



## THE LAW SOCIETY'S SUBMISSIONS ON "CONVICTION RATES"

1. The Law Society of Hong Kong noted the public debate and concern expressed on the "high" conviction rates in Hong Kong. As reported in the Director of Public Prosecution's *2008 Yearly Review of the Prosecution Divisions*, the conviction rates are respectively 92.6% in the District Court and 94.8% in the Court of First Instance.
2. The concerns on high conviction rates in the District Court and High Court, given the notions of presumption of innocence and proof of guilt beyond reasonable doubt, include that the near certainty of obtaining a conviction of an arrested person of a serious or relatively serious charge could have the following adverse implications:
  - (a) doubt on the prosecution policy as the Department of Justice ("DoJ") will not be subject to any pressure nor will it have any incentive to filter out weak cases for prosecution;
  - (b) pressure on the arrested person to plead guilty because of the perceived odds against them;
  - (c) the risk of criminal law practitioners being found to be professionally negligent in advising their clients not to plead guilty, given that the legal costs in defending the proceedings will very likely be wasted; and
  - (d) lawyers may be disheartened to be always fighting battles when they knew the result would almost certainly be a conviction.
3. The DoJ clarified that when guilty pleas were removed from the conviction statistics, the conviction rates in 2008 would fall to 73.3% and 79.3% respectively in the District Court and the Court of First Instance.
4. As the perceived "high" conviction rates has called into question fundamental legal, constitutional (Art. 87 of Basic Law) and administration of justice (a person's liberty and personal records) issues, The Law Society has undertaken a study on the conviction rates in Hong Kong and sought relevant data from overseas jurisdictions to seek an understanding on how the conviction rates in Hong Kong compare to that of the rest of the world.

5. As a matter of public interest, The Law Society believes that rather than having the community speculating on the reasons for the high conviction rates, debate on this subject would ensure that the administration of justice in Hong Kong would be seen as fair and impartial; judges are not unfairly impugned and confidence in the Judiciary is not unjustifiably and intolerably undermined.

### **Collection of Data for Analysis Purpose**

6. To properly analyze the conviction rates in Hong Kong, there should be a qualitative rather than quantitative analysis of the reported conviction rates, i.e. it is necessary to know what these figures actually represent. An understanding should also be sought on how these figures compare to that in the rest of the world but in comparing the local figures with those of the overseas jurisdictions, care must be taken to ensure that we are not comparing apples to oranges. This would require an understanding of the methods used to calculate the different conviction rates in question.
7. Accordingly, to ensure there will be a meaningful discussion on the subject, we have written to local organizations to obtain further information on the conviction statistics in Hong Kong as well as to overseas authorities to obtain comparable data. In our letters of inquiry, we sought for conviction statistics kept by different local and overseas bodies and an explanation on the methods used to calculate the conviction rates, including what are the numerator and denominator in arriving at these figures and their respective components. In particular, we requested information on whether and how certain data have been taken into account, e.g. convictions by pleading or by trial, plea bargaining whereby a defendant may be convicted of a lesser offence, where the defendant has been convicted of some but not all of the multiple counts charged, where the defendants have failed to appear or the prosecution has chosen to offer no evidence, etc.

### **Local Position**

8. So far as the local authorities were concerned, The Law Society has written to 3 organizations for relevant data.

9. **DoJ**

***Basis of calculation of the DoJ's conviction rates***

The DoJ confirmed that their conviction rates were arrived at on the basis of the “*number of defendants convicted*”, rather than on the number of charges:

- a defendant who was convicted of one charge, or of a lesser or alternative offence, was treated as having been convicted
- a defendant was considered to have been acquitted if:
  - he was found not guilty;
  - no evidence was offered against him; or
  - he was found to have no case to answer on all charges

***Breakdown of the DoJ's Conviction Rates***

The DoJ has provided a breakdown of the conviction rates quoted in their *2008 Yearly Review*. It is observed, inter alia, that:

- *District Court and High Court*: the 90+% conviction rates for the cases quoted in their *2008 Yearly Review* are overall figures covering both convictions after trial and after guilty pleas, which rates would fall to 70+ odd when guilty pleas were removed from the statistics.
- *Magistrates Court*: comparatively much lower conviction rates were recorded. The figures for year 2008 being:
  - 73.2% being the overall figures including convictions after PG
  - 53.9% for convictions without PG.

In reply to our enquiry for breakdown of the conviction statistics by reference to different types of offences (i.e. the more serious offences such as murder, manslaughter, drugs, sexual offences, etc. and relatively minor ones such as traffic offences), the DoJ advised they have not kept such detailed data.

***Appendix A: correspondence with the DoJ***

10. **Judiciary**

The Judiciary advised that they have not kept separate conviction statistics and elaborated on the DoJ's conviction statistics to explain why they seem to be higher than they should appear:

- the DoJ figures do not take account of acquittals against a defendant convicted of any offences in the case concerned

***Appendix B: reply dated 27 October 2009 from the Judiciary Administrator***

11. **Duty Lawyer Service ("DLS")**

The DLS advised they had statistics on conviction and acquittal of the DLS cases.

***Basis of calculation of the DLS' conviction rates***

However, the DLS adopted a different basis, i.e. the "offence" basis as opposed to DoJ's "defendant" basis, in compiling their conviction statistics, which appears to have yielded much lower conviction rates. The basis they adopted was:

- they counted each charge against each defendant in one entry
- defendant charged with 3 counts of offences and was convicted of one and acquitted on the other 2 would result in 1 conviction and 2 acquittals in the DLS record

***Breakdown of the DLS' Conviction Rates***

The DLS provided a breakdown of their recorded convictions rates for 2008

- for PNG cases which eventually went on trial, there is a recorded acquittal rate of 77.48% as opposed to a conviction rate of 22.52%
- for all cases including the PG cases, they have handled 33,878 cases consisting of 53,982 counts of charges with 36,861 convictions giving a

conviction rate of 68%.

*Appendix C: reply dated 19 October 2009 from the DLS Administrator*

12. It is not surprising that the DoJ and the DLS adopted different basis in arriving at their respective conviction and acquittal rates to serve their own purposes as these statistics will sort of act as their performance indicators.

**Positions in Overseas Jurisdictions**

13. We have also obtained information on conviction rates from the UK, New Zealand, Australian Commonwealth, New South Wales (Australia) and Malaysia but unfortunately, a direct comparison of these statistics is not feasible as they were either arrived at on different basis or even if the same basis was used, there were variations in the components of the data.

14. **UK**

The reply from the Crown Prosecution Service (CPS), being the Government Department responsible for prosecuting criminal cases investigated by the Police in England & Wales, shows that they broadly adopted the same basis as the DoJ in HK in arriving at their conviction statistics, i.e. a “defendant” based system.

The CPS recorded various conviction statistics in 2008:

- \* **of all “completed cases”, there is an overall conviction figure of 87%.** A breakdown of the cases was provided in the CPS’ reply
- \* **of all “contested hearings”** (i.e. where the defendant pleads not guilty to at least one of the charges against him and the court hears evidence): **it appears that the conviction rate is around 66%** [N.B. there is a recorded 90% conviction rates for mixed plea of guilty/not guilty and 61% conviction rate for PNG cases.]

*Appendix D: email dated 20 October 2009 from the CPS*

15. **New Zealand (“NZ”)**

The Ministry of Justice in New Zealand referred us to the website of the New Zealand Department of Statistics for data on criminal convictions. The NZ Ministry of Justice published an Overview of Conviction Statistics in New Zealand giving a high level summary of decade trends and key findings for 2008. It appears that the statistics will be updated annually.

**It appears that conviction rates are calculated in NZ on “charge” rather than “defendant” basis, i.e. data for prosecutions and convictions is reported as a count of the number of charges processed by courts in NZ.**

The NZ statistics do not distinguish between cases in which the defendants PG and those that proceed to a full trial.

**The year 2008 has a recorded conviction rate of 68% of “all charges” prosecuted within the New Zealand criminal court system.**

However, the NZ conviction statistics provide detailed breakdown on the offence types resulting in conviction in 2008 and analyse the decade trend of the conviction figures for different types of offences.

*Appendix E: email dated 23 October 2009 from the Ministry of Justice of NZ and relevant extract from the Statistical Bulletin “An Overview of Conviction and Sentencing Statistics in New Zealand 1999 to 2008” downloaded from the website of the New Zealand Department of Statistics*

16. **Australia – Commonwealth**

The following conviction figures were shown from the relevant tables from the Australian Government Commonwealth DPP’s 2007-08 Annual Report:

**Overall conviction rate: 98%**  
**Conviction rate (w/o PG): 72%**

The calculation was made on a “*defendant*” basis. Defendants found guilty includes defendants who have been found guilty of only some of the charges against them.

The overall conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted.

The calculation ignores defendants:

- where the Commonwealth DPP discontinued the prosecution against them in its entirety (the prosecution ONE) or
- where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court because they failed to appear.

*Appendix F: email dated 28 October 2009 from Australian Government Commonwealth DPP with enclosures*

17. **New South Wales (Australia) (“NSW”)**

The Department of Justice and Attorney General of NSW has provided us with a link to the website of the Bureau of Crime Statistics and Research (“BOCSAR”) for relevant data.

It appears from the NSW Criminal Courts Statistics 2008 published by the BOCSAR

that the “Judiciary” in NSW is responsible for entering the data into an electronic JusticeLink system, which was introduced in February 2008, and the BOCSAR takes on the role of validating and auditing the information.

The NSW report includes comprehensive information on offence type, court outcomes, penalties, bail status, court delay, and the age, gender, indigenous status and prior offending record of offenders.

The statistics has used the “**defendant-basis**” in arriving at conviction rate figures and the recorded **overall conviction rates for 2008 are respectively as follows:**

- Local Courts: 87.1%**
- District Courts: 84.9%**
- Supreme Court: 67.5%.**

The NSW statistics do not distinguish between cases in which the defendants PG and those that proceed to a full trial.

*Appendix G: Summary statistics for NSW courts from 2004 to 2008 and relevant extract from New South Wales Criminal Courts Statistics 2008*

18. **Malaysia**

The Malaysian statistics has a **recorded overall conviction rate of 90.6%** for all trial courts of Malaysia

The statistics do not distinguish between cases in which the defendants PG and those that proceed to a full trial.

The formula used is:

$$\text{Conviction Rate} = \frac{\text{Total sum of recorded conviction (for a year)} \times 100\%}{\text{Total sum of “cases” disposed of (for a year)}}$$

*Appendix H: email dated 16 November 2009 from the Attorney General Chambers of Malaysia and enclosed information*

**The Law Society’s Recommendations:**

19. The Law Society has reviewed the data obtained and came to the following conclusions on the controversy over the HK conviction rates:

- (a) **that the conviction rates in Hong Kong do not appear to be particularly high compared with those of overseas jurisdictions**

We noted that:

- the community seems to be biased against high conviction rate but we query what should be the standard to start with
- whilst no direct comparison could be made, it does not appear from the information available that the conviction rates in HK are particularly high as compared with those jurisdictions using the “*defendant-based*” method of calculation

- (b) there should be a uniform system of keeping conviction statistics in Hong Kong for future analysis purpose; additional data should be collected by relevant authorities (including the Judiciary) with reference to the practice of the Australian and NZ authorities (e.g. on the number of persons being charged after arrest and on conviction rates by reference to different offence type, etc.) for future analysis purpose and the Government should obtain independent advice on setting up a fair and transparent system and commission an independent organization to verify the conviction statistics.**

We noted that:

- the lack of a consistent system of compiling conviction statistics have posed problems: different bodies are now using different basis to calculate conviction rates: the DLS’s statistics talk about “*charges*” but the DoJ’s figures treated conviction of one count out of 10 in respect of a “*defendant*” as a conviction figure
- the DoJ kept their statistics in a way which best reflected their efforts and some have no confidence the system is working properly
- there does not seem to be much local data to be analyzed. The DoJ advised they have not kept detailed breakdown of statistical figures. The Judiciary confirmed it has not kept any conviction figures at all
- there is a need for “*transparency*” and for the figures to be presented in a more user-friendly and a uniform way in order to give a real picture of the HK position and for future analysis purpose
- it appears that Australia and NZ keeps more comprehensive data on convictions and sentencing and the resultant findings to which Hong Kong could draw reference
- given the concern that conviction statistics might be manipulated by the compilers to serve their own purposes, there is a need for the Government to build independent checks and balances into the system of collating relevant data

- (c) the Government should consider introducing jury trials in the District Court on the basis that it is the fundamental right of the defendant to be tried by his peers**

We noted that:

- there has been suggestion by some that jury trial in the District Court should be introduced as a solution to the high conviction rates problem but we do not think the conviction statistics in HK themselves support the need for jury trial in Hong Kong: the conviction rate in the CFI (with jury trial) appears to be higher than that in the District Court (without jury trial)
- the Government has the resources problem

However, The Law Society believes the fundamental right of the defendant to be tried by his peers should be upheld.

**The Law Society of Hong Kong  
23 June 2010**





THE  
**LAW SOCIETY**  
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**APPENDIX A**

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Criminal

14 October 2009

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Mr. I. Grenville Cross, SC, JP  
Director of Public Prosecutions  
Department of Justice  
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Dear Mr. Cross,

**CONVICTION RATES**

The Society's Criminal Law & Procedure Committee noted with interest the conviction rates quoted in your 2008 Yearly Review of the Prosecutions Division for the Secretary for Justice, being 94.8% and 92.6% in the Court of First Instance and District Court for 2008 respectively. These conviction rates have aroused some debates within the legal community recently.

The Committee would like to seek an understanding on the methods used by the Department of Justice to calculate such conviction rates, including what are the numerator and denominator in arriving at these figures and their respective components. In particular, for the purpose of the conviction rate calculations, the Committee would like to know whether and how certain data have been taken into account, e.g. convictions by pleading or by trial, plea bargaining whereby a defendant may be convicted of a lesser offence, where the defendant has been convicted of some but not all of the multiple counts charged, where the defendants have failed to appear or the prosecution has chosen to offer no evidence, etc.

The Committee wonders whether the Department of Justice has kept separate conviction rates e.g. convictions by pleading and by trial, etc., and if such statistics are available, it would wish to be provided with such information.

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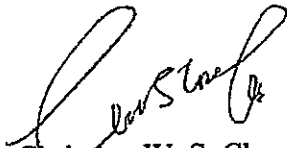
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The Committee will next meet on 2 November to discuss this subject. Whilst we understand that you will retire from the post of Director of Public Prosecutions with effect from 22 October; we shall very much appreciate if you or your successor can let us have the information within the month of October.

Last but not least, we would like to take this opportunity to wishing you all the best in your retirement years.

Yours sincerely,



Christine W. S. Chu  
Assistant Director of Practitioners Affairs

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14 October 2009

Ms. Christine W.S. Chu  
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Dear Ms. Chu,

Conviction Rates

Thank you for your letter of 14th instant.

The figures for convictions quoted in the 2008 Yearly Review were, of course, overall figures, covering both convictions after trial and after guilty pleas, and when asked we have always been happy to provide a breakdown of the figures.

The Criminal Law and Procedure Committee may be interested in the breakdown in conviction rates (overall and conviction after trial) at the different levels of court for the last 5 years :

	Conviction Rates					
	Court of First Instance		District Court		Magistrates Court	
	w/o PG	with PG	w/o PG	with PG	w/o PG	with PG
2004	61.3%	89.1%	67.7%	90.1%	58.0%	77.3%
2005	66.4%	90.4%	62.8%	87.5%	54.7%	73.5%
2006	75.6%	92.3%	76.3%	91.8%	60.1%	76.8%
2007	72.4%	93.4%	69.0%	90.5%	58.2%	76.6%
2008	79.3%	94.8%	73.3%	92.6%	53.9%	73.2%

w/o PG denotes exclude pleaded guilty cases.

with PG denotes include pleaded guilty cases.

I will also check with the management staff whether any additional information is available, and if it is we will revert.

Yours sincerely,

I. Grenville Cross

( I. Grenville Cross, SC )

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21 October 2009

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Dear Ms. Chu,

Conviction Rates

Your letter of 14th instant refers, together with my reply of the same date.

We calculate conviction rates on the basis of the number of defendants convicted. A defendant who is convicted of one charge, or of a lesser or alternative offence, is treated as having been convicted. He is considered to have been acquitted if he is found not guilty, or if no evidence is offered against him, or if he is found to have no case to answer on all charges.

I hope this assists.

Yours sincerely,

(I. Grenville Cross, SC)



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27 November 2009

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Dear Mr. McWalters,

**CONVICTION RATES**

We refer to the letters dated 14 and 21 October 2009 from Mr. Grenville Cross, SC (copies enclosed), your predecessor in title, replying to our enquiry regarding the conviction rates issued in the 2008 Yearly Review of the Prosecution Divisions.

In order that we can have a more meaningful interpretation of the conviction rates, we would like to request the following further information from the Department of Justice:

- (1) the raw figures which the DoJ has relied on to arrive at the respective conviction rates provided in the chart in Mr. Cross's letter dated 14 October 2009, e.g. what are the numerators and denominators in arriving at these conviction rates and their respective figures, etc.; and
- (2) a breakdown of these conviction rates by reference to different types of offences e.g. the conviction rates in respect of more serious offences such as murder, manslaughter, drugs, sexual offences, etc. and relatively minor ones such as traffic offences, etc. Again, please clarify how these different conviction rates were arrived at (the denominators and the numerators and their respective components) and provide us with the raw figures, etc.

**Deputy Secretary General**  
副秘書長  
Heidi K.P. Chu  
朱潔冰

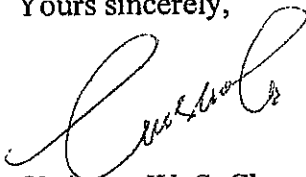
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- 2 -

Our Criminal Law & Procedure Committee will meet on 7 December 2009 to consider this subject, and it will be very helpful of you to let us have the requested information, at least the information requested for in paragraph 1 above, within next week.

Yours sincerely,



Christine W. S. Chu  
Assistant Director of Practitioners Affairs

Encls.

P.37



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10<sup>th</sup> December 2009

(By fax : 2845 0387 and by Post)

Dear Ms Chu,

Re : Conviction Rates

Thank you for your letter to the Director dated 27<sup>th</sup> November 2009.

Enclosed is a table showing details of the statistics upon which the conviction rates provided by Mr. Cross in his letter dated 14<sup>th</sup> October 2009 were based. We, however, do not have the breakdown of conviction rates with reference to different types of offence.

Yours sincerely,

Olivia Tsang

Assistant to the Director of Public Prosecutions

Encl.

