

OFFICE OF CRIME  
STATISTICS AND RESEARCH  
GPO BOX 464 ADELAIDE  
SOUTH AUSTRALIA 5001  
PH: (08) 8207 1731  
FAX: (08) 8204 9575  
[www.oscar.sa.gov.au](http://www.oscar.sa.gov.au)

# Higher Courts Statistics, 2003

TINA CONROY

This Bulletin is the second in a series of Information Bulletins and provides a descriptive summary of the statistics contained in the publication *Crime and Justice in South Australia 2003, Adult Courts and Corrections*<sup>1</sup>. Other bulletins will contain the following information:

- Magistrates courts; and
- Correctional Services.

This Bulletin includes all finalised criminal cases before the Supreme and District Courts. In most instances a magistrate or other justice will have committed the defendant for trial or sentence after a committal hearing, although in a few cases the Director of Public Prosecutions<sup>2</sup> will have committed the defendant ex-officio<sup>3</sup>.

In general, the offences involved in cases before the higher courts are of a more serious nature than those in the summary courts and are referred to as 'indictable offences'. These are subdivided into major and minor types, which were formerly known respectively as 'felonies' and 'misdemeanours'<sup>4</sup>. In certain instances, a judge in the District or Supreme Court may hear matters that would normally be dealt with summarily by a magistrate or other justice. This usually occurs when a defendant has a case involving summary matters at the same time as one in the Supreme or District Court. Wherever possible such matters are consolidated and dealt with together by the judge who is hearing the indictable matters, as this is more just and efficient.

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<sup>1</sup> "Crime and Justice in South Australia, 2003: Adult Courts and Corrections" can be downloaded from the 'publications' page of the OCSAR website: [www.oscar.sa.gov.au](http://www.oscar.sa.gov.au)

<sup>2</sup> Prior to the creation of the office of Director of Public Prosecutions, *ex officio* committals could only be performed by the Attorney General. The *Criminal Law Consolidation Act* gives that power to the Director of Public Prosecutions (S 275), but due to the conventions of the Westminster system of government, the Attorney General retains this power in his or her capacity as chief law officer. It is difficult to imagine circumstances in which this power would be exercised under the current arrangement.

<sup>3</sup> An *ex officio* committal is one in which the DPP (or the Attorney General) commits a person for trial directly without a committal hearing in a Magistrates Court. This method of committal is seldom used, being reserved for unusual circumstances.

<sup>4</sup> The classifications of offences as felonies or misdemeanours were abolished in 1994.

Only finalised<sup>5</sup> cases involving trials or sentencing are included in Tables 3.1 to 3.31 in Section 3 of the report. Cases that are only to hear a bail application, to vary the condition of a bond or order, to set a non-parole period or to hear an appeal, are not included.

## Overview

During 2003 there were 1,052 cases finalised in the Supreme and District Courts. This was 64 (or 6.5%) higher than in the 988 cases finalised in 2002. The number of cases finalised in the District Court increased by 75, while the number finalised in the Supreme Court decreased by 11.

Table 1 and Figure 1 show trends in the number of cases handled by the two jurisdictions since 1983. As this table and graph indicate, there was a dramatic increase in cases finalised in the District Court, peaking in 1992. At this time legislation came into effect to divert more cases out of both the Supreme and District Courts (see Appendix A of the report for a more detailed discussion of the changes). This legislative change was accompanied by an immediate fall in the numbers of cases in both these jurisdictions. Between 1992 and 1993, the number of cases finalised in the Supreme Court decreased by 61.5% (from 473 to 182) while in the District Court, a 12.8% decrease was recorded (from 1,566 to 1,366).

After 1993 numbers in the District Court continued to decline and, despite a slight increase in 1996, numbers again fell in 1997 and continued to decline each year thereafter, with the result that the 2000 figure was the lowest recorded over the period depicted (n=759). However, in 2001 this trend was reversed, with further increases to 2003 (n=996).

