

Summary

Magistrates Court

- There were 274 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for the offence of contravening a protection order
- Good behaviour orders (GBOs) were the most common penalty (55% of all sentences), with 12 months the midpoint and most common length (54% of GBOs and 30% of all sentences)
- Prison was the second most common penalty (18%); the midpoint length was 3 months, although 2 months was the most common term imposed (24% of prison terms)
- Fully suspended sentences and fines were each imposed in 9% of cases
- The midpoint length of fully suspended sentences was 3 months, while the most common length was 1 month (28% of such sentences)
- The midpoint fine was \$400 and the most commonly imposed fine was \$750 (25% of fines)
- Males accounted for 88% of offenders
- The most common age for offenders was 31-40
- 60% 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
- 69% of offenders initially pleaded guilty; this rose to 90% for the final plea

Supreme Court

- There were 11 sentences imposed in the Supreme Court for contravening a protection order
- Fully suspended sentences were the most commonly imposed penalty (55% of sentences), with a midpoint and most common length of 6 months
- Prison sentences were imposed in 27% of cases, with a midpoint and most common length of 12 months long (67% of such sentences)
- Periodic detention and partly suspended sentences each accounted for the remaining 9% of sentences
- All offenders were male
- The most common age for offenders was 26-30
- 55% of offenders were sentenced for multiple offences
- 60% of offenders entered an initial and final plea of guilty

Childrens Court

- There were 15 sentences imposed in the Children's Court for contravening a protection order
- GBOs were the most common penalty (73% of all sentences), with a midpoint of 6 months and most common length of 12 months (36% of GBOs and 27% of all sentences)
- Prison sentences were imposed in 20% of cases; all of these were 3 months long
- Males accounted for 73% of offenders
- The most common age for offenders was 16-17
- 67% 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
- 87% of offenders entered an initial plea of guilty, but this fell to 80% for the final plea

Introduction

This sentencing snapshot presents an overview of sentencing patterns in the Australian Capital Territory (ACT) Magistrates, Children's and Supreme Courts between 1 July 2012 and 31 August 2015 for the offence of contravening a protection order, based on data in the ACT Sentencing Database (ACTSD).

As stated in section 6 of the *Domestic Violence and Protection Orders Act 2008* (ACT), the Act seeks to:

- (a) prevent violence between family members and others who are in a domestic relationship, recognising that domestic violence is a particular form of interpersonal violence that needs a greater level of protective response; and
- (b) facilitate the safety and protection of people who fear or experience violence by—
 - (i) providing a legally enforceable mechanism to

prevent violent conduct; and

- (ii) allowing for the resolution of conflict without the need to resort to adjudication.

Under section 9 of the Act, a person may apply for an order to protect an aggrieved person from domestic violence or personal violence by someone else. If the court grants such an order, it is an offence to contravene it. Section 90 of the Act provides:

- (1) This section applies to a person who is subject to a protection order if the person—
 - (a) was present when the protection order was made; or
 - (b) has been personally served with a copy of the protection order.

- (2) The person commits an offence if the person engages in conduct that contravenes the protection order (including a condition of the order).

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

At the time of writing, a penalty unit was worth \$150, so the maximum fine available for this offence was \$75 000.

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.²

Magistrates Court

There were 274 sentences imposed in the Magistrates Court between 1 July 2012 and 31 August 2015 for contravention of a protection order. As set out in Table 1, the most common penalty was a good behaviour order (GBO), accounting for 55% of sentences. The next most common penalty was prison (18%), followed by fines and fully suspended sentences (both 9%). Partly suspended sentences were imposed in 4% of cases, 'other' orders³ in 3% of cases, and periodic detention in the remaining 2% of cases.

