



Research Bulletin

Corrective Services NSW
Corrections Research, Evaluation and Statistics

Judicial Outcomes of Remand Inmates in New South Wales

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Aim

To provide a detailed profile of the NSW remand population including an examination of judicial outcomes.

Method

The study followed a cohort of 976 inmates remanded to NSW custody in March 2011 until the completion of the judicial process.

Results

The majority of the cohort (60.3%) remained on remand until the finalisation of court proceedings, while 39.7% were released on bail.

Overall, 79.6% of the cohort were convicted and received a custodial or community-based sentence. More than half (53%) received a custodial sentence, and a further 26.6% received a community-based sentence.

A total of 22.0% of the cohort spent less than one week on remand, while 45.2% spent less than one month on remand. Eighteen per cent (18%, n=171) of the sample spent less than 30 days on remand before being released on bail and did not receive a custodial sentence.

The profile of judicial outcomes differed depending on the length of time individuals spent on remand.

Conclusions

The NSW remand population is high volume, transient and have prior experience in the criminal justice system. The implications of the findings for CSNSW resource allocation and service provision are discussed.

Future research should focus on understanding the judicial processes and decisions related to short episodes of remand and explore the potential to reduce the NSW remand population.

Finally, the continued development of an integrated justice information system will improve the ability to monitor the flow of individuals through the system and enable on-going monitoring of the remand process.

INTRODUCTION

The size and composition of the NSW prison population has changed considerably over recent decades. A key feature of this change has been the steady increase in the number of inmates held on remand. Over the past fifteen years, the remand population has increased from 804 in 1996 to 2,755 in 2013, and the representation within the prison population has more than doubled from twelve to twenty eight per cent (Eyland, 1996; Corben, 2014).

The decision to remand an accused person to custody before he or she has been tried and convicted of a criminal offence is a serious but sometimes necessary option for the criminal justice system. Bail laws provide guidelines for police and the courts in determining whether accused persons who are charged with a criminal offence can be released from custody on the condition that they return to court at a specified time or whether they are remanded to custody pending the outcome of the charges. An individual can be remanded to custody while awaiting a bail hearing, trial, sentencing or the commencement of a custodial sentence.

Police activity and court practices significantly impact the size and management of the NSW prison population. The steady growth in the remand population has been driven by an increase in the number of individuals appearing before courts (particularly for offences with high bail refusal rates), an increase in the number of bail refusals (affected by changes to relevant legislation) and an increase in the length of remand episodes as a result of court delays (Fitzgerald, 2000; Chilvers, et al, 2001; Fitzgerald & Weatherburn, 2004; Lulham & Fitzgerald, 2008).

Remand inmates present significant management challenges for Corrective Services NSW (CSNSW). Remand inmates often present complex issues, including intoxication, chronic drug use and mental illness, as well as the trauma associated with incarceration and the uncertainty of their future. Every time an inmate is received into custody in NSW, he or she is screened and assessed before being referred to relevant medical, psychological and/or welfare services, in order to reduce any potential risks to themselves, staff and other inmates (CSNSW, 2013). Reception into custody is highly stressful and volatile and one of the most resource intensive stages in the incarceration process.

Approximately 11,000 remand inmates are received into NSW correctional centres each year as a result of bail refusal or an inability of the accused to meet bail conditions (CSNSW, 2013). However, there is little published research or information examining the movement of remand inmates into and through the criminal justice system. Analysing and presenting data on the remand population is challenging because of the complexities of the remand process, the composite nature of individual criminal dispositions and heterogenic pathways through the system and the limited available data on bail decisions made.

