

NSW Bureau of Crime  
Statistics and Research

# Crime and Justice Statistics

**Bureau Brief**

Issue paper no. 12

April, 2001

## TRENDS IN FORMAL CHARGES AND THE USE OF ALTERNATIVE PROCESSES BY NSW POLICE

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*In 2000, more than 30 per cent of proceedings by NSW police against alleged offenders were commenced by formal charge. A further 45 per cent were initiated either by way of a summons, a Court Attendance Notice or a Field Court Attendance Notice. For the remainder, the process did not result in a formal court hearing, but included the use of police cautions, warnings and infringement notices. The trends described in this paper show little change in the use of formal charge by NSW police over the past three years, but some movement away from the more formal processes of issuing summonses and Court Attendance Notices.*

### INTRODUCTION

The purpose of this paper is to examine the trends in formal legal and alternative proceedings initiated by NSW police against alleged offenders associated with criminal incidents committed between January 1998 and December 2000. These data were published for the first time in the publication *NSW Recorded Crime Statistics 2000*.

The recorded crime statistics report series, *NSW Recorded Crime Statistics*, published annually by the Bureau of Crime Statistics and Research, reports routinely on three aspects of recorded crime. Firstly, the report examines monthly trends in recorded crime for all categories of offence over a period of three years. Secondly, the report provides the annual numbers and percentages of criminal incidents cleared within 30, 60 and 90 days, for each of the same three years. And, thirdly, the report provides disaggregated tables for selected offences, detailing the annual numbers and rates (per 100,000 population) of criminal incidents recorded in Statistical Divisions of NSW and Statistical Subdivisions of Sydney.

In the current report of the series, a new section which provides information on the proceedings of NSW police against alleged offenders (‘persons of interest’ or POIs) has been added. This information has not previously been published.

### PERSONS PROCEEDED AGAINST BY NSW POLICE

The primary source of crime statistics information in NSW is the NSW Police Service’s Computerised Operational Policing System (COPS) which contains detailed information about each criminal incident recorded by NSW police. When a criminal event is reported to or detected by police, one or many criminal incidents associated with that event is recorded on COPS. As well as information about the incident itself (such as the location, object stolen, weapons used etc), the police enter information about the persons associated with the crime, if known. Such information about the victims, alleged offenders and witnesses who are associated with these incidents is stored in COPS in the ‘person’ file which is linked to the key ‘incident’

file. The information about alleged offenders analysed in this briefing paper has been extracted from the person file in COPS.

With respect to the alleged offender, the entry in the file may initially be a brief description of a person who may be able to 'help the police with their enquiries'. As the investigation proceeds, however, additional information is entered, including the proceedings, if any, which are taken against the 'person of interest'. These proceedings are initiated by police against the alleged offender, and may result in a hearing in a NSW Local Court. Processes which result in such direct entry into the NSW criminal justice system include procedures such as formally charging someone or issuing a Court Attendance Notice, a Field Court Attendance Notice (Field CAN), or a summons to bring the person to court. Procedures used by police, which are alternatives to the initiation of formal court prosecutions, include the issuing of warnings, cautions and infringement notices, and Youth Conferencing. Alternatively, police may not proceed against a known alleged offender at all; for example, the offender may

be under the age of ten years, have diplomatic immunity, or the victim or the Director of Public Prosecutions may choose not to prosecute.

Table 1 shows the annual total numbers of alleged offenders who were proceeded against by NSW police for criminal incidents recorded during 1998, 1999 and 2000, disaggregated by type of procedure. Table 1 shows that, overall, in 2000, about 79 per cent of total proceedings against alleged offenders resulted in a court appearance. This is a smaller proportion than in each of the previous two years, when 85 per cent (in 1999) and 93 per cent (in 1998) of POIs were proceeded against to court. Overall, over the three-year period, NSW police have made increasing use of processes other than the formal courts system in NSW.

Figure 1 shows the monthly trend, between January 1998 and November 2000, in the number of persons proceeded against by formal charge and other procedures resulting in a court appearance, compared with processes that do not result in a court appearance. The series do not include the figures for December

