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## D Justice preface

Justice services are concerned with ensuring a safe society by enhancing public order and security and upholding the rule of law. They involve crime prevention, detection and investigation, judicial processes and dispute resolution, prisoner and offender management and rehabilitation services.

The focus of this Report is on the justice services of police, court administration and adult corrective services. However, other government services also contribute to civil and criminal justice outcomes. For example:

- legal aid services provide access to both criminal and civil aspects of the justice system;
- alternative conciliation and mediation services help to resolve disputes;
- offices of fair trading operate to minimise the incidence of unlawful trade practices;
- crimes compensation services and victim support services assist victims' recovery from crime;
- prosecution services bring actions on behalf of the community in criminal actions; and
- various social services and community organisations in combination help prisoners released from prison reintegrate into society, support families of prisoners while they are incarcerated, and assist people who have contact with the criminal justice system.

This preface focuses on the activities of police, court administration and corrective services. Both police and courts administration undertake activities not related to criminal justice. Police, for example, ensure public order during major sporting events and court administration services deal with civil justice matters.

### **Profile of the justice system**

Total recurrent expenditure for that part of the justice system covered in this Report was almost \$6 billion in 1998-99 (table D.1). This represents approximately 11 per cent of all expenditure on services covered in the Report. Police services accounted

for approximately \$4 billion in 1998-99, corrective services for \$1174 million and criminal courts administration for \$383 million. Total expenditure on civil justice was approximately \$449 million, although this estimate excludes a significant proportion of the non-courts administration civil justice system.

Table D.1 **Expenditure on justice by all Australian governments<sup>a, b</sup>**

	1994-95	1995-96	1996-97	1997-98	1998-99	Real average annual growth rate
	\$ m	%				
Police services	3 252	3 451	3 596	3 636	3 971	5.1
Court admin. – criminal	354	355	336	361	383	2.0
Court admin. – civil <sup>c</sup>	344	362	414	416	449	6.9
Corrective services <sup>d</sup>	891	947	1 012	1 091	1 174	7.1
<b>Total justice system</b>	<b>4 842</b>	<b>5 115</b>	<b>5 359</b>	<b>5 504</b>	<b>5 977</b>	<b>5.4</b>
	%	%	%	%	%	
Police services	67	67	67	66	66	..
Court admin. – criminal	7	7	6	7	6	..
Court admin. – civil <sup>c</sup>	7	7	8	8	8	..
Corrective services <sup>d</sup>	18	19	19	20	20	..
<b>Total justice system</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>..</b>

<sup>a</sup> In 1998-99 dollars. Totals may not add as a result of rounding. <sup>b</sup> Defined as recurrent expenditure plus depreciation less revenue from own sources. Excludes capital expenditure and estimates of the user cost of capital. <sup>c</sup> Excludes the costs of probate hearings. <sup>d</sup> Excludes WA community corrections expenditure during 1994-95 and 1996-97. NT prison and community corrections did not deduct revenue from own sources between 1994-95 and 1996-97. Excludes expenditure on ACT prisons in 1994-95. .. Not applicable.

Sources: tables 7A.1-8, 8A.5, 9A.6; ABS (1998).

Expenditure between 1994-95 and 1998-99 grew fastest in real terms for the correctional services (at an annual average of 7.1 per cent), and most slowly for criminal courts administration (at an annual average of 2.0 per cent).

Expenditure per person on civil and criminal justice in 1998-99 was lowest in Tasmania (\$265) and highest for the NT (\$789) (table D.2). Expenditure per person was lowest for police services in Queensland at (\$175), and in Victoria for criminal court administration and corrective services respectively (\$14 and \$34 respectively).

A number of factors contribute to the marked differences across jurisdictions. These include factors beyond the control of jurisdictions (such as geographic dispersion, economies of scale and socioeconomic factors), as well as differences in justice policies. Expenditure may vary across jurisdictions because the scope of services delivered by justice agencies may differ. Police agencies in some jurisdictions, for example, provide event management and emergency response services.

