

Chapter 16 Engagement with the Criminal Justice System

16.1 Data Source

The data used in this section were obtained from the Bureau of Crime Statistics and Research (BCSR), the data collection and research arm of the NSW Attorney General’s Department. Two datasets were obtained:

- ❖ Police data relating to persons of interest (POI) proceeded against by the NSW Police Service for alcohol or other drug-related offences, by Indigenous status and age, for each of the local government areas approximating the NSWALC Northern Region, for the years 2006 to 2008; and
- ❖ Court data for the Higher Criminal Courts, the Local Courts and the Children’s Court, for trials of residents of each of the local government areas approximating the NSWALC Northern Region, by Indigenous status, age and sex, for the years 2006 to 2008.

The localities discussed below are the places of residence of the persons involved, not the places at which offences took place or the courthouses where the persons attended.

16.2 Drug and Alcohol-related Incidents

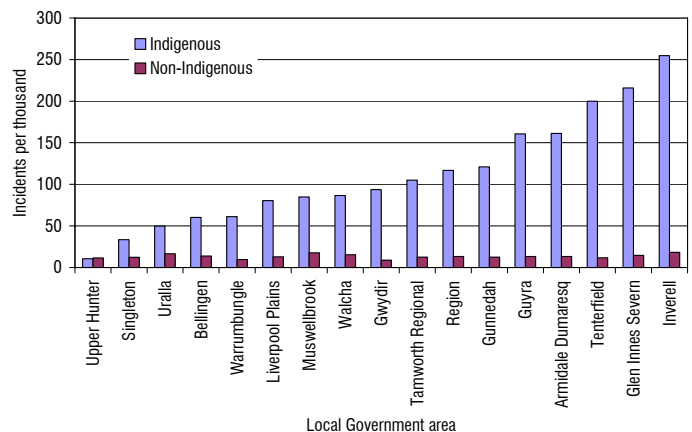
Table 16.1 shows the number of alcohol and other drug-related POI incidents in the region, obtained from Police data for the years 2006 to 2008.

Table 16.1
AoD-related POI incidents, Northern Region, BCSR

| Age cohort | Indigenous | | | Non-Indigenous | | |
|------------|------------|-------|-------|----------------|-------|-------|
| | 2006 | 2007 | 2008 | 2006 | 2007 | 2008 |
| 10 - 17 | 145 | 190 | 114 | 323 | 498 | 248 |
| 18 - 24 | 335 | 411 | 352 | 697 | 807 | 825 |
| 25 + | 581 | 695 | 678 | 1,242 | 1,422 | 1,522 |
| Not stated | 1 | 2 | 4 | 13 | 5 | 2 |
| Total | 1,062 | 1,298 | 1,148 | 2,275 | 2,732 | 2,597 |

The incidence of AoD-related POI incidents per thousand Aboriginal and/or Torres Strait Islander population was particularly high in the Inverell, Glen Innes Severn, Tenterfield, Armidale Dumaresq, Guyra and Gunnedah LGAs, as Figure 16.1 shows. The incidence of AoD-related incidents in the Aboriginal population was 8.8 times that for the non-Indigenous population for the region on average (range 0.9 times in Upper Hunter to 17.1 times in Tenterfield).

Figure 16.1
AoD-related POI incidents per 1000 population, 2006 – BCSR and ABS Census data



There is a moderate positive correlation ($R=0.62$) between the rate of AoD-related incidents and unemployment rate, and a moderate negative correlation ($R=-0.61$) between the rate of AoD-related incidents and the percentage of adults employed.

16.3 Court Data

Aboriginal and/or Torres Strait Islander people are 10.2 times more likely to have appeared in court charged with a criminal offence than non-Indigenous people (range 4.5 times in Upper Hunter LGA to 19.8 times in Gwydir, but note that absolute numbers in the smaller centres are small), on the basis of 2006 court and population data, and for juvenile persons aged 10 to 17 years, this figure



was 12.8 times (range 0 in Bellingen, Upper Hunter and Walcha LGAs to 39.6 times in Armidale Dumaresq and 69.4 times in Gwydir). Figure 16.2 shows the number of Indigenous people charged per 1000 population by age cohort, for each LGA and for the region. Corresponding data for the non-Indigenous population are shown in Figure 16.3.

Figure 16.2
Indigenous persons charged and appearing in court per 1000 population, 2006 – BCSR and ABS Census data

