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Sentencing Under The Criminal Justice Act 1985

The First Six Months

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SENTENCING UNDER
THE CRIMINAL JUSTICE ACT 1985

THE FIRST SIX MONTHS

Cheryl McDonald

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FOREWORD

The Criminal Justice Act which came into effect on 1 October 1985 reformed and revised the law relating to criminal justice. It replaced the Criminal Justice Act 1954 and its nine major amendments, and responded to concern being expressed about issues such as multiculturalism, community involvement in the criminal justice system, the victims of crime and violent crime.

The report of the Penal Policy Review Committee provided a framework for the new Act. The committee consulted widely in the course of preparing its report, which was published at the end of 1981. That report recommended positive involvement of the community and its organisations in the criminal justice system, more recognition of the effect that crime has on victims and the community, and that penal policy and practice must be worthy of citizens' confidence and support.

These principles are reflected in the Act which creates new sentences of community care and reparation, and new parole and imprisonment provisions. Reflecting public concern over violent crime, it stipulates that offenders using serious violence are to be imprisoned except in special circumstances. In general, property offenders are not to be imprisoned and the new sentences extend the range of dispositions available enabling judges to select other appropriate penalties.

In view of the emphasis placed on community involvement in the criminal justice system by the new Act, and the necessity for the system to reflect the needs and wishes of the public, it is important that the government and the public are aware of the impact of the new legislation. This report provides some initial information on the effect on sentencing of the new Act. It indicates that the judiciary have responded to the intended shift in emphasis from custodial to community-based

sentencing, as there has been a drop in the use of custodial sentences for property offences. A promising start has been made in the use of the new sentences of community care and reparation.

A second more detailed report which will extend the information provided here is in preparation, and the effect of the new Act will continue to be monitored. The use of sentences with community involvement reinforces the need to keep the community informed of the effectiveness of the new legislation. It is hoped that these findings will encourage the use of community-based sentences and enlist and sustain the support of the public.



Geoffrey Palmer
Minister of Justice



With the Compliments of
the Secretary for
Justice

Wellington,
New Zealand.

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1. SUMMARY

Community Care

The new sentence of community care was used for only a small proportion (2%) of charges resulting in conviction and sentence in the first six months following the implementation of the Criminal Justice Act 1985 (October 1985 to March 1986). But it can be noted that Maori offenders were twice as likely to receive a community care sentence as non-Maori offenders. In the majority of charges which received a community care sentence (71%) no other sentences were imposed. Over half of the charges which resulted in a community care sentence (54%) were for property offences. Most sentences of community care (79%) were non-residential. 64% of all community care sentences were for a period of six months or less.

Reparation

Reparation was given as a sentence in 6% of charges and an additional 1% of charges were recorded as resulting in a sentence of restitution, in the first six months under the new Act. Reparation or restitution thus accounted for 7% of charges which was 2% more than the 5% of charges which resulted in restitution in the previous period, October 1984 to March 1985. Of the charges resulting in reparation, 92% were convictions for property offences. One in six property offences (17%) resulted in a reparation sentence. In 19% of the charges that received a sentence of reparation, no other sentence was imposed, ie there was no other penalty than the replacement of lost or damaged property. Reparation may be used only where there is property loss or damage as a result of an offence. This doesn't preclude the use of reparation for offences other than those against property and 8% of charges which received reparation were for non-property offences, including assault, disorderly behaviour, careless and reckless driving and offences against the Social Security Act.

Younger offenders were more likely to be given reparation; offenders aged less than 25 years were 4.5 times more likely to receive reparation than offenders aged at least 40 years old.

Supervision

The new sentence of supervision was just over half as likely to be used as the sentence of probation that it replaced. Only 7% of charges received a supervision sentence under the new Act compared with the 12% of charges which received probation, in the previous period, a drop of 5%. 71% of the charges that resulted in supervision were for property offences. Female offenders were slightly more likely to receive supervision than male offenders and offenders under 20 years old were more likely to receive supervision than older offenders. Supervision alone was imposed in 44% of charges receiving supervision and other sentences given with supervision included periodic detention, reparation, driving disqualification and community service. There is a legislative requirement that two community-based sentences may not be imposed on an offender at any one time (s13(2)). This requirement appears to have been disregarded in 46 charges that incurred both supervision and community service (26 were for the same offender).

Custody

There has been a change in the use of custody since the new Act. There were 2,536 fewer charges receiving custody in the first six months under the new Act than in the previous six month period which was a 3.1% drop in the likelihood of a charge resulting in a custodial sentence. The number of cases that resulted in at least one sentence of custody in the first six months of the new Act was 2,646. This was 729 cases less than in the previous six month period; a drop of 1.4% in the likelihood of a case resulting in a custodial sentence. In cases prosecuted by the police Maori offenders were 2.8% less likely to receive custody under the new Act than in the previous period and non-Maori offenders were 2% less likely to receive custody indicating that the new Act may reduce the disparity between imprisonment rates for Maori and non-Maori offenders. The decrease in the use of custody affected cases involving male offenders and cases involving female offenders to a similar extent. The age of the offender involved had little effect on the decrease in the likelihood of a case resulting in custody. The average length of custodial sentences increased, but this did not necessarily result from the imposition of longer sentences. Rather the decline in the use of custodial sentences was more noticeable among the shorter sentences than the longer sentences.

