances (Wootten, 1991, p.353).

The Royal Commission argued that there was a need for a review of bail criteria concerning its appropriateness in relation Aboriginal people, particularly juveniles (see Royal Commission recommendations 90 and 91). Many of the bail conditions which are placed on Aboriginal young people are unnecessarily oppressive. Bail conditions are directly related to the prior decision to proceed by way of arrest. We have already indicated that this police decision tends

to disadvantage Aboriginal young people. Other observational studies in New South Wales have drawn similar conclusions (see International Commission of Jurists, 1990).

Court decisions

A general feature of the Children's Courts in Australia is the extent to which young people plead guilty to offences. One result of this factor is that a major role of the courts is to determine penalty, rather than test evidence and make decisions concerning guilt and innocence (Naffine, Wundersitz and Gale, 1990). The current research study analysed 16,100 finalised court appearances in NSW for 1990 and concentrates on court outcomes, in particular the decision to impose a control (detention) order on a young person.

Table 2.8 shows the court outcomes for the matters finalised during the period.

TABLE 2.8
Proportion of Court Outcomes
By Indigenous Status
1990

Court Outcome	non-Aboriginal %	Aboriginal %
Control order	5.3	10.4
CSO	4.2	6.6
Supervision Order	12.8	15.6
Recog w/o supervision	25.5	19.9
Fine/Compensation	16.1	15.7
Nominal Penalty	27.5	21.9
Other Orders	2.9	2.2
Failed to Appear	3.0	4.2
Not Proven	2.7	3.5
	100.0	100.0
	n= 13586	n= 2514

Table 2.8 shows that Aboriginal young people clearly have a greater proportion of sentencing outcomes at the more severe end of the sentencing scale. There is a greater proportion of control orders, CSOs and supervision orders used with Aboriginal young people and a lower proportion of unsupervised recognisances, fines and nominal penalties (dismissed with or without a caution, rising of the court, etc).

The only other comparable study shows some interesting parallels as well as some dissimilarities (see Gale et al 1990, pp.106-111). The South Australian study found that sentences for Aboriginal young people were disproportionately concentrated at both ends of the sentencing scale. Aboriginal appearances before the courts were more likely to result in a detention order, suspended detention order or supervision order and less likely to result in an unsupervised bond or fine. These results are basically the same as the New South Wales study. What differs however is that in the South Australian case, Aboriginal young people also had a higher proportion of discharges, whereas in New South Wales there was a lower proportion in the use of nominal penalties for Aboriginal young people. In summary, in South Australia penalties for Aboriginal young people were concentrated at both ends of the sentencing scale

compared to non-Aboriginal young people, whereas in New South Wales the penalties were concentrated comparatively more towards the severe end of the scale.

The Use of Detention

Aboriginal young people overall definitely have a greater chance of being sent to an institution than do non-Aboriginal offenders who appear in court. Evidence similar to that shown above in Table 2.8 is available from Western Australia, and South Australia which consistently shows Aboriginal youth receive a greater proportion of custodial sentences than their non-indigenous counterparts (Broadhurst et al 1991:74, Gale et al 1990:107).

The table below shows the magnitude of the difference for the regions of NSW.

TABLE 2.9
Percentage of court appearances resulting in a detention order
By Region and Indigenous Status
1990

Region	non-Aboriginal %	Aboriginal %
Sydney	5.0	11.5
Newcastle/Wollongong	4.5	8.9
Rural NSW	4.1	8.9
	—	—
NSW overall	5.3	10.4
	n = 13586	n = 2514

(χ^2 overall = 95.3, $p < 0.05$)

Note: the figure for NSW includes offenders with institutional addresses, these are not included in the regional figures.

Table 2.8 shows that the difference between Aboriginal and non-Aboriginal young people in the proportion of sentences leading to a control order is greater in the Sydney region and rural NSW. The proportion of detention orders for Aboriginal young people in these areas is more than twice the figure for non-Aboriginal young people.

At this point it is worth considering what other research has found in terms of explaining the sentencing patterns evident with Aboriginal young people. Gale et al have argued that the sentencing patterns cannot be explained simply in terms of the nature of the offence (1990, pp.109-111). When specific offences are controlled for, such as break and enter or assault, Aboriginal young people still receive a greater proportion of detention orders. The authors argue that the most important factor influencing penalties was the young person's prior record. Other factors which correlated with the sentencing decisions were police decision to arrest the young person rather than report (a form of summons), and socio-economic factors such as unemployment and family structure. Previous appearances before an Aid Panel (ie previous use of diversion) had no significant effect on the court decision to impose a detention order.

Importantly Gale et al note the compounding effect of the initial police decision to proceed by way of arrest in increasing the likelihood of being referred to court rather than being diverted to a Children's Aid Panel. Referral to court almost guaranteed that a criminal record would be acquired by the young person. A prior criminal record then increased the likelihood of a detention order at any future court appearance. Thus, although there was no apparent unfavourable discrimination by the courts against Aboriginal young people per se at the time of sentencing, the earlier differences in police treatment had compounded to the point where apparently equitable sentencing treatment by the court was in fact causing unequal outcomes.

The current study of New South Wales shows that when differences in prior criminal record are controlled for then the differences in the use of detention orders between Aboriginal and non-Aboriginal people shown in Tables 2.8 and 2.9 disappears. Table 2.10 which follows shows the percentage of Aboriginal and non-Aboriginal young people given detention orders at each different level of criminal record.

TABLE 2.10
Percentage of court appearances resulting in a detention order for different levels of prior record
By Indigenous Status
1990

No. of previous appearances	non-Aboriginal %	Aboriginal %
0	0.5	0.5
1	2.0	2.7
2	5.8	7.0
3-5	13.9	13.9
6 or more	29.2	32.3

Thus 0.5% of those appearing in court for the first time were given detention orders, irrespective of whether the young person was Aboriginal and non-Aboriginal. Some 32% of Aboriginal and 29% of non-Aboriginal young people who appeared in court with a prior record of six or more previous proven appearances were sentenced to detention. Importantly there were no statistically significant differences in the percentages of Aboriginal and non-Aboriginal young people given a detention order at any level of prior record.

The consistency of court sentencing practices is reinforced when we look at offenders who were given their *first* control order in 1990. Table 2.11 below shows the percentage of previous proven appearances, that is the offending history, of young people who were sentenced to detention for the first time in 1990.

TABLE 2.11
Number of previous proven appearances for those receiving their first control order
By Indigenous Status
1990

No. of previous appearances	non-Aboriginal %	Aboriginal %
0	2.8	0
1	14.7	14.1
2	21.3	20.5
3-5	44.8	46.2
6 or more	16.4	19.2
	100.0	100.0
	n= 286	n =78
(χ^2 =2.52, p > 0.05)		

Thus, of the 78 Aboriginal young people sentenced to detention for the first time in 1990, some 14.1% had a prior record of one previous proven court appearance, while 19.2% had six or more previous proven appearances. There was no statistically significant difference in the number of prior appearances at first control order between Aboriginal and non-Aboriginal young people.

There are important differences in the age at which Aboriginal and non-Aboriginal young people are given their first control orders with Aboriginal children receiving their first control order on average at a younger age. Some 26% of Aboriginal young people were 14 years old or younger when given their first control order. The comparable figure for non-Aboriginal young people was 12%.

Nonetheless the earlier average age at which Aboriginal young people are first sentenced to detention appears to reflect their earlier involvement with the juvenile justice system and acquisition of a criminal record. As Table 2.11 above shows, those young people sentenced to detention for the first time have similar offending histories irrespective of Aboriginality.

Thus the courts appear to be treating Aboriginal and non-Aboriginal children with the same criminal history in much the same way. The high overall level of Aboriginal detention seems to be due to the large proportion of Aboriginal offenders with long criminal records. This is confirmed by the results of a logistic regression analysis. This analysis found that the probability of being sentenced to custody is not associated positively or negatively with Aboriginality. There is however a statistically significant association with age, prior record, type of offence, region, type of court, whether arrested or not and final bail status.

The concern is that prior record (and perhaps arrest and bail status) may be the result of differential treatment (see also Gale et al, 1990; Farrell and Swigert, 1978).

Community Service Orders

A further measure of equity in treatment by the courts is the use of Community Service Orders. The CSO is specifically intended as an alternative to detention. If Aboriginal children are being treated equally by the courts then they should have the same chance of a CSO as non-Aboriginal children. As the table below demonstrates Aboriginal and non-Aboriginal children incarcerated in 1990 were equally likely to have had a previous CSO.

Table 2.12 below shows the proportion of control orders by the number of previous community service orders for Aboriginal and non-Aboriginal young people.

TABLE 2.12
Percentage of control orders by the number of previous CSO
By Indigenous Status
1990

No. of previous CSOs	non-Aboriginal %	Aboriginal %
0 previous CSO	65.9	61.1
1 previous CSO	26.9	30.9
2 or more previous CSOs	7.2	8.0
	100.0	100.0
	n = 725	n = 262
(Chi-square = 2.6, $p > 0.05$)		

Thus Table 2.12 shows that 65.9% of non-Aboriginal young people and 61.1% of Aboriginal young people had not received a community service order prior to the imposition of a control order. There was no statistical difference in the likelihood of having received a community service order prior to a control order between Aboriginal and non-Aboriginal children incarcerated in 1990.

While both Aboriginal and non-Aboriginal offenders sentenced to detention seem to have an equal chance of having first received a CSO, almost two-thirds of those sentenced to detention had not had that opportunity. While this is a concern for both groups the impact is greater for Aborigines as a greater proportion are given detention orders. In this way what appears to be equitable treatment actually has a more serious impact on Aborigines and increases their over-representation in institutions.

Discussion

The results in Part Two show that Aboriginal children are less likely to receive a caution even when offence and criminal history differences are controlled for. The difference is not large for the state as a whole (eg. overall Aborigines seem to have a 12% greater chance of going to court when apprehended rather than receiving a caution).
The differential treatment by police may be due to

* socio-economic factors such an unemployment and family structure (which themselves may be associated with cultural differences);

- the behaviour of Aboriginal children when apprehended;
- police attitudes and expectations regarding Aboriginal young people.

It should be noted that the socio-economic factors are not independent of Aboriginality. Family structure is related to cultural difference and adverse decisions based on family structure may constitute indirect discrimination. Unemployment and poverty are also clearly related to Aboriginality because of the high rates of unemployment among Aboriginal people and their concentration in low status occupations.

Whatever the cause it appears that the differential treatment is not based on appropriate criminal factors and that therefore some changes are necessary in police practice.

It also appears that Aboriginal children are more likely to be prosecuted by way of arrest and more likely to be refused bail by the police although this difference is not statistically significant when prior record is taken into account. Prior record in itself should not be a reason for proceeding by way of arrest or for refusing bail. At this stage it is not clear if this pattern is a manifestation of real differences in the likelihood of offenders appearing at court.

While the levels of police bail refusal appear to be quite low for both groups the levels of prosecution by way of arrest appear to be high for both Aborigines and non-Aborigines with over half of the first offenders being arrested.

At the court level Aborigines and non-Aborigines with the same criminal histories appear to be treated equally by the courts. As a result of longer average criminal histories a much higher proportion of Aboriginal court appearances result in detention. The average age of first detention is also less for Aborigines because of the earlier commencement of a criminal record for many Aboriginal children.

While Aboriginal and non-Aboriginal children appear to be treated equitably by the courts in their decisions about control orders the bias apparent at the caution/prosecution stage means that greater proportions of Aboriginal children are affected by these decisions.

Thus there appear to be at least two systemic factors at work acting to build Aboriginal over-representation.

The first, caused by bias at the prosecution stage, accelerates the build up of criminal record and thus serves to increase the chances of a harsher penalty each time an Aboriginal young person comes under police notice. The bias against Aboriginal children at the prosecution/caution stage appears to be relatively small but the compounding effect over time may be very powerful. Such a compounding effect is particularly important in discussions concerning first offenders where the acquisition of criminal record is likely to influence later decisions. Numerous studies in Australia and overseas have stressed the influence prior record has on court determinations (Gale et al, 1990; Farrell and Swigert, 1978).

The accumulation of a prior record operates in a continual cycle which confirms criminality. Prior record is at least partly the outcome of discretionary decisions, however within the sentencing process it becomes a factor which can be taken into consideration by the court when sentencing. Prior record becomes a 'fact' concerning the nature of the offender. Prior record acts in a cyclical fashion because it becomes, in itself, a factor in the accumulation of additional convictions (Farrell and Swigert, 1978, p.451). In other words, prior record confirms to the court the more entrenched criminality of the offender. As has been noted "the offender's criminal character, as evidenced by a prior criminal record, may be an aggravating consideration" (Findlay, Odgers and Yeo, 1994, p.225). The High Court has noted that:

> the antecedent criminal history is relevant... to show whether the instant offence is an uncharacteristic aberration or whether the offender has manifested in his commission

> of the instant offence a continuing attitude of disobedience of the law. In the latter case, retribution, deterrence and protection of society may all indicate that a more severe penalty is warranted. [*Veen* (No 2) (1988) 164 CLR 465 at 477] (cited in Findlay, Odgers and Yeo, 1994, p.226).

Prior record can influence sentencing decisions in a number of ways (see also Findlay, Odgers and Yeo, 1994).

- it may be used to deny the offender any leniency which otherwise might have been considered;
- it may indicate to the court that certain sentencing options have previously failed;
- it may indicate to the court that the prospect of rehabilitation is not great.

The latter point is particularly important in relation to sentencing young people. Recently the NSW Court of Criminal Appeal has stated that general deterrence was not a substantial consideration in sentencing young people and that rehabilitation must be the primary aim, particularly where there was positive evidence of the prospect of rehabilitation (***R v GDP*** [1991] 53 A Crim R 122). The Court in reaching this decision was reaffirming a principle that has been repeated on other occasions in the higher courts giving primacy of rehabilitation over punishment and deterrence when sentencing young people. Prior record can have an important influence in denying to the young person sentencing options which are less punitive and intrusive.

The second systemic effect results from the lower diversion rate on apprehension and means that a higher proportion of Aboriginal children receive serious outcomes even when these outcome decisions are themselves not biased. This occurs at each point of possible diversion and is illustrated well at the stage of sentence to detention. About 60% of both Aborigines and non-Aborigines given a control order have not previously been given a CSO. But the proportion of Aborigines likely to be sentenced to detention is twice as high as for non-Aborigines and the low rate of diversion thus has twice the effect on the Aboriginal level of representation.

Table 2.13 below summarises the passage of Aborigines and non-Aborigines throughout the system and shows that by the time of sentence Aboriginal children have over twice the chance of receiving a control order as non-Aboriginal children who have entered the system.

Table 2.13
Proportion at each major point of discretion
By Indigenous Status
1990

	non-Aboriginal		Aboriginal	
Apprehensions	15598		2667	
Court Appearances	13586	87% of interv	2514	94% of interv
Charges	8893	57.0% of interv	1784	66.9% of interv
Bail Refusals	939	6.0% of interv	267	10.0% of interv
Control Orders	725	4.6 of interv	262	9.8% of interv

In Part Three we will discuss how this combines with very high intervention levels to produce the pattern of over-representation in NSW.

PART THREE TREATMENT BY GEOGRAPHIC LOCATION

While it is important to consider the overall picture for NSW it is at the local level that decisions are made which determine how individuals are dealt with by the criminal justice system. It is also at the local level that policy must be put into action.

In this section of the paper we will look at juvenile justice decisions in particular local government areas (LGAs) and courts in order to provide a better understanding of which areas contribute most to the high levels of Aboriginal participation and to look at variation in the treatment of Aboriginal youth across the state. We will also develop a range of indicators which could be used to assist planning and monitoring within the justice system.

As a first step we will look at variation at the regional level - between urban and rural areas.

Urban - rural differences

As discussed in Part One, the Aboriginal population has a rural focus. About 68% of Aboriginal youth live outside of the Sydney metropolitan area compared with only 39% of the non-Aboriginal youth population.

There is some evidence that both police intervention levels and the harshness of court responses are greater in rural areas (see Cunneen, 1992, Cunneen & Robb, 1987 and Luke, 1988b). Perhaps the higher levels of interventions for Aboriginal youth are largely an artefact of the rural focus of the Aboriginal population?

To test this we have compared the rates of intervention in the different regions. Table 3.1 summarises the results.

Table 3.1
Participation rates per 1000 relevant youth population by Region
1990

	Sydney	Newcastle/ Wollongong	Country	NSW
Formal interventions				
Non-Abor:	22.5	25.1	21.8	23.3
Abor:	201.7	115.9	237.9	215.1
Court appearances				
Non-Abor:	20.0	21.4	18.1	20.3
Abor:	193.7	104.8	223.2	202.7
Prosecutions by arrest				
Non-Abor:	14.2	12.7	9.5	13.3
Abor:	160.3	77.5	142.4	143.9
Police bail refusals				
Non-Abor:	1.2	1.3	1.0	1.4
Abor:	21.5	10.5	20.7	21.5
Control orders				
Non-Abor:	1.0	1.0	0.7	1.1
Abor:	22.2	9.3	19.8	21.1

Note: NSW total includes young offenders with institutional addresses not counted in any region.

Table 3.1 above highlights a number of points.

- While there does appear to be a higher rate of formal interventions for Aboriginal children in country areas this does not carry through to higher rates of detention. This is because Aboriginal children in the country have shorter average criminal records than in the city and thus a lower proportion are given control orders despite the fact that country (non-Specialist) courts give control orders to those with shorter records on average. The result is similar rates of apprehension through to control orders for Sydney and Country regions.

- The Newcastle/Wollongong area has a much lower rate of Aboriginal formal interventions and this is reflected in subsequent decisions.

- Aboriginal children have much higher rates of intervention than do non-Aboriginal children. The nine times greater intervention rate for Aboriginal children state-wide is the single biggest factor in determining subsequent participation at different points of the system such as bail refusal and control orders.

Because the city and country intervention rates are similar, the geographic spread of participation in the system is shaped to a large extent by the geographic spread of the Aboriginal population. For example with some 55% of the Aboriginal population country areas have 65% of the formal interventions, 59% of the bail refusals and 57% of control orders.

The Pearson's correlation co-efficient between Aboriginal population numbers in each local government area and the number of interventions is 0.69. The square of this figure (ie 0.47) gives an estimate of what proportion of the variance in intervention numbers can be attributed to the Aboriginal population distribution.