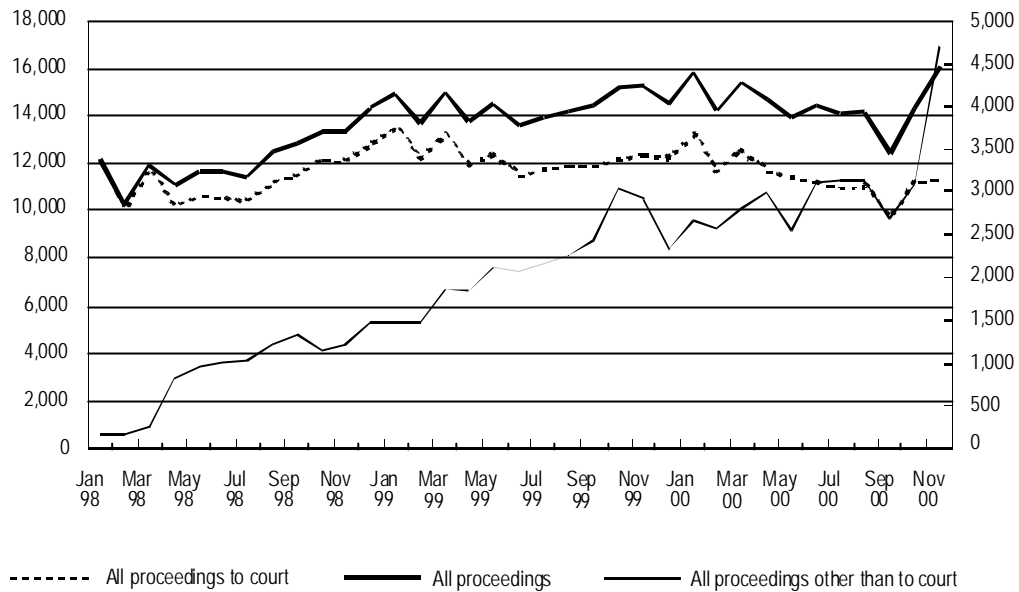
**Table 1: Method of proceeding against alleged offenders by NSW police, 1998 to 2000**

<i>Type of process</i>	<b>1998</b>		<b>1999</b>		<b>2000#</b>	
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
<b>Proceeded against to court:</b>						
Charged	58,831	40.2	57,406	33.2	56,393	32.6
Court Attendance Notice	41,257	28.2	33,646	19.5	28,104	16.2
Summons	17,185	11.7	14,854	8.6	11,964	7.2
Field Court Attendance Notice	18,198	12.4	41,132	23.8	40,536	23.1
<b>Total</b>	<b>135,471</b>	<b>92.6</b>	<b>147,038</b>	<b>85.0</b>	<b>136,997</b>	<b>79.1</b>
<b>Proceeded against other than to court:</b>						
Youth Conference	508	0.4	1,075	0.6	1,070	0.6
Caution	5,616	3.8	7,459	4.3	8,969	5.2
Infringement Notice	2,196	1.5	8,868	5.1	12,135*	7.6
Warning	2,537	1.7	8,472	4.9	13,389	7.5
<b>Total</b>	<b>10,857</b>	<b>7.4</b>	<b>25,874</b>	<b>15.0</b>	<b>35,563</b>	<b>20.9</b>
<b>All proceedings</b>	<b>146,328</b>	<b>100.0</b>	<b>172,912</b>	<b>100.0</b>	<b>172,560</b>	<b>100.0</b>
Not proceeded against	29,780		36,845		41,266	

\* The number of infringement notices for December 2000 (35,498) has been excluded from the annual total for 2000. This is because in December, traffic infringement notices were included in the category for the first time.

# Percentages shown in the final column of this table are based on the total counts in each category for the 11-month period January to November 2000.

**Figure 1: Monthly number of persons proceeded against by NSW police, January 1998 to November 2000**



2000 because of a change in recording practice in that month (see note for Table 1). Note that for illustrative purposes, the monthly series for processes other than those that result in a court appearance ('All proceedings other than to court') corresponds to the scale shown on the right-hand vertical axis of the graph. The other two series, namely the count of all persons proceeded against by NSW police and the number of persons for whom the process results in a court appearance correspond to the scale shown on the left-hand vertical axis of Figure 1.

Each 35-month series shown in Figure 1 was tested for a statistically significant upward or downward monthly trend using a Kendall rank order correlation test (see, for example, Conover 1980). Between January 1998 and November 2000, there was a statistically significant upward trend in the total number of persons proceeded against each month overall. This upward trend occurred mainly in the first two years of the series. Between 1998 and 1999, there was an 18 per cent increase in the total number of persons proceeded against. Between 1999 and 2000, the number remained stable. Note that annual comparisons quoted here and in the rest of this paper compare the 12-month periods January to December 1998 and 1999, but only the 11-month periods January to November 1999 and 2000. This is due to the change in recording practice noted above which makes the December figure for infringement notices, and hence the total number of proceedings, incomparable to the rest of the series.

