



EVALUATING THE DIVERSIONARY IMPACT OF
COMMUNITY BASED CORRECTIONS
(SUMMARY REPORT)

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SUMMARY OF REPORT

1. INTRODUCTION: COMMUNITY BASED SENTENCES IN VICTORIA.

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

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

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

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

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

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

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

2. STUDY DESIGN

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

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

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

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

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

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

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

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

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

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

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

Phase 1 : July - December 1984

Phase 2 : July - December 1985

Phase 3 : June 1986

Phase 4 : July - December 1986

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

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

3. DATA COLLECTION PROCEDURES.

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

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

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

The data items collected for each case were:

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

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

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

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

4.1 Offence Trends (See Table 1)¹

- * The total number of offences proven before Magistrates' Courts increased fairly steadily over the five year period, from about 63,000 to about 71,000. This is equivalent to an annual rate of increase of 2.5%.

¹ Table numbers referred to in this summary are as they appear in the full report. Some tables have been omitted, and hence the table numbers are not consecutive.

- * Offences Against the Person declined sharply over the five years, from 9.5% of all offences proven down to 6.1%, an overall drop of one-third.
- * Property Damage and Good Order Offences also declined significantly, by about one-third and one-sixth respectively.
- * The number of Burglary and Theft offences increased from 53% to 60% of all offences over the five years, and the number of Drug Offences increased even more rapidly, particularly between 1984 and 1985.

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

4.2 Sentencing Trends. (See Table 2)

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

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

4.3 Offender trends. (See Table 3)

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

5. OFFENCE TRENDS AT SELECTED MAGISTRATES' COURTS.

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

5.1 General description of the data base.

- * Approximately 8500 cases involving about 6,000 offenders were collected in each of the three main Phases of the study (Phases 1, 2 & 4).
- * There were large differences between the number of cases collected in the five Regions.
 - Geelong Court (Barwon/Glenelg Region) and Oakleigh Court (Southern Region) had by far the largest flow of cases.
 - The small number of cases from Sunshine Court (Western Region) was principally due to the impact of the new court complex at Broadmeadows, which opened in 1985.
 - Due to time constraints, only cases deriving from an arrest were collected at Moe Court (Gippsland Region) and at Dandenong Court (Westernport Region) in Phase 4.
- * There was remarkable stability between Regions in the average number of cases per offender. The three metropolitan Regions (Western, Southern & Westernport) had averages of 1.41, 1.43 and 1.42 cases per offender respectively. Barwon/Glenelg Region had a slightly lower average of 1.34, while Gippsland Region had a much higher average of 1.78, resulting from the collection of arrest cases only in that Region.
- * In each Region except Gippsland, over 70% of all persons were convicted of only one type of offence (although there may have been several counts of that offence). In Gippsland Region this figure was 52%, and this is also attributable to the collection of arrest cases only.
- * There was a substantial increase in the proportion of cases initiated by arrest over the period of the study. In 1984 only about 40% of all cases were initiated by arrest, but by 1986 this had risen to over 50%. The proportion of persons brought before the courts as the result of an arrest increased from just over one-third in 1984 to just less than one-half in 1986. (See Tables 7A and 7B).

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

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

- * There was a decline in the total number of women appearing, from 785 in 1984 down to 676 in 1986. This is remarkable because most other indices have shown a steadily increasing involvement of women in the criminal justice system. (See Table 8).

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

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

5.2 Description of Offence Data.

- * Motor Car Offences accounted for about half of all offences over the course of the study, but declined from 54% of all offences in 1984 to 44% in 1986. This change was due to the increasing use of administrative mechanisms (including PERIN warrants) for dealing with minor motor-car and driving offences.
- * As motor car offences make up such a large proportion of all offences, the change in their relative frequency tended to obscure changes in other offence categories. Accordingly, the detailed analysis of offence data was of non-motor car offences only. (See Table 10B).
- * The next largest category of offences was that of Good Order Offences, followed by Burglary & Theft Offences.
- * Between 1984 and 1986 the proportion of drug offences more than doubled, from 8% of all non-motor car offences to 17%, and the number of drug offences nearly tripled.
- * There were significant differences in offence patterns between the five Regions.
- * The increase in the use of arrest may be attributed, in part at least, to the increase in the number of Drug Offences between 1984 and 1986.
- * For most offence categories, the average number of counts of each offence remained very stable over the period of the study. The most notable exceptions to this pattern were Offences Against the Person, where the number of counts increased from 1.37 per case in 1984 to 2.03 in 1986 (a 48% increase), and Burglary & Theft Offences, where the average number of counts increased from 1.94 in 1984 to 2.43 in 1986 (a 25% increase).

- * Although there are over 60 different offence codes in the DANCO system, more than three-quarters of all offences were accounted for by just 12 DANCO offence codes. The following changes in the distribution of the most common offence types were evident: (See Table 13).

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

- * In the general category of Property Offences the frequency of Burglary offences increased, from 99 cases (2.8%) to 178 cases (3.7%), however Deception and Motor Car Theft showed no change. Other Theft offences declined slightly, from 18.4% to 15% of cases. These trends could be interpreted as indicating an increase in the average seriousness of Property Offences. Again, there was also an increase in the average number of counts in Property Offences.
- * Of the Good Order offences, Resist Police, Drunkenness Offences, and Possession of Firearms or Offensive Weapons showed no systematic change. The proportion of Breach Bail offences increased from 41 cases (1.1%) to 91 cases (1.9%), while the frequency of Other Offensive Behavior offences decreased from 4.8% to 3.4%.
- * Offences of Possession of Narcotics and Possession of Cannabis showed a substantial increase, from 148 cases (4.1%) in Phase 1 to 371 cases (7.6%) in Phase 2. The more serious drug offences, such as trafficking, manufacture or importing increased at an even greater rate, from 31 cases in Phase 1 (0.9%), to 140 cases in Phase 4 (2.9%).
- * A key issue in assessing changes in sentencing patterns is whether there has been a change in the seriousness of offences that could account for any apparent sentencing trends. The changes described above show apparent increases in the general seriousness of Property and Drug offences, specifically Burglary and the more serious Drug offences. Therefore, any analysis of sentencing trends needs to take these changes into account.