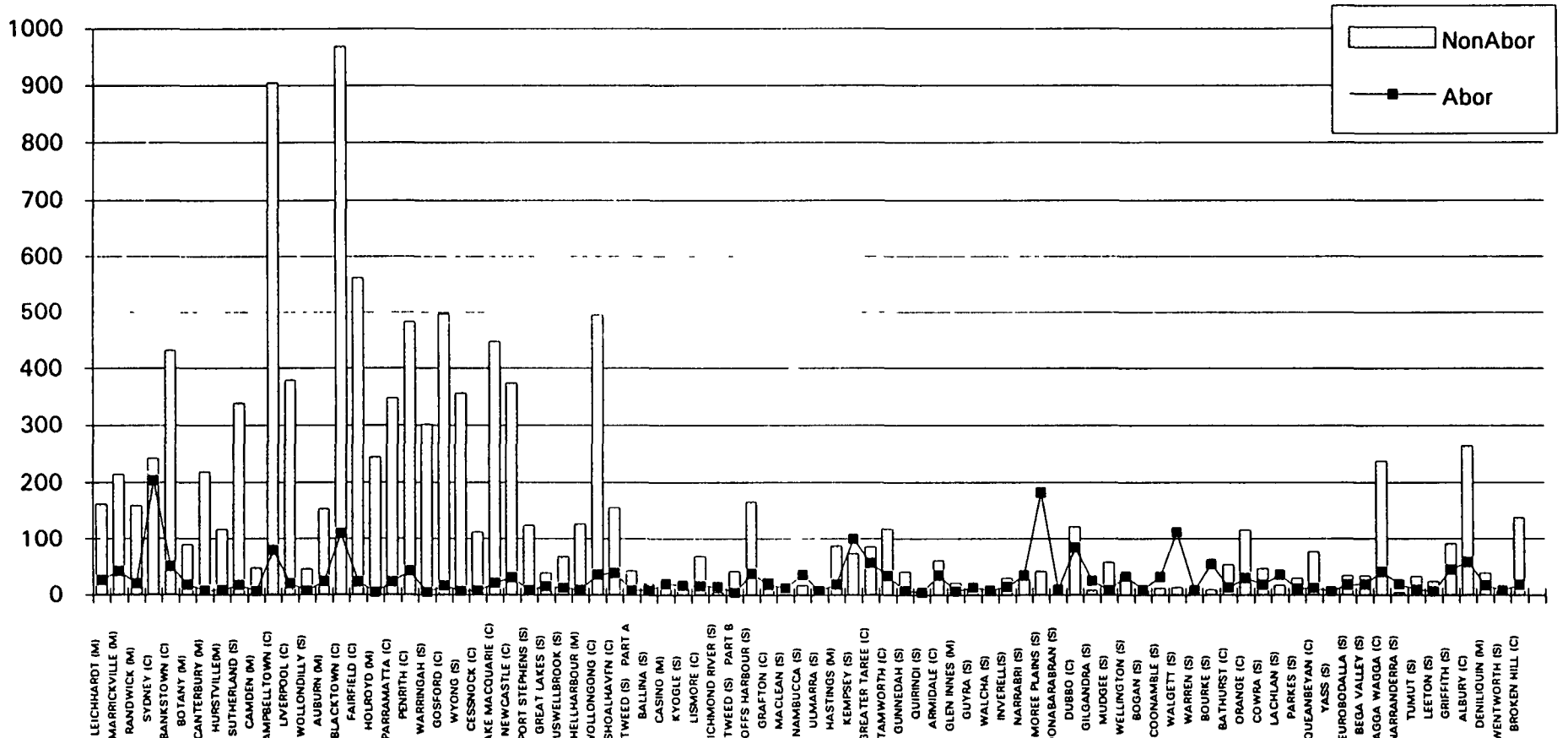
Thus about half of the variation in the absolute numbers of Aboriginal formal interventions is based on the spread of the Aboriginal population. The other half is due to a range of other factors. The relatively low levels of intervention in the Newcastle/Wollongong area are examples of this.

A closer look at intervention rates

Figure 3.1 below compares the total number of interventions in each LGA for Aborigines and non-Aborigines. Sydney LGAs are plotted first, then Newcastle/Wollongong and finally country LGAs. This figure clearly shows that most non-Aboriginal offending occurs in urban areas while Aboriginal offenders have a much more rural focus. In fact, in many rural areas Aboriginal interventions outnumber those for non-Aborigines.

Figure 3.1 Total formal interventions during 1990 by NSW LGA

Only LGAs with 5 or more formal interventions for both Aborigines & Non-Aborigines are included



Some 54% of total Aboriginal interventions came from just twenty of NSW's 178 local government areas and 33% of all Aboriginal interventions came from the top seven areas. The twenty top areas contain about half of the NSW Aboriginal youth population and are listed below in Table 3.2.

Table 3.2
Top twenty LGAs - absolute number of Aboriginal formal interventions 1990

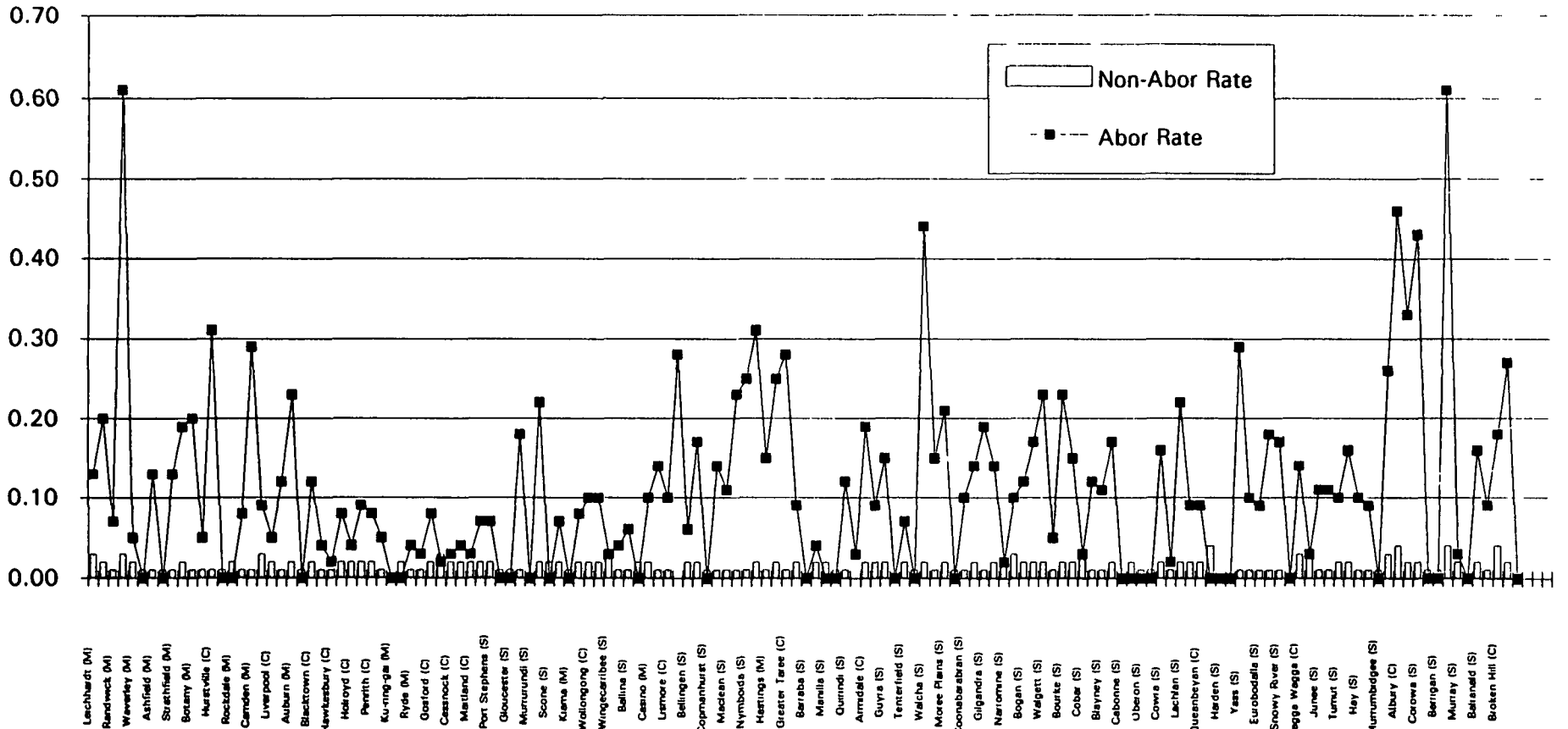
LGA	Non-Aboriginal	Aboriginal	Region
	N	N	
SYDNEY	243	204	Sydney
MOREE PLAINS	42	183	Country
WALGETT	13	112	Country
BLACKTOWN	970	110	Sydney
KEMPSEY	74	100	Country
DUBBO	122	84	Country
CAMPBELLTOWN	905	79	Sydney
ALBURY	264	59	Country
GREATER TAREE	85	57	Country
BOURKE	10	55	Country
BANKSTOWN	432	51	Sydney
GRIFFITH	91	45	Country
MARRICKVILLE	215	42	Sydney
PENRITH	483	42	Sydney
WAGGA WAGGA	238	41	Country
SHOALHAVEN	155	39	New/Woll
COFFS HARBOUR	166	38	Country
WOLLONGONG	495	36	New/Woll
NAMBUCCA	17	36	Country
LACHLAN	17	36	Country

Note: Sydney and South Sydney LGAs were aggregated in the DJJ data for 1990.

While these twenty LGAs have the largest number of Aboriginal interventions they do not necessarily have the highest rates of intervention. Figure 3.2 and Table 3.3 below compare the probability in each LGA of an individual being apprehended aet least once in 1990. These rates are slightly lower than those quoted in Table 3.1 because they count the number of individuals apprehended, not total interventions. The extremely high intervention rates of Aboriginal children almost totally obscure the much lower rates for non-Aborigines. On average one in eight Aboriginal children had at least one formal police intervention in 1990. In some areas this reaches almost two in three and is even higher for boys alone. Thus the high intervention rates are not just the product of a few individuals with a large number of interventions.

Figure 3.2 Probability of an individual receiving a formal intervention during 1990 by NSW LGA

Only LGAs with 5 or more Aboriginal 10-17 yr olds are included



It is important to note just how much higher the intervention rates are for Aboriginal children. The difference within LGAs between the Aboriginal and non-Aboriginal intervention rates is in many places much larger than the difference between the lowest and highest non-Aboriginal rates across NSW. These large differences in the probability of intervention between Aborigines and non-Aborigines living in the same areas suggest that low social status by itself does not fully explain the over-representation of Aboriginal youth. For example Aboriginal children in Blacktown had a 12% chance of receiving a formal intervention during the year while non-Aboriginal children had only a 2% chance.

As can be seen in Table 3.3 some of the areas have relatively small Aboriginal populations and so do not make a large contribution to total Aboriginal interventions. Unfortunately a number do have relatively large Aboriginal populations and thus have an important effect on total interventions. These LGAs are marked with an asterisk. It is also clear that there are a number of areas with large Aboriginal populations that have quite low intervention rates. These include: Campbelltown, Tamworth, Eurobodalla, Penrith, Fairfield, Newcastle, Liverpool, Lake Macquarie, Tweed, Wyong.

There does not appear to be a strong link between the *proportion* of Aboriginal people in the population and the rates of intervention for Aboriginal youth. The Pearson's correlation for the percentage of Aboriginal youth and the likelihood of an Aboriginal being apprehended is only 0.06, indicating a negligible link between the two.

Table 3.3
Probability of an individual receiving at least one formal intervention
All LGAs with five or more Aboriginal 10 -17 yr olds
In decreasing order of Aboriginal probability
1990

LGA	Non-Aboriginal Probability	Aboriginal Probability	Aboriginal Individuals with at least one intervention in 1990	Aboriginal population 10-17	Percentage of youth population that is Aboriginal	Region
			N	N		
* Sydney	0.03	0.61	94	155	2.94	Sydney
Deniliquin	0.04	0.61	11	18	1.95	Country
* Albury	0.04	0.46	33	72	1.40	Country
Walcha	0.02	0.44	8	18	4.20	Country
Corowa	0.02	0.43	3	7	0.71	Country
Hume	0.02	0.33	2	6	0.59	Country
Hurstville	0.01	0.31	5	16	0.24	Sydney
Ulmarra	0.02	0.31	4	13	1.93	Country
Camden	0.01	0.29	5	17	0.53	Sydney
Yass	0.01	0.29	5	17	1.49	Country
Richmond River	0.00	0.28	11	40	3.82	Country
* Greater Taree	0.01	0.28	41	148	2.92	Country
Central Darling	0.02	0.27	30	113	42.80	Country
* Griffith	0.03	0.26	24	92	3.61	Country
Nymboida	0.01	0.25	2	8	1.44	Country
* Kempsey	0.02	0.25	64	255	8.05	Country
Auburn	0.02	0.23	8	35	0.64	Sydney
* Nambucca	0.01	0.23	23	100	5.46	Country
Walgett	0.02	0.23	64	276	32.86	Country

* Bourke	0.02	0.23	37	158	34.50	Country
Muswellbrook	0.02	0.22	7	32	1.62	New/Woll
* Lachlan	0.02	0.22	24	109	12.22	Country
* Moree Plains	0.02	0.21	100	466	23.62	Country
* Marrickville	0.02	0.20	23	114	1.64	Sydney
Botany	0.01	0.20	8	41	1.10	Sydney
* Bankstown	0.02	0.19	22	113	0.62	Sydney
Armidale	0.02	0.19	24	125	4.23	Country
Gilgandra	0.01	0.19	19	99	14.06	Country
Great Lakes	0.01	0.18	9	50	1.96	New/Woll
Bega Valley	0.01	0.18	13	72	2.47	Country
Broken Hill	0.04	0.18	12	67	2.59	Country
* Coffs Harbour	0.02	0.17	24	142	2.18	Country
Coonamble	0.02	0.17	20	117	20.10	Country
Orange	0.02	0.17	19	112	2.41	Country
Snowy River	0.01	0.17	1	6	0.36	Country
Cowra	0.02	0.16	9	56	3.53	Country
Carrathool	0.02	0.16	4	25	8.06	Country
Balranald	0.02	0.16	4	25	6.85	Country
Hastings	0.01	0.15	14	91	1.62	Country
Guyra	0.02	0.15	11	74	12.52	Country
Narrabri	0.01	0.15	20	134	7.34	Country
Brewarrina	0.02	0.15	23	149	69.30	Country
Kyogle	0.01	0.14	12	83	6.60	Country
Grafton	0.01	0.14	10	71	3.14	Country
* Dubbo	0.02	0.14	51	354	7.92	Country
Mudgee	0.02	0.14	4	28	1.39	Country
* Wagga Wagga	0.03	0.14	27	189	2.69	Country
Leichhardt	0.03	0.13	13	99	2.40	Sydney
Ashfield	0.01	0.13	2	15	0.47	Sydney
Strathfield	0.01	0.13	3	24	0.80	Sydney
Wollondilly	0.01	0.12	5	43	1.01	Sydney
* Blacktown	0.02	0.12	76	654	2.23	Sydney
Quirindi	0.01	0.12	4	34	5.56	Country
Bogan	0.02	0.12	3	25	6.68	Country
Bathurst	0.01	0.12	10	81	2.12	Country
Maclean	0.01	0.11	6	54	3.71	Country
Blayney	0.01	0.11	1	9	1.15	Country
Junee	0.01	0.11	1	9	1.23	Country
Narrandera	0.01	0.11	11	100	11.17	Country
* Wollongong	0.02	0.10	21	204	1.04	New/Woll
* Shoalhaven	0.02	0.10	25	259	3.42	New/Woll
Casino	0.02	0.10	11	107	7.70	Country
Lismore	0.01	0.10	14	134	2.36	Country
Coonabarabran	0.01	0.10	7	67	7.40	Country
Wellington	0.03	0.10	16	161	14.25	Country
Young	0.01	0.10	2	21	1.46	Country
Tumut	0.02	0.10	5	48	3.53	Country
Hay	0.01	0.10	1	10	2.04	Country
* Campbelltown	0.03	0.09	49	519	2.41	Sydney
Parramatta	0.02	0.09	9	102	0.72	Sydney
Tamworth	0.02	0.09	18	192	3.93	Country
Glen Innes	0.02	0.09	3	32	4.13	Country
Parkes	0.02	0.09	8	86	5.14	Country

Queanbeyan	0.02	0.09	7	82	2.88	Country
Eurobodalla	0.01	0.09	14	162	5.75	Country
Leeton	0.01	0.09	5	55	3.03	Country
Wentworth	0.01	0.09	8	86	8.97	Country
Sutherland	0.01	0.08	9	111	0.50	Sydney
Fairfield	0.02	0.08	16	208	0.90	Sydney
* Penrith	0.02	0.08	24	302	1.44	Sydney
Gosford	0.02	0.08	11	133	0.91	Sydney
Shellharbour	0.02	0.08	10	127	2.05	New/Woll
Randwick	0.01	0.07	9	134	1.41	Sydney
Newcastle	0.02	0.07	13	185	1.53	New/Woll
Port Stephens	0.02	0.07	7	99	1.93	New/Woll
Singleton	0.02	0.07	3	44	1.78	New/Woll
Tenterfield	0.02	0.07	3	45	5.38	Country
Ballina	0.01	0.06	6	95	2.62	Country
Bellingen	0.02	0.06	2	35	2.46	Country
Waverley	0.02	0.05	1	21	0.46	Sydney
Canterbury	0.01	0.05	4	76	0.56	Sydney
Liverpool	0.02	0.05	13	255	2.02	Sydney
Hornsby	0.01	0.05	2	38	0.23	Sydney
Warren	0.01	0.05	3	61	16.85	Country
Blue Mountains	0.01	0.04	3	74	0.83	Sydney
Holroyd	0.02	0.04	3	67	0.71	Sydney
Ryde	0.01	0.04	1	26	0.31	Sydney
Lake Macquarie	0.02	0.04	14	317	1.59	New/Woll
Tweed	0.01	0.04	8	186	3.16	Country
Gunnedah	0.02	0.04	5	132	7.46	Country
Warringah	0.01	0.03	2	61	0.32	Sydney
Cessnock	0.02	0.03	3	105	1.89	New/Woll
Maitland	0.02	0.03	3	106	1.68	New/Woll
Wingecarribee	0.03	0.03	1	36	0.79	New/Woll
Inverell	0.00	0.03	2	58	2.92	Country
Cobar	0.03	0.03	2	73	11.97	Country
Cootamundra	0.03	0.03	1	34	3.48	Country
Murray	0.02	0.03	1	32	5.77	Country
Hawkesbury	0.01	0.02	1	62	0.96	Sydney
Wyong	0.03	0.02	4	194	1.75	Sydney
Narromine	0.02	0.02	3	121	14.39	Country
Forbes	0.01	0.02	1	44	2.68	Country
Woollahra	0.01	0.00	0	5	0.11	Sydney
Burwood	0.01	0.00	0	18	0.67	Sydney
Kogarah	0.01	0.00	0	9	0.19	Sydney
Rockdale	0.02	0.00	0	41	0.52	Sydney
Baulkham Hills	0.01	0.00	0	34	0.18	Sydney
Ku-ring-gai	0.00	0.00	0	14	0.10	Sydney
Manly	0.02	0.00	0	15	0.58	Sydney
Dungog	0.01	0.00	0	5	0.56	New/Woll
Gloucester	0.01	0.00	0	7	1.25	New/Woll
Murrurundi	0.00	0.00	0	6	2.03	New/Woll
Scone	0.02	0.00	0	21	1.76	New/Woll
Kiama	0.01	0.00	0	9	0.48	New/Woll
Byron	0.02	0.00	0	47	1.75	Country
Copmanhurst	0.01	0.00	0	24	4.33	Country
Barraba	0.00	0.00	0	7	3.08	Country

Manilla	0.02	0.00	0	27	6.00	Country
Parry	0.01	0.00	0	57	3.35	Country
Severn	0.00	0.00	0	6	1.66	Country
Uralla	0.01	0.00	0	34	4.15	Country
Coolah	0.01	0.00	0	7	1.39	Country
Cabonne	0.00	0.00	0	12	0.75	Country
Greater Lithgow	0.02	0.00	0	19	0.76	Country
Oberon	0.01	0.00	0	18	3.37	Country
Bland	0.01	0.00	0	24	2.69	Country
Goulburn	0.04	0.00	0	15	0.53	Country
Harden	0.00	0.00	0	6	1.26	Country
Yarrowlumla	0.00	0.00	0	5	0.44	Country
Cooma-Monaro	0.00	0.00	0	5	0.38	Country
Murrumbidgee	0.01	0.00	0	13	4.18	Country
Culcairn	0.01	0.00	0	6	0.80	Country
Berrigan	0.01	0.00	0	5	0.50	Country
Wakool	0.00	0.00	0	8	1.31	Country

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

Note: This table and the tables and graphs which follow exclude LGAs with less than five Aboriginal interventions.

