

No 5: Drug Possession

Dr Lorana Bartels University of Canberra

Summary

Possess a drug of dependence

- There were 117 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for possessing a drug of dependence
- The most common penalty was a good behaviour order (GBO) (44% of sentences), with 12 months the midpoint and most common length (61% of GBOs and 26% of all sentences for this offence)
- The second most common penalty was a fine (28%); the midpoint fine was \$400
- Fully suspended sentences were imposed in 9% of cases, with a midpoint and most common sentence length of 2 months (40% of such sentences)
- Males accounted for 89% of offenders
- The most common age was 21-25
- 55% of offenders were sentenced for multiple offences
- Offenders most commonly entered a plea on their second occasion before a magistrate, and it took 3-5 appearances to finalise the matter
- 71% of offenders initially pleaded guilty; this rose to 91% for the final plea

Possess cannabis

- There were 145 sentences imposed for possessing cannabis
- The most common penalty was a fine (76% of sentences), with a midpoint and most commonly imposed fine of \$100 (44% of fines and 32% of all sentences)
- The second most common penalty was a GBO (21%), with a midpoint and most common length of 12 months (57% of GBOs and 12% of all sentences)
- Males accounted for 83% of offenders
- The most common age was 26-30, followed closely by offenders aged 31-40
- 68% of offenders were sentenced for multiple offences
- Offenders most commonly entered a plea on their second occasion before a magistrate, and it took 3-5 appearances to finalise the matter
- 86% of offenders initially pleaded guilty; this rose to 96% for the final plea

Possess a prohibited substance other than cannabis

- There were 134 sentences imposed for possessing a prohibited substance other than cannabis
- The most common penalty was a good behaviour order (GBO) (50% of all sentences); 12 months was the midpoint and most common length (62% of GBOs and 30% of all sentences)
- The second most common penalty was a fine (26%); the midpoint amount was \$400 and most common fine was \$100 (20% of fines and 5% of all sentences)
- Prison was imposed in 10% of cases, with a midpoint and most common sentence length of 3 months (54% of prison sentences)
- Males accounted for 85% of offenders
- The most common age was 31-40
- 54% of offenders were sentenced for a single offence
- Offenders most commonly entered a plea on their first occasion before a magistrate, and it took 3-5 appearances to finalise the matter
- 82% of offenders initially pleaded guilty; this rose to 95% for the final plea

Introduction

This sentencing snapshot presents an overview of sentencing patterns in the Australian Capital Territory (ACT) Magistrates Court between 1 July 2012 and 31 August 2015 for the offences of possessing a drug of dependence and possessing a prohibited substance, based on data in the ACT Sentencing Database (ACTSD).

The offence of possessing a drug of dependence is found in section 169(1) of the *Drugs of Dependence Act 1989* (ACT) (the Act), which provides:

A person shall not possess a drug of dependence.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

At the time of writing, a penalty unit was worth \$150, so the maximum fine available for this offence was \$7 500.

The offence of possessing a prohibited substance is found in section 171(1) of the Act, which provides:

(1) A person shall not possess a prohibited substance.

Maximum penalty:

(a) if the offence relates to a quantity of cannabis not exceeding 50g in mass—1 penalty unit; or

(b) in any other case—50 penalty units, imprisonment for 2 years or both.

At the time of writing, the maximum fine available for this offence in relation to cannabis was \$150. The maximum fine for other substances was \$7 500.

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...¹

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
- 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.

There were 117 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for the offence of possessing a drug of dependence (under section 169(1) of the Act). As set out in Table 1, the most common penalty was a good behaviour order (GBO), accounting for 44% of sentences. The second most common penalty was a fine, which accounted for 28% of sentences. Prison represented 7% of sentences, while fully suspended sentences accounted for 9% of sentences. Some 'other' order⁴ was also imposed in 9% of cases. Partly suspended sentences and periodic detention orders represented 3% and 1% of sentences respectively.

Table 1 also sets out the details of these sentences. Prison terms (n=8) ranged from 2 to 3 months and 80% of sentences also fell within this range; 2 months represented the midpoint sentence length. The periodic detention order was 3 months long. Partly suspended sentences (n=4) ranged from 1 to 6 months and this also represented 80% of sentences. The midpoint and most common sentence length was 3 months (50% of such sentences). Fully suspended sentences (n=10) ranged from 1 to 8 months, although 80% were 1-3 months long. The midpoint and most common length was 2 months (40% of such sentences). GBOs (n=51) ranged from 3 to 24 months, with 80% of such orders 12-18 months long. The midpoint and most common length for this penalty type was 12 months, accounting for 61% of GBOs and 26% of all sentences for this offence. Fines (n=33) ranged from \$50 to \$1000, with 80% falling between \$250 and \$500. The midpoint fine amount was \$400. No further information was available on the cases where some other order was imposed (n=10).