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

Table 1: Sentencing outcomes in the Magistrates Court

| | Number of cases (274) | Proportion of cases | Range | 80% range | Midpoint |
|---------------------------------|-----------------------|---------------------|--------------------------|--------------|-----------|
| Prison | 50 | 18% | 1-24 months ⁴ | 2-7 months | 3 months |
| Periodic detention (PD) | 4 | 2% | 3-6 months | 3-6 months | 5 months |
| Partly suspended sentence (PSS) | 11 | 4% | 3-18 months ⁵ | 4-6 months | 6 months |
| Fully suspended sentence (FSS) | 25 | 9% | 1-9 months | 1-6 months | 3 months |
| Good behaviour order (GBO) | 151 | 55% | 3-24 months | 12-18 months | 12 months |
| Fine | 24 | 9% | \$50-\$1 000 | \$200-\$750 | \$400 |
| Other order | 9 | 3% | 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=50) ranged from 1 to 24 months, 80% of sentences fell within the range of 2 to 7 months; 3 months represented the midpoint and 2 months was the most common sentence length (24% of prison terms). Periodic detention orders (n=4) ranged from 3 to 6 months, with 80% also falling in this range. The midpoint was 5 months, although the most common length was 3 months. The range for partly suspended sentences (n=11) was 3-18 months; 80% of sentences were 4-6 months long. The midpoint and most common length was 6 months (36% of such sentences). Fully suspended sentences (n=25) ranged from 1 to 9 months, with 80% 1-6 months long. The midpoint was 3 months, while the most common length was 1 month (28% of such sentences). GBOs (n=151) ranged from 3 to 24 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 54% of GBOs and 30% of all sentences for this offence. Fines (n=24) ranged from \$50 to \$1 000, with 80% ranging from \$200 to \$750. The midpoint fine was \$400, but the most commonly imposed fine was \$750 (25% of fines). No further information was available on the cases where some other order was imposed (n=9).

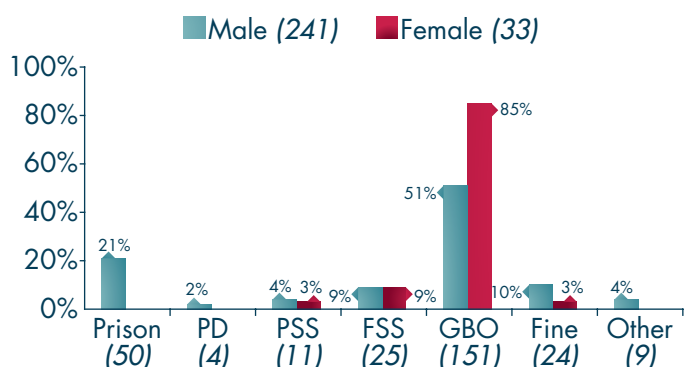
Gender

Gender

Figure 1 sets out the sentencing patterns on the basis of gender. Males accounted for 88% of offenders sentenced (n=241). As can be seen, over one in five men (21%) were sentenced to prison, while no women received such an outcome. Men were also more likely to receive periodic detention orders (2% vs 0%), fines (10% vs 3%)

and other orders (4% vs 0%). Women were much more likely to receive a GBO (85% vs 51%). The rates for partly suspended sentences were similar (4% for men and 3% for women), while fully suspended sentences were imposed at the same rate (both 9%).

Figure 1: Sentencing outcomes in the Magistrates Court by gender



Age

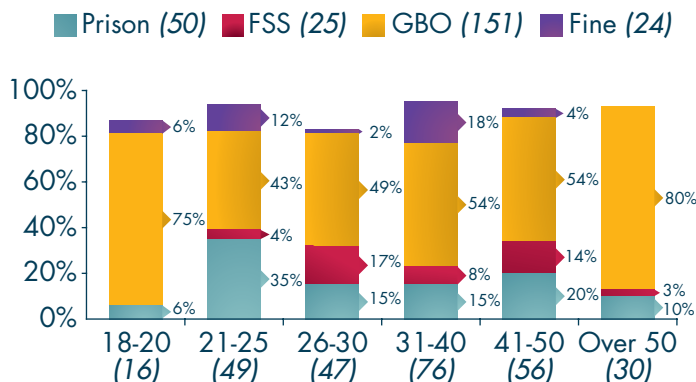
Table 2 sets out the distribution of sentences by age. As can be seen, the largest group of offenders was aged 31-40 (28% of all offenders), followed by offenders aged 41-50 (20%).