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CONVICTION RATES (COURT OF FIRST INSTANCE)							
	Total No. of Accused (PG and PNG)	No. of Accused who Plead Guilty	No. of Accused who Plead Not Guilty	No. of Accused who Plead Not Guilty and was Convicted after Trial	No. of Accused who Plead Not Guilty and was Acquitted after Trial	Conviction Rate (w/o PG)	Conviction Rate (w/ PG)
2004	421	302	119	73	46	73/119 (61.3%)	375/421 (89.1%)
2005	446	318	128	85	43	85/128 (66.4%)	403/446 (90.4%)
2006	400	273	127	96	31	96/127 (75.6%)	369/400 (92.3%)
2007	366	279	87	63	24	63/87 (72.4%)	342/366 (93.4%)
2008	368	276	92	73	19	73/92 (79.3%)	349/368 (94.8%)

CONVICTION RATES (DISTRICT COURT)							
	Total No. of Accused (PG and PNG)	No. of Accused who Plead Guilty	No. of Accused who Plead Not Guilty	No. of Accused who Plead Not Guilty and was Convicted after Trial	No. of Accused who Plead Not Guilty and was Acquitted after Trial	Conviction Rate (w/o PG)	Conviction Rate (w/ PG)
2004	1,814	1,259	555	376	179	376/555 (67.7%)	1,635/1,814 (90.1%)
2005	1,733	1,152	581	365	216	365/581 (62.8%)	1,517/1,733 (87.5%)
2006	1,649	1,080	569	434	135	434/569 (76.3%)	1,514/1,649 (91.8%)
2007	1,576	1,096	480	331	149	331/480 (69.0%)	1,427/1,576 (90.5%)
2008	1,277	925	352	258	94	258/352 (73.3%)	1,183/1,277 (92.6%)

CONVICTION RATES (MAGISTRATES' COURTS)							
	Total No. of Accused (PG and PNG)	No. of Accused who Plead Guilty	No. of Accused who Plead Not Guilty	No. of Accused who Plead Not Guilty and was Convicted after Trial	No. of Accused who Plead Not Guilty and was Acquitted after Trial	Conviction Rate (w/o PG)	Conviction Rate (w/ PG)
2004	15,671	7,181	8,490	4,925	3,565	4,925/8,490 (58.0%)	12,106/ 15,671 (77.3%)
2005	15,988	6,638	9,350	5,118	4,232	5,118/9,350 (54.7%)	11,756/ 15,988 (73.5%)
2006	13,883	5,809	8,074	4,851	3,223	4,851/8,074 (60.1%)	10,660/ 13,883 (76.8%)
2007	14,683	6,456	8,227	4,786	3,441	4,786/8,227 (58.2%)	11,242/ 14,683 (76.6%)
2008	14,125	5,931	8,194	4,415	3,779	4,415/8,194 (53.9%)	10,346/ 14,125 (73.2%)

香港司法機構  
司法機構政務處



JUDICIARY **APPENDIX B**

HONG KONG

本函檔號 OUR REF: L/M(9) to SC 500/3/5

來函檔號 YOUR REF:

BY FAX (2845 0387) AND BY POST

電話 TEL: 2825 4211

傳真 FAX: 2530 2648

27 October 2009

Miss Christine W S Chu  
Assistant Director of Practitioners Affairs  
The Law Society of Hong Kong  
3rd Floor, Wing On House  
71 Des Voeux Road  
Central  
Hong Kong

Dear Miss Chu,

### Request for Information on Conviction Rates

Thank you for your letter of 14 October 2009 addressed to the Judiciary Administrator on the captioned subject. I am instructed to reply on her behalf.

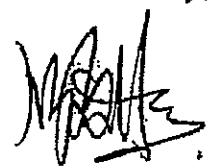
2. First, the Judiciary does not maintain statistics as to conviction rates. The Judiciary is therefore not able to provide you with the requested information.

3. The Judiciary is given to understand by the Department of Justice that the statistics as to conviction rates in 2008 published by them, that is, the Court of First Instance of the High Court (94.8%), the District Court (92.6%) and the Magistrates' Courts (73.2%) respectively:

- (a) include (i) convictions reached on pleas of guilty; and (ii) convictions (both upon pleas and by verdict) for offences lesser than the offences charged; and
- (b) do not take account of any acquittals against a defendant convicted of any offences in the case concerned.

4. The Judiciary is further given to understand by the Department of Justice that if the convictions reached on pleas of guilty are excluded, the conviction rates in 2008 are as follows: the Court of First Instance of the High Court (79.3%), the District Court (73.3%) and the Magistrates' Courts (53.9%) respectively. While the Department of Justice cannot provide further breakdown on convictions and acquittals as referred to in paragraph 3(a)(ii) and (b) above, the Judiciary notes that these matters would have a significant impact to reduce these percentages.

Yours sincerely,



(NG Sek-hon)  
for Judiciary Administrator

cc: Director of Public Prosecutions [with letter dd 14.10.2009]

總幹事  
王 姬 麗



20 OCT 09 15: 29

APPENDIX C

JK

Your Ref: Criminal  
Our Ref: BS6/PI 10/09 XIX

19<sup>th</sup> October 2009

Ms. Christina W S Chu,  
Assistant Director Practitioner Affairs,  
The Law Society of Hong Kong,  
3/F Wing On House,  
71 Des Voeux Road,  
Central  
Hong Kong

Dear Ms. Chu,

### CONVICTION RATES

We have statistics on conviction and acquittal of our cases.

Our method of compiling statistics for conviction and acquittal is as follows:-

We count each charge against each defendant in one entry. If a defendant is charged with three counts of offences and was convicted of one and acquitted on the other two, our record will show one conviction and two acquittals.

In 2008, for those PNG cases which eventually went on trial including in the Juvenile Courts, we have recorded 6,080 charges being on trial with 4,711 acquittals representing an acquittal rate of 77.48% and 1,369 convictions representing a conviction rate of 22.52%.

For the same period, we handled a total of 33,878 cases including those in the Juvenile Courts which consisted of 53,982 counts of offences. There were 36,861 convictions including those defendants pleading guilty on the plea day.

There were 5,853 entries for absconding or transfer to other courts being recorded in the said period.

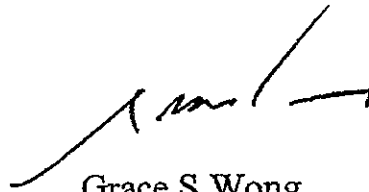
香港中環皇后大道中十五號置地廣場告羅士打大廈二七〇七至八室

Administration Office: Rooms 2707-8, Gloucester Tower, The Landmark, 15 Queen's Road Central, Central, Hong Kong.  
Tel: (852) 2526 6109 Fax: (852) 2868 1754 Home Page: [www.dutylawyer.org.hk](http://www.dutylawyer.org.hk)

Currently, we do not have statistics on the number of cases which are convicted on lesser charges after plea bargaining.

The above are the statistical data we have in connection with conviction and acquittal of our cases. I hope the data is of assistance to your Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Grace S Wong', written over a horizontal line.

Grace S Wong  
Administrator

GW/vh (d:\data\cword\lawsoc.doc)

**Natalie CHOI**

**From:** Jones Christopher (Ludgate) [Christopher.Jones@cps.gsi.gov.uk]  
**Sent:** 20 October, 2009 10:49 PM  
**To:** Natalie CHOI  
**Subject:** RE: Conviction Rates  
**Attachments:** HONG KONG.xls

Ms Chu,

1. I have been asked to respond to your enquiry, and attach some figures which may be of assistance.
2. The CPS maintains records of casework outcomes measured in terms of the number of defendants charged with a criminal offence whose case was completed in a given period. If a single case comprises several defendants then each defendant is counted, and the outcome against each is recorded. However, defendants who are the subject of several criminal charges are counted once, and once only.
3. Case outcomes are divided into convictions, including guilty pleas and convictions after trial, and unsuccessful outcomes, comprising all outcomes other than a conviction. CPS records also include additional detail on the exact nature of the outcome, as shown on the attached table.
4. If a defendant is convicted of a criminal offence, but not of other offences within the same set of proceedings, the outcome is recorded as a conviction, regardless of the relative weight of the various charges. Effectively, this means that our records prioritise a conviction over any other outcome. There may be occasions when the defendant is acquitted of the more serious charges brought, but convicted of lesser offences. In these circumstances, the outcome is still recorded as a conviction. While there may be occasions when this appears anomalous, it is consistent with the logic of a defendant based system: the defendant has been found guilty by a court of law, and been the subject of a sanction, and "convicted" is therefore a legitimate reading of the outcome. Of course, a more detailed record could be constructed by recording and counting the outcome of each individual charge brought, but that the CPS has not elected to hold records at this more precise, but more burdensome, level of detail.
5. Our "headline" measure of outcome is the proportion of completed cases resulting in a conviction, presently representing around 87% of the total, convictions including guilty pleas and convictions after trial (plus a number of lesser offences in which the defendant entered no plea, and was found guilty in absence).
6. It is also possible to show from CPS records the number and proportion of defendants convicted after pleading not guilty and proceeding to a contested hearing. The figures for these outcomes are also attached.
7. As an additional level of detail, there are also cases in which the defendant enters both pleas of guilty to some charges and pleas of not guilty to others, and the case proceeds to a contested hearing. These cases are treated as guilty pleas in the attached analysis, but a table is also included showing the outcome of the contested hearing- which may result in a further conviction, or in acquittal.
8. Finally, I should add a short note on the definition of the outcome types attached:
  - Administrative finalisations: where a defendant cannot be traced by the police, or has died, or been found unfit to plead. These are treated as unsuccessful outcomes;
  - Proved in absence: lesser offences where the defendant enters no plea and the court hears evidence in his absence, and enters a conviction;
  - Contested hearings: where the defendant pleads not guilty, and the court hears evidence;

- Discharged at committal: cases in which a committal hearing was held with a view to transferring the case from magistrates' courts to the Crown Court, but the court declined to commit;
- Prosecutions dropped: where, on consideration of the evidence and the public interest, the CPS decided not to proceed with a prosecution and no evidence was heard by the court.

9. I hope this helps.

Chris Jones  
Management Information Branch  
Crown Prosecution Service

**From:** Natalie CHOI [mailto:natalie@hklawsoc.org.hk]  
**Sent:** 14 October 2009 11:12  
**To:** Enquiries  
**Cc:** Christine Chu  
**Subject:** Conviction Rates

Dear Sirs,

## CONVICTION RATES

The Society's Criminal Law & Procedure Committee is considering the conviction rates in Hong Kong and how these compare to similar data in other jurisdictions.

The Committee understands the Crown Prosecution Service (CPS) is the Government Department responsible for prosecuting criminal cases investigated by the Police in England & Wales and has kept conviction statistics.

We would like to obtain the different conviction statistics kept by the CPS e.g. convictions by pleading and by trial and an explanation on the methods used by the CPS to calculate these different conviction rates, including what are the numerator and denominator in arriving at these figures and their respective components.

In particular, for the purpose of the conviction rate calculations, the Committee would like to know whether and how certain data have been taken into account, e.g. convictions by pleading or by trial, plea bargaining whereby a defendant may be convicted of a lesser offence, where the defendant has been convicted of some but not all of the multiple counts charged, where the defendants have failed to appear or the prosecution has chosen to offer no evidence, etc.

The Committee will be meeting on 2 November to discuss this subject and your reply, if possible, within the month of October will be very much appreciated.

Regards,  
Christine W. S. Chu  
Assistant Director of Practitioners Affairs  
The Law Society of Hong Kong  
3rd Floor, Wing On House,  
71 Des Voeux Road Central,  
Hong Kong.

Tel : (852) 28460525



**CPS CASE OUTCOMES : 2008**  
**Volume and proportion of completed cases**

	Defendant volumes '000s	%
Administrative finalisations	16.8	2%
Prosecutions dropped by CPS	94.7	9%
Discharged at committal hearing	2.0	0%
Acquitted at trial	26.9	3%
<b>TOTAL UNSUCCESSFUL OUTCOMES</b>	<b>140.5</b>	<b>13%</b>
Pleaded guilty to all charges	703.7	68%
Mixed plea of guilty/ not guilty	12.6	1%
Proof in absence	141.6	14%
Convicted after trial	42.4	4%
<b>TOTAL CONVICTIONS</b>	<b>900.3</b>	<b>87%</b>
<b>TOTAL COMPLETED CASES</b>	<b>1,040.8</b>	

Outcome of contested hearings: no guilty pleas

	Defendant volumes '000s	%
Convicted after trial	42.4	61%
Acquitted after trial	26.9	39%
<b>TOTAL</b>	<b>69.3</b>	

Outcome of contested hearings: mixed plea of guilty/not guilty

	Defendant volumes '000s	%
Convicted after trial	11.3	90%
Acquitted after trial	1.3	10%
<b>TOTAL</b>	<b>12.6</b>	

11

( )

( )

**Christine Chu**

---

**From:** David Turner [David.Turner@justice.govt.nz]  
**Sent:** 23 October, 2009 11:39 AM  
**To:** Christine Chu  
**Cc:** Renee Maunder; Wiebe Zwaga  
**Subject:** your request for information on convictions in New Zealand

Christine,

Your request for conviction statistics was referred to me as the manager of our research team, which prepares statistics for publication. You can find data on criminal convictions and sentences on the website of the New Zealand Department of Statistics, at [www.stats.govt.nz](http://www.stats.govt.nz), under their Table Builder function. You can also find an annual statistical bulletin at [www.justice.govt.nz](http://www.justice.govt.nz) (look under the crime category within publications). You will find, however, that our published statistics on conviction do not distinguish between cases in which the defendant pleads guilty and those that proceed to a full trial. We have figures on how often defendants plead guilty, but our information does not show how that plea affects the resulting sentence. We have no data on plea bargaining; charges may be changed for a variety of reasons during the criminal process, but those reasons are not recorded in our information systems.

I am sorry to say we will be unable to provide you with the detailed information you have requested within your time frames. Attempting to answer your question would require a good deal of analysis, which may not successfully address your questions, and we have no staff available to do such analysis in the near term.

I wish you and your committee well in your deliberations.

Sincerely,

David Turner  
Manager of Research, Evaluation & Modelling  
Ministry of Justice | Tāhū o te Ture  
DDI +64 4 913 9163  
Mobile 027 212 6907  
Level 5 Vogel Centre,  
Kate Sheppard Place Box 180, Wellington 6140  
[www.justice.govt.nz](http://www.justice.govt.nz)

=====  
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# **Ministry of Justice - New Zealand**

## **An Overview of Conviction and Sentencing Statistics in New Zealand 1999 – 2008**

### **Criminal Conviction and Sentencing Statistics**

**A summary report, based on the conviction and sentencing data for 1999 to 2008, has been produced**

This summary report is titled Statistical Bulletin: An Overview of Conviction and Sentencing Statistics in New Zealand 1999 – 2008. It includes a high level summary of decade trends and key findings for 2008.

**An Overview of Conviction and Sentencing Statistics in New Zealand 1999 - 2008 (PDF 807KB)**

Since 2006, the Ministry has released conviction and sentencing data sets to Statistics New Zealand.

The conviction and sentencing statistics for the period 1999 - 2008 can be accessed through the Table Builder function on the Statistics New Zealand web site ([www.stats.govt.nz](http://www.stats.govt.nz)).

The data can be accessed in the same way as Police-recorded crime statistics. It is intended that the online conviction and sentencing statistics will be updated annually.

# STATISTICAL BULLETIN

NUMBER 5, JULY 2009

## AN OVERVIEW OF Conviction and Sentencing Statistics in New Zealand 1999 to 2008

This bulletin provides an overview of the trends in prosecution outcomes, convictions and sentencing in New Zealand from 1999 to 2008, and summarises core statistics for the 2008 calendar year. Data for prosecutions and convictions is reported as a count of the number of charges processed by courts in New Zealand. However, a change from previous editions of this bulletin is that information on sentences is now reported as counts of 'offenders' instead of 'cases'.

### Conviction and sentencing statistics – main findings 1999 to 2008

#### Prosecution outcomes

- Between 1999 and 2008, the number of charges prosecuted increased by 27 percent.
- From 1999 to 2008, the number of charges resulting in a conviction rose by 28 percent.
- The number of charges that were not proved increased by 29 percent from 1999 to 2008.

#### Convictions

- Throughout the decade, the majority of convictions were for traffic or property offences.
- Convictions for property and drug offences respectively made up a decreasing proportion of all convictions during the decade.
- Convictions for offences against justice and miscellaneous offences accounted for an increasing proportion of all convictions over the decade.
- In 2008, the highest number of convictions for the decade was recorded for violent offences, other offences against the person, offences against justice, offences against good order, traffic offences and miscellaneous offences.
- The number of convictions for property offences dropped to its lowest level for the decade in 2007.
- Between 2003 and 2008, the number of convictions for violent offences rose by 40 percent and the number of convictions for traffic offences rose by 29 percent.

#### Sentencing

- A monetary sentence was the most common sentence type across the decade, comprising almost half of all sentences. Community work was the next most common sentence.
- The proportion of offenders receiving a prison sentence decreased by 2 percent between 2007 and 2008.
- The number of people receiving community work as the most serious sentence increased by 21 percent between 2004 and 2008.
- Between 1999 and 2008, the number of people that received a monetary penalty as the most serious sentence increased by 17 percent.

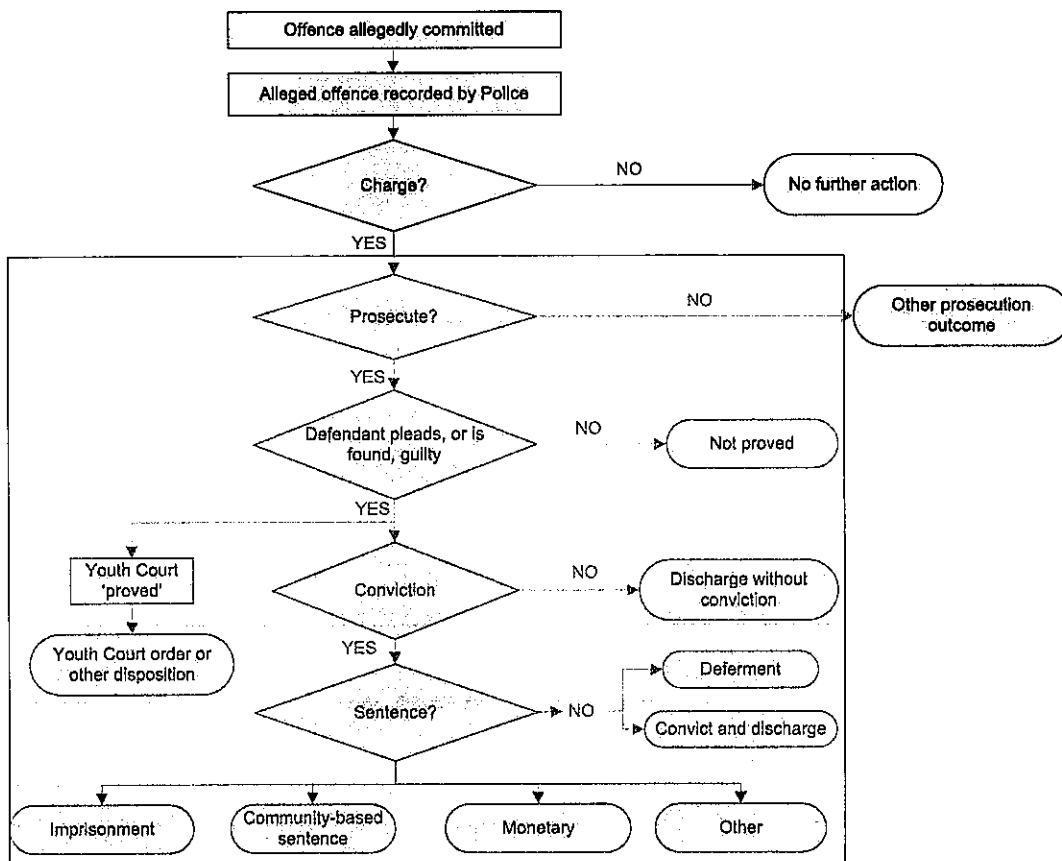
# Introduction

This bulletin provides a summary of conviction and sentencing statistics in New Zealand from 1999 to 2008.<sup>1</sup> The data on which this report is based is available through the 'Table Builder' function on Statistics New Zealand's website.<sup>2</sup> Using Table Builder, it is possible to produce customised tables to examine particular subjects of interest in more detail than is presented here.