The emphasis in the Criminal Justice Act 1985 on keeping the offender in the community, except where the offence involved serious violence, appears to have had a limited effect. There has been a decrease in the likelihood of a custodial sentence for all types of offence. This decrease is most marked for offences against justice (a 6% drop in custodial sentences) and for offences against property (a drop of 4.2% in custodial sentences). The drop in the percentage of offenders against the person receiving a custodial sentence was only 1.5%. In spite of the drop in the percentage of property offenders receiving custodial sentences, a large proportion (38.4%) of the cases resulting in custody involved property offences. Cases arising from offences against the person constitute the second largest group; 25.5% of cases receiving custody were for offences against the person.

Periodic Detention

In contrast to the drop in the use of custodial sentences, there has been a rise of 1% in the use of periodic detention; 1,092 more charges resulted in this sentence under the new Act than in the previous period. The increased use of periodic detention applied only to charges involving non-Maori offenders which were 3% more likely to result in this sentence under the new Act whereas charges involving Maori offenders were 1% less likely to result in periodic detention under the new Act than in the previous period.

2. BACKGROUND

The data analysed in this report was extracted from the Wanganui Computer records of persons convicted of an offence and sentenced between 1.10.85 and 31.3.86, the first six months under the new Act, and between 1.10.84 and 31.3.85, the previous period for comparison. Records with a court disposition of conviction and one of the following; admonished, discharged, pay court costs, were not included. Children and Young Persons Court convictions were not included. Approximately half of the convictions resulted from prosecutions by the Police and approximately one third were Ministry of Transport prosecutions. Other prosecuting agencies included other government agencies such as Justice, Social Welfare, Inland Revenue and the Post Office and some local bodies. The majority of local body prosecutions are not recorded on the Wanganui Computer. Only those that are recorded are included in this report.

The information presented in this report is in two forms. Firstly, the charge is the unit used for discussion of sentencing and offence types generally. Each charge involves one offence and includes a number of sentences. For analysis it was practical to restrict the number of sentences per charge to three. Only a very small number of charges have more than three sentences, and where this occurred the least serious sentence or sentences were excluded. Secondly, case-based data is used for comment on the sex, age, ethnicity and most serious offence type of offenders. A case is defined, as in the annual published volume of Justice Statistics, as all charges for which a single offender was convicted during the same court hearing. In the data analysed the number of such charges per case ranged from one to 228.

Ministry of Transport prosecutions do not record the ethnicity of the offender, therefore only cases prosecuted by the Police are included in the data used for discussion of the ethnicity of offenders. Most serious offences apart from some traffic offences involving death or injury are prosecuted by the Police.

This report comments on sentencing in the first six months under the new Act, October 1985 to March 1986, and compares it with sentencing in the previous period

of October 1984 to March 1985. Because there are many factors affecting sentencing such as type and severity of offence and previous criminal history there will normally be some variation in sentencing from year to year. Therefore until sentencing is examined over a longer time period caution should be exercised in the interpretation of small variations in the use of sentences.

A further report on the analysis of this data is in preparation. It will compare sentencing since the implementation of the Criminal Justice Act 1985, with sentencing in previous years to determine the effects of the provisions of the new Act. In particular the provisions studied will be the new sentences and the recommendations that violent offending should incur imprisonment, but property offending should not.



3. SENTENCING GENERALLY

The new sentence of community care was used in 2% of all charges in the first six months of the new Act (Table 1). Reparation was used in 6% of all charges. A small number of charges had a sentence of restitution recorded. It is not known whether these were sentences of reparation which were incorrectly recorded or whether restitution is being used instead of reparation even though there is no longer any legislative authority for it. Supervision was imposed in 7% of charges. More than half (59%) of all charges received a fine and in 21% of all charges, a driving restriction was ordered. Custody and periodic detention were imposed in 12% and 14% of all charges respectively.

The number and percentage of charges given each type of sentence is shown in Table 1. Some charges have more than one sentence and therefore are represented in the table more than once. For example, a charge may receive both periodic detention and a fine and will appear in both these categories. Consequently the figures in the percentage column on the right do not add up to 100%.

A comparison with sentencing in the previous period, October 1984 to March 1985, (Table 1) shows that the proportion of charges resulting in custodial sentences has dropped by 3%, from 15% to 12%, and there has been a slight rise in the likelihood of a charge resulting in periodic detention. The percentage of charges receiving community service remained at 3% and although no firm conclusion can be drawn from this analysis, because the effects of offenders with multiple charges has not been considered, it is possible that the 3% drop in custody could be attributed to the 1% rise in charges receiving periodic detention and the 2% of charges receiving the new sentence of community care. This possibility will be investigated in the second report. A sentence of reparation or restitution resulted from 7% of charges in the first six months under the new Act compared with the 5% of charges resulting in a sentence of restitution in the previous period.