Table 2: Sentencing outcomes in the Magistrates Court by age

| | 18-20 (16) | 21-25 (49) | 26-30 (47) | 31-40 (76) | 41-50 (56) | Over 50 (30) |
|-------------|------------|------------|------------|------------|------------|--------------|
| Prison (50) | 1 | 17 | 7 | 11 | 11 | 3 |
| PD (4) | 1 | 1 | 0 | 1 | 1 | 0 |
| PSS (11) | 0 | 0 | 5 | 2 | 3 | 1 |
| FSS (25) | 0 | 2 | 8 | 6 | 8 | 1 |
| GBO (151) | 12 | 21 | 23 | 41 | 30 | 24 |
| Fine (24) | 1 | 6 | 1 | 14 | 2 | 0 |
| Other (9) | 1 | 2 | 3 | 1 | 1 | 1 |

Figure 2 sets out the distribution of the most common penalties (prison, fully suspended sentences, GBOs and fines), which together accounted for 91% of sentences, by age. Although GBOs were the most common penalty in all age groups, their use differed significantly on the basis of age. Offenders aged 21-25 were least likely to receive such an order (43%), compared with 80% of offenders aged over 50. Prison sentences were only imposed on 6% of offenders aged 18-20, compared with 35% of 21-25 year olds. The remaining age groups received prison sentences in 10%-20% of cases. Fully suspended sentences were not used for offenders aged 18-20, and only 4% and 3% respectively of offenders aged 21-25 and over 50 received such a sentence. By contrast, offenders aged 26-30 received a fully suspended sentence in 17% of cases. Fines were not used for offenders aged over 50 and were most commonly imposed on those aged 31-40 (18%).

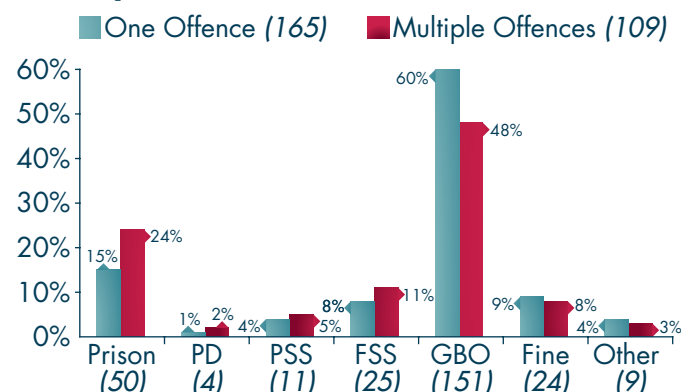
Figure 2: Sentencing outcomes for the most common penalties in the Magistrates Court for contravening a protection order by age



Number Of Offences

The majority of offenders (60%; n=165) committed a single offence, while 40% (n=109) were sentenced for multiple offences. Figure 3 shows that offenders sentenced for multiple offences were more likely to be sentenced to prison (24% vs 15%) and less likely to receive a GBO (48% vs 60%). Fully suspended sentences were imposed in 11% and 8% of cases respectively. There was little difference in patterns for periodic detention (1% vs 2%), partly suspended sentences (5% vs 4%), fines (8% vs 9%) or other orders (3% vs 4%).