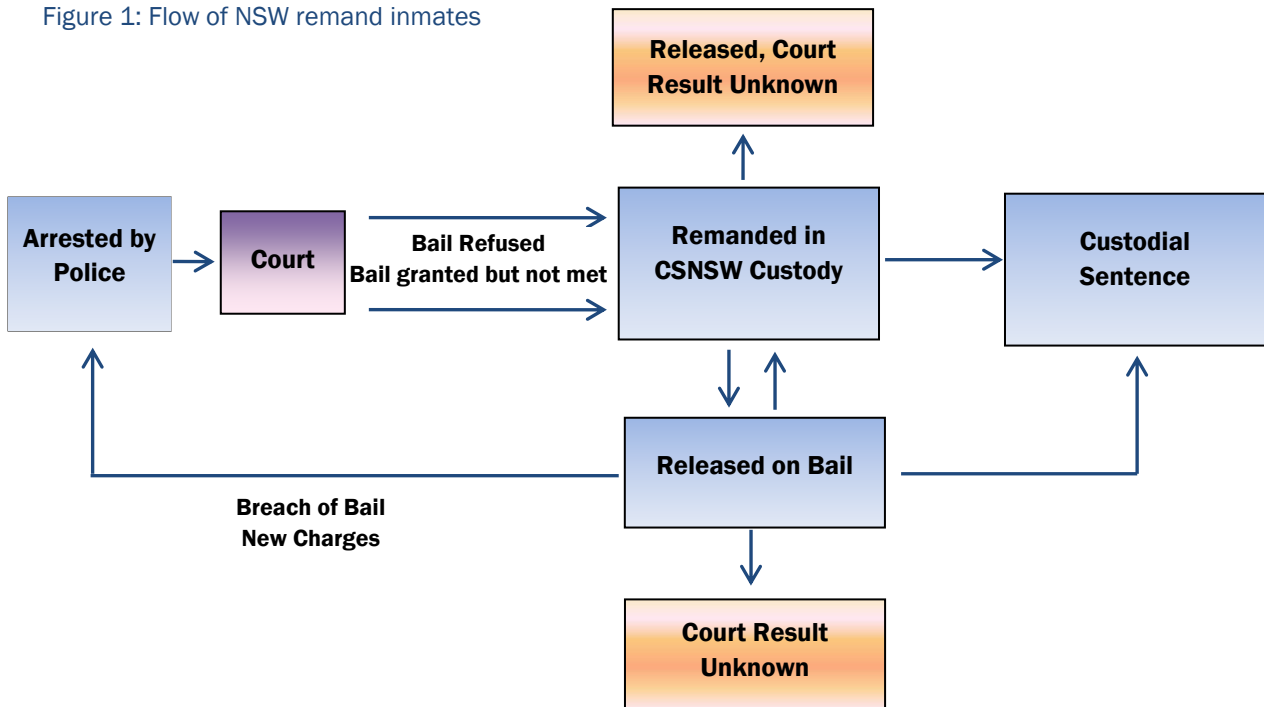
Simple representations of remand consider the pathway to be dichotomous: release on bail or maintained in continued remand until the finalisation of the criminal proceedings. However, the reality of remand pathways is much more complex. Individuals are rarely remanded to custody for a single offence and frequently have concurrent criminal matters pending, often in different courts. Episodes of remand are often characterised by multiple contacts with the Police, Courts, Corrections and forensic services prior to the finalisation of criminal matters. Judicial outcomes of remand episodes are likely to be characterised by a combination of pathways, such as:

- release on bail can result in a return to custody on remand if the individual breaches bail or is charged with new offences. He or she may also return to custody if convicted in court and given a custodial sentence. On the other hand the individual may have bail discharged as a result of a non-custodial sanction or acquittal or dismissal of charges; or

- continued remand in custody until the conclusion of the court process can result in conviction and a custodial sentence, conviction and release (time served, community based, diversionary sentence) or acquittal / dismissal of charges for the same matter or new charges.

The remand population is high volume and transient. Approximately half of all remand inmates spend less than 30 days on remand (CSNSW, 2012), and an estimated 30 per cent spend less than a week on remand (Ayres, et al, 2010). Approximately half of all inmates received on remand (approximately 52%) are released from custody without a custodial sentence, and most are commonly released on bail (unpublished CSNSW data). CSNSW cannot readily identify the final sentence disposition of these inmates because of an incomplete flow of data through the NSW justice system. Currently, there is a lack of integration between NSW court and CSNSW information systems, which means that CSNSW does not receive any sentencing information on remand inmates released without a custodial sentence. As Figure 1 illustrates, it is difficult to estimate reliably the final judicial outcomes of all individuals who are remanded to custody.

Figure 1: Flow of NSW remand inmates



In 2001, Thompson examined the judicial outcomes of a cohort of 912 remand inmates received into NSW correctional centres in March 1999. Court data were matched with CSNSW data for 76 remand inmates in the sample who were discharged without a custodial sentence after more than 30 days in custody. Thompson (2001) found that the majority of these releases were on bail (77.6%), while 17.1 per cent were released to a non-custodial or diversionary sentence, with only 2.6 per cent found not guilty.

Thompson's (2001) study provided preliminary information on the judicial outcomes of a small proportion of remand inmates who were released from custody at the completion of court proceedings without a custodial sentence. However, it did not provide any information on short-term remand inmates or those who were released on bail. Without this information, it is not possible to understand the final composition of judicial outcomes of individuals remanded to custody.

The aim of this current study is to build on previous research by providing a more detailed profile of the NSW remand population and to enable analysis of judicial outcomes. By linking court and CSNSW data for a specific cohort of remand inmates, this study expands on previous research (Thompson, 2001).

For the purpose of this research, a remand prisoner is defined as a person received into a NSW correctional centre in relation to a remand order or warrant issued by a court in connection with proceedings for an alleged offence. Inmates who are charged with a new offence while serving a sentence of imprisonment (a habeas prisoner) and have dual legal status (sentenced and on remand) are not counted as remand inmates. Individuals who are refused bail by the Police and held in a police or court cell and released before being transferred to a correctional centre are also excluded from this analysis.

A remand episode commences when a remand inmate is received into a correctional centre. The episode is terminated when the inmate is released from custody (either on bail or following the finalisation of the criminal matter) or convicted and sentenced to a term of imprisonment.

