

## Offending over the life course: Contact with the NSW criminal justice system between age 10 and age 33

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**Aims:** To estimate the prevalence of contact with the NSW criminal justice system (CJS), the court system (after the first CJS contact) and the prison system amongst a cohort of people born in 1984 who are now 33 years of age.

**Method:** Prevalence estimates are obtained by counting the number of people at each age from 10 (the age of criminal responsibility) to age 33 making their first CJS contact (as defined above) and dividing each count by an estimate of the population in that year and for that year of age. We sum the estimates at each age to arrive at a figure for the cumulative proportion that have had some form of CJS contact. To estimate the prevalence of contact with the custodial system (juvenile or adult) we repeat this process for each person appearing in a NSW court (including the NSW Children's Court) who received a penalty of full-time custody.

**Results:** Nearly a third (32.4%) of those born in 1984 have, over the next 25 years, had some contact with the NSW criminal justice system (a police caution, a cannabis caution, a youth justice conference or an appearance in court). Just less than a quarter (24.4%) appeared in court. Nearly a half (48.4%) of all men, one in six women (15.8%) and more than a third (35.5%) of Aboriginal members of the cohort have had contact with the CJS. The percentages of males, females and Aboriginal Australians in the cohort who have received at least one custodial penalty are 4.2 per cent, 0.5 per cent and 13.2 per cent, respectively. The mean frequencies of contact with the court system (after the first CJS contact) are inversely related to age at first contact. Cohort members aged under 15 at their first CJS contact appeared in court after their first contact 7.5 times more often than those whose first contact with the CJS occurred when they were 25 years or older. On average those aged 10-14 at their first CJS contact received more than five custodial penalties over the next 25 years, compared with 1.2 for those whose first CJS contact occurred when they were 25 or older. The top 10 per cent of the cohort, in terms of court contacts and custodial penalties, accounted for 43 per cent of all court contacts and 39 per cent of all custodial penalties.

**Conclusion:** Efforts to reduce persistent contact with the criminal justice system and demand for criminal justice resources should focus on young people making their first contact with the criminal justice system before the age of 15.

**Keywords:** Longitudinal study, criminal justice system, court contact, custodial penalty, Indigenous, prevalence.

### Introduction

Most studies of contact with the criminal justice system (CJS) focus on the percentage of people appearing in court or placed in prison in a given year. This way of looking at things is helpful in gauging trends in rates of participation in crime or trends in rates of contact with the criminal justice system. The percentage of a defined population appearing in court or received into prison in any given year, however, reveals little about the cumulative reach of the CJS into the lives of individual citizens. We may say, for example, that the

Aboriginal imprisonment rate is 10 times higher than the non-Aboriginal imprisonment rate but this fact sheds no light on how Aboriginal and non-Aboriginal populations compare in terms of the proportion who at some stage in their lives come into contact with the criminal justice system in one way or another. Nor does it shed any light on the frequency of such contact.

A longitudinal study of contact with the criminal justice system is important for two other reasons as well. First, whatever beneficial effects conviction and imprisonment may

have in restraining further offending, both have deleterious effects on an individual's future employment and earnings prospects and (in the case of imprisonment) on the families of those who are convicted and imprisoned (Borland & Hunter 2000; Johnson 2009; Holzer 2009). It is prudent to take stock of the scale of these effects, particularly as they affect Aboriginal communities, which are well known to be over-represented in Australia's courts and prisons. Second, a longitudinal analysis of contact with the CJS can give us a better understanding of the drivers of demand for criminal justice resources. For example, it is generally agreed that most of the demand comes from a small cohort of offenders but, as yet, we have little understanding of the precise relationship between CJS contact frequency and CJS demand.

## Past research

Past research has revealed surprisingly high levels of contact with the criminal justice system. Wolfgang, Figlio and Sellin (1972) reported that 35 per cent of a sample of Philadelphian males born in 1945 had at least one recorded police contact for a non-traffic offence before the age of 18. Blumstein, Cohen, Roth and Visser (1986) cite several other similar studies from the United States showing that between 25 and 47 per cent of urban males have been arrested for a non-traffic offence by the age of 18. Estimates of participation in crime decrease when examining just those persons who come into contact with the criminal courts but still remain relatively high. United States research shows that between 26 and 28 per cent of males have been convicted of an offence in a juvenile court by age 18 (Blumstein et al. 1986) and research from the Home Office in the United Kingdom suggests that about 25 per cent of males born in 1963 have been convicted of an offence by age 21 (Tarling 1993).

To date, few cohort studies like those described above have been conducted in Australia. Morgan and Gardner (1992) found that 21 per cent of those born in 1972 (and 18 per cent of those born in 1962) had at least one contact with the juvenile justice system before the age of 18. A later study, which examined arrest rates for young people, found that 25 per cent of males and eight per cent of females born in 1984 had been apprehended by the South Australian police before the age of 18 (Skrzypiec & Wundersitz 2005). Hua, Baker and Poynton (2006), found that 9.9 per cent of a New South Wales (NSW) birth cohort born in 1984 (15.7% of males and 3.8% of females) had at least one court appearance before the age of 21. They also found that the nine per cent of those who appeared in court five times or more accounted for 36 per cent of the cohort's court appearances and that the 2.3 per cent who appeared in court 10 times or more accounted for 15 per cent of the cohort's appearances.

