

RESEARCH REPORT

MOTOR VEHICLE THEFT
SENTENCING TRENDS IN
SOUTH AUSTRALIA
1990 - 2005

JUNE 2007

CARS 

comprehensive auto-theft research system

TABLE OF CONTENTS

EXECUTIVE SUMMARY	2
ACKNOWLEDGEMENT.....	2
INTRODUCTION	2
METHODOLOGY	3
FINDINGS	3
Motor Vehicle Theft Rates	3
Imprisonment Rates for Motor Vehicle Theft.....	6
Between State Comparisons in Imprisonment Rates for Motor Vehicle Theft.....	7
CONCLUSION	9
REFERENCES.....	10

EXECUTIVE SUMMARY

Sentencing trends in South Australia from 1990 to 2005 in relation to adult motor vehicle theft offenders were examined as part of an investigation into why South Australia had not experienced the reduction in vehicle theft noted in other States and Territories in recent years.

The research revealed a steady reduction in the use of custodial sentences over the 16-year period, with a concomitant increase in the use of suspended terms of imprisonment and good behaviour bonds. While this may suggest an increasing leniency in penalty options, the analysis also revealed that the use of monetary fines for this type of offence is now almost non-existent (reducing by some 96% during this period). Moreover, the average term of imprisonment increased from 19 weeks to 24 weeks.

A comparison of the rate of custodial sentences between South Australia, Western Australia and New South Wales was also undertaken. This revealed that custodial sentences are used more frequently in New South Wales (increasing by 9% over a 10-year period), than in Western Australia and South Australia, which both show a decline in imprisonment rates (11% and 24% respectively). South Australia and Western Australia's vehicle theft rate has fallen despite the reduction in the use of custodial sentences in these jurisdictions. Interestingly, New South Wales has also shown steady reductions but nonetheless remains above average despite its increasing imprisonment rates. In fact, figures for 2006 reveal equivalent vehicle theft rates for South Australia and New South Wales. This finding suggests that sentencing severity *per se* is unlikely to be a major factor in reducing the incidence of motor vehicle theft.

ACKNOWLEDGEMENT

The National CARS Project is fully funded by the Australian National Motor Vehicle Theft Reduction Council (NMMVTRC). As part of an investigation into why the reductions in vehicle theft experienced in other States/Territories during 2000 to 2005 had not been replicated in South Australia, Dr Sharon Casey was seconded from the University of South Australia. A series of studies were undertaken including an examination of sentencing trends, upon which this paper is based. (For further information on the NMMVTRC visit their website, www.carsafe.com.au). The views expressed in this paper are those of the author and do not necessarily represent the views of CARS or the NMMVTRC.

INTRODUCTION

The impetus for this study arose in 2005 out of concern that South Australia was lagging behind other jurisdictions in reducing its vehicle theft rate. While a number of initiatives implemented by the NMMVTRC such as "Immobile Now!" and "Operation Bounce Back", had generally resulted in a downward trend in theft rates, the reduction had not been consistent across all Australian states. This was particularly evident in South Australia where the theft rate had remained substantially higher as compared to the national average. In recent years however, statistics have shown an improvement in South Australia's vehicle theft rates although it still remains above average. So while there is no longer a critical question to be answered as to why South Australia had not been experiencing the improvements noted in other jurisdictions, this paper does present some interesting findings in relation to sentencing trends.

One explanation frequently put forward to explain increased levels of offending or the failure to reduce crime rates is the view that courts have become too lenient in their approach to punishment. Considerable political rhetoric has focused on the need to get tough on crime, the justification for which has been the public's apparent concern about rising crime rates and its increasing dissatisfaction with criminal sentencing (Casey & Mohr, 2005). To explore this hypothesis with respect to motor vehicle theft, this study sought to examine the sentencing trends for larceny of a motor vehicle or illegal use of a motor vehicle in South Australia over a sixteen year period.

METHODOLOGY

The Office of Crime Statistics and Research (OCSAR) produces annual statistical reports on all aspects of the South Australian criminal justice system including a volume on criminal matters finalised by the Magistrates Court. *Annual Crime and Justice in South Australia, Adult Courts and Corrections* reports for the period 1990 – 2005 relating to larceny of a motor vehicle or illegal use of a motor vehicle were examined in order to see whether sentencing trends may partly explain South Australia's high vehicle theft rate.