To identify possible reasons for high intervention rates we grouped LGAs into three groups with high, medium and 'low' intervention rates and compared the proportionsof police cautions, arrest cases, police bail refusals, control orders, less serious offences, good order offences, age at intervention and prior record. The main differences observed were a higher proportion of less serious offences for the high rate group (38% compared with 19.4% for the low rate group) and a higher proportion of interventions for those under 15 years of age (29% for the high group and 24% for the low).

It has been suggested (for example, International Commission of Jurists, 1990) that the high rates of Aboriginal intervention, compared with non-Aboriginal youth, are at least partly due to a higher proportion of interventions for the less serious offences and for good order (street) offences in particular. To test if this is the case for Aboriginal youth in NSW we have grouped a number of offences as 'less serious' and a subset of these as 'good order' and looked at their contribution at different levels of the system.

These are (using the offence categories recorded in NSW):

less serious - carried in conveyance, shoplifting, other theft(excludes BES, robbery and car theft), other property damage, pollution, other environmental offences, offences against security, resist arrest, prostitution, offensive behaviour, possess implement, liquor or licensing offences, betting or gaming offences, trespass, consorting, other good order offences, evade fare, other rail offences.

good order offences - resist arrest, prostitution, offensive behaviour, possess implement, liquor or licensing offences, betting or gaming offences, trespass, consorting, other good order offences.

Figure 3.3 Percentage of total formal interventions for less serious offences by NSW LGA

Only LGAs with 5 or more formal interventions for both Aborigines & Non-Aborigines are included

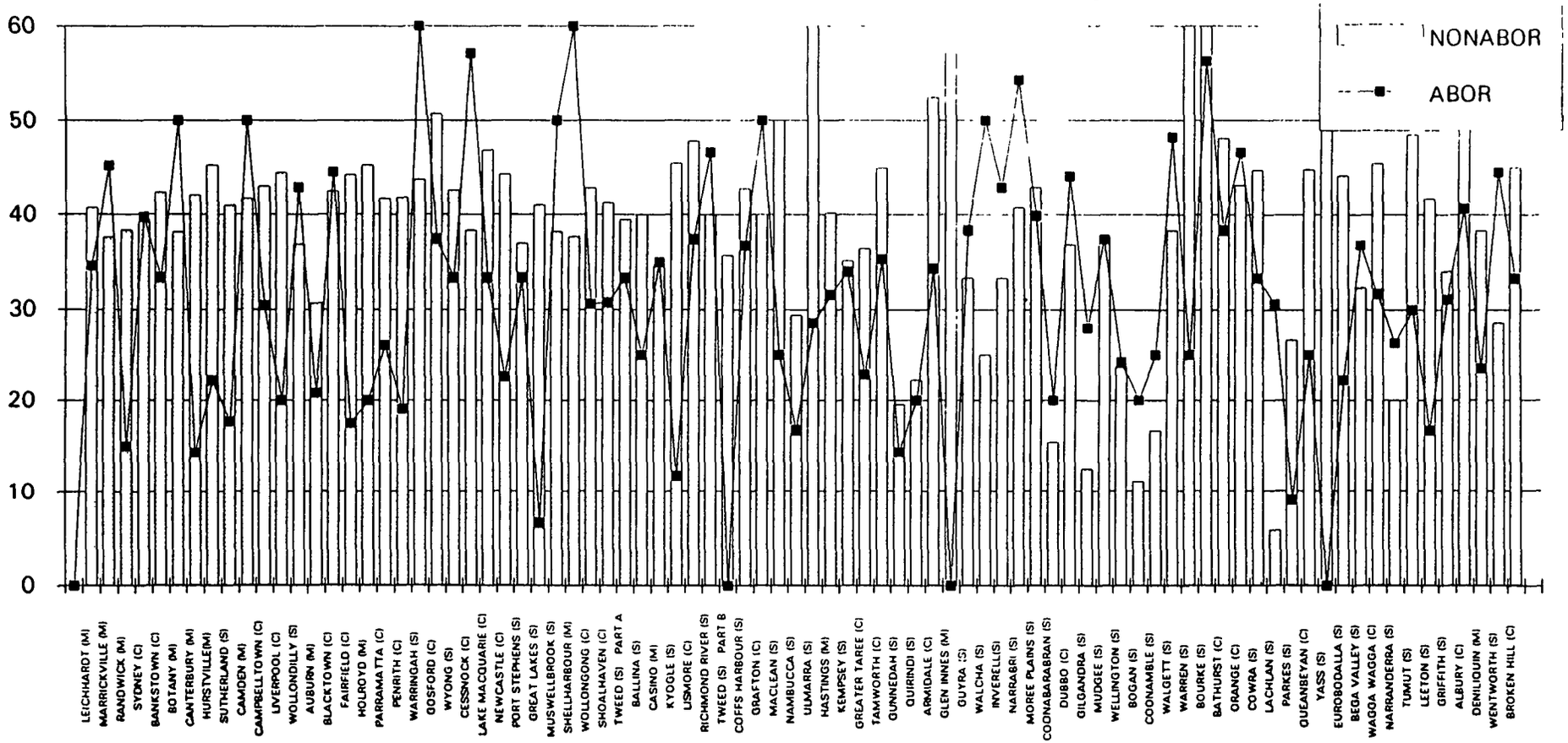


Figure 3.3 plots the contribution to total interventions that the *less serious* offences make. Overall 34.3% of Aboriginal interventions are for less serious offences and 41.6% of non-Aboriginal.

A similar pattern is shown for *good order* offences (a subset of the less serious offence group) which make up 15.9 % of Aboriginal interventions overall and 13.8% of non-Aboriginal offences.

Thus there does not appear to be a significant overemphasis on less serious or good order offences for Aboriginal youth when compared with non-Aboriginal youth across the state. Nonetheless they do make up a high percentage of interventions in some LGAs. Tables 3.4 and 3.5 below list the top 20 areas in terms of the percentage of Aboriginal interventions for less serious and good order interventions. Some areas which have received considerable media coverage for apparently severe Aboriginal crime levels appear to have quite high proportions of interventions in these categories.

Table 3.4
Top 20 LGAs - percentage of Aboriginal interventions for less serious offences 1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
WARRINGAH	132	43.7	3	60.0	Sydney
SHELLHARBOUR	48	37.8	6	60.0	New/Woll
CESSNOCK	43	38.4	4	57.1	New/Woll
* BOURKE	6	60.0	31	56.4	Country
NARRABRI	11	40.7	19	54.3	Country
BOTANY	34	38.2	9	50.0	Sydney
CAMDEN	20	41.7	3	50.0	Sydney
MUSWELLBROOK	26	38.2	6	50.0	New/Woll
GRAFTON	12	40.0	9	50.0	Country
WALCHA	2	25.0	4	50.0	Country
* WALGETT	5	38.5	54	48.2	Country
RICHMOND RIVER	2	40.0	7	46.7	Country
ORANGE	50	43.1	14	46.7	Country
* MARRICKVILLE	81	37.7	19	45.2	Sydney
* BLACKTOWN	412	42.5	49	44.6	Sydney
WENTWORTH	2	28.6	4	44.4	Country
* DUBBO	45	36.9	37	44.1	Country
WOLLONDILLY	17	37.0	3	42.9	Sydney
INVERELL	10	33.3	6	42.9	Country
* ALBURY	143	54.2	24	40.9	Country

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

Table 3.5
Top 20 LGAs - percentage of Aboriginal interventions for good order offences 1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
NARRABRI	3	11.1	15	42.9	Country
MUSWELLBROOK	15	22.1	5	41.7	New/Woll
SHELLHARBOUR	12	9.5	4	40.0	New/Woll
* WALGETT	3	23.1	38	33.9	Country
WOLLONDILLY	8	17.4	2	28.6	Sydney
ULMARRA	5	33.3	2	28.6	Country
* BOURKE	2	20.0	15	27.3	Country
LISMORE	13	18.8	4	25.0	Country
* GRIFFITH	9	9.9	11	24.4	Country
DENILIQUIN	9	23.1	4	23.5	Country
LEICHHARDT	23	14.2	6	23.1	Sydney
* DUBBO	10	8.2	19	22.6	Country
BROKEN HILL	34	24.6	4	22.2	Country
WENTWORTH	0	0	2	22.2	Country
* BLACKTOWN	123	12.7	22	20.0	Sydney
ARMIDALE	17	27.9	7	20.0	Country
COONABARABRAN	0	0	2	20.0	Country
BOGAN	0	0	2	20.0	Country
HOLROYD	32	13.1	1	20.0	Sydney
WARRINGAH	57	18.9	1	20.0	Sydney

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

It has also been suggested (Gale et al, 1990: 47) that Aborigines are often apprehended in groups for single offences thus boosting intervention levels. To try to test this for NSW we looked at the number of individuals apprehended for the same type of offence, in the same area on the same date. In about ten percent of the cases when more than one individual was involved there were both Aborigines and non-Aborigines together. Excluding these, non-Aborigines overall had 1.4 apprehensions per 'event' and Aborigines had 1.3 apprehensions per 'event'. While this is not conclusive it does suggest that group apprehensions were not more common for Aborigines.

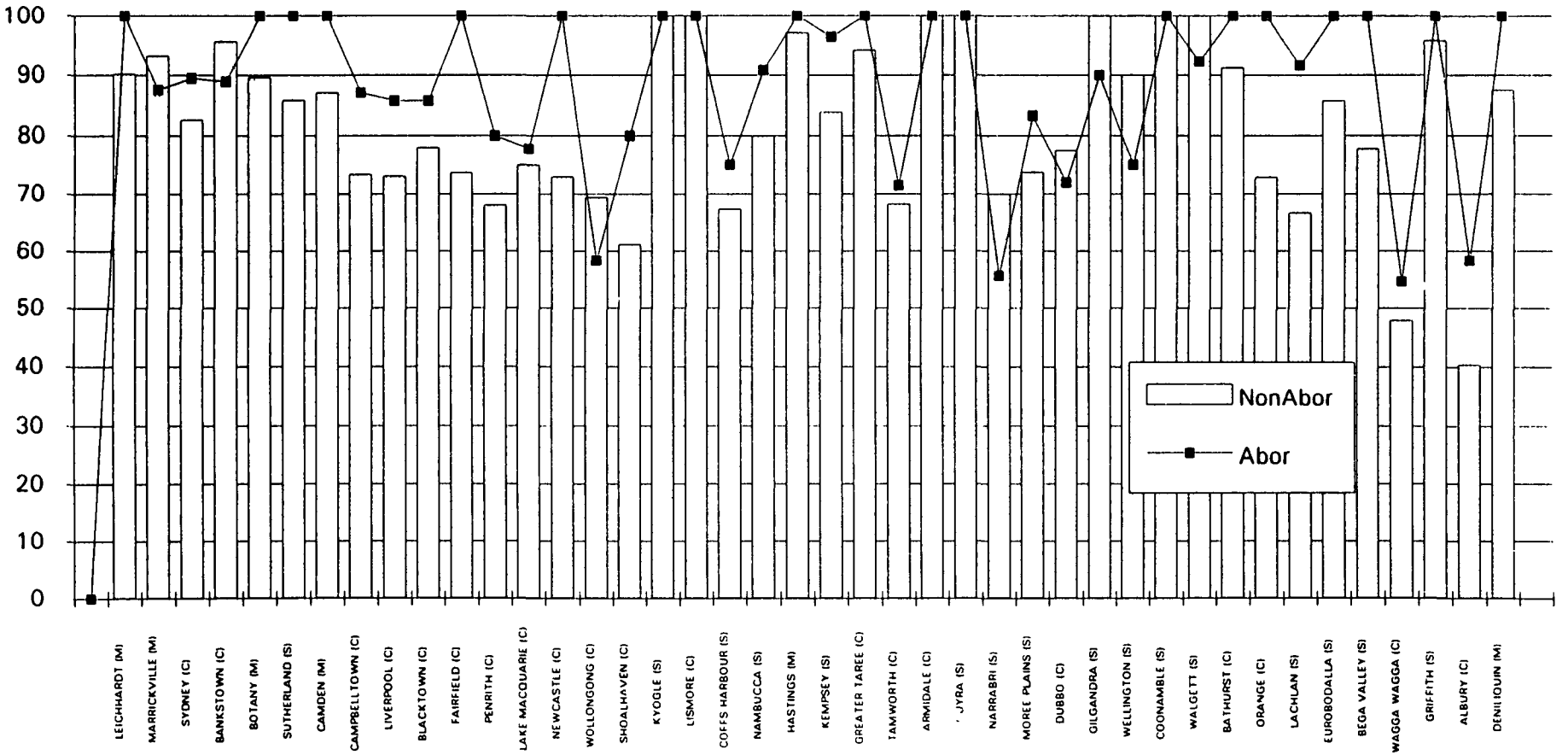
A closer look at post-intervention decisions

The correlation between the number of interventions and the number of control orders in each LGA is 0.72. This strong relationship suggests that about half (the square of 0.72 is 0.52) of the variation in the number of Aboriginal control orders is determined by the number of interventions in the area.

The other half of the variation is shaped by differences in subsequent police and court decisions at different levels of the justice system. In the following section we look at key outcomes at a number of post intervention stages. This section repeats the analysis in Part Two but at the local level. Police decisions are analysed for each LGA because information on the police station involved in the intervention was not reliably available for most cases. The LGA should be a good indicator of the police station involved in the apprehension as most studies (eg. Mukherjee, 1985) have indicated that juvenile crime is most often committed close to home. Court decisions are analysed for each court in NSW.

Figure 3.4 Percentage of first offenders prosecuted by NSW LGA

Only LGAs with 5 or more first offenders for both Aborigines & Non-Aborigines are included



The decision to prosecute or caution

Figure 3.4 charts the percentage of first offenders prosecuted by the police rather than cautioned. It shows clearly that the higher prosecution rate for Aboriginal children identified in Part Two - 87.4 % of Aborigines prosecuted n NSW compared with 78.2% of non-Aborigines - is a common phenomenon throughout NSW and not just caused by extremes in one or two places.

Table 3.6 lists the twenty LGAs with the highest proportion of prosecutions for Aboriginal first offenders. Nineteen had no cautions at all.

Table 3.6
Top 20 LGAs - percentage of Aboriginal first offenders prosecuted rather than cautioned 1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
LEICHHARDT	55	90.16	5	100	Sydney
BOTANY	26	89.66	6	100	Sydney
SUTHERLAND	175	85.78	6	100	Sydney
CAMDEN	27	87.1	5	100	Sydney
FAIRFIELD	234	73.58	6	100	Sydney
NEWCASTLE	132	72.93	8	100	New/Woll
KYOGLE	7	100	6	100	Country
LISMORE	31	100	8	100	Country
HASTINGS	36	97.3	7	100	Country
* GREATER TAREE	50	94.34	19	100	Country
ARMIDALE	25	100	12	100	Country
GUYRA	7	100	8	100	Country
COONAMBLE	6	100	7	100	Country
BATHURST	21	91.3	6	100	Country
ORANGE	51	72.86	11	100	Country
EUROBODALLA	18	85.71	8	100	Country
BEGA VALLEY	21	77.78	7	100	Country
* GRIFFITH	48	96	9	100	Country
DENILIQUIN	21	87.5	5	100	Country
* LEICHHARDT KEMPSEY	26	83.87	28	96.6	Country

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

As Figure 3.5 shows, this pattern of higher prosecution rates for Aborigines is maintained when looking at the percentage of least serious offences prosecuted.

Figure 3.5 Percentage of less serious offences prosecuted by NSW LGA

Only LGAs with 5 or more less serious interventions for both Aborigines & Non-Aborigines are included

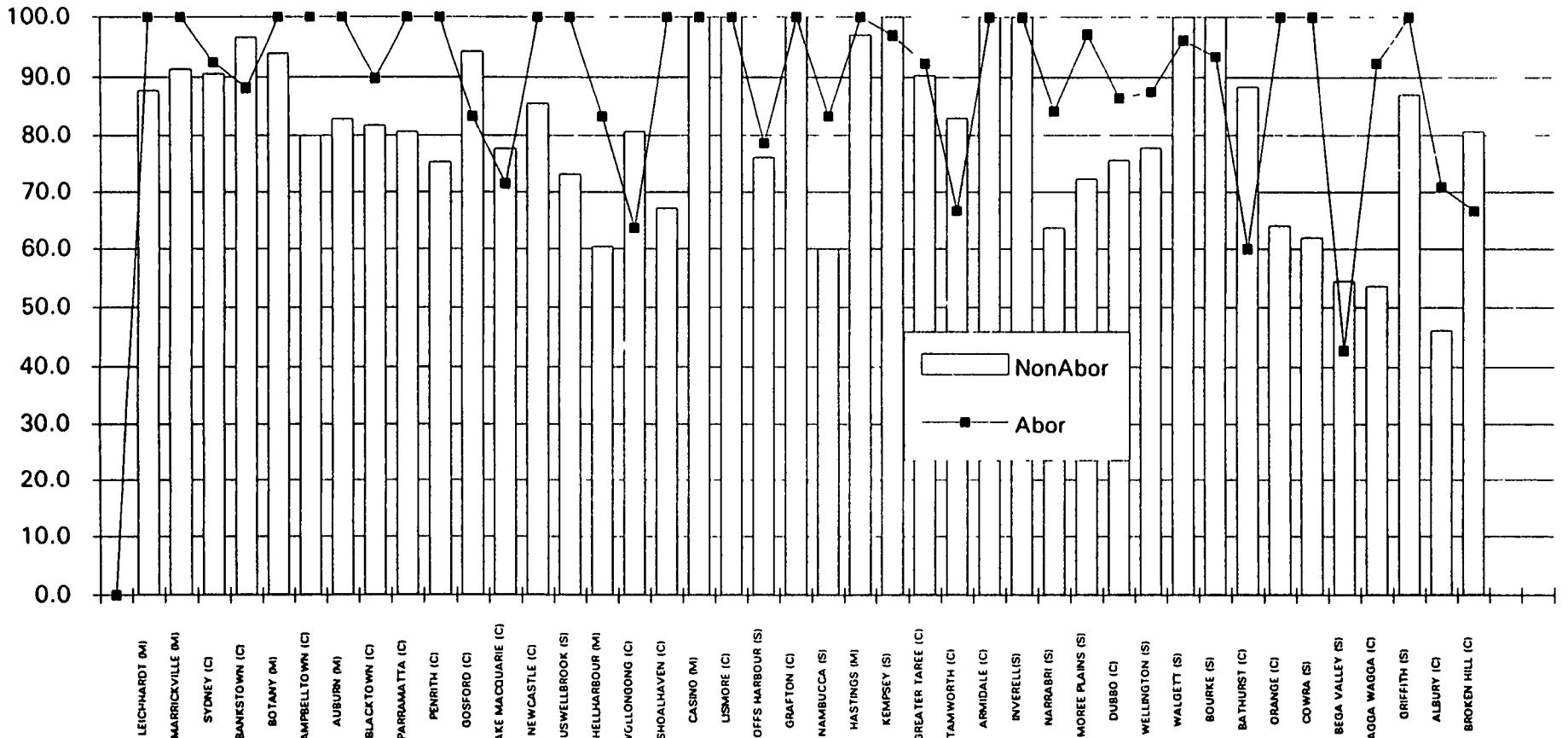


Table 3.7. lists those twenty areas with the highest proportion of Aboriginal prosecutions for less serious offences. Nineteen of the twenty had no cautions at all for these less serious offences, and six of the twenty highest intervention areas are in this table.

