



# **Response to Commission Position Paper 2008/23**

## **Justice Services**

**Department of Treasury and Finance**

**January 2009**

## Summary

- Tasmania supports the decision to treat 50 per cent of police expenses equal per capita.
- While we accept that there may be a case for discounting the service use weights derived from police custody data, we have provided evidence that a 50 per cent discount is excessive.
- Given the apparent issues with GFS fees and fines data, we support the decision to assess this revenue in the Miscellaneous Revenue category. We also support an EPC assessment of civil court expenses.
- We agree that adjustments should be made to recognise higher service use by young males, indigenous people, and people from low SES areas. Higher use by all three population groups translates into higher state justice expenses.
- We welcome the further work that Commission staff are doing on a possible service delivery scale assessment.
- We agree that there does not seem to be a case for assessing urban complexity or CALD disabilities.
- We support the assessment of administrative scale in the Justice Services category.
- We support the decision to defer a paper on native title and land rights until more information becomes available.

### Assessing a portion of police expenses EPC

1. As Tasmania has argued previously, there are clearly some police activities that are not driven by offender groups. Put another way, even if you were to remove all offenders from a state, you would still need the police to carry out certain functions – traffic safety, responding to emergencies, etc.
2. Therefore we agree with the Commission that a portion of police expenses should be treated EPC, the main issue being what the size of the component should be.
3. Tasmania acknowledges that this is a difficult issue, and we generally support the way that the Commission has interpreted the data on expenses on service delivery areas. We support the 50:50 split as a conservative, but defensible, judgement.

## Custody rates as an indicator of police expenses

4. In the Position Paper, the Commission proposes to discount police custody rates by 50 per cent. The Commission argues that it would be inappropriate to apply custody rates to police expenses without regard to the resources spent on different types of crime. For example, it would take less police time and resources to manage a drunk and disorderly offence than it would to investigate a murder or serious fraud.
5. Applying a discount would be appropriate if there was lower over-representation of indigenous people and young males for those crimes that are resource intensive for police to manage or investigate compared to other crimes.
6. Tasmania is not sure that this is the case. While we agree that some offences are more resource intensive to manage and investigate than others, we think that the police custody use rates should still apply to most of these expenses because over-representation by various population groups is likely to be similar.
7. A murder investigation is a good example to examine, because the Australian Institute of Criminology collects and publishes comprehensive annual data on homicides in Australia. Tasmania has used this data to compare homicide offending rates by young males and indigenous people to the police custody use rates quoted in the Justice Services Paper.
8. Tables 1 and 2 below show offending rates by age and sex compared to the average total rate of offending. The results show that the over-representation of young males in homicide offending is almost identical to that for police custody rates.

**Table 1 – Police custody rates, Oct 2002**

Rate of incidents relative to total population			
	Males	Females	Total
0 – 34 years	2.5	0.5	1.5
35 yrs and over	0.9	0.2	0.5
Total	1.7	0.3	1.0

Source: Staff Discussion Paper 2007/17-S, Table 12

**Table 2 – Homicide offenders, 2005-06**

Rate of offending relative to total population			
	Males	Females	Total
0 – 34 years	2.5	0.3	1.4
35 yrs and over	1.0	0.2	0.6
Total	1.8	0.2	1.0

Source: AIC, National Homicide Monitoring Program

9. Similarly, Tables 3 and 4 below show that indigenous people are significantly over-represented amongst homicide offenders, though slightly less so than for police custody incidents.

**Table 3 – Police custody rates, Oct 2002**

Rate of incidents relative to total population			
	Males	Females	Total
Indigenous	19.0	5.5	12.2
Non-indigenous	1.3	0.2	0.8
Total	1.7	0.3	1.0

Source: Staff Discussion Paper 2007/17-S, Table 12

**Table 4 – Homicide offenders, 2005-06**

Rate of offending relative to total population			
	Males	Females	Total
Indigenous	15.8	3.0	9.3
Non-indigenous	1.4	0.2	0.8
Total	1.8	0.3	1.0