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



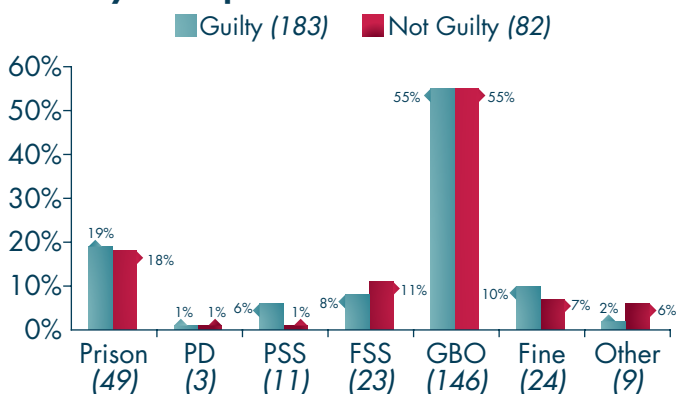
Plea

Initial plea

The data in the ACTSD indicates that 183 offenders initially entered a guilty plea, while 82 offenders entered a not guilty plea⁶. Accordingly, of offenders whose initial plea was reported, 69% pleaded guilty. As set out in Figure 4, offenders who initially pleaded guilty were equally likely to receive a GBO (55%) or periodic detention (1%). They also received prison sentences at similar rates (19% vs 18%). These offenders were more likely to receive a partly suspended sentence (6% vs 1%) or fine (10% vs 7%). Offenders who entered an initial not guilty plea were more likely to receive a fully suspended sentence (11% vs 8%) or other order (6% vs 2%).

6. Data was not available for nine offenders.

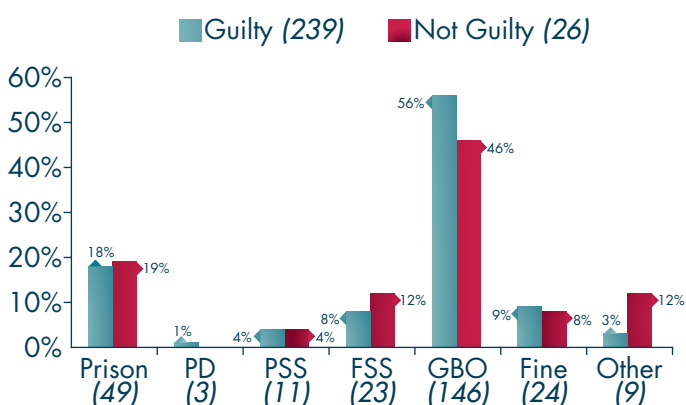
Figure 4: Sentencing outcomes in the Magistrates Court by initial plea



Final plea

Data on the offender’s final plea was also available for 265 offenders. Of these, 239 offenders (90%) entered a final plea of guilty, while 26 (10%) had a final plea of not guilty. The patterns were quite similar to those for the initial plea: As set out in Figure 5, offenders whose final plea was not guilty were less likely to receive a GBO (46% vs 56%) and more likely to receive a fully suspended sentence (12% vs 8%) or some other order (12% vs 3%). The patterns were fairly similar for prison (19% vs 18%), periodic detention (1% vs 0%) and fines (8% vs 9%) and the same for partly suspended sentences (both 4%).

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



Point of plea entry

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

| | 1 (25) | 2 (92) | 3 (55) | 4-5 (63) | 6 or more (30) |
|-------------|-----------|-----------|-----------|-------------|-------------------|
| Prison (49) | 24% | 16% | 24% | 13% | 23% |
| PD (3) | 0% | 1% | 0% | 2% | 3% |
| PSS (11) | 12% | 1% | 4% | 5% | 7% |
| FSS (23) | 0% | 11% | 4% | 11% | 13% |
| GBO (146) | 40% | 62% | 64% | 52% | 36% |
| Fine (24) | 24% | 7% | 4% | 12% | 7% |
| Other (9) | 0% | 2% | 2% | 5% | 10% |

Data was also available for 265 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 9% of offenders (n=25) did so on the first occasion, 35% (n=92) did so on the second occasion they appeared, and 21% (n=55) did so on their third occasion. A further

24% (n=63) appeared before a magistrate 4-5 times before entering a plea, while 11% (n=30) appeared six or more times.

Table 3 sets out the sentencing patterns based on the point of plea entry. The only sentencing order that showed any association was other orders, which increased by point of plea entry, from 0% to 10% (although the relatively small number of such orders should be noted). Prison ranged from 13% to 24%. Periodic detention orders accounted for 0% to 3% of orders, with partly suspended sentences imposed in 1% to 12% of orders. Fully suspended sentences were imposed on 0% to 13% of offenders. The use of GBOs ranged from 36% to 64%, while the use of fines ranged from 4% to 24%.