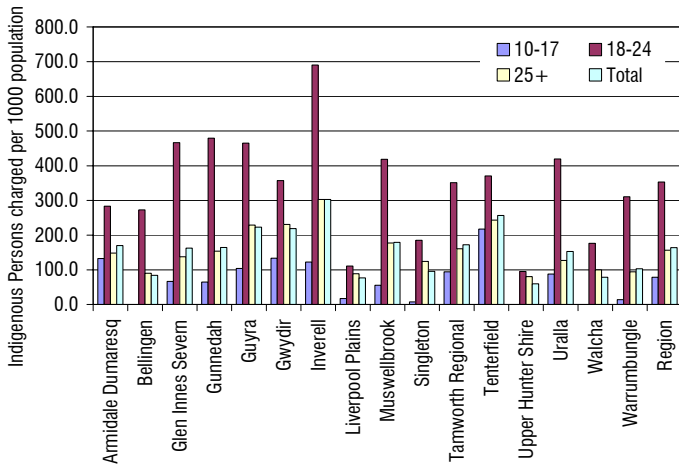
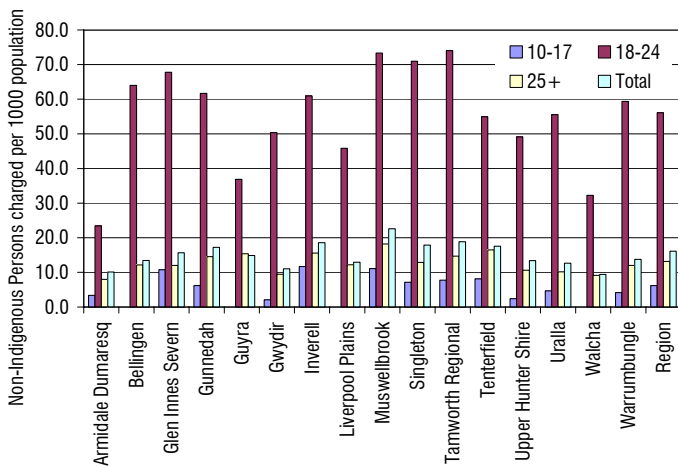


Figure 16.3
Non-Indigenous persons charged and appearing in court per 1000 population, 2006 – BCSR and ABS Census data



Points to note are:

- ❖ There is little variation in the number of Aboriginal and Torres Strait Islander persons charged and appearing in court across the three years for which data were obtained.

- ❖ The age structure of persons charged differs markedly between the Indigenous and non-Indigenous populations. Even though the highest incidence of persons charged is in the 18-25 year age cohort for both Indigenous and non-Indigenous people, Indigenous juveniles and persons aged 25 and over are strongly overrepresented compared to non-Indigenous people in those cohorts.

Numbers of people charged with a criminal offence but refused bail by the court are shown in Table 16.2.

Table 16.2
Number of people charged who were refused bail by the court, Northern Region, BCSR

| Age cohort | Indigenous | | | Non-Indigenous | | |
|--------------|------------|------------|------------|----------------|-----------|------------|
| | 2006 | 2007 | 2008 | 2006 | 2007 | 2008 |
| 10 - 17 | 19 | 24 | 25 | 3 | 7 | 14 |
| 18 - 24 | 60 | 36 | 30 | 24 | 17 | 22 |
| 25 + | 7 | 66 | 68 | 76 | 62 | 89 |
| Total | 156 | 126 | 123 | 103 | 86 | 125 |

Indigenous people facing court were less likely to be granted bail than non-Indigenous people, as Table 16.3 shows.

Table 16.3
Percentage of persons charged who were refused bail, Northern Region, BCSR

| Age cohort | Indigenous | | | Non-Indigenous | | |
|--------------|-------------|------------|------------|----------------|------------|------------|
| | 2006 | 2007 | 2008 | 2006 | 2007 | 2008 |
| 10 - 17 | 9.3 | 11.5 | 13.0 | 2.1 | 4.5 | 8.6 |
| 18 - 24 | 12.4 | 7.3 | 6.5 | 2.7 | 1.9 | 2.7 |
| 25 + | 9.6 | 8.2 | 8.8 | 4.4 | 3.5 | 4.8 |
| Total | 10.5 | 8.4 | 8.6 | 3.7 | 3.0 | 4.4 |

The median delay from first court appearance to outcome for all persons appearing in the Local Court for 2008 ranged from 68 days to 211 days, depending upon location. For the Children’s Court, the median delay from first court appearance to outcome in 2008 ranged from 60 days to 371 days, again depending upon location. The median delay from committal to outcome for cases heard in the higher courts ranged from 127 days to 1,100 days. Given the rate at which Indigenous persons charged are refused bail, delays such as these



have the potential to remove people from opportunities for economic participation for a considerable time. For people who are working when charged with a criminal offence, loss of employment is a likely outcome of refusal of bail, even before court action has resulted in conviction.

As with persons appearing in court charged with an offence, Aboriginal and/or Torres Strait Islander people on average across the region are 9.7 times more likely to have been found guilty of a criminal offence than non-Indigenous people (range 3.8 times in Upper Hunter LGA to 19.6 times in Gwydir), on the basis of 2006 court and population data, and for juvenile persons aged 10 to 17 years, this figure was 12.8 times (range 0 in Bellingen, Upper Hunter and Walcha LGAs to 46.8 times in Armidale Dumaresq, 56.7 times in Uralla, and 64.8 times in Gwydir). The ratio of persons found guilty to persons charged is 3 to 6 percentage points lower for Indigenous people than for non-Indigenous people. Table 16.4 shows the number of people resident in any of the Local Government Areas in the region who were found guilty of a criminal offence in a court from 2006 to 2008.