It is possible for remand inmates to have multiple judicial outcomes from one episode of remand. For example, an individual who is on remand for multiple offences can be convicted and sentenced for one offence and acquitted of another. For the purpose of this research, a judicial outcome is defined as the most serious penalty imposed as a result of the remand episode.

The total number of offences includes the total number of counts for each offence type. For example, if an offender were charged with 3 counts of assault and 1 count of resisting arrest, the total offence count would be 4.

METHODOLOGY

Cohort

The study cohort consists of 976 individuals received into a NSW correctional centre on remand in March 2011. This cohort was selected as it is comparable to the March 1999 sample used in Thompson's (2001) study. Furthermore, the cohort is considered representative of monthly remand receptions in NSW. As Figure 2 demonstrates, the number of remand inmates received into NSW correctional centres each month has remained relatively stable over the past 15 years, ranging from 801 to 1,135 per month. The average number of receptions per month over this period was 954 inmates.

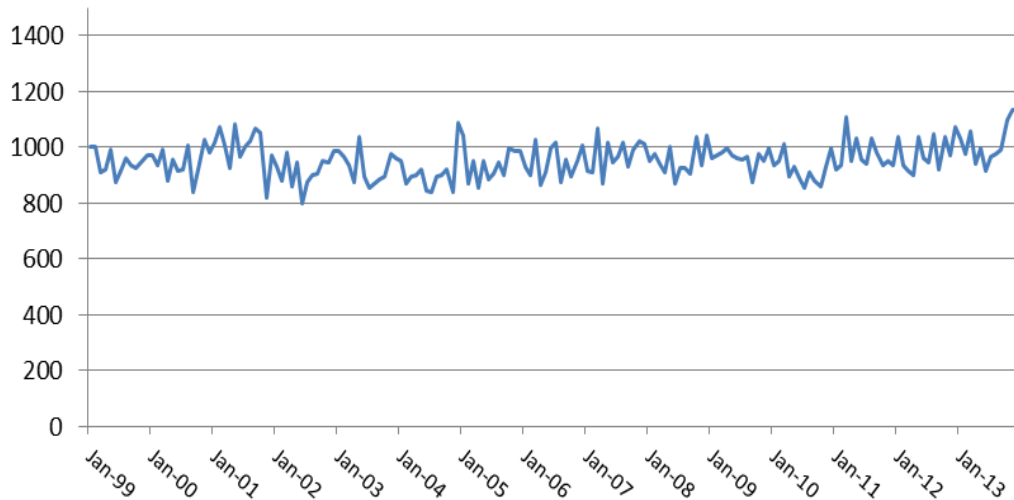
Data Sources

Details of inmate demographics, offence characteristics and movement into and out of NSW correctional centres were obtained from the CSNSW offender database. For remand inmates who were sentenced to imprisonment, sentence information relating to the remand episode was also obtained from the CSNSW offender database.

Every criminal matter before NSW criminal courts is identified by a unique justice proceeding number. This number links all court activity related to each matter.

Justice proceeding records were obtained from the NSW Bureau of Crime Statistics and Research (BOCSAR) Re-offending Database (ROD) (Hua & Fitzgerald, 2006). ROD consists of a set of linked records of all persons cautioned, conferenced or charged with a criminal offence in NSW since 1994.

Figure 2: Number of inmates received in NSW correctional centres each month between January 1999 and December 2013



Data Matching

Justice proceeding ROD data were manually matched to 597 remand inmates who did not receive a custodial sentence within 3 months of reception into CSNSW custody. A further 379 remand inmates who received a custodial sentence within 3 months of reception were not matched with ROD data as the relevant sentencing information was available on the CSNSW offender database (the total sample was 976). Data were matched on:

- Master Index Number (MIN) - unique identifier number given to each inmate
- Date of birth
- Gender
- Aboriginal Torres Strait Islander status
- Name - first, middle and last name
- Date of reception into and release from custody
- Court location
- Next scheduled court appearance date.

The matching of justice proceeding records to CSNSW data was complex because of the high frequency of court appearances and multiple judicial outcomes (as a result of multiple charges and multiple court matters). To illustrate the complexity of the court and CSNSW information in relation to remand inmates, the pathway of one inmate (Inmate A) from the cohort is presented in Figure 3 below.

Figure 3: Timeline of Inmate A remanded to custody in March 2011



Mapping the remand pathway and judicial outcome(s) of Inmate A required the analysis of 40 justice proceeding records across two local courts between 2009 and 2011. Inmate A was convicted and sentenced to a section 9 Bond in 2009. In March 2011, Inmate A was remanded to custody for a breach of the S9 bond and for 3 new charges. After 1 week on remand, Inmate A was released to conditional bail before the matters were finalised in May 2011. Inmate A was convicted of the 3 charges and sentenced to a S9 Bond, and no further action was recorded for the revocation of the S9 Bond.

In this example, the episode of remand was related to four offences and two separate court matters and required the analysis of multiple justice proceeding records to understand the reasons for remand and to determine the final judicial outcome(s). Remand inmates also frequently have additional court matters that are not related to the remand episode. The example of Inmate A is not atypical and highlights the complexity in aggregating and presenting remand information.

