

Summary

Magistrates Court

- There were 1018 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for common assault
- Good behaviour orders (GBOs) were the most common penalty (56% of all sentences), with 12 months the midpoint and most common length (58% of GBOs and 31% of all sentences)
- Prison and fully suspended sentences were each imposed in 13% of cases
- The midpoint length for both prison and fully suspended sentences was 3 months
- Fines were imposed in 8% of cases, with a midpoint fine of \$500
- Males accounted for 88% of offenders
- The most common age for offenders was 21-25
- 53% of offenders were sentenced for a single offence
- Offenders most commonly entered a plea on their second appearance before a magistrate, and it took 6-10 appearances to finalise the matter
- 54% of offenders initially pleaded guilty; this rose to 80% for the final plea

Childrens Court

- There were 159 sentences imposed in the Childrens Court for common assault
- GBOs were the most common penalty (74% of sentences), with 12 months the midpoint and most common length (62% of GBOs and 43% of all sentences)
- Prison sentences were imposed in 11% of cases, with a midpoint length of 3 months
- Fully suspended sentences were imposed in 9% of cases, with a midpoint length of 3 months
- Males accounted for 69% of offenders
- The most common age for offenders was 16-17
- 52% of offenders were sentenced for a single offence
- Offenders most commonly entered a plea on their second appearance before a magistrate and it took 3-5 appearances to finalise the matter
- 75% of offenders initially pleaded guilty; this rose to 97% for the final plea

Introduction

This sentencing snapshot presents an overview of sentencing patterns imposed in the Australian Capital Territory (ACT) Magistrates Court and Children's Court between 1 July 2012 and 31 August 2015 for the offence of common assault, based on data in the ACT Sentencing Database (ACTSD).

This offence is found in section 26 of the Crimes Act 1900 (ACT), which provides: 'A person who assaults another person is guilty of an offence punishable, on conviction, by imprisonment for 2 years'.

Sentencing options in the ACT are covered by section 9 of the Crimes (Sentencing) Act 2005 (ACT), which provides in relevant part:

- (1) The penalty a court may impose for an offence is the penalty provided under this Act or any other territory law...¹

Note 1 Under this Act, a court has the following sentencing and non-conviction options:

1. Some options may not be available or suitable for all offences.
2. Crimes (Sentencing) Act 2005 (ACT) s 33(1).

- imprisonment served by full-time detention at a correctional centre or detention place
- imprisonment served by periodic detention at a correctional centre
- suspension of a sentence of imprisonment
- good behaviour order
- fine order
- driver licence disqualification order
- non-conviction order
- reparation order
- non-association order
- place restriction order
- deferred sentence order
- accommodation order (young offenders only).

Note 2 A court may also impose a combination sentence combining 2 or more of the options listed in note 1 or otherwise available under a territory law.

When sentencing an offender, judicial officers are required to take a number of factors into account, including the nature and circumstances of the offence; the injury caused by the offence and impact on the victim; whether the offender pleaded guilty; and the offender's cultural background, character, prior criminal record, age and physical or mental condition.²

Magistrates Court

As set out in Table 1, there were 1018 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for common assault. The most common penalty was a good behaviour order (GBO), accounting for 56% of sentences. The second most common penalty was a fully suspended sentence or prison (both 13%). Fines were imposed on 8% of offenders, 3% received a partly suspended sentence and 1% received a periodic detention order. 'Other' orders³ were imposed in 6% of cases.

Table 1: Sentencing outcomes in the Magistrates Court

	Number of cases (1018)	Proportion of cases	Range	80% range	Midpoint
Prison	127	13%	1-17 months ⁴	2-6 months	3 months
Periodic detention (PD)	10	1%	3-6 months	3-5 months	3 months
Partly suspended sentence (PSS)	34	3%	1-12 months ⁵	3-9 months	4 months
Fully suspended sentence (FSS)	134	13%	1-24 months	2-6 months	3 months
Good behaviour order (GBO)	565	56%	3-36 months	12-18 months	12 months
Fine	84	8%	\$50-\$2000	\$250-\$1000	\$500
Other order	64	6%	N/A	N/A	N/A

Note: All data in the ACTSD is rounded upwards, eg a term of 5 weeks' imprisonment would be shown as '2 months'. Percentages may not add up to 100 because of rounding