The current study builds on the work undertaken by Hua, Baker and Poynton (2006) in several ways. First we extend the follow-up period from age 21 to age 33. This covers

the peak age of involvement in crime. Second we do not restrict ourselves to court contacts but include cannabis cautions, police cautions and conferences under the NSW Young Offenders Act and contact with the prison system (as a sentenced prisoner). This provides a more comprehensive picture of contact with the criminal justice system. Third, in contrast to Hua, Baker and Poynton (2006) we include all persons born in 1984 who were residents of NSW even if they were not born in Australia. This will help yield more accurate estimates of the prevalence of contact with the CJS. Fourth, we examine the impact of sex, age and Indigenous status on the number of subsequent contacts with the court system.

## Method

### Prevalence estimation

We define a CJS contact as an appearance in court (including the NSW Children's Court); receipt of a cannabis caution; receipt of a police caution (under the NSW Young Offenders Act); or referral to a Youth Justice Conference. We do not count persons fined or persons against whom an infringement notice was issued unless these matters have been dealt with by a court. To estimate the prevalence of contact with CJS we count the number of people at each age from 10 (the age of criminal responsibility) to age 33 making their first CJS contact (as defined above) and divide each count by an estimate of the population in that year and for that age. To illustrate; 25 males born in 1984 had their first CJS contact at age 10 (i.e. in 1994). There were 43,771 males in NSW aged 10 in 1994. We estimate, then, that  $(25/43,771 * 100) = .057$  per cent the NSW male population aged 10 in 1994 had some contact with the CJS. To obtain an estimate of the prevalence of contact with the CJS by age 33, we cumulate these age specific prevalence estimates. The same procedure is used to estimate the prevalence of contact with the court system.

To estimate the prevalence of contact with the prison system we repeat this process for each person appearing in a NSW court (including the NSW Children's Court) who has received a penalty of full-time custody. Note, however, we do not count custody episodes that involve bail refusal unless the bail refusal is followed by a custodial penalty.

### Data Sources

Data on CJS contacts and persons sentenced to a term of full-time custody were extracted from ROD, the NSW Bureau of Crime Statistics and Research re-offending database (Hua & Fitzgerald 2006). ROD contains information on all persons whose criminal case was finalised in a NSW court since 1994, as well as cautions, cannabis cautions and youth justice conferences since 1998. The information includes detailed demographic characteristics, characteristics of the index court appearance, prior court appearances and penalties received. Single year of age population data were obtained from Australian Demographic Statistics (Australian Bureau of Statistics 2017).

## Results

### Prevalence of contact with the criminal justice system

Figure 1 shows the frequency distribution of age at first contact. The vertical red bars show the situation for all contacts. The green bars show the situation for contacts involving matters finalised of by a court.

The curves for all contacts and court contacts rise rapidly from age 13, peak at age 19 and then slowly decline. The large difference between all contacts and court contacts before the age of 18 arises because juvenile offenders can be dealt with by a caution or referral to a youth justice conference under the NSW Young Offenders Act (1997). Adults cannot be dealt with by these means. The mean age of first contact (of any sort) is 21.4 (sd. = 5.2). The mean age of first court contact is 22.6 (sd. = 4.9).

Figure 2 shows the cumulative frequency distribution of age at first contact with the CJS amongst the cohort from age 10 (the age of criminal responsibility in NSW) to age 33. The lower curve shows the cumulative frequency distribution of age of first contact with the court system.

The curve for CJS contact rises steeply from age 13 onwards and begins to decelerate around the age of 20. By the time they reach the age of 33, just under a third (32.4%) of those born in 1984 have had some contact with the CJS and just under a quarter (24.4%) have had criminal charges finalised by a court. It is clear from a comparison of the two curves that the inclusion of non-court contacts only modestly increases the percentage of those having some contact with the CJS. At age 33, the difference between the prevalence of any form of contact with the CJS (as shown in the upper curve) and contact with the court system is less than 10 percentage points (32.4% v 24.4%).

Figure 3 shows the frequency distribution of age at first contact with the CJS broken down by gender.