Gender

Figure 1: Sentencing outcomes for possession of a drug of dependence by gender

■ Male (104) ■ Female (13)

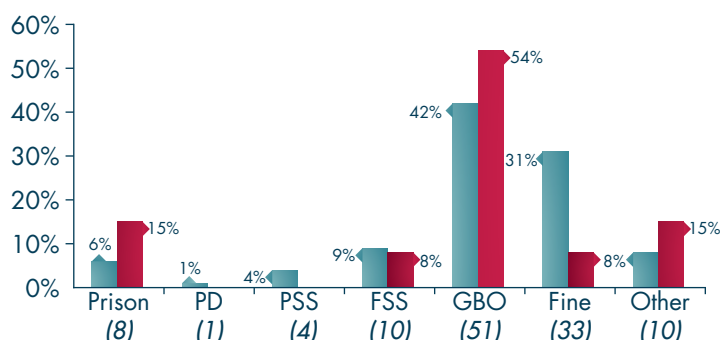


Figure 1 sets out the sentencing patterns on the basis of gender. Males accounted for 89% of offenders (n=104). Somewhat unusually, females were more likely to receive a prison sentence (15% vs 6%), although the small number of female offenders should be noted. They were also more likely to receive a GBO (54% vs 42%) or other order (15% vs 8%). Conversely, men were more likely to receive a fine (31% vs 8%). Periodic detention and partly suspended sentences were only imposed on males (in 1% and 4% of cases respectively). Fully suspended sentences were imposed at similar rates (8% vs 9%).

1. Some options may not be available or suitable for all offences.
2. *Crimes (Sentencing) Act 2005* (ACT) s 33(1).
3. Data was not available on what portion of the sentence was suspended.
4. 'Other' order includes forfeiture, rehabilitation and treatment orders, as well as nominal penalties, such as a dismissal.

Possessing a Drug of Dependence

Table 1: Sentencing outcomes for possession of a drug of dependence

	Number of cases (117)	Proportion of all sentences	Range	80% range	Midpoint
Prison	8	7%	2-3 months	2-3 months	2 months
Periodic detention (PD)	1	1%	3 months	3 months	3 months
Partly suspended sentence (PSS)	4	3%	1-6 months ¹	1-6 months	3 months
Fully suspended sentence (FSS)	10	9%	1-8 months	1-3 months	2 months
Good behaviour order (GBO)	51	44%	3-24 months	12-18 months	12 months
Fine	33	28%	\$50-\$1000	\$250-\$500	\$400
Other order	10	9%	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

Age

Table 2 sets out the distribution of sentences by age. As can be seen, the largest group of offenders was aged 21-25 (27% of offenders), followed by offenders aged 31-40 (24%).

Table 2: Sentencing outcomes for possession of a drug of dependence by age

	18-20 (14)	21-25 (32)	26-30 (25)	31-40 (28)	41-50 (15)	Over 50 (3)
Prison (8)	2	2	3	1	0	0
PD (1)	0	0	0	0	1	0
PSS (4)	0	1	1	1	0	1
FSS (10)	0	2	3	3	2	0
GBO (51)	7	14	9	13	8	0
Fine (33)	3	8	9	9	4	0
Other (10)	2	5	0	1	0	2

Figure 2: Sentencing outcomes for the most common penalties for possession of a drug of dependence by age