The bulletin comprises three main sections; prosecution outcomes, conviction and sentencing trends.

Figure 1 presents a simplified outline of the way a charge moves through the criminal justice system. The shaded area defines the scope of this summary report.

**Figure 1: Charge flow through the criminal justice process<sup>3</sup>**



<sup>1</sup> The data used in this report was extracted from the Justice Data Warehouse on 25 May 2009.

<sup>2</sup> [www.stats.govt.nz/products-and-services/table-builder](http://www.stats.govt.nz/products-and-services/table-builder)

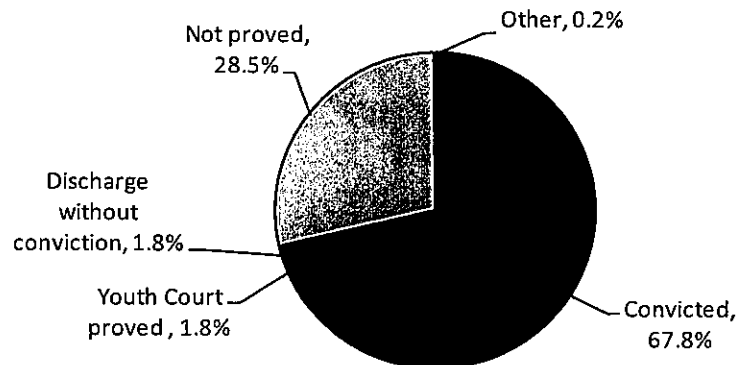
<sup>3</sup> This diagram does not include appeal or review processes.

## Prosecution outcomes

This section reports on the outcomes of all charges prosecuted within the New Zealand criminal court system in 2008, and during the 1999 to 2008 period.

### Main findings for 2008

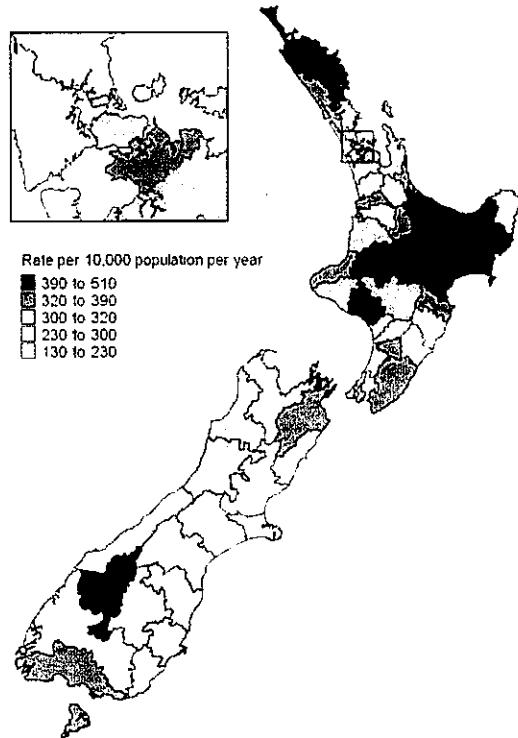
Figure 2: Prosecution outcomes in 2008



- In 2008, 336,865 charges were prosecuted in New Zealand criminal courts, 5 percent higher than the number prosecuted in 2007. Approximately 68 percent of all charges prosecuted resulted in a conviction. The number of convictions in 2008 was 7 percent higher than in 2007. Figure 2 provides a breakdown of prosecution outcomes in 2008.
- After conviction, the next most frequent prosecution outcome was 'not proved'. In 2008, approximately 28 percent of all charges prosecuted had this result. A 'not proved' outcome includes charges that were withdrawn, dismissed, discharged, struck out, not proceeded with, or which resulted in an acquittal.
- Approximately 2 percent of charges were proved in the Youth Court<sup>4</sup> and 2 percent were discharged without conviction.
- The prosecution rate was higher than average in many rural North Island areas (Figure 3). In 2008, rates ranged from less than 170 per 10,000 residents in Kaikoura, Te Awamutu, Waipukurau, Feilding, and Gore to over 450 per 10,000 residents in Rotorua, Kaikohe, Gisborne, Whangarei, and Taupo.

<sup>4</sup> If a child or young person pleads guilty or is found guilty in the Youth Court, this is recorded as a 'proved' outcome – the Youth Court does not impose convictions.

**Figure 3: Prosecution rate by court area in 2008**

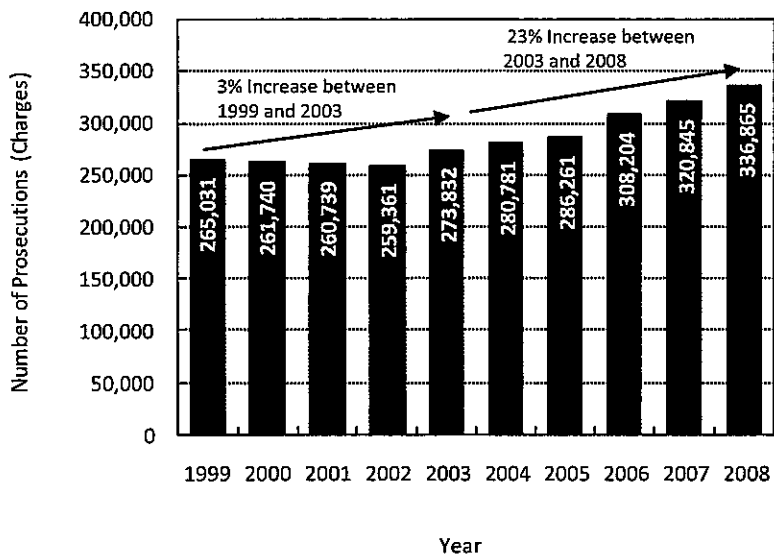


Decade trends 1999 to 2008

**Total number of prosecutions per year**

- The total number of prosecutions processed by New Zealand courts increased by 3 percent between 1999 and 2003. Between 2003 and 2008 the number of charges prosecuted grew by 23 percent, as shown in Figure 4 below.

**Figure 4: Number of prosecutions 1999–2008**





## Outcome of Prosecutions

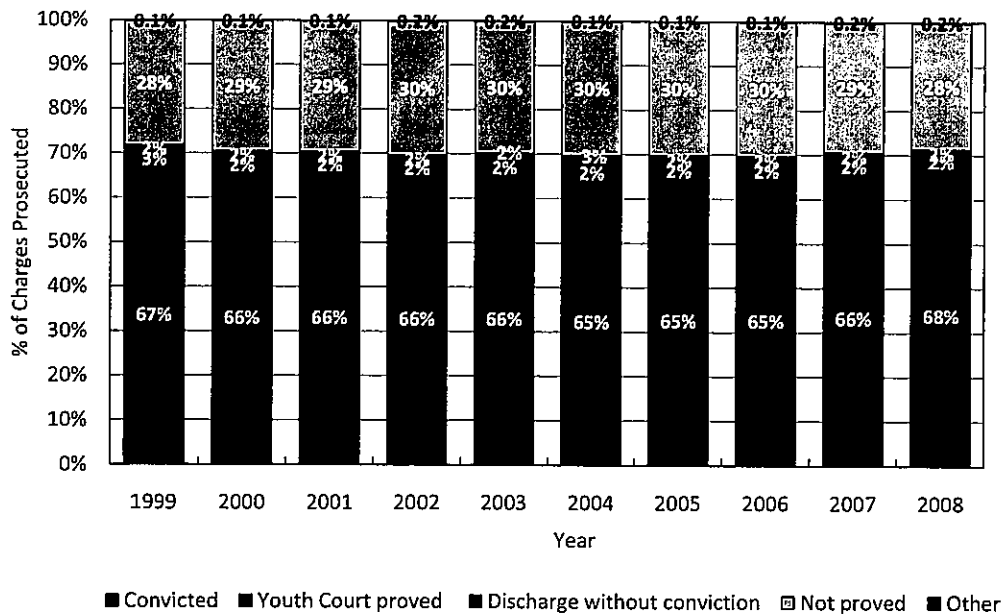
**Table 1: Outcome of all charges prosecuted 1999-2008**

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008*
<b>Convicted</b>	178,762	173,275	172,950	170,518	180,152	181,434	186,576	200,729	213,059	228,379
<b>Youth Court proved</b>	7,259	6429	6027	5447	6787	6652	7012	7587	6873	5908
<b>Discharge without conviction</b>	4313	4765	4675	4487	5054	7609	6108	6124	6498	5991
<b>Not proved</b>	74,310	76,887	76,723	78,434	81,385	84,738	86,162	93,462	93,772	95,848
<b>Other</b>	387	384	364	475	545	348	403	302	643	739
<b>Total charges prosecuted</b>	<b>265,031</b>	<b>261,740</b>	<b>260,739</b>	<b>259,361</b>	<b>273,832</b>	<b>280,781</b>	<b>286,261</b>	<b>308,204</b>	<b>320,845</b>	<b>336,865</b>

\*Refer to Figure 1 for a percentage breakdown of these prosecution outcomes.

- Between 1999 and 2002, the number of charges resulting in a conviction decreased by 5 percent. From 2002 to 2008, the number increased by approximately 34 percent.
- The number of charges resulting in a 'not proved' outcome increased steadily throughout the decade, increasing by 29 percent between 1999 and 2008.
- The number of charges 'proved' in the Youth Court decreased by 25 percent between 1999 and 2002. Between 2002 and 2006, the number rose by 39 percent followed by a 22 percent drop from 2006 to 2008.
- The number of prosecuted charges that were discharged without conviction steadily increased through the decade, rising by 39 percent between 1999 and 2008.

**Figure 5: Outcome of prosecutions 1999-2008**



## Convictions

This section reports on all convictions within the New Zealand criminal court system in 2008, and during the 1999 to 2008 period.

### Main findings for 2008

As shown in Figure 6:

- The majority of charges resulting in a conviction in 2008 involved either traffic or property offences, which respectively accounted for 32 percent and 21 percent of all convictions.
- Charges involving offences against the administration of justice accounted for 13 percent of all convictions, while charges for miscellaneous and violent offences each comprised 9 percent.
- Charges involving offences against good order, drug offences, and other offences against the person respectively represented 7 percent, 5 percent and 2 percent of all convictions in 2008.

**Figure 6: Offence types resulting in conviction in 2008**

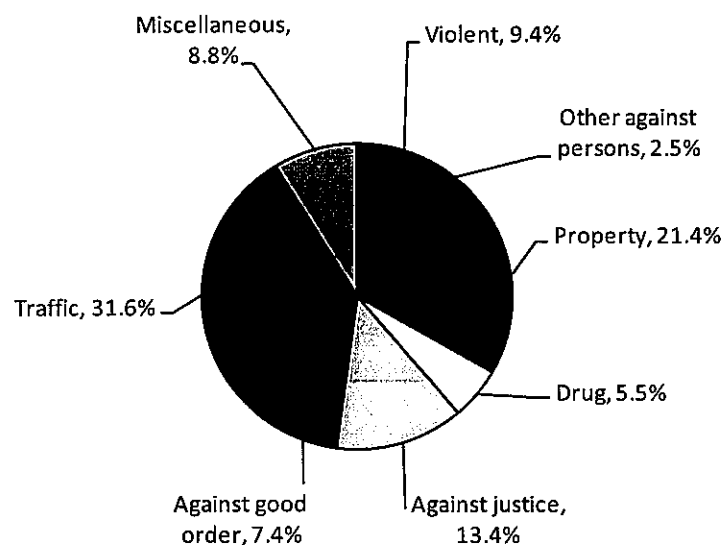
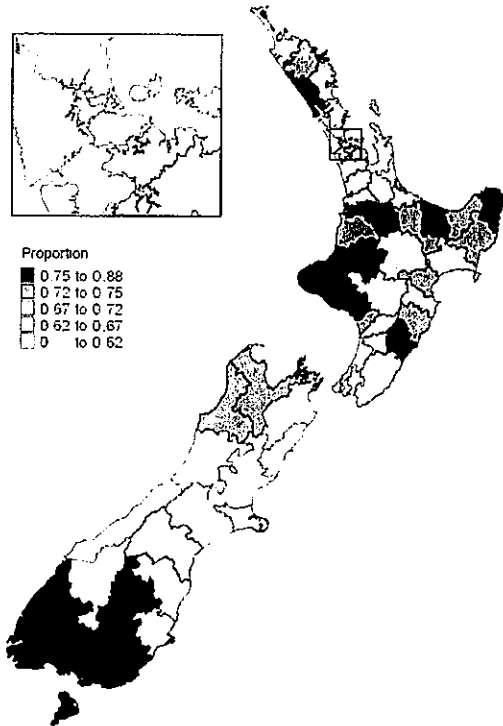


Figure 7 shows the violence conviction rate for 2008 by geographic area. The violence conviction rate is measured as the proportion of prosecuted offenders convicted. For courts serving relatively small populations, typically courts in rural locations, the rate is calculated from a small number of events and is less stable over time than for courts serving larger populations. Of the 24 courts serving greater than 50,000 residents, the violence conviction rate ranged from 51 percent in North Shore to 79 percent in Invercargill.

**Figure 7: Proportion of violence prosecutions resulting in conviction by court area, 2008**

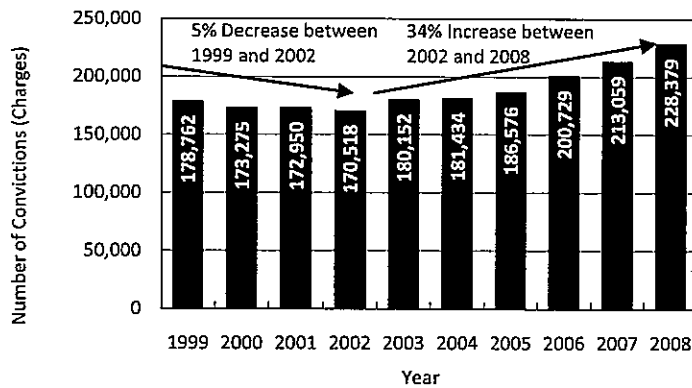


Decade trends 1999 to 2008

**Total number of convictions per year**

- The number of charges resulting in convictions increased by 34 percent between 2002 and 2008 (see Figure 8) following a downward trend between 1999 and 2002. While a conviction continued to be the most common outcome of a prosecution throughout the decade, the proportion of all prosecutions resulting in a conviction decreased from 67 percent in 1999 to 65 percent in 2004, before increasing to 68 percent in 2008.

**Figure 8: Convictions, 1999-2008**



## Number of convictions per year by offence type

**Table 2: Total number of charges resulting in conviction, by type of offence, 1999-2008**

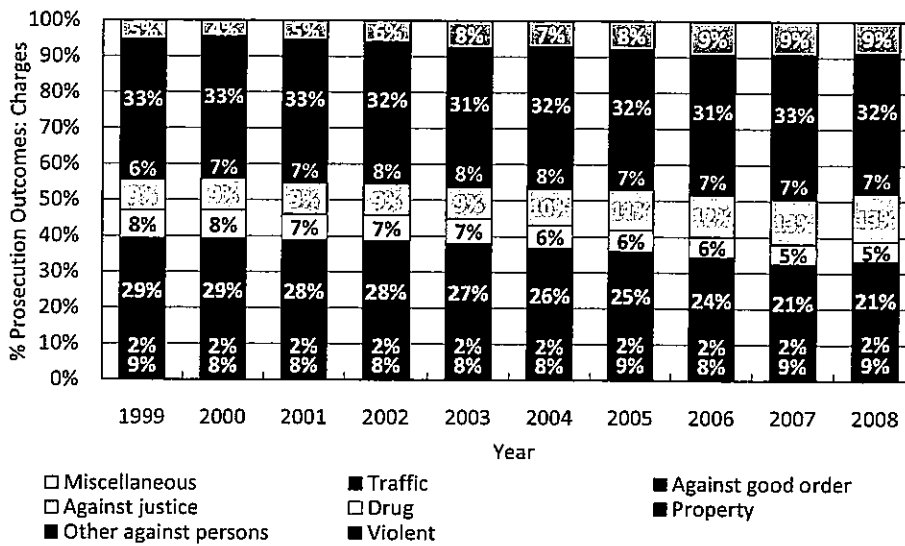
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008*
<b>Violent</b>	15,287	14,577	14,692	14,427	15,224	15,036	16,484	16,934	18,475	21,377
<b>Other against persons</b>	3686	3682	3702	3771	4164	4111	4428	4613	5117	5645
<b>Property</b>	51,178	49,635	48,715	47,546	49,021	47,687	46,075	47,352	45,797	48,986
<b>Drug</b>	14,021	13,649	12,555	12,272	12,359	11,304	10,867	11,302	11,505	12,542
<b>Against justice</b>	15,306	15,465	15,017	14,972	16,034	18,404	21,210	23,666	26,793	30,671
<b>Against good order</b>	11,030	11,579	12,389	12,839	13,978	13,666	13,314	14,961	15,882	16,919
<b>Traffic</b>	58,817	57,025	56,584	54,541	55,847	58,031	59,640	63,125	69,751	72,167
<b>Miscellaneous</b>	9437	7663	9296	10,150	13,516	13,195	14,558	18,776	19,739	20,072
<b>Total convicted charges</b>	<b>178,762</b>	<b>173,275</b>	<b>172,950</b>	<b>170,518</b>	<b>180,152</b>	<b>181,434</b>	<b>186,576</b>	<b>200,729</b>	<b>213,059</b>	<b>228,379</b>

\*Also refer to Figure 8 for a percentage breakdown of these conviction outcomes.

- From 1999 to 2002, the number of convictions for violent offences decreased by 6 percent. Between 2002 and 2008, the number of convictions for violent offences rose by 48 percent.
- The number of convictions for other offences against the person increased by approximately 53 percent between 1999 and 2008.
- The number of charges that resulted in a conviction for property offences decreased by 4 percent between 1999 and 2008.
- The number of drug offences resulting in a conviction declined by approximately 22 percent between 1999 and 2005. Between 2005 and 2008, the number increased by 15 percent.
- A steady increase in the number of convictions for offences against justice was recorded from 2002 onwards.
- Convictions for offences against good order increased by 53 percent between 1999 and 2008.
- The number of convictions for traffic offences decreased by 5 percent in the five years from 1999 to 2003 followed by a 29 percent increase from 2003 to 2008.
- The number of convictions for miscellaneous offences increased steadily through the decade from 9,437 in 1999 to 20,072 in 2008, a 113 percent increase.

Proportion of convictions per year by offence type

Figure 9: Charges resulting in conviction, 1999-2008



- Throughout the decade, traffic offences made up the greatest proportion of all convictions, accounting for between 31 percent and 33 percent of convictions each year (see Figure 9).
- Property offences and drug offences comprised a decreasing proportion of all convictions during the period. Property offences dropped from 29 percent of all convictions in 1999 to 21 percent in 2008. Similarly, drug offences dropped from 8 percent of all convictions in 1999 to 5 percent in 2008.
- Offences against justice and miscellaneous offences accounted for a growing proportion of all convictions over the decade. Offences against justice increased from 9 percent of convictions in 1999 to 13 percent in 2008. The proportion of convictions involving miscellaneous offences rose from 5 percent in 1999 to 9 percent in 2008.
- Violent offences consistently accounted for around 9 percent of convictions each year during the decade, while offences against good order comprised between 6 percent and 8 percent. Other offences against the person made up approximately 2 percent of convictions each year between 1999 and 2008.

## Sentences

This final section reports on all sentences imposed by criminal courts in New Zealand in 2008, and during the 1999 to 2008 period. Where more than one sentence was imposed on a convicted offender within a calendar year, only the most serious sentence is counted.

