

# 1 Introduction

## 1.1 Background to the Juvenile Justice National Minimum Data Set

The involvement of juveniles in the criminal justice system is a matter of keen interest to many stakeholders. Governments, policy makers, community groups and researchers alike seek information about this group of young people – particularly about the extent of and reasons for their involvement with the criminal justice system, and their experiences within it. However, with responsibility for juvenile justice resting at the state and territory level in Australia, nationally comparable data have been scarce. The Australian Institute of Criminology (AIC) has, for a number of years, produced the *Statistics on juvenile detention* series, which provides snapshot data on the numbers of juveniles in detention centres around Australia on the last day of each quarter during the year. All data regarding community-based supervision have remained at jurisdictional level. The Juvenile Justice National Minimum Data Set (NMDS) fills this information gap by providing data on both community supervision and detention as well as the number and characteristics of young people under each type of supervision and their movement through juvenile justice supervision throughout the year.

This is the second report of the juvenile justice NMDS and covers the period 2004–05. The first report, with data from 2000–01 to 2003–04, was published in February 2006.

### 1.1.1 Purpose of the Juvenile Justice National Minimum Data Set

The Juvenile Justice NMDS is designed to provide nationally comparable information to inform policy makers, researchers and the community about the involvement of young people with juvenile justice supervision in Australia, and to provide a mechanism to contribute to national monitoring of juvenile justice policies and programs. The potential benefits include:

- providing a national picture of juvenile justice supervision in Australia
- determining the profile of young people with juvenile justice involvement
- examining national and state/territory trends over time
- informing the community about juvenile detention and community-based supervision
- building capacity for research.

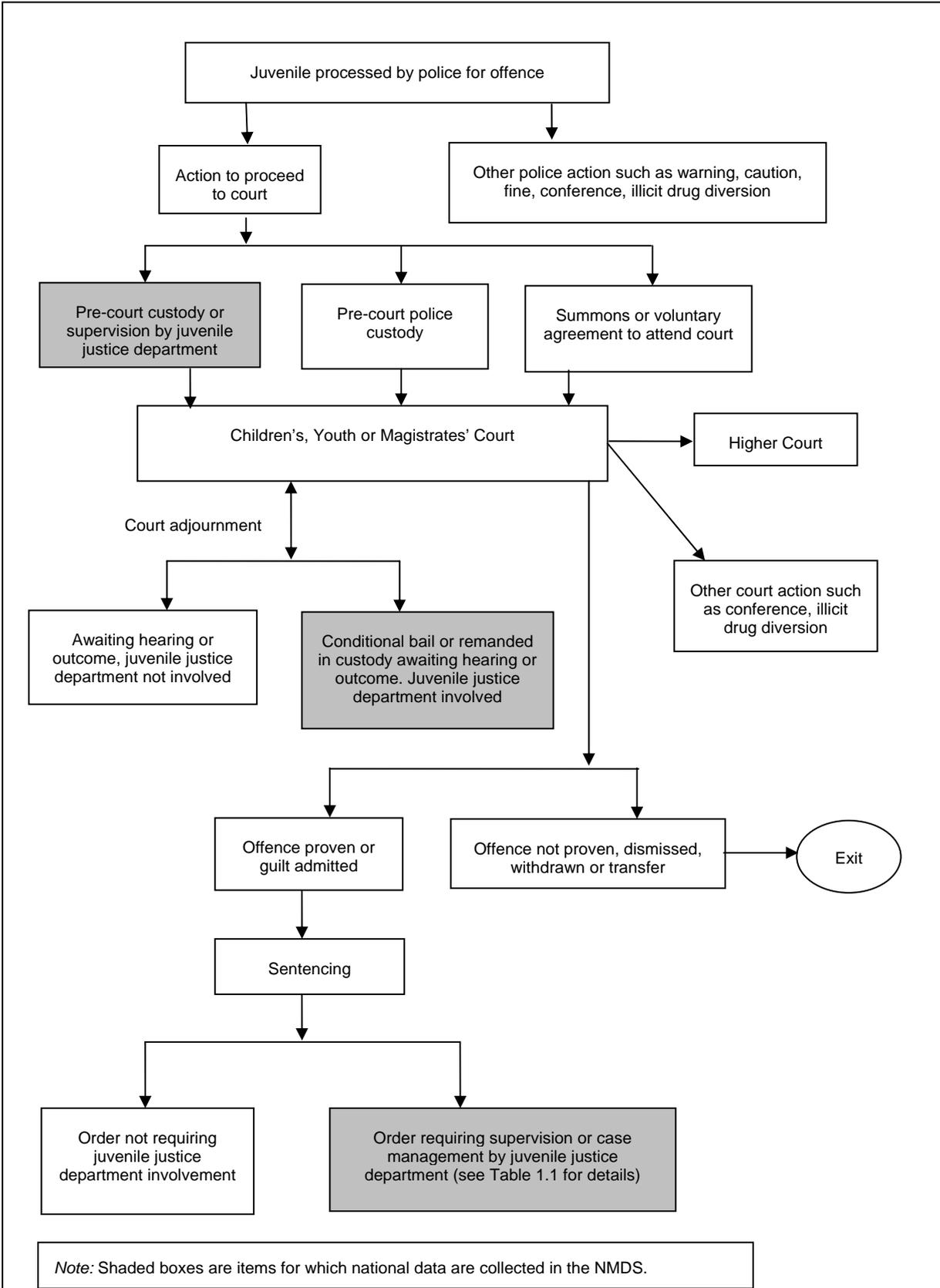
There are three related components of the juvenile justice NMDS—a young person collection, an *episode* collection and a juvenile justice centre collection. Together, these components provide information about young people who are under juvenile justice supervision in Australia. Juvenile justice may include supervision prior to a young person being sentenced and/or supervision of an order following finalisation of the case, either within the community or in a custodial facility. A description of the NMDS and its component parts can be found in Chapter 2.

