

# Criminal Courts Australia 2003-04

## Major findings for South Australian Criminal Courts (ABS 4513.0)

JAYNE MARSHALL AND BRIANNA KENNEALLY

### Introduction

This Information Bulletin outlines the key findings from the ABS Criminal Courts publication (Cat 4513.0) and supplementary tables - released on 11 February 2005. The publication provides an overview of the characteristics of defendants dealt with by the Criminal Courts, including offences and sentence types to time taken from initiation to finalisation, for the period 1 July 2003 to 30 June 2004.

In previous years experimental data from the Magistrates Court was included in an Appendix of the publication, as there were a number of issues to be addressed regarding these data, including counting rules and range of coverage across the jurisdictions. However, Magistrates Court data has now been included in the main publication and so, this Bulletin also includes an overview of these findings.

There are a number of other changes in the Criminal Courts publication. In contrast to previous years, the focus of the data is on finalised and adjudicated defendants. As a result, no information is provided on:

- the number of initiated defendants and the method of initiation (eg for trial or sentence in the higher courts);
- the number of higher court matters that were finalised as a result of being *withdrawn*;
- the median duration from initiation to finalisation; and
- jurisdictional comparison of change of plea in the higher courts.

In addition, caution should be used when comparing South Australia to other jurisdictions. In particular, there may be considerable variation in the types/level of offences that the different courts across Australia are able to finalise, which will impact upon both the method of finalisation and the principal sentence.

## Key findings - Higher Courts

### Finalised defendants and method of finalisation

#### *Number*

The number of defendants *finalised*<sup>1</sup> in the South Australian higher courts during 2003-04 increased by 6% (869 compared with 821 in 2002-03).

The number of higher court finalisations also increased nationally, by 4%.

#### *Method of finalisation*

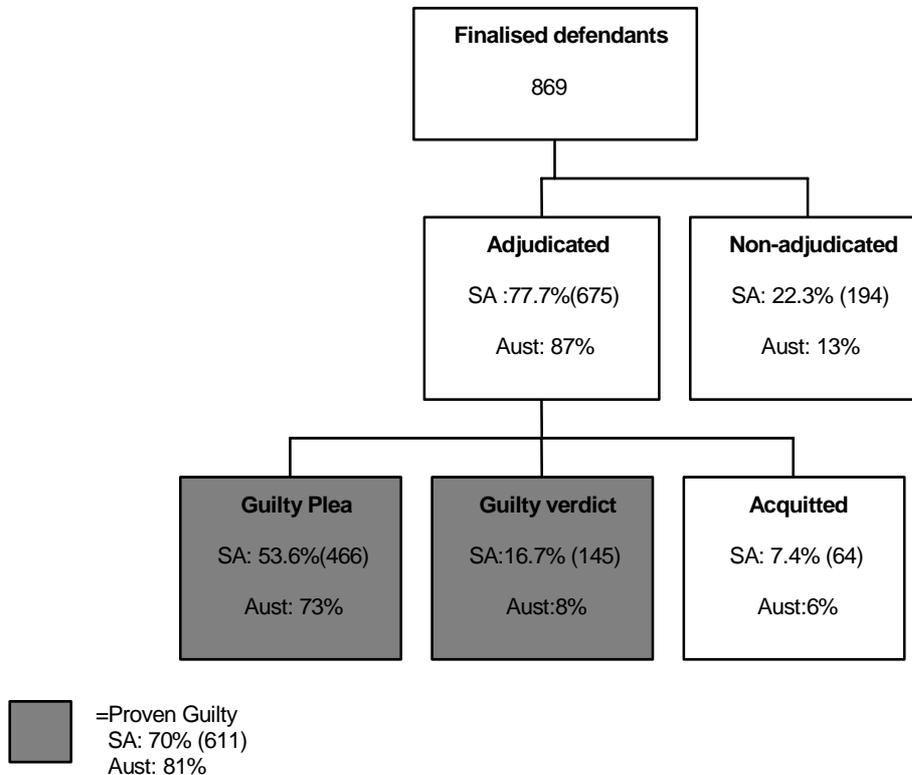
- In 2003-04, 675 higher court defendants were finalised in SA by way of adjudication (ie where the defendant pleaded guilty, or was found guilty or acquitted at trial), representing 77.7% of all higher court finalisations in that period (compared with 74.5% in 2002-03). The proportion of finalisations that were adjudicated in the South Australian higher courts was the second lowest in Australia and was lower than the national average (86.6%).
- Conversely, the proportion of finalisations that were non-adjudicated (ie where the matter was considered finalised without a determination of guilt, including withdrawn by the prosecution or where the defendant was unfit to plead) was the second highest in Australia and was much higher than the national average (22.3% compared with 13.4%). These figures were comparable with those recorded in 2002/03.
- No separate breakdown was provided on the number of non-adjudicated finalizations that were actually withdrawn.
- As shown in Figure 1, the proportion of South Australian higher court defendants who were acquitted was comparable with the national figure (7.4% compared with 6.0% respectively). The proportion of defendants who were acquitted was slightly higher than in 2002-2003 (6.0%).
- South Australia had the second lowest proportion of higher court defendants who were proven guilty (ie pleaded guilty or were found guilty at trial) – 70.3% compared with the national figure of 80.6%.