This data is limited in several ways. Firstly, it includes only adult offenders and therefore excludes sentences or obligations handed down through the Youth Court or Family Conference, and also excludes formal cautions. The data also excludes cases heard in the District or Supreme Courts, although there were only a small number of such cases. Finally, the data only includes cases where motor vehicle theft was the major charge for which the defendant was found guilty.

Similar court data from two other jurisdictions, Western Australia and New South Wales, was also available over the same period and this was included to provide a comparison.

FINDINGS

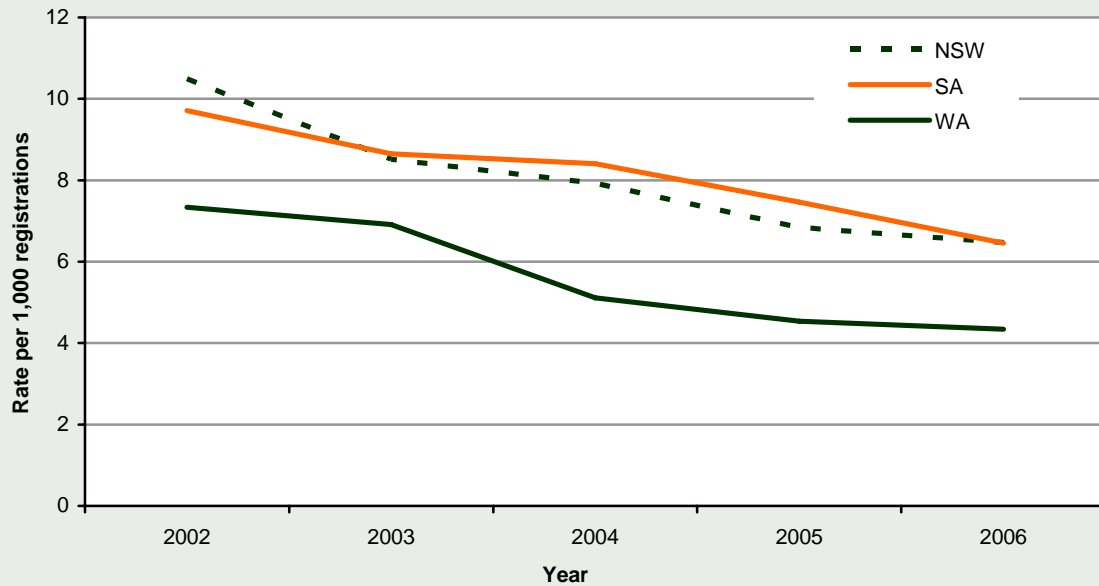
Motor Vehicle Theft Rates

Table 1 outlines the annual vehicle theft statistics for South Australia and compares these to New South Wales, Western Australia and national theft rates. It shows that while Western Australia has recorded steady reductions in vehicle theft and remains below the national average, South Australia has recorded a higher theft rate than New South Wales most years. Figure 1 shows that both New South Wales and Western Australia follow a similar pattern of theft reduction whereas South Australia seems to show a stagnant period during 2004 after which the theft rate falls, reaching the same level as New South Wales by 2006.

Table 1 Car thefts per 1,000 registrations in New South Wales, South Australia and Western Australia, 2002-2006

Year	NSW	SA	WA	Australia
2002	10.49	9.71	7.34	8.33
2003	8.52	8.65	6.91	6.98
2004	7.93	8.41	5.11	6.06
2005	6.84	7.46	4.54	5.43
2006	6.47	6.46	4.34	4.97

Figure 1 Car thefts per 1,000 registrations in New South Wales, South Australia and Western Australia, 2002-2006