**Table D.2 Government expenditure on justice, per person 1998-99<sup>a, b, c, d</sup>**

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust <sup>e</sup>
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Police services	201	212	175	232	191	198	207	497	204
Court admin. – criminal	22	14	20	22	21	16	22	49	20
Court admin.– civil <sup>f</sup>	15	11	9	25	17	10	27	31	24
Corrective services	74	34	63	91	64	42	47	211	63
<b>Total justice system</b>	<b>312</b>	<b>270</b>	<b>267</b>	<b>371</b>	<b>293</b>	<b>265</b>	<b>303</b>	<b>789</b>	<b>310</b>
	%	%	%	%	%	%	%	%	%
Police services	64	78	65	62	65	75	68	63	66
Court admin. – criminal	7	5	8	6	7	6	7	6	6
Court admin. – civil <sup>f</sup>	5	4	4	7	6	4	9	4	8
Corrective services	24	12	23	25	22	16	15	27	20
<b>Total justice system</b>	<b>100</b>								

<sup>a</sup> Defined as recurrent expenditure plus depreciation less revenue from own sources. Excludes capital expenditure and estimates of the user cost of capital. <sup>b</sup> Population estimated at 30 June 1998. <sup>c</sup> Totals may not add as a result of rounding. <sup>d</sup> Includes payroll tax adjustments to improve comparability across jurisdictions. Consequently per capita expenditure estimates may not be the same as expenditure data in table D.5. <sup>e</sup> Includes expenditure on the Family Court of Australia and the High Court, which are not attributed to jurisdiction expenditure. <sup>f</sup> Excludes costs of probate hearings.

Sources: tables 7A.1-8, 8A.5, 9A.6; ABS (1998).

The results of a Review survey of police, courts and corrective services agencies of the responsibilities for the custody of prisoners before and during hearings, prisoner transfer to and from the courts, and the provision of court security, reveal noticeable differences across jurisdictions (table D.3). These responsibilities lie with corrective services agencies in most jurisdictions, although they are shared with police services in a number of cases particularly where prisoners are on remand. More responsibility is placed on police services in WA, while the responsibility falls on court administrators in SA and it differs significantly across regional areas in Queensland.

Some smaller elements of justice services are excluded from table D.2 and this Report. Police services, for example, do not cover the National Crime Authority or the federal functions of the Australian Federal Police. The court administration chapter does not cover the operations of tribunals and registries (except for probate and court registries). The corrective services chapter does not cover juvenile corrective services.

**Table D.3 Indicative agency responsibilities for selected criminal justice activities**

<i>Who provide the following services</i>	<i>NSW</i>	<i>Vic</i>	<i>Qld<sup>a</sup></i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT</i>	<i>NT</i>
Custody of offenders awaiting hearing	CS	PS (and during initial hearing)	PS, CS, CA	PS	CA, CS	CA, CS <sup>b</sup>	CS	CS (if remanded)
Custody of offenders after initial hearing and during trial	CS	CS	PS, CS, CA	PS	CA	CA, CS	CS	CS (if remanded)
Transport and security of offenders between detention and court	CS	PS, CS <sup>c</sup>	PS, CS	PS, CS	Other <sup>d</sup>	CS	CS	CS (if remanded)
Security at the court room	Other <sup>e</sup>	PS, CS <sup>c</sup>	PS, CS	PS	CA	CA	CA, CS <sup>f</sup>	PS <sup>g</sup>