---

<sup>1</sup> A person/organization for whom all charges have been formally completed.

- Although the majority of those defendants proven guilty actually pleaded guilty, in South Australia the figure was below the national average. Of the 611 defendants who were proven guilty in South Australian higher courts, 466 (76.3%) pleaded guilty (compared with 90.2% nationally) and the other 145 (23.7%) were declared guilty at trial (compared with 9.8% nationally).

Figure 1 Finalised defendants in South Australia Higher Courts 2003-2004



### Time taken from initiation to finalization

- In general, the time taken from initiation to finalisation in South Australian higher courts was comparable with Australia as a whole, with approximately half of all matters finalised in under six months (50.7% in South Australian and 50.9% in Australia). A slightly lower proportion of matters in South Australia took between six and twelve months to finalise (26.0% compared with 29.2% for Australia) while a slightly higher proportion were finalised in twelve months or more (23.3% compared with 20.0% for Australia).

- Compared with other jurisdictions, South Australia had the third lowest proportion of higher court matters finalised in under 13 weeks (23.6%) while Western Australia had the highest proportion at 40.9%. Conversely, South Australia had the second highest proportion of matters that took 12 months or more to finalise (23.3%).
- As could be expected, the time taken from initiation to finalisation varied according to the method of finalisation. Nearly two-thirds (61.4%) of all South Australian higher court matters finalised by a guilty plea were completed in less than six months, compared with 6.2% of matters finalised by a guilty verdict and 7.9% finalised by an acquittal. Conversely, 60.7% of matters finalised by a guilty verdict took more than 12 months to complete, compared with 33.3% of matters finalised by acquittal and 14.6% finalised by guilty plea.

## Adjudicated Defendants

- As indicated in Figure 1, of the 869 finalised higher court defendants, over three quarters (675) were finalised by adjudication (ie by guilty plea, guilty verdict or acquitted).

### *Sex and age of adjudicated defendants*

- The proportion of adjudicated defendants in South Australian higher courts who were males was comparable to the national figure (89.5% and 87.0% respectively).
- South Australia had a higher proportion of adjudicated defendants aged between 25 and 44 years, compared with Australia as a whole (59.7% compared with 52.1%) and a lower proportion aged under 25 (27.3% compared with 33.9%). A similar proportion were aged 45 years and over.

### *Initial plea and change of plea*

- A high proportion of higher court adjudicated defendants in South Australia initially pleaded not guilty (536 or 79.4% - no national comparison was available). Of these, 319 (59.5%) changed their plea from not guilty to guilty. These figures were comparable with the figures recorded in 2002-03, with 78.3% of higher court defendants initially pleading not guilty, and 63.0% of these later changing their plea to guilty. No information was available on change of plea for other jurisdictions.

### *Principal offence for adjudicated defendants*

- The four most common principal offences for adjudicated defendants dealt with in South Australian higher courts were *illicit drugs* (28.5%), *acts intended to cause injury* (14.9%), *sexual assault* (13.1%), *unlawful entry with intent* (12.6%) and *robbery and extortion* (12.0%), accounting for approximately 8 in 10 of all defendants adjudicated in South Australia's higher courts.

- This was considerably different to the national profile, where the most common principal offences were acts intended to cause injury (20.7%), unlawful entry with intent (15.0%), illicit drug offences (14.1%) and robbery and extortion (11.2%).
- While 28.4% of all South Australian adjudicated defendants had a principal offence type of *illicit drugs*, the proportion was particularly high for female defendants (40.3% compared with 27.0% for males). The comparable national figures were 14.1% for all defendants, 16.5% for females and 13.7% for males.
- The most common principal offence varied across the states and territories. While in South Australia and New South Wales the most common principal offence was *illicit drugs*, in five jurisdictions (Victoria, Queensland, Tasmania, Northern Territory and ACT) it was *acts intended to cause injury* and in Western Australia it was *unlawful entry with intent/burglary, break and enter*.

### *Principal sentence type*

- Compared to Australia as a whole, South Australia had a much higher proportion of suspended sentences (37.7% compared with 17.5%) and a much lower proportion of both custodial sentences (49.3% compared with 60.0%) and non-custodial orders (11.4% compared with 21.4%).
- However, the proportion of suspended sentences in South Australia in 2003-04 was slightly lower than in 2002-03 (37.7% compared with 43.9%), while the proportion of custodial sentences increased from 44.2% to 49.3%.
- In line with national figures, women proven guilty in the higher courts in South Australia were less likely than their male counterparts to receive a custodial sentence (28.1% compared with 51.7% for male defendants).
- The most common sentence type for males was custodial (excluding suspended – 51.7%) while for females it was suspended (53.1%).
- South Australia had a lower proportion of higher court defendants receiving a custodial sentence (excluding suspended) compared with the national average for most offence types, but particularly for the offences of *illicit drugs* (29.6% compared with 57.1% respectively) and *acts intended to cause injury* (48.3% compared with 55.7%). These results are illustrated in Appendix 1.
- South Australia had a particularly high proportion of higher court defendants receiving suspended sentences for the offences of *acts intended to cause injury* (34.5% compared with 18.3% for the nation as a whole), *illicit drugs* (55.9% compared with 24.1%), *robbery and extortion* (22.7% compared with 12.0%) and *unlawful entry with intent* (36.0% compared with 14.5%). These results are illustrated in Appendix 2.