Point of plea finalisation

Data was available for all offenders (n=274) 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, 14% of offenders appeared one or two times to get their matter finalised, while 35% appeared 3-5 times. A further 33% of offenders appeared 6-10 times and the remaining 18% appeared 11 or more times before finalising their matter.

As set out in Table 4, prison became an increasingly likely outcome with later plea finalisation, increasing from 8% of offenders who finalised their matter in 1-2 appearances to 33% of those who took 11 or more appearances to do so. The use of periodic detention and other orders also increased, from 0% to 6% and 0% to 10% respectively, although the relatively small number of such orders should be noted. There was no clear association between sentencing outcomes and plea finalisation for partly suspended sentences (which ranged from 2% to 8%), fully suspended sentences (0% to 17%) or fines (2% to 18%). The use of GBOs generally decreased, from 69%-71% for those who finalised their plea in 1-5 appearances to 33% of offenders who finalised their plea in 11 or more appearances.

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

| | 1-2 (39) | 3-5 (97) | 6-10 (90) | 11 or more (48) |
|-------------|-------------|-------------|--------------|--------------------|
| Prison (50) | 8% | 11% | 22% | 33% |
| PD (4) | 0% | 0% | 1% | 6% |
| PSS (11) | 5% | 2% | 3% | 8% |
| FSS (25) | 0% | 7% | 17% | 6% |
| GBO (151) | 69% | 71% | 43% | 33% |
| Fine (24) | 18% | 6% | 11% | 2% |
| Other (9) | 0% | 2% | 2% | 10% |

Case study

The following represents the typical offender and sentencing outcome in the Magistrates Court for the offence of contravening a protection order: Jim was aged 32 and committed a single offence. He entered a plea on his second occasion before a magistrate, and it took four court appearances to finalise his plea. He pleaded guilty and received a 12 month GBO.

Childrens Court

Table 5: Sentencing outcomes in the Childrens Court

| | Number of cases (15) | Proportion of cases | Range | 80% range | Midpoint |
|--------|----------------------|---------------------|-------------|-------------|----------|
| Prison | 3 | 20% | 3 months | 3 months | 3 months |
| GBO | 11 | 73% | 3-18 months | 3-12 months | 6 months |
| Other | 1 | 7% | N/A | N/A | N/A |

As set out in Table 5, there were 15 sentences imposed in the Childrens Court for contravening a protection order. The small number of cases should be noted in the analysis below. A GBO was imposed in 73% of cases (n=11). Prison sentences were imposed in 20% of cases (n=3). There was also one other order imposed (7%).

Information on the length of GBOs was missing for one case. In the remaining 10 cases, GBOs ranged from 3 to 18 months, with 80% between 3 and 12 months long. The midpoint was 6 months and the most common length was 12 months (36% of GBOs and 27% of all sentences). All of the prison sentences were 3 months long. There are no further details on the nature of the other order imposed.

Gender

There were 11 males (73%) and 4 females (27%) sentenced. All the females received GBOs (100%, compared with 64% of the males). Male offenders also received prison (in 27% of cases) and other orders (9%).

Age

There were no offenders aged 10-13 sentenced for this offence. Juveniles aged 14-15 accounted for 40% of offenders (n=6), while those aged 16-17 represented the remaining 60% (n=9). Offenders aged 14-15 received GBOs (83%) and the other order imposed (17%), while those aged 16-17 received prison (33%) and GBOs (67%).

Number of offences

Most offenders (67%; n=10) committed a single offence, while 33% were sentenced for multiple offences. Offenders sentenced for a single offence received GBOs (90%) and the other order imposed (10%), while those sentenced for multiple offences received prison (60%) and GBOs (40%).

Plea

Initial plea

Nearly all offenders (87%; n=13) entered an initial plea of guilty. The offenders with an initial not guilty plea (n=2) both received GBOs, compared with 69% of those with an initial guilty plea. Offenders who pleaded guilty also received prison sentences (23%) and the other order (8%).

Final plea

At the final plea stage, 80% of offenders (n=12) pleaded guilty and 20% (n=3) pleaded not guilty. The offenders with a final not guilty plea all received GBOs, as did 67% of those who pleaded guilty. These offenders also received the prison sentences (25%) and other order (8%).