The new sentence of supervision was used 5% less than the sentence of probation that it replaced; 7% of charges resulted in supervision compared with the 12% of charges in the previous period which resulted in probation. There was little change in the use of the other sentences apart from a 2% drop in the use of fines; from 61% to 59%.

Table 1: Sentencing in the Previous Period, 1.10.84 - 31.3.85
and under the New Act, 1.10.85 - 31.3.86

Sentence Type	Oct '84-Mar '85 (previous period)		Oct '85-Mar '86 (first six months)	
	No. of sentences	% of charges	No. of sentences	% of charges
Custodial	12,425	15%	9,889	12%
Periodic detention	10,203	13%	11,295	14%
Community service	2,328	3%	2,261	3%
Community care	N/A	-	1,614	2%
Probation/supervision	9,413	12%	5,889	7%
Fine	49,725	61%	47,483	59%
Reparation	N/A	-	4,714	6%
Restitution ⁽¹⁾	3,781	5%	660	1%
Driving penalty	16,999	21%	17,346	21%
Suspension/ deferment ⁽²⁾	2,239	3%	2,247	3%
Other ⁽³⁾	268	-	151	-
Total	107,381	N/A	103,549	N/A

Notes:

- (1) There is no legislative authority for a sentence of restitution. Further investigation is needed before it can be determined if these are instances of redundant sentencing procedures or result from incorrect recording procedures.
- (2) Includes to come up for sentence if called and a small number of suspended sentences (28 in the first six months and 19 in the previous period).
- (3) Includes deportation and parole indicators.
- 4 Court costs are not included in this table. Court costs were ordered in 60% of charges (48,920) in the first six months of the new Act and in 60% of charges (48,732) in the previous period.
- 5 Charges for which no sentence type was allocated but a record was generated by a comment such as final warning or prison warning are not included in this table.

These findings will be further investigated by comparison with several previous periods in the next report. Also included in the next report will be information on sentencing in previous years for those offence types which incurred the new sentences to determine, if possible, whether changes in the use of one type of sentence can be directly attributed to changes in the use of another type of sentence.

4. SENTENCING BY ETHNICITY

The following table shows the sentencing of Maori and non-Maori offenders separately. Because ethnicity is not recorded for most Ministry of Transport prosecutions, this table includes Police prosecuted charges only. It should be noted that although the police officially record ethnicity as self-identified by the offender, in practice it is often recorded on the physical appearance of the offender.

Table 2: Sentencing under the New Act, 1.10.85 - 31.3.86,
by Ethnicity of Offender (Police Prosecutions only)

Sentence Type	Maori		Non-Maori	
	No. of sentences	% of charges	No. of sentences	% of charges
Custodial	4,319	22%	4,516	15%
Periodic detention	3,907	20%	5,280	18%
Community service	665	3%	1,176	4%
Community care	712	4%	627	2%
Supervision	1,841	10%	3,667	12%
Fine	7,495	39%	14,011	47%
Reparation	1,635	8%	3,005	10%
Restitution	232	1%	385	1%
Driving penalty	2,050	11%	3,600	12%
Suspension/deferment	737	4%	1,290	4%
Other	14	-	13	-
Total*	23,607	N/A	37,570	N/A

*693 ethnicity unknown

As in Table 1, because a single charge can result in more than one sentence, the percentages shown in the table do not add up to 100%. Table 2 shows that of charges prosecuted by the Police those involving Maori offenders were twice as likely to receive a community care sentence as those involving non-Maori offenders. (In section 4, a case based analysis will also show Maori offenders were twice as likely to receive community care as non-Maori offenders.) Police charges involving Maori offenders were 1.5 times more likely to receive a custodial

sentence than charges involving non-Maori offenders and slightly more likely to receive a sentence of periodic detention. Police charges against Maori offenders were less or equally as likely to receive all other sentence types as those against non-Maori offenders. In particular 47% of charges involving non-Maori offenders received a fine compared with the 39% of charges involving Maori offenders and 10% of charges involving non-Maori offenders received reparation compared with 8% of charges involving Maori offenders. These comparisons are made on a case basis for the new sentences in section 5 and for custodial sentences in section 6.

Table 3: Sentencing in the Previous Period, 1.10.84 - 31.3.85
by Ethnicity of Offender (Police Prosecutions only)

Sentence Type	Maori		Non-Maori	
	No. of Sentences	% of Charges	No. of Sentences	% of Charges
Custodial	4,324	24%	6,569	22%
Periodic Detention	3,694	21%	4,545	15%
Community Services	602	3%	1,397	5%
Supervision/Probation	3,534	20%	5,127	17%
Fine	7,388	41%	14,417	48%
Restitution	1,337	7%	2,318	8%
Driving Penalty	1,995	11%	3,693	12%
Suspension	833	5%	1,149	4%
Other	15	-	11	-
Total*	23,722	N/A	39,226	N/A

* 796 ethnicity unknown

The sentences resulting from charges prosecuted by the Police in the previous period, October 1984 to March 1985, are shown in Table 3. A comparison with sentencing in the first six months shows the following changes for charges involving Maori offenders (Table 4). There was a 2% drop in the likelihood of a custodial sentence, but because most custodial sentences are concurrent imprisonment this sentence is better evaluated on a case basis (see section 6). Supervision was half as likely to be imposed as probation in the previous period; 10% of charges received supervision and 20% of charges received probation.