PS: police services, CA: courts administration, CS: corrective services. <sup>a</sup> Queensland advised that there was significant regional variation in the delivery of these services. Court administration was responsible for the custody of offenders awaiting hearing in the court. <sup>b</sup> Police services were responsible for the custody of offenders awaiting Supreme Court hearings in Burnie, and corrective services were responsible for Supreme Court hearings in Hobart. <sup>c</sup> Contracts were split between Victoria Police and Corrections according to where the prisoner was detained and which court the prisoner attended. Prisoners from remand centres, juvenile detainees, and the delivery and collection of prisoners from the Magistrates' Court is the responsibility of Victoria Police. Corrections managed the transfers of prisoners to and from prisons and county courts and the Supreme Court. Security is the responsibility of the transferring agency. <sup>d</sup> Contracted to private firm. <sup>e</sup> Sheriff provided security in NSW District Courts. <sup>f</sup> Security was the responsibility of Sheriff's Officers in the Supreme Court, and the responsibility of Corrective Services in the Magistrates' Court. <sup>g</sup> NT Police have advised that a private firm provides Supreme Court security. Minimising the amount of time a prisoner spends in police lock-up means the transference of service provision to the corrections system.

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## **Interactions within the criminal justice system**

The criminal justice system involves many independent agencies, all of which contribute to broad justice objectives. These agencies interact in many ways, with the specific objectives of one agency (and the effectiveness and efficiency with which it pursues them) affecting the operations of other agencies. As individuals pass through the criminal justice system, they interact with police, courts and corrections. Figure D.1 depicts some of the broad flows in the criminal justice system. Examples of the interactions in this system are:

- the police service's direct influence on the demand on the judicial system, through policing strategies such as police cautions;
- the judicial system's direct influence on the demand on the correctional system, through changes in the range of sentencing options that are available; and
- the correctional system's direct influence on the demand on police service, through offences in prison and escapes from prison.

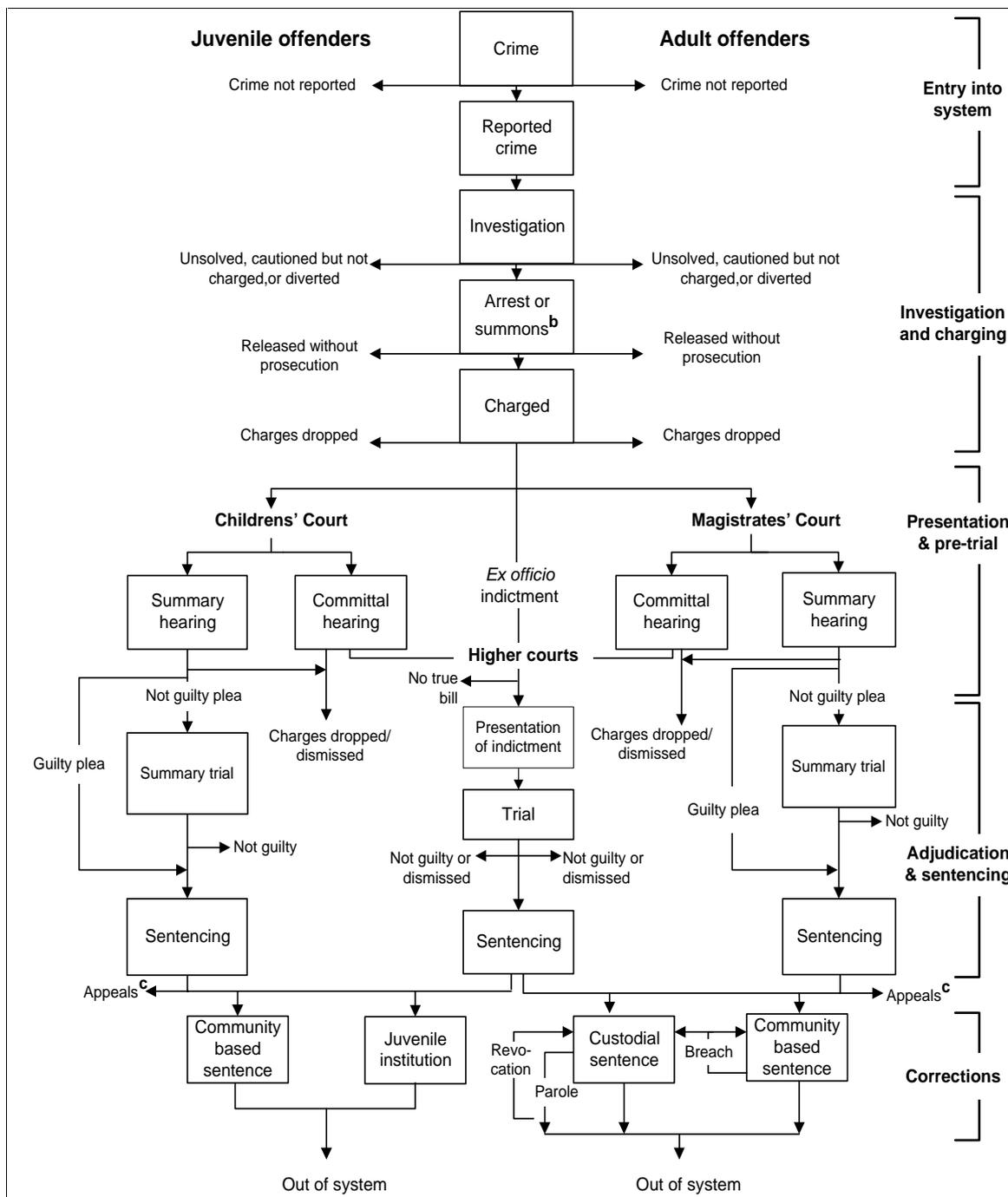
Potential outcomes of the criminal justice system, such as the prevention of crime, reparation to victims and society, and the rehabilitation of offenders, are influenced by a range of external factors and the components of the system. A number of factors influence, for example, whether persons re-offend after being released from prison or while on community based sanctions.