Point of plea entry

Table 6: Sentencing outcomes in the Childrens Court by point of plea entry

| | 1 (5) | 2 (4) | 3 (2) | 4-5 (2) | 6 or more (2) |
|------------|-------|-------|-------|---------|---------------|
| Prison (3) | 40% | 0% | 0% | 50% | 0% |
| GBO (11) | 60% | 75% | 100% | 50% | 100% |
| Other (1) | 0% | 25% | 0% | 0% | 0% |

As set out in Table 6, 33% of offenders (n=5) entered their plea on the first occasion they appeared before a magistrate, with another 27% (n=4) doing so on the second time they came before a magistrate. In addition, 13% of offenders entered their plea after three, four or five, and six or more appearances respectively.

The distribution of sentencing outcomes by point of plea entry is set out in Table 6, but the cell sizes are too small to draw any meaningful conclusions. Prison sentences accounted for 0% to 50% of outcomes and GBOs for 50% to 100%. The other order was imposed on an offender who finalised their plea on the second occasion before a magistrate.

Point of plea finalisation

As set out in Table 7, 20% (n=3) of offenders finalised their matter in 1-2 appearances, 33% (n=5) did so in 3-5 appearances, 20% (n=3) took 6-10 appearances to finalise their matter, and the remaining 27% (n=4) did so in 11 or more appearances.

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

| | 1-2 (3) | 3-5 (5) | 6-10 (3) | 11 or more (4) |
|------------|---------|---------|----------|----------------|
| Prison (3) | 0% | 0% | 0% | 75% |
| GBO (11) | 100% | 80% | 100% | 25% |
| Other (1) | 0% | 20% | 0% | 0% |

The small number of cases should be noted, but all the prison sentences were imposed on offenders who took 11 or more appearances to finalise their matter. The use of GBOs ranged from 25% to 100%. The other order was imposed on an offender who finalised their plea after 3-5 appearances.

Case study

The following represents the typical offender and sentencing outcome in the Childrens Court for the offence of breaching a protection order: Paulie was aged 16 and committed a single offence. He entered a plea on his first occasion before a magistrate, and it took four court appearances to finalise his plea. He pleaded guilty and received a 12 month GBO.

Supreme Court

Table 8: Sentencing outcomes in the Supreme Court

| | Number of cases (11) | Proportion of cases | Range | 80% range | Midpoint |
|--------|----------------------|---------------------|-------------|-------------|-----------|
| Prison | 3 | 27% | 6-12 months | 6-12 months | 12 months |
| PD | 1 | 9% | 12 months | 12 months | 12 months |
| PSS | 1 | 9% | 6 months | 6 months | 6 months |
| FSS | 6 | 55% | 6-12 months | 6-12 months | 6 months |

There were 11 sentences imposed in the Supreme Court for contravening a protection order. The small number of cases should be noted in the analysis below. The most common outcome was a fully suspended sentence (55% of offenders). The next most common outcome was prison (27%). Periodic detention and partly suspended sentences were each imposed in 9% of cases.

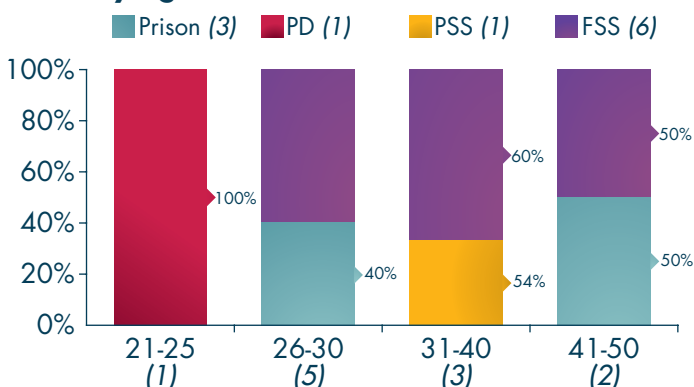
Two of the prison sentences were 12 months long and the other was 6 months long. The periodic detention order was 12 months long, while the partly suspended sentence was 6 months long. Four of the fully suspended sentences (67%) were 6 months long and the remaining two (33%) were 12 months long. Over a third (36%) of offenders sentenced for this offence received a 6 month fully suspended sentence.