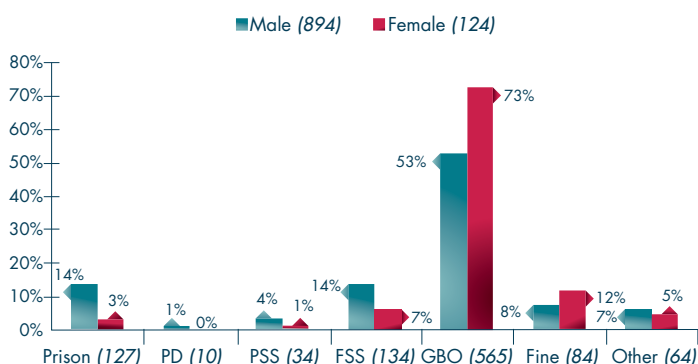
Table 1 also sets out details of these sentences. Although terms of imprisonment (n=127) ranged from 1 to 17 months, 80% of sentences fell within the range of 2-6 months, with 3 months representing the midpoint; the most common term was 2 months (23% of prison sentences). The range for periodic detention (n=10) was 3-6 months, with 80% falling between 3 and 5 months. The midpoint and most common term was 3 months (50%). The range for partly suspended sentences (n=34) was 1-12 months, with 80% falling in the range of 3-9 months. The midpoint term was 4 months, with 3 and 4 months the most common terms (both 24%). Fully suspended sentences (n=134) ranged from 1 to 24 months, although 80% were 2-6 months long. The midpoint was 3 months, while the most common term was 2 months (32% of such sentences). GBOs (n=553)⁶ ranged from 3 to 36 months, though 80% of such orders were 12-18 months long. The midpoint and most common length for this penalty type was 12 months, accounting for 58% of GBOs and 31% of all sentences for this offence. Fines (n=84) ranged from \$50 to \$2000, with 80% falling between \$250 and \$1000, and a midpoint and most common fine of \$500 (18% of fines). No further information was available on the 64 sentences where some other order was imposed.

- 'Other' order includes forfeiture, rehabilitation and treatment orders, as well as nominal penalties, such as a dismissal.
- Data on the non-parole period was not available.
- Data was not available on what portion of the sentence was suspended.
- Data on the length of GBOs was missing for 12 cases.
- Data was missing for one offender.

Gender

Figure 1 sets out the sentencing patterns on the basis of gender. Males accounted for 88% of offenders (n=894). As can be seen, men were much more likely to receive all forms of custodial sentences. They were more likely to be sentenced to prison (14% vs 3%). Although the numbers were small, they were also more likely to receive periodic detention (1% vs 0%), a partly suspended sentence (4% vs 1%) or fully suspended sentence (14% vs 7%). Men were also more likely to receive some other order (7% vs 5%). Conversely, women were more likely to receive a GBO (73% vs 53%) or fine (12% vs 8%).

Figure 1: Sentencing outcomes in the Magistrates Court by gender



Age

Table 2: Sentencing outcomes in the Magistrates Court by age

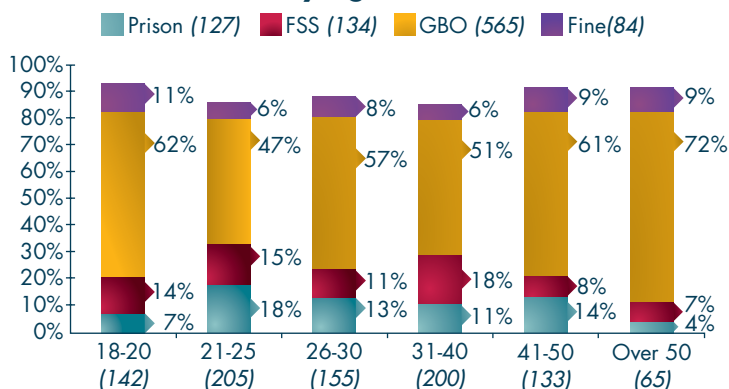
	18-20 (152)	21-25 (237)	26-30 (179)	31-40 (233)	41-50 (145)	Over 50 (71)
Prison (127)	11	43	24	26	20	3
PD (10)	4	0	3	3	0	0
PSS (34)	0	8	7	13	5	1
FSS (134)	21	35	19	42	12	5
GBO (565)	94	112	102	118	88	51
Fine (83)	16	24	10	14	13	6
Other order (64)	6	15	14	17	7	5

Table 2 sets out the distribution of sentences by age (n=1017)⁷. As can be seen, the largest group of offenders was aged 21-25, followed closely by offenders aged 31-40; each group accounted for 23% of offenders. Only 7% of offenders were aged over 50.