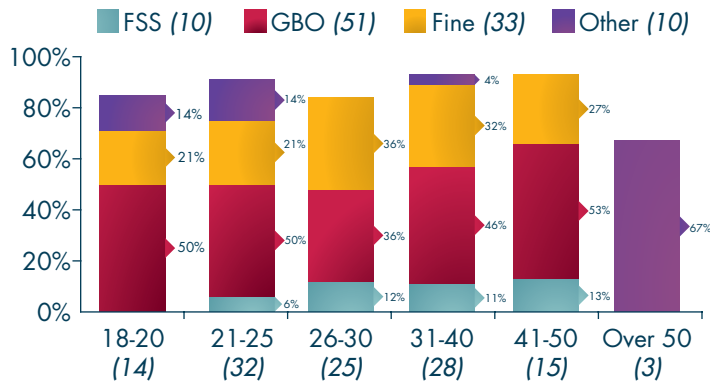


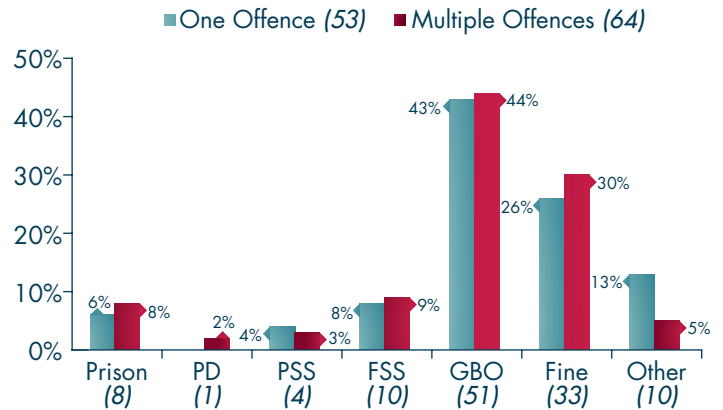
Figure 2 sets out the distribution of the most common penalties (fully suspended sentences, GBOs, fines and other orders), which together accounted for 89% of sentences, by age. This figure reveals very different sentencing patterns, based on offender age. Fully suspended sentences were not used at all for offenders aged 18-20 or over 50 (although the very small number of offenders in the latter age group must be noted). By contrast, the other age groups received a fully suspended sentence in 6%-13% of cases. GBOs were the most commonly imposed penalty for all age groups except for offenders aged 50, but their use ranged from 36% for 26-30 year olds to 53% for offenders aged 41-50. Fines were also not used on offenders aged over 50. Other than this, their use ranged from 21% for 18-20 year olds to 36% for offenders aged 26-30. Finally, no offenders aged 26-30 or 41-50 received some other order, but these accounted for two out of the three (67%) orders imposed on offenders aged over 50.

Number of Offences

A slight majority of offenders (55%; n=64) were sentenced for multiple offences, while 45% were sentenced for a single offence. Offenders sentenced for a single offence were more likely to receive some other order (13% vs 5%) and less likely to receive a fine (26% vs 30%). There were

similar patterns for prison (8% vs 6%), periodic detention (2% vs 0%), partly suspended sentences (3% vs 4%), fully suspended sentences (9% vs 8%) and GBOs (44% vs 43%).

Figure 3: Sentencing outcomes for possession of a drug of dependence by number of offences

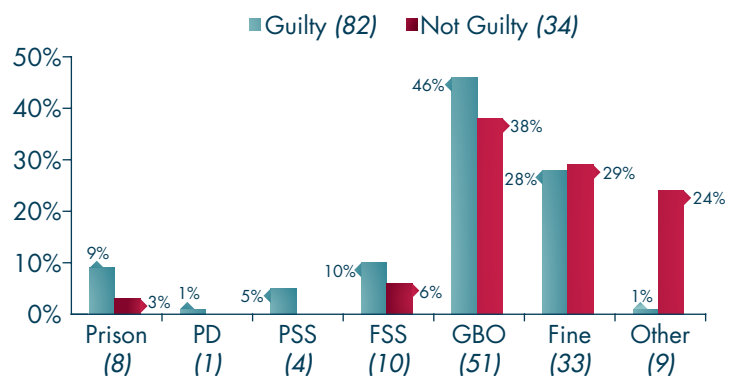


Plea

Initial plea

The majority of offenders (71%; n=82) initially entered a guilty plea, while 39% offenders entered an initial not guilty plea. As set out in Figure 4, offenders who initially pleaded guilty were more likely to receive all custodial orders: prison (9% vs 3%), periodic detention (1% vs 0%), partly suspended sentences (5% vs 0%) and fully suspended sentences (10% vs 6%). They were also more likely to receive a GBO (46% vs 38%). By contrast offenders who had an initial not guilty plea were more likely to receive some other order (24% vs 1%). Fines were imposed at similar rates (28% vs 29%).

Figure 4: Sentencing outcomes for possession of a drug of dependence by initial plea



Final plea

At the final plea, 105 offenders (91%) pleaded guilty and 11 (9%) pleaded not guilty. Offenders with a final not guilty plea received GBOs (27% vs 46%), fines (27% vs 29%) and other orders (46% vs 4%). Offenders with a final guilty plea also received prison (in 8% of cases), periodic detention (1%), partly suspended sentences (4%) and fully suspended sentences (10%).