## 1.2 The juvenile justice process in Australia

When a young person in Australia reaches the age of 10 years they are deemed in all states and territories to have criminal responsibility. This means that 10 years is the youngest age at which a young person may enter the formal criminal justice system for having committed or allegedly committed an offence. In most states and territories, young people are considered to be juveniles until they reach the age of 18 years. In the Australian Capital Territory, the juvenile justice legislation applies to young people aged 10 to 18 years at the time of the alleged offence and in Queensland to young people aged 10 to 16 years. Victoria's juvenile justice legislation has previously been similar to Queensland, but as of July 2005, Victoria's legislation also applies to young people aged 10-17 years. Victoria also has a sentencing option for adult courts that allows for 18 to 20 year olds to be sentenced to detention in juvenile justice facilities where appropriate. Young people may remain under juvenile justice supervision for some time while they are older than 17 years, as the legislative age refers to the age at which the offence occurred rather than the age the young person is while under the supervision of the juvenile justice department.

The juvenile justice process in Australia involves the police, courts, juvenile justice departments, young people and their families, legal advocates and non-government organisations amongst others. Figure 1.1 illustrates the flow of the juvenile justice process. Juvenile justice departments may be involved in the supervision of young people at a number of stages within the juvenile justice process. Before a young person appears in court for an alleged offence they may be held in either police or juvenile justice department custody. Between court appearances, a young person may be given unsupervised bail, conditional bail (which may include supervision by a juvenile justice department), or they may be held on remand in a juvenile justice custodial facility. Following the finalisation of court proceedings, a young person may be given an order that involves the supervision or case management by a juvenile justice department.

A feature of the juvenile justice system in Australia is the diversion of young people away from the formal criminal justice system. Depending on the state or territory, this diversion may occur through the police, courts or the juvenile justice department. As shown in Figure 1.1, this means that not all young people who come into contact with the criminal justice authorities will end up under juvenile justice supervision, or they may have shortened contact with the formal juvenile justice system.



**Figure 1.1: A composite of the juvenile justice processes in Australia**

The court outcomes and services available in juvenile justice differ among states and territories. Those available in some form in most states and territories are shown in Table 1.1. Some court outcomes, such as discharge without penalty, or a fine, may not involve juvenile justice supervision of the young person, while others, such as community service, usually will.

Most states and territories now include 'victim-offender conferencing' as part of juvenile justice. Conferences typically involve both the victim and young person together with representatives from the criminal justice system. The aim is to develop a negotiated response to the crime with the young person taking responsibility for the offence, and the needs of both the victim and young person being heard and met. Conferences may be held at a number of stages of the juvenile justice process and are administered variously by the police, courts or juvenile justice department.

Juvenile justice departments may be responsible for the supervision of young people on bail, community service orders, community-based orders, remand (awaiting sentencing), or detention.