Figure 2 sets out the distribution of the most common penalties (prison, fully suspended sentences, GBOs and fines), which together accounted for 89% of sentences, by age. Although GBOs were the most common penalty in all age groups, their use differed to a significant extent on the basis of age. Offenders aged 21-25 were least likely to receive such an order (47%), compared with 72% of offenders aged over 50. The remaining cohorts received a GBO in 51%-62% of cases. Whereas 4% of offenders aged over 50 received a prison sentence, this increased to 18%

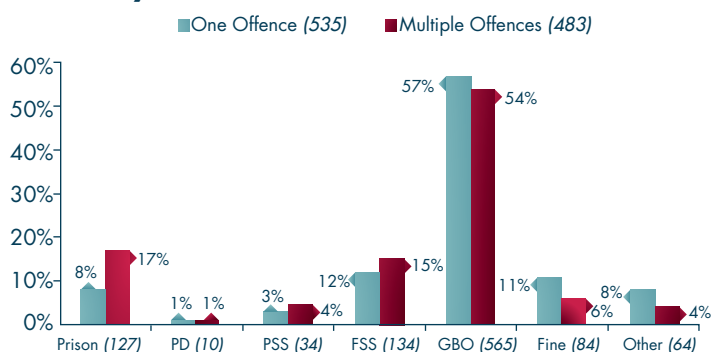
for the 21-25 age group. Offenders aged 31-40 were most likely to receive a fully suspended sentence (18%), while offenders aged over 50 were least likely to do so (7%). The use of fines ranged from 6% for offenders aged 21-25 or 31-40, to 11% for offenders aged 18-20.

Figure 2: Sentencing outcomes for the most common penalties in the Magistrates Court for common assault by age



Number of Offences

Figure 3: Sentencing outcomes in the Magistrates Court by number of offences



Just over half (53%; n=535) of the offenders committed a single offence, while 47% (n=483) were sentenced for multiple offences. Figure 3 shows that multiple offenders were more than twice as likely to receive a prison sentence (17% vs 8%). They were also more likely to receive a fully suspended sentence (15% vs 12%). Single offenders were more likely to receive a GBO (57% vs 54%), fine (11% vs 6%) or other order (8% vs 4%). Partly suspended sentences were imposed on 4% and 3% of offenders respectively and there was no difference in the use of periodic detention (both 1%).

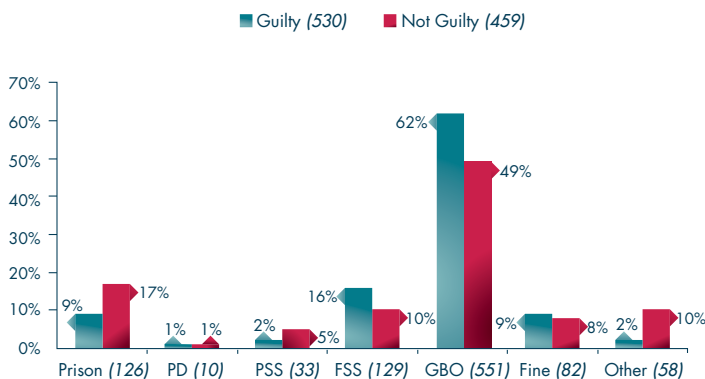
Plea

Initial plea

The data in the ACTSD indicates that 530 offenders initially entered a guilty plea, while 459 offenders entered a not guilty plea⁸. Of offenders whose initial plea was reported, 54% pleaded guilty and 46% pleaded not guilty. As set out in Figure 4, offenders who initially pleaded guilty were more likely to receive a GBO (62% vs 49%) or fully suspended sentence (16% vs 10%). On the other hand,

they were less likely to receive a prison sentence (9% vs 17%), partly suspended sentence (2% vs 5%) or other order (2% vs 10%). Fines were imposed in 9% and 8% of cases respectively and there was no difference in the use of periodic detention (both 1%).