## **Policy developments in the criminal justice system**

The provision of services by the system is continually evolving. In addition to the policies particular to each of the three justice services (see chapters 7–9), whole-of-government policies are being increasingly used. Whole-of-government strategies have tended to focus on addressing crime prevention, drugs, youth, Indigenous justice and mental health issues.

Vicsafe is responsible for the coordination and development of the Victorian Government's crime prevention framework and strategy plan. A key element of this strategy is the development of inter-agency partnerships that recognise the contributions that Victoria Police and the departments of education, infrastructure, health, justice, and premier and cabinet make to crime prevention. Local governments are encouraged to take a leadership role in crime prevention and community safety through the Safer Cities and Shires program.

Figure D.1 Flows through the criminal justice system<sup>a</sup>



<sup>a</sup> Does not account for all variations across jurisdictions. <sup>b</sup> Includes voluntary agreement to attend court in some jurisdictions. <sup>c</sup> Appeals are referred to higher courts. Lower court sentencing is upheld for unsuccessful appeals.

Source: Adapted from Criminal Justice Commission (1991).

The ACT Drug Strategy prescribes a range of health, education and justice responses encompassing prevention, harm reduction, supply reduction and demand

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reduction initiatives. A drug education framework for ACT Government schools is nearing completion, and justice and health agencies are developing a diversion program for first offenders under the National Illicit Drugs Strategy.

The ACT Youth Strategy coordinates government and community responses to youth issues and, while addressing problems associated with youth, also attempts to identify opportunities for young people to contribute to decision making and self determination. The strategy involves a number of government agencies beyond the justice portfolio.

The Action Plan to Address the Cycle of Aboriginal Offending is a project of the WA Ministry of Justice, aimed at reducing crime through a coordinated whole-of-government approach. The project (at the pilot stage) is a long term strategy that addresses local priorities and risk factors for Indigenous juveniles.

The SA Justice and Human Services portfolios have collaborated on a review of the operational implications of the *Mental Impairment Provisions, Criminal Law Consolidation Act (Mental Impairment Provisions) 1995*. The review focused its attention on how to achieve the best possible interface between justice, treatment and support services to optimise service provisions for accused persons with a mental impairment, at various stages of contact with the justice system.

Several jurisdictions have created justice agencies that have responsibility for at least two of the three justice services covered in this Report. The WA Ministry of Justice is responsible for court administration and corrective services. The SA Justice Portfolio, the Victorian Department of Justice and the ACT Department of Justice and Community Safety help administer police, courts administration and corrective services. Each of these developments has the potential to encourage improved justice policy coordination.