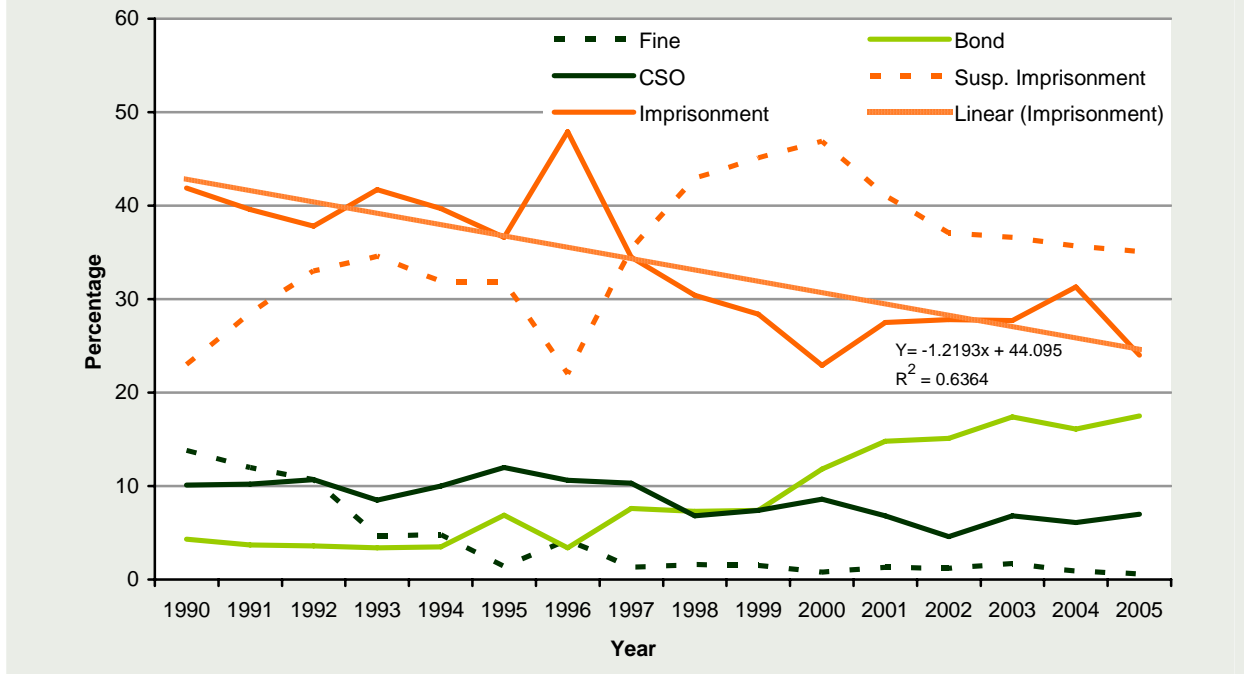


So how do South Australia's sentencing trends compare to the vehicle theft rates seen above? Table 2 below provides a summary of sentencing trends in the South Australian Magistrates Court over a 16-year period (in percentage terms).

Table 2 South Australian Magistrates Court: Sentencing trends by primary sentence category (%) where larceny or illegal use of a motor vehicle was the major charge convicted, 1990-2005

Year	No Penalty	Other Order	Fine	License Suspension	Bond	Community Service Order	Suspended term of Imprisonment	Term of Imprisonment
1990	4.7	0.9	13.8	1.3	4.3	10.1	23.0	41.9
1991	3.7	1.1	12.0	1.3	3.7	10.2	28.5	39.6
1992	2.1	1.2	10.7	0.9	3.6	10.7	33.0	37.8
1993	1.0	0.0	4.7	6.1	3.4	8.5	34.6	41.7
1994	0.9	0.0	4.8	9.2	3.5	10.0	31.9	39.7
1995	1.9	0.0	1.4	9.3	6.9	12.0	31.9	36.6
1996	0.8	0.4	4.2	10.6	3.4	10.6	22.0	47.9
1997	0.9	0.0	1.3	9.9	7.6	10.3	35.4	34.5
1998	0.5	0.0	1.6	10.5	7.3	6.8	42.9	30.4
1999	1.0	0.0	1.5	9.3	7.4	7.4	45.1	28.4
2000	0.4	0.0	0.8	8.6	11.8	8.6	46.9	22.9
2001	0.8	0.0	1.3	7.6	14.8	6.8	41.1	27.5
2002	1.2	0.4	1.2	12.7	15.1	4.6	37.1	27.8
2003	1.3	0.0	1.7	8.5	17.4	6.8	36.6	27.7
2004	0.4	0.0	0.9	9.6	16.1	6.1	35.7	31.3
2005	0.0	0.0	0.6	15.8	17.5	7.0	35.1	24.0