5. Data was not available for the remaining offender.

Point of plea entry

Table 3: Sentencing outcomes for possession of a drug of dependence by point of plea entry

	1 (27)	2 (33)	3 (19)	4-5 (23)	6 or more (14)
Prison (8)	7%	6%	0%	13%	7%
PD (1)	0%	0%	5%	0%	0%
PSS (4)	0%	3%	0%	0%	21%
FSS (10)	7%	18%	0%	9%	0%
GBO (51)	44%	49%	47%	35%	43%
Fine (33)	30%	15%	42%	35%	29%
Other (9)	11%	9%	5%	9%	0%

Data was also available for 116 offenders on the point of plea entry, that is, how many times they appeared before a magistrate before they first entered a plea. As set out in Table 3, 23% of offenders (n=27) entered a plea on their first appearance and another 28% (n=33) did so on the second occasion they appeared. In addition, 16% (n=19) entered a plea on their third occasion, and another 20% (n=23) did so after 4-5 appearances. The remaining 12% (n=14) appeared six or more times before entering a plea.

Table 3 also sets out the sentencing patterns based on the point of plea entry. There were no clear associations between the point at which an offender entered a plea and sentencing outcome. Prison sentences were imposed in 0% to 13% of cases. The periodic detention order was imposed on an offender who entered a plea on their third appearance, while the partly suspended sentences were imposed on offenders who entered their plea after two and six or more appearances. Fully suspended sentences accounted for 0% to 18% of cases, and GBOs for 35% to 49%. Fines were imposed on 15% to 42% of offenders, and other orders on 0% to 11% of offenders.

Point of plea finalisation

Data was available for all offenders (n=117) 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, 15% of offenders (n=18) appeared one or two times to get their matter finalised. Offenders most commonly appeared 3-5 times in court to finalise their matter (46%; n=54). A further 22% of offenders (n=26) appeared 6-10 times, while 16% (n=19) appeared 11 or more times before finalising their matter.

Table 4 also indicates that partly suspended sentences were associated with later plea finalisation, although the small number of such orders should be noted. Whereas there were no such orders imposed on offenders who finalised their plea after 1-2 appearances, this rose to 11% for offenders who did so after 11 or more appearances. There were no other clear associations between point of plea finalisation and sentencing outcome. Prison sentences ranged from 0% to 15% and fully suspended sentences from 4% to 15%. The periodic detention order was imposed on an offender who finalised their plea after 3-5 appearances. GBOs were imposed in 31% to 61% of cases, while fines and other orders were imposed in 16%-37% and 5%-11% of matters respectively.

6. Data on length was missing for one GBO.

Table 4: Sentencing outcomes for possession of a drug of dependence by point of plea finalisation

	1-2 (18)	3-5 (54)	6-10 (26)	11 or more (19)
Prison (8)	6%	6%	15%	0%
PD (1)	0%	2%	0%	0%
PSS (4)	0%	2%	4%	11%
FSS (10)	11%	4%	15%	11%
GBO (51)	61%	39%	31%	58%
Fine (33)	17%	37%	27%	16%
Other (10)	6%	11%	8%	5%

Case study

The following represents the typical offender and sentencing outcome in the Magistrates Court for possessing a drug of dependence: Mike was aged 22 and committed multiple offences. He entered a plea on his second occasion before a magistrate, and it took four court appearances to finalise his matter. He pleaded guilty and received a 12 month GBO.

Possessing prohibited substances – Cannabis

Table 5: Sentencing outcomes for possessing prohibited substances – cannabis

	Number of cases (145)	Proportion of all sentences	Range	80% range	Midpoint
GBO	31	21%	3-24 months	3-12 months	12 months
Fine	110	76%	\$25-\$750	\$50-\$100	\$100
Other	4	3%	N/A	N/A	N/A

There were 145 sentences imposed for the offence of possessing cannabis (under section 171(1)(a) of the Act). As set out in Table 5, the most common penalty was a fine, accounting for 76% of sentences. The second most common penalty was a GBO, which accounted for 21% of sentences. Other orders were imposed in the remaining cases (3%).

GBOs (n=30)⁶ ranged from 3 to 24 months, though 80% of these orders were 3-12 months long. The midpoint and most common length was 12 months, accounting for 57% of GBOs and 12% of all sentences. Fines (n=110) ranged from \$25 to \$750, with 80% falling between \$50 and \$100. The midpoint and most common fine was \$100, accounting for 44% of fines and 33% of all sentences, while \$50 fines accounted for 36% of fines and 28% of all sentences. No further information was available on other orders imposed (n=4).