### Main findings for 2008

- Of the people sentenced in 2008: 46 percent received monetary penalties (fines or reparation), 25 percent were sentenced to community work sentences, 6 percent were convicted and discharged, 8 percent were imprisoned, 4 percent received a deferment, 3 percent were sentenced to supervision, and 1 percent had other sanctions imposed. The community based sentences of home detention, community detention and intensive supervision were introduced in October 2007. These sentences accounted for approximately 7 percent of all sentences imposed in 2008 (see Figure 10).
- This sentencing pattern was largely similar to that observed in 2007, although the proportion of people receiving imprisonment and monetary sentences declined by 2 percent and 3 percent respectively.

Figure 10: Type of sentence imposed in 2008

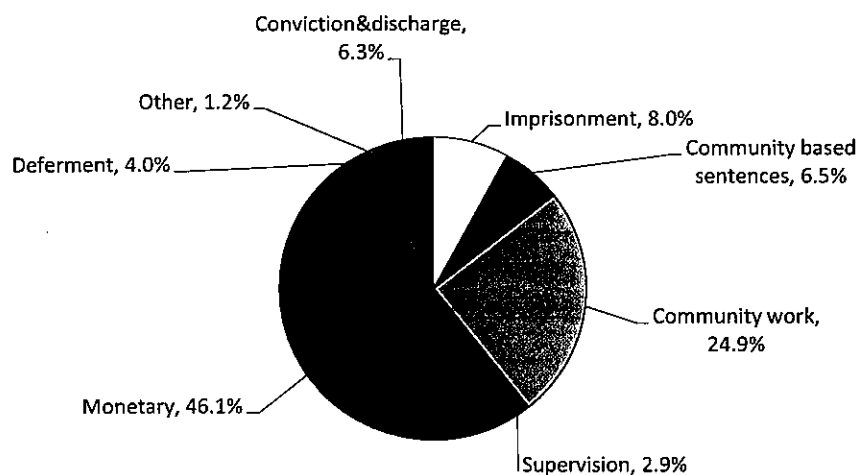
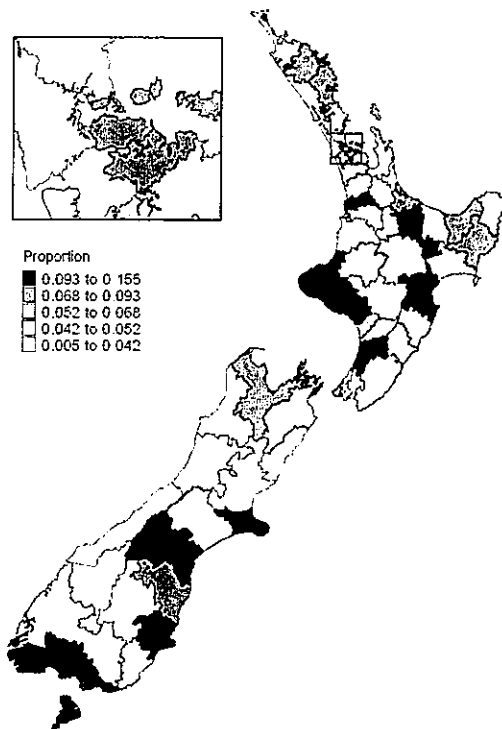


Figure 11 shows the proportion of convicted offenders sentenced to imprisonment by geographic region. As with the violence conviction rate shown in Figure 7, imprisonment is most stable over time for courts serving large populations. Of the courts serving more than 50,000 residents, the proportion of convicted offenders sentenced to prison ranged from 2.7 percent in Upper Hutt to 14 percent in Palmerston North.

Figure 11: Imprisonment rate, 2008



#### Decade trends 1999 to 2008

Legislation passed during the decade has affected sentencing data. In 2002, the Sentencing Act 2002 and the Parole Act 2002 largely replaced the Criminal Justice Act 1985. These Acts altered the sentences available to the courts, especially in relation to community-based sentences. In particular, the sentences of periodic detention, community service and community programme were abolished, and the sentence of community work introduced. To simplify analysis, periodic detention and community service sentences have been incorporated within community work in this report, while community programme sentences have been included within supervision.

The Sentencing Amendment Act 2007 also created the new non-custodial sentences of home detention, community detention and intensive supervision.

#### Number of sentences per year by sentence type

- The number of people sentenced to imprisonment increased by 32 percent between 1999 and 2006. From 2006 to 2008 however, this number has decreased by 17 percent.
- Between 2000 and 2005, the number of people receiving community work as the most serious sentence was relatively stable. Between 2005 and 2008 the number increased by 17 percent.
- The number of people receiving a sentence of supervision as the most serious penalty declined by 64 percent between 1999 and 2004. However, the number of offenders receiving this type of sentence more than doubled between 2004 and 2008.
- The number of people receiving a monetary penalty increased steadily throughout the decade with a 17 percent increase recorded from 1999 to 2008.
- The number of offenders receiving deferment rose by 74 percent from 1999 to 2008.
- A steady increase was noted in the number of people receiving other types of sentences.
- Between 1999 and 2008, the number of people that were convicted and discharged more than doubled.

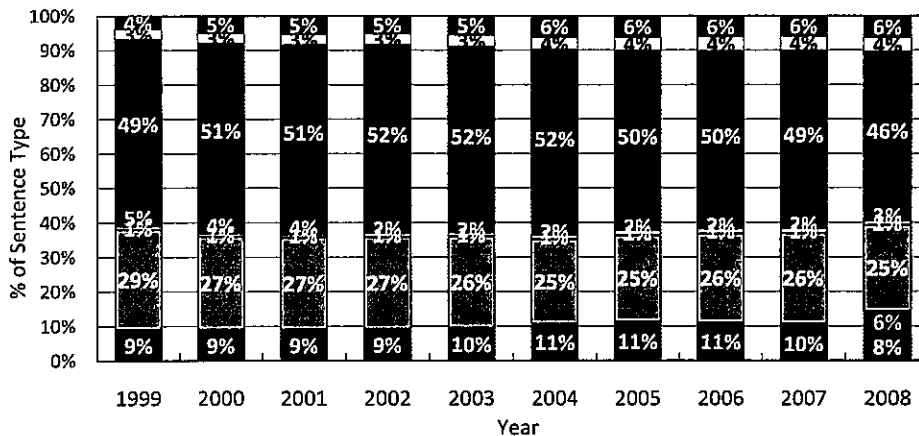
**Table 3: Number of people receiving each type of sentence, 1999-2008**

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Imprisonment	6971	6795	6838	6967	7462	8537	9119	9209	8943	7664
Home Detention	-	-	-	-	-	-	-	-	301	2479
Community Detention	-	-	-	-	-	-	-	2	226	2288
Intensive Supervision	-	-	-	-	-	-	-	-	222	1390
Community work	22,140	20,142	20,039	19,862	20,577	19,579	20,212	21,504	23,431	23,736
Supervision	3815	3338	2885	1824	1429	1377	1753	1642	2223	2792
Monetary	37,615	37,839	38,324	38,944	40,529	41,384	40,147	41,349	43,901	44,015
Deferment	2208	2269	2331	2361	2652	2843	3074	3298	3608	3833
Other	708	726	756	833	867	1086	1102	1173	1260	1184
Conviction & discharge	2925	3621	3939	3869	4252	4958	5015	5118	5289	6059
<b>Total people sentenced</b>	<b>76,382</b>	<b>74,730</b>	<b>75,112</b>	<b>74,660</b>	<b>77,768</b>	<b>79,764</b>	<b>80,422</b>	<b>83,295</b>	<b>89,404</b>	<b>95,440</b>

**Proportion of sentences per year by sentence type**

- Monetary sentences accounted for the largest proportion of sentences imposed each year. Throughout the decade approximately 50 percent of offenders on average received monetary penalties.
- Community work was the next most common type of sentence imposed throughout the decade. Between 1999 and 2008, approximately 26 percent of all offenders sentenced received this type of sanction.
- The proportion of all offenders sentenced to imprisonment rose from 9 percent in 1999 to 11 percent in 2005. In 2008 the proportion decreased to 8 percent.
- The proportion of people that were convicted and discharged increased steadily throughout the decade, increasing from approximately 4 percent in 1999 to 6 percent in 2008.
- On average, 4 percent of all offenders across the decade received deferment.
- The proportion of offenders receiving the sentence of supervision dropped from 5 percent to approximately 2 percent between 1999 and 2004, and since has remained relatively constant at 2 to 3 percent.

**Figure 12: Percentage of sentence types imposed, 1999-2008**



\*In 2007 Community based sentences accounted for less than 1% of all sentences.

- Conviction & discharge
- Monetary
- Other
- Community based sentences
- Deferment
- Supervision
- ▨ Community work
- Imprisonment



## Notes

The information on prosecutions and convictions presented in this report relates to 'charges'. A 'charge' refers to each separate criminal prosecution processed by the court. For example, where a defendant is charged with three different offences, these will be counted as three separate charges. Information on sentences is reported as counts of the number of individuals receiving each type of sentence.

In addition changes in the number of criminal charges processed by the courts do not necessarily reflect real changes in the volume of criminal behaviour. The number of charges can be affected by legislative changes, technical changes surrounding the collection and enumeration of offence data, as well as alterations in the availability and prioritisation of police resources for detecting and investigating offences.

Court areas are estimated by allocating each 2006 census meshblock to the nearest courthouse. Nearness is measured as the shortest road distance from the geographical centre of the meshblock to the courthouse. Court area populations are estimated by summing 2006 census data on the size of the usually resident population for the meshblocks within each court area. For presentation purposes, offshore meshblocks are not displayed.

Because of rounding, percentages shown in the figures may not add up to 100 percent.

## Other annual statistical reports available

The Research, Evaluation and Modelling Unit within the Ministry of Justice publishes annual statistical reports. These are listed below and are currently available at the Ministry of Justice website – <http://www.justice.govt.nz>

- Conviction and Sentencing of Offenders in New Zealand
- Family Court Statistics in New Zealand
- Child and Youth Offending Statistics in New Zealand (formerly titled Youth Justice Statistics in New Zealand)

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**Natalie CHOI**

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**From:** Twigg Karen [karen.twigg@cdpp.gov.au]  
**Sent:** 28 October, 2009 1:40 PM  
**To:** Natalie CHOI; Christine Chu  
**Subject:** Conviction Rates [SEC=IN-CONFIDENCE:LEGAL]  
**Attachments:** Conviction Rate Stats\_Annual report 07-08.docx

Dear Ms Chu and Ms Choi

Attached is an excerpt of tables from the Australian Government Commonwealth DPP's 2007-08 Annual Report including Prosecution Performance Indicators, and Tables 1 – 4 of the Prosecution Statistics.

The conviction rate in them is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation ignores defendants where the CDDP discontinued the prosecution against them in its entirety (the prosecution offered no evidence) or where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court because they failed to appear (see the footnotes in the document).

Please note that defendants found guilty includes defendants where all charges were found proven and defendants who have been found guilty of only some of the charges and either acquitted on others or the prosecution discontinued on other charges.

These figures may include a small number of cases where a plea bargained occurred.

I trust this is of assistance.

*Regards*  
*Karen Twigg*  
*Legal and Practice Management Branch*  
*CDPP Head Office*  
*ph 02 62065627*  
*fax 0262065688*

**From:** DPP Inquiries  
**Sent:** Tuesday, 27 October 2009 12:14 PM  
**To:** HOF External Legal  
**Subject:** FW: Conviction Rates

---

**From:** Natalie CHOI [mailto:natalie@hklawsoc.org.hk]  
**Sent:** Fri 23/10/2009 2:31 PM  
**To:** DPP Inquiries  
**Cc:** Christine Chu  
**Subject:** Conviction Rates

Dear Mr. Craigie,

**CONVICTION RATES**

The Society's Criminal Law & Procedure Committee is considering the conviction rates in Hong Kong and how these compare to similar data in other jurisdictions.

The Committee understands your office may have kept conviction statistics of Australia.

We would like to obtain the different conviction statistics kept by your office e.g. convictions by pleading and by trial and an explanation on the methods used by your office to calculate these different conviction rates, including what are the numerator and denominator in arriving at these figures and their respective components.

In particular, for the purpose of the conviction rate calculations, the Committee would like to know whether and how certain data have been taken into account, e.g. convictions by pleading or by trial, plea bargaining whereby a defendant may be convicted of a lesser offence, where the defendant has been convicted of some but not all of the multiple counts charged, where the defendants have failed to appear or the prosecution has chosen to offer no evidence, etc.

The Committee will be meeting on 2 November to discuss this subject and your reply, if possible, within the month of October will be very much appreciated.

Regards,  
Christine W. S. Chu  
Assistant Director of Practitioners Affairs  
The Law Society of Hong Kong  
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## Prosecution Performance Indicators for 2007-2008

Description	Target	Outcome	Details (successful (total))
<b>Prosecutions resulting in a conviction*</b>	90%	98%	5009 (5106)
Figures for 2006 - 2007	90%	98%	4894 (4981)
<b>Defendants in defended summary hearings resulting in conviction</b>	60%	64%	123 (192)
Figures for 2006 - 2007	60%	68%	143 (210)
<b>Defendants in defended committals resulting in a committal order</b>	80%	97%	233 (241)
Figures for 2006 - 2007	80%	99%	316 (320)
<b>Defendants tried and convicted</b>	60%	72%	73 (101)
Figures for 2006 - 2007	60%	78%	72 (92)
<b>Prosecution sentence appeals in summary prosecutions upheld</b>	60%	67%	6 (9)
Figures for 2006 - 2007	60%	50%	2 (4)
<b>Prosecution sentence appeals in a prosecution on indictment upheld</b>	60%	39%	9 (23)
Figures for 2006 - 2007	60%	67%	6 (9)

\* The conviction rate is calculated by taking the number of defendants convicted as a percentage of defendants convicted or acquitted. The calculation ignores defendants where the CDPP discontinued the prosecution against them in its entirety or where a prosecution has commenced and the court has issued a warrant to bring the defendant before the court.

## Prosecution Statistics

In the course of the year the DPP dealt with 6145 people. The cases were referred by over 40 Commonwealth agencies as well as a number of State and Territory agencies. The following tables set out details of the prosecutions conducted in 2007-2008.

**Table 1: Outcomes of successful prosecution action 2007-2008**

Defendants convicted of offences prosecuted summarily	4522
Defendants convicted of offences prosecuted on indictment	487
Defendants committed for trial or sentence	453

**Table 2: Summary prosecutions in 2007-2008**

Defendants convicted after a plea of guilty	4399
Defendants convicted after a plea of not guilty	123
Total defendants convicted	4522
Defendants acquitted after a plea of not guilty	69
<b>Total</b>	<b>4591</b>

**Table 3: Committals in 2007-2008**

Defendants committed after a plea of guilty	220
Defendants committed after a plea of not guilty	233
Total defendants committed	453
Defendants discharged after a plea of not guilty	8
<b>Total</b>	<b>461</b>

**Table 4: Prosecutions on indictment in 2007-2008**

Defendants convicted after a plea of guilty	414
Defendants convicted after a plea of not guilty	73
Total defendants convicted	487
Defendants acquitted after a plea of not guilty	28
<b>Total</b>	<b>515</b>

Note: Convicted means where a defendant is convicted of some or all charges.

# APPENDIX G

## NSW Local Courts: Summary statistics 2004 to 2008

	2004	2005	2006	2007	2008
<b>Finalisations:</b>					
Number of persons charged in Local Courts	134,321	137,999	135,088	136,312	138,872
Number of charges determined in Local Courts	239,924	245,094	240,889	241,570	246,196
<b>Disposals:</b>					
Number of cases finalised by:					
- defended hearing	18,276	18,406	18,564	17,348	17,964
- other than defended hearing	116,045	119,593	116,524	118,964	120,908
Percentage of persons whose cases were finalised by defended hearing:					
- males	13.9	13.6	14.1	13.1	13.3
- females	12.6	12.5	13.0	11.8	11.9
<b>Outcome of appearance:</b>					
Number of persons charged who were found guilty	117,470	120,238	117,765	119,085	120,910
Percentage of persons charged who were found guilty	87.5	87.1	87.2	87.4	87.1
<b>Legal representation:</b>					
Percentage of persons charged having legal representation	55.4	55.1	56.3	58.1	60.0
<b>Bail refusal:</b>					
Percentage of persons charged refused bail	6.2	6.1	6.1	5.9	6.1
<b>Delay:</b>					
Median delay for defended cases (days)	116.0	121.0	122.0	125.0	126.0
<b>Sentencing:</b>					
Number of persons sentenced to prison	7,558	7,309	7,531	7,764	8,233
Number of males sentenced to prison	6,792	6,596	6,776	6,969	7,327
Number of females sentenced to prison	766	713	755	795	906
<b>Average length of minimum/fixed term imprisonment (months):</b>					
Total persons	5.9	6.0	6.0	5.8	5.8
- males	6.0	6.1	6.1	5.9	5.9
- females	4.9	5.2	5.3	4.7	5.0

## NSW District Court: Summary statistics 2004 to 2008

	2004	2005	2006	2007	2008
<b>Registrations:</b>					
Number of cases registered	3,685	3,195	3,150	3,163	3,703
<b>Disposals:</b>					
Number of cases finalised by:					
- defended hearing	559	581	522	505	497
- sentenced after guilty plea	2,519	2,440	2,517	2,412	2,462
- other methods of disposal	439	414	332	315	261
<b>Percentage of cases finalised by defended hearing:</b>					
- males	16.3	17.1	16.0	16.1	15.7
- females	12.1	14.7	10.8	10.9	12.7
<b>Outcome of appearance:</b>					
Number of persons charged who were found guilty	2,830	2,774	2,831	2,694	2,733
Percentage of persons charged who were found guilty	80.5	80.8	84.0	83.4	84.9
<b>Bail refusal:</b>					
Percentage of persons who were refused bail	46.6	45.4	45.7	46.2	50.8
<b>Delay:</b>					
Median delays (from committal to outcome) for finalised trials (days)	223.0	249.0	245.5	238.0	238.0
<b>Sentencing:</b>					
Number of persons sentenced to prison	1,941	1,904	1,874	1,865	1,854
Number of males sentenced to prison	1,807	1,782	1,729	1,733	1,725
Number of females sentenced to prison	134	122	145	132	129
<b>Average length of minimum/fixed term of imprisonment (months):</b>					
Total persons	27.4	25.8	26.0	26.3	28.0
- males	27.8	26.2	26.4	26.6	28.2
- females	22.2	19.9	21.0	22.2	25.3



## NSW Supreme Court: Summary statistics 2004 to 2008

	2004	2005	2006	2007	2008
<b>Registrations:</b>					
Number of cases registered	96	84	103	133	101
<b>Disposals:</b>					
Number of cases finalised by:					
- defended hearing	63	58	60	41	56
- sentenced after guilty plea	41	48	32	60	47
- other methods of disposal	2	14	5	8	14
<b>Outcome of appearance:</b>					
Number of persons charged who were found guilty	76	91	73	93	79
Percentage of persons charged who were found guilty	71.7	75.8	75.3	85.3	67.5
<b>Delay:</b>					
Median delays (from committal to outcome) for finalised trials (days)	292.0	328.0	291.0	300.0	266.0
<b>Sentencing:</b>					
Number of persons sentenced to prison	70	82	63	83	72
Percentage of persons sentenced to prison	92.1	90.1	86.3	89.2	91.1
<b>Average length of minimum/fixed term of imprisonment (months)</b>	<b>115.5</b>	<b>111.7</b>	<b>135.8</b>	<b>105.2</b>	<b>106.0</b>

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# **NEW SOUTH WALES CRIMINAL COURTS STATISTICS 2008**

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NSW Bureau of Crime  
Statistics and Research

2009

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## INTRODUCTION

This report deals with criminal cases finalised in 2008 by the New South Wales (NSW) Local, Children's, District, Supreme and Licensing Courts.