The likelihood of a fine for charges involving Maori offenders dropped 2% from 41% to 39% but the likelihood of the other monetary penalties increased by 2%; 7% of charges resulted in restitution in the previous period compared with 9% of charges resulting in reparation or restitution under the new Act.

Table 4: The Change in Sentence Type Percentages between the Two Periods⁽¹⁾

Sentence Type	Maori	Non-Maori
	Change in % of charges	Change in % of charges
Custodial	-2%	-7%
Periodic Detention	-1%	+3%
Community Service	No change	-1%
Community Care ⁽²⁾	+4%	+2%
Probation/Supervision	-10%	-5%
Fine	-2%	-1%
Restitution/Reparation ⁽³⁾	+2%	+3%
Driving Penalty	No change	No change
Suspension/deferment	-1%	No change
Other	-	-

Notes:

- (1) The change in the percentage of charges resulting in each sentence type between the previous period and the first six months under the new Act. A positive percentage indicates that the percentage of charges under the new Act was greater than the percentages of charges in the previous period.
- (2) The change from 0, ie actual percentage is shown as this sentence did not replace any previous sentence.
- (3) Restitution in the previous period and restitution and reparation in the first six month period.

Charges involving non-Maori offenders showed a similar pattern to those for Maori offenders, apart from an increase of 3% in periodic detention (Table 4). As previously noted custodial sentences are better evaluated on a case basis and interpretation of the 7% drop in the likelihood of a charge involving a non-Maori

offender receiving custody, from 22% to 15%, is complicated by the effect of a small number of non-Maori offenders who received a large number of custodial sentences in single cases in the previous period. Supervision was again used much less than probation although the drop was not as great as for Maori offenders; the likelihood of supervision for non-Maori offenders was 12%, which was 5% less than the likelihood of probation at 17%. Fines differed by only 1%, and 8% of charges resulted in restitution in the previous period compared with 11% of charges resulting in reparation or restitution under the new Act.

5. THE USE OF THE NEW SENTENCES

The sex, age, ethnicity and most serious offence of offenders receiving the new sentences are discussed briefly below using case-based data. In addition, the types of offence which received the new sentences and the other sentences which were given in combination with the new sentences are discussed using charge-based data.

5.1 Community Care

The sentence of community care is aimed at putting an offender into a beneficial and supportive environment. It is only imposed with the consent of the offender. This sentence was given in 623 (1.2%) of the 50,980 cases in which offenders were convicted and sentenced in the six month period from 1.10.85 to 31.3.86. The following discussion of the ethnicity of offenders given community care concerns only cases prosecuted by the Police because other prosecuting agencies do not record ethnicity (community care was given in 1.8% of police prosecuted cases).

The offender was Maori in 54.2% of police cases which resulted in a sentence of community care and non-Maori in 45% of such cases (Table 5). An examination of all police prosecuted cases showed that of the 10,606 cases involving Maori offenders, 2.6% received a sentence of community care. Of the 16,853 cases involving non-Maori offenders, 1.3% received a sentence of community care. In spite of the small proportions involved it can be noted that cases involving Maori offenders were twice as likely to include a sentence of community care as cases involving non-Maori offenders.

Table 5: Cases Resulting in a Sentence of Community Care,
by Ethnicity of Offender (Police Prosecutions only)

Ethnicity	No.	%
Maori	271	54.2%
Non-Maori	225	45.0%
Unknown	4	0.8%
Total	500	100.0%

The sex and age of the offenders in cases which resulted in a sentence of community care are given in Table 6 and 7 respectively.

Approximately 80% of cases given a community care sentence involved male offenders and 18% involved female offenders (2% unknown). 50% of offenders sentenced in community care were aged under 25.

Table 6: Cases Resulting in a Sentence of Community Care,
by Sex of Offender

Category	No.	%
Female	114	18.3%
Male	496	79.6%
Unknown	13	2.1%
Total	623	100.0%

Table 7: Cases Resulting in a Sentence of Community Care,
by Age of Offender

Years	No.	%
15-19	171	27.4%
20-24	208	33.4%
25-29	99	15.9%
30-34	49	7.9%
35-39	30	4.8%
40+	66	10.6%
Total	623	100.0%

The age and sex of an offender had little effect on the likelihood of a case resulting in a sentence of community care. 1.5% of the 7,404 cases involving female offenders received community care compared with 1.3% of the 39,239 cases

involving male offenders. In the cases involving offenders aged 15-39, from 1.3% to 1.6% received a community care sentence. Of the 6,601 cases with offenders aged at least 40, 1% resulted in a sentence of community care.