- The proportion of South Australian higher court defendants receiving a non-custodial order was generally lower when compared with the Australia as a whole, particularly for the offences of *unlawful entry with intent* (6.7% compared with 22.6% for Australia), *acts intended to cause injury* (13.8% compared with 25.8%) and *robbery and extortion* (none recorded compared with 8.2%). These results are illustrated in Appendix 3.

## Key findings - Magistrates Courts

### Finalised defendants and method of finalisation

#### *Number*

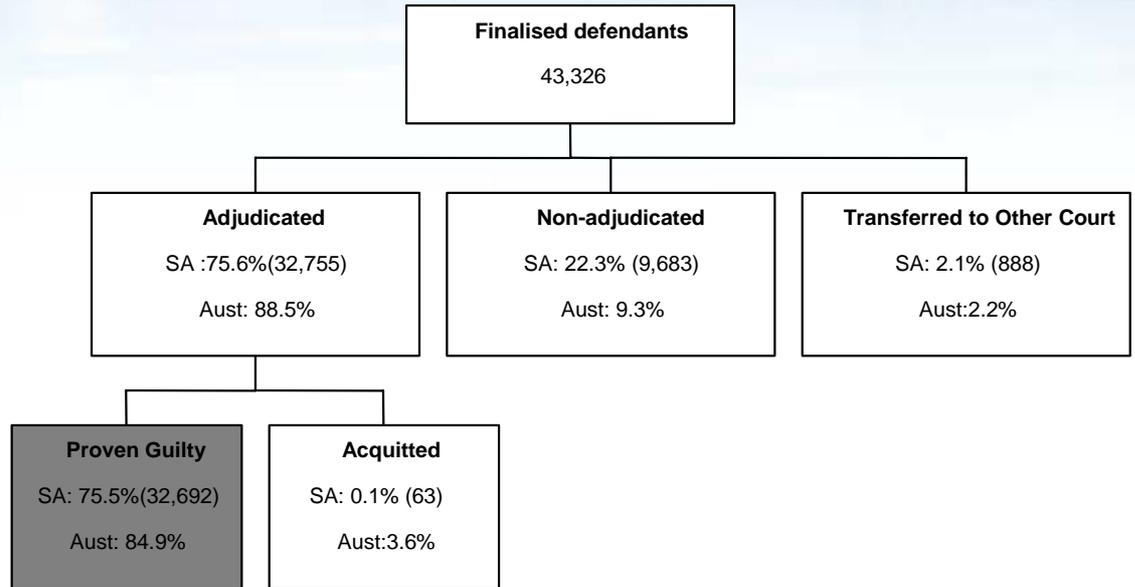
- A total of 43,326 defendants were finalised in the South Australian Magistrates Courts in 2003/04.

#### *Method of finalisation*

Figure 2 illustrates the number of Magistrate Court finalisations by method of finalisation. As shown,

- The proportion of Magistrate Court finalisations that were adjudicated (ie where the defendant was proven guilty or acquitted) in South Australia was much lower than the national average (75.6% compared with 88.5%) and was the second lowest in Australia.
- Conversely, the proportion of finalisations that were non-adjudicated (ie where the matter was considered finalised without a determination of guilt including withdrawn by the prosecution or where the defendant was unfit to plead) was much higher than the national average (22.3% compared with 9.3%) and was the second highest in Australia. For both South Australia and Australia as a whole, approximately 2.0% of Magistrate Court matters were finalised by way of transfer to a higher court.
- The proportion of South Australian Magistrate Court defendants finalised in 2003-04 who were acquitted was much lower than the national figure (0.1% compared with 3.6% respectively).
- Compared with Australia, South Australia also had a lower proportion of matters where the defendant was proven guilty (75.5% compared with a national figure of 84.9%). Overall, South Australia had the second lowest proportion of defendants who were proven guilty.