Source: AIC, National Homicide Monitoring Program

10. Note that there are several calculations underlying each of the above tables. These calculations are shown in full in Attachment A of this submission.
11. The results above suggest that the police custody use rates are likely to be applicable to more serious offences. If the use rates for all types of offences are similar, then the police time and resources spent dealing with these crimes should not matter.
12. The notable exception to the above are cases of serious fraud. Not only could a typical serious fraud case be expected to consume more police resources than a minor offence, but the profile of serious fraud offenders is different to other offenders. According to the AIC study *Profiling Serious Fraud Offenders*, the typical serious fraud offender is a male aged in their mid-40s (and presumably non-indigenous). It would seem inappropriate to apply young male and indigenous police custody rates to police expenses relating to serious fraud investigation.
13. Despite this, serious fraud cases are relatively rare, so that they are likely to comprise a small proportion of state police budgets. According to the AIC study mentioned above, only 183 persons were convicted of serious fraud across Australia and New Zealand over the two year period of the study.
14. So while there may be a case for discounting police custody rates, a 50 per cent discount seems excessive. Tasmania suspects that there are only a very small proportion of police expenses for which the police custody rates should not apply.

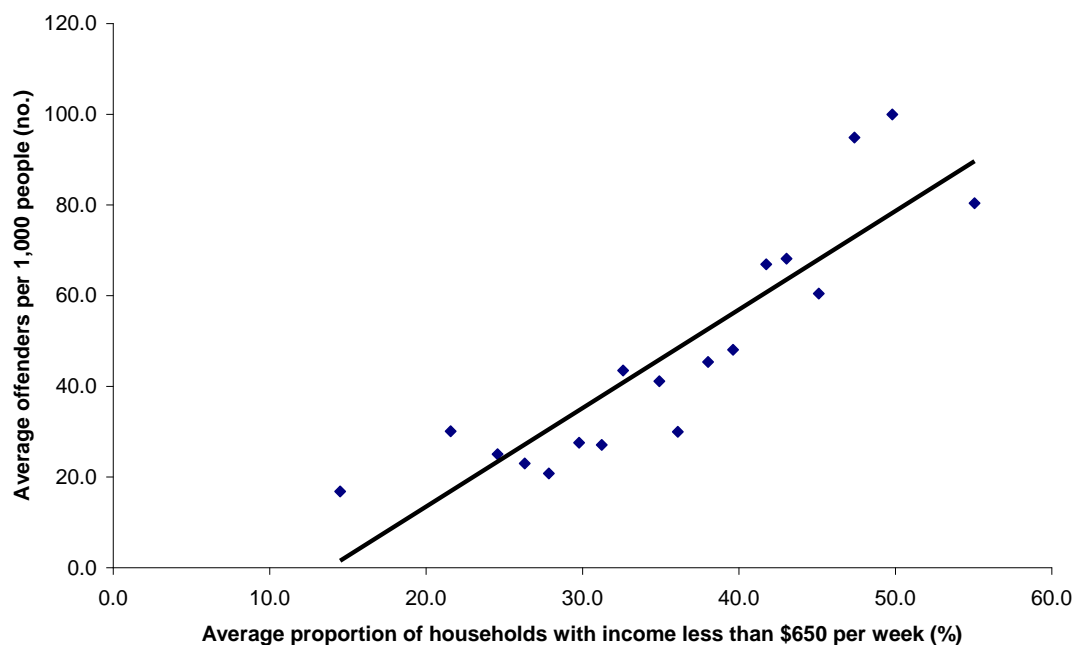
### **Civil court expenses and user charges**

15. Given the major problems with fees data in the GFS, Tasmania supports the intention to assess all fees and fines on an EPC basis in the Miscellaneous Revenue category.
16. As the Commission will no longer net off fees and fines from the Justice Services category, we agree that civil court expenses will need to be assessed EPC.

## Service use

17. Tasmania supports the proposed service use adjustments for young males, indigenous people, and people from low SES areas.
18. We particularly support the Commission's acceptance of the impact of low SES. States have now presented substantially more evidence for the impact of low SES on offending than they have for young males and indigenous people.
19. Tasmania has previously submitted analysis showing the strong relationship between an area's SES and its proportion of criminal court offenders.<sup>1</sup> Since then, Tasmania has also undertaken analysis of its police offender data.
20. Unfortunately, the fact that Tasmania's police offender data were extracted at the suburb level limited their usefulness, because the ABS census data used for analysis – even population counts - were not very accurate at the suburb level. This tended to distort relationships between an area's SES and offending, as it was not even possible to accurately calculate the proportion of offenders.
21. Nevertheless, we still found a strong relationship between an area's SES and its rate of offenders. For example, as the proportion of low income households in an area increases, so does the rate of offenders living in that area, as can be seen in Figure 1.