Table 3.7
Top 20 LGAs - percentage of Aborigines prosecuted for less serious offences 1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
LEICHHARDT	58	87.9	9	100.0	Sydney
* MARRICKVILLE	74	91.4	19	100.0	Sydney
BOTANY	32	94.1	9	100.0	Sydney
* CAMPBELLTOWN	311	80.0	24	100.0	Sydney
AUBURN	39	83.0	5	100.0	Sydney
PARRAMATTA	117	80.7	6	100.0	Sydney
* PENRITH	152	75.3	8	100.0	Sydney
NEWCASTLE	142	85.5	7	100.0	New/Woll
MUSWELLBROOK	19	73.1	6	100.0	New/Woll
* SHOALHAVEN	43	67.2	12	100.0	New/Woll
CASINO	9	100.0	7	100.0	Country
LISMORE	33	100.0	6	100.0	Country
GRAFTON	12	100.0	9	100.0	Country
HASTINGS	34	97.1	6	100.0	Country
ARMIDALE	32	100.0	12	100.0	Country
INVERELL	10	100.0	6	100.0	Country
ORANGE	32	64.0	14	100.0	Country
COWRA	13	61.9	6	100.0	Country
* GRIFFITH	27	87.1	14	100.0	Country
* MOREE PLAINS	13	72.2	71	97.3	Country

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

A further feature highlighted by the above figures is the low rate of cautioning for both Aboriginal and non-Aboriginal children. While Aboriginal children appear to be disadvantaged in this regard the general high rates of prosecution for first and less serious offenders is a concern in itself.

The decision to proceed by way of arrest

As with the decision to prosecute, Figure 3.6 shows that Aborigines in most LGAs across the state were also more likely to be arrested (charged) rather than receive the lighter prosecution options of court attendance notices or summons. The state average for the proportion of prosecutions by way of arrest are 71.0% for Aborigines and 65.5% for non-Aborigines. Those areas with the highest proportion of arrests for Aborigines are listed in Table 3.8.

Figure 3.6 Percentage of prosecutions by way of arrest by NSW LGA

Only LGAs with 5 or more prosecutions for both Aborigines & Non-Aborigines are included

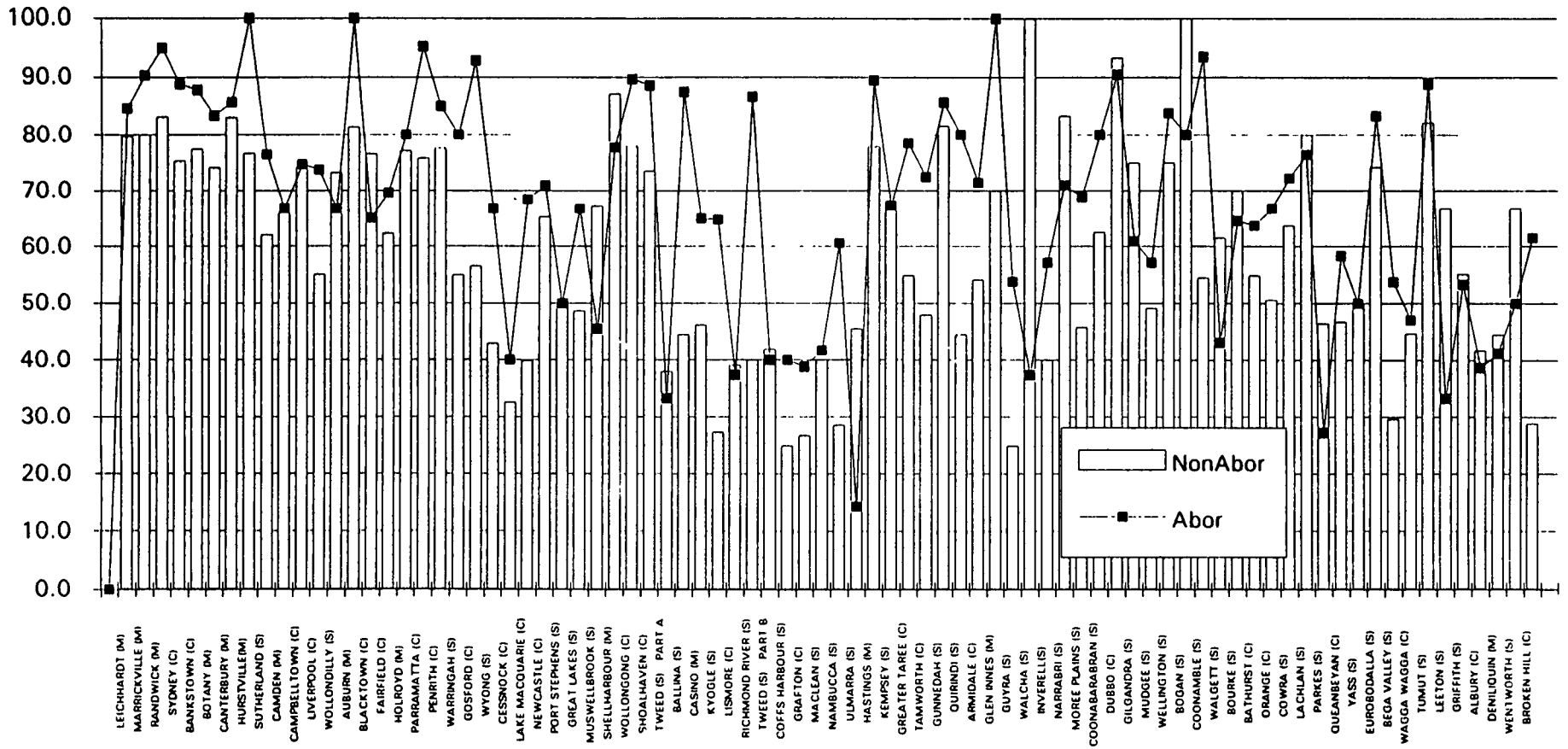


Table 3.8
Top 20 LGAs - percentage of Aboriginal prosecutions by way of arrest
1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
HURSTVILLE	79	76.7	9	100.0	Sydney
AUBURN	114	81.4	24	100.0	Sydney
GLEN INNES	14	70.0	6	100.0	Country
PARRAMATTA	229	75.8	20	95.2	Sydney
RANDWICK	128	83.1	19	95.0	Sydney
COONAMBLE	6	54.6	29	93.6	Country
GOSFORD	269	56.6	13	92.9	Sydney
* DUBBO	97	93.3	66	90.4	Country
*MARRICKVILLE	164	80.0	37	90.2	Sydney
* WOLLONGONG	316	78.0	26	89.7	New/Woll
HASTINGS	67	77.9	17	89.5	Country
TUMUT	23	82.1	8	88.9	Country
* SYDNEY	168	75.3	174	88.8	Sydney
* SHOALHAVEN	86	73.5	31	88.6	New/Woll
* BANKSTOWN	327	77.5	43	87.8	Sydney
BALLINA	8	44.4	7	87.5	Country
RICHMOND RIVER	2	40.0	13	86.7	Country
CANTERBURY	176	83.0	6	85.7	Sydney
GUNNEDAH	31	81.6	6	85.7	Country
* PENRITH	305	77.6	34	85.0	Sydney

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

Figure 3.7 shows that this pattern of higher arrest rates for Aboriginal children appears to be maintained for first offenders. Table 3.9 lists those LGAs with the highest percentage of arrests for Aboriginal first offenders. The state averages are 57.2% for Aborigines and 55.5% for non-Aborigines - a difference which is not statistically significant.

Figure 3.7 Percentage of prosecutions of first offenders by way of arrest by NSW LGA

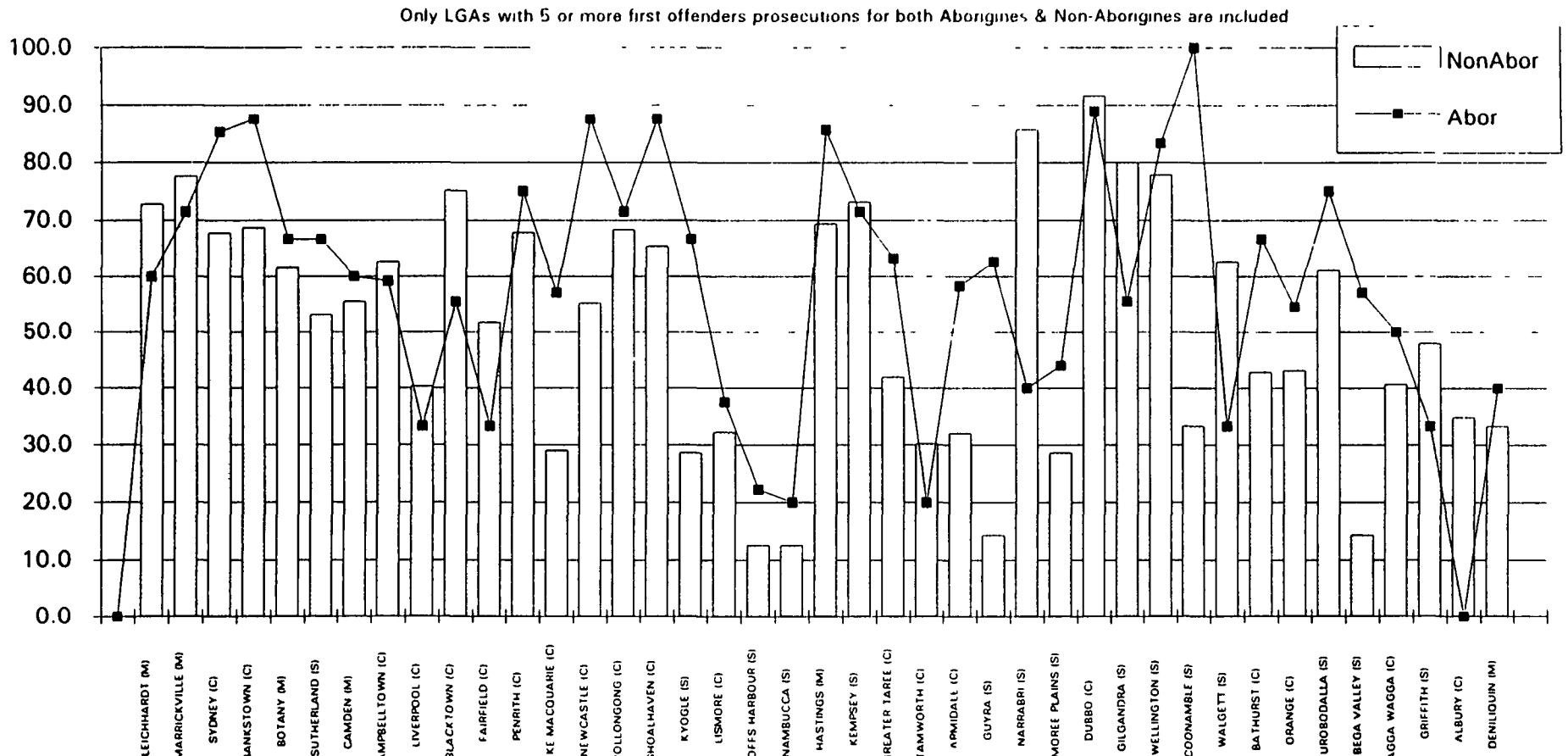


Table 3.9
Top 20 LGAs - percentage of Aboriginal first offenders prosecuted by way of arrest 1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
COONAMBLE	2	33.3	7	100.0	Country
* DUBBO	44	91.7	16	88.9	Country
* BANKSTOWN	110	68.8	7	87.5	Sydney
NEWCASTLE	73	55.3	7	87.5	New/Woll
* SHOALHAVEN	34	65.4	7	87.5	New/Woll
HASTINGS	25	69.4	6	85.7	Country
* SYDNEY	42	67.7	29	85.3	Sydney
WELLINGTON	14	77.8	5	83.3	Country
* PENRITH	114	67.9	6	75.0	Sydney
EUROBODALLA	11	61.1	6	75.0	Country
*MARRICKVILLE	76	77.6	5	71.4	Sydney
* WOLLONGONG	110	68.3	5	71.4	New/Woll
* KEMPSEY	19	73.1	20	71.4	Country
BOTANY	16	61.5	4	66.7	Sydney
SUTHERLAND	93	53.1	4	66.7	Sydney
KYOGLE	2	28.6	4	66.7	Country
BATHURST	9	42.9	4	66.7	Country
* GREATER TAREE	21	42.0	12	63.2	Country
GUYRA	1	14.3	5	62.5	Country
LEICHHARDT	40	72.7	3	60.0	Sydney

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

Figure 3.8 and Table 3.10 provide the same information for those on less serious offences. For NSW overall 59.4% of Aborigines on less serious offences were arrested and 54.5% of non-Aborigines. Several LGAs with large intervention levels had arrested over 80% of those prosecuted.

Figure 3.8 Percentage of prosecutions for less serious offences by way of charge by NSW LGAs

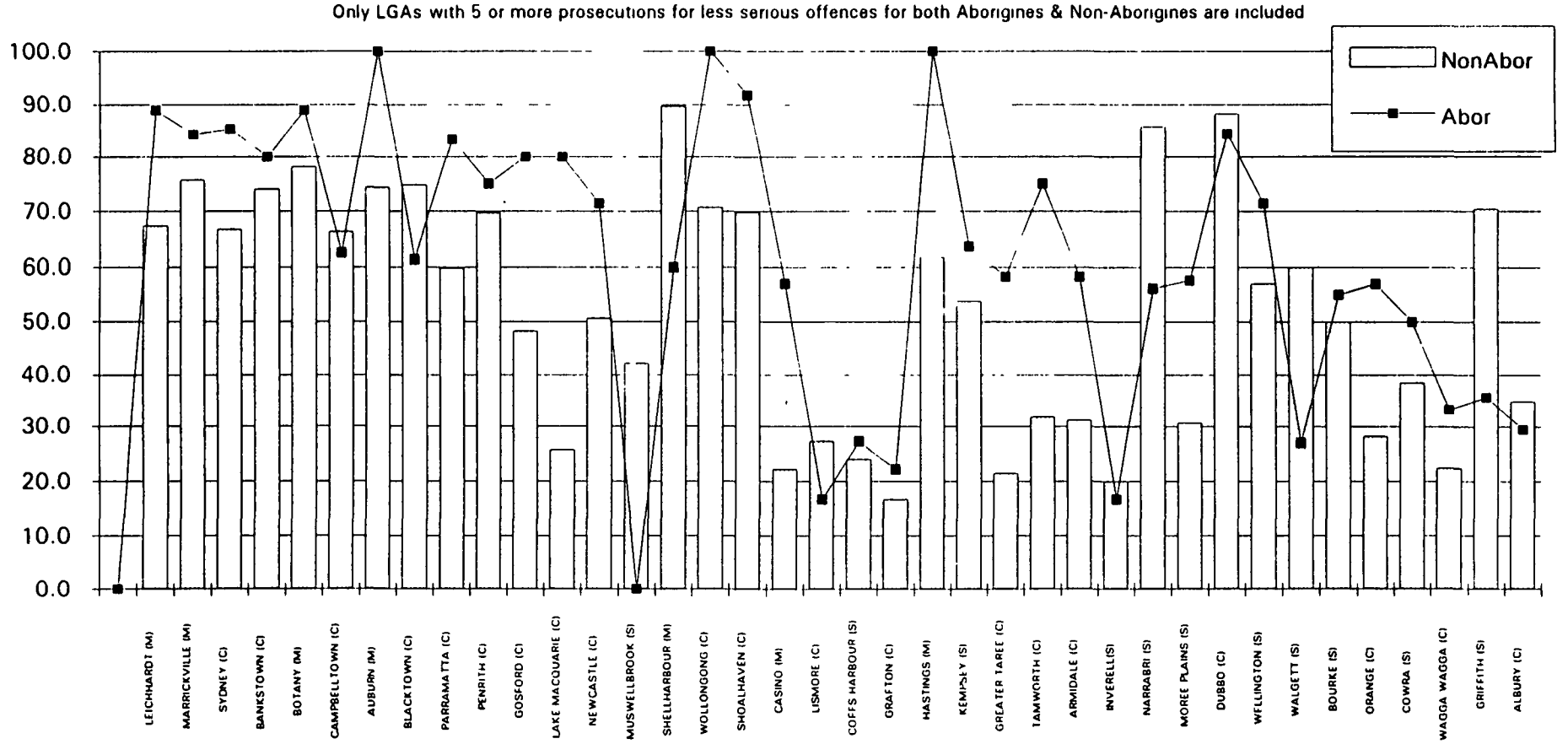


Table 3.10
Top 20 LGAs - percentage of Aboriginal prosecutions for less serious offences by way of arrest
1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
AUBURN	29	74.4	5	100.0	Sydney
* WOLLONGONG	121	70.8	7	100.0	New/Woll
HASTINGS	21	61.8	6	100.0	Country
* SHOALHAVEN	30	69.8	11	91.7	New/Woll
LEICHHARDT	39	67.2	8	88.9	Sydney
BOTANY	25	78.1	8	88.9	Sydney
* SYDNEY	58	66.7	64	85.3	Sydney
* DUBBO	30	88.2	27	84.4	Country
* MARRICKVILLE	56	75.7	16	84.2	Sydney
PARRAMATTA	70	59.8	5	83.3	Sydney
* BANKSTOWN	131	74.0	12	80.0	Sydney
GOSFORD	115	48.3	4	80.0	Sydney
LAKE MACQUARIE	42	25.8	4	80.0	New/Woll
* PENRITH	106	69.7	6	75.0	Sydney
TAMWORTH	14	31.8	6	75.0	Country
NEWCASTLE	72	50.7	5	71.4	New/Woll
WELLINGTON	4	57.1	5	71.4	Country
* KEMPSEY	14	53.9	21	63.6	Country
* CAMPBELLTOWN	206	66.2	15	62.5	Sydney
* BLACKTOWN	252	74.8	27	61.4	Sydney

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

As with the decision to prosecute or caution it appears that Aboriginal children are more likely to receive the harshest outcome at this stage. Nonetheless, as discussed in Part Two it may be that prior record, and not Aboriginality per se, is shaping these patterns.