Gender

All offenders sentenced in the Supreme Court were male.

Age

Figure 6: Sentencing outcomes in the Supreme Court by age

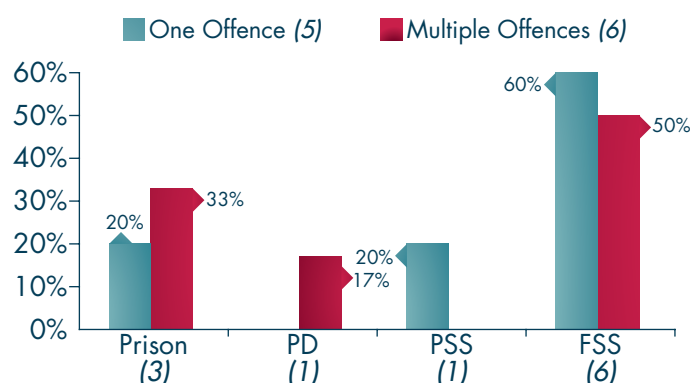


As set out in Figure 6, the most common age was 26-30 (45% of offenders), followed by offenders aged 31-40 (27%). The offender aged 21-25 received the only periodic detention order (100%), while a 31-40 year old received the only partly suspended sentence (33% of sentences for that age group). Offenders aged 26-30 and 41-50 received the only prison sentences (in 40% and 50% of cases respectively). Fully suspended sentences were imposed on 60% of offenders aged 26-30, 67% of those aged 31-40 and 50% of those aged 41-50.

Number of offences

Nearly half of the offenders (45%; n=6) committed a single offence, while the other 55% were sentenced for multiple offences. As set out in Figure 7, offenders sentenced for multiple offences were more likely to receive a prison sentence (33% vs 20%) and less likely to receive a fully suspended sentence (50% vs 60%). The periodic detention order was imposed on a multiple offender (17% vs 0%), while the partly suspended sentence was imposed on an offender who had committed only one offence (20% vs 0%).

Figure 7: Sentencing outcomes in the Supreme Court by number of offences



Plea

Initial plea

Information on pleas was missing for one offender. Of the offenders for whom information was available, 60% (n=6) entered an initial plea of guilty, while 40% pleaded not guilty. All of the offenders with an initial not guilty plea received a fully suspended sentence. By contrast, only 33% of those with an initial guilty plea received such an outcome. These offenders also received prison (33% vs 0%), as well as periodic detention and partly suspended sentences (both 17% vs 0%).

Final plea

There were the same outcomes for final pleas, with no offenders changing their plea.

Plea entry and finalisation

Information on the point at which offenders entered and finalised their plea was not available.

Additional characteristics

Only two offenders had additional characteristics recorded in the ACTSD.

One offender, who received a fully suspended sentence, had a prior record; did not have any co-offenders; was unemployed; had not demonstrated remorse; and was on conditional liberty at the time of the offence. The objective

seriousness of the offence, injury sustained, victim's age and pregnancy, offender's prior character, and need for both general and personal deterrence were all considered to be significant factors. The other factors recorded in the ACTSD (eg, whether an offender had physical or mental health problems) were either not mentioned by the sentencing judge or not considered significant or relevant in this case.

The other offender, who received the periodic detention order, had a prior record with relevant offences. He did not have any co-offenders and was on conditional liberty at the time of the offence. His degree of responsibility for the offence and state of mind, prior character, minimal employment history and lack of remorse were all mentioned as significant factors. The impact of drugs, objective seriousness of the offence, and need for general and personal deterrence were also significant factors. The remaining factors were either not mentioned or not regarded as being significant in this case.

Case study

The following represents the typical offender and sentencing outcome in the Supreme Court for the offence of breaching a protection order: Vince was aged 29 and committed multiple offences. He pleaded guilty and received a 6 month fully suspended sentence.