**Figure 1 – Offenders charged by police in 2005-06, Tasmania**



Source: *Tasmanian Law and Order data return; ABS Population Census*

<sup>1</sup> See *Magistrates Court Lodgements – some basic analysis*, submitted to the CGC on 31 March 2008.

22. We found similar SES and offending relationships for a number of variables such as the general unemployment rate, male unemployment rate, and other income-related type measures, and we even found strong relationships for proxy SES variables such as the proportion of single parent families or the share of households connected to the internet. Some of these relationships are shown graphically in Attachment B.
23. These results support the findings in the Position Paper that an SES adjustment is appropriate.
24. We note that not all states were able to provide the offender data. But there is still evidence from other sources that there is a similar relationship between SES and crime in Victoria. In June 2008, the Victorian Police Association released research prepared by the National Institute of Economic and Industry Research on police resource allocation. The research found that an important driver of the level of crime in Victorian police districts was the proportion of lone parents, 'both as an indicator of the probability of domestic assaults and as an indicator of low socio-economic status.'<sup>2</sup> It also found that the share of public housing was an important driver of crime levels.
25. During State Visits, the Commission indicated that it accepted the SES and crime link, but questioned whether this actually impacts on state costs.
26. The data that Tasmania and other states have provided clearly demonstrate that, the greater the level of disadvantage in an area, the more likely it is that the area will have more offenders. It seems reasonable to assume, on this basis, that states with relatively larger populations of disadvantaged people will have more offenders (and offending). So, if the Commission is willing to accept that the proportion of young males and indigenous people can impact on a state's justice costs, it is reasonable to assume that the proportion of people of low SES will too.
27. It is also clear that SES has a substantial impact on costs within different areas of a state. Table 5 below provides data on two police divisions in southern Tasmania. The two divisions are interesting as a case study because both are roughly the same distance from Hobart.

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<sup>2</sup> *White Paper on police resources in Victoria*, Police Association of Victoria, June 2008.

**Table 5 – Comparison of a low SES and higher SES police division, 2005-06**

		Kingston division	Bridgewater division
Population	no.	46,148	24,021
Low income families*	%	14.0	20.6
Offenders	no.	1,380	1,976
Expenses	\$ '000	2,944	3,966
Offenders per 1,000 people	no.	30	82
<b>Expenses per head of population</b>	<b>\$</b>	<b>63.80</b>	<b>165.10</b>

\* Defined as the proportion of families with a weekly income below \$500.

Source: Department of Police and Emergency Management; ABS Population Census; ABS regional population estimates (3218.0).

28. The table shows that the Bridgewater division has lower income, and consequently a much higher rate of offenders, than the Kingston division. What is interesting is that the cost per head of population in the Bridgewater division is more than two and half times greater than in the Kingston division. Although the Bridgewater division has a slightly younger age profile than Kingston, this is not enough to explain the cost differences of each division. The lower SES of the Bridgewater division, and the additional police officers allocated to it, is clearly a large driver of additional expense.
29. Also of note is that the Bridgewater station, the division's main station, is open 24 hours, seven days a week, due to the high levels of crime in the Bridgewater area. Kingston division's main station, despite servicing a much larger population, does not need to stay open after hours, which would be another of the reasons that its costs are lower.
30. In terms of the assessment method, we are not sure why it is necessary to use SEIFA as the indicator of an area's SES. That is, we are not sure that SEIFA 'explains' the rate of offending any better than an income measure, such as the proportion of low income households. We don't have any particular problems with the SEIFA measure, but we think a simpler measure could be used if it produces the same result.

### **Service delivery scale**

31. Tasmania understands that, since the release of the Justice Services position paper, the Commission staff have decided to further examine service delivery scale in policing. Tasmania supports this as we consider that a service delivery scale disability applies to Tasmania.
32. Conceptually, it seems likely that population density or a related measure, rather than SARIA, would better capture service delivery scale disabilities. Tasmania's views on the method for assessing service delivery scale for police are in our response to Position Paper 2008/14 *Location – wage costs*.

33. Below is an explanation of some of the reasons for Tasmania's relative service delivery scale disability in policing.