RESULTS

Of the 976 remand inmates in the cohort, 13.4% (n=131) were female and 86.6% (n=845) were male. More than one quarter of the cohort (n=280: 28.7%) identified as an Aboriginal or Torres Strait Islander person, and the age at reception with the largest representation was 25 to 34 years (n=344: 35.2%), followed by under 24 years (n=264: 27.7%).

Table 1: Age, gender and ATSI profile of Remand Receptions

		Male		Female		Total	
		n	%	n	%	n	%
	Non-ATSI	612	72.4	78	59.5	690	70.7
	ATSI	227	26.9	53	40.5	280	28.7
	Unknown	6	0.7	0	0.0	6	0.6
	Total	845	100.0	131	100.0	976	100.0
Age At Reception	<=24	252	29.8	18	13.7	270	27.7
	25-34	294	34.8	50	38.2	344	35.2
	35-44	206	24.4	41	31.3	247	25.3
	45-54	64	7.6	15	11.5	79	8.1
	55-64	23	2.7	6	4.6	29	3.0
	65+	6	0.7	1	0.8	7	0.7
	Total	845	100.0	131	100	976	100.0

Table 2 demonstrates that the majority of the cohort had previously been received into a NSW correctional centre either on remand or under a custodial sentence, and more than one-third (34.9%) had 3 or more prior episodes of incarceration.

A small proportion of the cohort (n=137: 14.0%) had been released on bail within two months preceding this reception. Due to the incomplete flow of electronic information between NSW courts and CSNSW, it is not possible to determine whether the previous bail release was for the same matter as the current reception.

Table 2: Prior episodes of incarceration (remand or sentenced)

	n	%
No prior episodes	382	39.1
1 prior episode	138	14.1
2 prior episodes	115	11.8
More than 3 prior episodes	341	34.9
Total	976	100

More than half of the sample had served a prior custodial sentence in NSW, while almost two-thirds had served a community-based order under the supervision of CSNSW. As Table 3 presents, 70.9 per cent had previously completed a sentence under the supervision of CSNSW, either in custody or on a community-based order.

Table 3: Prior sentence with CSNSW

	n	%
Custodial Sentence	497	50.9
Community Based Order (CBO)	624	64.1
Either FT or CBO	692	70.9

The vast majority of the remand inmates had been charged with multiple offences, as Table 4 demonstrates. Almost three-quarters (71.9%) were remanded to custody for 2 or more criminal offences, while almost half (49.3%) were charged with three or more offences. The average number of charges was 3.5 and ranged from 1 to 36 offences.

Table 4: Number of current offences

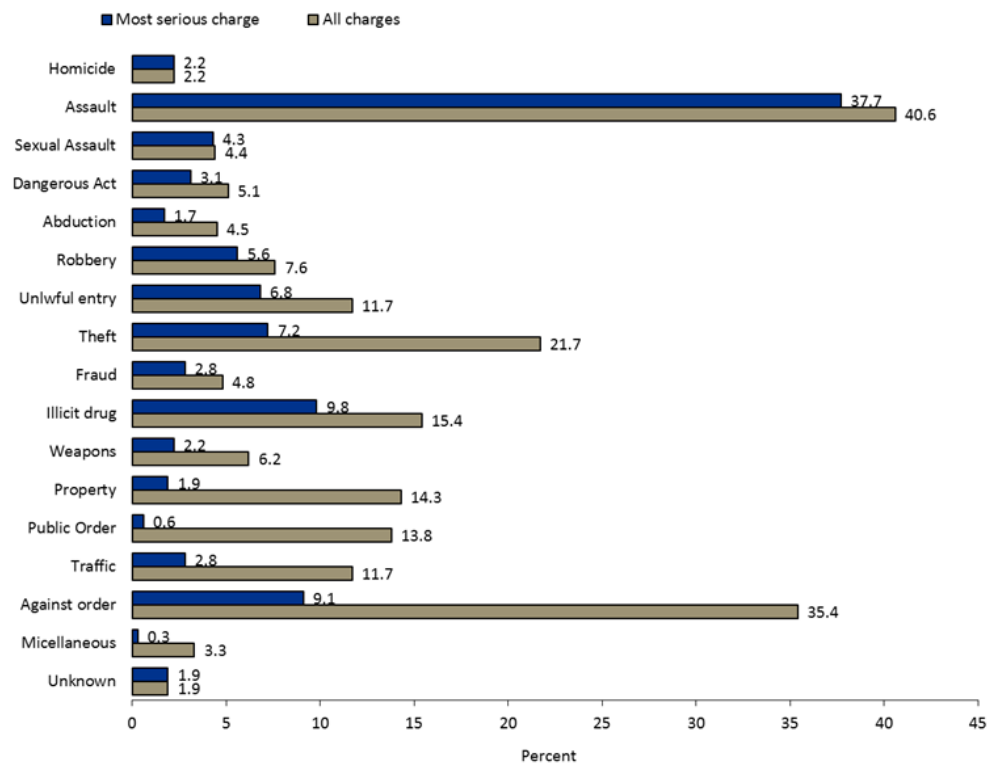
	n	%
1 offence	255	26.1
2 offences	221	22.6
3 or more offences	481	49.3
Unknown	19	1.9
Total	976	100

Of the 597 individual records for which justice proceeding data were obtained from BOCSAR, 46.4% had multiple criminal matters before the court. The average number of matters was 2 and ranged from 1 to 10 matters.