Between January 1998 and November 2000, there was also a statistically significant upward monthly trend in the number of persons proceeded against by methods other than those which result in a court appearance. The number of persons proceeded against by measures such as warnings, cautions and infringement notices more than doubled between 1998 and 1999, and then increased by about 40 per cent between 1999 and 2000. While there was no significant upward or downward monthly trend over the same three-year period in the number of persons proceeded against to court, there was an overall annual increase of 9 per cent in this series between 1998 and 1999, followed by a decrease of almost 7 per cent between 1999 and 2000.

The next sections of this paper will examine the methods of procedure within each of the major categories shown in Table 1 in further detail.

## **PERSONS PROCEEDED AGAINST TO COURT**

The analysis in the previous section showed that most proceedings against alleged offenders undertaken by NSW police involves entry to the NSW criminal justice system, the courts. The method of entry, however, has varied over the years. While in 1994, about 95 per cent of police matters going to NSW Local Courts originated from formal charging procedures (Lind, Chilvers and Weatherburn 2001), by 1998 this proportion had fallen to about 40 per cent and has remained relatively stable since then.

**Figure 2: Monthly number of persons proceeded against to court by NSW police, by method of process, January 1998 to November 2000**

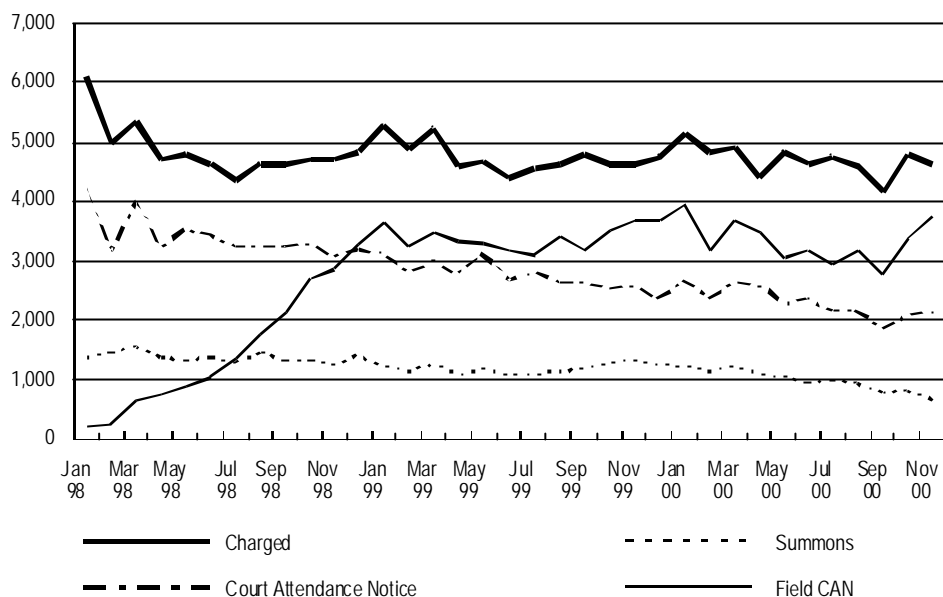


Table 1 shows that formal charge is still the most common form of police process leading to attendance at court. In 2000, 56,393 of the total 136,997 alleged offenders for whom the police process resulted in a court hearing had their proceedings initiated by formal charge. This represents 33 per cent of all offenders proceeded against in 2000, or 41 per cent of offenders who were proceeded against to court. The latter proportion has remained relatively stable over the three-year period shown in Table 1. However, over this period, there has been a change in the proportionate use of other formal procedures.

Figure 2 shows the monthly number of persons who were proceeded against to court by NSW police from January 1998 to November 2000. As before, each 35-month series shown in Figure 2 was tested for a statistically significant upward or downward monthly trend using a Kendall rank order correlation test.

It was noted above that there was no statistically significant upward or downward trend in the monthly number of persons proceeded against to court between January 1998 and November 2000. There was also no significant trend in the number of persons proceeded against by formal charge. There was, however, a statistically significant downward trend in the number of persons proceeded against by way of summons and general Court Attendance Notice. Between 1998 and 1999, there was a 14 per cent decrease in the number of persons whose legal proceedings commenced by way of a summons, while between 1999 and 2000, there was a further 16 per