Figure 2 South Australian Magistrates Court: Major penalty for major charge convicted – larceny and illegal use of a motor vehicle combined, 1990-2005



As shown in Figure 2 above, the sentencing patterns reveal:

- The percentage of custodial sentences handed down fell by over two-fifths (43%), from 42% in 1990 to 24% in 2005.
- The percentage of suspended sentences handed down between 1990 and 2005 increased from 23% to 35%.
- The percentage of bonds increased by 307%, rising from 4% to 18% over the 16-year period.
- The percentage of fines handed down between 1990 and 2005 reduced by approximately 96%, from 14% to less than 1%.

The pattern of sentencing suggests that, despite public concern about the failure of sentencers to “get tough” on crime, the use of fines (often considered the most lenient form of penalty), reduced to less than 1% over the 16-year period. Similarly, the use of community service as a sentencing option also substantially declined. While it is not possible to draw any firm conclusions about why this trend occurred, the increased use of suspended sentences (and therefore bonds) suggests that, perhaps, a somewhat harsher approach has been adopted in the sentencing of car thieves. Furthermore, while the use of imprisonment did fall markedly during the year 2000, the upward trend over the following four-year period also indicates a shift towards harsher penalties.

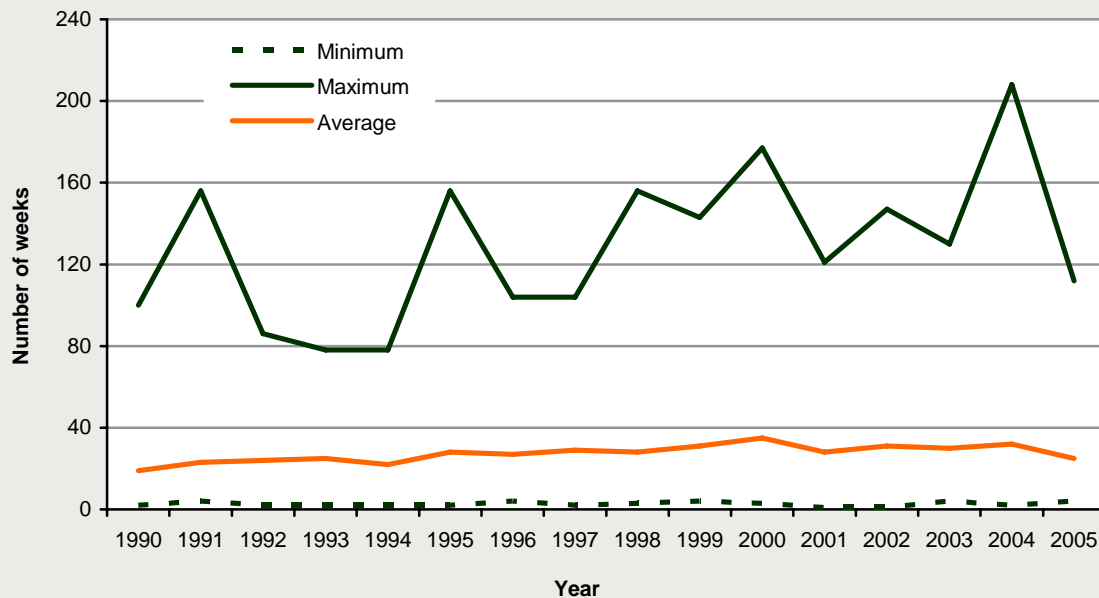
Imprisonment Rates for Motor Vehicle Theft

The average, minimum, and maximum length of imprisonment (in weeks) for the charges of larceny of a motor vehicle and illegal use of a motor vehicle combined is presented in Table 3. Whereas the minimum number of weeks of imprisonment has remained essentially stable over the 16-year period, there has been considerable variation in terms of the maximum penalty imposed. This maximum peaked in 2004 at 208 weeks, with the lowest maximum occurring in 1993 and 1994 (78 weeks). Over the same period, the average length of imprisonment has increased by approximately 32% from 19 weeks in 1990 to 25 weeks in 2005, although there was considerable variation in between. This increase in the average length of imprisonment occurs due to periodic use of lengthier terms of imprisonment. Again, it is not possible to comment on why such increases occurred (i.e., whether it was a function of crime severity or sentencing philosophy). In crude terms, however, it does offer more evidence of a trend for sentences to be harsher rather than more lenient. Moreover, given that 2006 vehicle theft figures show a continued decline, it is possible to speculate that either (a) penalty severity has had some impact on the rate of car theft or (b) those responsible for the majority of crimes were incarcerated for the data collection cycles in 2005 and 2006. Alternatively, there could well be other factors that may explain the fall in vehicle theft rates.