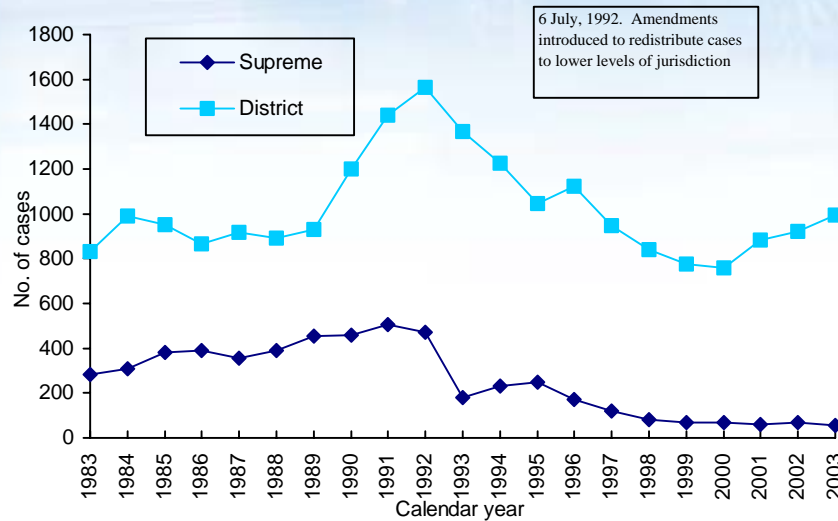
Trends in the Supreme Court have followed a slightly different pattern to those of the District Court. Following the substantial decrease recorded in 1993, the number of cases finalised at this level increased slightly in 1994 and 1995 before declining again. The 2003 figure of 56 cases was the lowest recorded over the period depicted.

Table 1 Trends in the number of cases finalised by the Supreme and District Courts, 1983 to 2003 calendar years											
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Supreme	285	309	380	392	356	389	453	457	504	473	182
District	830	988	952	866	917	891	932	1,199	1,439	1,566	1,366
	1994	1995	1996	1997*	1998	1999	2000	2001	2002	2003	
Supreme	232	247	171	118	81	67	67	60	67	56	
District	1,224	1,044	1,122	949	840	774	759	884	921	996	

\* Figures for 1997 Supreme and District Court numbers have been updated from those published in the report for that year to reflect the effect of case consolidations. Further details can be obtained from the 1998 *Crime and Justice* report.

<sup>5</sup> See Appendix A of *Crime and Justice in South Australia, 2003, Adult Courts and Corrections* for the rules employed for determining when a case is finalised and whether it is eligible for counting.

Figure 1 Trends in the number of cases finalised by the Supreme and District Courts by calendar year, 1983 to 2003

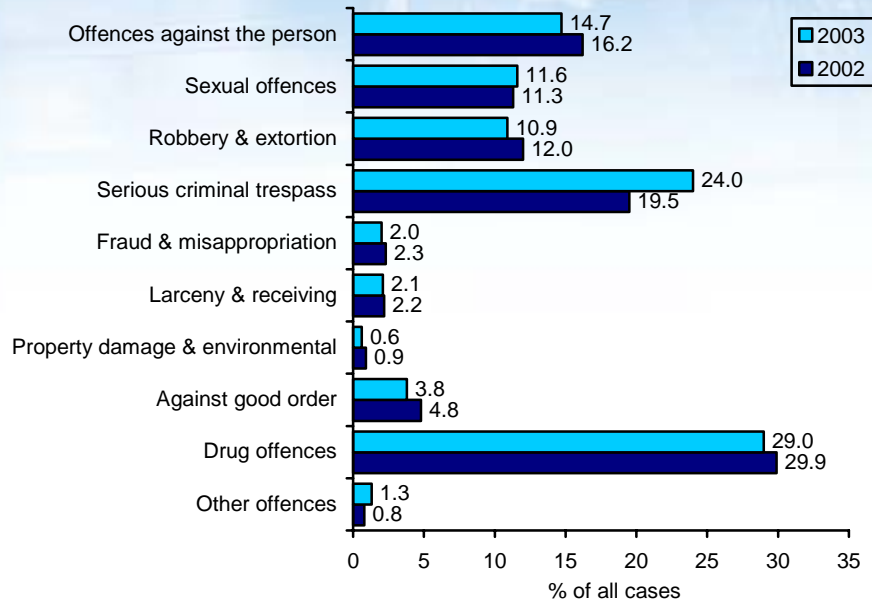


## Major charge per finalised case

Part of the increase in the number of cases finalised in the higher courts between 2002 and 2003 was accounted for by an increase in the number of cases with a major charge of a *serious criminal trespass* offence. As Figure 2 indicates, the number of cases where this major charge increased from 193 (19.5% of the total) in 2002 to 252 (24.0% of the total).