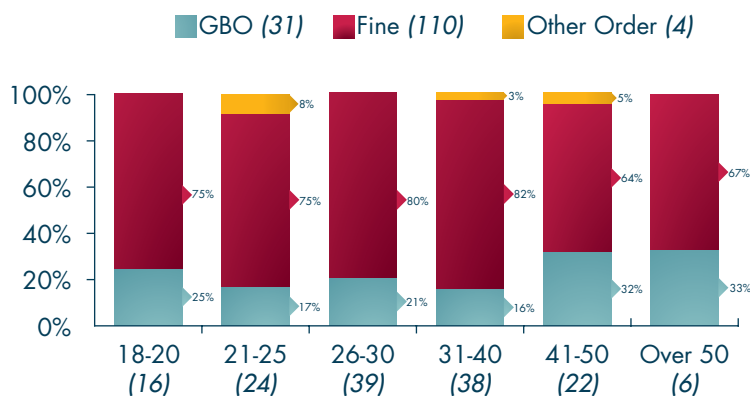
Gender

Males accounted for 83% of offenders (n=121). Males were more likely to receive a fine (81% vs 50%), while female offenders (n=24) were more likely to receive a GBO (46% vs 17%). Male and female offenders received some other order in 3% and 4% of cases respectively.

Age

Figure 5 sets out the sentencing outcomes for possessing cannabis, by age. Offenders aged 26-30 were the largest age group (27%), followed closely by offenders aged 31-40 (26%). Although fines were the most common penalty in all age groups, their use ranged from 64% for offenders aged 41-50 to 82% for offenders aged 31-40. Offenders aged 31-40 were least likely to receive a GBO (16%), while those aged over 50 were most likely to do so (33%). However, the small number of offenders aged over 50 should be noted (n=6). Other orders were only imposed on offenders aged 21-25 (in 8% of cases), 31-40 (3%) or 41-50 (5%).

Figure 5: Sentencing outcomes for possessing cannabis by age



Number of Offences

The majority of offenders (68%; n=99) committed multiple offences, while 32% were sentenced for a single offence. There were very similar sentencing patterns, with both groups receiving a fine in 76% of cases. GBOs were imposed on 20% of single offenders and 22% of multiple offenders, while other orders were imposed on 4% and 2% respectively.

Plea

Initial plea

The data in the ACTSD indicates that 121 offenders initially entered a guilty plea and 20 entered a not guilty plea⁷. Accordingly, of offenders whose initial plea was reported, 86% pleaded guilty. There were again similar sentencing patterns, with 22% of offenders who entered an initial guilty plea receiving a GBO, compared with 25% of offenders whose initial plea was not guilty. Fines were imposed in 77% and 70% of cases respectively, while other orders were imposed in 2% and 5% of cases respectively.

Final plea

At the final plea, data was again available for 141 offenders, of whom 136 (96%) pleaded guilty. Offenders with a final not guilty plea were more likely to receive a GBO (40% vs 21%) or other order (20% vs 2%) and less likely to receive a fine (40% vs 77%). Again, it must be recognised that the number of not guilty pleas was very small (n=5).

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

Point of plea entry

Data was also available for 141 offenders on the point of plea entry. As set out in Table 6, 23% of offenders (n=33) entered a plea on their first appearance. Offenders most commonly entered their plea on the second occasion before the court (31%; n=44), while 26% (n=36) did so on their third occasion. Another 12% of offenders (n=17) entered their plea after 4-5 appearances and the remaining 8% (n=11) appeared six or more times before entering a plea.

Table 6: Sentencing outcomes for possessing cannabis by point of plea entry

	1 (33)	2 (44)	3 (36)	4-5 (17)	6 or more (11)
GBO (31)	30%	18%	19%	29%	9%
Fine (107)	70%	82%	78%	59%	91%
Other (3)	0%	0%	3%	12%	0%

Table 6 also sets out the sentencing patterns based on the point of plea entry. This reveals no clear association between plea entry point and sentencing outcome. The use of GBOs ranged from 9% to 30%, while fines were imposed in 59% to 91% of cases. The other orders were imposed on offenders who entered a plea after three, four or five appearances, although the small number of these orders should be noted.

Point of plea finalisation

Data was available for all offenders (n=145) as to the point when they finalised their plea. As set out in Table 7, 28% of offenders (n=41) appeared one or two times to get their matter finalised. Offenders most commonly appeared 3-5 times in court to finalise their matter (33%; n=48). A further 29% of offenders (n=42) appeared 6-10 times, while 10% (n=14) appeared 11 or more times before finalising their matter.