Figure 1: Prevalence of first CJS contact by age and contact type

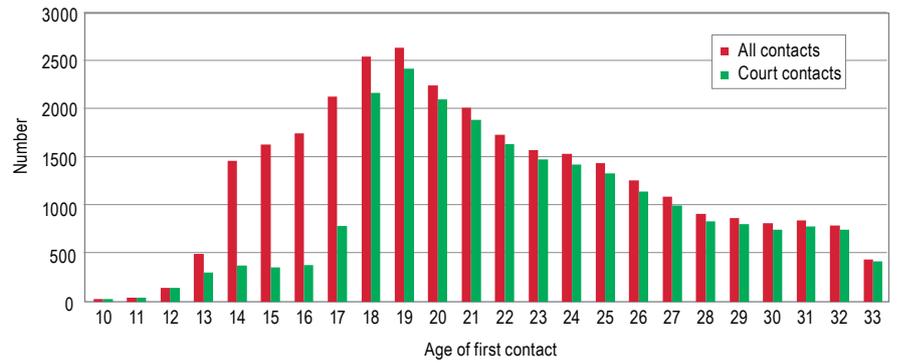


Figure 2. Cumulative prevalence of first CJS contact by age and contact type

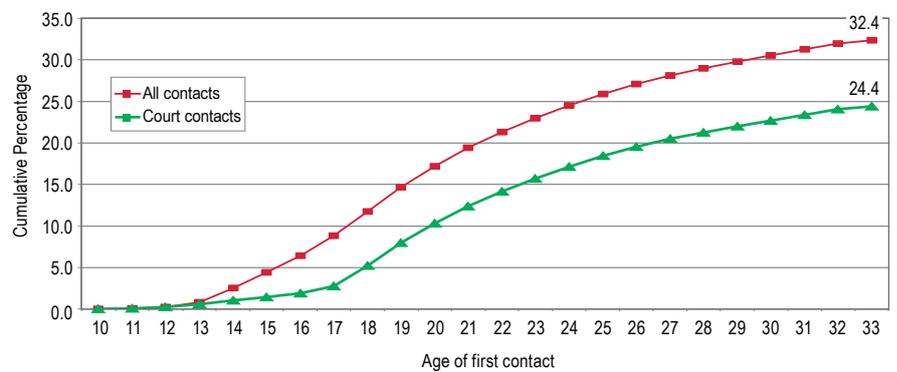


Figure 3. Prevalence of first CJS contact by age and gender

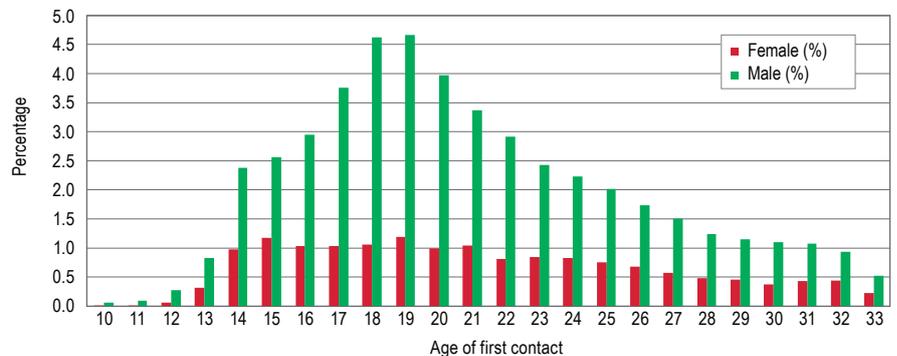
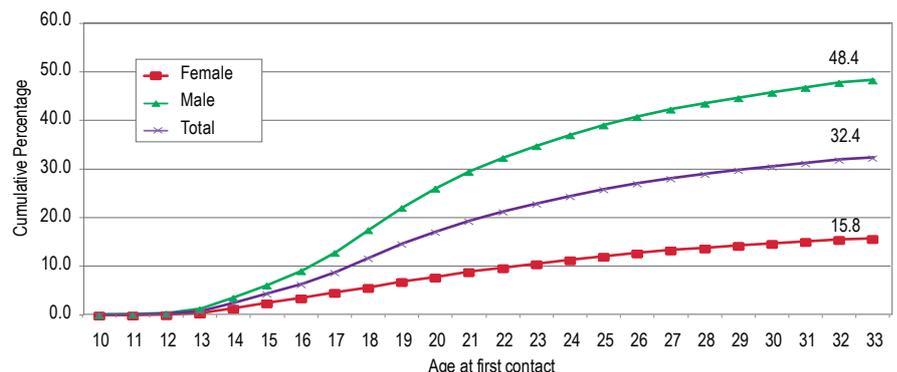


