

No 3: Assault Occasioning Actual Bodily Harm

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Summary

Magistrates Court

- There were 309 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for assault occasioning actual bodily harm (AOABH)
- Good behaviour orders (GBOs) were the most common penalty (45% of all sentences), with 12 months the midpoint and most common sentence length (44% of GBOs and 20% of all sentences)
- Fully suspended sentences were the second most common penalty (21% of sentences), with a midpoint sentence length of 4 months
- Prison sentences were imposed in 13% of cases, with a midpoint length of 8 months
- Partly suspended sentences were imposed in 12% of cases, with a midpoint length of 8 months
- Males accounted for 85% of offenders
- The most common ages for offenders were 31-40 and 21-25 (both 24%)
- 71% of offenders were sentenced for a single offence
- Offenders most commonly entered a plea on their second occasion before a magistrate, and it took 6-10 appearances to finalise the matter
- 49% of offenders initially pleaded guilty, but this rose to 73% for the final plea

Childrens Court

- There were 47 sentences imposed in the Childrens Court for AOABH
- GBOs were the most common penalty (74% of sentences), with 12 months the midpoint and most common length (66% of GBOs and 49% of all sentences)
- Fully suspended sentences were the second most common penalty, accounting for 21% of sentences, with a midpoint length of 4 months
- Males accounted for 68% of offenders
- The most common age for offenders was 16-17
- 77% of offenders were sentenced for a single offence
- Offenders most commonly entered a plea on their second occasion before a magistrate, and it took 3-5 appearances to finalise the matter
- 72% of offenders initially pleaded guilty; this rose to 94% for the final plea

Introduction

This sentencing snapshot presents an overview of sentencing patterns in the Australian Capital Territory (ACT) Magistrates Court and Childrens Court between 1 July 2012 and 31 August 2015 for the offence of assault occasioning actual bodily harm (AOABH), based on data in the ACT Sentencing Database (ACTSD).

This offence is found in section 24 of the *Crimes Act 1900* (ACT), which provides:

- (1) person who assaults another person and by the assault occasions actual bodily harm is guilty of an offence punishable, on conviction, by imprisonment for 5 years.
- (2) However, for an aggravated offence against this section, the maximum penalty is imprisonment for 7 years.

If an offence under section 24(1) (ie, AOABH) is finalised in the Magistrates Court, the maximum penalty is a fine of \$5 000 and/or imprisonment for 2 years¹. If an offence under section 24(2) (ie, aggravated AOABH) is finalised in the Magistrates Court, the maximum penalty is a fine of \$15 000 and/or imprisonment for 5 years.²

Matters finalised in the Children's Court attract a maximum

penalty of \$5 000 and/or imprisonment for 2 years.³

The data in the ACTSD does not indicate if the sentence was imposed for AOABH or aggravated AOABH.

Sentencing options in the ACT are set out in 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...⁴

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

- imprisonment served by full-time detention at a correctional centre or detention place
- imprisonment served by periodic detention at a correctional centre

1. *Crimes Act 1900* (ACT) s 374(7)(a).

2. *Crimes Act 1900* (ACT) s 375(15)(a).

3. *Crimes Act 1900* (ACT) s 375(16)(a).

4. Some options may not be available or suitable for all offences.

- 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.⁵

Magistrates Court

There were 309 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for AOABH. The most common penalty was a good behaviour order (GBO), accounting for 45% of sentences. The next most common penalty was a fully suspended sentence (21%), followed by prison (13%). Partly suspended sentences were imposed in 12% of cases. Fines were imposed in 4% of cases, while some ‘other’ order⁶ represented 5% of sentences. In addition, 1% of offenders received a periodic detention order.