Of those offenders involved in cases receiving a sentence of community care, 19% were convicted of at least one offence against the person.

The 623 cases which resulted in a sentence of community care included a total number of 1,614 charges (2% of all charges). Of these charges, 71% received a community care sentence only. Other sentences given with community care on a single charge included a driving disqualification (20% of charges receiving community care), reparation (7.6% of charges receiving community care) and a fine (2.5% of charges receiving community care).

Over half of the charges (54%) which resulted in sentences of community care were for property offences, 19% were for traffic offences (both Police and Ministry of Transport prosecutions), and 10% were for offences against the person.

The types of community care sentences are shown in the following table.

Table 8: Types of Community Care Sentence

Type	No.	%
Non-residential	1,270	79%
Residential	277	17%
Combined	37	2%
Maatua Whangai ⁽¹⁾	30	2%
Total	1,614	100%

Notes:

- (1) It is possible that many sentences which contain elements of Maatua Whangai are being coded as non-residential or residential.

Half of all community care sentences were for more than three months and up to and including six months. As required by law all residential sentences were for six months or less. The details of lengths of sentence are shown in Table 9.

Table 9: Community Care Sentences, by Length of Sentence

Months ⁽¹⁾	Non-Residential		Residential		Combined		Maatua Whangai		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
0 - 3	145	11%	74	27%	1	3%	0	-	220	14%
3 - 6	581	46%	203	73%	11	30%	16	53%	811	50%
6 - 9	169	13%	0	-	0	-	3	10%	172	11%
9 - 12	375	30%	0	-	25	67%	11	37%	411	25%
Total	1,270	100%	277	100%	37	100%	30	100%	1,614	100%

Notes:

- (1) Categories are exclusive of the lower limit and inclusive of the upper limit. For example, a sentence of three months exactly will be included in the 0-3 category and not in the 3-6 category.

5.2 Reparation

Reparation is intended for offences resulting in loss or damage to the property of another. It can be used with any community based or custodial sentence. The main aims of reparation are to restore victim/owner loss, to improve the awareness of offenders as to the consequences of their offences and to reduce imprisonment for property offending. Reparation replaces the previous sentence of restitution.

A sentence of reparation was ordered in 3,246 cases (6.4%). Of the offenders in cases receiving reparation, 72% were under 25 years of age and only 4% were aged at least 40 (Table 10).

Table 10: Cases Resulting in a Sentence of Reparation,
by Age of Offender

Years	No.	%
15-19	1,158	35.7%
20-24	1,174	36.2%
25-29	434	13.4%
30-34	215	6.6%
35-39	121	3.7%
40 and over	129	4.0%
Unknown	15	0.5%
Total	3,246	100.0%

Of cases involving offenders under 25 years of age, 1 in 11 incurred a sentence of reparation. Offenders under 25 years of age were more likely to be involved in cases including reparation than older offenders (1.5 times more likely than offenders aged 25-39 years and 4.5 times more likely than offenders aged 40 years and over, Table 11).

Table 11: Percentage of Cases Resulting in a Sentence of Reparation,
by Age of Offender

	Reparation Cases	All Cases	Percentage of Reparation Cases
Years	No.	No.	%
15-24	2,332	25,975	9.0%
25-39	770	12,788	6.0%
40 and over	129	6,601	2.0%
Total	3,231*	45,364**	N/A

*15 age unknown

** 5,616 age unknown

In cases which resulted in a sentence of reparation 86% of offenders were male, and approximately 14% were female (Table 12). This is similar to the percentages for offenders in all cases (77% male, 14.5% female and 8.5% unknown but probably mostly male).

Table 12: Cases Resulting in a Sentence of Reparation, by Sex of Offender

Sex	No.	%
Female	438	13.5%
Male	2,801	86.3%
Other*	7	0.2%
Total	3,246	100.0%

*2 Corporations, 5 sex unknown.

40% of Police cases which resulted in a sentence of reparation involved Maori offenders and 60% involved non-Maori offenders (Table 13), indicating that the ethnicity of offenders receiving reparation is similar to that of offenders in all Police cases (38% Maori, 60% non-Maori, 2% unknown).

Table 13: Cases Resulting in a Sentence of Reparation, by Ethnicity of Offender
(Police Prosecutions only)

Ethnicity	No.	%
Maori	1,277	40.0%
Non-Maori	1,900	59.5%
Unknown	18	0.5%
Total	3,195	100.0%

It was noted in section 4 that, per charge, Maori offenders were less likely to receive financial penalties including reparation; 8% of charges involving Maori offenders received reparation compared with 10% of charges involving non-Maori offenders. However a comparison of offender's ethnicity per case shows that Maori offenders were slightly more likely than non-Maori offenders to receive a sentence of reparation; 12% of cases involving Maori offenders included a sentence of reparation compared with 11% of cases involving non-Maori offenders. This discrepancy is explained by non-Maori offenders having on average more charges per case that resulted in a sentence of reparation than Maori offenders.