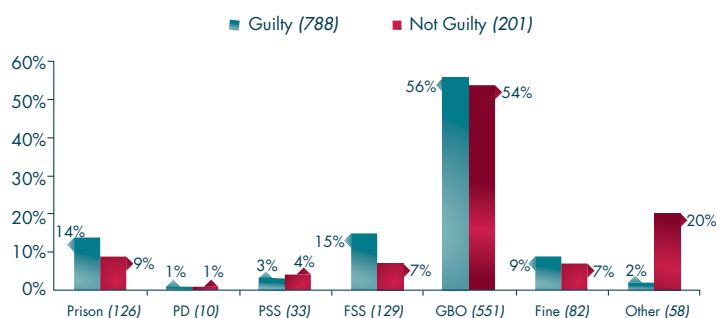
Figure 4: Sentencing outcomes in the Magistrates Court by initial plea



Final plea

Data on the offender's final plea was also available for 989 offenders. Of these, 788 (80%) entered a final plea of guilty, while 201 (20%) had a final plea of not guilty. Figure 5 sets out sentencing outcomes on the basis of the offender's final plea. Offenders who had a final plea of guilty were more likely to receive a prison sentence (14% vs 9%), fully suspended sentence (15% vs 7%). By contrast, a final not guilty plea was much more likely to result in some other order (20% vs 2%). Partly suspended sentences were imposed on 4% and 3% of offenders respectively. There were also few differences in the use of GBOs (56% vs 54%) and fines (9% vs 7%). There was no difference in the use of periodic detention (both 1%).

Figure 5: Sentencing outcomes in the Magistrates Court by final plea



Point of plea entry

Data was also available for 989 offenders on the point of plea entry, that is, how many times they appeared before a magistrate before they first entered a plea. This indicates that 21% of offenders (n=208) did so on the first occasion, 29% (n=290) did so on the second occasion they appeared, and 19% (n=192) did so on their third occasion. A further 20% (n=199) appeared before a magistrate 4-5 times before entering a plea, while 10% (n=100) appeared six or more times.

8. Data was not available for 29 offenders.

Table 3 sets out the differences in sentencing patterns based on the point of plea entry. The use of prison generally increased with later plea entry: 10% of offenders who entered a plea on the first appearance received such an outcome, compared with 28% of those who did so after six or more occasions. The use of periodic detention also increased, from 0% to 2%, although the small numbers should be noted. On the other hand, the use of fines decreased with appearances, from 12% to 3%. The use of partly suspended sentences ranged from 3% to 5%, with no clear relationship between use and the point of plea entry. There was also no clear pattern for fully suspended sentences (6% to 19%), GBOs (39% to 68%) or other orders (4% to 7%).

Table 3: Sentencing outcomes in the Magistrates Court by point of plea entry

	1 (208)	2 (290)	3 (192)	4-5 (199)	6 or more (100)
Prison (126)	10%	8%	14%	15%	28%
PD (10)	1%	1%	1%	1%	2%
PSS (33)	3%	3%	5%	3%	3%
FSS (129)	11%	6%	18%	19%	18%
GBO (551)	58%	68%	47%	52%	39%
Fine (82)	12%	10%	9%	4%	3%
Other (58)	7%	4%	6%	7%	7%

Point of plea finalisation

Data was available for all offenders as to the point when they finalised their plea, that is, how many times they appeared before a magistrate to get the matter settled. As set out in Table 4, 155 offenders (15%) appeared 1-2 times, 301 (30%) appeared 3-5 times, 379 (37%) appeared 6-10 times, and 183 (18%) appeared 11 or more times before finalising their matter.

It is clear that prison became an increasingly likely outcome with additional appearances before plea finalisation: only 1% of those appearing 1-2 times received such an order, but this rose to 31% for those with 11 or more appearances. Partly suspended sentences and fully suspended sentences also became increasingly likely, increasing from 1% and 6% respectively to 6% and 19% respectively. There was no change in the use of periodic detention (1% for all offenders). GBOs became less likely, decreasing from 72% of offenders who resolved their matter in 1-2 appearances to 33% for those who appeared 11 or more times. Fines also became a less likely outcome, decreasing from 17% to 3%. Other orders were imposed on 2% of offenders who appeared 1-2 times and 7% for all other offenders.