The formation of the SA Justice portfolio has led to the establishment of a Justice Strategy Unit which, in partnership with the justice agencies, is working on projects aimed at improving the efficiency and effectiveness of the justice system. Projects include an examination of the future requirements of community legal centres, government support to victims of crime, sentencing options and the collection of fines. Similarly, in Victoria the justice-wide diversion strategy — involving police, the judiciary and corrections — has sought to develop more appropriate options for less serious offenders. The Victorian Criminal Justice Enhancement Program intends, through its Accused Management Project, to provide an integrated dataset about prisoners and offenders for use throughout the Victorian criminal justice system.

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## Objectives of the criminal justice system

The criminal justice system is broad and complex, and has many interrelated objectives. An overarching objective is to encourage community access to a fair system of justice that protects the rights of individuals and that is responsive to community needs (box D.1).

### Box D.1 Objectives of the criminal justice system

The goal is to provide protection for the rights and freedoms of all people through:

- the operation of police services that enhance community safety by preventing, detecting and investigating crime;
- the administration of criminal justice that determines guilt and applies appropriate, consistent and fair sanctions to offenders; and
- the provision of a safe, secure and humane adult correctional system that incorporates the elements of protection, rehabilitation and reparation to the community,

in a manner that is accessible, equitable, timely and efficient.

The Steering Committee expects that these objectives will provide the basis of a justice-wide performance indicator framework that would assist in assessing the performance of each jurisdiction's criminal justice system in aggregate.

## Key results of the criminal justice system

The performance of the criminal justice system can be reported in terms of the effectiveness and the efficiency with which it manages its resources. Effectiveness relates to how well a service provider achieves its desired outcomes, access and equity, appropriateness and quality objectives. Efficiency relates to how well a service provider uses its inputs to produce its units of services. Both effectiveness and efficiency can be reported for a criminal justice system as a whole, and for each of the services (police, courts administration and corrective services). The development of measures of outputs and outcomes are more advanced for each of the justice services than for the criminal justice system.

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## **Effectiveness**

An effective system of criminal justice reduces the incidence (including recurrence) and consequences of crimes by, among other functions, providing diversionary mechanisms to minimise its occurrence.

### *Perceptions of safety*

Measures of public perceptions of safety indicate the success of the system in ensuring that the public feels safe (both personally and regarding their property). Public perceptions of safety are reported in detail in chapter 7.

### *Incidence of crime*

An indicator of the success of crime prevention and law enforcement is the recorded rate of crime. Given that a number of factors can influence recorded rates of crime, including the general willingness to report crimes to police, additional information is also required. A survey of the community's experience with crime (such as the Australian Bureau of Statistics' Crime and Safety Survey) helps to clarify the relationship between reported and unreported crimes. Recorded rates of crime and information from crime victimisation surveys are reported in chapter 7.

### *Perceptions of the criminal justice system*

Public opinion of the integrity, accessibility, fairness and appropriateness of the justice system can provide a subjective indicator of the performance of the system. A comparison of public perceptions of crime, sentencing and imprisonment rates,, with the actual rates can help illustrate the accuracy of a community's perception of the performance of the justice system. Chapter 7 reports on public perceptions of the police.

### *Outcomes of investigations and prosecutions*

Information on the outcomes of investigations and prosecutions indicates the success of the police and prosecution services in dealing with crime. Chapter 7, 'Police' reports on outcomes of investigations. Chapter 8, 'Courts administration', reports on outcomes of hearings in lower and higher criminal courts.

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### *Restorative justice*

The justice system provides crimes compensation and victim services to help victims recover from crime. Crimes compensation services provide compensation to victims or their families for injury or death resulting from a crime. Offenders may be required to refund all or part of such an award of compensation.

Restorative justice by court administration and corrective services may also include reparation by prisoners and offenders. Reparation may include prisoners undertaking work in the community on environmental and other work projects. Offenders in community corrections provide reparation by serving court orders with unpaid community work components (see chapter 9).