Table 1: Sentencing outcomes in the Magistrates Court

	Number of cases (309)	Proportion of cases	Range	80% range	Midpoint
Prison	40	13%	1-24 months ⁷	3-12 months	8 months
Periodic detention (PD)	4	1%	3-10 months	3-10 months	9 months
Partly suspended sentence (PSS)	38	12%	1-18 months ⁸	5-12 months	8 months
Fully suspended sentence (FSS)	64	21%	1-15 months	3-8 months	4 months
Good behaviour order (GBO)	140	45%	3-36 months	12-18 months	12 months
Fine	11	4%	\$300-\$5000	\$500-\$2000	\$2000
Other order	14	5%	N/A	N/A	N/A

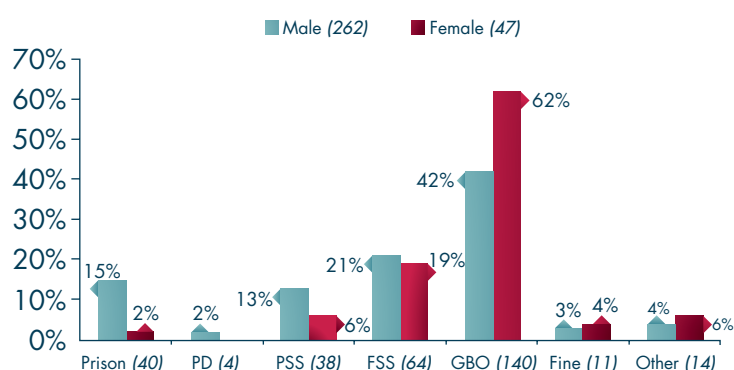
Note: All data in the ACTSD is rounded upwards, eg a term of 5 weeks’ imprisonment would be shown as ‘2 months’. Percentages may not add up to 100 because of rounding

Table 1 also sets out details of the sentences imposed. Although terms of imprisonment (n=40) ranged from 1 to 24 months, 80% of sentences fell within the range of 3-12 months, with 8 months representing the midpoint. The most common term was 9 months (15% of prison sentences). Periodic detention orders (n=4) ranged from 3 to 10 months, and 80% of sentences also fell in this range. The midpoint and most common term was 9 months (50%). The range for partly suspended sentences (n=36)⁹ was 1-18 months, with 80% falling in the range of 5-12 months. The midpoint was 8 months, while the most common term was 6 months (17% of sentences). Fully suspended sentences (n=64) ranged from 1 to 15 months, with 80% falling in the range of 3-8 months, and a midpoint length of 4 months. The most common terms were 3 and 4 months (each 24% of sentences). GBOs (n=139)¹⁰ ranged from 3 to 36 months, though 80% of such orders were 12-18 months long. The midpoint and most common length was 12 months, accounting for 44% of GBOs and 20% of all sentences for this offence. Fines (n=11) ranged from \$300 to \$5 000, with 80% falling between \$500 and \$2 000. The midpoint and most commonly imposed fine was \$2 000 (36% of fines). No further information was available on the 14 sentences where some other order was imposed.

Gender

Figure 1 sets out the sentencing patterns on the basis of gender. Males accounted for 85% of offenders (n=262). As can be seen, men were much more likely to be sentenced to prison (15% vs 2%) and received all the periodic detention orders (2% vs 0%). They were also more likely to receive a partly suspended sentence (13% vs 6%). Conversely, women were more likely to receive a GBO (62% vs 42%). Men and women received fully suspended sentences (21% vs 19%), fines (3% vs 4%) and other orders (4% vs 6%) at similar rates.

Figure 1: Sentencing outcomes in the Magistrates Court by gender



5. Crimes (Sentencing) Act 2005 (ACT) s 33(1).
6. ‘Other’ order includes forfeiture, rehabilitation and treatment orders, as well as nominal penalties, such as a dismissal.
7. Data on the non-parole period was not available.
8. Data was not available on what portion of the sentence was suspended.
9. Details on length were missing for 2 partly suspended sentences.
10. Details on the length of GBO were missing for one case.

Age

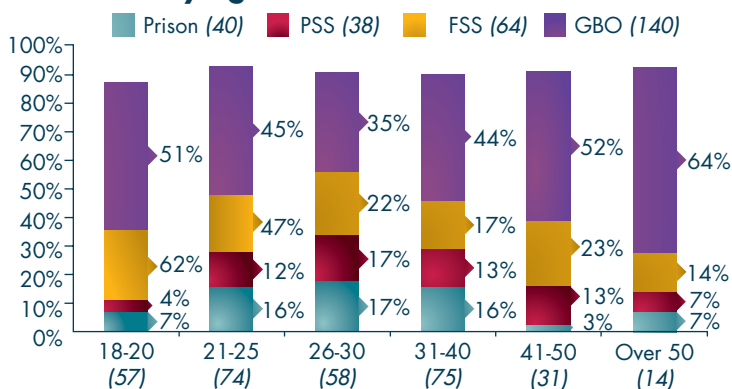
Table 2 sets out the distribution of sentences by age. As can be seen, the largest groups of offenders were those aged 31-40 or 21-25 (both 24%).