*Table 16.4
Number of people found guilty of a criminal offence,
Northern Region, BCSR*

| Age cohort | Indigenous | | | Non-Indigenous | | |
|------------|------------|-------|-------|----------------|-------|-------|
| | 2006 | 2007 | 2008 | 2006 | 2007 | 2008 |
| 10 - 17 | 172 | 177 | 142 | 121 | 135 | 131 |
| 18 - 24 | 410 | 412 | 372 | 802 | 814 | 719 |
| 25 + | 670 | 702 | 617 | 1,508 | 1,570 | 1,566 |
| Total | 1,252 | 1,291 | 1,131 | 2,431 | 2,519 | 2,416 |

Numbers of people convicted of a criminal offence and sentenced to a term of imprisonment or, in the case of juvenile offenders, to a Control Order (a custodial sentence served in a Juvenile Justice Centre) are shown in Table 16.5.

*Table 16.5
Number of people sentenced to a term of imprisonment,
Northern Region, BCSR*

| Age cohort | Indigenous | | | Non-Indigenous | | |
|------------|------------|------|------|----------------|------|------|
| | 2006 | 2007 | 2008 | 2006 | 2007 | 2008 |
| 10 - 17 | 15 | 18 | 19 | 1 | 2 | 3 |
| 18 - 24 | 48 | 32 | 37 | 22 | 20 | 21 |
| 25 + | 69 | 72 | 68 | 80 | 81 | 82 |
| Total | 132 | 122 | 124 | 103 | 103 | 106 |

The rate of imprisonment was far higher for Aboriginal and/or Torres Strait Islanders found guilty of a criminal offence than for non-Indigenous offenders, as Table 16.6 shows.

*Table 16.6
Percentage of persons found guilty who received a
custodial sentence, Northern Region, BCSR*

| Age cohort | Indigenous | | | Non-Indigenous | | |
|------------|------------|------|------|----------------|------|------|
| | 2006 | 2007 | 2008 | 2006 | 2007 | 2008 |
| 10 - 17 | 8.7 | 10.2 | 13.4 | 0.8 | 1.5 | 2.3 |
| 18 - 24 | 11.7 | 7.8 | 9.9 | 2.7 | 2.5 | 2.9 |
| 25 + | 10.3 | 10.3 | 11.0 | 5.3 | 5.2 | 5.2 |
| Total | 10.5 | 9.5 | 11.0 | 4.2 | 4.1 | 4.4 |

Overall, comparison of rates of persons imprisoned compared with the population, derived from 2006 BCSR data and 2006 ABS Census data, indicates that an Indigenous person living in the region was 24 times more likely than a non-Indigenous person to be imprisoned. For juveniles, aged 10 to 17 years, this ratio was 135 to 1.

Prison terms, of course, varied depending upon the offence committed. For Indigenous offenders convicted in the higher courts, the average minimum or fixed term of imprisonment imposed across the three year period for which data were obtained tended to range from several months to ten years. For Indigenous offenders convicted in the Local Court, the average minimum or fixed term of imprisonment imposed tended to range from one month to about 18 months. For Indigenous juvenile offenders sentenced in the Children's Court, the duration of a Control Order tended to be of the order of one to twelve months.



16.4 Strategic Decision-making Matrix

The fundamental themes drawn from §16 and informing strategic policy and decision-making are:

Structural

| Decision-making barriers/factors | Management solution or response |
|--|---|
| <p>The incidence of AoD-related incidents in the Aboriginal population was 8.8 times that for the non-Indigenous population for the region on average (range 0.9 times in Upper Hunter to 17.1 times in Tenterfield). The impact of substance misuse on the individual, the individual's family and the community is highly detrimental to social cohesion and economic participation and is a barrier to personal contribution</p> | <p>All Land Councils report substance misuse as a major concern in their communities. The relationship between substance misuse and wellbeing is well established but primary, secondary and tertiary interventions are either not meeting the need of Aboriginal people or do not exist. This situation indicates, as a priority, an investigation of service delivery at regional scale, determination of actual need and the development of infrastructure and suite of culturally suitable interventions</p> |
| <p>All indicators demonstrate that Aboriginal and/or Torres Strait Islander people are more likely to have appeared in court charged with a criminal offence, are less likely to be granted bail when charged with a criminal offence, are more likely to have been found guilty of a criminal offence and are more likely to be imprisoned after having been found guilty of a criminal offence than non-Aboriginal people. The effect of becoming entangled with the criminal justice system on the individual, the individual's family, victim(s) and the community is highly detrimental to social cohesion and economic participation and is a barrier to personal contribution</p> | <p>The magnitude of inequity experienced by Aboriginal people in NSWALC Northern Region enmeshed in the criminal justice system is a matter of grave concern to Land Council members and an overwhelming barrier to individual achievement and wellbeing. The situation demands, as a priority, a major investigation into the causes and characteristics of criminal behaviour and the functionality of the system as a prerequisite to development of infrastructure and suite of culturally suitable diversionary measures</p> |