Pilot projects have been established in every jurisdiction to bring offenders and their victims together under a model of restorative justice, which is gaining increasing acceptance in the criminal justice system.

### *Rehabilitation*

Recidivism — the extent to which persons passing through the criminal justice system re-offend — is a partial measure of the performance of the system as a whole in improving public safety by reducing the incidence of crime. The only indicator of recidivism presented in this Report relates to the return to corrective services responsibility of persons released from custody or from community correction orders. This measure is only a partial indicator that:

- excludes offences that do not proceed to court (for example, restitution or police caution);
- excludes convictions for re-offending that lead to outcomes that are not administered by corrective services (for example, fines, bonds and suspended sentences);
- is not weighted in any way to account for the nature of the re-offence (for example, a return to prison for a driving offence is counted in the same manner as a return for armed robbery);
- excludes a corrections sanction for a repeat offender who has previously been sentenced to only non-corrections sanctions; and
- excludes persons who have previously offended in another jurisdiction.

The original indicator of recidivism assessed within the corrective services sector was limited to the percentage of prisoners returning to prisons within two years of release. A second indicator of return to corrective services (either prisons or

community corrections) was introduced in 1997-98. Both indicators are based on the outcomes for prisoners released from custody during the period two years before the year in which the indicator is reported. Figures for 1998-99 relate to prisoners released during 1996-97.

Similarly, two indicators assess recidivism among offenders under community correction orders: a return to community corrections and a return to corrective services (either prisons or community corrections). Return to corrective services is the preferred indicator, but not all jurisdictions are able to report against this measure.

Tasmania reported the lowest rate of return to prisons by prisoners (19.7 per cent) in 1998-99, and NSW and WA reported the highest (39.4 per cent). Of those four jurisdictions also able to provide figures on prisoner return to corrections as a whole (Victoria, Queensland, SA and the NT), the NT reported the lowest rate in 1998-99 (12.3 per cent) and Victoria reported the highest (39.1 per cent). The ACT did not report on this indicator in 1998-99 (table D.4).

**Table D.4 Proportion of prisoners and offenders returning with a correctional sanction within two years of release or order completion, 1998-99 (per cent reported)**

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>WA</i>	<i>SA</i>	<i>Tas</i>	<i>ACT<sup>a</sup></i>	<i>NT</i>	<i>Aust.</i>
Prisoners: return to corrective services	na	39.1	34.9	na	37.8	na	..	12.3	na
Prisoners: return to prison	39.4	31.3	27.1	39.4	23.4	19.7	..	25.5	32.0
Offenders: return to corrective services	na	23.6	13.0	na	33.0	na	na	22.0	na
Offenders: return to community corrections	na	20.0	6.9	25.6	28.6	32.4	na	26.9	na

**na** Not available. **..** Not applicable. <sup>a</sup> ACT prisoners are managed in NSW prisons. Counts of NSW recidivism do not distinguish between NSW and ACT prisoners.

*Sources:* State and Territory governments.

While six jurisdictions reported on one of the two indicators for offenders released from community correction orders, information is only available on a comparable basis for four jurisdictions. Victoria, Queensland, SA and the NT reported on both indicators in 1998-99, while WA and Tasmania reported on returns to community correction.

Queensland reported the lowest rate of return to community corrections by offenders released from community correction orders (6.9 per cent) in 1998-99 and Tasmania reported the highest (32.4 per cent). NSW and the ACT did not report on this indicator. Queensland also reported the lowest rate of return to corrective services (13.0 per cent) and SA reported the highest (33.0 per cent).

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### *Interactions of Indigenous people with the criminal justice system*

The information available on contact by Indigenous people with parts of the criminal justice system is relatively limited. It is not currently possible to identify charges or convictions against Indigenous people. However, deaths of Indigenous people in police custody (see chapter 7), Indigenous representation in prisons and community corrections, and Indigenous deaths in prison custody (see chapter 9) are reported.

