

JIRS FOR DUMMIES

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Sentencing statistics for environmental crimes dealt with by the Land and Environment Court are now easily accessible online on the Judicial Information Research System (JIRS). The JIRS statistics display sentencing graphs relating to environmental crimes.

JIRS captures cases in the Land and Environment Court from 1 January 1998. That date was chosen because the *Protection of the Environment Operations Act 1997* – a central Act in this area – was assented to in late 1997. The information collected for JIRS is the case name, medium neutral citation and matter number; the principal offence and any other offences; the penalty type; and the variable objective and subjective characteristics of the offence and the offender.

The user can create a graph modelled on the objective and subjective characteristics of the case at hand. It should become routine in sentencing matters for such graphs to be handed to the Court for its assistance. In addition, a most useful function of JIRS is that the user is able to access the cases behind each graph.

The fairly recent extension of JIRS to environmental crimes is the result of a project between the Land and Environment Court and the Judicial Commission of NSW.¹ The Land and Environment Court's sentencing data reflected on JIRS' graphs is more comprehensive than for other jurisdictions in its range of objective and subjective considerations.

JIRS was developed by the Judicial Commission of NSW pursuant to s 8 of the *Judicial Officers Act 1986* “for the purpose of assisting courts to achieve consistency in imposing sentences”.

¹ For a detailed analysis see Justice Brian J Preston and Hugh Donnelly “The establishment of an environmental crime sentencing database in New South Wales” (2008) 32(4) *Criminal Law Journal* 214.

Consistency of approach in sentencing is of importance in maintaining confidence in the administration of justice. An unduly high sentence aggrieves the offender. An inadequate sentence aggrieves the victim and the general public and undermines public confidence in the role of the courts in deterring criminal conduct. Sentencing statistics may provide general guidance in achieving consistency by indicating trends and standards, the appropriate range and the appropriate form of sentence for a particular offence. They are least useful where the circumstances of the individual instances of an offence vary greatly.² Sentencing statistics may “*have to be supplemented ... by the sentencing judge being informed of particular cases where the full range of facts, that are not capable of being reduced to statistical form, may suggest more precise parallels*”.³

The usefulness of the JIRS statistics for the Land and Environment Court should improve in the future in several ways. First, the case population for each graph relating to a particular offence will grow: at present the number of cases behind a particular graph is sometimes small. Second, the statistics are to be adjusted to take account of successful appeals. Third, the graph for each offence is to be changed to represent discrete penalty periods to take account of statutory increases in the maximum penalty - which have been large.

Attached is a guide to accessing the Land and Environment Court sentencing statistics on JIRS.

² *R v Jurisic* (1998) 45 NSWLR 209 at 221-222; *Lowe v The Queen* (1984) 154 CLR 606 at 610-611; *Everett v The Queen* (1994) 181 CLR 295 at 306; *Wong v The Queen* (2001) 207 CLR 584 at 591; *Makarian v The Queen* (2005) 228 CLR 357 at 371.

³ Spigelman CJ, “Consistency and Sentencing”, Keynote address to Sentencing 2008 Conference, National Judicial College of Australia, Canberra, 8 February 2008, p9.