The data presented in the report are collected from the courts and maintained by the NSW Bureau of Crime Statistics and Research. Data for the tables on prior convictions for proven offenders are sourced from the Bureau's Reoffending Database (ROD).

The majority of Children's Court data presented in this publication are collected directly by the NSW Bureau of Crime Statistics and Research. The Department of Juvenile Justice continues to provide raw data for non-computerised courts, which are then processed by the Bureau.

This year marked a major change in the way Higher Courts data are sourced and counted. The Case Tracking System was replaced by the electronic JusticeLink system in February 2008. Court staff and Judges' Associates are now responsible for entering the data while the Bureau has taken on the role of validating and auditing this information. For more information regarding these changes refer to pages 131-138 of the report.

The Licensing Court of NSW ceased operation on 1 July 2008. From that date criminal offences under the Liquor Act 2007, Registered Clubs Act 1976 and associated legislation are dealt with in the Local Court. The Licensing Court tables in this report only show data from January to June 2008.

In 2008, there was a 1.9 percent increase in the number of persons/organisations with matters finalised in the Local Courts (up to 138,872) from the previous year. The number of persons with matters finalised in Children's Courts increased 14.4% (up to 10,100). This was largely due to increases in the offences of unlawful entry with intent/burglary, break and enter (up 22.7%) and acts intended to cause injury (up 19.6%). The number of persons finalised in trial and sentence matters in the Higher Courts remained stable.

From this year, the Children's Courts figures do not include committals to Higher Courts. This makes the recording of committals from Children's Courts consistent with the recording of committals from Local Courts.

**Dr Don Weatherburn**  
**Director**

August 2009

## ACKNOWLEDGEMENTS

The Bureau is grateful for the support provided by court staff, the Department of Juvenile Justice and the NSW Office of Liquor, Gaming and Racing in supplying the data for this report.

The data for most Local Court matters were obtained from the General Local Courts (GLC) computer system with the assistance and co-operation of the GLC support team in Local Courts and the Information Services Branch. Data for matters finalised in non-computerised Local Courts were provided by the court staff who completed and returned coding forms for each person appearing before the Local Courts on criminal charges. Data for Children's Courts matters finalised in non-computerised courts are provided to the Bureau by the Department of Juvenile Justice.

The data for the Higher Courts were obtained from the new JusticeLink System, an administrative computer system used by District Court Registries from February 2008. The Bureau would like to express its gratitude for the assistance provided by the Information Services Branch and the District Court Criminal Registries in obtaining the information from the computer system.

Data from the Licensing Court provided by the NSW Office of Liquor, Gaming and Racing underwent additional processing before being incorporated into the report.

The following officers of the NSW Bureau of Crime Statistics and Research also contributed significantly to the production of this report:

- Team management: Tracy Painting, Jacqueline Fitzgerald
- Programming and table production: Derek Goh, Matthew Holmes,
- Data collection and validation: Rita Breheny, Lucy Daher, Teresa Slowik
- Data analysis and text: Derek Goh, Aneta Di Marco
- Desktop publishing: Derek Goh, Florence Sin
- Checking and editing publication: Jessie Holmes, Jacqueline Fitzgerald

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# **NEW SOUTH WALES CRIMINAL COURTS**

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Executive Summary



**SUMMARY - LOCAL COURTS****PERSONS CHARGED AND CHARGES (TABLES 1.1 AND 1.2)**

	<b>2007</b>	<b>2008</b>
<b>Total finalisations</b>		
Persons charged	136,312	138,872
Charges determined	241,570	246,196
<b>Most frequently charged offence</b>		
Acts intended to cause injury		
- Non-aggravated assault	32,082	32,940
Road traffic and motor vehicle regulatory offences		
- Exceeding the PCA limit	26,425	28,408
- Driving while licence cancelled, suspended or disqualified	17,810	19,398
- Driving without a licence	13,355	12,865
<b>Outcome of charges</b>		
Percentage proven		
- Accused present	66.2	68.0
- Conviction ex parte	16.7	14.6
Percentage receiving other outcomes	17.1	17.3*

**PERSONS CHARGED (TABLES 1.3 TO 1.6)**

	<b>2007</b>	<b>2008</b>
<b>Outcome of appearance</b>		
Number of defended hearings	17,348	17,964
- Percentage of finalised appearances with defended hearings	12.7	12.9
Number of persons found guilty	119,085	120,910
- Percentage of persons found guilty	87.4	87.1
<b>Outcome of appearance - Aboriginal and Torres Strait Islander persons</b>		
Number of persons appearing	19,143	18,901
Number of defended hearings	2,848	2,921
- Percentage of finalised appearances with defended hearings	14.9	15.5
Number of persons found guilty	16,374	16,053
- Percentage of persons found guilty	85.5	84.9
<b>Legal representation</b>		
Number of persons represented	77,983	82,121
- Percentage of finalised appearances where persons were represented	57.2	59.1
Percentage of persons found guilty		
- Percentage of represented persons found guilty	84.6	84.4
- Percentage of unrepresented persons found guilty	91.2	91.1

**SUMMARY - LOCAL COURTS** *continued*

<b>Bail status</b>	<b>2007</b>	<b>2008</b>
Number of persons refused bail	8,010	8,480
- Percentage of persons refused bail	5.9	6.1
Number of persons granted bail	38,801	40,018
- Percentage of persons granted bail	28.5	28.8
Number of persons where bail dispensed with	85,220	86,121
- Percentage of persons where bail dispensed with	62.5	62.0

**PENALTIES (TABLES 1.7 TO 1.10)**

<b>Imprisonment</b>	<b>2007</b>	<b>2008</b>
Number of persons sentenced to imprisonment	7,764	8,233
- Persons sentenced to imprisonment as a percentage of all persons found guilty	6.9	7.2
<b>Persons sentenced to imprisonment as a percentage of all persons found guilty <sup>1</sup></b>		
Highest imprisonment rates		
- Unlawful entry with intent/burglary, break and enter	48.5	48.5
- Motor vehicle theft and related offences	39.6	41.6
- Deal or traffic in illicit drugs	26.5	30.9
<b>Highest number of persons sentenced to imprisonment</b>		
Assault	1,512	1,625
Breach of justice order	1,405	1,411
Driving licence offences	920	937
<b>Most frequently imposed principal penalty</b>		
Fine	53,616	52,978
Bond without supervision	13,299	14,112
Bond without conviction	11,879	13,041
<b>Average duration of imprisonment for offences with highest imprisonment rates (months)<sup>1</sup></b>		
Unlawful entry with intent/burglary, break and enter	8.5	8.7
Motor vehicle theft and related offences	6.8	7.4
Deal or traffic in illicit drugs	6.7	6.1
All offences	5.8	5.8
<b>Imprisonment - Aboriginal and Torres Strait Islander</b>		
Number of persons sentenced to imprisonment	2,586	2,857
- Percentage of persons found guilty sentenced to imprisonment	18.1	19.5
<b>Persons sentenced to imprisonment as a percentage of all persons found guilty – Aboriginal and Torres Strait Islander</b>		
Highest imprisonment rates <sup>2</sup>		
- Unlawful entry with intent/burglary, break and enter	59.1	67.8
- Motor vehicle theft and related offence	48.2	47.4
- Deal or traffic in illicit drugs	42.2	44.7



**SUMMARY - LOCAL COURTS** *continued*

<b>Highest number of persons sentenced to imprisonment – Aboriginal and Torres Strait Islander</b>	<b>2007</b>	<b>2008</b>
Assault	680	724
Breach of justice order	478	532
Theft (except motor vehicles)	228	278
Driving licence offences	230	239
<b>Most frequently imposed principal penalty – Aboriginal and Torres Strait Islander</b>		
Fine	5,373	5,148
Imprisonment	2,586	2,857
Bond without supervision	1,770	1,962
<b>Average duration of imprisonment for offences with highest imprisonment rates (months) – Aboriginal and Torres Strait Islander<sup>2</sup></b>		
Unlawful entry with intent/burglary, break and enter	8.2	8.7
Motor vehicle theft and related offences	5.5	7.4
Deal or traffic in illicit drugs	6.7	6.1
All offences	5.6	5.8

**PERSONS FOUND GUILTY, BY AGE AND GENDER (TABLES 1.11 TO 1.11B)**

<b>Gender of persons found guilty</b>	<b>2007</b>	<b>2008</b>
Percentage male	80.4	80.0
Percentage female	19.6	20.0
<b>Most common proven offences for males and females<sup>2</sup></b>		
Percentage male		
- Sexual assault	98.8	99.2
- Regulated weapons/explosives offences	95.6	94.0
- Prohibited weapons/explosives offences	94.1	93.4
Percentage female		
- Fraud, forgery or false financial instruments	44.6	43.0
- Theft (except motor vehicle)	40.8	38.0
- Dishonest conversion	36.3	36.8
<b>Average age of persons found guilty</b>		
All persons	33.0	33.4
- Male	32.9	33.3
- Female	33.6	33.7
<b>Average age of all persons found guilty of specific offences<sup>2</sup></b>		
Highest age		
- Offences against government operations	43.3	44.5
- Commercial/industry/financial regulations	41.3	42.8
- Regulated weapons/explosives offences	40.0	42.0
Lowest age		
- Motor vehicle theft and related offences	27.6	27.7
- Unlawful entry with intent/burglary, break and enter	28.8	28.9
- Property damage	29.3	29.5

**SUMMARY - LOCAL COURTS** *continued***COURT DELAY (TABLE 1.12)**

<b>Median delay, offence to determination (days)</b>	<b>2007</b>	<b>2008</b>
Defended hearing, on bail	190.0	191.0
- All charges dismissed	183.0	191.0
- Guilty of at least one charge	197.0	193.0
- All charges dismissed without hearing	176.0	175.0
Defended hearing, in custody	157.0	154.0
- All charges dismissed	65.0	66.0
- Guilty of at least one charge	204.5	193.5
- All charges dismissed without hearing	120.0	90.5

**PRIOR PROVEN OFFENCES (TABLE 1.13)**

<b>Percentage of persons found guilty who had no prior proven offences in previous 10 years</b>	<b>2007</b>	<b>2008</b>
Average (all offences)	41.0	41.3
Highest <sup>2</sup>		
- Dangerous and negligent acts endangering persons	60.2	60.6
- Weapons and explosives offences	50.8	54.1
- Deception and related offences	57.0	53.4
Lowest <sup>2</sup>		
- Unlawful entry with intent/burglary, break and enter	13.5	13.2
- Offences against justice procedures, government security and operations	20.8	22.0
- Theft and related offences	31.1	25.6

**APPREHENDED VIOLENCE ORDERS (AVOs) GRANTED (TABLE 1.14)**

<b>Number of AVOs granted (NSW)</b>	<b>2007</b>	<b>2008</b>
Domestic AVOs	22,049	22,684
Personal AVOs	6,129	6,328
<b>Rate of AVOs granted <sup>3</sup></b>		
NSW rates		
Domestic AVOs	320.1	324.8
Personal AVOs	89.0	90.6
Highest rates		
Domestic AVOs		
- Far West (SD)	832.7	1,218.3
- North Western (SD)	752.9	714.4
Personal AVOs		
- Far West (SD)	249.8	378.2
- North Western (SD)	266.9	283.5
Lowest rates		
Domestic AVOs		
- Central Northern Sydney (SSD)	88.4	90.6
- Lower Northern Sydney (SSD)	101.9	101.5
Personal AVOs		
- Central Northern Sydney (SSD)	15.2	15.5
- Lower Northern Sydney (SSD)	24.3	24.6

**SUMMARY - LOCAL COURTS** *continued***REGION (TABLES 1.15 AND 1.16)**

<b>Regional rate of court appearance</b> <sup>3</sup>	<b>2007</b>	<b>2008</b>
Largest decreases		
- Far West (SD)	3,067.9	2,678.5
- Northern Beaches (SSD)	1,218.9	1,092.0
Largest increases		
- Blacktown (SSD)	2,515.3	2,650.8
- Canterbury-Bankstown (SSD)	1,746.0	1,873.3
<b>Highest regional rate of persons found guilty for selected offence categories</b> <sup>3</sup>		
Acts intended to cause injury		
- Far West (SD)	525.9	417.8
- NSW	191.3	191.2
Sexual assault and related offences <sup>4</sup>		
- Central West (SD)	7.3	6.7
- NSW	3.5	3.5
Unlawful entry with intent/burglary, break and enter <sup>4</sup>		
- Hunter (SD)	22.4	21.5
- NSW	14.8	13.4
Theft and related offences		
- Inner Sydney (SSD)	207.7	204.0
- NSW	104.2	86.4
Deception and related offences		
- Inner Sydney (SSD)	67.8	71.7
- NSW	41.0	41.0
Illicit drug offences		
- Inner Sydney (SSD)	200.5	242.6
- NSW	85.4	95.3
Road traffic and motor vehicle regulatory offences		
- Murrumbidgee (SD)	942.7	960.4
- NSW	651.5	678.1

**SUMMARY - LOCAL COURTS** *continued***LICENSING COURT (Tables 1.17 to 1.20<sup>++</sup>)**

	<b>Jan - Jun 2008<sup>5</sup></b>
<b>Total finalisations</b>	
Persons/organisations charged	243
Charges determined	342
<b>Outcome of charges</b>	
Percentage proven	76.9
Percentage dismissed	23.1
<b>Outcome of appearance</b>	
Number of defended hearings	132
- Percentage of finalised appearances with defended hearings	54.3
Number of persons/organisations found guilty	188
- Percentage of finalised appearances where persons/organisations found guilty	77.4
<b>Most frequently imposed principal penalty</b>	
Fine	141
Dismissed without conviction	29

1 Excludes offences with less than 450 persons convicted in 2008

2 Excludes offences with less than 100 persons convicted in 2008

3 Rate per 100,000 population. The 2007 rates are calculated using population figures published in 2007 and 2008 rates are calculated using population figures published in 2008.

4 Excludes Statistical Divisions (SDs) with less than 10 persons convicted in 2008.

5 Figures are based on data from January to June 2008 and therefore should not be compared with annual figures reported in previous publications.

\* Total percentage figure does not equal to 100 due to rounding.

++ The Licensing Court of NSW ceased operation on 1 July 2008. From that date, criminal offences under the Liquor Act 2007, Registered Clubs Act 1976 and associated legislation are dealt with in the Local Court. As a result, no comparison is made with 2007.

**SUMMARY - CHILDREN'S COURTS****APPEARANCES AND OFFENCES PROVEN (TABLE 2.1)**

	2007	2008
<b>Persons charged and offence proven</b>		
Persons charged and appearance finalised	8,829	10,100
Persons with offence proven	6,318	7,373
- Percentage of persons with offence proven	71.6	73.0
<b>Most common principal offence (ASOC subdivision and group)</b>		
Number of persons appearing		
Acts intended to cause injury		
- Non-aggravated assault	1,733	2,040
Unlawful entry with intent /burglary, break and enter	1,099	1,349
Robbery, extortion and related offences		
- Aggravated robbery	649	760
Property damage and environmental pollution		
- Property damage, other	658	730
Disorderly conduct		
- Offensive behaviour	471	553
<b>Percentage of all persons appearing, by principal offence (ASOC subdivision)</b>		
Acts intended to cause injury	21.2	22.2
Theft and related offences	17.5	17.4
Unlawful entry with intent /burglary, break and enter	12.4	13.4

**OUTCOME OF APPEARANCE, BAIL STATUS OF DEFENDANT AT FINAL APPEARANCE (TABLE 2.2)**

<b>Bail Status</b>	2007	2008
Number of persons with bail refused	1,094	1,616
- Percentage of persons with bail refused	12.4	16.0
Number of persons granted bail	4,787	5,536
- Percentage of persons granted bail	54.2	54.8
Number of persons where bail dispensed with	2,919	2,902
- Percentage of persons where bail dispensed with	33.1	28.7

**PENALTY FOR PRINCIPAL OFFENCE (TABLE 2.3)**

<b>Most frequently imposed principal penalty</b>	2007	2008
- Bond	2,175	2,387
- Probation	960	1,434
- Dismissed with caution	1,003	1,183
- Control order	670	788
Percentage of all principal penalties		
- Bond	34.4	32.4
- Dismissed with caution	15.9	16.0
- Probation	15.2	19.4
- Fine	10.6	8.9
<b>Persons with proven offences receiving control orders</b>		
Number of persons with offences proven receiving control orders	670	788
- Percentage of persons with offences proven receiving control orders	10.6	10.7
Highest number		
- Unlawful entry with intent /burglary, break and enter	182	223
- Assault	108	130
- Robbery	86	100
Highest percentage of principal penalties <sup>1</sup>		
- Unlawful entry with intent /burglary, break and enter	22.6	22.9
- Breach of justice order	20.6	19.4
- Robbery	19.5	17.6

**SUMMARY - CHILDREN'S COURTS** *continued***AGE AND GENDER OF DEFENDANTS (TABLES 2.4, 2.4A AND 2.4B)**

<b>Males within age group as a percentage of all males appearing</b>		
	<b>2007</b>	<b>2008</b>
10 to 12	2.5	1.9
13	4.1	4.2
14	7.8	9.4
15	15.8	15.0
16	22.0	22.8
17	30.3	28.7
18 and over	17.5	17.9
<b>Females within age group as a percentage of all females appearing</b>		
	<b>2007</b>	<b>2008</b>
10 to 12	0.8	1.5
13	4.1	5.3
14	12.2	11.7
15	23.0	20.7
16	21.4	24.4
17	25.2	23.3
18 and over	13.4	13.2
<b>Most common offences charged for males and females<sup>1</sup></b>		
	<b>2007</b>	<b>2008</b>
Percentage male	81.0	82.2
- Sexual assault	99.1	99.1
- Unlawful entry with intent /burglary, break and enter	93.6	93.3
- Dangerous or negligent operation of a vehicle	85.5	88.8
Percentage female	19.0	17.8
- Assault	26.7	26.3
- Theft (except motor vehicles)	26.3	26.3
- Breach of justice order	27.9	20.8

**PRIOR PROVEN OFFENCES (TABLE 2.5)**

<b>Percentage of persons found guilty who had no prior proven offences in previous 10 years</b>		
	<b>2007</b>	<b>2008</b>
Average (all offences)	45.6	44.0
Highest <sup>2</sup>		
- Sexual assault and related offences	66.0	80.3
- Robbery, extortion and related offences	61.1	58.4
- Dangerous and negligent acts endangering persons	67.9	57.6
Lowest <sup>2</sup>		
- Offences against justice procedures, government security and operations	32.3	31.1
- Unlawful entry with intent/burglary, break and enter	32.5	32.1
- Theft and related offences	38.1	35.4

<sup>1</sup> Excludes offences with less than 100 persons convicted in 2008.

<sup>2</sup> Excludes offences with less than 50 persons convicted in 2008 and is calculated over the period 1999-2008.