Of all charges, 4,714 (6%) resulted in a sentence of reparation. The majority of these charges (92%) were for offences against property as expected from the definition of this sentence. Of all charges for offences against property, 17% received reparation. The proportion of property charges for which reparation was the only sentence ordered was 3.2%; 819 charges out of a total of 25,412. Reparation was ordered for 89 offences against the person including 63 for assault. There were 264 other offences, not against persons or property, which incurred reparation. These included 69 disorderly behaviour and similar offences, 41 careless or reckless driving offences and 69 offences against the Social Security Act. (It is doubtful whether offences against the Social Security Act ie, certain categories of fraud, misleading a social welfare officer and making false statements, properly constitute offences where property loss or damage has occurred.) Although a very small proportion of offences against the person resulted in a sentence of reparation, 7% of offenders receiving a sentence of reparation were convicted of at least one offence against the person.

Reparation was the only sentence in 19% of charges that received reparation. The most common sentences used with reparation on a single charge were periodic detention (25% of charges receiving reparation), fines (31% of charges receiving reparation), and supervision (14% of charges receiving reparation).

5.3 Supervision

Supervision, which replaces the sentence of probation, was given in 2,182 cases (4.3%). In cases which received a sentence of supervision, 19% of the offenders involved were female and 80% were male (1% sex unknown, Table 14). Of all cases, those with a female offender were slightly more likely to be given a sentence of supervision than those with a male offender; 1 in 18 cases involving female offenders received supervision, 1 in 22 cases involving male offenders received supervision.

Table 14: Cases Resulting in a Sentence of Supervision,
by Sex of Offender

Sex	No.	%
Female	411	18.8%
Male	1,745	80.0%
Unknown	26	1.2%
Total	2,182	100.0%

The ethnicity of offenders in Police prosecuted cases resulting in a sentence of supervision did not differ from the ethnicity of offenders in all cases prosecuted by the Police. As shown in Table 15, 61% of offenders in supervision cases were non-Maori and 39% were Maori. Both Maori and non-Maori offenders had the same probability of being involved in a case incurring a sentence of supervision (1 in 14).

Table 15: Cases Resulting in a Sentence of Supervision,
by Ethnicity of Offender (Police Prosecutions only)

Ethnicity	No.	%
Maori	761	38.6%
Non-Maori	1,206	61.1%
Unknown	6	0.3%
Total	1,973	100.0%

Over 40% of the offenders in cases which resulted in a sentence of supervision were aged less than 20 years and 70% were under 25 years of age (Table 16).

Table 16: Cases Resulting in a Sentence of Supervision,
by Age of Offender

Years	No.	%
15-19	925	42.4%
20-24	610	28.0%
25-29	295	13.5%
30-34	131	6.0%
35-39	84	3.8%
40 and over	133	6.1%
Unknown	4	0.2%
Total	2,178	100.0%

Comparison with the ages of offenders in all cases showed that younger offenders were more likely to be involved in cases which resulted in at least one sentence of supervision. Of offenders aged under 20 years, 1 in 14 were involved in cases that were given supervision. The figures for older offenders were 1 in 22 for offenders aged between 20 and 29 and only 1 in 37 for offenders aged at least 30 years old (Table 17).

The 2,182 cases which resulted in a sentence of supervision included 5,889 charges (7% of all charges). Most supervision sentences were for offences against property (71%). The only other categories of offence accounting for at least 5% of supervision sentences were offences against the person (8%), traffic offences (8%) and offences involving drugs (5%).

For 44% of charges incurring supervision, this was the only sentence. Other sentences used with supervision included periodic detention (37% of charges receiving supervision), reparation (11% of charges receiving supervision), driving disqualification (11% of charges receiving supervision) and community service (1%

of charges receiving supervision). As the Criminal Justice Act 1985 requires that supervision and community-based sentences should not be imposed concurrently, it is of interest that in 46 charges which resulted in a sentence of supervision, a sentence of community service was also ordered. The 46 charges for which both sentences were given included 26 charges for one individual. While the data suggests that some sentencing has taken place which is contrary to the legislative requirements, no firm conclusions should be drawn until the data has been investigated.

Table 17: Percentage of Cases Resulting in a Sentence of Supervision, by Age of Offender

	Supervision Cases	All Cases	Percentage of Supervision Cases
Years	No.	No.	%
15-19	925	12,709	7.3%
20-29	905	19,910	4.5%
30 and over	348	12,745	2.7%
Total	2,178*	45,364**	N/A

*4 age unknown

**5,616 age unknown

Supervision sentences were usually for between three and six months, inclusive of six, (33%) or for between nine and 12 months, inclusive of 12, (39%). 6.5% were for up to three months, 12% were for between six and nine months, inclusive of nine, and 9.5% were for more than one and up to two years.

6. CUSTODIAL SENTENCING

Of the 50,980 cases in which offenders were convicted and sentenced in the six month period, 1.10.85 to 31.3.86, 2,646 (5.2%) received a custodial sentence. This is 729 cases less than in the previous period, October 1984 to March 1985, a drop of 1.4%; in that previous period there were 51,183 cases and of these 3,375 (6.6%) received at least one custodial sentence.