Table 7 indicates no clear pattern between plea finalisation and sentencing outcome. GBOs accounted for 19% to 24% of outcomes, while fines were imposed on 71% to 81% of offenders. The other orders were imposed on offenders who finalised their matter in 1-2 or 6-10 court appearances.

Table 7: Sentencing outcomes for possessing cannabis by point of plea finalisation

	1-2 (41)	3-5 (48)	6-10 (42)	11 or more (14)
GBO (31)	24%	19%	21%	21%
Fine (110)	73%	81%	71%	79%
Other (4)	2%	0%	7%	0%

Case study

The following represents the typical offender and sentencing outcome in the Magistrates Court for possessing cannabis: Tom was aged 27 and committed multiple offences. He entered a plea on his second occasion before a magistrate, and it took four court appearances to finalise his matter. He pleaded guilty and received a \$100 fine.

Possession of Prohibited Substances – Other Substances

Table 8: Sentencing outcomes for possession of a prohibited substances other than cannabis

	Number of cases (134)	Proportion of all sentences	Range	80% range	Midpoint
Prison	13	10%	1-4 months	1-3 months	3 months
PSS	5	4%	2-6 months	2-6 months	5 months
FSS	10	8%	1-6 months	1-6 months	5 months
GBO	67	50%	9-24 months	12-18 months	12 months
Fine	35	26%	\$50-\$2000	\$100-\$750	\$400
Other	4	3%	N/A	N/A	N/A

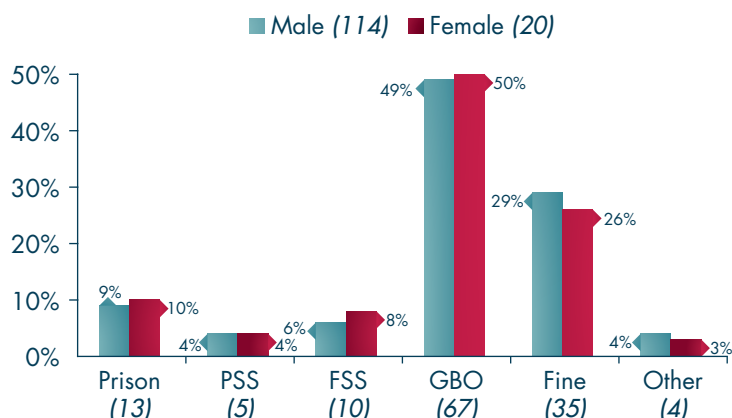
There were 134 sentences imposed in the Magistrates Court for the offence of possessing a prohibited substance other than cannabis (under section 171(1)(b) of the Act). As set out in Table 8, the most common penalty was a GBO, accounting for 50% of sentences. The second most common penalty was a fine (26%). Prison was imposed in 10% of cases, followed by fully suspended sentences (8%). Partly suspended sentences accounted for 4% of sentences, while other orders accounted for 3%.

Prison terms (n=13) ranged from 1 to 4 months and 80% of prison terms were 1-3 months long. The midpoint and most common sentence length was 3 months (54% of prison sentences). Partly suspended sentences (n=5) ranged from 2 to 6 months long and 80% of sentences also fell in this range. The midpoint term was 5 months. Fully suspended sentences (n=10) ranged from 1 to 6 months and this was also the 80% range, with 5 months the midpoint sentence length. GBOs (n=65) ranged from 9 to 24 months, although 80% of sentences were 12-18 months long. The midpoint and most common term was 12 months, accounting for 62% of GBOs and 30% of all sentences imposed for this offence. Fines (n=35) ranged from \$50 to \$2000, although 80% were for \$50-\$750. The midpoint fine was \$400, while the most common fine amount was \$100 (20% of fines and 5% of all sentences). No further information was available on the sentences where other orders were imposed (n=4).

Gender

Figure 6 sets out the sentencing patterns on the basis of gender. Males accounted for 85% of offenders sentenced (n=114). There were few differences in sentencing outcomes.

Figure 6: Sentencing outcomes for possession of a prohibited substance other than cannabis by gender



Age

Table 9 sets out the distribution of sentences by age. The largest group of offenders was aged 31-40 (37% of all offenders), followed by offenders aged 26-30 (20%).