**Table 1.1: Range of juvenile justice outcomes and services available, by state and territory, June 2006**

Juvenile justice outcomes and services	NSW	Vic	Qld	WA	SA	Tas	NT	ACT
<b>Pre-court pre-sentence diversionary outcomes</b>								
Informal caution/warning	✓	✓	✓	✓	✓	✓	✓	✓
Formal caution	✓	✓	✓	✓	✓	✓	✓	✓
Conferencing	✓	✓	✓	✓	✓	✓	✓	✓
<b>Does not involve juvenile justice department</b>								
Discharge	✓	✓	✓	✓	✓	✓	✓	✓
Fine	✓	✓	✓	✓	✓	✓	✓	✓
Obligation without supervision	✓	✓	✓	✓	✓	✓	✓	✓
<b>May involve juvenile justice department</b>								
Good behaviour bond	✓	✓	✓	✓	—	—	✓	✓
Bail/pre-sentence support and supervision	✓	✓	✓	✓	✓	—	✓	✓
Conferencing	✓	—	✓	✓	—	✓	✓	✓
Community-based supervision (probation)	✓	✓	✓	✓	✓	✓	✓	✓
Community service	✓	✓	✓	✓	✓	✓	✓	✓
Suspended detention	✓	—	✓	✓	✓	✓	✓	—
Home detention	—	—	—	—	✓*	—	✓	—
Custodial remand	✓	✓	✓	✓	✓	✓	✓	✓
Detention	✓	✓	✓	✓	✓	✓	✓	✓
Supervised release from detention	✓	✓	✓	✓	✓	✓	✓	—

Note: Shaded cells indicate items that are within NMDS scope and for which data are collected in the NMDS. Other ticked cells indicate juvenile justice outcomes and services that the states and territories offer, but which are outside the scope of the NMDS. \* Indicates items which are within NMDS scope but for which data are unavailable for the NMDS.

The legislation that each juvenile justice department is responsible for administering is listed in Appendix A. Details of key elements of the juvenile justice systems in each state and territory, including where juvenile justice is placed within the structure and the process (pre-court, court and juvenile justice department supervision), are outlined in Appendix B.

## **1.3 Key policy directions**

The juvenile justice area is constantly evolving, with new policy initiatives and programs being formulated to address the offending behaviour of young people. The emergence of victim-offender conferencing as an integral part of juvenile justice services over recent years is an example of this. In this section, some of the key policy directions that the juvenile justice departments will be taking over the next couple of years are outlined.

### **1.3.1 New South Wales**

For juvenile justice in New South Wales, key policy directions will include:

- Significant restructuring of the department's community services that consolidates the organisation's move towards evidence-based practice, including the development of the effective practice model, a quality assurance framework and the review of training for community services staff.
- The development of an Aboriginal Strategic Policy Framework to support, provide direction and ensure consistent approaches to decision making in relation to the department's Aboriginal service delivery.
- The development of improved cross-agency approaches to working with young offenders through stronger intersectoral relationships, including a focus on young offenders with disabilities.

### **1.3.2 Victoria**

Key policy directions for juvenile justice in Victoria are:

- The continued diversion of young people from entering or progressing through the justice system including the legislative age change, the provision of court advice, group conferencing, and central after-hours assessment and bail placement service.
- The effective management of young people to reduce offending through the provision of effective assessment processes (Victorian Offender Needs Indicator for Youth – VONIY), targeted and evidence-based interventions and case management systems through the implementation of the rehabilitation review, and the provision of transitional support services to reintegrate young people into the community.
- Continued development of approaches aimed at addressing the over-representation of young Indigenous people in the justice system including the development of the Children's Koori Court and the further development of the Koori Juvenile Justice Program.

### **1.3.3 Queensland**

Key policy directions for youth justice in Queensland include:

- The exploration of options for reducing offending, including more effective risk needs assessments for young people (matched to the criminogenic needs of the young person); the development of evidence-based programs that are informed by ‘what works’; and post-detention programs to encourage reintegration into communities, which is vital for achieving long-term behavioural change.
- A service delivery review that includes the assessment of good practice models for case management and the development of a new needs-based assessment framework. This work is providing a framework for the new ICMS (Integrated Client Management System), which will replace the existing FAMYJ database. This system will facilitate a continuum of care for young people in the youth justice system with case plans that follow a young person throughout the system.
- The ongoing development of Youth Justice Conferencing to ensure a continued focus on supporting the implementation of an enhanced service delivery structure including further development of procedural and practice guidelines that inform response in relation to complex and serious matters brought to conference.

These policy projects are aligned to the major funding commitment for the expansion of community-based youth justice service centres across the state, as well as responding to an increased demand for youth justice conferencing.

### **1.3.4 Western Australia**

Key policy directions for juvenile justice in Western Australia include:

- A review of juvenile justice services and structures with a view to implementing integrated service delivery practices and models between Juvenile Custodial Services and Juvenile Community Justice Services.
- Exploring wider more cost effective local community-based options in Geraldton and Kalgoorlie including early intervention, diversion, reparation and intensive case management models.
- Implementing the Victorian Offender Needs Indicator for Youth (VONIY) tool, which will enhance case management practices and improve through-care for young people across custodial and community juvenile justice.
- Development of an annual training program of all uniformed detention staff at the Academy and a promotional pathway program.