### *Related areas of justice outside the scope of the Report*

Some related areas of criminal justice are outside the scope of the Report, but affect the effective delivery of criminal justice services. Minimising the escalation of disputes promotes community accord, and the diversion of disputes from the courts can save time and money. These can be pursued via the resolution of disputes through non-court processes or non-traditional mechanisms, including ‘formalised’ alternative dispute resolution and negotiated settlements.

## **Efficiency**

The efficiency of the criminal justice system is reflected in the level of resources used to deliver justice services. Unit cost indicators for individual justice services are presented in the relevant chapters, but it is important to note that some system outcomes result from interactions between the individual services. One indicator of the efficiency of the justice system is annual government expenditure on justice services per person (table D.5). However, comparisons of unit costs should account for conflicting objectives and tradeoffs between cost, quality and timeliness, and should be viewed in the context of the suite of effectiveness indicators in each chapter.

Per capita expenditure in Australia on criminal justice grew at an average annual rate of 4 per cent between 1994-95 and 1998-99. The highest rates of annual growth were experienced in the ACT (6.8 per cent) and the NT and WA (both 6.3 per cent). The slowest rates of annual growth were experienced in Victoria (2.3 per cent), SA (2.6 per cent) and NSW (3.7 per cent).

Table D.5 **Government expenditure on criminal justice system per person<sup>a, b, c, d</sup>**

	1994-95	1995-96	1996-97	1997-98	1998-99	Real annual growth rate
	\$	\$	\$	\$	\$	%
NSW	267	277	273	287	309	3.7
Victoria	244	259	262	253	267	2.3
Queensland	216	218	234	241	264	5.2
WA <sup>e</sup>	267	282	306	319	341	6.3
SA	258	269	290	273	286	2.6
Tasmania	211	220	242	253	267	6.0
ACT <sup>f</sup>	187	225	229	248	275	6.8
NT <sup>g</sup>	612	647	685	719	780	6.2
<b>Australia</b>	252	263	270	275	295	4.0

<sup>a</sup> In 1998-99 dollars. Defined as recurrent expenditure plus depreciation less revenue from own sources. Excludes capital expenditure and estimates of the user cost of capital. Does not include any payroll tax adjustments. <sup>b</sup> Population estimated at 30 June. <sup>c</sup> Excludes costs of civil and probate hearings. <sup>d</sup> Does not include any adjustments for differences in payroll tax treatment across jurisdictions. Consequently estimates may not be the same as expenditure data in table D.2. <sup>e</sup> Excludes WA community corrections expenditure during 1994-95 and 1996-97. <sup>f</sup> Excludes expenditure on ACT prisons in 1994-95. Real annual growth rate for the period 1995-96 to 1998-99. <sup>g</sup> NT prison and community corrections revenue from own sources not deducted between 1994-95 and 1996-97.

Sources: tables 7A.1-8, 8A.5, 9A.6; ABS (1998).

## Future directions in performance reporting

The key challenge for reporting on the performance of the criminal justice system is to further develop appropriate performance indicators and data. Data are readily available for individual elements of the system, as demonstrated in chapters 7–9. These data allow for comparisons of performance across jurisdictions for individual criminal justice services, but do not permit an evaluation of the performance of entire systems. Thus, it is possible that individual elements of the justice system may be efficient or effective in meeting their objectives, but their combined effects may not be the most effective in delivering criminal justice outcomes.

Key challenges are therefore to:

- identify a performance indicator framework for the whole criminal justice system;
- identify those criminal justice system outputs and outcomes to improve system measures of effectiveness and efficiency;
- expand reporting across all criminal justice services to include issues of particular concern, such as the extent and effect of illegal drugs; and

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- further investigate the effect that differences in the types of activity performed by justice agencies have on the comparability of their costs.

The National Centre for Crime and Justice Statistics (Australian Bureau of Statistics) is investigating opportunities to integrate data across justice services. One potential development is the transition from victim based reporting to offender based reporting. Offender based reporting is more conducive to comparisons with court and corrections based data, which are more closely related to offence based data.