Case study

The following represents the typical offender and sentencing outcome in the Magistrates Court for common assault: Jim was aged 23 and committed a single count of common assault. He entered a plea on the second occasion before a magistrate, and it took 10 court appearances to finalise his plea. He pleaded guilty and received a 12 month GBO.

Table 4: Sentencing outcomes in the Magistrates Court by point of plea finalisation

	1-2 (155)	3-5 (301)	6-10 (379)	11 or more (183)
Prison (127)	1%	6%	14%	31%
PD (10)	1%	1%	1%	1%
PSS (34)	1%	1%	4%	6%
FSS (134)	6%	13%	13%	19%
GBO (565)	72%	64%	53%	33%
Fine (84)	17%	8%	7%	3%
Other (64)	2%	7%	7%	7%

Childrens Court

As set out in Table 5, there were 159 sentences imposed in the Childrens Court for common assault. The most common penalty was a GBO (74% of sentences), followed by prison (11%). Fully suspended sentences accounted for 9% of sentences, while partly suspended sentences and fines were each imposed in 1% of cases. Some other order was imposed in 4% of cases.

Table 5 also sets out the details of these sentences. The range for prison terms (n=18) was 1-5 months, with 80% of sentences also falling within this range and 3 months representing the midpoint. The partly suspended sentences (n=2) were for 2 and 9 months. The range for fully suspended sentences (n=15) was 2-6 months, with 80% of sentences falling between 2 and 4 months, and 3 months representing the midpoint and most common length for this penalty (47% of such sentences). GBOs (n=112)⁹ ranged from 3 to 24 months; 80% were 6-18 months long. The midpoint and most common length was 12 months, accounting for 62% of GBOs and 43% of all sentences. There was also one fine imposed, for \$300. No further information was available on the cases where some other order was imposed as the principal penalty (n=6).

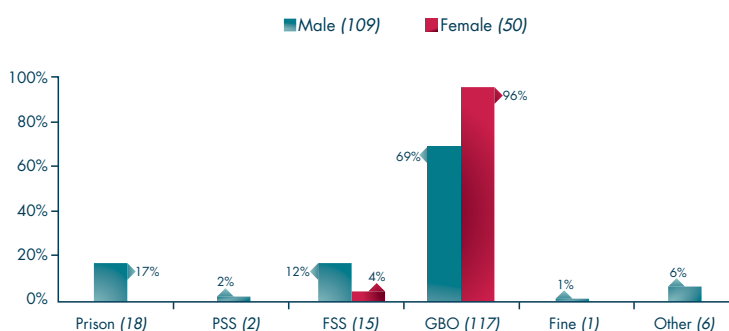
Table 5: Sentencing outcomes in the Childrens Court

	Number of cases (159)	Proportion of cases	Range	80% range	Midpoint
Prison	18	11%	1-5 months	1-5 months	3 months
PSS	2	1%	2-9 months	2-9 months	9 months
FSS	15	9%	2-6 months	2-4 months	3 months
GBO	117	74%	3-24 months	6-18 months	12 months
Fine	1	1%	\$300	N/A	N/A
Other	6	4%	N/A	N/A	N/A

9. Details on the length of sentence were not available for 5 GBOs.

Figure 6 sets out the sentencing patterns on the basis of gender. Females accounted for 31% of offenders (n=50). There were clear differences in sentencing outcomes, with 17% of males receiving a prison sentence and a further 2% receiving a partly suspended sentence, while no females were required to serve any actual custodial sentence. Fully suspended sentences were imposed on 12% of males and 4% of females. All but two of the 50 female offenders received a GBO (96% vs 69%). Males also received a fine (in 1% of cases) and some other order (6%).