### **1.3.5 South Australia**

Families SA policy directions for youth justice in South Australia include:

- The development of a new manual of practice in preparation for adoption of the Victorian electronic case management system.
- The exploration of ways to reconfigure metropolitan Adelaide youth justice resources to ensure a sustainable service delivery model.

- The participation in an across-government initiative to establish an intensive supervision program for serious repeat juvenile offenders.
- The development of an improved through-care model for young people in detention, with specific focus on Aboriginal young people, as part of practice reform.

### **1.3.6 Tasmania**

Key policy directions in Tasmania are:

- Pre-court diversion of young people from the criminal justice system under the Informal and Formal Cautioning and the Community Conferencing provisions of the *Youth Justice Act 1997*.
- Access for young people to programs within which they can learn new skills and also make reparation and restore any harm their social offending may have caused within the community, inclusive of community service order programs.
- Reduction of offending through effective case management of young people based on effective need and risk assessment and case management. A particular emphasis is placed on young people with multiple and complex needs whose behaviour is at risk of being criminalised and young people exiting custody.
- The development of individual resilience and community capacity by working in partnership with young people, their families, stakeholders across agencies, community-based organisations, the corporate sector and significant others to meet needs that underpin social offending.
- Reduction of time spent on remand and ensuring young people in custody are in a safe and secure environment that meets their needs.
- Improved Aboriginal and Torres Strait Islander data collection processes.

### **1.3.7 Australian Capital Territory**

The ACT Young People's Plan 2004–2008 provides a flexible and responsive context for government agencies, community organisations, the ACT community and young people to support improved outcomes for young people and to address changing needs and emerging priorities until 2008. Under the plan the government has focussed on four key directions.

These are:

- participation
- access
- transition
- support.

Each of the four key directions above are relevant to all young people in the Australian Capital Territory, including young people involved with the justice system.

For example, developing approaches to 'increase the effectiveness of young people's participation in the development and evaluation of services and programs that are designed to meet their needs, and that affect their lives', is relevant to young people in youth justice settings. Similarly, under transitions 'equipping young people with necessary skills and supports to maximise opportunities and meet the challenges associated with transitions' and

again, under the direction of support, 'recognising and responding to the needs of young people involved with youth justice and child protection services'.

Specifically, the *Blueprint for young people 'at risk'* has the goal of enhancing support for young people 'at risk' through the provision of improved coordinated assistance and by strengthening the age-specific supports, some of which are specific to youth justice.

In addition, the *ACT Government Commitment to Young People* specifies key actions in relation to young people's completion of schooling and the provision of appropriate and effective training both on and off the job.

For 2004–2005 the focus is to:

- increase programs for clients under youth justice supervision
- broaden the diversionary and restorative justice programs, and the role of the Restorative Justice Unit
- continue to focus on exit planning and transitioning of young people leaving detention, particularly by supporting linkages to natural supports and community networks
- provide enhanced education and training options for young people under youth justice supervision through the Student Pathways and Training Pathways Guarantee programs
- continue to promote and consolidate a common case management approach across the youth sector
- introduce the Indigenous Liaison Officers for Aboriginal and Torres Strait Islander young people in custody
- strengthen the role of the Indigenous hostel to support young Aboriginal and Torres Strait Islander males on bail, community-based orders and those released from custodial sentences
- continue to develop the Turnaround Program to improve outcomes for young people with high and complex needs
- establish a new youth detention centre that will better support the case management and delivery of programs to children and young people.

### **1.3.8 Northern Territory**

A major theme of policy direction in the Northern Territory is diversion:

- A new *Youth Justice Act* came into force in December 2006, replacing the *Juvenile Justice Act*. The new Act includes provisions for diversion, including a presumption for diversion and the capacity for courts to refer matters back to Juvenile Diversion.
- The major purpose of the Juvenile Diversion Scheme (JDS) is to work with young offenders through formal assessment, family and victim offender conferences and referral to a diversion program. In remote communities Community Youth Development Units (CYDUs) also work with large numbers of young people at risk. This risk abatement work is an essential aspect of the scheme.
- In March 2006, the Northern Territory Government approved the continuation of the JDS in its current form with NT Police managing and administering the scheme. Non-government case management service providers in Darwin, Katherine, Tennant Creek and Alice Springs have been fully funded on a recurrent basis by the government to continue operation.