Table 2: Sentencing outcomes in the Magistrates Court by age

	18-20 (57)	21-25 (74)	26-30 (58)	31-40 (75)	41-50 (31)	Over 50 (14)
Prison (40)	4	12	10	12	1	1
PD (4)	0	1	1	2	0	0
PSS (38)	2	9	10	10	4	1
FSS (64)	14	15	13	13	7	2
GBO (140)	29	33	20	33	16	9
Fine (11)	4	3	1	1	1	1
Other (14)	4	1	3	4	2	0

Figure 2 sets out the distribution of the most common penalties (prison, partly and fully suspended sentences and GBOs), which together accounted for 91% of sentences by age. Although GBOs were the most common penalty in all age groups, their use differed on the basis of age. Offenders aged 26-30 were least likely to receive such an order (35%), while 64% of offenders aged over 50 did so. The remaining age groups received such an outcome in 44% to 52% of cases. Offenders aged 18-20 were most likely to receive a fully suspended sentence (25%), compared with 14% of offenders aged over 50. Offenders aged 26-30 were most likely to receive a partly suspended sentence (17%), compared with 4% of offenders aged 18-20. The use of imprisonment as a sentencing option ranged from 3% for offenders aged 41-50 to 17% for those aged 26-30. Offenders aged 21-25 and 31-40 were also quite likely to receive this outcome (both 16%).

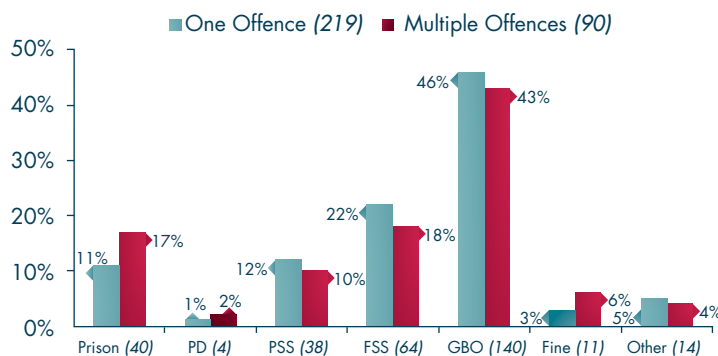
Figure 2: Sentencing outcomes for the most common penalties in the Magistrates Court for AOABH by age



Number of offences

The majority of offenders (71%; n=219) committed a single offence, while 29% (n=90) were sentenced for multiple offences. Figure 3 shows that 17% of offenders sentenced for multiple offences were sentenced to prison, compared with 11% of those sentenced for a single offence. There were similar patterns for the other outcomes, although multiple offenders were also slightly more likely to receive periodic detention (2% vs 1%) and fines (6% vs 3%). Single offenders, by contrast, had slightly higher rates for partly suspended sentences (12% vs 10%), fully suspended sentences (22% vs 18%), GBOs (46% vs 43%) and other orders (5% vs 4%).

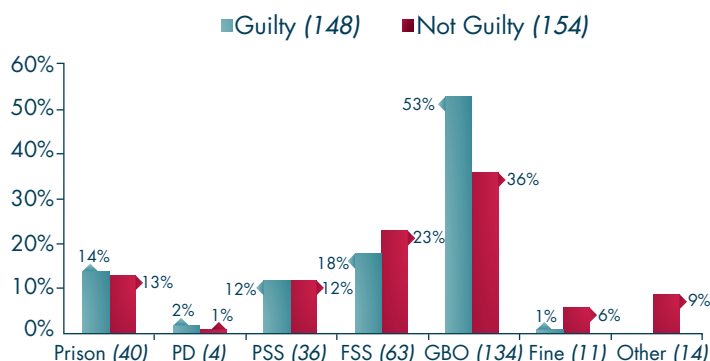
Figure 3: Sentencing outcomes in the Magistrates Court by number of offences



Plea

Initial plea

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



The data in the ACTSD indicates that 148 offenders initially entered a guilty plea, while 154 offenders entered a not guilty plea¹¹. Of offenders whose initial plea was reported, 49% pleaded guilty, while 51% pleaded not guilty. As set out in Figure 4, offenders who initially pleaded guilty were more likely to receive a GBO (53% vs 36%). However, they were less likely to receive a fully suspended sentence (18% vs 23%), fine (1% vs 6%) or other order (0% vs 9%). Prison and periodic detention were imposed at similar rates (14% vs 13% and 2% vs 1% respectively), while the same proportion received a partly suspended sentence (12%).