Figure 2 Finalised defendants in South Australian Magistrates Courts 2003-2004



### Time taken from initiation to finalisation

- For South Australia, 54.4% of defendants were finalised in less than 13 weeks from their date of initiation, compared to 73.8% nationally. Conversely, 10.4% of matters took over 12 months to finalise, compared to 3.3% for Australia as a whole.
- Compared with other jurisdictions, South Australia had the third lowest proportion of matters finalised in under 13 weeks after Western Australia and the ACT, while Queensland had the highest proportion at 82.3%. Conversely, South Australia had the highest proportion of matters that took 12 months or more to finalise.
- The time taken from initiation to finalisation varied according to the method of finalisation. Nearly two-thirds (63.4%) of all South Australian Magistrate Court proven guilty matters were finalised in less than 13 weeks, compared with 4.9% of matters finalised by acquittal, and 32.2% of matters transferred to another court level. Conversely, 7.2% of proven guilty matters took more than 12 months to complete, compared with 36.1% of matters finalised by acquittal and 4.2% finalised by transfer.

## Adjudicated Defendants

As shown in Figure 2, of the 43,326 finalised Magistrates Court defendants, three quarters were finalised by adjudication.

### *Sex and age of adjudicated defendants*

- The proportion of male adjudicated defendants in South Australian Magistrates Courts was slightly higher than the national figure (82.9% and 77.9% respectively).
- South Australia had a higher proportion of adjudicated defendants aged between 25 and 44, compared with Australia as a whole (54.2% compared with 48.4%) but similar proportions aged under 25 (31.5% compared with 32.4%) and 45 and over (12.5% compared with 13.3%).

### *Principal offence for adjudicated defendants*

- Consistent with national figures, the most common principal offences for adjudicated defendants in South Australian Magistrates courts were **road traffic** (51.3%), **public order offences** (8.5%), **theft and related offences** (7.1%), and **dangerous or negligent acts endangering persons** (6.4%), accounting for approximately 7 in 10 of all defendants adjudicated in South Australia's Magistrates Courts.
- While the most common principle offence for both males and females in South Australian was **road traffic** offences, accounting for approximately half of male and female adjudicated defendants, a higher proportion of adjudicated female defendants had **theft and related** offences as their principle offence (12.0% compared with 6.2% for males) while males were more likely to have **public order** offences (9.0% compared with 6.7% for females).
- The most common principal offence for all states and territories was **road traffic** offences, although proportions varied from 34.8% in Victoria up to 79.6% in Tasmania.

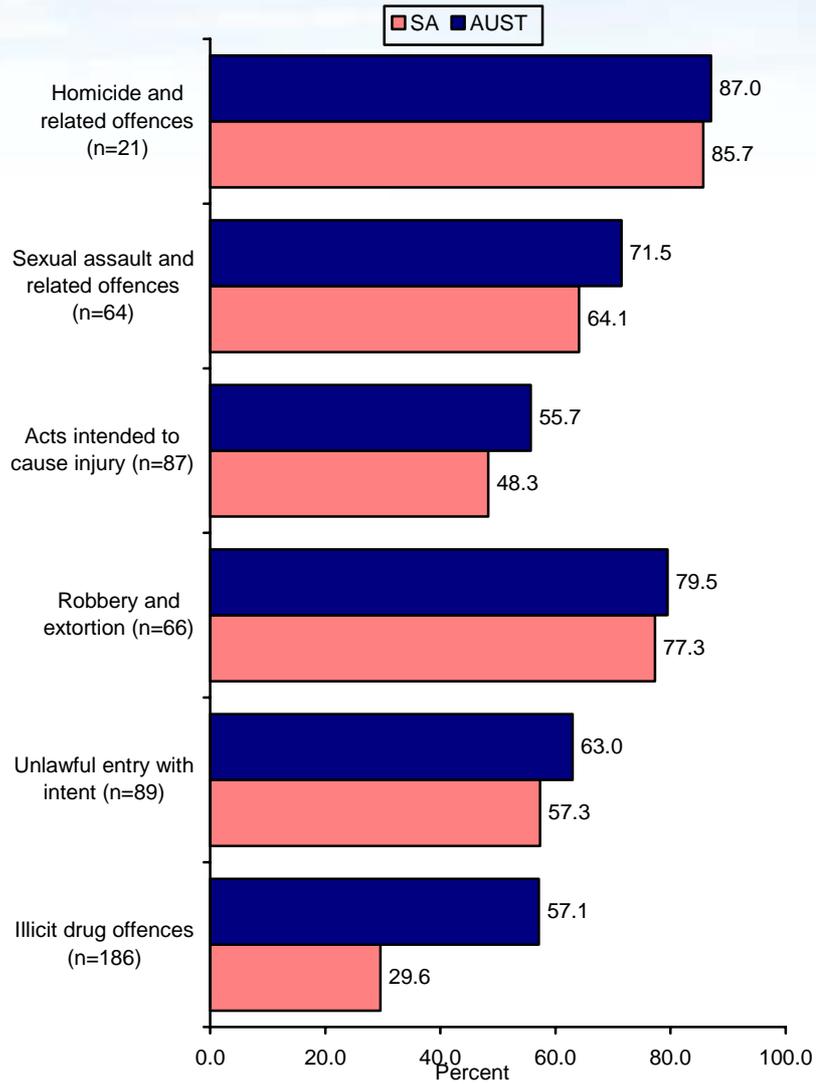
### *Principal sentence type*

- As could be expected, the most common principal sentence type in Magistrates Courts across Australia was a monetary order, although South Australia had a higher proportion of defendants in this category compared with Australia as a whole (87.3% compared with 72.2%) and the second highest proportion of all states and territories.
- In the South Australian Magistrates Court 6.9% of defendants proven guilty in 2003-04 received a custodial penalty, which was slightly lower than the national figure of 8.9% and the third lowest of all jurisdictions (well behind the Northern Territory and ACT figures of 25.2% and 22.0% respectively).