Figure 4. Cumulative prevalence of first CJS contact by age and gender

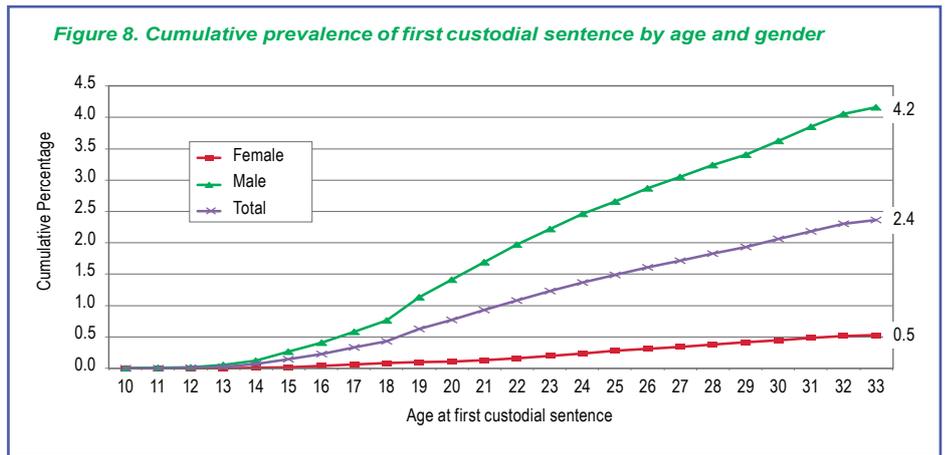
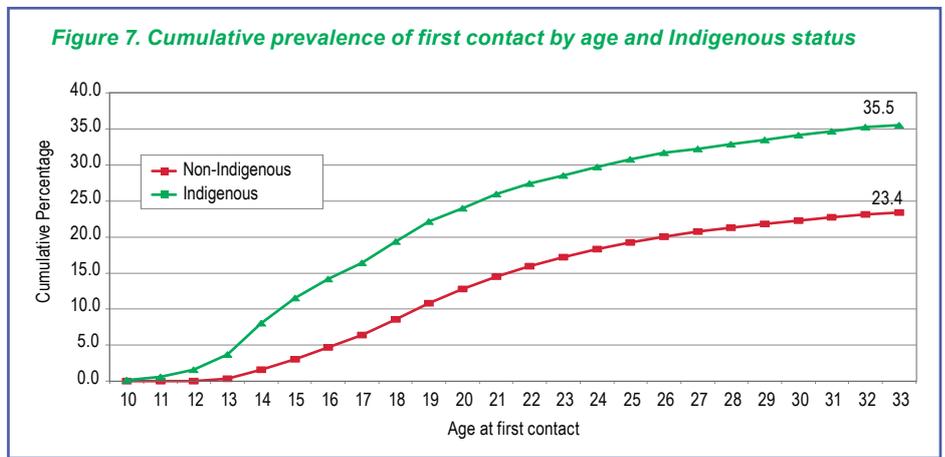
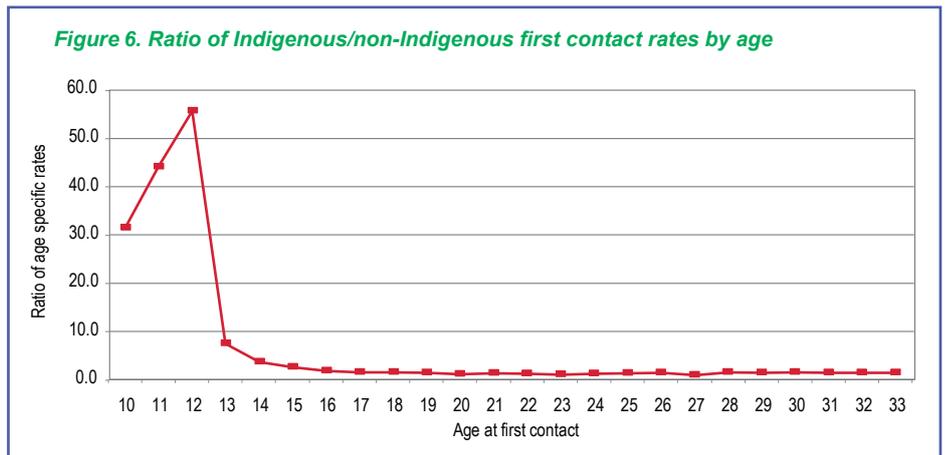
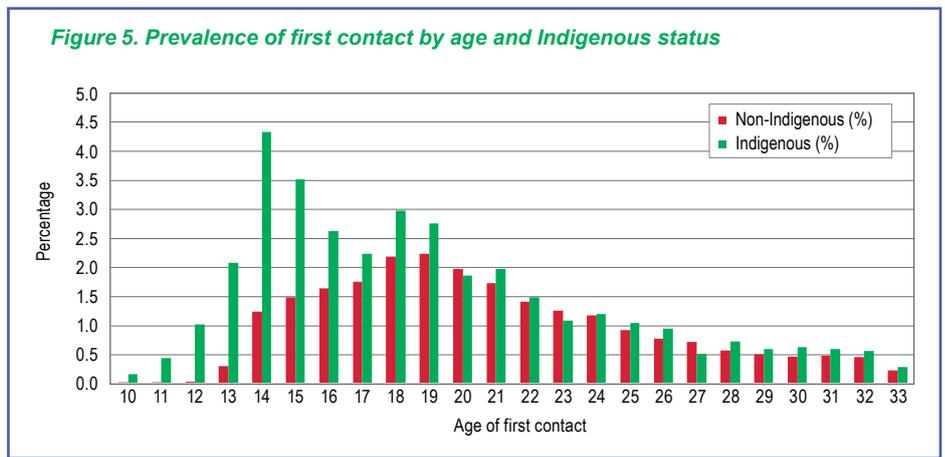


Contact with the CJS rises rapidly in the years up to age 15 for both males and females but flattens out for females while continuing to increase for males. CJS contact for both sexes peaks at age 19 (males: 4.7%; females: 1.2%) and then declines to less than a tenth of that peak (0.524%) by age 33 for males and around a fifth of the peak by age 33 for females (0.223%). As would be expected, males outnumber females at every age. The average age of first contact for females is 21.8 (sd. = 5.5), while that for males is 21.3 (sd. = 5.1). Figure 4 shows the cumulative distribution of age at first contact with the CJS from age 10 to age 33, broken down by gender.