Table 3 South Australian Magistrates Court: Imprisonment rates where larceny or illegal use of a motor vehicle was the major charge convicted, 1990-2005

Year	Number of cases	Imprisonment (Weeks)		
		Minimum	Maximum	Average
1990	195	2	100	19
1991	182	4	156	23
1992	127	2	86	24
1993	123	2	78	25
1994	91	2	78	22
1995	77	2	156	28
1996	113	4	104	27
1997	77	2	104	29
1998	58	3	156	28
1999	58	4	143	31
2000	56	3	177	35
2001	65	1	121	28
2002	72	1	147	31
2003	65	4	130	30
2004	72	2	208	32
2005	41	4	112	25

Figure 3 South Australian Magistrates Court: Number of weeks imprisonment where larceny or illegal use of a motor vehicle was the major charge convicted, 1990-2005



Between State Comparisons in Imprisonment Rates for Motor Vehicle Theft

As noted above, the use of sentencing outcomes as an index of changes in the crime rate or recidivism is somewhat problematic. In determining penalty, the judiciary has available to them broad discretionary powers that allow for the consideration of a range of factors relevant to the offender, the offence, and impact of the offence on the victim. This discretion, and by implication its relationship to sentencing decisions, has led to claims of inconsistency and sentencing disparities (see Casey & Wilson, 1998 for a review). Moreover, there is considerable debate about the extent to which sentencing can be considered in strictly quantitative terms when making this type of comparison. Each offender’s profile is unique with respect to the crime, their personal circumstances, or their risk of re-offending. Another important factor that needs to be taken into account is that sentencing does not occur in a vacuum. It can be influenced, for example, by the sentencer’s penal philosophy or their preconceptions regarding public opinion. It may also be influenced by the political climate at the time of sentencing.

Despite the difficulties in trying to assess whether penalty severity – particularly the use of imprisonment – has any deterrent effect, it is possible to examine the relationship between sentencing trends and crime rates. One crude means of doing this is to compare sentencing trends (in particular the use of imprisonment) across jurisdictions and compare this trend against changes in the rate of vehicle theft. While such a comparison cannot be used to make causal inferences about the relationship between the two, it does provide at least rudimentary evidence about the nature of that relationship. In the present study, the percentage of offenders sentenced to imprisonment in the South Australian Magistrates Court for a motor vehicle theft charge was compared to those in New South Wales and Western Australia. An important caveat when making such a comparison is the gross nature of the data. For example, it is not possible to discern whether differences in sentence length are the result of factors such as sentencing preferences within jurisdictions or the number of repeat offenders in the sample. The rate of imprisonment (in percentage terms) for the three jurisdictions is provided in Table 4 below.

Table 4 Magistrates' Courts imprisonment rates (%) in New South Wales, South Australia and Western Australia for motor vehicle theft (and related charges*), 1996-2005

Year	Percentage		
	NSW	SA	WA
1996	32.96	47.88	40.67*
1997	39.79	34.53	33.47*
1998	33.16	30.37	37.58
1999	34.74	28.43	32.30
2000	33.92	22.86	38.31
2001	39.78	27.54	36.20
2002	38.55	27.80	35.52
2003	38.56	27.66	32.41
2004	40.20	31.30	32.78
2005	42.19	23.98	29.94

* For SA this includes both Larceny of a motor vehicle and Illegal use of a motor vehicle. For WA and NSW this includes 'motor vehicle theft and related offences'.

NSW figures were derived from the NSW Bureau of Crime Statistics and Research. These courts are referred to as 'Local Courts' in NSW. WA figures were derived from the University of WA Crime Research Centre. However, 1996 and 1997 figures for WA were based on 1995/96 and 1996/97 financial year information supplied by the Australian Bureau of Statistics.