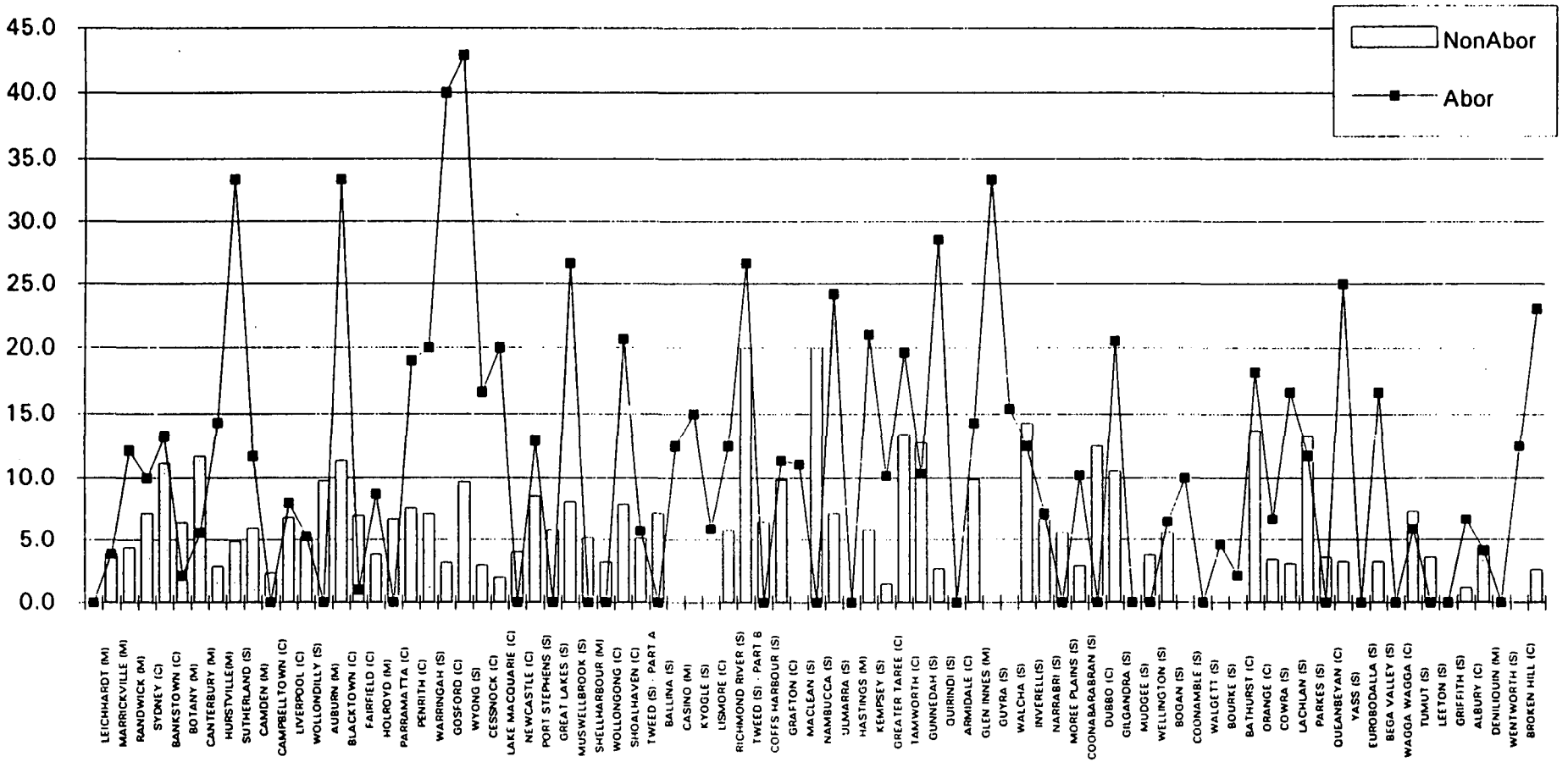
Regardless of indigenous status, the high levels of arrest for first offenders and those on less serious offences indicate the need for some review.

The police bail decision

When we get to the point of police bail decisions, as indicated in Part Two, Aboriginal and non-Aboriginal outcomes appear to be similar. Nonetheless there is some ground for concern as is shown in Figure 3.9. This figure charts the percentages of police bail refusal for all court appearances and it appears that many areas have much higher rates of bail refusal for Aborigines. The overall figures are 10.6% for Aborigines and 6.9% for non-Aborigines.

Figure 3.9 Percentage of court appearances police bail refused by NSW LGA

Only LGAs with 5 or more final court appearances for both Aborigines & Non-Aborigines are included



The twenty highest percentages for Aborigines are listed in Table 3.11 below.

Table 3.11
Top 20 LGAs - percentage of court appearances police bail refused 1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
GOSFORD	46	9.7	6	42.9	Sydney
WARRINGAH	9	3.1	2	40.0	Sydney
HURSTVILLE	5	4.9	3	33.3	Sydney
AUBURN	16	11.4	8	33.3	Sydney
GLEN INNES	0	0.0	2	33.3	Country
GUNNEDAH	1	2.6	2	28.6	Country
GREAT LAKES	3	8.1	4	26.7	New/Woll
RICHMOND RIVER	1	20.0	4	26.7	Country
QUEANBEYAN	2	3.2	3	25.0	Country
NAMBUCCA	1	7.1	8	24.2	Country
BROKEN HILL	3	2.5	3	23.1	Country
HASTINGS	5	5.8	4	21.1	Country
* WOLLONGONG	32	7.9	6	20.7	New/Woll
* DUBBO	11	10.6	15	20.6	Country
* PENRITH	28	7.1	8	20.0	Sydney
CESSNOCK	2	1.9	1	20.0	New/Woll
* GREATER TAREE	11	13.4	11	19.6	Country
PARRAMATTA	23	7.6	4	19.1	Sydney
BATHURST	7	13.7	2	18.2	Country
WYONG	10	2.9	1	16.7	Sydney

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name. The high rates for Gosford and Auburn are likely to be caused by the presence of juvenile detention centres in the LGAs.

It is only when we restrict our comparison to first offenders or the less serious offences (as in Figures 3.10 and 3.11) that the difference between Aborigines and non-Aborigines fades.

Table 3.12
Top 20 LGAs - percentage of first offender court appearances police bail refused 1990

Part 4fa Percent of first offender court appearances police bail refused

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
HASTINGS	1	2.8	2	28.6	Country
* NAMBUCCA	0	0.0	2	20.0	Country
BOTANY	2	7.7	1	16.7	Sydney
ARMIDALE	0	0.0	2	16.7	Country
BATHURST	3	14.3	1	16.7	Country
LISMORE	1	3.2	1	12.5	Country
EUROBODALLA	1	5.6	1	12.5	Country
* DUBBO	3	6.3	2	11.1	Country
* GREATER TAREE	1	2.0	2	10.5	Country
* SYDNEY	3	4.8	2	5.9	Sydney

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

All other LGAs had zero police bail refusals for Aborigines

Table 3.13
Top 20 LGAs - percentage of court appearances for less serious offences| police bail refused
1990

LGA	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Region
	N	%	N	%	
GOSFORD	15	6.3	2	40.0	Sydney
DUBBO	1	2.9	7	21.9	Country
AUBURN	3	7.7	1	20.0	Sydney
PARRAMATTA	2	1.7	1	16.7	Sydney
HASTINGS	3	8.8	1	16.7	Country
ARMIDALE	1	3.1	2	16.7	Country
COWRA	0	0.0	1	16.7	Country
* WOLLONGONG	12	7.0	1	14.3	New/Woll
LEICHHARDT	1	1.7	1	11.1	Sydney
* MARRICKVILLE	3	4.1	2	10.5	Sydney
* COFFS HARBOUR	3	5.6	1	9.1	Country
* SYDNEY	5	5.8	6	8.0	Sydney
* GRIFFITH	0	0.0	1	7.1	Country
* MOREE PLAINS	0	0.0	5	7.0	Country
* BOURKE	0	0.0	1	3.5	Country
* WALGETT	0	0.0	1	1.9	Country

The twenty LGAs with the largest number of interventions are marked with an asterisk before the LGA name.

The high rate for Gosford is likely to be caused by the presence of Mt Penang institution residents in the LGA.

All other LGAs had zero police bail refusals for Aborigines

Figure 3.11 Percentage of court appearances for less serious offences where police bail was refused by NSW LGA

Only LGAs with 5 or more court appearances for less serious offences for both Aborigines & Non-Aborigines are included

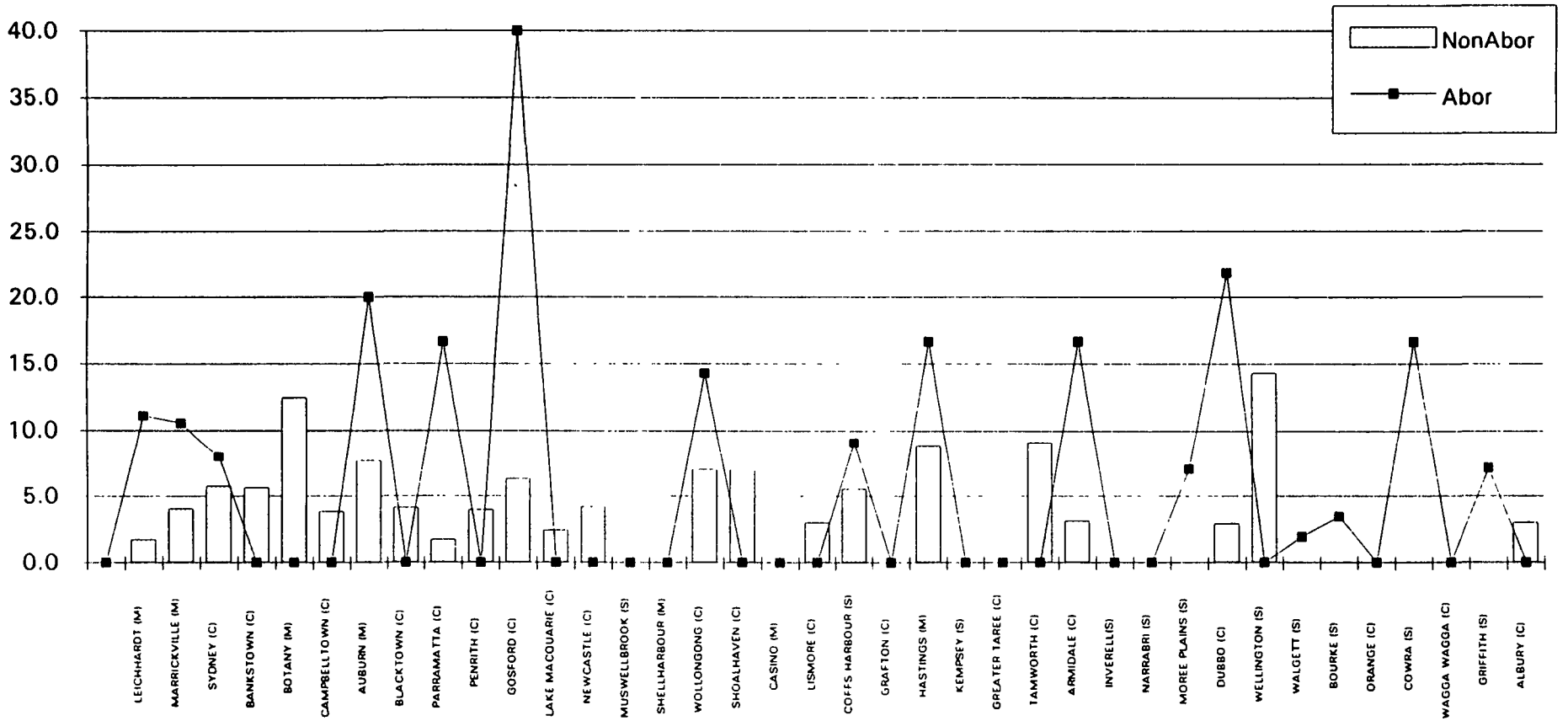
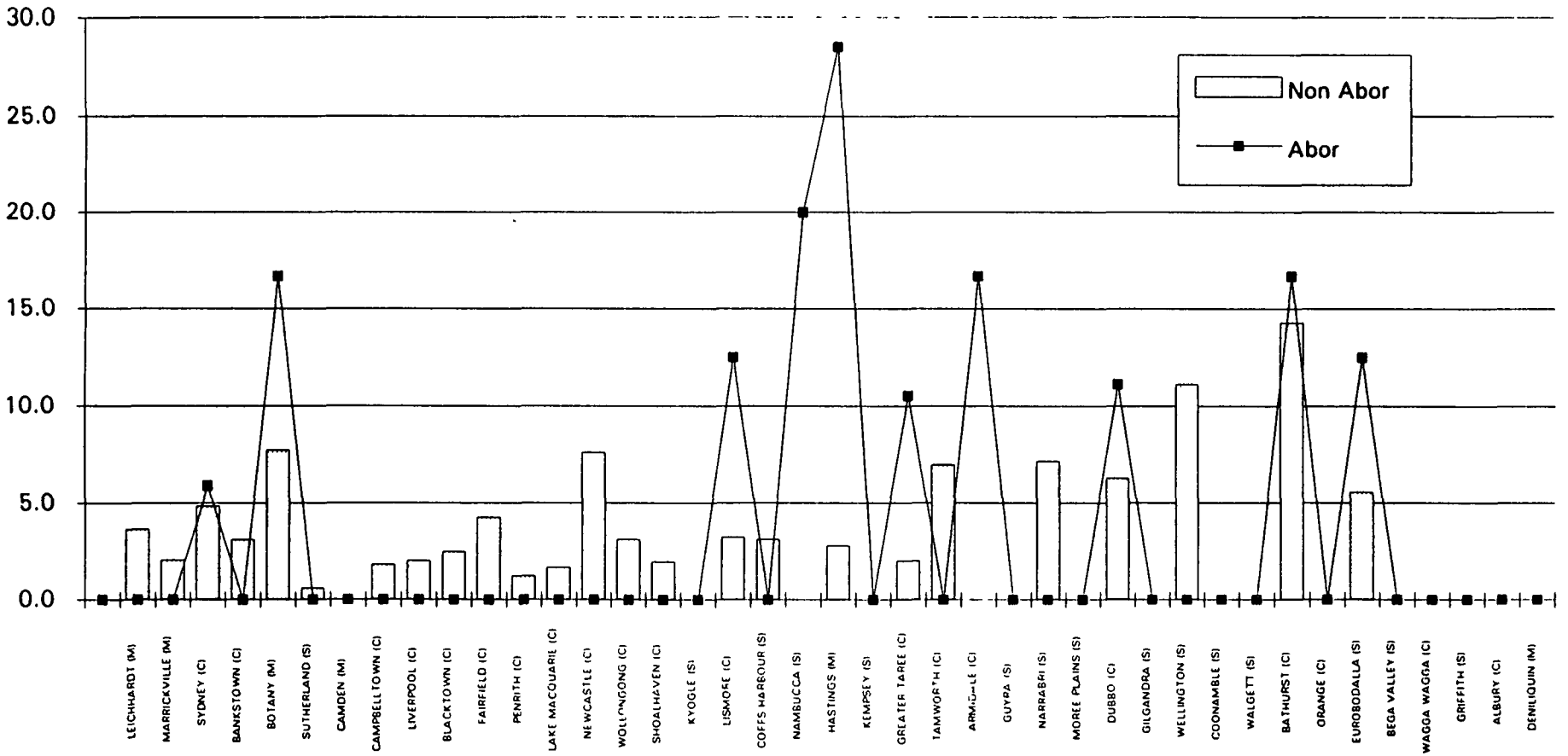


Figure 3.10 Percentage of first offender court appearances police bail refused by NSW LGA

Only LGAs with 5 or more first offender court appearances for both Aborigines & Non-Aborigines are included



In an attempt to summarise the preceding information about police decisions we have grouped the results together for those LGAs with the largest number of interventions. As can be seen almost all of these areas have multiple negative indicators for these decisions.

Table 3.14
Summary of police decision indicators
1990

LGAs with the 20 highest number of Aboriginal interventions	High Prob of Interv	High % of less ser interv	high % of good order interv	high % of first off prosec	high % of less ser prosec	high % of pros by arrest	high % of first off by arrest	high % of less ser by arrest	High % of bail re-fused	High % of first off bail refused	High % of less ser bail refused
SYDNEY	*					*	*	*		*	*
MOREE PLAINS	*										*
WALGETT	*	*	*								*
BLACKTOWN		*	*					*			
KEMPSEY	*			*			*	*			
DUBBO		*	*			*	*	*	*	*	
CAMPBELLTOWN					*			*			
ALBURY	*										
GREATER TAREE	*			*			*		*	*	
BOURKE	*	*	*								*
BANKSTOWN						*	*	*			
GRIFFITH	*		*	*							*
MARRICKVILLE	*	*			*	*	*	*			*
PENRITH					*	*	*	*	*		
WAGGA WAGGA											
SHOALHAVEN					*	*	*	*			
COFFS HARBOUR											*
WOLLONGONG						*	*	*	*		*
NAMBUCCA	*									*	
LACHLAN	*										

The court decision to incarcerate

In this section the analysis is based on individual courts rather than LGAs. The first Table below lists the twenty courts in NSW that had the largest number of Aboriginal cases. Because of the importance to the state total of outcomes in these courts they are marked with an asterisk where they appear in the subsequent tables.

Table 3.15
Top twenty Courts - absolute number of Aboriginal finalised appearances
1990

Court	Non-Aboriginal	Aboriginal	Court Type
	N	N	
BIDURA	1883	332	Specialist
MOREE	35	145	Non-Specialist
COBHAM	1632	145	Specialist
MINDA	1477	113	Specialist
WALGETT	8	108	Non-Specialist
KEMPSEY	73	90	Non-Specialist
CAMDEN	729	88	Specialist
YASMAR	749	80	Specialist
DUBBO	99	73	Non-Specialist
TAREE	97	60	Non-Specialist
GRIFFITH	100	56	Non-Specialist
WORIMI	719	55	Specialist
ALBURY	204	46	Non-Specialist
COFFS HARBOUR	156	46	Non-Specialist
PORT KEMBLA	515	46	Specialist
BOURKE	8	45	Non-Specialist
COONAMBLE	10	44	Non-Specialist
NOWRA	115	44	Non-Specialist
WELLINGTON	40	39	Non-Specialist
ORANGE	96		Non-Specialist

Note: Sydney and South Sydney LGAs are aggregated in this study.

These top twenty courts account for 62% of all the NSW Aboriginal cases in 1990.

A comparison of the percentage of court appearances resulting in a control order shows much higher levels for Aboriginal children in almost every court. See Figure 3.12 and Table 3.16 below. As discussed in Part Two this difference appears to be due to the longer criminal records possessed by many Aboriginal offenders. The state average is 10.4% of Aboriginal appearances resulting in a control order and 5.3% of non-Aboriginal appearances.