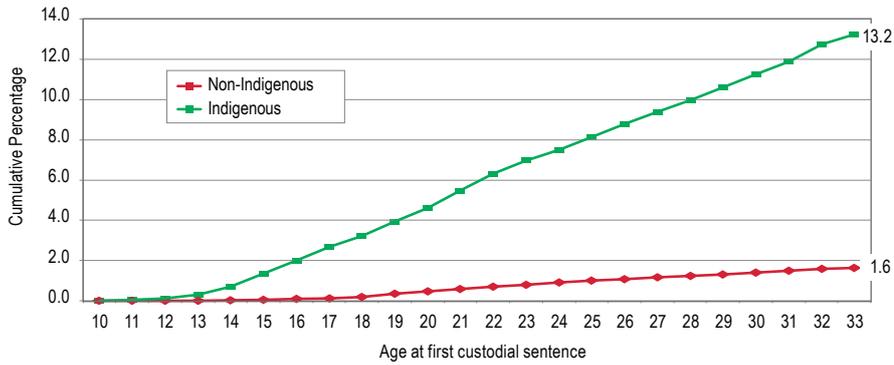
By age 33, 48.4% of males, 15.8% of females and 32.4% of the total cohort had been cautioned, referred to a youth justice conference or had a criminal charge finalised by a court. A significant proportion of these contacts involve traffic offences. When these contacts are removed, the proportions having some contact with the criminal justice system fall to 32.5%, 10.6% and 21.8%, respectively.

Figure 5 shows the frequency distribution of contact with the court system from age 10 to age 33 broken down by Aboriginal status. The distribution for non-Indigenous members of the cohort rises rapidly to a peak at age 19 and then slowly declines. The distribution for Aboriginal members of the cohort is very different. It starts earlier (age 10-11) rises more rapidly and then peaks at age 14. After that it declines rapidly, being little different from that of non-Indigenous members after the age of 22.

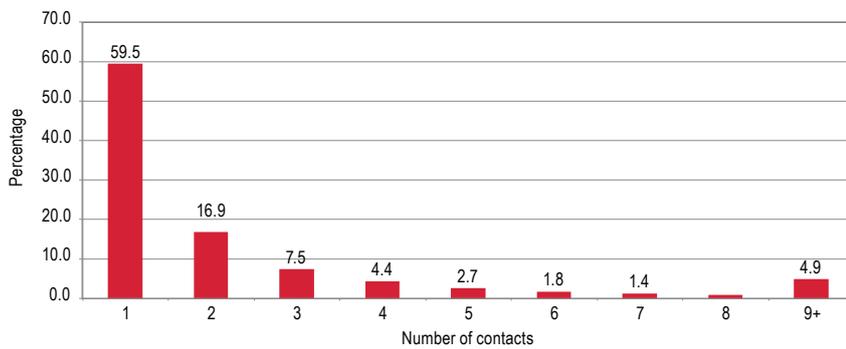
These differences are reflected in the average age of first contact for the Aboriginal members of the cohort (18.8. sd. = 5.1) compared with non-Aboriginal members (21.2. sd. = 4.9). Nevertheless, we can bring this point out more sharply by plotting the ratio of the Aboriginal age-specific rates of first CJS contact to the non-Aboriginal age-specific rates of first CJS contact for each age from 10 to 33 (see Figure 6).



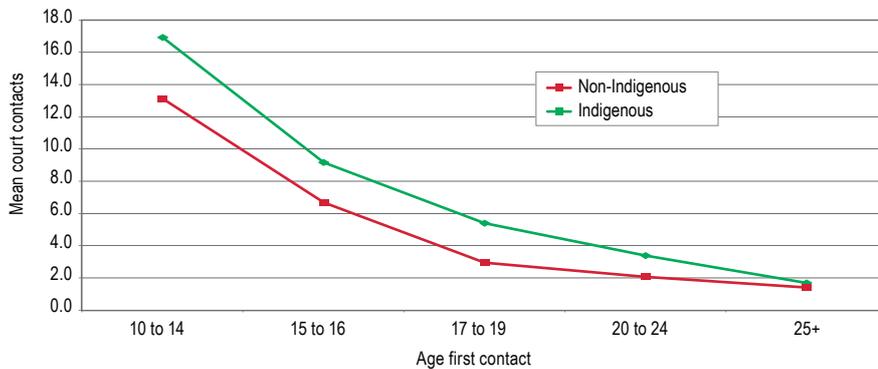
**Figure 9. Cumulative prevalence of first custodial sentence by age and Indigenous status**