As Figure 2 indicates, in both 2002 and 2003 *drug offences* were the largest category of offence, being listed as the major charge in almost three in ten cases in both years. The *property damage and environmental offences* (0.9% in 2002 and 0.6% in 2003) and *other offences* (0.8% in 2002 and 1.3% in 2003) groups were the smallest categories in both years.

Figure 2 Type of offence listed as the major charge for cases finalised in the Supreme and District Courts, 2002 and 2003



## Outcomes

The main outcomes for cases finalised in 2003 are summarised in Table 2. As in previous years, in six in ten cases (61.2%) the defendant pleaded *guilty* to either the major or a lesser charge. In a further 13.2% of cases, a trial was held which resulted in either a plea or finding of guilt. While not detailed in Table 2, in 3.7% of cases the major charge was dropped but there was a guilty outcome for another or lesser offence. Overall then, 74.4% of all cases resulted in one or more of the charges within the case having an outcome of *guilty*.

In 16.2% of cases the Office of the Director of Public Prosecutions dropped the major charge and no other charge had an outcome of *guilty*. Although not included in Table 2, in 1.3% of cases the defendant was found not guilty due to mental incompetence, while 0.7% of cases had some other outcome.

Outcome types vary according to the type of offence. For example 53.5% of defendants involved in cases with a major charge of *robbery and extortion* entered a guilty plea while 8.7% were found guilty at trial. In comparison, in cases where the major charge was a *sexual offence*, a lower proportion resulted in a finding of guilt. In 38.5% of these cases the defendant entered a guilty plea, while in a further 17.2% the defendant was found guilty at trial.

Table 2 Principal outcome type by major charge, Supreme and District Courts, 2003

Offence Group	Guilty plea - no trial*	Guilty at trial**	Acquitted	All charges dropped***
	%	%	%	%
Offences against the person (exc. sexual)	42.6	20.0	9.7	18.7
Sexual offences	38.5	17.2	8.2	30.3
Robbery and extortion	53.5	8.7	6.1	8.7
Serious criminal trespass	72.6	9.1	1.2	9.5
Offences against good order	62.5	2.5	2.5	27.5
Drug offences	66.6	15.7	1.0	14.7
<b>Total</b>	<b>61.2</b>	<b>13.2</b>	<b>3.7</b>	<b>16.2</b>

\* Pleads *guilty* to either the major charge or another charge and there is no trial on any charge.

\*\* Pleads guilty or is found guilty of one or more charges (either the major charge or one or more other charges) at a trial.

\*\*\* Charges may be dropped by the DPP via one of the following means:

- entering a *nolle prosequi*,
- electing not to proceed on a charge,
- declining to file an Information (entering a “white paper”),
- tendering no evidence (in the case of a summary charge),
- withdrawing the charge (in the case of a summary matter or an allegation of a breach of bond or other such undertaking).

NB: This table excludes the less numerous outcome types of:

‘other outcome’ (e.g. defendant died, case struck out, permanently stayed etc),

not guilty on the grounds of mental incompetence and

major charge was dropped and a plea of guilty to another charge was accepted in satisfaction of the dropped charge (‘Major charge dropped – Guilty of other offence’).