*Decentralised population*

34. Tasmania's service delivery scale disabilities arise due to the State's highly decentralised population. Tasmania presented substantial amounts of data and other evidence of the decentralised nature of Tasmania's settlement pattern at its State Visits.
35. The current number and distribution of police stations in Tasmania is the minimum necessary to ensure that police can respond to most residents in an emergency situation in a reasonable amount of time. There is little scope for rationalisation of these police services – removing any given station would substantially increase response times from the next nearest station for a sizeable portion of residents.
36. The services in small communities are not extravagant - more than half of Tasmania's 74 police stations are one or two person stations with minimal infrastructure and resources. But the operating costs of these stations are still high in terms of the population they serve, as are the police to population ratios.

*Other factors*

37. There are other non-policy circumstances that accentuate the decentralised population issue.
38. One is the remote nature of protest activity in Tasmania. Tasmania's large forestry industry dominates much of the State's environmental and political landscape. Forestry protests in Tasmania tend to be confrontational and often involve threats to the safety of protesters, forest workers and emergency services personnel, along with disruption to forestry operations and significant property damage to expensive equipment. Police are constantly required to intervene in these situations. It is also necessary to provide training and preparation for dispersing forest-based protest activities, which are altogether different from a typical street-based protest.
39. Whereas protest action in other states typically involves a march through city streets, forestry demonstrations almost always take place in remote and inaccessible locations such as the Styx and Upper Florentine Valleys. Many forestry protests are prolonged and some protest sites can be manned for months or even years. According to ASIO reports there are only three permanent protest sites in Australia, one of which is in Canberra (Tent City) and two of which are in Tasmania: in the Weld Valley, Geeveston, and the Upper Florentine Valley, Maydena.

40. The size of protest crowds is not necessarily proportional to the State's population. On the contrary, the 'nationalisation' of protest action frequently sees the temporary migration of large numbers of protesters from across the country.
41. The seriousness and remoteness of forestry operations has a significant impact on police resources due to: operational policing resources at protest sites; backfilling those deployed; overtime payments; potential deployment of specialist squads such as search and rescue; forensic services; and increased volume of prosecution services and court hearings.
42. Though not necessarily a material disability in its own right, the frequency of police intervention in forestry protests in Tasmania has implications for resourcing of smaller stations close to the protest activity, and therefore tends to exacerbate existing service delivery scale issues.
43. Another challenge unique to Tasmania is the marine policing task. Tasmanian police are responsible for patrolling a comparatively large area of water. Tasmania has 4,882 kilometres of coastline, greater than the coastline of New South Wales and Victoria combined. In addition, the State is responsible for policing most of Bass Strait (up to 14km from the Victorian coastline). Tasmania's marine policing task is therefore extensive in both absolute and per capita terms.
44. The marine policing task is non-discretionary due to the high value of marine and shellfish based industries, which contribute significantly to the Tasmanian economy – for example, Tasmania produces 25 per cent of the world's licit abalone catch. The high value of these resources, and the remoteness of fishing areas, means that they are a constant target for illegal poaching.
45. To respond to this task, Tasmania Police operates a large fleet of vessels and eight specialised marine policing units, which are mostly located in smaller towns and based on a decentralised model.
46. Again, while the relatively high cost of marine policing in Tasmania may not be a material disability in its own right, the decentralised nature of marine policing units does exacerbate the extent of service delivery scale disabilities. We think that a service delivery scale assessment could partly address these additional and unavoidable costs.

### **Urban complexity**

47. Tasmania agrees that there does not seem to be evidence of higher crime rates or greater spending on specialist squads in states with large cities.

48. We do not accept the arguments of some states that smaller states are at a lesser risk of terrorism. Small states need to have the same capacity to prevent and respond to terrorist threats, otherwise they risk being seen as a 'soft target'. It is therefore not surprising that the Commission found that spending on terrorism squads was similar, per capita, in most states.

### **CALD background**

49. Given that the evidence to date suggests relatively low use of justice services by people with a CALD background, Tasmania supports the Commission's intention not to make an adjustment for CALD disabilities.

### **Location**

50. For Tasmania's views on the location assessments, and their relevance to particular categories of services, refer to Tasmania's responses to Commission papers 2008/14 and 2008/15-S.

### **Administrative scale**

51. Tasmania supports the Commission's decision to assess Administrative Scale across all categories. For Tasmania's views on the design of the Administrative Scale assessment, refer to Tasmania's response to Position Paper 2008/12 *Administrative Scale*.
52. We note that the Commission accepts that intergovernmental workloads may have increased. We would also point out that there has also been an increase in national co-operation and other initiatives in the justice system and in policing. The justice initiatives (statutory officer positions, specialised positions, and policy development activities) are discussed in Tasmania's response to the Administrative Scale position paper.