Figure 3.12 Percentage of court appearances resulting in control orders by NSW courts

Only courts with 5 or more court appearances for both Aborigines & Non-Aborigines are included

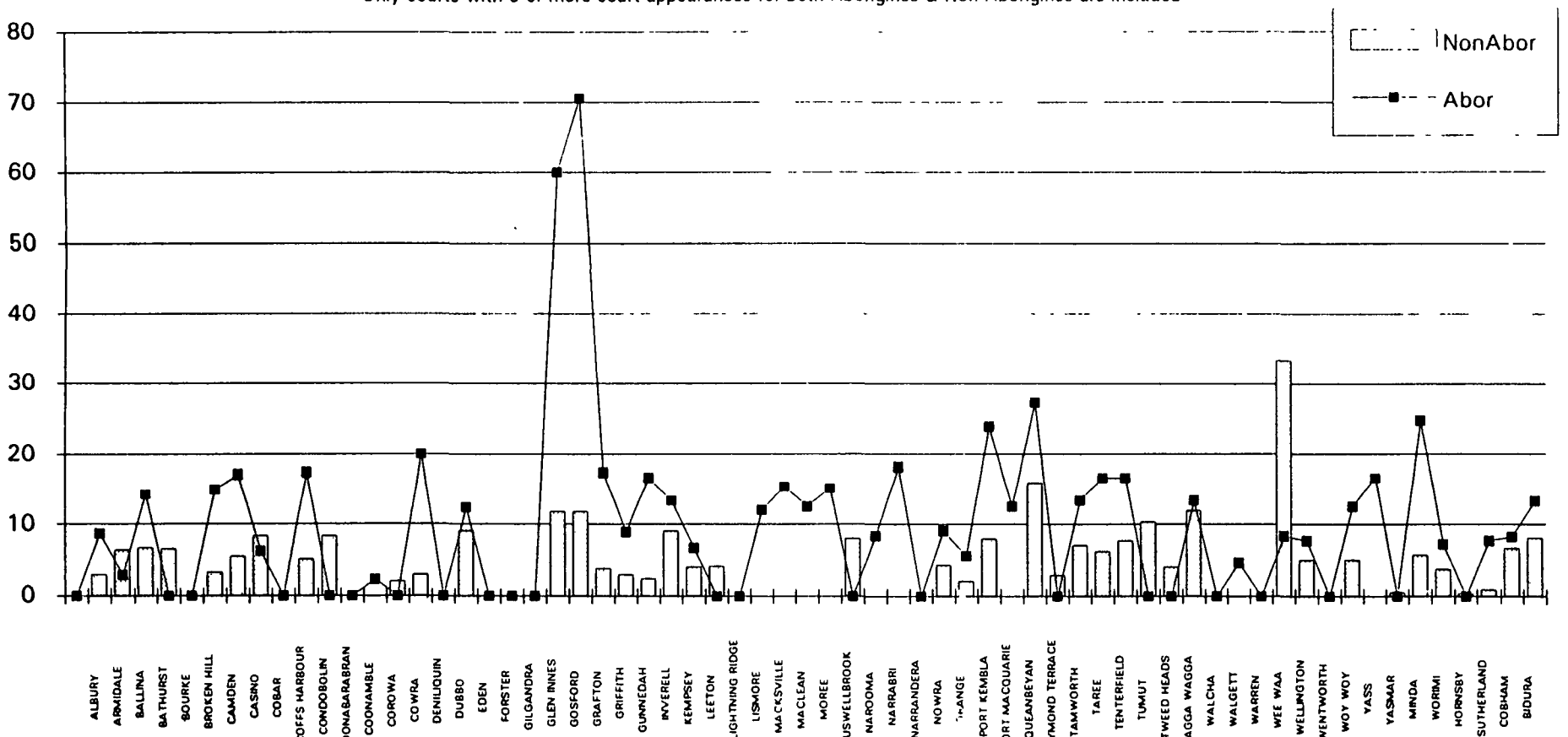


Table 3.16
Top 20 Courts -percentage of court appearances resulting in control order by Court 1990

COURT	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Court Type
	N	%	N	%	
GOSFORD	37	11.8	12	70.6	Specialist
GLEN INNES	2	11.8	3	60.0	Non-Specialist
QUEANBEYAN	15	16.0	3	27.3	Non-Specialist
* MINDA	85	5.8	28	24.8	Specialist
* PORT KEMBLA	41	8.0	11	23.9	Specialist
COWRA	1	2.9	2	20.0	Non-Specialist
NARRABRI	0	0.0	2	18.2	Non-Specialist
* COFFS HARBOUR	8	5.1	8	17.4	Non-Specialist
GRAFTON	2	3.9	4	17.4	Non-Specialist
*CAMDEN	40	5.5	15	17.1	Specialist
GUNNEDAH	1	2.4	1	16.7	Non-Specialist
* TAREE	6	6.2	10	16.7	Non-Specialist
TENTERFIELD	1	7.7	1	16.7	Non-Specialist
YASS	0	0.0	1	16.7	Non-Specialist
MACKSVILLE	0	0.0	4	15.4	Non-Specialist
* MOREE	0	0.0	22	15.2	Non-Specialist
BROKEN HILL	4	3.3	3	15.0	Non-Specialist
BALLINA	2	6.7	1	14.3	Non-Specialist
INVERELL	4	9.1	4	13.3	Non-Specialist
TAMWORTH	8	7.1	4	13.3	Non-Specialist

The twenty Courts with the largest number of Aboriginal appearances are marked with an asterisk before the Court name.

The high rates for Gosford, Minda and Port Kembla are likely to be caused by the presence of institutions in the Court area.

A very different picture emerges when the number of previous proven appearances is held constant. Figure 3.13 charts the percentage of total court appearances resulting in control orders for those with 3 or less previous appearances. It is clear that there is much greater overlap between the Aboriginal and non-Aboriginal groups. In fact the state percentages for Aborigines and non-Aborigines are 2.7% and 2.0% respectively.

Figure 3.13 Percentage of total court appearances resulting in control orders for those with 3 or less previous proven court appearances by NSW courts

Only courts with 5 or more court appearances for both Aborigines & Non-Aborigines are included

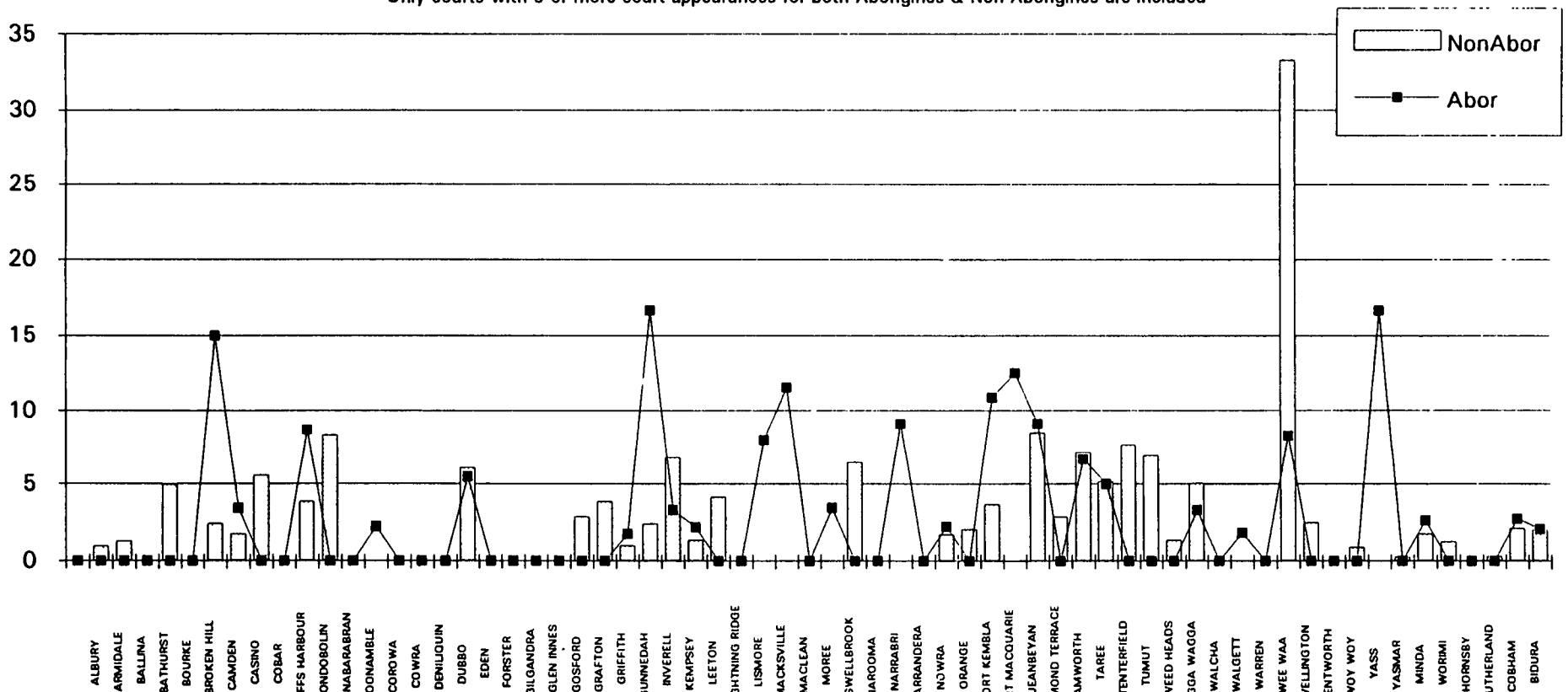


Table 3.17

Top 20 Courts - percentage of court appearances resulting in a control order for those with 3 or fewer previous proven appearances
1990

COURT	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Court Type
	N	%	N	%	
GUNNEDAH	1	2.4	1	16.7	Non-Specialist
YASS	0	0.0	1	16.7	Non-Specialist
BROKEN HILL	3	2.4	3	15.0	Non-Specialist
PORT MACQUARIE	0	0.0	2	12.5	Non-Specialist
MACKSVILLE	0	0.0	3	11.5	Non-Specialist
* PORT KEMBLA	19	3.7	5	10.9	Specialist
NARRABRI	0	0.0	1	9.1	Non-Specialist
QUEANBEYAN	8	8.5	1	9.1	Non-Specialist
* COFFS HARBOUR	6	3.9	4	8.7	Non-Specialist
WEE WAA	2	33.3	1	8.3	Non-Specialist
LISMORE	0	0.0	2	8.0	Non-Specialist
TAMWORTH	8	7.1	2	6.7	Non-Specialist
* DUBBO	6	6.1	4	5.5	Non-Specialist
* TAREE	5	5.2	3	5.0	Non-Specialist
* MOREE	0	0.0	5	3.5	Non-Specialist
* CAMDEN	13	1.8	3	3.4	Specialist
INVERELL	3	6.8	1	3.3	Non-Specialist
WAGGA WAGGA	8	5.0	1	3.3	Non-Specialist
* COBHAM	35	2.1	4	2.8	Specialist
* MINDA	26	1.8	3	2.7	Specialist

The twenty Courts with the largest number of Aboriginal appearances are marked with an asterisk before the Court name.

The similarity in court treatment of Aborigines and non-Aborigines, at least in regard to sentences of detention, is reinforced by looking at other measures which indicate that control orders are being used as a last resort. Three such measures are the number of control orders for less serious offences, control orders for younger children and control orders given to those who have not previously had the chance of a CSO.

Figure 3.14 Percentage of total court appearances resulting in control orders for those less than 15 years old by NSW courts

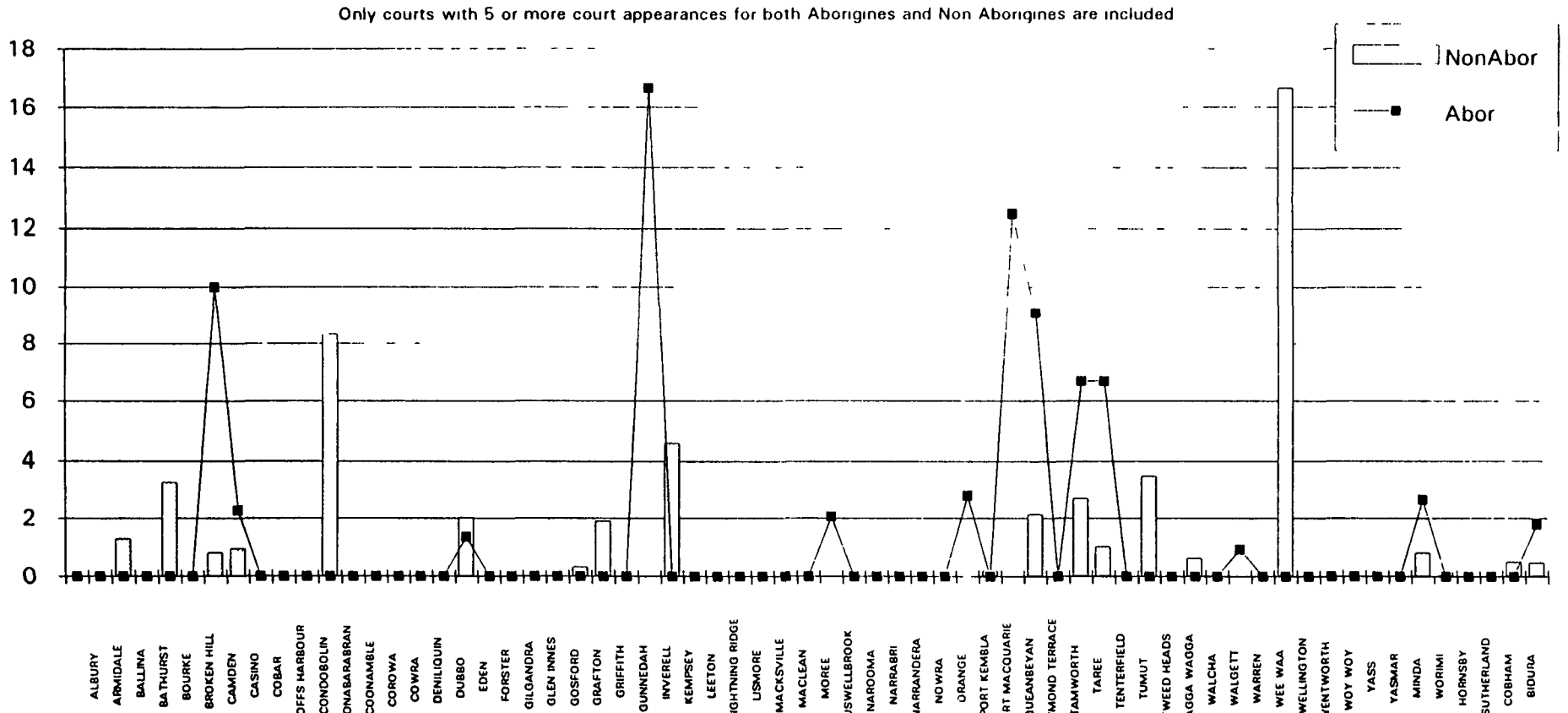


Figure 3.14 and Table 3.18 show the percentage of total appearances given a control order for children less than 15 years old. As can be seen few courts gave control orders to Aboriginal children under 15 years of age. The state averages are 1.3% for Aborigines and 0.5% for non-Aborigines.

Table 3.18
Top 20 Courts - percentage of court appearances resulting in a control order for those less than 15 years old
1990

COURT	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Court Type
	N	%	N	%	
GUNNEDAH	0	0.0	1	16.7	Non-Specialist
PORT MACQUARIE	0	0.0	2	12.5	Non-Specialist
BROKEN HILL	1	0.8	2	10.0	Non-Specialist
QUEANBEYAN	2	2.1	1	9.1	Non-Specialist
TAMWORTH	3	2.7	2	6.7	Non-Specialist
* TAREE	1	1.0	4	6.7	Non-Specialist
* ORANGE	0	0.0	1	2.8	Non-Specialist
* MINDA	12	0.8	3	2.7	Specialist
* CAMDEN	7	1.0	2	2.3	Specialist
* MOREE	0	0.0	3	2.1	Non-Specialist
* BIDURA	9	0.5	6	1.8	Specialist
* DUBBO	2	2.0	1	1.4	Non-Specialist
* WALGETT	0	0.0	1	0.9	Non-Specialist

The twenty Courts with the largest number of Aboriginal appearances are marked with an asterisk before the Court name.
All other Courts had zero control orders for this category

Table 3.19 and Figure 3.15 make the same comparison for those on less serious offences. In most areas no control orders were given for these offences - the state average was 1.1% of court appearances for Aboriginal children and 0.6% for non-Aborigines.

Only three control orders were given to Aborigines for the good order offences which are a subset of the 'less serious' group.

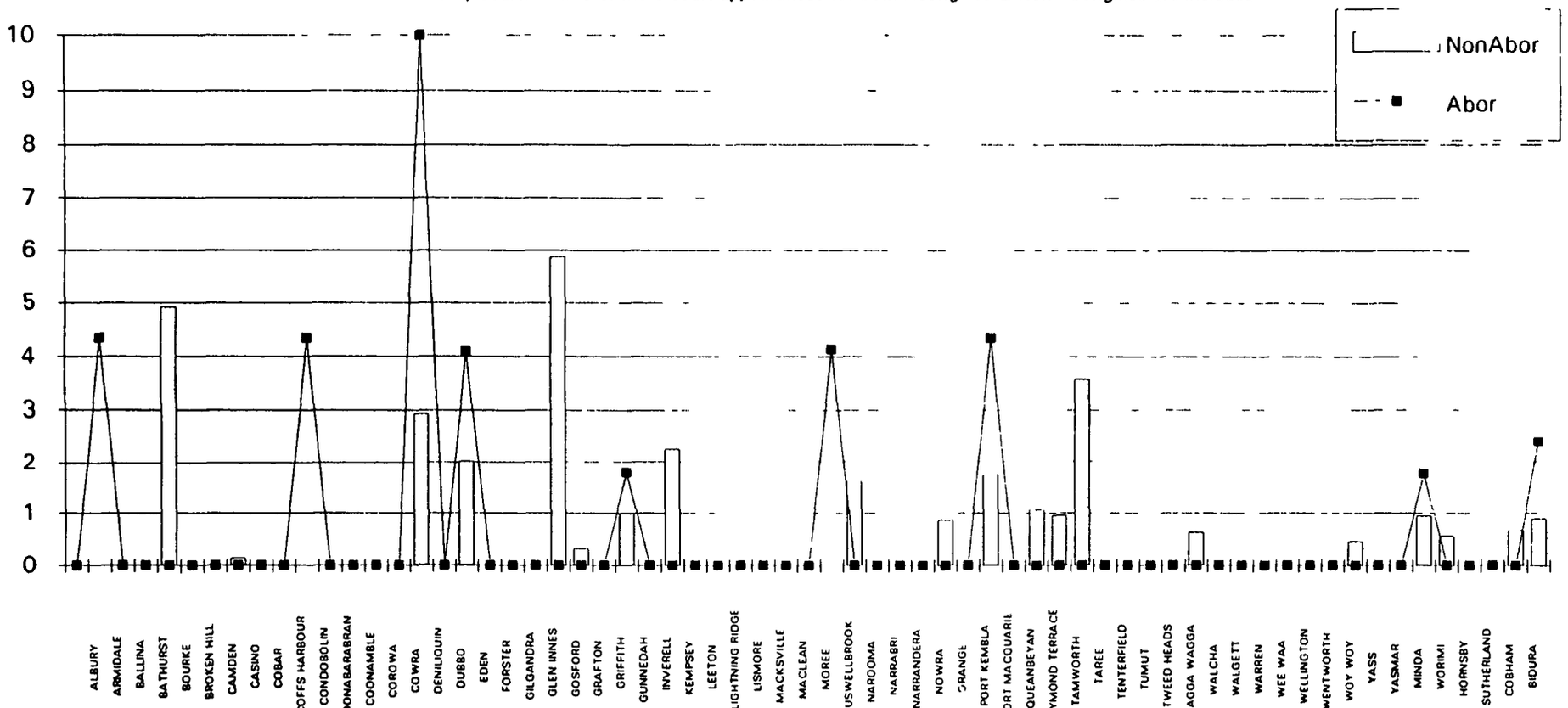
Table 3.19
Top 20 Courts - percentage of court appearances resulting in a control order for those with less serious offences
1990

COURT	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Court Type
	N	%	N	%	
COWRA	1	2.9	1	10.0	Non-Specialist
* ALBURY	0	0.0	2	4.4	Non-Specialist
* COFFS HARBOUR	0	0.0	2	4.4	Non-Specialist
* PORT KEMBLA	9	1.8	2	4.4	Specialist
* MOREE	0	0.0	6	4.1	Non-Specialist
* DUBBO	2	2.0	3	4.1	Non-Specialist
* BIDURA	17	0.9	8	2.4	Specialist
* GRIFFITH	1	1.0	1	1.8	Non-Specialist
* MINDA	14	1.0	2	1.8	Specialist

The twenty Courts with the largest number of Aboriginal appearances are marked with an asterisk before the Court name.