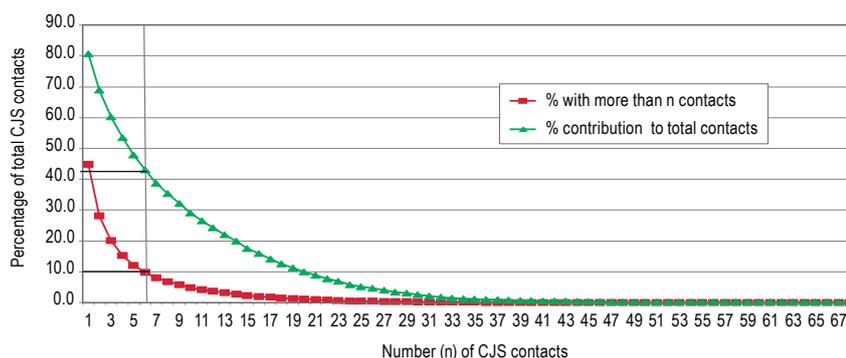
**Figure 10. Percentage distribution of the number of court contacts**



**Figure 11. Average number of court appearances by age at first contact and Indigenous status**



**Figure 12. Percentage of total CJS contacts accounted for by persons with more than n CJS contacts**



The change in the ratio is quite striking. Between the ages of 10 and 12, the proportion of Aboriginal Australians making their first contact with the CJS is between 30 and 56 times higher than that of non-Aboriginal Australians. The ratio of Aboriginal to non-Aboriginal CJS contact then falls precipitously from age 12 onwards; to around 7:1 by age 13 and then to around 1.1:1 by age 21. Thereafter it remains stable. The trend suggests that the rate of initiation into crime drops much more sharply with age for Aboriginal people than non-Aboriginal people.

Figure 7 shows the cumulative proportion of the cohort coming into contact with the criminal justice system from age 10 to age 33, disaggregated by Aboriginal status.

By age 33, more than a third (35.5%) of the Aboriginal members of the cohort have had contact with the criminal justice system, compared with about a quarter (23.4%) of its non-Aboriginal members. These figures decline to 33.1% and 16.5% if those whose first contact is for a traffic offence are removed from consideration. Notice, however, that when traffic offences are removed from consideration the Aboriginal/non-Aboriginal differential is much higher, with the proportion of Aboriginal people coming into contact with the justice system being twice that of non-Aboriginal people. The difference arises because Indigenous status is not known for driving offences and a significant proportion of Aboriginal people are proceeded against for driving offences.

Figures 8 and 9 show the cumulative frequency distributions of age at the first custodial sentence broken down by gender (Figure 8) and Indigenous status (Figure 9). Figure 8 reveals that by the age of 33, 4.2% of males, 0.5% of females and 2.5% of the total cohort have received a custodial penalty. Figure 9, however, shows what might have been expected; that Aboriginal contact with the prison system is far higher than non-Aboriginal contact. By the time they reach the age of 33,

almost one in eight (13.2%) of the Aboriginal cohort born in 1984 had received a custodial penalty, compared with just 1.6% of the non-Aboriginal cohort.

## Incidence of contact with the criminal justice system

We now turn our attention to the frequency (incidence) of contact with the criminal justice system among those who have at least one contact. As court appearances and custodial penalties are the most resource intensive forms of contact with the CJS, we ignore cautions and conferences and focus on the number of court contacts and custodial penalties. Figure 10 shows the frequency distribution of the number of court contacts.

The modal frequency of contact is one but the distribution is highly skewed. Table 1 provides summary statistical data for the distribution, broken down by age, gender and Indigenous status. Several points are worth noting about

**Table 1. Mean number of court contacts by age, gender and Indigenous status**

Group	Mean	Std. Err.	Lower 95 CI	Upper 95 CI
<b>Male (Indigenous)</b>				
10 to 14	18.70	1.02	16.70	20.71
15 to 16	9.82	1.08	7.71	11.93
17 to 19	5.78	0.46	4.88	6.69
20 to 24	3.70	0.29	3.13	4.27
25+	1.70	0.14	1.41	1.98
<b>Male (Non-Indigenous)</b>				
10 to 14	14.52	0.83	12.90	16.14
15 to 16	7.20	0.53	6.16	8.25
17 to 19	3.09	0.06	2.98	3.21
20 to 24	2.15	0.03	2.09	2.21
25+	1.41	0.02	1.38	1.45
<b>Female (Indigenous)</b>				
10 to 14	11.95	1.46	9.08	14.82
15 to 16	8.08	1.46	5.22	10.94
17 to 19	4.63	0.53	3.61	5.66
20 to 24	2.82	0.32	2.20	3.44
25+	1.67	0.15	1.38	1.96
<b>Female (Non-Indigenous)</b>				
10 to 14	7.11	1.25	4.67	9.56
15 to 16	4.37	0.68	3.02	5.71
17 to 19	2.15	0.09	1.97	2.33
20 to 24	1.74	0.05	1.65	1.83
25+	1.36	0.03	1.30	1.41
<b>Total</b>				
10 to 14	10.48	0.33	9.84	11.13
15 to 16	5.87	0.23	5.42	6.31
17 to 19	3.06	0.04	2.97	3.15
20 to 24	2.04	0.02	1.99	2.08
25+	1.37	0.01	1.35	1.40