The most serious or index offence profile is shown in Figure 4 (most serious or index offence is defined as the offence with the lowest Australian Standard Offence Classification (ASOC) code). The most serious offence for more than one-third (37.7%) of inmates received on remand was assault related, while illicit drug offences and breaches of justice orders were the most serious charge for 9.8% and 9.1% of the cohort, respectively.

Figure 4 also presents the total offence profile for the cohort. Overall, the most common offences were assault related (40.6%), breach of order (35.4%) and theft related (21.7%).

Figure 4: Most Serious Offence profile of remand receptions



Judicial Outcomes

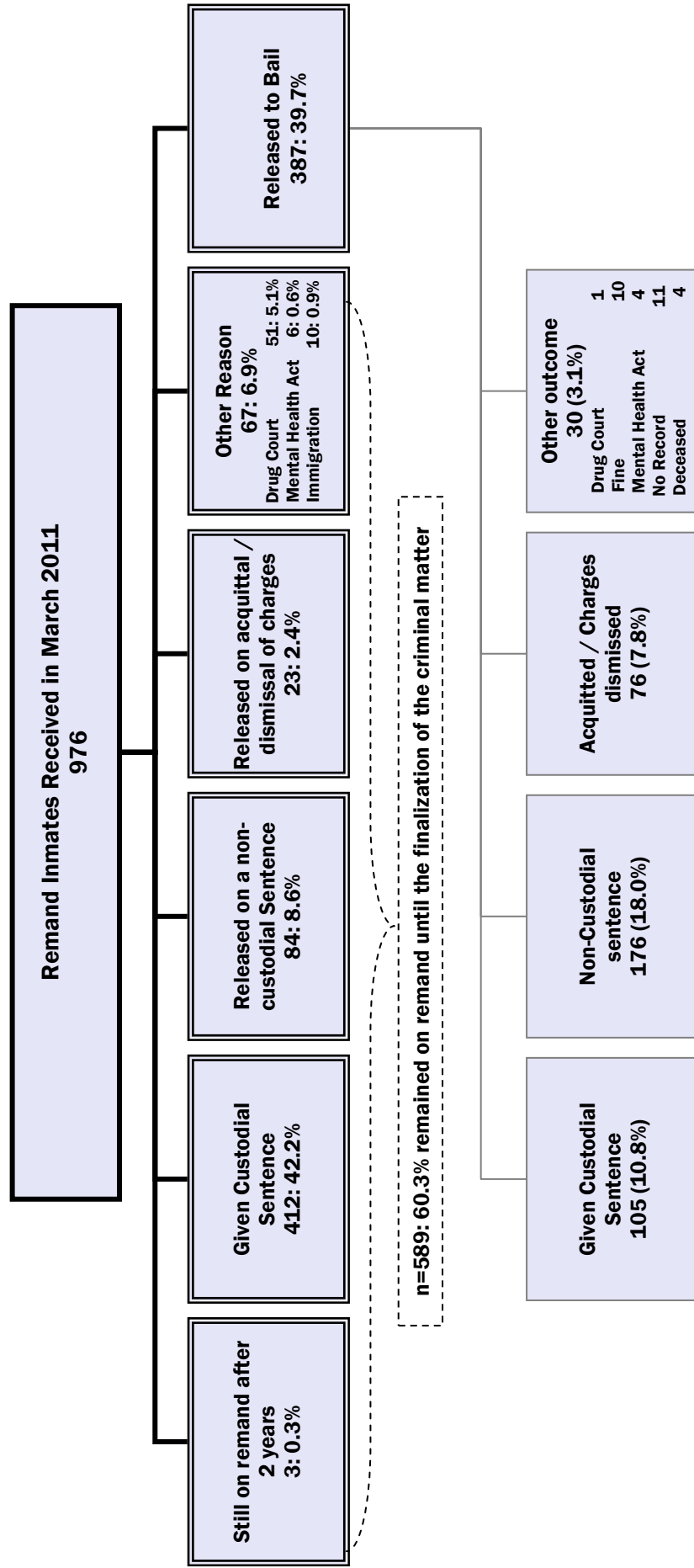
Figure 5 displays the judicial outcomes of the 976 individuals received into custody on remand in March 2011. The majority of inmates in the cohort (n=589: 60.3%) remained in custody on remand until the finalisation of the criminal matter. The remaining 40 per cent (n=387) were released on bail pending the finalisation of criminal charges.