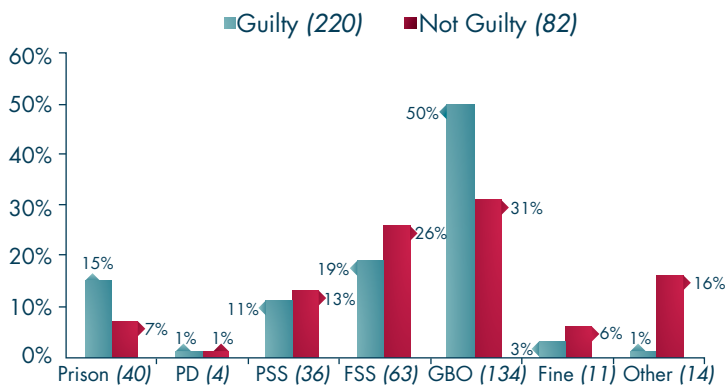
Final plea

Data on the offender's final plea was also available for 302 offenders¹². Of these, 220 (73%) entered a final plea of guilty, while 82 (27%) had a final plea of not guilty. Figure 5 sets out sentencing outcomes on the basis of the offender's final plea. Offenders whose final plea was guilty were more likely to receive prison (15% vs 7%) or a GBO (50% vs 31%). On the other hand, a final plea of not guilty was more likely to result in a fully suspended sentence (26% vs 19%), fine (6% vs 3%) or other order (16% vs 1%). Partly suspended sentences were imposed at similar rates (11% vs 13%), while both groups received periodic detention in 1% of cases.

11. Data was not available for the remaining 7 offenders.

12. Data was not available for the remaining 7 offenders.

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



Point of plea entry

Data was also available for 302 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 22% of offenders (n=66) did so on the first occasion, 32% (n=96) did so on the second occasion they appeared, and 19% (n=56) did so on their third occasion. A further 18% (n=53) appeared before a magistrate 4-5 times before entering a plea, while 10% (n=31) appeared six or more times.

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: 8% or 9% of offenders who entered a plea on the first or second appearance received such an outcome, compared with 26% of those who did so after six or more occasions. The use of partly suspended sentences also increased, from 8% or 9% for 1-2 appearances to 23% for 6 or more appearances. By contrast, the use of periodic detention decreased, from 2% (1-3 appearances) to 0% (4 or more appearances), although the small numbers should be noted. GBOs also became less likely with additional appearances, falling from 51% on the first appearance to 32% for 6 or more appearances. There was also no clear pattern for fully suspended sentences (ranging from 13% to 25% of cases), fines (0% to 5%) or other orders (3% to 6%).

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

	1 (66)	2 (96)	3 (56)	4-5 (53)	6 or more (31)
Prison (40)	9%	8%	11%	23%	26%
PD (4)	2%	2%	2%	0%	0%
PSS (36)	9%	8%	13%	15%	23%
FSS (63)	20%	25%	25%	15%	13%
GBO (134)	51%	48%	39%	42%	32%
Fine (11)	5%	4%	5%	0%	3%
Other (14)	5%	4%	5%	6%	3%

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, 38 offenders (12%) appeared 1-2 times, 90 (29%) appeared 3-5 times, 117 (38%) appeared 6-10 times, and 64 (21%) appeared 11 or more times before finalising their matter.