### **Native title and land rights**

53. Tasmania supports the Commission's decision to defer a position paper on native title and land rights until more information becomes available on the impact of Australian Government changes to the operation of the relevant acts.

## Attachment A – Calculations for Tables 1 to 4

### *National rates of offending by age and sex*

**Table 6 – Police custody rates, Oct 2002**

per 100,000 persons			
	Males	Females	Total
0 – 34 years	342	71	208
35 yrs and over	122	23	71
Total	231	45	138

Source: Staff Discussion Paper 2007/17-S, Table 12

**Table 7 – Homicide offenders, 2005-06**

per 100,000 persons			
	Males	Females	Total
0 – 34 years	4.1	0.5	2.3
35 yrs and over	1.7	0.3	1.0
Total	2.8	0.4	1.6

Source: AIC, National Homicide Monitoring Program

**Table 8 – Police custody rates, Oct 2002**

Rate of incidents relative to total population			
	Males	Females	Total
0 – 34 years	2.5	0.5	1.5
35 yrs and over	0.9	0.2	0.5
Total	1.7	0.3	1.0

Source: Staff Discussion Paper 2007/17-S, Table 12

**Table 9 – Homicide offenders, 2005-06**

Rate of offending relative to total population			
	Males	Females	Total
0 – 34 years	2.5	0.3	1.4
35 yrs and over	1.0	0.2	0.6
Total	1.8	0.2	1.0

Source: AIC, National Homicide Monitoring Program

**Table 10 – Difference**

Table 9 minus Table 8			
	Males	Females	Total
0 – 34 years	0.1	-0.2	-0.1
35 yrs and over	0.1	0.0	0.1
Total	0.1	-0.1	—

#### **Notes**

1. Population estimates are from *Population by Age and Sex* (ABS cat. no. 3201.0) and are as at 30 June 2002 and 2006.
2. Rate of incidents/offending relative to total population is calculated as the rate of offending for a given population group divided by the average rate of offending for the total population.

## National rates of offending by indigenous status and sex

**Table 11 – Police custody rates, Oct 2002**

	per 100,000 persons		
	Males	Females	Total
Indigenous	2,707	781	1,734
Non-indigenous	186	31	107
Total	241	47	143

Source: Staff Discussion Paper 2007/17-S, Table 12

**Table 12 – Homicide offenders, 2005-06**

	per 100,000 persons		
	Males	Females	Total
Indigenous	25.0	4.8	14.7
Non-indigenous	2.3	0.3	1.3
Total	2.8	0.4	1.6

Source: AIC, National Homicide Monitoring Program

**Table 13 – Police custody rates, Oct 2002**

	Rate of incidents relative to total population		
	Males	Females	Total
Indigenous	19.0	5.5	12.2
Non-indigenous	1.3	0.2	0.8
Total	1.7	0.3	1.0

Source: Staff Discussion Paper 2007/17-S, Table 12

**Table 14 – Homicide offenders, 2005-06**

	Rate of offending relative to total population		
	Males	Females	Total
Indigenous	15.8	3.0	9.3
Non-indigenous	1.4	0.2	0.8
Total	1.8	0.3	1.0

Source: AIC, National Homicide Monitoring Program

**Table 15 – Difference**

	Table 14 minus Table 13		
	Males	Females	Total
Indigenous	-3.2	-2.5	-2.9
Non-indigenous	0.1	-0.0	0.1
Total	0.1	-0.1	—

### Notes

1. Population estimates are from the 2002 and 2006 Population Censuses. Non-indigenous population estimates include those people who did not state their indigenous status.
2. Rate of incidents/offending relative to total population is calculated as the rate of offending for a given population group divided by the average rate of offending for the total population.

## **Attachment B**

### ***Analysis of police offender data***

In response to the Commission's law and order data request, Tasmania's Department of Police and Emergency Management provided data on all offenders charged by police in 2005-06 at the suburb and LGA level. The data were also disaggregated by age group, sex and offence type.

It was difficult to analyse this offender data because ABS census data are not particularly accurate at the suburb level, due to the lack of concordance between census district boundaries and suburb boundaries. This meant that we could not accurately work out offender rates (as population numbers were inaccurate), which affected our analysis and was likely to 'water down' the link between SES and offending. In addition census data were not available at all for many smaller suburbs, which could potentially bias the results.