- South Australia had the second lowest proportion of non-custodial sentences across all states and territories and overall was much lower than the national figure (5.0% compared with 18.5%).
- In line with national figures, women proven guilty in the higher courts in South Australia were less likely than their male counterparts to receive a custodial sentence (4.6% compared with 7.5% for male defendants). While the most common sentence type for males and females was monetary order, males had a higher proportion of custodial sentences than non-custodial (7.5% compared with 5.0%). In contrast, females were slightly less likely to have a custodial sentence than a non-custodial sentence (4.6% compared with 5.3%).
- South Australia had a much higher proportion of defendants receiving a custodial sentence compared with the national average for the offences of *unlawful entry with intent* (79.5% compared with 51.3%), *sexual assault* (68.6% compared with 47.4%), and *deception* (32.3% compared with 17.5% respectively). In contrast there was a lower proportion receiving a custodial penalty for *illicit drug* offences (2.5% compared with 8.9%). These results are illustrated in Appendix 4.
- With the exception of *unlawful entry with intent*, South Australia generally had a higher proportion of defendants receiving a monetary order across all offence types. These results are illustrated in Appendix 5.
- In contrast to monetary orders, South Australia generally had a much lower proportion of defendants receiving a non-custodial order across all offence types. These results are graphed in Appendix 6.

## Appendix 1: Higher Court

Figure 3 Proportion of Higher Court defendants proven guilty in 2003-2004 who received a custodial penalty\* by principal offence type\*\*

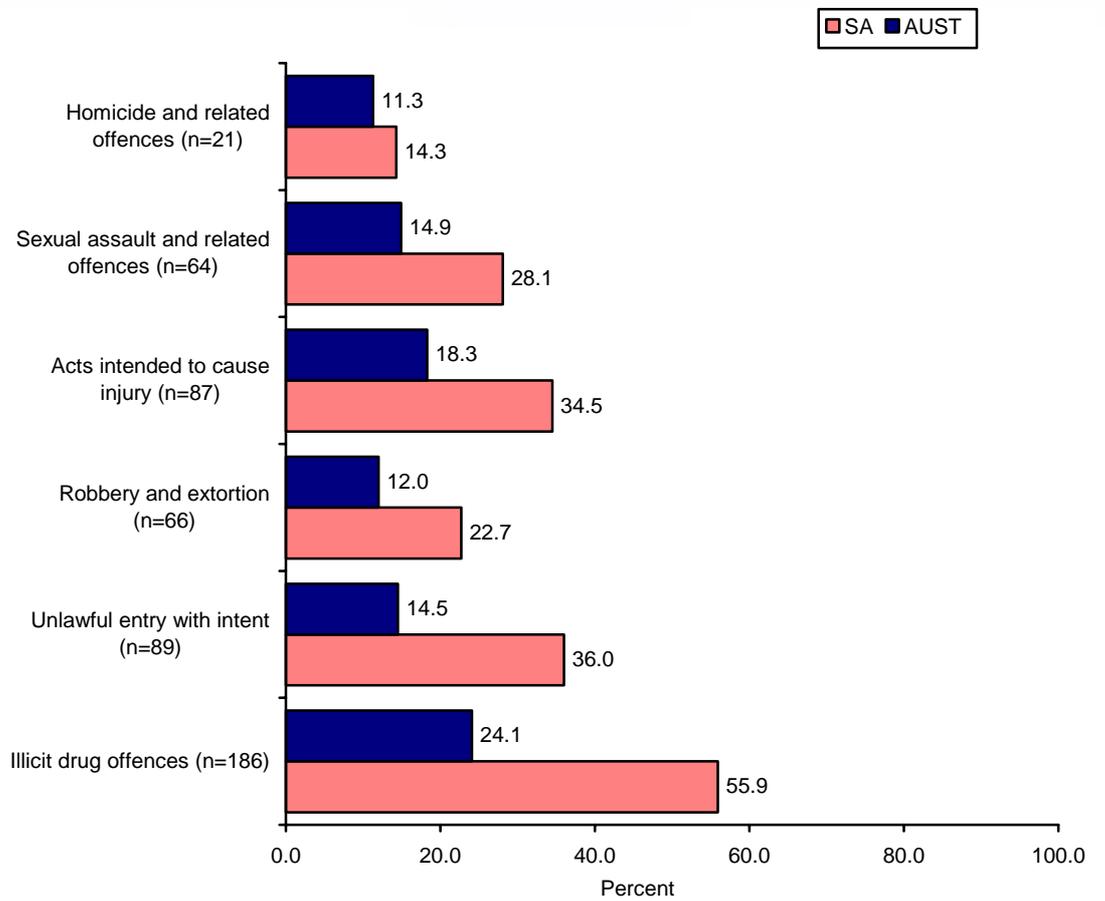


\*Custodial penalty includes custody in corrections and custody in the community, but excludes suspended.