More than three-quarters (79.6%) of the cohort were convicted and sentenced for at least one of the offences for which they were remanded. As Figure 4 presents, more than half (53%) received a custodial sentence, 42.2% commenced the custodial sentence from remand and 10.8% were given a custodial sentence after being released on bail. A small number of individuals were still on remand after 24 months (n=3: 0.3%). Over one-quarter (26.6%) of the cohort received a community-based sentence, such as a good behaviour bond, an intensive corrections order or a community service order. A total of 8.6% were released from remand to a community-based order, and 18% were released to bail prior to the finalization of the proceedings and sentencing.

A small proportion of the sample (10.2%) was eventually acquitted of the criminal charges for which they were remanded, with 7.8% being released on bail prior to acquittal and 2.4% acquitted directly from the period on remand in a correctional centre.

A similar proportion of the sample (10%) received 'other' judicial outcomes, including referral to the NSW Drug Court or a sentence under the NSW Mental Health (Criminal Procedure) Act 1900.

Figure 5: Judicial Outcomes for 976 inmates remanded to custody in March 2011

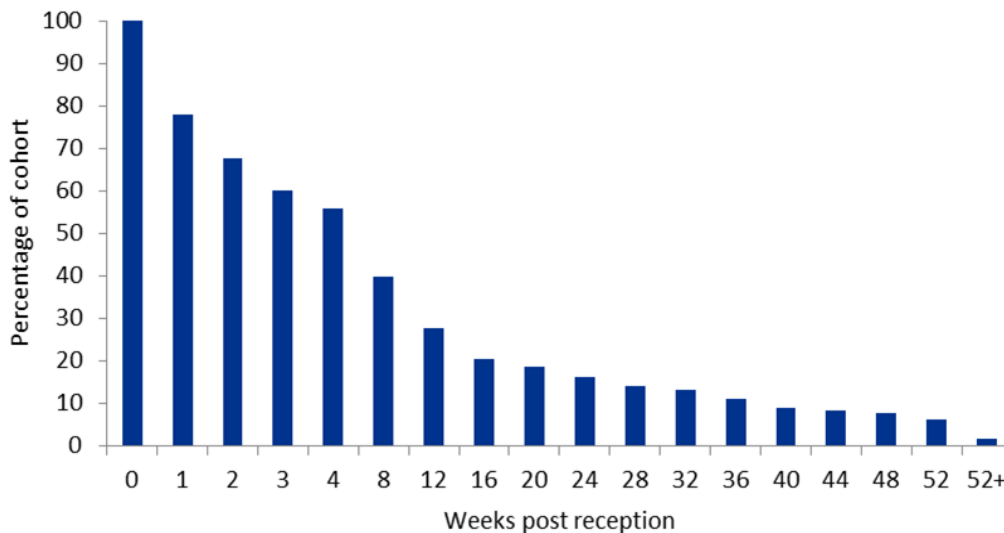


Length of stay on remand

More than 20 per cent (22.0%) of the inmates received on remand in March 2011 spent less than one week on remand, while almost half (45.2%) spent less than one month on remand. As Figure 6 presents, by the eighth week post reception, sixty per cent of the cohort was no longer on remand, and by the twelfth week, less than 30 per cent were still on remand. The median time on remand for the cohort was 40 days.

The proportion of remand inmates released within one week of reception in this study (22%) has declined compared to Thompson's (2001) March 1999 cohort, in which 39% spent less than one week on remand. Similarly the proportion that spent more than one month in custody has increased from 31% of the March 1999 cohort to 55% of the current March 2011 cohort.

Figure 6: Proportion of cohort still on remand over the 52 weeks post reception



Length of stay on remand by judicial outcome

Of the 215 inmates in the cohort who spent less than 8 days on remand, 140 (65.1%) were released on bail, 41 (19.1%) received a custodial sentenced within a week of reception and 27 (12.6%) received a community-based sentence and were released from custody.

The proportion of remand inmates who received a custodial sentenced increased as the length of time on remand increased. As Table 5 demonstrates, 43.8% of the prisoner cohort who spent between 1 and 6 months on remand received a custodial sentence. This increased to 67.5% of those who spent between 6 and 12 months in custody and to 85.5% of those who spent more than 12 months in custody.

Table 5: Time on remand by reason for release from custody

	Judicial Outcome									
	Bail		Custodial Sentence*		CBO		Other†		Total	
Time on remand	n	%	n	%	n	%	n	%	n	%
0-7 days	140	65.1	41	19.1	27	12.6	7	3.3	215	100
8-30 days	76	33.6	95	42.0	28	12.4	27	11.9	226	100
1-6 months	152	39.0	171	43.8	28	7.2	39	10.0	390	100
6-12 months	15	18.1	56	67.5	1	1.2	11	13.3	83	100
>12 months	4	6.5	52	85.5	0	0.0	6	8.1	62	100
Total	387	39.7	415	42.5	84	8.6	90	9.2	976	100.0