6.1 Offender Characteristics

Of the cases receiving custody in the first six months of the new Act, male offenders accounted for 94% and female offenders accounted for approximately 5% (Table 18). During that period cases involving males were almost four times more likely to result in a custodial sentence than cases involving females; 1 in 16 cases involving a male offender incurred a custodial sentence compared with 1 in 60 for cases involving female offenders.

Table 18: Cases Resulting in a Sentence of Custody,
by Sex of Offender

Sex	Oct '84-Mar '85 (previous period)		Oct '85 - Mar '86 (first 6 months)	
	No.	%	No.	%
Female	189	5.6%	123	4.6%
Male	3,174	94.0%	2,486	94.0%
Unknown	12	0.4%	37	1.4%
Total	3,375	100.0%	2,646	100.0%

Comparison with the sex of offenders sentenced to custody in the previous year shows little change in the proportions of female and male offenders.

Maori and non-Maori offenders each accounted for approximately 50% of those sentenced to custody in Police prosecuted cases in October 1985 to March 1986. These proportions are similar to those in the previous period (Table 19).

The well established pattern that Maori offenders are more likely to incur a custodial sentence has continued since the implementation of the Criminal Justice Act 1985. In the first six months of the new Act cases involving a Maori offender were 1.7 times more likely to incur a custodial sentence than cases involving a non-Maori offender; 10.6% of all cases involving Maori offenders resulted in a sentence of custody, compared with 6.4% of all cases involving non-Maori offenders. However, comparison with the previous period shows that the likelihood of a custodial sentence has decreased for both Maori and non-Maori offenders and the decrease has been greater for Maori offenders; 13.4% of cases involving Maori offenders and 8.4% of cases involving non-Maori offenders resulted in at least one custodial sentence in the previous period, indicating a drop of 2.8% for Maori offenders and 2% for non-Maori offenders.

Table 19: Cases Resulting in a Sentence of Custody,
by Ethnicity of Offender (Police Prosecutions only)

Ethnicity	Oct '84 - Mar '85 (previous period)		Oct '85 - Mar '86 (first six months)	
	No.	%	No.	%
Maori	1,329	48.7%	1,123	50.9%
Non-Maori	1,394	51.0%	1,083	49.1%
Unknown	8	0.3%	-	-
Total	2,731	100.0%	2,206	100.0%

Under the new Act, 32% of offenders in cases which incurred a custodial sentence were aged 15 to 19 years and 34% were 20 to 24 years of age (Table 20). In the previous period the proportion of cases resulting in custody which involved 15-19 year old offenders was 33% and 35% involved 20-24 year old offenders. There was also little change in the proportions of offenders in the older age groups between the two periods.

Under the new Act 6.8% of cases involving offenders aged less than 30 years, resulted in a custodial sentence. The likelihood of a custodial sentence being incurred in a case decreased when the offender involved was at least 30 years of age; 4.6% for offenders aged 30-39 years and 2.3% for offenders aged at least 40 years. The likelihood of a custodial sentence in cases under the new Act was less than in the previous period for offenders of all age groups. In the previous period 8.4% of offenders aged less than 30 years received custody as did 5.9% of offenders aged 30-39 years and 3.8% of offenders aged at least 40 years; indicating decreases of 1.6%, 1.3% and 1.5% respectively since the new Act.

Table 20: Cases Resulting in a Sentence of Custody,
by Age of Offenders

Years	Oct '84 - Mar '85 (previous period)		Oct '85 - Mar '86 (first 6 months)	
	No.	%	No.	%
15-19	1,107	32.8%	858	32.4%
20-24	1,175	34.8%	897	33.9%
25-29	534	15.8%	454	17.2%
30-35	245	7.3%	184	7.0%
35-39	130	3.9%	98	3.7%
40 and over	175	5.2%	151	5.7%
Unknown	9	0.3%	4	0.1%
Total	3,375	100.0%	2,646	100.0%

The 2,646 cases which resulted in a custodial sentence under the new Act included 9,889 charges, 12.2% of the total number of 80,901 charges. In the previous period there were 81,372 charges and 12,425 (15.3%) of these received a custodial sentence. Hence the actual number of charges receiving custody dropped by 2,536 and the proportion of charges receiving custody dropped by 3.1% in the first six months of the new Act.

6.2 Sentence Type and Length

In the following discussion of sentence types and lengths, the most severe sentence per case is used to represent the case. The types of custodial sentence, in descending order of severity, are life imprisonment, preventive detention, detention under s48A of the Criminal Justice Act, cumulative imprisonment, imprisonment (concurrent) and corrective training.

Imprisonment, cumulative and concurrent, was the most frequent custodial sentence. It was given in 86% of cases which resulted in a custodial sentence (7.6% cumulative imprisonment). Corrective training was the most severe sentence in 14% of cases resulting in a custodial sentence. Offenders received life sentences in 14 cases (17 charges received life sentences) and 1 offender was sentenced to preventive detention. A comparison of custodial sentence types per case in the previous period October 1984 to March 1985 showed that there has been little change in the proportions of each custodial sentence type.