Figure 3.15 Percentage of total court appearances resulting in control orders for those with less serious offences by NSW courts

Only courts with 5 or more court appearances for both Aborigines & Non Aborigines are included



All other Courts had zero control orders for this category

It appears that both Aboriginal and non-Aboriginal young children, those with least serious offences and those with shorter criminal records are quite unlikely to be given control orders.

This does not appear to be the case for those given control orders without the opportunity of a previous CSO. The graph below shows the much higher proportion of court appearances which resulted in a control order without a previous CSO. This is despite the finding in Part Two that Aborigines and non-Aborigines sentenced to detention had a similar chance of a previous CSO. The high Aboriginal level is simply due to their longer average criminal records but it should not be ignored. In fact Figure 3.16 shows how apparently equal treatment can result in such high levels of over-representation of Aboriginal people. The relatively low use of CSOs before sentencing to detention results in higher detention levels for both groups. But it has a much greater effect on Aborigines as many more are at the point where the CSO option is important. 6.4% of Aboriginal court appearances across the state resulted in a control order with no previous CSO. This compares with 3.5% for non-Aborigines.

Table 3.20
Top 20 Courts - percentage of court appearances resulting in a control order for those with no previous CSO
1990

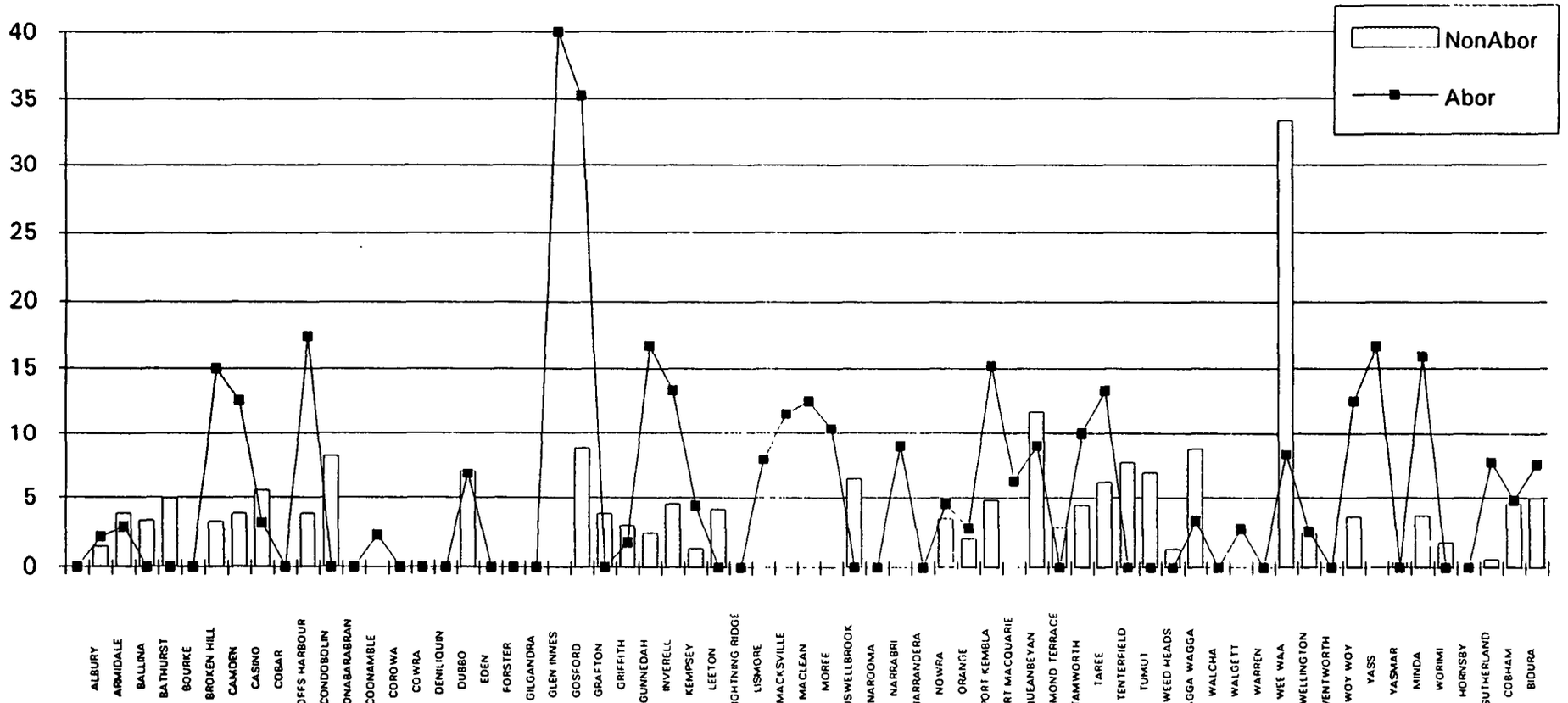
COURT	Non-Aboriginal	Non-Aboriginal	Aboriginal	Aboriginal	Court Type
	N	%	N	%	
GLEN INNES	0	0.0	2	40.0	Non-Specialist
GOSFORD	28	8.9	6	35.3	Specialist
* COFFS HARBOUR	6	3.9	8	17.4	Non-Specialist
GUNNEDAH	1	2.4	1	16.7	Non-Specialist
YASS	0	0.0	1	16.7	Non-Specialist
* MINDA	55	3.7	18	15.9	Specialist
* PORT KEMBLA	25	4.9	7	15.2	Specialist
BROKEN HILL	4	3.3	3	15.0	Non-Specialist
INVERELL	2	4.6	4	13.3	Non-Specialist
* TAREE	6	6.2	8	13.3	Non-Specialist
* CAMDEN	28	3.8	11	12.5	Specialist
MACLEAN	0	0.0	2	12.5	Non-Specialist
WOY WOY	8	3.6	1	12.5	Specialist
MACKSVILLE	0	0.0	3	11.5	Non-Specialist
* MOREE	0	0.0	15	10.3	Non-Specialist
TAMWORTH	5	4.5	3	10.0	Non-Specialist
NARRABRI	0	0.0	1	9.1	Non-Specialist
QUEANBEYAN	11	11.7	1	9.1	Non-Specialist
WEE WAA	2	33.3	1	8.3	Non-Specialist
LISMORE	0	0.0	2	8.0	Non-Specialist

The twenty Courts with the largest number of Aboriginal appearances are marked with an asterisk before the Court name.

The high rates for Gosford, Minda and Port Kembla are likely to be caused by the presence of institutions in the Court area.

Figure 3.16 Percentage of total court appearances resulting in control orders for those with no previous CSO by NSW courts

Only courts with 5 or more court appearances for both Aborigines & Non-Aborigines are included



The court indicators are summarised below.

Table 3.21
Summary of Court decision indicators
1990

Courts with the 20 highest number of Aboriginal appearances	highest % of control orders	highest % of control orders <= 3 priors	highest % of control orders <15 yrs old	highest % of control orders less serious offences	highest % of control orders no prev CSO
BIDURA			*	*	
MOREE	*	*	*	*	*
COBHAM		*			
MINDA	*	*	*	*	*
WALGETT			*		
KEMPSEY					
CAMDEN	*	*	*		*
YASMAR					
DUBBO		*	*	*	
TAREE	*	*	*		*
GRIFFITH				*	
WORIMI					
ALBURY				*	
COFFS HARBOUR	*	*		*	*
PORT KEMBLA	*	*		*	*
BOURKE					
COONAMBLE					
NOWRA					
WELLINGTON					
ORANGE			*		

Minda and Port Kembla's results are probably influenced by institutions in their areas

Summary

In Part Three of the paper we have attempted to provide a picture of the key decisions at the local level which together build the over-representation of Aboriginal offenders described in Parts One and Two. At the same time we have tried to develop some indicators which could be used to help effectively target strategies to reduce Aboriginal over-representation.

The picture which emerges could be summarised as follows.

The very high Aboriginal intervention rates - on average nine times higher than those for non-Aborigines - are the major determinant of Aboriginal over-representation. When combined with the doubling of over-representation that occurs after intervention, which is described in Part Two, we end up with the nineteen times over-representation in control orders described in Part One.

These very high rates of Aboriginal intervention compared with those of non-Aborigines are not simply explained by high proportions of less serious or good order offences, by multiple apprehensions of a small number of individuals nor by apprehensions of groups of Aboriginal youth for single incidents. These all appear to be about the same for both groups. Nontheless

when comparing within the Aboriginal population alone, those areas with the highest apprehension rates do appear to be apprehending younger children and those on less serious offences.

These high rates of Aboriginal intervention can be found across the state with the result that, with a few notable exceptions, areas of large Aboriginal population have high levels of Aboriginal interventions. The concentration of Aboriginal population in a number of key centres means that a relatively small number of areas account for most of the interventions.

Despite this general consistency, a number of areas with significant Aboriginal populations have much lower rates of intervention and could provide important lessons for reducing the involvement of Aboriginal youth in the criminal justice system. *These areas while having similar offence patterns to those areas with high intervention rates do appear to have an older age profile of offenders.*

The review of police and court decisions which follow intervention provides a graphic verification of the general findings in Part Two - that Aboriginal children have a lower chance of receiving a police caution, are probably more likely to be arrested and have about the same chance of being bail refused or given a detention order. The analysis also showed the degree of variation in these outcomes across the state and helped to highlight those areas which seemed to have particular problems and successes. It is clear from the results, and to be expected, that there are few simple patterns. For example , one area may have a particularly high level of arrests but a low level of bail refusal and detention orders.

This data is neither conclusive proof of problems in a particular area nor is it likely to be unchanged over time. It does however give a picture of local decisions across the state in that period and provides a model to allow monitoring of juvenile justice processes and more effective, targeted responses to problems.

Without such monitoring information at the level of policy implementation - the police district and the court - we cannot effectively target programs, learn from successful and unsuccesful areas or provide specific training where it is needed. In short we are unlikely to be able to ensure that policies designed to ensure equity and diversion from custody are achieved.

PART FOUR A COMPARISON OF THE TREATMENT OF ABORIGINAL AND NON-ABORIGINAL GIRLS

Introduction

Girls and young women are recognised as a special needs group within juvenile justice (see Juvenile Justice Advisory Council of NSW, 1993; NSW Legislative Council Standing Committee on Social Issues, 1992). In the past there has been little research attention paid to the specific position of Aboriginal girls within the context of gender, although their over-representation has been noted (eg Women's Co-ordination Unit, 1986). In this part our primary focus is a comparison between Aboriginal and non-Aboriginal girls who come into the system. In policy terms our major concern is not so much the difference between the sexes, but rather the implications of any differences between indigenous and non-indigenous young women.

In the introduction to Part One of this report we drew attention to the proportion of Aboriginal participation in the key discretionary stages of the justice system (see Table 1.1). While there were similarities between indigenous boys and girls in terms of the proportion of the total at various stages, there were also some differences. Aboriginal girls and boys comprised a similar or the same proportion of police cautions (7.1%), of police and court bail refusals (around 21%) and detention orders (around 25%). However Aboriginal girls made up a greater proportion of total interventions (18.3% compared to 13.9%), prosecutions by way of arrest (21.7% compared to 15.9%) and court appearances (20.9% compared to 14.7%) than did Aboriginal boys. Given that they are both about 1.9% of their respective populations, it can be said that **there is a greater proportional over-representation of Aboriginal girls among the female 'offender' population than there is of Aboriginal boys among the male 'offender' population at these specific points of intervention.**

Two policy implications of the above are as follows. First, specific measures designed for Aboriginal young people in general need to consider the impact on Aboriginal girls which, although numerically smaller than Aboriginal boys are a greater proportion of the total female population. Secondly policy measures specifically aimed at girls must take cognisance of the fact that one in five girls who appear in court are Aboriginal and one in four girls in detention are Aboriginal.

A Comparison between Aboriginal and Non-Aboriginal Girls in the System

There were 2927 formal interventions against girls during 1990. Of these, 535 interventions related to Aboriginal girls and 2392 related to non- Aboriginal girls. The 2927 interventions were made up of 552 police cautions and 2375 finalised court appearances.

Table 4.1 below shows the age of girls at the time of intervention in 1990.

Table 4.1
Age at Intervention
By Indigenous Status
Girls Only
1990

Age at Intervention	non-Aboriginal %	Aboriginal %
10 years	.21	.56
11	.50	1.68
12	2.26	2.24
13	5.77	5.79
14	13.46	16.07
15	18.64	16.64
16	24.91	23.18
17	26.54	26.17
18 years or more	7.73	7.66
	100.0	100.0
	n= 2393	n= 535

($\chi^2 = 14.1, p > 0.05$)

Some 26% of Aboriginal girls and 22% of non-Aboriginal girls were 14 years or younger at the time of intervention in 1990. Although the Aboriginal group were slightly younger the difference was not statistically significant.

Table 4.2 shows the age of girls who were formally dealt with by the juvenile justice system *for the first time* in 1990.

Table 4.2
Age at First Formal Intervention
By Indigenous Status
Girls Only
1990

Age of First Intervention	non-Aboriginal %	Aboriginal %
10 years	0.3	1.5
11	0.8	3.9
12	3.1	3.4
13	6.9	9.7
14	15.6	19.8
15	18.4	17.4
16	25.3	17.9
17	23.6	22.7
18 years or more	6.1	3.9
	100.0	100.0

($\chi^2 = 30.7, p < 0.05$)

There is a statistically significant relationship between age at first intervention and Aboriginality. Aboriginal girls had their first formal intervention at a younger age than non-Aboriginal young people. Some 38% of Aboriginal girls were 14 years or younger at the time of their first intervention compared to 27% of the non-Aboriginal group. One implication of these findings is that specific policy measures aimed at girls must recognise that Aboriginal girls are first entering the system at a younger age.

Offending patterns

There is considerable discussion in the literature concerning differences in offending patterns between boys and girls (see for example Cunneen and White, 1995). However there has been no real consideration of different offending patterns between Aboriginal and non-Aboriginal girls. Table 4.3 below shows the offences for which formal interventions occurred in 1990.

Table 4.3
Offences By Indigenous Status
Girls Only
1990

Offences	non-Aboriginal			Aboriginal		
	N	Rate	%	N	Rate	%
Homicide/Manslaughter	2	0.01	0.08	1	0.16	0.19
Armed Robbery	4	0.01	0.17	1	0.16	0.19
Sexual Assault	1	0.00	0.04	0	0	0
Drug Trafficking	7	0.02	0.29	0	0	0
Unarmed Robbery	5	0.01	0.21	2	0.32	0.37
Grievous Assault/Malicious Wound	143	0.43	5.98	52	8.39	9.72
Other Assault	201	0.60	8.40	76	12.26	14.21
Break & Enter	140	0.42	5.85	55	8.87	10.28
Steal M V/Carried in Convey	166	0.50	6.94	33	5.32	6.17
Shoplifting	379	1.13	15.84	33	5.32	6.17
Other Theft	801	2.39	33.47	137	22.10	25.61
Justice Offences	46	0.14	1.92	16	2.58	2.99
Good Order	342	1.02	14.29	115	18.55	21.50
Rail Offences	8	0.02	0.33	0	0	0
Other Drug Offences	72	0.21	3.01	3	0.48	0.56
Traffic Offences	41	0.12	1.71	6	0.97	1.12
Other Offences	35	0.10	1.46	5	0.81	0.93
Total	2393	7.14	100	535	86.29	100

Rate is calculated per 1,000 relevant youth population.

There is a statistically significant relationship between the proportion of offences and Aboriginality ($\chi^2 = 109.1$, $p<0.05$).

The major proportion of offences are property offences including break and enter, stealing motor vehicles, shoplifting and other forms of theft (48% of offences by Aboriginal girls and 62% of offences by non-Aboriginal girls). However it is noteworthy that property offences are a significantly greater proportion of the offences of the non-Aboriginal girls.

There are significant differences between the two groups of young women in terms of the nature of the property offences. Shoplifting and 'other theft' are proportionally lower and break and enter is much higher among Aboriginal girls than non-Aboriginal girls. The types of environmental factors which might influence these findings have been discussed in Part One of the report.

Aboriginal girls have a greater proportion of offences relating to assaults and to good order offences.

If we consider the rate of offences shown in Table 4.3 it is clear that Aboriginal girls have higher rates in all offence categories except sexual assault, drug trafficking and rail offences. The three offences with the highest rates for Aboriginal girls are other theft, good order and assault offences.

Appearances and Prior Involvement

We were also concerned to note any differences in the levels of prior involvement by Aboriginal and non-Aboriginal girls in the juvenile justice system. Table 4.4 below shows the percentage of girls sho had received one or more police cautions prior to any intevention in 1990.

Table 4.4
Number of Previous Cautions
By Indigenous Status
Girls Only
1990

Number of Previous Cautions	non-Aboriginal %	Aboriginal %
0 previous cautions	88.9	79.8
1	9.7	17.8
2	1.2	2.4
3-5	0.2	
6 or more		
	100.0	100.0
	n= 2393	n= 535

($\chi^2 = 34.6, p < 0.05$)

The results are similar to the general figures shown in the earlier part of the report (see Table 1.8). The proportion with no previous caution is higher for girls generally which probably reflects shorter prior records for girls overall.

We also analysed the number of previous court appearances for girls who came in contact with juvenile justice agencies during 1990. Table 4.5 shows the number of previous proven court appearances for girls by Aboriginality.

Table 4.5
Number of Previous Court Proven Appearances
By Indigenous Status
Girls Only
1990

Number of Previous Proven Court Appearances	non-Aboriginal %	Aboriginal %
0 previous	70.3	44.3
1	12.1	18.9
2	5.4	12.9
3-5	7.9	14.4
6 or more	4.3	9.5
	100.0	100.0
	n= 2393	n= 535

($\chi^2 = 140.4, p < 0.05$)

A significantly greater proportion of non-Aboriginal girls had no prior proven court appearance. Over two thirds (70.3%) of the non-Aboriginal girls had no prior record when they were apprehended in 1990. Aboriginal girls with no prior record were in the minority (44.3%). Conversely the majority (55.7%) of Aboriginal girls had at least one prior proven court appearance. Significantly 24% of Aboriginal girls before the courts had three or more prior proven appearances.