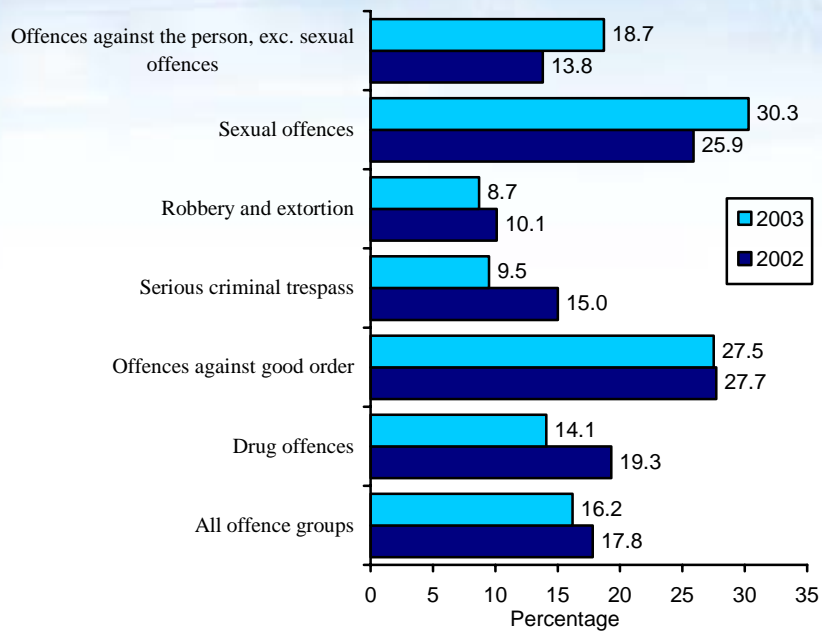
Thus the percentages in the table do not sum to 100% within each row.

This table also excludes those offence categories where the total number of cases is less than 50. The offence categories excluded are: *fraud and misappropriation, larceny and receiving, property damage and environmental* offences and *other* offences.

Figure 3 shows the percentage of cases in 2002 and 2003 where all charges were dropped by the DPP. Overall, a similar proportion of cases were dropped in 2002 and 2003 (17.8% compared with 16.2% respectively).

However, there were considerable differences between offence categories in the percentage of cases with this outcome. In 2003, 30.3% of *sexual* offences and 27.5% of *offences against good order* had this outcome compared with 8.7% of cases where the major charge was a *robbery and extortion* offence (the comparable figures for 2002 were 25.9%, 27.7% and 10.1% respectively).

Figure 3 Percentage of cases within each offence group where the major charge was either not proceeded with or a *nolle prosequi* was entered, and no other charge was found guilty, Supreme and District Courts, 2002 and 2003.

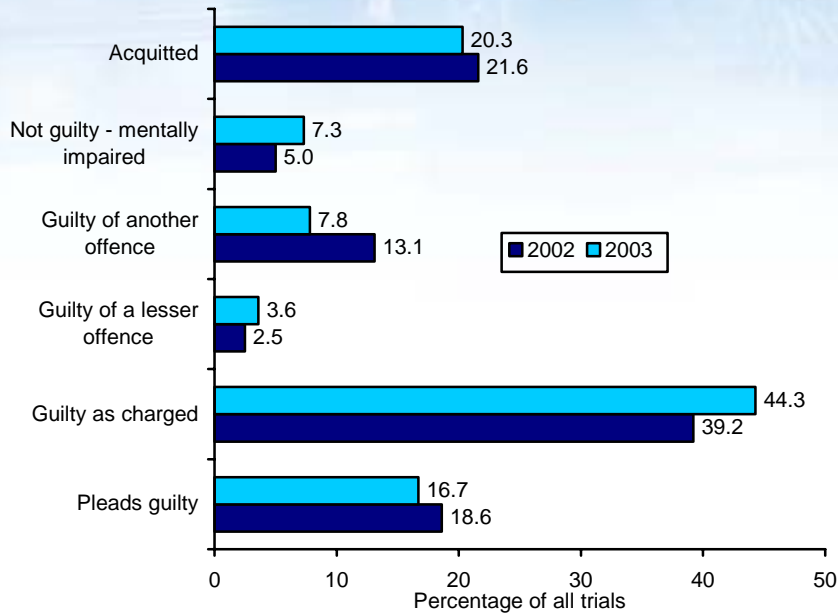


Note: The above graph excludes those offence categories where the number of cases is less than 40, namely: *fraud and misappropriation, larceny and receiving, property damage and environmental* offences and *other* offences.

There were 192 cases finalised at trial in 2003 (18.2% of all finalised cases) compared with 199 in 2002 (20.1%). Figure 4 provides a breakdown of the outcomes for cases that went to trial in these two years.

In comparison to 2002, a slightly lower proportion of defendants during 2003 entered a guilty plea (16.7% in 2003 compared with 18.6% in 2002), while proportionally less defendants were acquitted (20.3% in 2003 compared with 21.6% in 2002). In both years, the majority of cases going to trial resulted in the defendant being found guilty as charged (44.3% in 2003 and 39.2% in 2002).