**SUMMARY - HIGHER COURTS\*****REGISTRATIONS (TABLE 3.1)\*\***

	<b>2007</b>	<b>2008</b>
<b>Total cases registered</b>		
Higher Courts	3,296	3,804
- Supreme Court	133	101
- District Court	3,163	3,703
<b>Cases committed for trial</b>		
Higher Courts	1,781	1,993
- Supreme Court	116	96
- District Court	1,665	1,897
<b>Cases committed for sentence</b>		
Higher Courts	1,515	1,811
- Supreme Court	17	5
- District Court	1,498	1,806
<b>Percentage of cases committed for trial</b>		
Higher Courts	54.0	52.4
- Supreme Court	87.2	95.0
- District Court	52.6	51.2

**FINALISATIONS (TABLES 3.2 TO 3.4)**

	<b>2007</b>	<b>2008</b>
<b>Persons</b>		
Total	3,341	3,342
- Committed for trial and finalised by any means	1,893	1,824
- Committed for sentence and finalised	1,448	1,518
<b>Persons proceeded against to trial</b>		
Higher Courts	546	554
- Supreme Court	41	56
- District Court	505	498
<b>Persons committed for trial proceeded against to sentence only</b>		
Higher Courts	1,053	1,015
- Supreme Court	42	42
- District Court	1,011	973
<b>Percentage of persons proceeded against to trial</b>		
Higher Courts	16.3	16.6
- Supreme Court	37.6	47.9
- District Court	15.6	15.4
<b>Most frequently charged offence<sup>++</sup></b>		
Sexual assault and related offences		
- Aggravated sexual assault	1,935	1,932
Unlawful entry with intent/burglary, break & enter	772	1,222
Robbery, extortion and related offences		
- Aggravated robbery	798	1,014
Deal or traffic in illicit drugs	1,045	1,194

**SUMMARY - HIGHER COURTS\*** *continued***NUMBER OF OFFENCES CHARGED (TABLE 3.5)**

<b>Higher Courts</b>	<b>2007</b>	<b>2008</b>
Percentage of persons charged with one offence	40.6	36.5
Percentage of persons charged with two offences	24.7	24.0

**OUTCOME FOR PERSONS (TABLE 3.6)**

	<b>2007</b>	<b>2008</b>
<b>Percentage of persons proceeding to trial</b>		
Higher Courts	16.3	16.6
- Supreme Court	37.6	47.9
- District Court	15.6	15.4
<b>Percentage of persons proceeding to sentence only</b>		
Higher Courts	74.0	75.2
- Supreme Court	55.0	40.2
- District Court	74.6	76.5
<b>Percentage of persons found guilty</b>		
Higher Courts	83.4	84.7

**PENALTIES (TABLES 3.7 AND 3.8)**

<b>Most frequently imposed principal penalty</b>	<b>2007</b>	<b>2008</b>
Imprisonment	1,948	1,926
Suspended sentence	418	477
Bond	182	209
<b>Most frequently imposed principal penalty (percentage of all principal penalties)</b>		
Imprisonment	69.9	67.8
Suspended sentence	15.0	16.8
Bond	6.5	7.4
<b>Average duration of imprisonment for most frequently charged offences (months)</b>		
Average (all offences)	29.6	30.8
Sexual assault	38.1	37.8
Unlawful entry with intent/burglary, break & enter	20.7	22.4
Robbery	24.0	26.1
Deal or traffic in illicit drugs	23.6	25.2



**SUMMARY - HIGHER COURTS\*** *continued***PERSONS FOUND GUILTY BY AGE AND GENDER (TABLES 3.9, 3.9A AND 3.9B)**

<b>Gender of persons found guilty</b>	<b>2007</b>	<b>2008</b>
Percentage male	90.8	90.7
Percentage female	9.2	9.3
<b>Average age of persons found guilty</b>		
Male	31.1	30.5
Female	33.0	32.4
<b>Average age of persons found guilty by offence category<sup>1</sup></b>		
Highest age		
- Sexual assault and related offences	35.7	36.0
- Illicit drug offences	34.5	33.6
Lowest age		
- Robbery, extortion and related offences	25.0	24.7
- Unlawful entry with intent, burglary, break and enter	28.5	28.2

**BAIL STATUS (TABLE 3.10)**

<b>Persons with bail refused</b>	<b>2007</b>	<b>2008</b>
Number of persons with bail refused	1,584	1,730
Percentage of all finalisations with bail refused	47.4	51.8
<b>Outcome for persons with bail refused</b>		
Number of persons with guilty outcome	1441	1581
Percentage of persons with guilty outcome	91.0	91.4

**COURT DELAY (TABLES 3.11A TO 3.11H)**

<b>District Courts - Median delay, committal to outcome (days)</b>	<b>2007</b>	<b>2008</b>
On bail, proceeded to trial	267.0	257.0
- Acquitted of all charges	264.0	259.5
- Found guilty of at least one charge	287.0	242.0
On bail, proceeded to sentence only	155.5	163.0
On bail, no charges proceeded with	169.5	206.0
In custody, proceeded to trial	188.0	216.0
- Acquitted of all charges	138.5	190.0
- Found guilty of at least one charge	210.0	240.0
In custody, proceeded to sentence only	121.0	135.0
In custody, no charges proceeded with	143.0	155.0

**SUMMARY - HIGHER COURTS\*** *continued***PRIOR PROVEN OFFENCES (TABLE 3.12)**

Percentage of persons found guilty who had no prior proven offences in previous 10 years	2007	2008
Average (all offences)	28.6	29.2
Highest <sup>2</sup>		
- Deception and related offences	59.8	68.9
- Sexual assault and related offences	50.4	51.0
Lowest <sup>2</sup>		
- Unlawful entry with intent/burglary, break & enter	9.4	12.7
- Robbery, extortion and related offences	15.1	14.6

**APPEALS (TABLE 3.13)\*\***

Appeals against severity of sentence	2007	2008
Number of appeals finalised	5,245	5,614
- Appeal upheld for all matters (%)	55.1	61.4
- Appeal dismissed for all matters (%)	33.8	29.2
<b>Appeals against conviction and sentence</b>		
Number of appeals finalised	1,315	1,299
- Appeal upheld for all matters (%)	31.7	28.6
- Appeal dismissed for all matters (%)	60.5	66.3
<b>Appeals against inadequacy of sentence</b>		
Number of appeals finalised	34	19
- Appeal upheld for all matters (%)	26.5	36.8
- Appeal dismissed for all matters (%)	64.7	52.6
<b>Appeals against Apprehended Violence Orders</b>		
Number of appeals finalised	215	151
- Appeal upheld for all matters (%)	22.8	13.9
- Appeal dismissed for all matters (%)	73.5	86.1

1 Excludes offences with less than 100 persons convicted in 2008.

2 Excludes offences with less than 50 persons convicted in 2008.

\* From 2008, the counting unit for Higher Court data changed. We now count people in finalised cases. All matters finalised for an accused on the same date are consolidated into one count. Consequently these data should not be directly compared with that published in prior reports. In Tables 3.2 to 3.4, data for 2007 has been recalculated to provide comparative person-based figures with the 2008 data. See Explanatory Notes (pp. 129-135) for details concerning changes to the Higher Courts tables.

\*\* This table includes cases where companies and persons are accused.

++ Refer to Explanatory Notes (page 131) regarding number of offences charged.

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**SECTION 1:  
NEW SOUTH WALES  
LOCAL COURTS**

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Tables

**TABLE 1.1**  
**PERSONS CHARGED AND NUMBER OF CHARGES IN LOCAL COURT APPEARANCES FINALISED:**  
**TYPE OF OFFENCE CHARGED**

<i>Type of offence charged</i>	<i>Persons charged*</i>		<i>Charges</i>	
	<i>No.</i>	<i>No.</i>	<i>No.</i>	<i>No.</i>
<i>Division / Subdivision / Group</i>				
<b>Homicide and related offences</b>				
Manslaughter and driving causing death		51		52
<b>Total</b>		51		52
<b>Acts intended to cause injury</b>				
Assault		929		975
Aggravated assault			25,886	32,940
Non-aggravated assault			61	63
Acts intended to cause injury, other			26,298	33,978
<b>Total</b>				
<b>Sexual assault and related offences</b>				
Sexual assault		568		773
Aggravated sexual assault			95	101
Non-aggravated sexual assault			1	1
Non-assaultive sexual offences against a child			42	51
Non-assaultive sexual offences, other			676	926
<b>Total</b>		294		447
<i>Sexual offences against children*</i>				
<b>Dangerous and negligent acts endangering persons</b>				
Dangerous or negligent operation of a vehicle			1,302	1,339
Driving under the influence of alcohol or drugs			6,707	7,551
Dangerous or negligent driving			44	46
Neglect of person under care			85	87
Other dangerous or negligent acts endangering persons, other			7,798	9,023
<b>Total</b>				
<b>Abduction and related offences</b>				
Deprivation of liberty, false imprisonment		1		1
<b>Total</b>		1		1
<b>Robbery, extortion and related offences</b>				
Robbery		40		40
Aggravated robbery			98	111
Non-aggravated robbery			4	4
Blackmail and extortion			140	155
<b>Total</b>				

\* 'Sexual offences against children' is not a category within ASOC. These offences are also counted in the appropriate ASOC categories - Sexual assault and Non-assaultive sexual offences.

<b>Unlawful entry with intent/burglary, break and enter</b>		2,377	2,974
<b>Theft and related offences</b>			
Motor vehicle theft and related offences			
Theft (except motor vehicles)	Theft of motor vehicle	185	197
	Illegal use of motor vehicle	1,362	1,522
	Theft from a person (excluding by force)	401	450
	Theft of intellectual property	41	178
	Theft from retail premises	3,515	4,107
	Theft (except motor vehicles), other	4,091	4,901
Receiving or handling proceeds of crime	Receiving or handling proceeds of crime	5,464	7,121
Illegal use of property (except motor vehicles)	Illegal use of property (except motor vehicles)	2	2
<b>Total</b>		12,798	18,478
<b>Deception and related offences</b>			
Fraud, forgery or false financial instruments	Cheque or credit card fraud	100	191
	Make, use or possess equipment to make false or illegal financial instrument	760	1,760
	Fraudulent trade practices	40	82
	Prescription drug fraud	122	183
	Fare evasion	5	6
	Fraud, other	3,092	5,782
Counterfeiting currency and related offences	Counterfeiting currency	24	40
Dishonest conversion	Dishonest conversion	636	1,063
Bribery	Bribery involving Government officials	5	7
	Bribery, other	1	1
Other deception offences	Misrepresentation of professional status	89	109
	Non-fraudulent trade practices	2	2
	Deception offences, other	749	831
<b>Total</b>		5,127	10,057
<b>Illicit drug offences</b>			
Import or export illicit drugs	Import illicit drugs	1	2
Deal or traffic in illicit drugs	Deal or traffic in illicit drugs, non-commercial quantity	1,267	1,422
Manufacture or cultivate illicit drugs	Manufacture or cultivate illicit drugs	840	855
Possess and/or use illicit drugs	Possess illicit drug	9,548	10,552
	Use illicit drug	327	329
Other illicit drug offences	Illicit drug offences, other	748	780
<b>Total</b>		10,711	13,940

Table continues on next page

TABLE 1.1 continued

Type of offence charged	Persons charged *		Charges	
	Division / Subdivision / Group	No.	No.	No.
<b>Weapons and explosives offences</b>				
Prohibited weapons or explosives offences		629	696	
Regulated weapons or explosives offences	Sell, possess and/or use prohibited weapons or explosives Prohibited weapons or explosives offences, other Unlawfully obtain or possess regulated weapons or explosives Misuse of regulated weapons or explosives	50 745 567	52 1,141 650	
	Deal or traffic regulated weapons or explosives offences Regulated weapons or explosives offences, other	13 20 1,466	17 24 2,580	
<b>Total</b>				
<b>Property damage and environmental pollution</b>				
Property damage	Property damage by fire or explosion Graffiti	160 91	197 103	
Environmental pollution	Property damage, other Water pollution offences Noise pollution offences Environmental pollution offences, other	10,031 58 34 290 10,603	10,994 59 34 308 11,695	
<b>Total</b>				
<b>Public order offences</b>				
Disorderly conduct	Trespass Offensive language Offensive behaviour Criminal intent Conspiracy	2,817 3,225 6,971 1,442 5	2,954 3,273 7,636 1,597 5	
Regulated public order offences	Disorderly conduct, other Betting and gambling offences Liquor and tobacco offences Censorship offences Prostitution offences Offences against public order sexual standards Regulated public order offences, other	532 25 1,079 147 101 259 27 14,789	953 26 1,132 273 102 272 27 18,250	
<b>Total</b>				

<b>Road traffic and motor vehicle regulatory offences</b>	
Driving licence offences	17,377
Driving while licence cancelled, suspended or disqualified	19,398
Driving without a licence	11,740
Driving licence offences, other	267
Registration offences	8,224
Exceeding the prescribed content of alcohol limit *	27,909
Regulatory driving offences, other	10,744
<b>Total</b>	<b>58,044</b>
<b>Offences against justice procedures, government security and government operations</b>	
Breach of justice order	203
Escape custody offences	210
Breach of bail	2,876
Breach of domestic violence order	3,430
Breach of other restraining order	6,185
Breach of justice order, other	886
Subvert the course of justice	5,650
Resist or hinder police officer or justice official	114
Prison regulation offences	7,348
Offences against justice procedures, other	327
Offences against government security, other	447
Offences against government security, other	16
Resist or hinder government official	237
Offences against government operations, other	1,362
<b>Total</b>	<b>23,639</b>
	<b>31,442</b>

Table continues on next page

TABLE 1.1 continued

Type of offence charged Division / Subdivision / Group	Persons charged *		Charges	
	No.	No.	No.	No.
<b>Miscellaneous offences</b>				
Harassment and related offences		3,923		4,213
Public health and safety offences		1,527		1,752
Commercial, industry or financial regulations		1,001		1,356
Other miscellaneous offences		780		1,345
		232		344
		10		13
		79		103
		454		486
		8,611		10,725
<b>Total</b>				
<b>Grand Total ^</b>		<b>138,872</b>		<b>246,196</b>

\* 'Persons charged' counts the number of people charged with the specified offence. A person who is charged with more than one offence within an offence group (for example, a person charged with both theft of a motor vehicle and theft from retail premises) is counted only once in the offence division total.

^ The grand total is a count of the total number of distinct persons charged in Local Court appearances finalised. For 'charges', all totals simply sum over the offence categories.

# Parking offences under the Local Government Act 1993 (NSW) have been removed this year as they are out of scope with the offences reported in this collection. Therefore, regulatory driving offences this year cannot be directly compared to prior publications.

‡ PCA-high - 4,716 persons appearing and 4,783 charges

PCA-medium - 12,865 persons appearing and 13,055 charges

PCA-low - 8,074 persons appearing and 8,229 charges

PCA-special - 2,210 persons appearing and 2,297 charges



TABLE 1.2

**CHARGES IN LOCAL COURT APPEARANCES FINALISED:  
OUTCOME OF CHARGE**

<i>Outcome of charge</i>	<i>Charges</i>	
	<i>No.</i>	<i>%</i>
<b>Offence proven</b>		
Conviction	167,521	68.0
Conviction ex parte	36,047	14.6
<b>Other outcomes</b>		
Dismissed after hearing	8,719	3.5
Dismissed <i>Mental Health (Criminal Procedure) Act</i>	4,045	1.6
Adjourned to Drug Court	1,463	0.6
Stood out of list	171	0.1
Arrest warrant issued	2,847	1.2
Death of accused	135	0.1
Non-appearance of parties	303	0.1
Withdrawn - no evidence offered	24,945	10.1
<b>Total</b>	<b>246,196</b>	<b>100.0</b>

TABLE 1.3

**PERSONS CHARGED IN LOCAL COURT APPEARANCES FINALISED:  
OUTCOME OF APPEARANCE**

<b>Outcome of appearance</b>	<b>Persons charged</b>	
	<b>No.</b>	<b>%</b>
<b>Proceeded to defended hearing</b>		
All charges dismissed	5,912	4.3
Guilty of at least one charge	11,088	8.0
Other*	964	0.7
<b>Sentenced after guilty plea</b>	<b>85,335</b>	<b>61.4</b>
<b>Convicted ex parte</b>	<b>23,523</b>	<b>16.9</b>
<b>Arrest warrant issued</b>	<b>1,450</b>	<b>1.0</b>
<b>All charges dismissed without hearing</b>	<b>10,086</b>	<b>7.3</b>
<b>All charges otherwise disposed of</b>	<b>514</b>	<b>0.4</b>
<b>Total</b>	<b>138,872</b>	<b>100.0</b>

\* The category 'Proceeded to defended hearing: Other' includes persons for whom one or more charges were dismissed after a defended hearing, but who either (1) pleaded guilty to other charges or (2) were convicted ex parte of other charges.

TABLE 1.4

**ABORIGINAL AND TORRES STRAIT ISLANDER PERSONS  
CHARGED IN LOCAL COURT APPEARANCES FINALISED:  
OUTCOME OF APPEARANCE**

<b>Outcome of appearance</b>	<b>Persons charged</b>	
	<b>No.</b>	<b>%</b>
<b>Proceeded to defended hearing</b>		
All charges dismissed	862	4.6
Guilty of at least one charge	1,872	9.9
Other*	187	1.0
<b>Sentenced after guilty plea</b>	<b>10,593</b>	<b>56.0</b>
<b>Convicted ex parte</b>	<b>3,402</b>	<b>18.0</b>
<b>Arrest warrant issued</b>	<b>345</b>	<b>1.8</b>
<b>All charges dismissed without hearing</b>	<b>1,576</b>	<b>8.3</b>
<b>All charges otherwise disposed of</b>	<b>65</b>	<b>0.3</b>
<b>Total</b>	<b>18,902</b>	<b>100.0</b>

\* The category 'Proceeded to defended hearing: Other' includes persons for whom one or more charges were dismissed after a defended hearing, but who either (1) pleaded guilty to other charges or (2) were convicted ex parte of other charges.

TABLE 1.5

PERSONS CHARGED IN LOCAL COURT APPEARANCES FINALISED:  
OUTCOME OF APPEARANCE, LEGAL REPRESENTATION

Outcome of appearance	Legal representation							
	Represented		Not represented		Company/ Corporate body		Total	
	No.	%	No.	%	No.	%	No.	%
<b>Proceeded to defended hearing</b>								
All charges dismissed	5,105	6.2	787	1.4	20	1.0	5,912	4.3
Guilty of at least one charge	8,372	10.2	2,613	4.8	103	5.4	11,088	8.0
Other*	856	1.0	107	0.2	1	0.1	964	0.7
<b>Sentenced after guilty plea</b>	<b>58,738</b>	<b>71.5</b>	<b>26,039</b>	<b>47.5</b>	<b>558</b>	<b>29.1</b>	<b>85,335</b>	<b>61.4</b>
<b>Convicted ex parte</b>	<b>1,382</b>	<b>1.7</b>	<b>21,169</b>	<b>38.6</b>	<b>972</b>	<b>50.7</b>	<b>23,523</b>	<b>16.9</b>
<b>Arrest warrant issued</b>	<b>104</b>	<b>0.1</b>	<b>1,346</b>	<b>2.5</b>	<b>-</b>	<b>-</b>	<b>1,450</b>	<b>1.0</b>
<b>All charges dismissed without hearing</b>	<b>7,175</b>	<b>8.7</b>	<b>2,649</b>	<b>4.8</b>	<b>262</b>	<b>13.7</b>	<b>10,086</b>	<b>7.3</b>
<b>All charges otherwise disposed of</b>	<b>389</b>	<b>0.5</b>	<b>122</b>	<b>0.2</b>	<b>3</b>	<b>0.2</b>	<b>514</b>	<b>0.4</b>
<b>Total</b>	<b>82,121</b>	<b>100.0</b>	<b>54,832</b>	<b>100.0</b>	<b>1,919</b>	<b>100.0</b>	<b>138,872</b>	<b>100.0</b>

\* The category 'Proceeded to defended hearing: Other' includes persons for whom one or more charges were dismissed after a defended hearing, but who either (1) pleaded guilty to other charges or (2) were convicted ex parte of other charges.