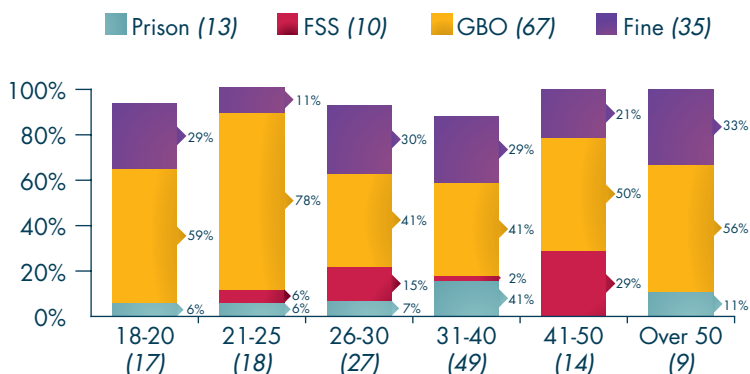
Table 9: Sentencing outcomes for possession of a prohibited substance other than cannabis by age

	18-20 (17)	21-25 (18)	26-30 (27)	31-40 (49)	41-50 (14)	Over 50 (9)
Prison (13)	1	1	2	8	0	1
PSS (5)	0	0	0	5	0	0
FSS (10)	0	1	4	1	4	0
GBO (67)	10	14	11	20	7	5
Fine (35)	5	2	8	14	3	3
Other (4)	1	0	2	1	0	0

Figure 7 sets out the distribution of the most common penalties (GBOs, fines, fully suspended sentences and prison), which together accounted for 93% of sentences, by age. This figure reveals different sentencing patterns, based on offender age. The use of prison ranged from 0% for offenders aged 41-50 to 16% for offenders aged 31-40. The remaining offenders received a prison sentence in 6%-11% of cases. Fully suspended sentences were not imposed on offenders aged 18-20 or over 50 and only 2% of offenders aged 31-40 received such an outcome. By contrast, 29% of offenders aged 41-50 received a prison sentence. The use of GBOs dominated in all age groups, but ranged from 41% for 26-40 year olds to 78% for 21-25 year olds. The use of fines ranged from 11% for 21-25 year olds to 33% for offenders aged over 50. Although not set out in Figure 7, offenders aged 31-40 received all of the partly suspended sentences, accounting for 10% of sentences imposed on that age group.

8. Data on length was missing for two GBOs.

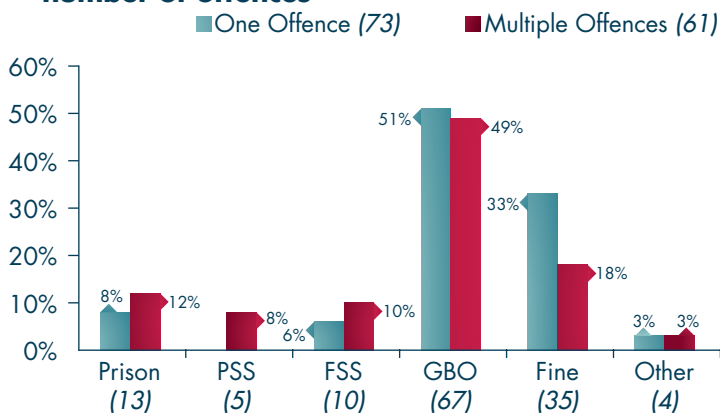
Figure 7: Sentencing outcomes for possession of a prohibited substance other than cannabis by age



Number of Offences

Figure 8 sets out sentencing patterns on the basis of the number of offences committed. The majority of offenders (54%; n=73) committed a single offence, while 46% were sentenced for multiple offences. Multiple offenders were more likely to receive all forms of custodial penalty: prison (12% vs 8%), partly suspended sentences (8% vs 0%) and fully suspended sentences (10% vs 6%). Conversely, they were much less likely to receive a fine (18% vs 33%). GBOs were imposed at similar rates (49% vs 51%), while both groups received some other order in 3% of cases.