Figure 6: Sentencing outcomes in the Childrens Court by gender



Age

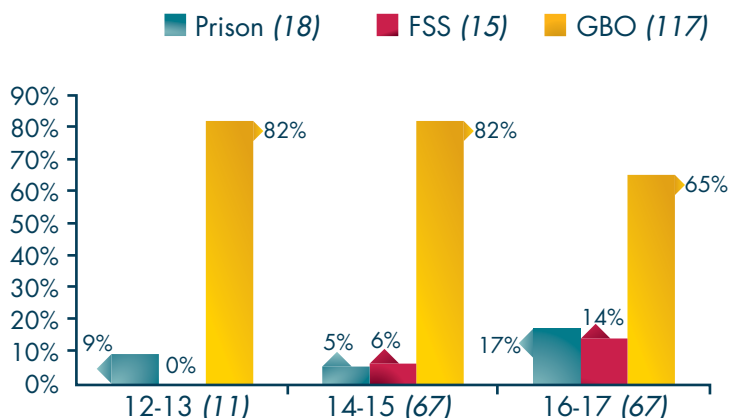
Table 6 sets out the distribution of sentences by age. There were no offenders aged 10-11, while juveniles aged 12-13 accounted for 7% of offenders. Juveniles aged 14-15 accounted for 42% of offenders and 51% were aged 16-17.

Table 6: Sentencing outcomes in the Childrens Court by age

	12-13 (11)	14-15 (67)	16-17 (81)
Prison (18)	1	3	14
PSS (2)	0	1	1
FSS (15)	0	4	11
GBO (117)	9	55	53
Fine (1)	0	0	1
Other (6)	1	4	1

Figure 7 sets out the distribution of the most common penalties (prison, fully suspended sentences and GBOs), which together accounted for 94% of sentences, by age. GBOs were the most common penalty in all age groups, but 16-17 year olds were least likely to receive such an outcome (65%), compared with 82% for 12-15 year olds. The use of fully suspended sentences increased with age, from 0% for 12-13 year olds, to 6% for 14-15 year olds and 14% for 16-17 year olds. One in seven juveniles aged 16-17 (17%) received a prison sentence, compared with 5% of 14-15 year olds and 9% of 12-13 year olds.

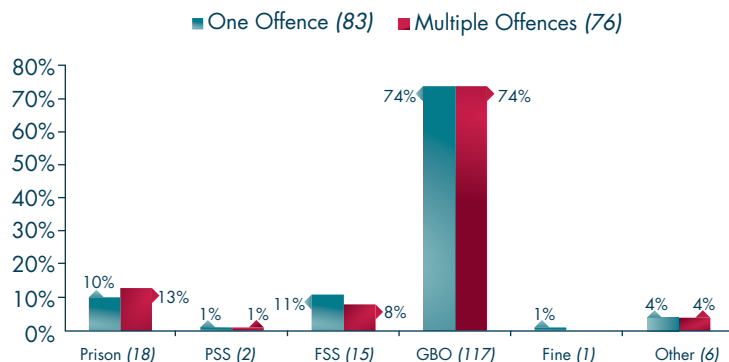
Figure 7: Sentencing outcomes for the most common penalties in the Childrens Court for common assault by age



Number of offences

Just over half of all offenders sentenced (52%) committed a single offence, while 48% were sentenced for multiple offences. Figure 8 shows that offenders who committed multiple offences were slightly more likely to receive a prison sentence (13% vs 10%), but were equally likely to receive a partly suspended sentence (both 1%), GBO (both 74%) or other order (both 4%). Offenders sentenced for a single offence were more likely to receive a fully suspended sentence (11% vs 8%) and received the only fine imposed (1% vs 0%).