- Community Youth Development program funding is available to the communities of Borroloola, Galiwin'ku, Tiwi Islands, Groote Eylandt, Maningrida, Papunya, Mt Liebig, Kintore, Docker River, Mutitjulu, Imanpa and Wadeye. The size and scope of current CYDU programs depends on community needs, governance structures and other partnership arrangements that have been negotiated with key stakeholders. Tangentyere Central Australian Youth Link Up Service provides invaluable support to the Southern Region CYDUs. Training to community employed staff is provided through the Batchelor Institute of Indigenous Tertiary Education 'Communities Supporting Youth' training program.

## 1.4 Structure of the data presented in this report

The results presented in this report are presented in two parts:

- the characteristics of the young people under juvenile justice supervision
- the characteristics of the *episodes* and *supervision periods* of that juvenile justice supervision.

The main focus is on data from the 2004–05 financial year.

### Measures used

A number of different measures are used in the report to analyse various aspects of the data. These are described below.

#### Number of young people in supervision during the financial year

This is a count of the number of young people who were in juvenile justice supervision at any time during the 2004–05 financial year (or in a previous financial year). It can be analysed by state and territory or the characteristics of the young person, such as sex, age and Indigenous status, as is done in Chapter 3. Chapter 3 also presents separate counts of young people who were in community supervision (*c*) and young people who were in detention (*d*) during the year. Since a young person may be in both community supervision and detention at different times of the year the total number of people in supervision is less than the sum of *c* and *d*, with the difference being the number of people who experienced both detention and community supervision (*b*).

That is, where *S* is the total number of young people in supervision:

$$S = d + c - b$$

#### Population rates

The numbers of young people in juvenile justice supervision during the year can also be expressed as rates per 1,000 people in the general population of the same age group. Due to the differences among jurisdictions regarding the status of 18 year olds in the juvenile justice system (see Section 1.2), to ensure comparability among jurisdictions all population rates have been calculated for 10–17 year olds (see Chapter 3).

## **Person days**

In Chapter 5, the proportion of time spent by young people in different types of supervision is expressed as a percentage of the total duration spent under juvenile justice supervision during the year, as measured in person days. The number of person days in supervision is calculated simply by summing up the total number of days spent by all young people in juvenile justice supervision during the financial year. The number of person days is also used to calculate average daily numbers (see below). Note that a supervision that begins and ends on the same day is given a count of 1 person day.

## **Average daily number**

The number of people in supervision during the financial year (see above) is not affected by the length of time spent by each person in supervision during the year. Thus, a person who spends one day in supervision and a person who is under supervision for all of the year each add one to the total count. The average daily number of people in supervision takes account of (in fact weights by) the length of time spent in supervision. It is calculated by dividing the number of person days by 365.25 (the length of an 'average' year). As for yearly numbers, average daily numbers can be analysed by jurisdiction and young person characteristics (see Chapter 4). Because the average daily number does account for length of time, it is possible for the two measures to show different patterns.

## **Number and length of supervision periods and episodes**

Chapter 5 examines the experience of young people moving through juvenile justice supervision in more detail. To do this, analyses for some tables use the number of completed *supervision periods* during the year, or the length of *episodes* and *supervision periods*. *Episodes* and *supervision periods* are described in Section 2.1.2.

## **Young person characteristics**

Chapter 3 contains data on the number, sex, age and Indigenous status of the young people supervised by juvenile justice departments in Australia during 2004–05. It includes information about the age at which young people first experienced juvenile justice supervision and detention, and how that relates to later contact with supervision.

## **Average daily numbers**

Chapter 4 provides data on the average daily number of young people in juvenile justice supervision of various types. These rates are then examined by demographic characteristics of the young people.

## **Juvenile justice supervision**

Chapter 5 provides details of the types of supervision provided, and differences based on young person characteristics such as age, sex, Indigenous status and previous contact with juvenile justice supervision.

### ***Supervision periods***

This section includes the number and length of *supervision periods* and the types of *episodes* contained within them.

### **Community supervision and detention**

This section examines community-based and detention-based juvenile justice supervision. The type of supervision experienced when sentenced following time in remand is also analysed.

### **Sex, age and Indigenous status comparisons**

These sections analyse differences among young people in terms of sex, age and Indigenous status in the types of supervision received, using data from the *supervision periods* and community versus detention sections.

### **Reasons for exit from *episodes***

The reasons for exit from various types of *episodes* of juvenile justice supervision are detailed in this section.

### **Age at initial juvenile justice supervision**

This section examines the relationships between the age at which a young person first had juvenile justice supervision and subsequent time spent in detention.

### **State and territory appendices**

*Juvenile justice in Australia 2004–05 state and territory appendices* are available online only at <http://www.aihw.gov.au/publications/>.