These issues aside, the data still showed a strong relationship between an area's SES and its proportion of offenders.

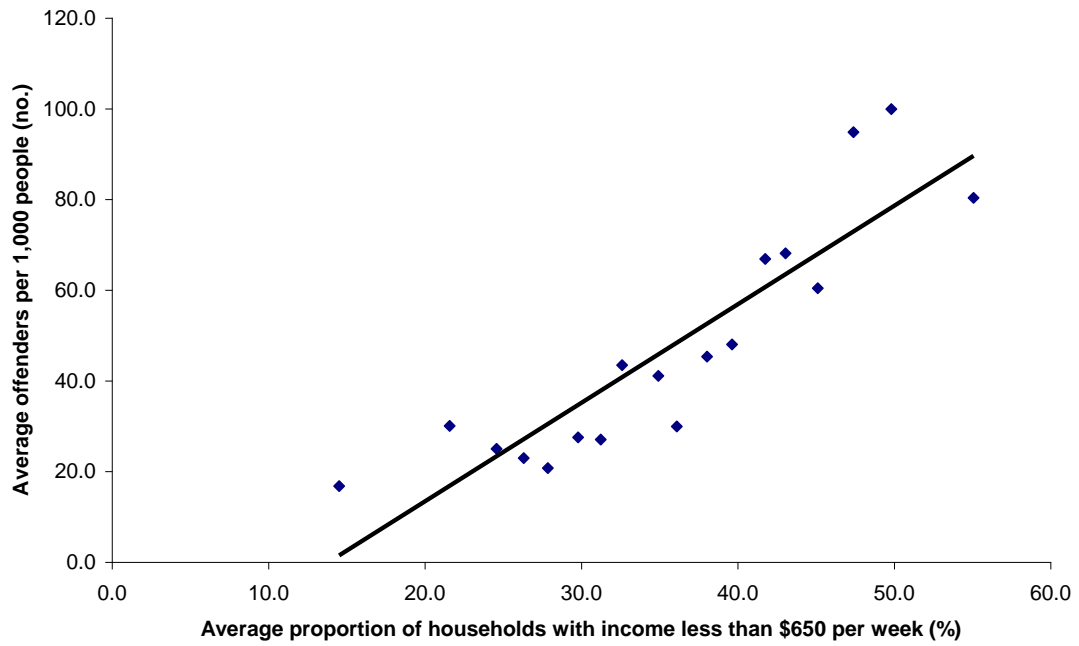
In compiling the charts below, we applied the same method as we used in our analysis of the court offender data. Suburbs were ranked according to whatever SES variable we were testing, and then split into groups of equal size. In this case, we had offender and census data for 363 suburbs, which we split into 18 groups of 20 suburbs each. We then graphed the population-weighted average of each group. The averaging process removed a lot of variation and also minimised the problems arising from the inaccuracy of the census data.

The results support the Commission's findings that the rate of offenders increases as SES decreases, and vice versa. We have used simpler measures than SEIFA, but the results are similar.

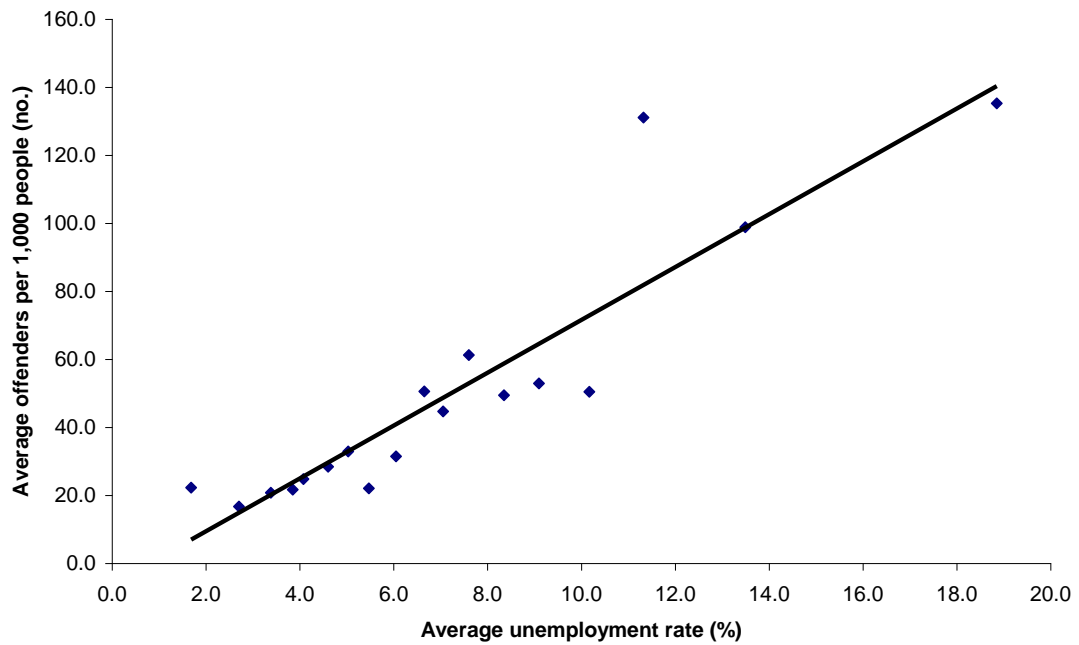
We have used low income households as the best indicator of low SES. But we also found similar relationships for 'proxy' indicators of SES, such as unemployment rates, single parent families and internet connectivity (using higher proportions of internet access as a proxy for higher SES).