Figure 4 Outcome for the major charge for cases in which there was a trial, Supreme and District Courts, 2001 and 2002.



## Penalties

Overall, 822 cases (78.1% of all cases) resulted in at least one guilty outcome during 2003. For these cases, the most common penalty was immediate imprisonment, which was imposed in slightly less than half (44.9%) of the cases that had an outcome of guilty.

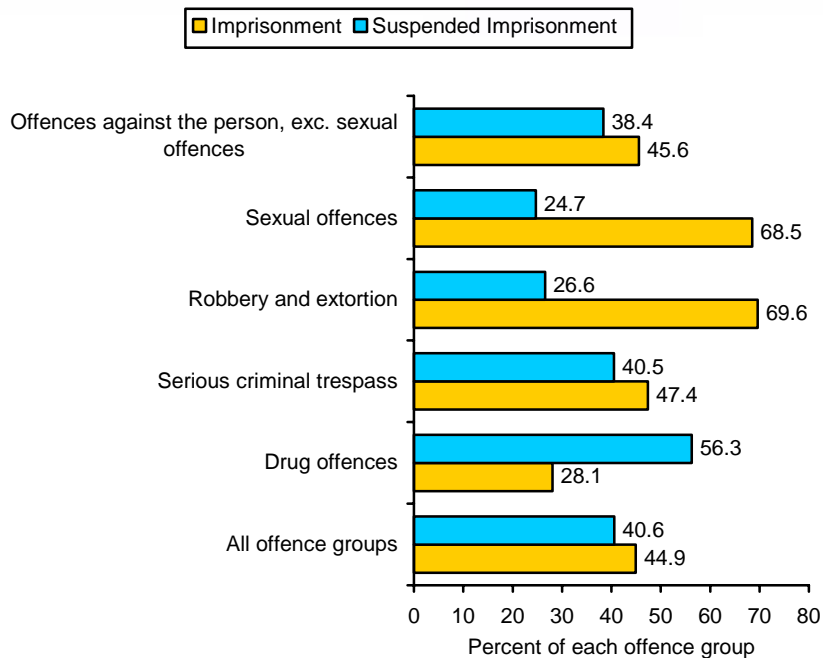
This was followed by suspended imprisonment (40.6%). Non-custodial penalties (such as fines, bonds and community service orders etc) accounted for the remaining 14.5%. The average length of direct imprisonment imposed was just under four years (or 45.8 months, excluding sentences of life imprisonment). The average non-parole period set was just over two and a half years (32.2 months)<sup>6</sup>.

Life imprisonment was imposed in 4 cases, all for murder. Apart from sentences of life imprisonment, the longest sentences imposed for the major charge (as distinct from the aggregate or head sentence, which may be made up of sentences for a range of other offences) were four sentences of over 15 years, given in three instances for *sexual offences* (two *rape of female – victim age 17 or over* and one case of *unlawful sexual intercourse – victim age under 12*) and the other for *assault occasioning grievous bodily harm – other victim*. In an additional 21 cases the defendants received imprisonments of between ten and fifteen years.

<sup>6</sup> The average non-parole period includes those given sentences of life imprisonment and instances in which a serving prisoner has an existing non-parole period extended because of a conviction for fresh offences. In the latter instance, the non-parole period shown in this report is the total effective non-parole period after sentencing, not the amount by which the non-parole period was extended.

The proportion of cases resulting in immediate imprisonment varied depending upon the major charge found guilty. Figure 5 shows that the offence group with the highest percentage of defendants imprisoned was *robbery and extortion* which, at 69.6%, followed by *sexual offences* at 68.5%. In comparison, 47.4% of persons with a major charge of *serious criminal trespass* offence, 45.6% of those with an *offence against the person* and 28.1% of those with a *drug offence* received immediate imprisonment.

Figure 5 Percentage of cases within each offence group receiving suspended imprisonment or imprisonment, Supreme and District Courts, 2003



Note: The above graph excludes those offence categories where the number of cases in 2003 was less than 40, namely: *fraud and misappropriation, larceny and receiving property damage and environmental offences, offences against good order and other offences*.