**Table 2. Mean number of custodial penalties by age & Indigenous status (among those who had at least one)**

Group	Mean	Std. Err.	Lower 95 CI	Upper 95 CI
<b>Indigenous</b>				
10 to 14	6.34	0.46	5.44	7.23
15 to 16	3.19	0.27	2.65	3.72
17 to 19	3.04	0.40	2.26	3.82
20 to 24	1.81	0.19	1.43	2.18
25+	1.33	0.18	0.00	1.69
<b>Non-Indigenous</b>				
10 to 14	4.33	0.26	3.82	4.84
15 to 16	2.93	0.17	2.59	3.27
17 to 19	1.93	0.08	1.77	2.09
20 to 24	1.60	0.07	1.47	1.73
25+	1.17	0.03	1.10	1.23
<b>Total</b>				
10 to 14	5.25	0.27	4.73	5.78
15 to 16	3.17	0.24	2.70	3.64
17 to 19	1.97	0.08	1.81	2.13
20 to 24	1.58	0.06	1.48	1.69
25+	1.18	0.03	1.12	1.23

the table. Firstly, for all groups, there is a pronounced inverse relationship between age at first contact and average number of court contacts. Secondly, the average number of Aboriginal contacts with the court system is higher than for non-Aboriginal members of the cohort. Thirdly, the difference between Aboriginal and non-Aboriginal members of the cohort diminishes with age at first contact (see Figure 11). For example, Aboriginal males making their first contact with the CJS between the ages of 10 and 14 appear in court an average of 19 times over the next 25 years. Non-Aboriginal males making their first CJS contact in the same age range will appear in court an average of around 15 times. If their first contact is in the age group 20+, however, there is no significant difference between Aboriginal and non-Aboriginal people in the number of court contacts (1.7 versus 1.4).

Given the highly skewed distribution of court appearances, it is of interest to know what proportion of the cohort account for a given proportion of total court contacts. Figure 12 provides this information.

The lower (red) curve shows the percentage of the cohort with more than n contacts, where n ranges between the minimum (one) and the maximum (69). The upper (green) curve shows the percentage of total CJS contacts contributed by those with more than n contacts. Repeat offenders clearly make a disproportionate contribution to demand on criminal justice resources. To illustrate: the point where the vertical grey line intersects with the red line indicates that 9.7% of cohort

Figure 13. Percentage distribution of the number of custodial penalties

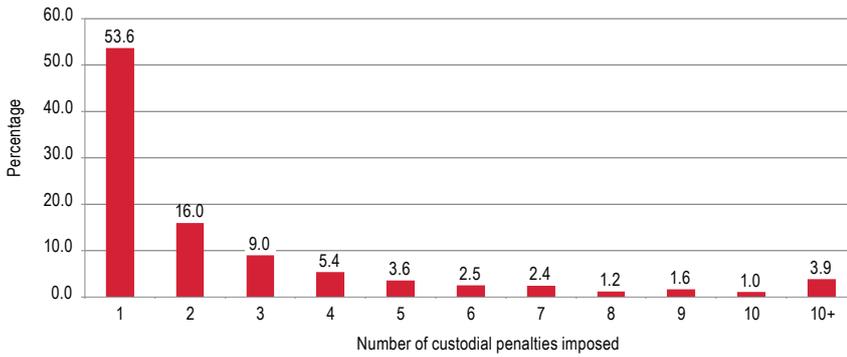
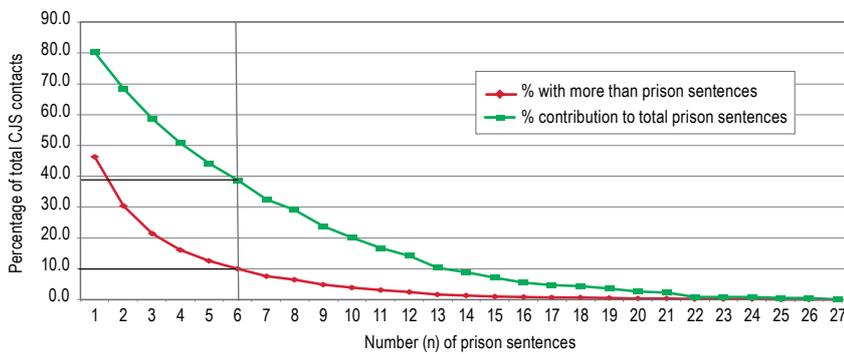


Figure 14. Percentage of total prison sentences accounted for by persons who have received more than n custodial penalties



members have more than 6 CJS contacts. These people, however, account for 43% of all contacts (see intersection of vertical grey line and green line).

Only 7.6% of the cohort received a prison sentence. Figure 13 shows the frequency distribution of the number of custodial penalties received by individuals in the cohort among those who had at least one.

As with the frequency distribution of CJS contacts, the frequency distribution of persons given a custodial penalty is highly skewed. The majority (53.6%) received only one custodial penalty but almost four per cent received 10 or more custodial penalties. Table 2 provides summary statistical data for the distribution, broken down by Indigenous status. No breakdown is given for gender as the numbers are too small.