Figure 4 Magistrates' Courts imprisonment rates (%) in New South Wales, South Australia and Western Australia for motor vehicle theft, 1996-2005

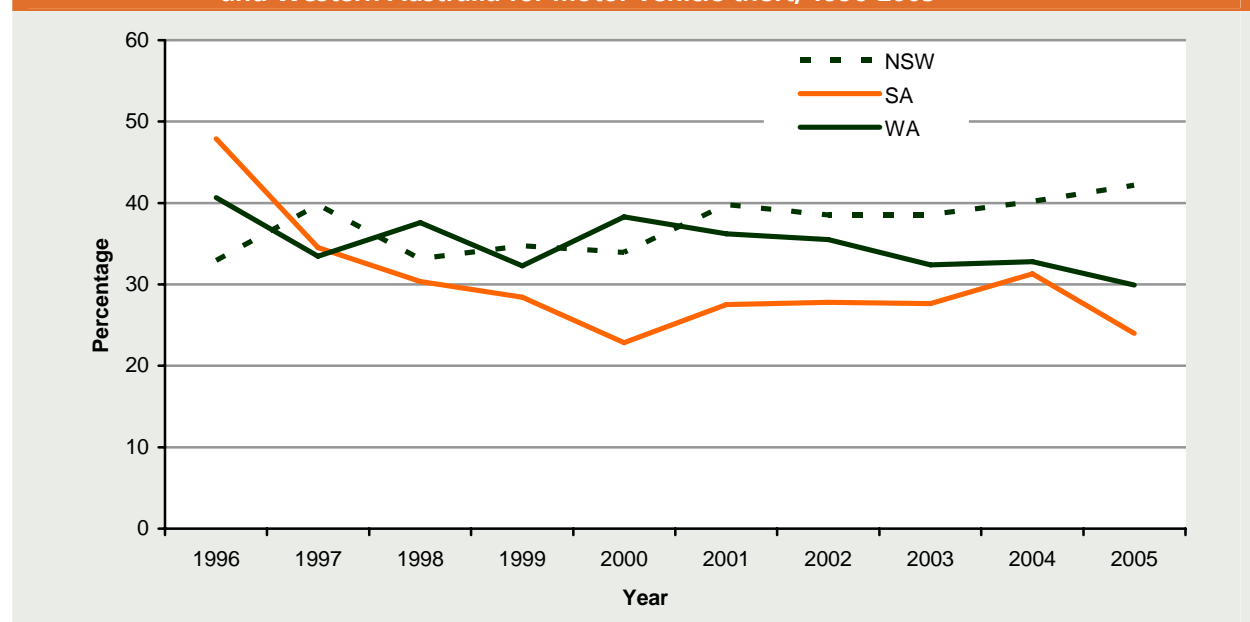


Figure 4 above, reveals that:

- New South Wales had the highest ratio of offenders sentenced to imprisonment for motor vehicle theft over the 10-year period.
- For the period 1998-2005, the average percentage of offenders sentenced to imprisonment in South Australia was significantly lower ($M = 27.49$, $SD = 2.87$) than either New South Wales ($M = 37.64$, $SD = 3.29$) or Western Australia ($M = 34.38$, $SD = 2.95$), $F(2, 23) = 23.214$, $p < .001$.
- For the period 1996-2005, the percentage of offenders sentenced to imprisonment in South Australia reduced by approximately 50%.

- For the same period, the percentage of offenders sentenced to imprisonment in Western Australia reduced by approximately 26%.
- Over the 10-year period, the percentage of offenders sentenced to imprisonment in New South Wales increased by approximately 28%.