6. RESULTS: COURT SENTENCING PATTERNS.

The primary hypothesis of this study was that the introduction of community-based corrections sentences would result in the diversion of offenders from imprisonment to community-based programs. Diversion from imprisonment might take the form of a reduction in the proportion of sentences of imprisonment handed down by a court, or a systematic shortening of the periods of imprisonment. In either

case, a reduction in the daily average number of persons in prison will result. Similarly, netwidening might be indicated by an increase in the proportion of CBC sentences relative to all other non-imprisonment sentences, or by an increase in the average length of CBC sentences.

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

When analysing trends in either the type or amount of sentences, one needs to take into account the variables of Region, offence type and summons/arrest. (See Tables 15 & 16).

6.1 Aggregate Sentence Type Trends

- * On average, there were 1.3 sentences handed down for each summons case, and 1.2 sentences for each arrest case. This ratio remained quite stable across all Phases of the study.
- * More serious sentences tended to be used more frequently in Arrest cases than in Summons cases - in particular, sentences of imprisonment and community based sentences were used much more frequently in arrest cases, while fines and licence penalties were used more frequently in summons cases.
- * The most frequently applied sentences were fines, followed by licence penalties, bonds and conviction and discharge.
- * There was an overall increase in the use of imprisonment in summons cases between Phases 1 and 4, but there was no change in its use in arrest cases;
- * There was a large increase in the use of suspended sentences of imprisonment, especially in arrest cases.
- * There was an increased use of all types of community based sentences across the study.

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

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

6.2 Regional Sentence Type Trends

Westernport Region.

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

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

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

Gippsland Region.

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

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

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

Western Region.

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

Phase 1 vs Phase 2: The proportion of sentences of imprisonment decreased, as did licence penalties, while bonds, fines and poor box penalties all increased. The use of community based penalties remained fairly steady; Probation Orders remained the most

commonly used community based sentence, and Community Service Orders were used quite sparingly in 1985.

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

Barwon Region

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

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

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

Southern Region.

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

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

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

6.3 Sentence Amount Trends.

Sentencing patterns can also change in terms of the amount or severity of particular types of sentences; the amount of a fine, or the length of a sentence of imprisonment. The index of change used

in the following analyses is the median category; that is, when all cases are placed in ascending order, the category which contains the value which subdivides the highest 50% of cases from the lowest 50%. The median is preferred over the average for this analysis as it is less affected by extreme values.

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

- * The median period of sentences of imprisonment remained in the category of 1 to 3 months across all four study phases in all Regions, although in some Regions there was a steady increase in the relative frequency of the longest sentences of imprisonment passed (ie. greater than 12 months).
- * Attendance Centre Orders typically had a median length of 1 to 3 months and Probation Orders had a median of 1 to 2 years. The Community Service Orders given during Phase 2 had a median length of 101-150 hours, and would have taken approximately 2 to 3 months to serve. The Community Based Orders applied during Phase 4 were typically in the range 101-150 hours, and would also have taken 2 to 3 months to serve.
- * The value of fines remained very steady, with a median value of \$101-\$200. The median value of bonds increased from \$51-\$100 in Phases 1 and 2, to \$101-\$200 in Phase 3, and then to \$201-\$300 in Phase 4.

6.4 Sentences for Drug Offences.

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

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

The most significant changes in sentencing or drug offences were the increase in the use of community based penalties after 1985, and the decline in the use of fines over the same period (See Tables 23&24). There was some Regional variation from this pattern; most notably in Barwon Region, where only 6 community based sentences were given for drug offences in 1985, and none in any other year.

7. DISCUSSION OF RESULTS & CONCLUSIONS.

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

7.1 Regional Netwidening/Diversion Trends.

Westernport Region.

Phase 1 vs Phase 2: The increase in the use of CBC sentences in Westernport Region is hardly surprising, as only Probation Orders were available to Dandenong Court before 1985. Given the change in the offence profile, one would have expected to see some increase (albeit relatively small) in the average severity of sentences. In fact, the data shows a decrease in the use of imprisonment, implying that some degree of diversion took place. On the other hand, the fall in the use of fines was the most significant change in sentencing, and this would seem to imply a larger degree of netwidening.

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

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

Gippsland Region.

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

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

Western Region.

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

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

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

Barwon Region

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

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

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

Southern Region.

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

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

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

7.2 Methodological Conclusions.

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

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

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

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

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

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

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

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

Notes

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

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

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

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

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

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

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

TABLE 8
SEX OF OFFENDER BY STUDY PHASE

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

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

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

TABLE 13

SPECIFIC OFFENCE CODES BY STUDY PHASE.

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

TABLE 15
ALL COURT DISPOSITIONS
SUMMONS CASES ONLY

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

TABLE 16
ALL COURT DISPOSITIONS
ARREST CASES ONLY

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

TABLE 23
DRUG OFFENCES : PROPORTION OF ARREST CASES BY PHASE

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

TABLE 24
SENTENCES FOR DRUG OFFENCES

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



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