As with the number of court appearances, there is a pronounced inverse relationship between age at first contact and average number of custodial penalties. There is also a marked disparity between Aboriginal and non-Aboriginal members of the cohort whose first CJS contact occurs at age 10-14. Aboriginal members can be expected to receive more than six further custodial penalties over the ensuing 25 years compared with around four for non-Aboriginal members. Beyond this point the difference between Aboriginal and non-Aboriginal members in the expected number of custodial penalties diminishes rapidly.

Figure 14 shows the custodial equivalent of Figure 12. Only ten per cent of the cohort has received more than six custodial penalties. These 10 per cent, however, account for about 39 per cent of all custodial penalties imposed on the cohort.

## Summary and Discussion

Our aim in this brief was to estimate the prevalence and frequency of contact with the NSW criminal justice system amongst a cohort of people born in 1984 who are now 33 years of age.

We find that nearly a third (32.4%) of those born in 1984 had some contact with the criminal justice system before the age of 33 (males 48.4%; females 15.8%). If we confine our attention to those whose contact consisted of a court appearance, then just under a quarter (24.4%) appeared in court between the ages of 10 and 33. Hua, Baker and Poynton (2006) found that 3.8 per cent of females and 15.7 per cent of males had appeared in court by age 21. Our estimates at this age

are considerably higher (11.9 per cent of females and 36.5 per cent of males). The difference lies in the fact that we include all persons born in 1984 and resident in New South Wales at some point, not just those who were born in NSW in 1984. A significant proportion of CJS contacts involve traffic offences. When this form of contact is removed from consideration the prevalence of CJS contact by age 33 falls to 32.5 per cent for males, 10.6 per cent for females and 21.8 per cent overall. This is still remarkably high. The percentage of males and females in the cohort who received at least one custodial penalty by age 33 are 4.2 per cent and 0.5 per cent, respectively.

The contrast in prevalence of contact between Aboriginal and non-Aboriginal people is characteristically stark. By age 33, more than a third (35.5%) of the Aboriginal members of the cohort had contact with the CJS, compared with about a quarter (23.4%) of its non-Aboriginal members. The differential is even greater (33.1% v 16.5%) if we remove those whose first contact is for a traffic offence. The cumulative prevalence of CJS contact for Aboriginal people is not only much higher than that of non-Aboriginal people; it also takes a very different form. Between the ages of 10 and 12, the proportion of Aboriginal Australians making their first contact with the CJS is between 30 and 56 times higher than that of non-Aboriginal Australians. The ratio of Aboriginal to non-Aboriginal CJS contact then falls precipitously from age 12 onwards; to around 7:1 by age 13 and then to around 1.1:1 by age 21. Thereafter it remains stable. Even so, by the time

they reached the age of 33, more than one in ten (13.2%) of Aboriginal members of the cohort had received at least one custodial penalty. This is disturbing, especially considering that the count does not include episodes where a defendant was remanded in custody but later acquitted of all charges or given a non-custodial penalty.

The frequency distributions of contact with the court and custodial systems are highly skewed. The top 10 per cent of the cohort, in terms of court contacts and custodial penalties, accounted for 43 per cent of all court contacts and 39 per cent of all custodial penalties. The mean frequencies of contact with the court and custody systems (after the first CJS contact) are strongly related to age at first contact and Indigenous status. Aboriginal males aged under 15 at the time of their first CJS contact subsequently appeared in court almost twice as often as those whose first CJS contact occurred when they were aged 15 or 16, and 11 times more often than those whose first contact with the CJS occurred at the age of 25 or older. The differential frequency of court appearance for non-Aboriginal males between those aged under 15 at their first contact and those aged 15 or 16 was similar (i.e. twice as frequent), while males aged under 15 at their first contact appeared in court 10 times more often than those aged 25 or older at their first CJS contact. Slightly smaller effects were found for women. Similar results were obtained for the average number of custodial episodes (among those with at least one). On average those aged 10-14 at their first CJS contact received more than five custodial penalties over the next 25 years, compared with 3.2 for those whose first CJS contact occurred when they were 15 or 16 and 1.2 for those whose first contact occurred when they were 25 or older.

We do not know how typical those born in 1984 are of other age cohorts. If they are fairly typical, however, three facts of importance to public policy emerge from these findings. First, the fact that almost 60 per cent of the cohort had only one contact with the CJS between the ages of 10 and 33 suggests (even if it does not prove) that the majority of those who come into contact with the system are deterred from further offending. Second, the fact that a large proportion of offenders have multiple contacts with the court system and several custodial penalties suggests there are sharp limits to the effectiveness of contact with the criminal justice system in deterring further offending. Third, the fact that contact with the criminal justice system before the age of 15 is a powerful signal of later persistent contact with the court and custodial systems underscores the importance of early intervention to reduce the number of people who appear repeatedly in our court and prison systems and reduce the level of demand on the criminal justice system. Efforts to reduce the number

of persistent offenders in adulthood clearly need to focus on young people at risk of involvement in crime or coming to police attention under 15 years of age. Identifying these young people and delivering an effective response is a task requiring coordinated action on the part of agencies in and outside of the criminal justice system, especially those responsible for education, health and child welfare.

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