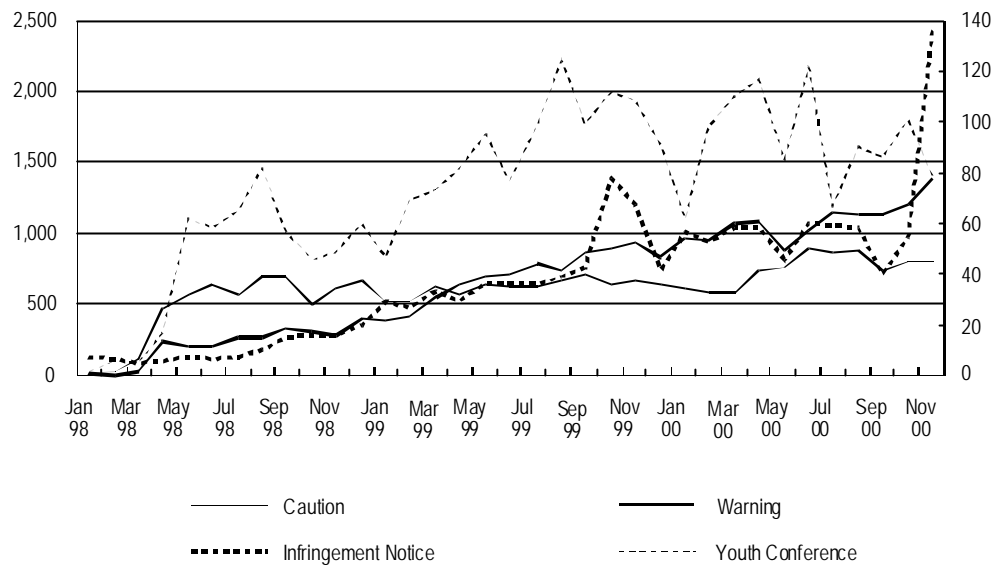
cent decrease. For Court Attendance Notices, there was a 17 per cent decrease between 1998 and 1999, and again between 1999 and 2000.

The decreased use of summonses and Court Attendance Notices noted above is due to an increase in the use of Field CANs by NSW police. Between January 1998 and November 2000, there was a statistically significant upward trend in the number of persons proceeded against by NSW police by way of a Field CAN. Figure 2 shows that progressively more Field CANs were used throughout 1998, stabilising in 1999 and 2000. Between 1998 and 1999, the total number of Field CAN processes more than doubled.

## PERSONS PROCEEDED AGAINST OTHER THAN TO COURT

Of the 20 per cent of POIs who were proceeded against by alternative means in 2000, the most frequently used method was police warnings. Warnings constituted about 8 per cent of all POI proceedings (or 38% of total non-court proceedings), up from 5 per cent of all proceedings in 1999, and from 2 per cent in 1998. Figure 3 shows the monthly number of persons who were proceeded against by methods that did not result in a court appearance for incidents recorded between January 1998 and November 2000. (As before, the series does not include the figures for December 2000 because of the inclusion of traffic infringement notices.) Note that for illustrative purposes, the monthly series for Youth Conferences corresponds to the scale shown on the right-hand

**Figure 3: Monthly number of persons proceeded against other than to court by NSW police, by method of process, January 1998 to November 2000**



vertical axis of the graph. The other three series, namely the count of all persons proceeded against by police caution, infringement notice and warning, are shown using the scale on the left-hand vertical axis of Figure 3.

Without exception, for the three-year period shown in Figure 3, there was a statistically significant upward trend in the number of persons proceeded against by each of the four methods that were used by police as an alternative to proceeding to court. The largest increases in the use of each method occurred in the first two years of the series; that is, between 1998 and 1999. Over this period, there was a four-fold increase in the number of persons against whom infringement notices were issued, and more than a three-fold increase in the number of warnings. In addition, the number of Youth Conferences more than doubled and cautions increased by about 30 per cent. Note, however, that the total number of persons proceeded against by way of these two latter methods was still relatively small in 2000 compared with all other processes.

**SUMMARY**

This paper has examined the trends in formal charges and other proceedings initiated by NSW police against alleged offenders associated with criminal incidents recorded between January 1998 and December 2000. While formal charge has remained the most frequently used method of proceeding against alleged offenders over this time period, there have been some changes

in the relative use of other methods. Firstly, within the category of police proceedings which lead to a court appearance, there was a decrease in the use of summons and Court Attendance Notices, but an increase in the use of Field CANs. Secondly, while still accounting for only 20 per cent of all police proceedings, there was increased use of processes that do not lead to court attendance. In particular, there were large increases in the use of infringement notices and warnings by NSW police. In addition, new alternative procedures, such as Youth Conferences, were introduced.

Full details of all monthly statistics for processes described in this paper are available in Tables 2.1 to 2.3 of the report *NSW Recorded Crime Statistics 2000* (Doak 2001). For further information about police processes and other issues related to recorded crime in NSW, please contact the Information Officer in the Statistical Services Unit of the NSW Bureau of Crime Statistics and Research.

**REFERENCES**

Conover, W.J. 1980, *Practical Non-Parametric Statistics*, 2<sup>nd</sup> edn, John Wiley and Sons, pp. 256-260.

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