Because the police data were disaggregated into sex and age groups, it was also possible to control for age by looking at offender rates amongst particular age groups. Figures 6 and 7 show that, even when controlling for the number of young males in the area, SES was clearly a driver of offending.

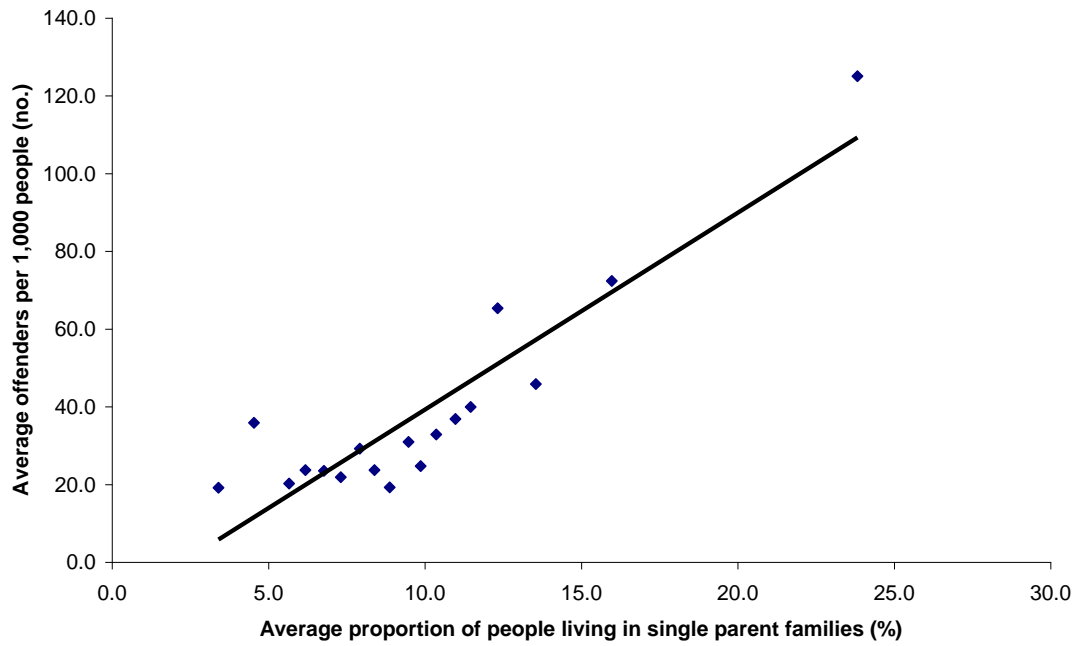
**Figure 2 – Offenders and low income households**