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

	1-2 (38)	3-5 (90)	6-10 (117)	11 or more (64)
Prison (40)	3%	7%	15%	25%
PD (4)	0%	4%	0%	0%
PSS (36)	3%	6%	14%	22%
FSS (63)	13%	26%	18%	23%
GBO (134)	76%	53%	39%	27%
Fine (11)	5%	2%	6%	0%
Other (14)	0%	2%	9%	3%

It is clear that prison became an increasingly likely outcome with additional appearances before plea finalisation: only 3% of those appearing 1-2 times receiving such an order, but this rose to 25% for those with 11 or more appearances. Partly suspended sentences also became an increasingly likely outcome with additional appearances, rising from 3% for offenders with 1-2 appearances to 22% of offenders with 11 or more appearances before they finalised their plea. Periodic detention was only imposed on offenders with 3-5 appearances. GBOs became less likely, decreasing from 76% of offenders who resolved their matter in 1-2 appearances to 27% for those who appeared 11 or more times. There was no clear pattern in the use of fully suspended sentences, which ranged from 13% to 26%, fines (0% to 6%) or other orders (0% to 9%).

Case study

The following represents the typical offender and sentencing outcome in the Magistrates Court for AOABH: Ricky was aged 33 and committed a single count of AOABH. He entered a plea on the second occasion before a magistrate, and it took nine court appearances to finalise his plea. He initially pleaded not guilty, but then changed his plea to guilty. He received a 12 month GBO.

Childrens Court

As set out in Table 5, there were 47 sentences imposed in the Childrens Court for AOABH¹³. The most common penalty was a GBO, which accounted for 74% of sentences. Fully suspended sentences were imposed in 21% of cases, while prison and other orders each accounted for 2% of cases.

The prison sentence imposed was 9 months long. The range for fully suspended sentences (n=10) was 3-6 months and 80% of sentences were 3-5 months long. The midpoint and most common length was 4 months (40% of such sentences and 9% of all sentences imposed for this offence). GBOs (n=35) ranged from 3 to 24 months, although 80% of such orders were 12-15 months long. The midpoint and most common length was 12 months, accounting for 66% of GBOs and 49% of all sentences. No further information was available on the case where some other order was imposed.

13. There was one case recorded separately in the ACTSD, which is not included in this analysis. This case related to single offence committed by a 16-17 year old male. He pleaded guilty and received a 12 month GBO.

Table 5: Sentencing outcomes in the Childrens Court

	Number of cases (47)	Proportion of cases	Range	80% range	Midpoint
Prison	1	2%	9 months	9 months	9 months
FSS	10	21%	3-6 months	3-5 months	4 months
GBO	35	74%	3-24 months	12-15 months	12 months
Other	1	2%	N/A	N/A	N/A

Gender

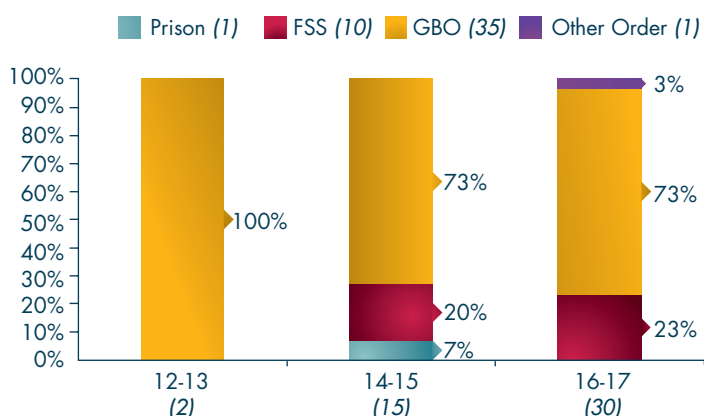
Males accounted for 68% of offenders (n=32), while females accounted for 32% (n=15). Female offenders only received GBOs (74% of sentences, compared with 75% for males) and fully suspended sentences (27% vs 19% for males). The prison sentence and other order were both imposed on males (each accounting for 3% of sentences received by males).

Age

Figure 6 sets out the distribution of sentences by age. There were no offenders aged 10-11 and only two offenders aged 12-13 (4%). Juveniles aged 14-15 (n=15) accounted for 32% of offenders, while 16-17 year olds (n=30) accounted for 64%.

Both offenders aged 12-13 received a GBO, as did 73% of the older cohorts. A 14-15 year old offender received the only prison sentence imposed, while the other order was imposed on a 16-17 year old. Fully suspended sentences were imposed on 20% of offenders aged 14-15 and 23% of those aged 16-17.