Figure 8: Sentencing outcomes in the Childrens Court by number of offences



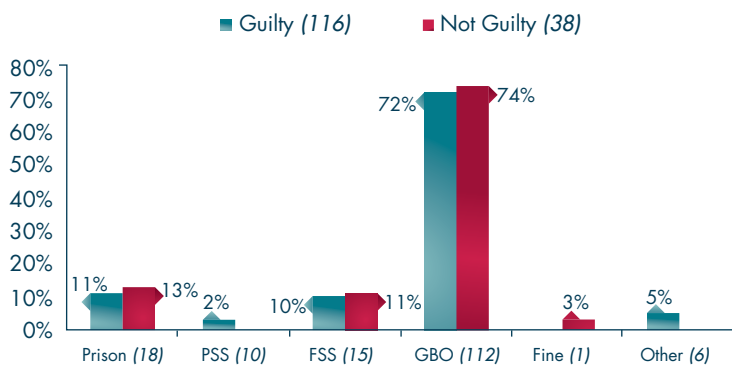
Plea

Initial plea

There was information in the ACTSD on whether an offender pleaded guilty for 154 cases¹⁰. Of these, 116 (75%) initially entered a guilty plea and 25% pleaded not guilty. As set out in Figure 9, there were similar sentencing patterns, although offenders who initially pleaded not guilty were slightly more likely to receive a prison sentence (13% vs 11%), fully suspended sentence (11% vs 10%), GBO (74% vs 72%) or fine (3% vs 0%). Conversely, offenders who initially pleaded guilty were more likely to receive a partly suspended sentence (2% vs 0%) or other order (5% vs 0%).

10. Plea details were missing for 5 cases.

Figure 9: Sentencing outcomes in the Childrens Court by initial plea



Final plea

At the final plea stage, only four out of 154 offenders (3%) maintained a not guilty plea. Two of these offenders received a GBO (50% vs 73%), while the others received prison (25% vs 11%) and fully suspended sentence (25% vs 9%). However, the small number of offenders who maintained a not guilty plea means caution should be exercised in interpreting these findings.

Point of plea entry

Table 7: Sentencing outcomes in the Childrens Court by point of plea entry

	1 (21)	2 (40)	3 (33)	4-5 (37)	6 or more (23)
Prison (18)	14%	20%	6%	5%	13%
PSS (2)	0%	0%	0%	5%	0%
FSS (15)	10%	13%	12%	8%	4%
GBO (112)	67%	68%	76%	78%	74%
Fine (1)	0%	0%	0%	0%	4%
Other (6)	10%	0%	6%	3%	4%

Of the 154 offenders for whom such information was available, 21 (14%) entered their plea the first time they came before a magistrate, while 40 (26%) did so on the second occasion. A further 33 offenders (21%) entered their plea on the third occasion, 37 (24%) took 4-5 times before a magistrate, and 23 (15%) appeared before a magistrate six or more times before entering a plea.

As set out in Table 7, prison sentences ranged from 5% to 20%, with no clear pattern in use by point of plea entry. Fully suspended sentences generally decreased, with 10% of offenders who entered a plea on the first occasion receiving such an outcome, compared with 4% of those who entered their plea after six or more appearances. The use of GBOs ranged from 67% to 78%. The fine was imposed on an offender who entered a plea after six or more appearances. The use of other orders ranged from 0% to 10%.

Point of plea finalisation

Data on the point at which the plea was finalised was available for all offenders (n=159). As set out in Table 8, 8% (n=12) of offenders finalised their matter in 1-2 appearances, 35% (n=56) did so in 3-5 appearances, 27% (n=43) took 6-10 appearances to finalise their matter, and the remaining 30% (n=48) did so in 11 or more appearances.

Table 8: Sentencing outcomes in the Childrens Court by point of plea finalisation

	1-2 (12)	3-5 (56)	6-10 (43)	11 or more (48)
Prison (18)	8%	13%	9%	13%
PSS (2)	0%	0%	2%	2%
FSS (15)	0%	9%	16%	8%
GBO (117)	92%	77%	70%	69%
Fine (1)	0%	0%	0%	2%
Other (6)	0%	2%	2%	8%

The likelihood of an offender receiving a prison sentence ranged from 8% to 13%, with no clear relationship between plea finalisation and use. The partly suspended sentences were imposed on offenders with 6-10 or 11 or more appearances. Fully suspended sentences were not imposed on any offenders who appeared 1-2 times, but accounted for 8%-16% of offenders with more appearances. The likelihood of an offender receiving a GBO decreased with number of appearances, from 92% of offenders who appeared 1-2 times to 69% of offenders with 11 or more appearances. The fine was imposed on an offender with 11 or more appearances. Finally, the use of other orders generally increased with number of appearances, from 0% for those who appeared 1-2 times to 8% for those with 11 or more appearances.

Case study

The following represents the typical offender and sentencing outcome in the Childrens Court for common assault: Danny was aged 16 and committed a single count of common assault. He entered a plea on his second occasion before a magistrate, and it took five court appearances to finalise his matter. He pleaded guilty and received a 12 month GBO.