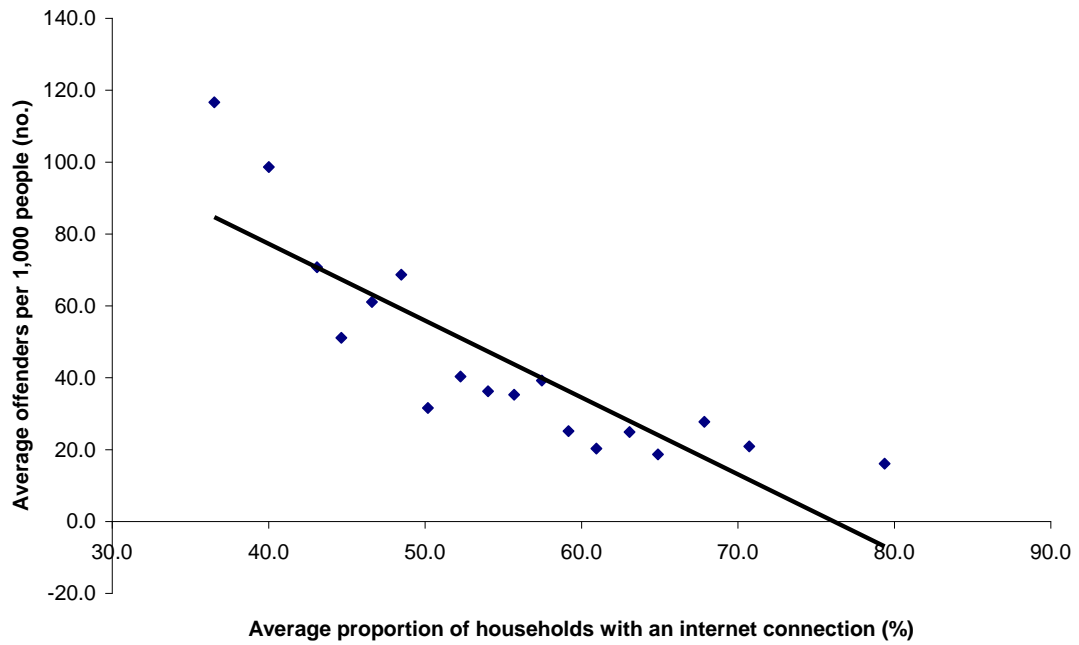
**Figure 3 – Offenders and unemployment rate**



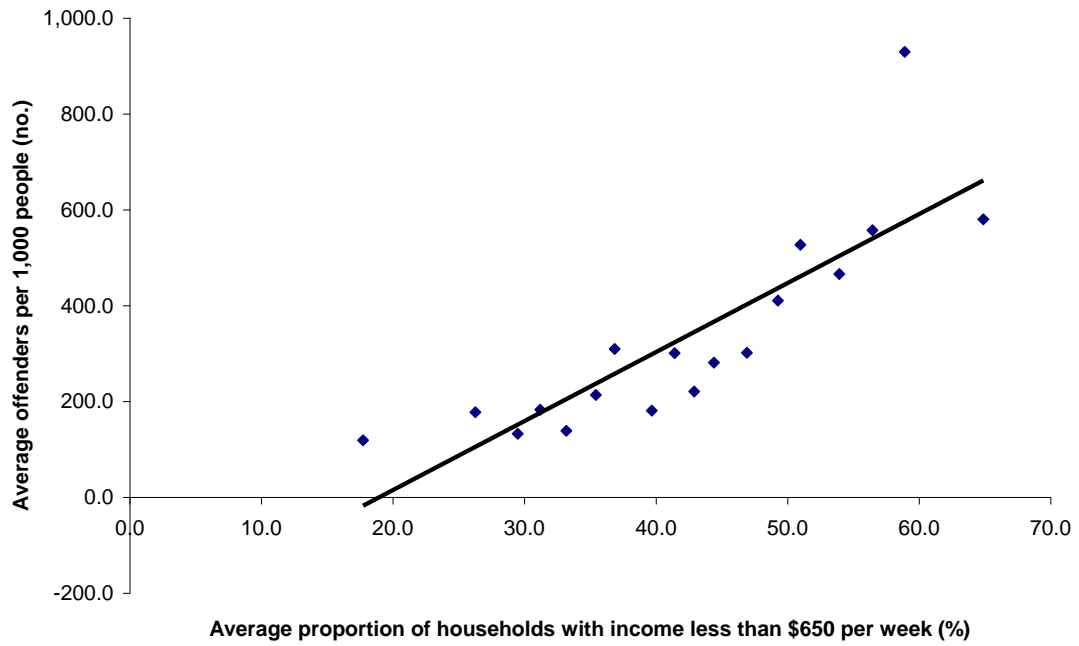
**Figure 4 – Offenders and single parent families**



**Figure 5 – Offenders and internet access**



**Figure 6 – Male offenders aged 18 to 24 and low income households**



**Figure 7 – Male offenders aged 10 to 34 and low income households**