Figure 6: Sentencing outcomes in the Childrens Court by age



Number of offences

Most offenders (77%; n=36) committed a single offence, while 23% (n=11) were sentenced for multiple offences. Table 6 shows that the prison sentence was imposed on an offender who committed a single offence (3% vs 0%), while the other order was imposed on a multiple offender (9% vs 0%). Offenders who committed a single offence were slightly more likely to receive a fully suspended sentence (22% vs 18%) or GBO (75% vs 73%).

Table 6: Sentencing outcomes in the Childrens Court, by number of offences

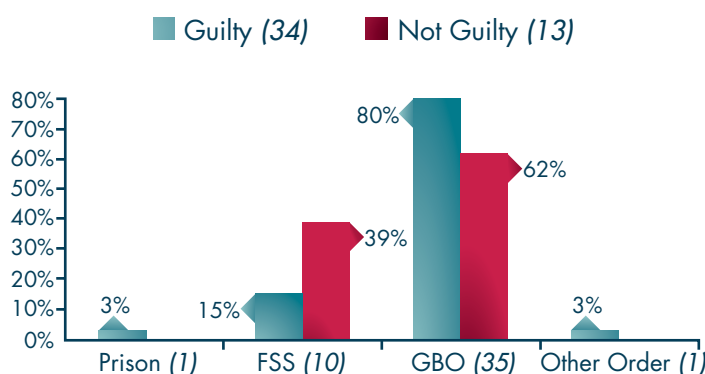
	One offence (36)	Multiple offences (11)
Prison (1)	3%	0%
FSS (10)	22%	18%
GBO (35)	75%	73%
Other (1)	0%	9%

Plea

Most offenders (72%; n=34) entered an initial plea of guilty, while 28% (n=13) entered an initial not guilty plea. As set out in Figure 7, offenders who entered an initial plea of not guilty either received a GBO (62% vs 80%) or fully suspended sentence (39% vs 15%). The prison sentence and other order were both imposed on offenders with an initial guilty plea, each accounting for 3% of sentences imposed on such offenders.

Initial plea

Figure 7: Sentencing outcomes in the Childrens Court by initial plea



Final plea

For the final plea, 44 offenders (94%) pleaded guilty. The offenders who pleaded not guilty (n=3; 6%) all received GBOs.

Point of plea entry

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

	1 (6)	2 (16)	3 (14)	4-5 (8)	6 or more (3)
Prison (1)	0%	6%	0%	0%	0%
FSS (10)	17%	38%	14%	13%	0%
GBO (35)	83%	56%	86%	88%	67%
Other (1)	0%	0%	0%	0%	33%

Six offenders (13%) entered their plea the first time they came before a magistrate, while 16 (34%) did so on the second occasion. A further 14 offenders (30%) entered their plea on the third occasion, 8 (17%) took 4-5 times before a magistrate, and three (6%) appeared before a magistrate six or more times before entering a plea.

As set out in Table 7, the prison sentence was imposed on an offender who entered a plea on the second occasion, while the other order was imposed on an offender who appeared six or more times before entering a plea. There was no clear pattern in the use of fully suspended sentences, which ranged from 0% to 38%. The use of GBOs ranged from 56% to 88%.

Point of plea finalisation

As set out in Table 8, 2% (n=1) of offenders finalised their matter in 1-2 appearances, 53% (n=25) did so in 3-5 appearances, 26% (n=12) took 6-10 appearances to finalise their matter, and the remaining 19% (n=9) did so in 11 or more appearances.

The prison sentence was imposed on an offender who finalised the plea in 3-5 appearances, while the offender who received some other order took 11 or more appearances. The likelihood of an offender receiving a fully suspended sentence increased from 0% (1-2 appearances) to 44% (11 or more appearances). Conversely, the likelihood of receiving a GBO decreased from 100% for the offender who appeared 1-2 times to 44% for offenders with 11 or more appearances.

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

	1-2 (1)	3-5 (25)	6-10 (12)	11 or more (9)
Prison (1)	0%	4%	0%	0%
FSS (10)	0%	8%	25%	44%
GBO (35)	100%	88%	75%	44%
Other (1)	0%	0%	0%	11%

Case study

The following represents the typical offender and sentencing outcome in the Childrens Court for AOABH: Jack was aged 17 and committed a single count of AOABH. He entered a plea on his second occasion before a magistrate, and it took three court appearances to finalise his matter. He pleaded guilty and received a 12 month GBO.