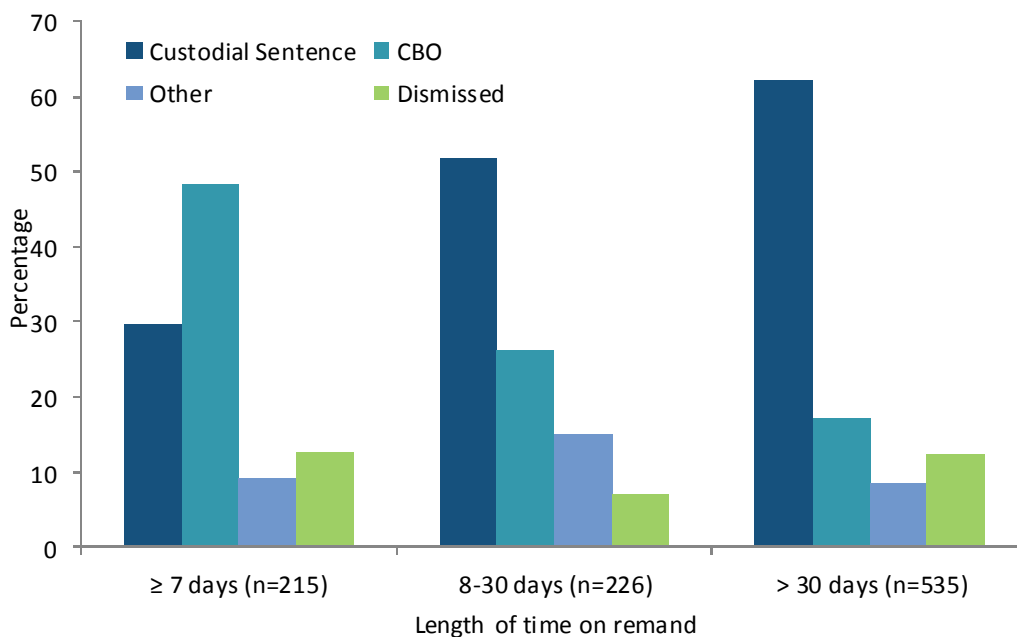
*includes 3 inmates still on remand

† includes drug court referrals, mental health act, fines, extraditions and acquittal/dismissal

Release to Bail

The judicial outcomes of short and longer-term remand inmates released on bail are displayed in Figure 7. Of the 387 remand inmates released on bail, three-quarters (n=291: 75.2%) were convicted and sentenced for at least one of the charges for which they were remanded. As Figure 7 demonstrates, the profile of judicial outcomes differs across the three time on remand groups (<7 days, 8-30 days and >30 days), with the proportion sentenced to community-based orders decreasing and the proportion receiving custodial sentences increasing as the length of time on remand increases.

Figure 7: Final judicial outcomes of remand inmates released on bail (n=387)



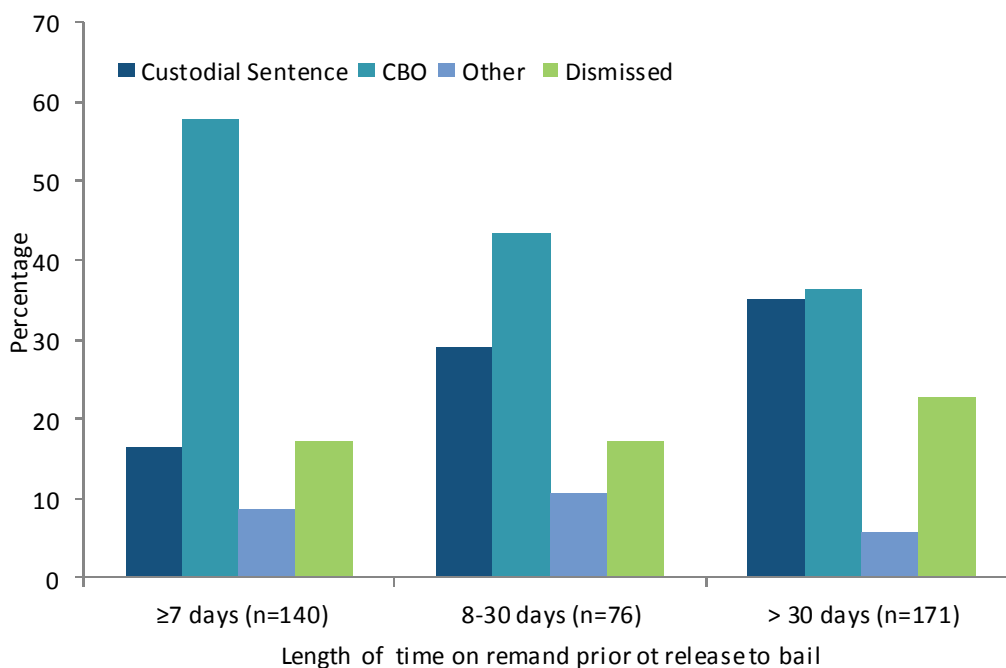
Almost 60 per cent (n=81: 57.9%) of the 140 inmates who spent less than 8 days on remand before being released on bail received a community-based sentence, while only 16 per cent received a custodial sentence. Of the 76 inmates who spent between 8 and 30 days on remand, 43.4% received a community-based order and 28.9% received a custodial sentence. In contrast, 36.3% of the 171 inmates who spent more than 30 days on remand before being released on bail received a community-based order and 35.1% received a custodial sentence. Overall, 171 inmates who spent less than 30 days on remand before being released on bail did not return to CSNSW with a custodial sentence.