\*\* Only those offence categories for which the South Australian numbers were sufficiently high to calculate percentages have been included.

## Appendix 2 - Higher Court

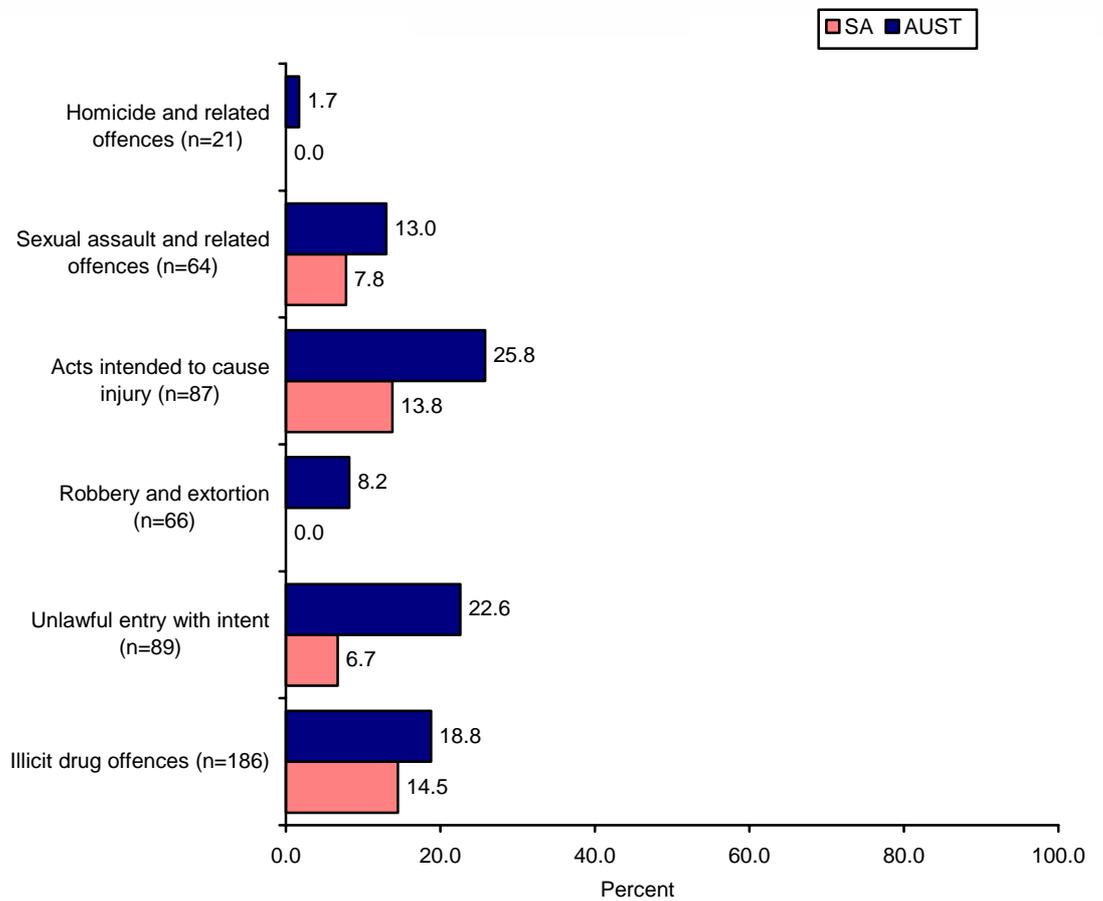
Figure 4 Proportion of Higher Court defendants proven guilty receiving a suspended sentence in 2003-2004 by principal offence type\*\*



\*\* Only those offence categories for which the South Australian numbers were sufficiently high to calculate percentages have been included.