Table 3 and Figure 6 indicate the trend in non-parole periods handed down for murder since 1983. As all murders have a mandatory term of life imprisonment, the non-parole period provides a more accurate indication of effective sentence length.

The average non-parole period increased up until 1986, after which time it briefly fluctuated before stabilising at approximately 19 years in the 1992 to 1999 period. This stabilisation may reflect the effect of the *Truth in Sentencing* legislation. Over the last several years, however, the average has started to drop, reaching approximately 16 years in 2001 and declining even further to just under 13 years in 2002. The 2003 figure is similar to those from ten years previous (approximately 22 years in 2003). Caution should be exercised in interpreting these data because of the small number of murder cases dealt with each year.



Figure 6 Non-parole periods for sentences for murder, 1983 to 2003.

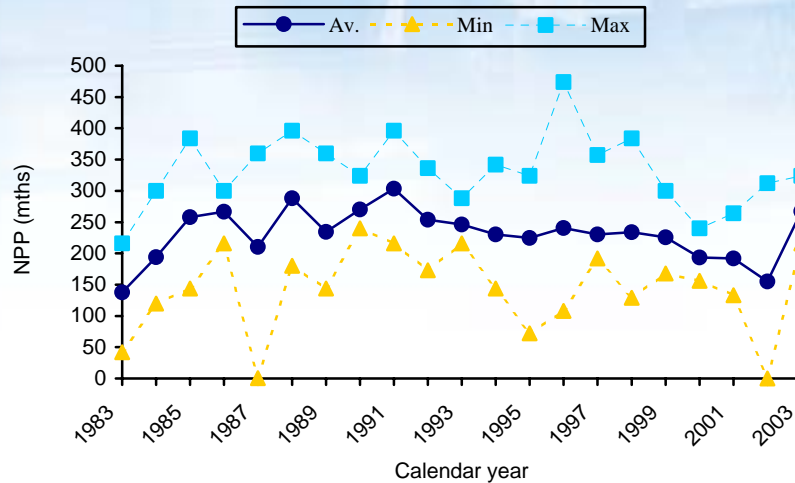


Table 3 Trends in non-parole period (in months) for life sentences for murder, 1983 to 2003

	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993
Av.	137.6	194.0	258.0	266.4	210.1	288.0	234.6	270.0	303.3	253.7	246.0
Median	141.0	162.0	252.0	264.0	240.0	288.0	204.0	258.0	300.0	246.0	240.0
Min	42.0	120.0	144.0	216.0	10days	180.0	144.0	240.0	216.0	173.0	216.0
Max	216.0	300.0	384.0	300.0	360.0	396.0	360.0	324.0	396.0	336.0	288.0
No.	10	6(2)	6(3)	5(1)	4(2)	2	7	4	11	12(2)	4

	1994	1995	1996	1997*	1998	1999	2000	2001	2002	2003
Av.	230.2	224.7	240.5	230.1	233.8	225.6	193.3	191.9	155.3	267
Median	222.0	234.0	228.0	210.0	240.0	216.0	192.0	216.0	180.0	264
Min	144.0	72.0	108.0	192.0	129.0	168	156	133.0	0	216
Max	342.0	324.0	474.0	357.0	384.0	300	240	264.0	312.0	324
No.	11	11	13	10	12	5	9	7	11	4

Notes:

- 1 The non-parole period can apply to sentences additional to the charge in question where other sentences are made cumulative on it or when an existing sentence has been extended by the sentence imposed for the current charge.
- 2 Non-parole period only is shown since murder carries a mandatory term of imprisonment for life.
- 3 Figures in parentheses are the number of additional cases receiving life sentences for which the judge declined to set a non-parole period.
- 4 The median is the point at which 50% of cases are larger and 50% smaller. It is less prone than the mean to being distorted by a small number of extreme values. The effect of the one case in 1987, which received a non-parole period of 10 days, is an example of this.
- 5 The non-parole periods shown here are for the original sentence and do not reflect the effect of subsequent appeals which may have altered the sentence either up or down, or have overturned the conviction.
- 6 The number of cases shown is the number where a non-parole period was set and on which the mean and median are based.