Total remand cohort

The final judicial outcome for the total cohort is displayed in Figure 8. Overall, the majority (n=340: 63.3%) of inmates who spent more than 30 days on remand received a custodial sentence, 208 were sentenced while on remand and a further 60 were sentenced while on bail (includes 3 inmates who were still on remand).

In contrast, almost half (48.4%) of all inmates who spent less than 8 days on remand received a community-based order and less than one-third (29.8%) received a custodial sentence.

Figure 8: Final judicial outcomes of all inmates remanded to custody in March 2011 (n=976)



DISCUSSION

This report presents a detailed profile, including the aggregated judicial outcome information, of individuals remanded to custody in NSW. In general, the NSW remand population is high volume, transient and experienced in the criminal justice system. More than 900 inmates are received into NSW correctional centres on remand every month, and almost half spend less than 30 days on remand. The majority of individuals remanded to custody have previously been in contact (arrest, remand, sentence, supervision and bond, etc.) with the Police, courts and CSNSW.

It has previously not been possible to estimate the proportion of individuals remanded to custody who go on to be convicted of an offence and receive a sentence due to the complexity of the remand process and the lack of integration between court and CSNSW information systems. The methodology we employed in the current research highlights the complexity of the remand process and the difficulties in understanding and presenting information on the NSW remand population.

We found that more than three-quarters of inmates remanded to custody go on to be convicted and sentenced for at least one of the offences for which they were remanded. Approximately half receive a custodial sentence, while a further twenty-six per cent receive a community-based order.

Individuals received into custody on remand spend a relatively short time on remand. Almost one-quarter spends less than 8 days on remand, and almost one-half spend less than 30 days on remand. Only a small proportion spends more than 6 months on remand. The majority of remand inmates who spend less than 30 days in custody are sentenced to a community-based order. In contrast, the majority of longer-term remand inmates receive a custodial sentence.

A key finding of this research was that approximately 170 remand prisoner who spend less than 30 days on remand before being released on bail do not receive a custodial sentence. This represents a potential annual figure of over 2,000 short-term remand inmates who do not return to CSNSW with a custodial sentence. This finding has important implications for CSNSW resource allocation and service provision. Reception into custody is a high-risk period for both inmates and staff. Moreover, the reception and screening of remand inmates is resource intensive as they are typically held in maximum-security correctional centres and require immediate physical and mental health assessment and intervention. Remand inmates also require more frequent escorts to court and greater access to legal visits. A reduction in the number of individuals remanded to custody, particularly for short periods, would have a considerable impact on the management of inmates in NSW.

The volume of short-term remand receptions also impacts on the type of services and interventions that can be provided by CSNSW. High numbers of short-term remand receptions are likely to focus limited CSNSW resources on immediate services that address intoxication, acute mental health, aggressive behaviour and risks of suicide and self-harm. This has serious resource implications when considering the capacity of CSNSW to provide important longer-term interventions that address criminogenic risks and needs, challenging behaviour, transition needs, coping and adjustment.

For those longer-term remand inmates who are sentenced to custody, the remand period represents a lost opportunity for them to access services and programs to address offending behaviour and improve re-integration into the community.

While short- and longer-term remand episodes are an essential part of the judicial process, further investigation into the potential to reduce the remand population is warranted. There may be potential for the courts to apply alternatives to remand for the large number of remand inmates are currently detained for a short period of time. This would allow for a

better allocation of resources in the correctional setting. Conversely, systems could also be considered to allow those responsible for the small proportion of remand inmates still in detention after six months to focus on resolving these cases within a shorter period of time.

The results from the current study also have implications to program provision. The trend in NSW indicates a growing number of remand inmates compared to sentenced inmates. Changes to service provision to allow longer-term remand inmates to participate in correctional programs aimed at preventing their further contact with the criminal justice system could address the steady growth in remand inmates compared with sentenced inmates. Moreover, this is of particular importance because the current study shows that the majority of individuals remanded to custody have previously been in contact with the Police, courts or CSNSW.

It is recognized that a limitation of the current research is that it provides no data to enhance understanding or analysis of the reasons why individuals were remanded to custody, particularly for short episodes. Without understanding these complexities, it is not possible to identify strategies to reduce the remand population or improve service provision.

Further research is also required to develop an automated and effective method of mapping the sentence disposition of inmates in NSW correctional centres. The continued development of an integrated justice information system will improve the ability to monitor the flow of individuals through the system and enable ongoing monitoring of the remand process.

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