**TABLE 1.6**  
**PERSONS CHARGED IN LOCAL COURT APPEARANCES FINALISED:**  
**OUTCOME OF APPEARANCE, BAIL STATUS**

	Bail status											
	Bail not required or bail dispensed with		On bail		Refused		In custody, prior offence		Unknown, N/A, Company/ Corporate body		Total	
Outcome of appearance	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
<b>Proceeded to defended hearing</b>												
All charges dismissed	2,516	2.9	2,776	6.9	561	6.6	39	1.7	20	1.0	5,912	4.3
Guilty of at least one charge	4,838	5.6	4,307	10.8	1,390	16.4	449	19.4	103	5.4	11,088	8.0
Other*	325	0.4	478	1.2	125	1.5	35	1.5	1	0.1	964	0.7
<b>Sentenced after guilty plea</b>	55,301	64.2	22,014	55.0	5,797	68.4	1,654	71.4	558	29.1	85,335	61.4
<b>Convicted ex parte</b>	17,454	20.3	4,994	12.5	97	1.1	4	0.2	972	50.7	23,523	16.9
<b>Arrest warrant issued</b>	978	1.1	472	1.2	-	-	-	-	-	-	1,450	1.0
<b>All charges dismissed without hearing</b>	4,622	5.4	4,870	12.2	210	2.5	120	5.2	262	13.7	10,086	7.3
<b>All charges otherwise disposed of</b>	87	0.1	107	0.3	300	3.5	17	0.7	3	0.2	514	0.4
<b>Total</b>	<b>86,121</b>	<b>100.0</b>	<b>40,018</b>	<b>100.0</b>	<b>8,480</b>	<b>100.0</b>	<b>2,318</b>	<b>100.0</b>	<b>1,919</b>	<b>100.0</b>	<b>138,872</b>	<b>100.0</b>

\* The category 'Proceeded to defended hearing : Other' includes persons for whom one or more charges were dismissed after a defended hearing, but who either (1) pleaded guilty to other charges or (2) were convicted ex parte of other charges.

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**SECTION 3:  
NEW SOUTH WALES  
HIGHER COURTS**

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Tables

**TABLE 3.1**  
**TRIAL AND SENTENCE CASES REGISTERED:\***  
**REGISTRY, TYPE OF COMMITTAL**

Registry	Type of committal						Total
	Committed for trial		Committed for sentence		Total		
	No.	%	No.	%	No.	%	
Supreme Court	96	4.8	5	0.3	101	2.7	
District Court:							
Dubbo	96	4.8	79	4.4	175	4.6	
Lismore	107	5.4	118	6.5	225	5.9	
Newcastle	293	14.7	298	16.5	591	15.5	
Sydney	614	30.8	590	32.6	1,204	31.7	
Sydney West	579	29.1	524	28.9	1,103	29.0	
Wagga Wagga	69	3.5	66	3.6	135	3.5	
Wollongong	139	7.0	131	7.2	270	7.1	
<b>Total</b>	<b>1,993</b>	<b>100.0</b>	<b>1,811</b>	<b>100.0</b>	<b>3,804</b>	<b>100.0</b>	

\* This table includes companies and persons

TABLE 3.2

PERSONS CHARGED IN TRIAL AND SENTENCE APPEARANCES FINALISED:\*  
REGISTRY, TYPE OF COMMITTAL, METHOD OF FINALISATION

Registry	Type of committal	Proceeded to trial		Proceeded to sentence only		Method of finalisation		All charges otherwise disposed of		Proven outcome not further described#		Total	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Supreme Court	Committed for trial	56	50.0	42	37.5	9	8.0	5	4.5	-	-	112	100.0
	Committed for sentence	-	-	5	100	-	-	-	-	-	-	5	100.0
District Court	Committed for trial	494	28.9	973	56.8	205	12.0	24	1.4	16	0.9	1,712	100.0
	Committed for sentence	4	0.3	1,493	98.7	7	0.5	9	0.6	-	-	1,513	100.0
Dubbo	Committed for trial	33	31.1	61	57.5	8	7.5	3	2.8	1	0.9	106	100.0
	Committed for sentence	-	-	75	100.0	-	-	-	-	-	-	75	100.0
Lismore	Committed for trial	32	30.5	55	52.4	16	15.2	2	1.9	-	-	105	100.0
	Committed for sentence	-	-	113	100.0	-	-	-	-	-	-	113	100.0
Newcastle	Committed for trial	56	24.6	141	61.8	29	12.7	2	0.9	-	-	228	100.0
	Committed for sentence	-	-	237	99.2	1	0.4	1	0.4	-	-	239	100.0
Sydney	Committed for trial	204	32.3	351	55.5	65	10.3	7	1.1	5	0.8	632	100.0
	Committed for sentence	2	0.4	441	97.6	4	0.9	5	1.1	-	-	452	100.0
Sydney West	Committed for trial	125	26.5	261	55.4	69	14.6	7	1.5	9	1.9	471	100.0
	Committed for sentence	1	0.2	443	98.7	2	0.4	3	0.7	-	-	449	100.0
Wagga Wagga	Committed for trial	13	26.0	28	56.0	7	14.0	1	2.0	1	2.0	50	100.0
	Committed for sentence	-	-	55	100.0	-	-	-	-	-	-	55	100.0
Wollongong	Committed for trial	31	25.8	76	63.3	11	9.2	2	1.7	-	-	120	100.0
	Committed for sentence	1	0.8	129	99.2	-	-	-	-	-	-	130	100.0
All Registries	Committed for trial	550	30.2	1,015	55.6	214	11.7	29	1.6	16	0.9	1,824	100.0
	Committed for sentence	4	0.3	1,498	98.7	7	0.5	9	0.6	-	-	1,518	100.0
<b>Total</b>		<b>554</b>	<b>16.6</b>	<b>2,513</b>	<b>75.2</b>	<b>221</b>	<b>6.6</b>	<b>38</b>	<b>1.1</b>	<b>16</b>	<b>0.5</b>	<b>3,342</b>	<b>100.0</b>

\* The category 'Proven outcome not further described' includes persons who received a sentence but where there was insufficient data to determine whether they had proceeded to trial or to sentence only.  
\* This table includes 5 companies. These are excluded from all other tables.

TABLE 3.3

**PERSONS CHARGED IN TRIAL AND SENTENCE APPEARANCES FINALISED:  
YEAR OF COMMITTAL, JURISDICTION, TYPE OF COMMITTAL**

Year of committal	Jurisdiction						Total
	Supreme Court		District Court		Total		
	Committed for trial	Committed for sentence	Committed for trial	Committed for sentence	Committed for trial	Committed for sentence	
2004 or earlier	7	0	15	4	22	4	
2005	1	0	32	0	33	0	
2006	10	0	218	31	228	31	
2007	70	4	931	553	1,001	557	
2008	17	1	498	921	515	922	
Unknown	7	0	15	2	22	2	
<b>Total</b>	<b>112</b>	<b>5</b>	<b>1,709</b>	<b>1,511</b>	<b>1,821</b>	<b>1,516</b>	



**TABLE 3.4**  
**PERSONS CHARGED AND NUMBER OF CHARGES IN TRIAL AND SENTENCE APPEARANCES FINALISED:**  
**TYPE OF OFFENCE CHARGED**

<i>Type of offence charged</i> <i>Division / Subdivision / Group</i>	<i>Persons charged*</i>		<i>Charges</i> <i>No.</i>
	<i>No.</i>	<i>No.</i>	
<b>Homicide and related offences</b>			
Murder	84		89
Conspiracies and attempts to murder	7		9
Manslaughter and driving causing death	36		40
	59		62
<b>Total</b>	<b>38</b>	<b>48</b>	<b>248</b>
<b>Acts intended to cause injury</b>			
Assault	347		450
Other acts intended to cause injury	459		699
<b>Total</b>	<b>15</b>	<b>18</b>	<b>1,167</b>
<b>Sexual assault and related offences</b>			
Sexual assault	464		1,932
Non-assaultive sexual offences	15		51
	15		29
<b>Total</b>	<b>3</b>	<b>4</b>	<b>2,016</b>
<i>Sexual offences against children*</i>	479		2,016
	287		1,344

Table continues on next page

# Sexual offences against children is not a category within ASOC. These offences are also counted in the appropriate ASOC categories - sexual assault and non-assaultive sexual offences.

TABLE 3.4 continued

<i>Type of offence charged</i>	<i>Persons charged*</i>	<i>Charges</i>
<i>Division / Subdivision / Group</i>	<i>No.</i>	<i>No.</i>
<b>Dangerous and negligent acts endangering persons</b>		
Dangerous or negligent operation of a vehicle	25	31
Driving under the influence of alcohol or drugs		
Dangerous or negligent driving	42	55
Other dangerous or negligent acts endangering persons	1	2
Neglect of person under care	4	5
Other dangerous or negligent acts endangering persons, other	69	93
<b>Total</b>		
<b>Abduction and related offences</b>		
Abduction and kidnapping	108	137
Deprivation of liberty/false imprisonment	7	29
<b>Total</b>	114	166
<b>Robbery, extortion and related offences</b>		
Robbery	618	1,014
Aggravated robbery		
Non-aggravated robbery	86	119
Blackmail and extortion	1	1
<b>Total</b>	671	1,134
<b>Unlawful entry with intent/burglary, break and enter</b>		
<b>Theft and related offences</b>		
Motor vehicle theft and related offences	554	1,222
Theft of motor vehicle	50	60
Illegal use of motor vehicle	114	207
Theft from a person (excluding by force)	50	60
Theft from retail premises	2	3
Theft (except motor vehicles)	89	133
Theft (except motor vehicles), other		
Receiving or handling proceeds of crime	246	413
<b>Total</b>	489	876

<b>Deception and related offences</b>			
Fraud, forgery or false financial instruments	Make, use or possess equipment to make false/illegal financial instrument	42	457
	Fraudulent trade practices	17	45
	Fraud, other	99	462
Dishonest conversion	Counterfeiting currency	3	5
	Dishonest conversion	16	61
Bribery	Bribery involving government officials	5	23
Other deception offences	Misrepresentation of professional status	1	2
	Deception offences, other	8	21
<b>Total</b>		<b>152</b>	<b>1,076</b>
<b>Illicit drug offences</b>			
Import or export illicit drugs	Import illicit drugs	81	91
Deal or traffic in illicit drugs	Deal or traffic in illicit drugs, commercial quantity	183	223
	Deal or traffic in illicit drugs, non-commercial quantity	502	836
Manufacture or cultivate illicit drugs	Manufacture or cultivate illicit drugs	119	135
Possess and/or use illicit drugs	Possess illicit drug	220	309
	Use illicit drug	8	9
Other illicit drug offences	Illicit drug offences, other	33	36
<b>Total</b>		<b>809</b>	<b>1,643</b>
<b>Weapons and explosives offences</b>			
Prohibited weapons or explosives offences	Sell, possess and/or use prohibited weapons or explosives	83	121
	Prohibited weapons or explosives offences, other	4	4
Regulated weapons or explosives offences	Unlawfully obtain or possess regulated weapons or explosives	88	164
	Misuse of regulated weapons or explosives	57	88
	Deal or traffic regulated weapons or explosives offences	8	13
<b>Total</b>		<b>156</b>	<b>390</b>
<b>Property damage and environmental pollution</b>			
Property damage	Property damage by fire or explosion	40	52
	Property damage, other	91	144
<b>Total</b>		<b>127</b>	<b>196</b>

Table continues on next page

TABLE 3.4 continued

Type of offence charged Division / Subdivision / Group	Persons charged*	Charges No.
<b>Public order offences</b>		
Disorderly conduct		
Trespass	9	9
Offensive language	2	2
Offensive behaviour	86	92
Criminal intent	72	88
Conspiracy	2	2
Disorderly conduct, other	2	2
Liquor and tobacco offences	3	3
Censorship offences	33	83
Prostitution offences	1	1
Offences against public order sexual standards	2	5
Regulated public order offences, other	1	1
<b>Total</b>	<b>198</b>	<b>288</b>
<b>Road traffic and motor vehicle regulatory offences</b>		
Driving licence offences		
Driving while licence cancelled, suspended or disqualified	46	57
Driving without a licence	27	32
Driving licence offences, other	5	7
Road vehicle registration and roadworthiness offences	14	17
Regulatory driving offences	8	8
Exceeding the prescribed content of alcohol limit	4	4
Exceeding legal speed limit		
Regulatory driving offences, other	18	20
<b>Total</b>	<b>90</b>	<b>145</b>

### Offences against justice procedures, government security and government operations

Breach of justice order	11	14
Escape custody offences	7	8
Breach of bail	19	21
Breach of domestic violence order	1	1
Breach of other restraining order	4	4
Subvert the course of justice	34	46
Resist or hinder police officer or justice official	44	53
Offences against justice procedures, other	25	31
Offences against government security, other	1	1
Resist or hinder government official	2	2
Offences against government operations, other	1	1
<b>Total</b>	<b>139</b>	<b>182</b>
<b>Miscellaneous offences</b>		
Harassment and related offences	24	40
Harassment and private nuisance	1	1
Offences against privacy	13	20
Threatening behaviour	1	1
Occupational health and safety offences	24	31
Licit drug offences	2	2
Public health and safety offences, other	2	2
Commercial/industry/financial regulations	23	76
Other miscellaneous offences	2	2
Environmental regulation offences	3	9
Immigration regulation offences	2	2
Quarantine offences	7	25
Import/export regulations	1	1
Miscellaneous offences, other	100	210
<b>Total</b>	<b>1</b>	<b>1</b>
<b>Offence Unknown</b>	<b>3,337</b>	<b>11,053</b>
<b>Grand Total</b>		

\* 'Persons charged' counts the number of people charged with the specified offence. A person who is charged with more than one offence within an offence group (for example, a person charged with both theft of a motor vehicle and theft from a person) is counted only once in the offence division total. Hence the numbers within an offence division do not sum to the offence division total. The grand total is a count of the total number of distinct persons charged in the Higher Court trial and sentence cases finalised. For 'charges', all totals simply sum over the categories.

TABLE 3.5

**PERSONS CHARGED IN TRIAL AND SENTENCE APPEARANCES FINALISED:  
NUMBER OF OFFENCES CHARGED**

<b>Number of offences charged</b>	<b>Persons charged</b>	
	<b>No.</b>	<b>%</b>
1	1,219	36.5
2	800	24.0
3	454	13.6
4	274	8.2
5	148	4.4
6	104	3.1
7	82	2.5
8	55	1.6
9	43	1.3
10 or more	158	4.7

TABLE 3.6

**PERSONS CHARGED IN TRIAL AND SENTENCE APPEARANCES FINALISED:  
METHOD OF FINALISATION, JURISDICTION**

<b>Method of finalisation</b>	<b>Jurisdiction</b>					
	<b>Supreme Court</b>		<b>District Court</b>		<b>Total</b>	
	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>	<b>No.</b>	<b>%</b>
<b>Proceeded to trial:</b>						
Acquitted of all charges	24	20.5	226	7.0	250	7.5
Guilty of at least one charge	27	23.1	239	7.4	266	8.0
Other*	5	4.3	32	1.0	37	1.1
<b>Proceeded to sentence only</b>	<b>47</b>	<b>40.2</b>	<b>2,462</b>	<b>76.5</b>	<b>2,509</b>	<b>75.2</b>
<b>Proven outcome not further described #</b>	<b>-</b>	<b>-</b>	<b>16</b>	<b>0.5</b>	<b>16</b>	<b>0.5</b>
<b>No charges proceeded with</b>	<b>9</b>	<b>7.7</b>	<b>212</b>	<b>6.6</b>	<b>221</b>	<b>6.6</b>
<b>All charges otherwise disposed of</b>	<b>5</b>	<b>4.3</b>	<b>33</b>	<b>1.0</b>	<b>38</b>	<b>1.1</b>
<b>Total</b>	<b>117</b>	<b>100.0</b>	<b>3,220</b>	<b>100.0</b>	<b>3,337</b>	<b>100.0</b>

\* The category 'Proceeded to trial: Other' includes persons who were acquitted of one or more charges at trial but pleaded guilty to at least one other charge.

# The category 'Proven outcome not further described' includes persons who received a sentence but where there was insufficient data to determine whether they had proceeded to trial or to sentence only.

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# **NEW SOUTH WALES CRIMINAL COURTS**

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Explanatory Notes

## EXPLANATORY NOTES

This report contains statistics relating to criminal matters finalised in New South Wales courts in 2008. Statistics for the criminal jurisdictions of the Local, Licensing, Children's, District and Supreme Courts are reported.

With one exception, the data presented in the report are collected from the courts and maintained by the Bureau of Crime Statistics and Research. Data for the tables on prior proven offences for persons found guilty is sourced from the Bureau's Reoffending Database (ROD).

The majority of Children's Court data presented in this publication are collected directly by the Bureau. Prior to January 2006, these data were collected by the Department of Juvenile Justice. The Department of Juvenile Justice continues to provide raw data for the non-computerised courts, which is further processed by the Bureau. Due to this change in the data source, Children's Court data for this year should not be directly compared with that published in reports prior to 2006.

From this year, Higher Courts data is sourced from JusticeLink, a new electronic system that replaced the Case Tracking System. As a result, the counting unit has changed from the number of 'finalised cases' to the number of 'persons in finalised cases'. Prior to this year, one finalised case could represent one or more accused persons. JusticeLink Case records are consolidated to combine all cases for the same accused finalised on the same date by creating a new PERSONID code. Due to these changes, caution should be taken when comparing Higher Courts data for this year with earlier publications.

The report includes information on offence type, court outcomes, penalties, bail status, court delay, and the age, gender, Indigenous status and prior offending record of offenders. In most tables the counting unit is persons charged in court appearances finalised or persons found guilty in court appearances finalised. In some tables, however, the counting unit is the number of finalised charges. In these tables a person charged with more than one offence would appear more than once.

These changes are discussed in more details in these notes.



## EXPLANATORY NOTES - LOCAL COURTS

**TABLE 1.1:**  
**PERSONS CHARGED AND CHARGES**

### Charge

A charge refers to an instance of a particular type of offence being charged against a person. A finalised charge is one which has been fully determined by the court and for which no further court proceedings are required.

Where there are multiple counts of the same offence (i.e. charged under the same Act and Section) and each count receives the same outcome, the multiple counts are treated as a single charge. Where multiple counts of the same offence have different outcomes, they are counted as separate charges.

### Persons charged

A person charged refers to a group of one or more charges, against a single individual, which are finalised by the court on a single day. Such a group of finalised charges against a single individual is also referred to as a finalised court appearance. A company charged with an offence is treated as a person.

This report does not distinguish 'distinct' persons within the counting period. If a person is a defendant in more than one court appearance during the counting period, such a person will be counted more than once in the report.

Table 1.1 shows the numbers of persons charged with offences within particular offence groups. This table counts individuals more than once in all cases where the accused was charged with more than one offence and those offences fall within different offence groups. However, individuals are counted only once in the overall total.