In the first six months under the new Act almost half of the most severe custodial sentences per case were the shorter sentences of three months or less and 22% were at least three months and no more than six months long.

Comparison with the previous period shows the number of sentences decreased in all categories of sentence length (Table 21). The decrease was greatest for the shorter sentences, hence it appears that there may be a slight shift towards longer custodial sentences since the new Act but this is offset by a reduction in the overall numbers of custodial sentences. These findings will be more fully investigated in a further report.

Table 21: Cases Resulting in a Sentence of Custody,
by Length of Most Severe Sentence

Months ⁽¹⁾	Oct '84 - Mar '85 (previous period)		Oct '85 - Mar '86 (first six months)	
	No.	%	No.	%
0 - 3	1,745	51.7%	1,257	47.5%
3 - 6	728	21.6%	570	21.5%
6 - 12	551	16.3%	493	18.6%
over 12	351	10.4%	326	12.3%
Total	3,375	100.0%	2,646	100.0%

Notes:

- (1) Exclusive of the lower limit, inclusive of the upper limit eg, a sentence of six months is included in the 3-6 months category and not in the 6-9 month category.

6.3 Offence Types

The following discussion of offence types refers to the offence which received the most severe sentence in cases which resulted in at least one sentence of custody.

The number and proportion of cases resulting in custody, which arose from each offence type is shown in Table 22. It is clear from Table 22 that property offenders are still the largest group receiving custodial sentences. In six months under the new Act there were 1,015 cases arising from property offending which resulted in custodial sentence, 38.3% of all cases given a custodial sentence. The next biggest group given custodial sentences were the offences against the person; 675 cases arising from offending against the person resulted in a custodial sentence, 25.5% of all cases which incurred a custodial sentence. Traffic offences accounted for 15% of cases resulting in custody, almost 10% were for offences against justice and

offences involving drugs accounted for 7% of these cases. There were no marked differences in these proportions between the two periods except for a 4% rise in the proportion of offences against the person since the new Act. Because these proportions are influenced by the total number of cases in each period any change between the two periods is more usefully evaluated by comparing the likelihoods of cases ensuing from each offence type resulting in custody (Table 23).

Table 22: Cases Resulting in a Sentence of Custody,
by Type of Offence

Offence Type	Oct '84 - Mar '85 (previous period)		Oct '85 - March '86 (first six months)	
	No.	%	No.	%
Against persons	727	21.5	675	25.5
Against property	1,341	39.7	1,015	38.4
Involving drugs	244	7.2	185	7.0
Against good order	82	2.4	82	3.1
Traffic ⁽¹⁾	592	17.5	396	15.0
Against justice	341	10.1	262	9.9
Other	48	1.4	31	1.2
Total	3,375	100.0%	2,646	100.0%

Notes:

- (1) Traffic offences involving death and injury are included in offences against the person and are not included in this category.

For each offence type, Table 23 shows the percentage of cases that incurred a custodial sentence. Section 7 of the Criminal Justice Act 1985 recommends a general limitation on the use of custodial sentences.

Comparing the percentage of cases given custodial sentences in October 1985 to March 1986 with the same six month period one year earlier for each type of

offence indicates that the judiciary has responded to section 7. There has been a drop in the likelihood of a custodial sentence for all offence types. The greatest decrease was for offences against justice, from 29.9% to 23.9%, a drop of 6%. (This was also the category with the highest likelihood of custody.) The second greatest decrease was for offences against property, a drop of 4.2% from 13.7% to 9.5%, indicating that section 6 of the new Act which recommends non-custodial sentences for property offending may be having some effect. There was also a 1.5% drop in the likelihood of offences against the person resulting in a custodial sentence and small decreases in all other categories. An evaluation of section 5, which specifies offenders convicted of offences involving serious violence are to be imprisoned except in special circumstances, will be included in a further report.

Table 23: Changes in the Likelihood of Cases Resulting in a Sentence of Custody, by Offence Type⁽¹⁾

	Oct '84 - Mar '85 (previous period) % of cases resulting in custody	Oct '85 - March '86 (first six months) % of cases resulting in custody	Change % change
Against persons	18.0%	16.5%	-1.5%
Against property	13.7%	9.5%	-4.2%
Involving drugs	6.0%	4.6%	-1.4%
Against good order	3.1%	2.8%	-0.3%
Traffic ⁽²⁾	2.7%	1.9%	-0.8%
Against justice	29.9%	23.9%	-6.0%
Other	0.6%	0.4%	-0.2%

Notes:

- (1) The change in the percentage of cases arising from each offence type which resulted in a sentence of custody between the previous period and the first six months under the new Act. A negative percentage indicates that the likelihood of the type of case resulting in custody under the new Act was less than the likelihood in the previous period.
- (2) Traffic offences involving death and injury are included in offences against the person and are not included in this category.