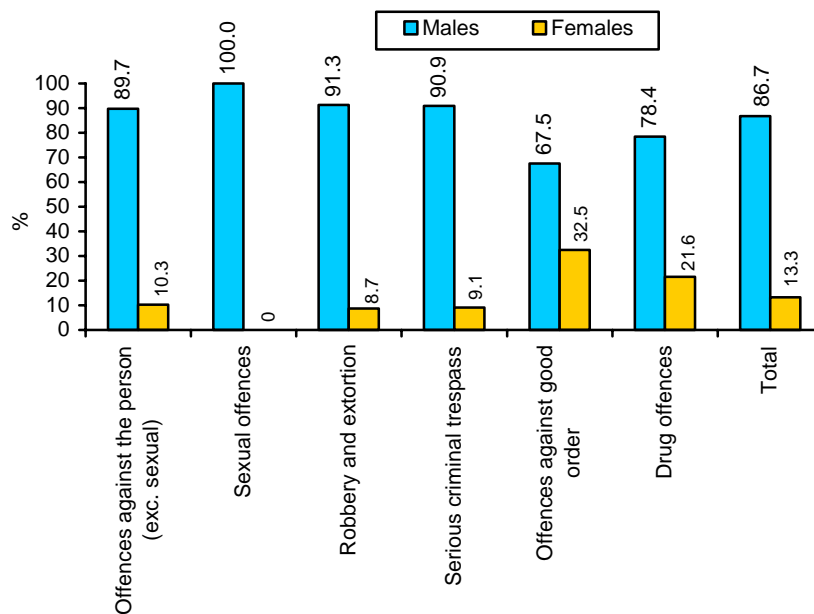
When total head sentences and non-parole periods for the entire case (rather than just the major charge) are examined, of the 369 head sentences, 64.5% were for periods of less than five years, 8.1% were for more than ten years but less than life, whilst 1.6% were for life. The vast majority (81.3%) of non-parole periods were for periods of less than five years, whilst 11.6% were for periods between five and ten years, and 5.1% were for more than ten years.

## Background of defendants

Where sex was known, the majority of cases finalised in the higher courts in 2003 involved male defendants (86.7%). The average age of male and female defendants was very similar, at 30.8 years and 31.9 years respectively. Eleven defendants, all males, were juveniles.

As shown in Figure 7, males accounted for the majority of defendants in each offence category. One group in which the disparity in percentages was particularly pronounced was the *sexual offences* group, in which there were 122 males and no females. The offence category with the highest proportion of females was *drug offences* (21.6%).

Figure 7 Percentages of males and females per major offence charged, Supreme and District Courts, 2003.



Note: The above graph excludes those offence categories where the number of cases is less than 40 namely: *fraud and misappropriation, larceny and receiving, property damage and environmental offences and other offences*.

There were 103 defendants whose appearance was judged at apprehension to be Aboriginal. They made up 10% of those for whom racial appearance information was available. The number of defendants of Aboriginal appearance represented a rate of 8.0 per thousand population, whilst the corresponding figure for those of non-Aboriginal appearance was 0.9 (based on the 2001 Census figures).

There were differences in the offence profiles of the two racial appearance categories, with *serious criminal trespass*, *offences against the person* and *robbery and extortion* and being listed as the major charge in a higher proportion of Aboriginal than non-Aboriginal appearances. For *offences against the person* the figures were 21.4% for cases involving Aboriginal persons compared with 13.8% for non-Aboriginal cases, while for *robbery and extortion* the proportions were 19.4% and 10.3% respectively and for *serious criminal trespass* they were 40.8% and 22.6% respectively. In contrast, *drug offences* featured in a much smaller proportion of Aboriginal cases than non-Aboriginal cases (31.9% versus 1.9% respectively).