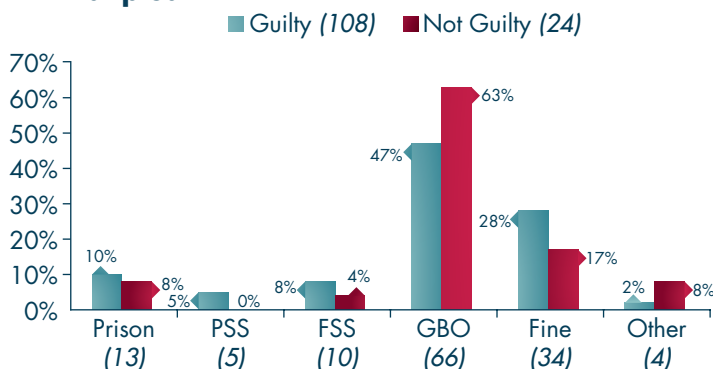
Figure 8: Sentencing outcomes for possession of a prohibited substance other than cannabis by number of offences



Plea

Initial plea

Figure 9: Sentencing outcomes for possession of a prohibited substance other than cannabis by initial plea



The data in the ACTSD indicates that 108 offenders initially entered a guilty plea, while 24 offenders entered a not guilty plea. Accordingly, of offenders whose initial plea was reported, 82% pleaded guilty. There were clear differences in sentencing patterns, with offenders who entered an initial not guilty plea less likely to receive custodial outcomes: 8% vs 10% for prison, 0% vs 5% for partly suspended sentences and 4% vs 8% for fully suspended sentences. They were also less likely to receive a fine (17% vs 28%). Conversely, they were more likely to receive a GBO (63% vs 47%) or other order (8% vs 2%).

Final plea

Of the 132 offenders for whom data was available, 126 (95%) entered a final guilty plea. The offenders who had a final plea of not guilty received GBOs (50% for both groups), fines (33% vs 25% for offenders with a final guilty plea) or some other order (17% vs 3%). Offenders with a guilty plea also received prison (in 10% of cases), partly suspended sentences (4%) and fully suspended sentences (8%). However, the small number of final not guilty pleas (n=6) should be noted.

Point of plea entry

Data was also available for 132 offenders on the point of plea entry. As set out in Table 10, offenders most commonly entered a plea at their first appearance (32%; n=42). Another 30% of offenders (n=39) did so on the second occasion they appeared, while 16% (n=21) did so on their third occasion. In 14% of cases (n=18), offenders entered their plea after 4-5 appearances and the remaining 9% (n=12) appeared six or more times before entering a plea.

Table 10: Sentencing outcomes for possession of a prohibited substance other than cannabis by point of plea entry

	1 (42)	2 (39)	3 (21)	4-5 (18)	6 or more (12)
Prison (13)	2%	13%	14%	6%	25%
PSS (5)	5%	5%	5%	0%	0%
FSS (10)	5%	8%	0%	17%	17%
GBO (66)	48%	56%	52%	50%	33%
Fine (34)	38%	15%	29%	22%	17%
Other (4)	2%	3%	0%	6%	8%

Table 10 also sets out the sentencing patterns based on the point of plea entry. This indicates that prison sentences were imposed in 2% to 25% of cases. Partly suspended sentences accounted for 5% of orders imposed on offenders who pleaded after 1-3 appearances. Fully suspended sentences were imposed on 0% to 17% of offenders, while 33% to 56% of offenders received a GBO. Fines were imposed on 15% to 38% of offenders, and other orders ranged from 0% to 8%.

9. Data was not available for two offenders.

Point of plea finalisation

Table 11: Sentencing outcomes for possession of a prohibited substance other than cannabis by point of plea finalisation

	1-2 (44)	3-5 (48)	6-10 (27)	11 or more (15)
Prison (13)	7%	6%	22%	7%
PSS (5)	0%	8%	0%	7%
FSS (10)	0%	10%	15%	7%
GBO (67)	50%	54%	48%	40%
Fine (35)	43%	21%	7%	27%
Other (4)	0%	0%	7%	13%

Data was available for all offenders (n=134) as to the point when they finalised their plea. As set out in Table 11, 33% of offenders (n=44) appeared one or two times to get their matter finalised. Offenders most commonly appeared 3-5 times in court to finalise their matter (36%; n=48). A further 20% of offenders (n=27) appeared 6-10 times, while 11% (n=15) appeared 11 or more times before finalising their matter.

Prison sentences were imposed in 6% to 22% of cases, while partly suspended sentences were imposed in 0% to 8% of cases. Fully suspended sentences accounted for 0% to 15% of outcomes, and GBOs for 40% to 50%. The use of fines ranged from 7% to 43%. Other orders increased, from 0% to 13%, although the number of such orders was small.

Case study

The following represents the typical offender and sentencing outcome in the Magistrates Court for possession of a prohibited substance other than cannabis: Harry was aged 39 and committed a single offence. He entered a plea on his first occasion before a magistrate, and it took three court appearances to finalise his matter. He pleaded guilty and received a 12 month GBO.