## Appendix 3 - Higher Court

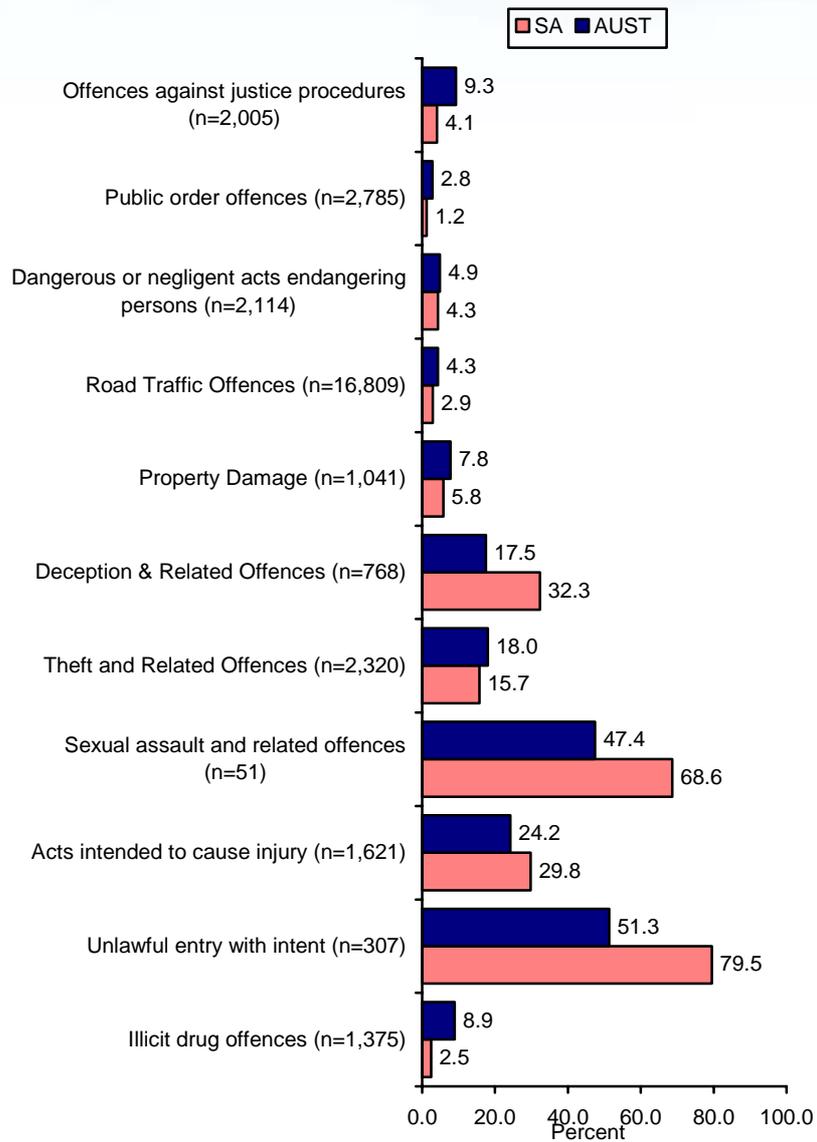
Figure 5 Proportion of Higher Court defendants proven guilty receiving a non-custodial order in 2003-2004 by principal offence type\*\*



\*\* Only those offence categories for which the South Australian numbers were sufficiently high to calculate percentages have been included.

## Appendix 4 - Magistrates Court

Figure 6 Proportion of Magistrates Court defendants proven guilty in 2003-2004 who received a custodial penalty\* by principal offence type\*\*