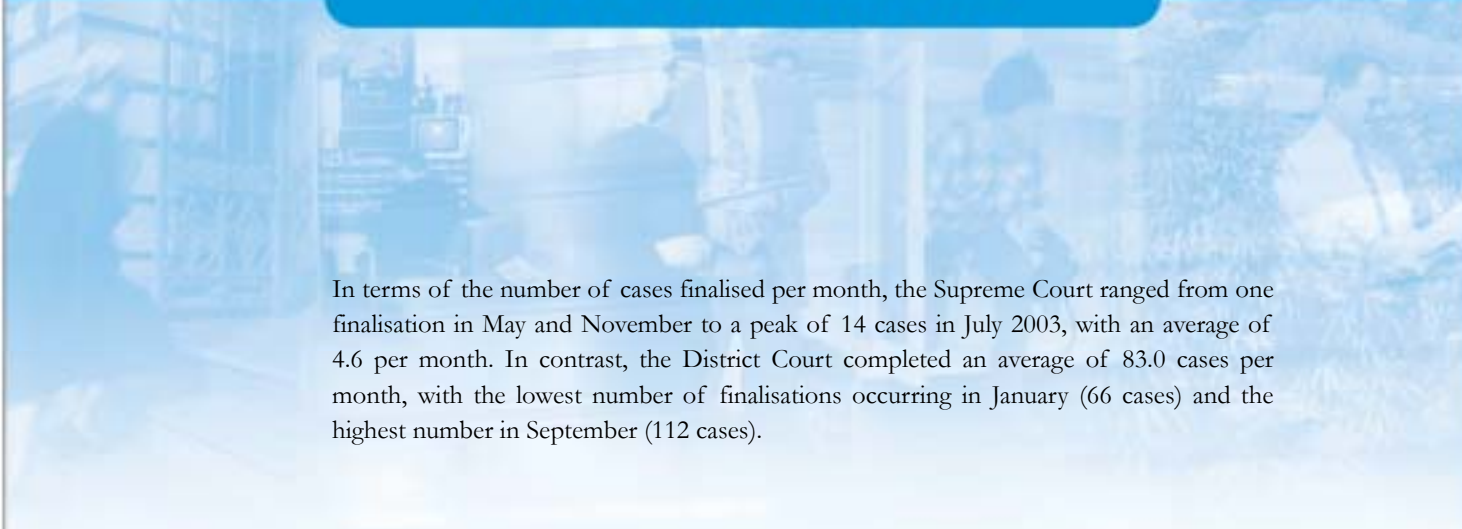
In 2003, just over one fifth of defendants (20.6%) had no prior convictions which was consistent with the 22.1% recorded in the previous year. At the other end of the spectrum, 9.2% had 50 or more prior convictions.

On average, defendants had 17.5 prior convictions. The average varied depending upon the offence group, with defendants charged with *sexual offences* having the lowest average number of priors (8.6). In comparison, persons with a major charge of serious criminal trespass had an average of 27.2 prior convictions.

Just under one third of defendants (32.3%) had been imprisoned at some point in their past. Again, the proportion varied depending upon the major offence charged, with 20.7% of persons with a major charge of a *drug* offence having been imprisoned before compared with 66.7% of persons with a major charge of *property damage and environmental* offences.

For those cases where relevant information was available, just over two thirds of the defendants (71.4%) were on bail at the commencement of proceedings in the Supreme and District Court, while the remainder were in custody. While the majority of defendants with a major charge of a *drug* or *sexual offence* were on bail (92.8% and 72.1% respectively), only 45.0% of defendants in the *robbery and extortion* group were on bail.

Overall, 40.7% of final pleas to the major charge were *guilty*, but there were wide variations between the offence groups. A relatively high proportion of those with a major charge of a *drug* offence pleaded guilty (54.1%). The group with the lowest percentage of *guilty* pleas was that involving *sexual offences* (23.0%). Similarly, only 30.0% of defendants with a major charge of an *offence against good order* pleaded *guilty*. Much of the latter group consisted of cases where the DPP alleged that a previous good behaviour bond had been breached. The usual manner in which breach allegations arise is through a conviction for a new offence. Most of these defendants fail to show cause why their breach should be excused, and are assigned to the *no plea* category. In total, 55.0% of cases in the *offences against good order* group fell within the *no plea* category.



In terms of the number of cases finalised per month, the Supreme Court ranged from one finalisation in May and November to a peak of 14 cases in July 2003, with an average of 4.6 per month. In contrast, the District Court completed an average of 83.0 cases per month, with the lowest number of finalisations occurring in January (66 cases) and the highest number in September (112 cases).

Copies of the full report “Crime and Justice in South Australia, 2003: Adult Courts and Corrections” can be downloaded from the publications page of the OCSAR website - [www.ocsar.sa.gov.au](http://www.ocsar.sa.gov.au)