The question is whether the sentencing patterns described above have any discernible impact on offending rates. That is, does the general trend in New South Wales to imprison motor vehicle thieves at an increasingly higher rate than South Australia translate to a substantially greater reduction in the rate of motor vehicle theft? Referring back to the vehicle theft rates in Table 1, in New South Wales, the proportion of offenders sentenced to a term of imprisonment between 2002 and 2005 ranged between 39 and 42%; vehicle theft for the same period was reduced 35%. By comparison, the proportion of South Australian offenders receiving terms of imprisonment for the same period ranged between 24 and 31%; car theft for the same period reduced by only 23% (South Australia's imprisonment rate fell from 31% in 2004 to 24% in 2005). On face value, this could suggest that imprisonment may serve a deterrent function. However, when the Western Australian figures are compared to that of New South Wales, this argument seems less valid. The rate of imprisonment in Western Australia for 2002-2005 was around 30-36%; the reduction in car theft for the same period was 38% (i.e., 3% more than New South Wales). If one looks at the most recent vehicle theft figures, in 2006, the proportion of cars stolen per 1,000 registrations fell by 5% (compared to 2005) in New South Wales, and 4% in Western Australia. South Australia recorded the greatest reduction (13%) resulting in a theft rate equivalent to New South Wales.

CONCLUSION

It is not possible to determine whether New South Wales' increasing rate of imprisonment for motor vehicle theft has driven their reduction in vehicle theft rates. South Australia's theft numbers have begun to show an improvement with a vehicle theft rate in 2006 equivalent to that of New South Wales, despite its imprisonment rates showing the opposite trend. Indeed, Western Australia's trend for reduced imprisonment rates has not compromised its vehicle theft rate and it continues to remain below the national average. These differing findings indicate that no firm conclusions can be drawn about role of sentencing in between-State differences in motor vehicle thefts.

In fact, the variation in theft rates over the five-year period may be a result of a number of factors. Western Australia had a compulsory vehicle immobiliser scheme in operation over the entire period and its theft rate has remained below the national average each year so it's reasonable to assume that its theft reductions may not be as pronounced as the other States. Any other motor vehicle theft prevention activities or strategies in place in each of the States/Territories would also be expected to have some impact on theft rates.

While custodial sentences in South Australia have declined in the past 16 years, the length of sentences imposed has increased by approximately a quarter as a result of the imposition of lengthier terms of imprisonment for some offenders. It is not clear why these periodic increases are seen but it does point to a trend for sentences to be harsher rather than more lenient.

Other noteworthy sentencing trends in the past 16 years include the shift away from imposing fines (considered a more lenient option) and towards the use of bonds and suspended terms of imprisonment. Public perception that penalty severity has declined may be in response to the increasing frequency of suspended sentences as a penalty option. Despite continued public support for harsher sentence practices,

research has consistently shown that imprisonment is not a suitable rehabilitative option. This is evident in the principles of therapeutic jurisprudence and such an option is worth consideration (e.g., the establishment of a Diversion Court that deals with young offenders convicted of car crime).

POSTSCRIPT

Since this research was completed, more recent data has become available. Regarding the number of motor vehicle thefts, data for the 2006/07 financial year shows that although thefts in New South Wales continued to decline, Western Australia showed a small increase over the previous financial year and South Australia showed a substantial increase. This indicates that in South Australia the question of how to bring about a sustained decline in vehicle theft numbers (as is the trend in most other states and territories) remains an important one.

With regard to sentences, 2006 data showed that for adult cases finalised in the South Australian Magistrates Court (where major charge convicted was larceny or illegal use of a motor vehicle), the proportion sentenced to imprisonment increased slightly to 27.5% (compared with 24.0% in 2005 as shown in Table 2). Further, the average sentence length for imprisonment increased to 31 weeks (compared with 25 weeks in 2005 as shown in Table 3).

The most recent South Australian data shows that despite an increase in the rate and length of custodial sentences in 2006, vehicle theft again defied the national trend to increase in 2006/07. Despite the limitations of this type of study, this suggests that many other important factors apart from sentence severity must also be considered in attempting to reduce motor vehicle theft.

REFERENCES

- CARS (Comprehensive Auto-theft Research System). *2004/2005 Annual Statistical Report CD-ROM*. Adelaide: National CARS Project.
- Office of Crime Statistics and Research (1990-2005). *Crime and Justice in South Australia, Adult Courts and Corrections*. Adelaide: South Australian Attorney-General's Department.
- Casey, S., & Mohr, P. (2005). Law-and-order politics, public-opinion polls, and the media. *Psychiatry, Psychology and Law*, 12(1).
- Casey, S.N., & Wilson, J.C. (1998). Discretion, disparity or discrepancy? A review of sentencing consistency. *Psychiatry, Psychology and Law*, 5(2), 237-247.