Table 4.6 below combines the data in Tables 4.4 and 4.5 to provide information on the number of previous interventions, that is both previous cautions and previous proven court appearances.

Table 4.6
Number of Previous Formal Interventions
By Indigenous Status
Girls Only
1990

Number of Previous Formal Interventions	non-Aboriginal %	Aboriginal %
0 previous	66.0	38.7
1	14.3	21.3
2	5.9	12.7
3-5	9.1	16.5
6 or more	4.7	10.8
	100.0	100.0
	n= 2393	n= 535

($\chi^2 = 147.1, p < 0.05$)

The proportion of previous formal interventions for Aboriginal and non-Aboriginal girls are roughly inverted. Two thirds (66%) of non-Aboriginal girls had neither a previous caution nor a previous proven court appearance. Slightly less than two thirds (61.3%) of Aboriginal girls had either been cautioned or had a prior record.

Table 4.7 shows the proportion of girls who came into formal contact during 1990 who had been previously institutionalised.

Table 4.7
Proportion of Young People Previously Institutionalised
By Indigenous Status
Girls Only
1990

	non-Aboriginal %	Aboriginal %
Previously institutionalised	4.3	8.2
	n= 2393	n= 535

Of those girls who had formal contact with the system in 1990, twice the proportion of Aboriginal girls compared with non-Aboriginal girls had been previously institutionalised (8.2% compared to 4.3%). The level of previous institutionalisation was about half the male proportion for both Aborigines and non-Aborigines.

In summary the general characteristics of Aboriginal compared with non-Aboriginal offenders described in Part One of this report hold true for girls. Aboriginal girls were younger when they first entered the system, they had longer criminal histories and were more likely to have been previously institutionalised than non-Aboriginal girls.

Girls compared to boys, though, were proportionally less likely to have been previously institutionalised, were less likely to have been previously cautioned and were less likely to have a prior record.

Police Decisions

Table 4.8 shows the proportion of Aboriginal and non-Aboriginal girls who are proceeded against by way of various discretionary decisions.

Table 4.8
Proportion of Girls Proceeded Against
By Method and Indigenous Status
1990

	non-Aboriginal %	Aboriginal %
Cautioned by police	21.4	7.3
Prosecuted by police	78.6	92.7
	100.0	100.0
	(n = 2392)	(n = 535)
Summonsed/court attendance notice	38.7	35.7
Prosecutions by way of charge and arrest	61.3	64.3
	100.0	100.0
	(n = 1876)	(n = 496)

Aboriginal girls have a substantially lower chance of receiving a formal caution than do non-Aboriginal girls (7.3% and 21.4% respectively). It should be noted that the difference between the two groups of girls is greater than the general figures which reflect primarily the difference between boys (see Table 2.1). In other words the general claim that girls are more likely to receive a police caution than boys does not hold true for the Aboriginal girls - Aboriginal girls and Aboriginal boys are both dealt with by way of prosecution in well over 90% of cases.

Once the decision has been made to proceed with a prosecution, roughly the same proportion of Aboriginal and non-Aboriginal girls are dealt with by way of arrest (61.3% and 64.3% respectively). For both Aboriginal and non-Aboriginal girls, only a little over a third of cases are dealt with by way of a summons or court attendance notice.

We also focussed on those girls who had no prior record, thus removing any influence that this might have in determining particular police decisions. The outcomes of police decisions for these first offenders are compared for Aboriginal and non-Aboriginal girls. Of the 2927 interventions for girls in 1990, female first offenders comprised 1786 interventions.

Table 4.9 below shows the percentage of first offenders cautioned and the method of prosecution by police.

Table 4.9
First Offenders Only
Proportion of Girls Proceeded Against
By Method and Indigenous Status
1990

	non-Aboriginal %	Aboriginal %
Cautioned by police	29.9	14.0
Prosecuted by police	70.1	86.0
	100.0	100.0
	(n = 1579)	(n = 207)
Summonsed/court attendance notice	53.2	56.7
Prosecutions by way of charge and arrest	46.8	43.3
	100.0	100.0
	(n = 1106)	(n = 178)

The data on female first offenders shows that the Aboriginal girls coming into the system for the first time in 1990 were less than half as likely as non-Aboriginal girls to receive a police caution (14% compared with 29.9%). This difference is statistically significant ($\chi^2 = 23.0$, $p < 0.05$) Once the decision had been made to proceed with a prosecution there was little difference n the use of summons and arrest between the two groups.

We also analysed first offenders in the two specific offence categories for which Aboriginal girls were shown to have the highest rates of intervention (other theft and public order offences). In 1990 there were 626 interventions involving female first offenders for 'other theft' offences. A statistically significant difference was found for the two groups on 'other theft' matters. Some 15.5% of Aboriginal girls were dealt with by way of caution compared to36.8% of non-Aboriginal girls ($\chi^2 = 10.5$, $p < 0.05$) In the same year there were 304 interventions involving first offenders for good order offences. Some 6.5% of Aboriginal girls were dealt with by way of caution compared to 10.1% of non-Aboriginal girls - the difference in this case is not statistically significant. Thus even where the offences are the same and the girls have no prior record, Aboriginal girls appear to be less likely to be cautioned and more likely to be prosecuted. What is also significant is that both the 'other theft' category and offences against 'good order' are minor offences where presumably there is greater reason to offer the diversionary benefits of a police caution. We also know that Aboriginal girls are generally younger at the time of first intervention. One would have thought that this would have increased the likelihood of caution rather than diminishing it.

Court Decisions

Table 4.10 shows court outcomes for Aboriginal and non-Aboriginal girls.

Table 4.10
Proportion of Court Outcomes
Girls Only
By Indigenous Status
1990

Court Outcome	non-Aboriginal %	Aboriginal %
Control order	3.0	3.8
CSO	1.7	2.6
Supervision Order	13.1	14.7
Recog w/o supervision	26.4	22.2
Fine/Compensation	13.4	17.5
Nominal Penalty	32.3	28.2
Other Orders	2.5	3.6
Failed to Appear	4.2	3.0
Not Proven	3.4	4.4
	100.0	100.0
	n= 1880	n= 496

($\chi^2 = 37.5$, $p<0.05$).

The differences in the proportion of court outcomes are statistically significant. Aboriginal girls have greater proportions of more punitive interventions (control orders, CSOs, supervised orders, fines) and smaller proportions of less intrusive orders (recognisance without supervision, nominal penalty). There is also a smaller proportion among Aboriginal girls of 'fail to appear' and greater proportion of outcome which were not proven.

There are also some important differences between the general figures on court outcomes shown previously in Table 2.6 and the outcomes for girls shown in Table 4.10. The differences in court outcomes between Aboriginal girls and non-Aboriginal girls is much less pronounced than the general figures which reflect most strongly the outcomes for boys. In particular the difference between the proportion of Aboriginal and non-Aboriginal girls given control orders is relatively slight (3.8% compared to 3.0%) when compared to the proportion of control orders shown in Table 2.6 (10.4% compared to 5.3%).

When the number of previous proven court appearances was analysed for those girls who were given control orders by the courts in 1990 there was no statistically significant difference between Aboriginal and non-Aboriginal girls. The figures are shown in Table 4.11

Table 4.11
Those Given control Orders
Number of Previous Court Proven Appearances
By Indigenous Status
Girls Only
1990

Number of Previous Proven Court Appearances	non-Aboriginal %	Aboriginal %
0 previous	10.3	0
1	10.3	5.3
2	3.5	5.3
3-5	29.3	36.8
6 or more	46.6	52.6
	100.0	100.0
	n = 58	n = 19

($\chi^2 = 2.9$, $p > 0.05$)

Although care needs to be exercised in interpreting Table 4.11 because of the small numbers involved, nearly 90% of Aboriginal girls and 76% of non-Aboriginal girls had three or more previous proven court appearances prior to the control order given in 1990.

Similar results were also found for the use of CSOs prior to the use of control orders. There was no statistically significant difference between Aboriginal and non-Aboriginal girls in their likelihood of having received a community service order prior to the use of a control order by the court in 1990. What was important from our perspective was that the vast majority of girls (84.2% Aboriginal and 74.1% non- Aboriginal) did not receive the benefit of a community service order prior to the court using a control order.

Conclusion

In summary the difference between Aboriginal and non-Aboriginal girls generally fit the same pattern as for boys. Specifically:

- Aboriginal girls are significantly younger than non-Aboriginal girls when they are first dealt with formally by the juvenile justice system;
- Aboriginal girls have longer criminal histories than non-Aboriginal girls and are more likely to have been institutionalised previously;
- Aboriginal girls have a lower chance of being cautioned than non-Aboriginal girls, even when prior record and offence is controlled for;
- Any differences in the proprtion of court appearances resulting in control orders are accounted for by differences in the longer average prior records of Aborignal girls.

A significant point of difference is that Aboriginal girls comprise a greater proportion of female interventions, prosecutions by way of arrest and court appearances than do Aboriginal boys of male interventions.

CONCLUSION AND RECOMMENDATIONS

There appear to be three main reasons for the very high levels of Aboriginal over-representation in the NSW juvenile justice system:

* extremely high apprehension rates;
* a relatively small but compounding bias against Aboriginal children in key police decisions;
* a court sentencing structure which, while apparently equitable, reinforces and magnifies previous systemic effects.

The result is a system which produces very high levels of Aboriginal incarceration.

The apprehension rate is around 215 per thousand. This is about nine times higher than for non-Aboriginal young people and is the chief determinant of Aboriginal over-representation in NSW. The causes of these high levels of apprehension are outside the focus of this report and have been discussed as length by the Royal Commission into Aboriginal Deaths in Custody (Johnston 1991). The Royal Commission argued that it was important to determine the extent to which racial discrimination was operating and the extent to which offending levels were the result of legal and socio-economic factors. However 'what is apparent is that the reasons for Aboriginal youth offending... are not explained by a single cause and more often are explained by a complex interrelationship of factors' (Johnston 1991:275). According to the Royal Commission those factors include the criminal justice system itself and the way it defines criminality, socio-economic disadvantage, the experience of racism, the role of family and home life, cultural factors and range of other associated factors.

However the current study has been able to test some of the suggested causes of high participation rates - particularly in relation to the way the system itself operationalises the discretions available when dealing with young people.

This study has also identified a number of Aboriginal population centres with relatively low rates of apprehension - it is likely that important lessons can be learned from these areas.

This study has found that once apprehended Aboriginal children are more likely to be prosecuted rather than cautioned. There is also some evidence to suggest that they are also disadvantaged at the arrest/summons stage and police bail stages. The greater likelihood of prosecution is about 12%. The compounding effect each time an Aboriginal young person is apprehended can make a significant difference to subsequent police and court decisions.

This suggests that there should be a strong focus on improving equity at the police level. There appear to be two main ways of achieving this. The first is to reduce the discretion of police by establishing clear legislative rules for the use of cautions and court attendance notices and to ensure that these rules are enforced. The second is to more closely monitor police actions and to feed this information back to managers so that they can better implement non-discriminatory policies.

As well as inequality in police practice this study also highlights the relatively low levels of cautioning and court attendance notice use for both Aboriginal and non-Aboriginal young people. The introduction of legislation which requires, rather than simply suggests, diversionary measures for young and minor offenders appears to be necessary for young offenders regardless of their Aboriginality.

In addition to these legislative and management changes which attempt to direct police behaviour, the provision of appropriate diversionary and support services can help to allay police concerns and provide them with less punitive options when dealing with Aboriginal offenders. As the Royal Commission into Aboriginal Deaths in Custody has recognised these services are most likely to be effective if they are designed and run by local Aboriginal communities. It should be recognised that the major recommendation by the Royal Commission regarding juveniles (recommendation 62) stated that there was an urgent need to negotiate between governments and Aboriginal organisations for the development of strategies to reduce the involvement of Aboriginal young people in the juvenile justice system.

The development of diversionary services are particularly important given the early age of first intervention for many Aboriginal children. These children need to be diverted from the justice system to both allow for community control and to circumvent the acquisition of a criminal record. A small number of local areas are the source of the majority of Aboriginal interventions. This factor would allow for a few targeted services to have a significant state-wide impact.

At the court level action is also required. While it seems that the Courts generally treat both Aborigines and non-Aborigines equally on the basis of their criminal characteristics this approach is not necessarily fair if Aboriginal children are more likely to have a criminal record generated by Police discrimination. The differences in police response are not great but their effect is magnified each time the Aboriginal child is dealt with by police. Again as the Royal Commission has noted that

> [T]he decision to charge can have dire long term consequences... The complaint has frequently been made that young Aboriginals are unnecessarily or deliberately made the subject of trivial charges or multiple charges, with the result that the appearance of a serious criminal record is built up at an early age. This follows them through life, is a handicap against defending themselves or seeking mitigation if charged again, and also handicaps them in relation to employment and in other ways (Johnston 1991:275-276).

Our research shows that Aboriginal first offenders have about a 12% greater chance of going to court than do non-Aboriginal first offenders detected by the police. If we assume that approximately the same order of difference applies at the detection level (ie. in identifying an offender in the first place) then the compounding effect of this difference in likelihood could explain a large proportion of the significantly longer Aboriginal criminal records found amongst NSW Aboriginal offenders. In such circumstances perhaps the definition of gaol as a last resort should place more emphasis on the seriousness of offence and less on the prior record of young offenders, especially considering the relatively young age many Aboriginal youth are first sentenced to detention.

A greater use of CSOs for both Aboriginal and non-Aboriginal offenders would also help to reduce Aboriginal custody levels. Considering the very high recidivism rates for many Aboriginal children who have been sentenced to detention, and the high monetary costs of such detention, there is a strong argument for a range of more appropriate detention options to be investigated.

With 1.4% of all Aboriginal children sentenced to custody each year one must question the appropriateness of detention orders even if there appears to be equity in treatment based on prior record. The Royal Commission noted that, although a central premise of the criminal justice system is that prison will act as a deterrent, 'incarceration... has been shown to be an ineffective means of dealing with the issue of Aboriginal juvenile offending' (Johnston 1991:282). The development of alternatives must occur with the support and involvement of Aboriginal communities and organisations (see recommendations 104-114).

In closing a final word needs to be said about monitoring and evaluation of any strategies developed. The problem of over-representation of Aboriginal people is one of the greatest issues facing the justice system. At this stage it is not possible to comprehensively monitor the effects on Aboriginal people as Aboriginality is not regularly recorded on NSW criminal justice data systems. The difficulty in linking police and court information implies that the point of collection is most suitably at the time of court proceedings and should involve the person's assessment of their own cultural, ethnic or racial identification. Until this information is available we will be seriously restricting our ability to create a fairer system.

Bibliography

Broadhurst, R., Ferrante, A. and N. Susilo (1991) ***Crime and Justice Statistics for Western Australia: 1990***, Crime Research Centre, University of Western Australia, Nedlands.

Cain, M. (1994) ***Juveniles in Detention: Special Needs Groups***, Information and Evaluation Series, Report 3, Research and Evaluation Unit, Department of Juvenile Justice, Sydney.

Chisholm, R. (1984) 'Aborigines and the Juvenile Justice System', (unpublished paper), Law School, University of New South Wales.

Cunneen, C., Robb, T. (1987) ***Criminal Justice in North West NSW***, NSW Bureau of Crime Statistics and Research, Sydney

Cunneen, C. (1988) 'An evaluation of the Juvenile Cautioning System in NSW', in Proceedings of the institute of Criminology, ***Changes in the Direction of Juvenile Justice***, No 75, Sydney University Law School.

Cunneen, C. (1990) ***A Study of Aboriginal Juveniles and Police Violence***, Report Commissioned by the National Inquiry into Racist Violence, Human Rights and Equal Opportunity Commission, Sydney.

Cunneen, C. (1992) 'Policing and Aboriginal Communities: Is the concept of over-policing useful?' in Cunneen, C.(ed) ***Aboriginal Perspectives on Criminal Justice***, Sydney University Institute of Criminology, Monograph Series No 1, Sydney

Cunneen, C. and White, R. (1995) ***An Australian Perspective on Juvenile Justice***, Oxford University Press, Melbourne.

Farrell, R.A. and Swigert, V.L. 'Prior Offense Record as Self-Fulfilling Prophecy', ***Law and Society***, Spring 1978, 437-453.

Findlay, M., Odgers, S. and Yeo, S. (1994) ***Australian Criminal Justice***, Oxford University Press, Melbourne.

Gale, F., Bailey-Harris, R. and Wundersitz, J. (1990) ***Aboriginal Youth and the Criminal Justice System***, Cambridge University Press, Melbourne.

HREOC (1994) ***Juvenile Justice and Young People of Non-English Speaking Background***, Discussion Paper, Federal Race Discrimination Commissioner, Human Rights and Equal Opportunity Commission, Sydney.

International Commission of Jurists (1990) ***Report of the Aboriginals and the Law Mission***, Australian Section, Sydney.

Johnston, E. (1991) ***National Report, Vol 2,*** Royal Commission into Aboriginal Deaths in Custody, AGPS, Canberra.

Juvenile Justice Advisory Council of NSW (1993) ***Future Directions for Juvenile Justice in NSW Green Paper,*** Juvenile Justice Advisory Council, Sydney.

Luke, G. (1988a) *Aboriginal Young People in the NSW Criminal Justice System*, Juvenile Justice Unit, Department of Family and Community Services, Parramatta.

Luke, G. (1988b) 'Gaol as a Last Resort: The Situation for Juveniles' in Findlay, M. and Hogg, R. (eds) *Understanding Crime and Criminal Justice*, Law Book Company, North Ryde.

Luke, G. (1989) 'Aboriginal Young People' Paper presented to the *Aboriginal Youth and the Justice System Conference*, 4 September 1989, Dubbo.

Mukherjee, S.K. (1985) 'Juvenile Delinquency: Dimensions of the Problem', in Borowski, A. and Murray, J. (eds) *Juvenile Delinquency in Australia*, Methuen, North Ryde.

Naffine, N., Wundersitz, J. and Gale, F. (1990) 'Back to Justice for Juveniles: The Rhetoric or Reality of Law Reform', *Australian and New Zealand Journal of Criminology*, Vol 23, no 3, pp192-205.

NSW Legislative Council Standing Committee on Social Issues (1992) *Juvenile Justice in NSW*, Report No 4, Sydney.

Walker, J. (1987) 'Prison cells with revolving doors: a judicial or societal problem' in Hazelhurst, K. (ed) *Ivory Scales*, UNSW Press, Kensington.

Women's Co-ordination Unit (1986) *Girls at Risk*, Women's Co-ordination Unit, Sydney

Wootten, H. (1989) *Report of the Inquiry into the Death of Malcolm Smith*, Royal Commission into Aboriginal Deaths in Custody, AGPS, Sydney.

Wootten, H. (1991) *Regional Report of Inquiry in New South Wales, Victoria and Tasmania*, Royal Commission into Aboriginal Deaths in Custody, AGPS, Canberra.

Youth Justice Coalition (1990) *Kids in Justice*, NSW Law Foundation, Sydney.

Youth Justice Coalition (1994) *Nobody Listens. The Experience of Contact Between Young People and Police*, Youth Justice Coalition, Sydney.