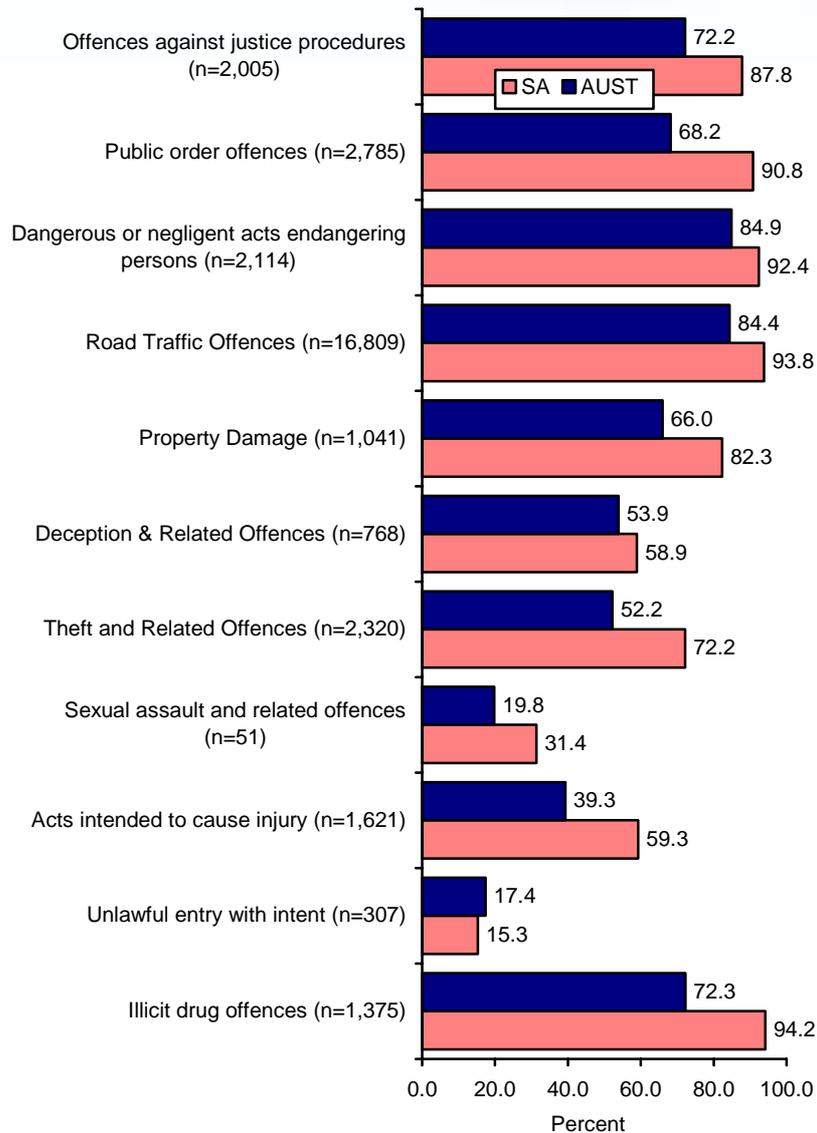


\*Custodial penalty includes custody in corrections and custody in the community, but excludes suspended.

\*\* Only those offence categories for which the South Australian numbers were sufficiently high to calculate percentages have been included.

## Appendix 5 - Magistrates Court

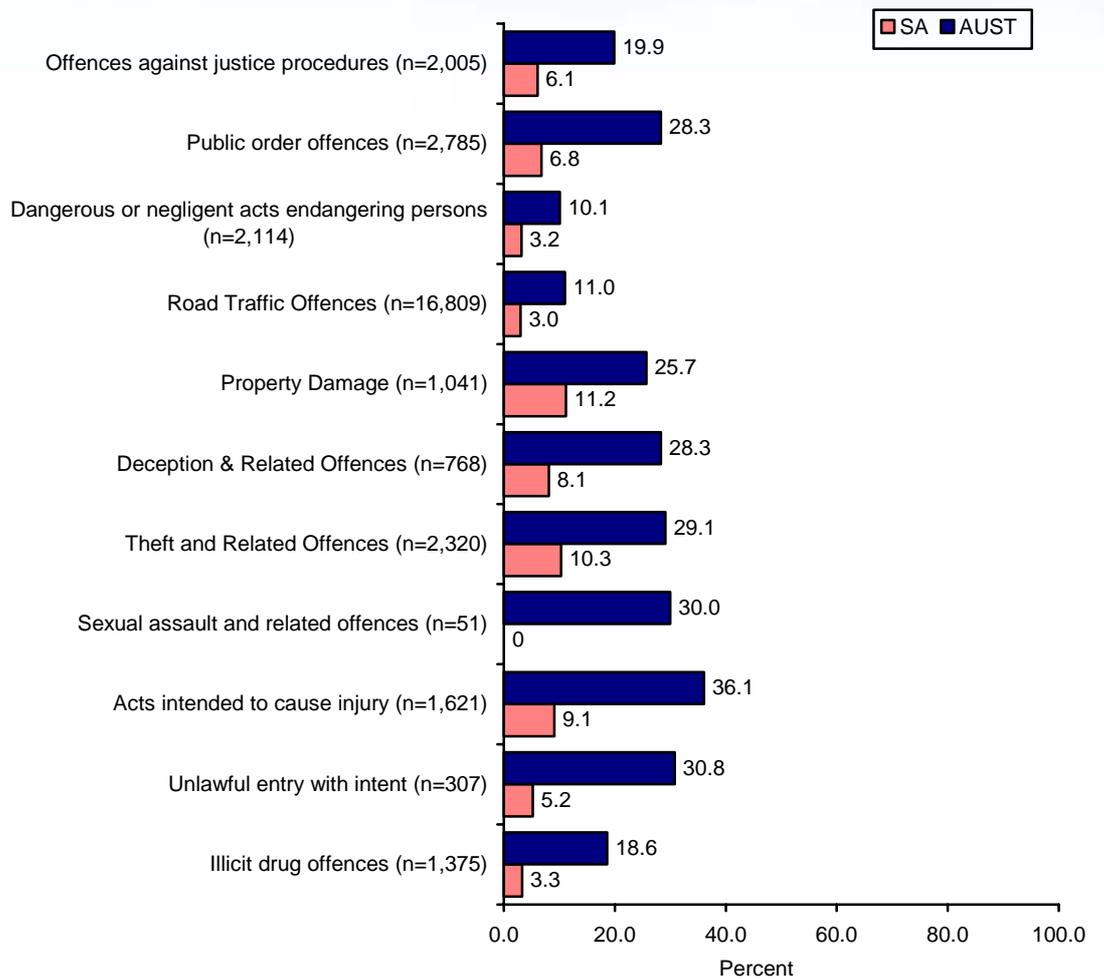
Figure 7 Proportion of Magistrates Court defendants proven guilty in 2003-2004 who received a monetary order\* by principal offence type\*\*



\*\* Only those offence categories for which the South Australian numbers were sufficiently high to calculate percentages have been included.

## Appendix 6 - Magistrates Court

Figure 8 Proportion of Magistrates Court defendants proven guilty receiving a non-custodial order (other than monetary order) in 2003-2004 by principal offence type\*\*



\*\* Only those offence categories for which the South Australian numbers were sufficiently high to calculate percentages have been included.