### Type of offence

Offence groups in the Local Courts tables are based on the Australian Standard Offence Classification (ASOC) issued by the Australian Bureau of Statistics (ABS 2008, Cat. No. 1234.0). Table 1.1 shows offences classified at ASOC division, subdivision and group levels. All other tables show offences classified at ASOC division and subdivision levels.

Note: the Bureau has offence information at the level of Act and Section. Information at this level of detail can be obtained by contacting the office.

### Sexual offences against children

In Table 1.1 and elsewhere in this section, the numbers of charges and persons charged for offences classified as sexual offences against children are shown separately from other offences in the sexual assault and related offences division. The subdivision sexual offences against children is not part of the ASOC system. The offences in this category also appear in the appropriate ASOC subdivisions and as such are included in the total.

Some charges which have been laid under Section 61I (sexual assault) and Section 61L (indecent assault) of the *Crimes Act 1900*, however, may have involved child victims. Since such offences are counted in the sexual assault subdivision in this report, the frequency within the sexual offences against children classification is subject to undercounting.

## EXPLANATORY NOTES - LOCAL COURTS *continued*

### Drug offences

ASOC does not include the type of drug in the offence classification. Table 1.7a shows penalties received by persons with a proven drug offence by the type of drug. The 'Other' drug category includes cases where more than one drug is involved and cases involving drugs which do not belong to any of the specified drug type categories.

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### TABLE 1.2: OUTCOME OF CHARGE

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Table 1.2 shows the court outcomes for all charges. Where a person was charged with more than one offence, each offence is counted separately. Those cases resulting in dismissal of the charge are separated from those in which the offence was proven. A charge can be dismissed by the court after a hearing, or where the prosecution elects to withdraw the charge due to insufficient evidence or for some other reason, such as the death of the accused. A matter can also be stood out of the court list for various reasons; this outcome allows the prosecution to re-enter the matter at a later time.

Some of the major charge outcomes are described below:

#### **Offence proven: Accused present**

Includes all charges finalised by a plea of guilt or by a guilty finding at a defended hearing where the accused person was present.

#### **Offence proven: Conviction ex parte**

Includes charges where the accused either (i) pleaded guilty and was convicted in his/her absence, or (ii) failed to appear, was convicted by the court on the evidence presented and a conviction warrant issued by the court for the offender to be brought before the court for sentencing.

#### **Arrest warrant issued**

Includes cases where the accused failed to appear and an arrest warrant was issued to have him or her appear in court to face the charge. Instead of convicting the accused in their absence, the court has deferred judgement until the accused appears. Prior to 2003, charges in this category were counted within the category 'conviction ex parte'.

#### **Dismissed Mental Health (Criminal Procedure) Act**

Under Section 32 of the *Mental Health (Criminal Procedure) Act 1990*, the Court can dismiss a charge and discharge a defendant who is suffering from a mental illness. The defendant may be conditionally discharged and, from February 2004, may be called before the court for failing to comply with the order within six months of the order being imposed. Under Section 33, a magistrate can order a mentally ill defendant to be detained in a hospital for an assessment; or discharge the defendant, either unconditionally or conditionally, into the care of a responsible person.

## EXPLANATORY NOTES - LOCAL COURTS *continued*

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### TABLES 1.3 AND 1.4: OUTCOME OF APPEARANCE

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Table 1.3 presents the major outcome of the court process for individual persons charged. Table 1.4 presents this information for those persons identified as being of Aboriginal and/or Torres Strait Islander origin.

#### Changes in the identification of Aboriginal and/or Torres Strait Islander defendants

In 2004 the Bureau of Crime Statistics and Research made a major change to the way Aboriginal and Torres Strait Islander persons appearing in the criminal courts are identified. As a result, the number of Aboriginal and/or Torres Strait Islander persons reported to have appeared since 2004 is considerably higher than would have been the case under the previous counting practice. The nature of the change is discussed below.

Information about Aboriginal and Torres Strait Islander status is collected by NSW Police when legal proceedings are commenced against alleged offenders. This information is then linked to the defendant's court record. In reports prior to 2004, tables relating to Aboriginal and/or Torres Strait Islander people only included persons who identified as Aboriginal and/or Torres Strait Islander when being legally proceeded against for the reference offence.

This method, however, undercounted the actual number of Aboriginal and/or Torres Strait Islander defendants as some persons did not have a recorded Aboriginal and/or Torres Strait Islander status for the reference offence. Suspected offenders who were not proceeded against in person, that is, those issued with a Future Court Attendance Notice (previously a summons), are not asked whether they identify as being of Aboriginal and/or Torres Strait Islander origin. Police also do not ask whether a person identifies as being of Aboriginal and/or Torres Strait Islander origin when proceeded against for traffic incidents.

In order to overcome this problem, in 2004 the Bureau applied a new method of identifying Aboriginal and/or Torres Strait Islander status using our Reoffending Database (ROD) which contains Children's, Local and Higher Criminal Court records back to 1994. By matching records of persons appearing in court, we can identify whether a person has reported himself or herself to be of Aboriginal and/or Torres Strait Islander origin at a previous court appearance. Thus, Local Court Tables 1.4, 1.8 and 1.9 include persons who had appeared in 2008 and identified themselves as being of Aboriginal and/or Torres Strait Islander origin at any court appearance since 1994.

As a result of these changes, the number of persons reported as being of Aboriginal and/or Torres Strait Islander origin who have appeared in the Local Court has increased considerably. In 2003 we reported 10,995 Aboriginal and/or Torres Strait Islander persons with finalised matters in the Local Court whereas in 2004 we reported 17,655 Aboriginal and/or Torres Strait Islander persons with finalised matters. This figure has since remained relatively steady with 18,059 reported in 2005, 18,380 in the revised 2006 data, 18,560 in the revised 2007 data, and now 18,902 Aboriginal and/or Torres Strait Islander persons with matters finalised in the 2008 report. **Consequently data on Aboriginal and/or Torres Strait Islander persons presented in this report cannot be compared to data reported in publications prior to 2004.** Comparable data for previous years can be obtained by contacting our office.

The possible outcome types are as follows:

## EXPLANATORY NOTES - LOCAL COURTS *continued*

### **Proceeded to defended hearing**

*All charges dismissed:* Appearances in this category involved the accused being found not guilty of any offence, following a defended hearing. Such appearances may have included some charges being dismissed without hearing.

*Guilty of at least one charge:* In this category the accused pleaded not guilty, but was found guilty by the court of at least one of the offences charged.

*Other:* Appearances in this category include persons for whom one or more charges were dismissed after a defended hearing, but who either (i) pleaded guilty to other charges or (ii) were convicted ex parte of other charges.

### **Sentenced after guilty plea**

Appearances in this category include cases where the accused pleaded guilty to at least one charge, and any other charges were dismissed or otherwise disposed of.

### **Convicted ex parte**

From 2003, the category 'convicted ex parte' only includes cases where the accused either (i) pleaded guilty and was convicted in his/her absence, or (ii) failed to appear, was convicted by the court on the evidence presented and a conviction warrant was issued by the court for the offender to be brought before the court for sentencing.

In *NSW Criminal Courts Statistics* publications prior to 2003, this category also included persons who failed to appear and, rather than being convicted in their absence, a warrant was issued for their arrest. Persons in this category are now separately identified in the table as 'arrest warrant issued' described below.

### **Arrest warrant issued**

This category includes cases where the accused failed to appear in court and an arrest warrant was issued to have him or her appear in court to face the charges. Instead of convicting the accused in their absence, the court has deferred judgement until the accused appears. Prior to 2003, persons in this category were counted within the category 'convicted ex parte'.

### **All charges dismissed without hearing**

This category includes cases where all charges were dismissed by the court, but there was no defended hearing. For instance, the prosecution may not have offered any evidence in respect to the case or the accused may have died prior to finalisation.

### **All charges otherwise disposed of**

This category includes cases where the charges were adjourned generally (previously known as 'stood out of list') and those that were adjourned to the Drug Court.

## EXPLANATORY NOTES - LOCAL COURTS *continued*

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### TABLES 1.5 AND 1.6: LEGAL REPRESENTATION AND BAIL STATUS

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Tables 1.5 and 1.6 present the outcome for each appearance by legal representation and the bail status of the accused respectively.

#### **Bail status**

Bail status refers to the status of the accused at final appearance. Those remanded in custody (bail refused) are distinguished from those people who were on bail and those for whom either bail had been dispensed with or bail did not apply. Those persons in jail for a previous offence are regarded as being of equivalent status to those on bail in terms of receiving priority for a Local Court hearing. For this reason, they are excluded from the jail category in the court delay table, Table 1.12.

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### TABLES 1.7 TO 1.11: PENALTIES IMPOSED FOR PRINCIPAL OFFENCE

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Tables 1.8 and 1.10 both report on Aboriginal and Torres Strait Islander persons. These data have been subject to significant changes in 2004. Please see page 118 above for discussion of the changes.

#### **Persons found guilty**

*Persons found guilty* are those persons who, for at least one offence charged, either pleaded guilty, were found guilty *ex parte*, or were found guilty after a defended hearing.

#### **Principal offence**

Appendix 1 provides explanations of the penalty types used in the Local Courts. Penalties shown in the tables indicate the *principal penalty* imposed for the *principal offence*.

The *principal offence* is defined to be that offence charged, which received the most serious penalty according to the following rules:

- (a) Where an offender was found guilty of more than one offence, that offence which received the most serious penalty type is the principal offence. Appendix 2 lists the hierarchy of penalty type seriousness used for this calculation. Recent changes to the penalty hierarchy are also discussed in Appendix 2.

**EXPLANATORY NOTES - LOCAL COURTS** *continued*

- (b) Where there were two or more offences which received the same penalty type, that offence which received the greatest quantum of that penalty type is the principal offence. (Note that for this calculation, if multiple counts of the same offence type received different penalties, they are treated as separate offences.)
- (c) If there was more than one offence with a custodial penalty, the offence with the longest total sentence is selected as the principal offence. Note that prior to 2005, the offence with the longest non-parole period (rather than the longest total sentence) was selected as the principal offence.
- (d) If there was more than one offence with a custodial penalty with the same quantum of total sentence, the offence with the longest non-parole period is selected as the principal offence.
- (e) If there was more than one offence which received the same quantum of the same penalty type, including the same quantum of total sentence and non-parole period, the first of these offences recorded on the court file is selected as the principal offence.
- (f) Where an offence received more than one penalty, a principal penalty for that offence is first calculated following the rules set out above. The determination of principal offence is then calculated on the principal penalty for each offence.

**Quantum of penalty**

Table 1.9 shows the average duration of principal penalties which involve a time component and the average dollar amount of fines imposed, where a fine was the principal penalty. Table 1.10 presents this information for those persons who have in the past identified themselves as Aboriginal and/or Torres Strait Islanders. See page 118 above for discussion of the major changes to Indigenous data in this publication.

**Imprisonment**

Where imprisonment is the principal penalty imposed for the principal offence the sentence specifies the term of the sentence and a non-parole period. The non-parole period must not be less than three quarters of the term unless there are special circumstances which the court must note. The court may decline to set a non-parole period, noting the reasons. For sentences of imprisonment of six months or less, no non-parole period is set. The average durations shown in Tables 1.9 and 1.10 include only the non-parole period where a non-parole period has been specified and the total term where non non-parole period has been set. Cumulative terms of imprisonment are excluded from these tables. In those cases where a cumulative term was imposed, only the non-parole period duration for the principal offence is shown. Note that a maximum of two years of imprisonment can be imposed in the Local Courts for any one offence but the Local Court may impose a cumulative term of up to five years.

**Community Service Order (CSO)**

Where a CSO is the principal penalty imposed for the principal offence a maximum of 500 hours of community service can be imposed on any one occasion.

## EXPLANATORY NOTES - HIGHER COURTS

From February 2008, Higher Courts data has been sourced from JusticeLink, a new electronic system which links all NSW courts onto the one computer platform. Prior to 2008 Higher Courts data was sourced from the Case Tracking System and BOCSAR staff manually recorded details directly from the final indictment. Court staff and Judge's Associates are now responsible for entering results, with BOCSAR taking on a validation and audit role. The new system resulted in some changes to the data:

- The counting unit has changed from the number of 'finalised cases' to the number of 'persons in finalised cases'. Prior to this year, one finalised case could include one or more accused persons. Each person record now includes all charges that the person had finalised on the same date (regardless of whether or not they were registered on the same date). A person with charges finalised on two dates is reported as two persons.
- A small number of incomplete records have also affected the quality of some variables. The number of drug offences with an 'unknown' drug type has risen from 5% in 2007 to 17% in 2008 (Table 3.7a). We no longer distinguish whether people in custody at finalisation are on remand or in custody for a prior offence (Table 3.10). Lastly, for 16 persons there was inadequate information provided to determine whether they were finalised by sentence or trial (Table 3.6).

For these reasons caution should be used when making comparisons with Higher Court data published in earlier years.

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### TABLES 3.1 AND 3.2: CASES APPEARING IN HIGHER CRIMINAL COURTS

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#### Jurisdiction

There are two jurisdictions in the NSW Higher Courts: the Supreme Court, which hears cases in Sydney and on circuit in country centres, and the District Court, which has a number of metropolitan and country sites. The Supreme Court deals only with the most serious criminal matters. The District Court deals with all other matters on indictment and appeals against conviction or sentence arising from Local Court cases. In all tables where Jurisdiction is shown this reflects the Jurisdiction at which the case was registered and not where it was finalised.

#### Registry

Registries handle the administrative work involved in preparing a case for trial. The District Court is regionalised into a number of Registries. In all tables where Registry is shown this reflects the Registry at which the case was registered and not where it was finalised. Appendix 3 lists the various courts which fall within each Registry's administrative area.

#### Cases registered

A case is made up of a number of charges for one or more accused that were registered together. Table 3.1 shows the number of incoming cases registered in the Higher Court for committal to trial or sentence. This is the only table to still show cases and is unchanged in scope from previous years. Cases involving companies and persons as defendants are included.

#### Persons charged in appearances finalised

From this year, court workload is measured by the number of individual persons charged within cases finalised. In both the District Court and Supreme Court, a person charged refers to a group of one or more charges, against a single accused person, which are finalised by the court on the same date. The number of persons in cases finalised is shown for Table 3.2 and subsequent tables.

## EXPLANATORY NOTES - HIGHER COURTS *continued*

This report does not distinguish 'distinct' persons within the counting period. If an accused person is in more than one case occurring on different dates during the counting period, such a person will be counted more than once in the report.

However, separate charges finalised on the same date for the one accused person are consolidated and counted as one person. Where there are outstanding charges against the accused, this would be counted as a new person in a subsequent counting period. For these reasons there is no direct relationship between the incoming cases registered, shown in Table 3.1, and the number of persons with cases finalised, shown in Table 3.2.

Note that prior to 2008, the counting unit in Table 3.2 was the number of cases finalised. The District Court defined a finalised case as involving **one or more** accused persons, each with one or more charges recorded together on a single court file; separate cases for the one accused that were finalised on the same date were counted separately. From 2005 to 2007, the Supreme Court changed the definition of a finalised case to reflect one accused person, with one or more charges, which were recorded together on a single court file.

### Committal

Cases normally appear before the Higher Courts following a committal hearing in the Local Court or Children's Court. A committal hearing involves a preliminary hearing by a Magistrate of the evidence against the accused. If the accused pleads guilty at the committal hearing, he or she may be committed for sentencing to a Higher Court. Alternatively, if the defendant pleads not guilty, or reserves his or her defence, he or she is committed for trial. Cases which do not proceed beyond committal are not included in this report.

Tables 3.2 and 3.13 include companies and persons as defendants. All other Higher Court tables exclude companies.

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## **TABLES 3.3, 3.4 AND 3.5: PERSONS CHARGED AND CHARGES IN TRIAL AND SENTENCE APPEARANCES**

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### Persons charged

Note that Table 3.4, which shows the number of persons charged with offences within a particular offence group, counts individuals more than once in all cases where the accused was charged with more than one offence and those offences fall within different groups. However, persons are counted only once in the overall total.

### Year of committal

Year of committal is included to provide some indication of the length of time cases normally require to be processed in the Higher Courts. More detailed information on this subject is provided in Tables 3.11a to 3.11i.

### Type of offence

Offence groups in the Higher Courts tables are based on the Australian Standard Offence Classification (ASOC) issued by the Australian Bureau of Statistics (ABS 2008, Cat. No. 1234.0). Table 3.4 shows offences classified at ASOC division, subdivision and group levels. All other tables show offences classified at ASOC division and subdivision levels.

Note: the Bureau has offence information at the level of Act and Section. Information at this level of detail can be obtained by contacting the Information Officer.



**EXPLANATORY NOTES - HIGHER COURTS** *continued***Sexual offences against children**

In Table 3.4 and elsewhere in this section, the number of charges and persons charged for offences classified as *sexual offences against children* are shown separately from other offences in the *sexual assault & related offences* division. *Sexual offences against children* is not part of the ASOC system. The offences in this category also appear in the appropriate ASOC subdivisions and as such are included in the total.

Some charges which have been laid under Section 61I (*sexual assault*) and Section 61L (*indecent assault*) of the *Crimes Act 1900*, however, may have involved child victims. Since such offences are counted in the *sexual assault* subdivision in this report, the frequency within the *sexual offences against children* classification is subject to undercounting.

**Drug offences**

ASOC does not include the type of drug in the offence classification. Table 3.7a shows penalties received by persons with a proven drug offence by the type of drug. The 'Other' drug category includes cases where more than one drug is involved. Due to poor recording of drug type in JusticeLink, the proportion of drug offences where the drug type is Unknown/Not Stated has increased from 5% in 2007 to 17% in 2008. Caution should be used when comparing Table 3.7a to previous years.

**Number of offences charged**

Tables 3.4 and 3.5 indicate the number of distinct offences charged against each accused person. Prior to 2008, where there were multiple counts of the same offence (i.e. charged under the same Act and Section) and each count had the same outcome, the multiple counts were counted as a single charge. From 2008, each individual count is treated as a separate charge.

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**TABLE 3.6:**  
**OUTCOME OF CHARGE**


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Table 3.6 presents the major outcome of the court process for each accused person. Those cases which involved a trial before a Judge and jury (or a Judge alone) are separated from those where the accused pleaded guilty to all charges, where the charges were not proceeded with, or where the charges were otherwise disposed of. Possible outcome types are as follows:

**Proceeded to trial**

*Acquitted of all charges:* Persons in this category were found not guilty of any offence following a trial. This may include some charges not being proceeded with or being otherwise disposed of.

*Found guilty of at least one charge:* In this category, cases proceeded to a trial and accused persons were found guilty of at least one of the offences charged.

*Other:* Persons in the 'Other' category are those who were acquitted of one or more charges following a trial but pleaded guilty to at least one other charge.

**EXPLANATORY NOTES - HIGHER COURTS** *continued***Proceeded to sentence only**

Persons in this category pleaded guilty to at least one charge. Other offences may have been disposed of other than by trial or not proceeded with.

**Proven outcome not further described**

Persons who received a sentence but where there was insufficient data to determine whether their case had proceeded to trial or to sentence only.

**No charges proceeded with**

Persons in this category were not proceeded against by the Director of Public Prosecutions to trial.

**All charges otherwise disposed of**

Included in this category are accused persons who died or absconded.

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**TABLES 3.7 AND 3.8:  
PENALTIES IMPOSED FOR PRINCIPAL OFFENCE**

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**Persons found guilty**

Persons found guilty are those persons who, for at least one offence charged, either pleaded guilty or were found guilty by trial.

**Principal offence**

Appendix 1 provides explanations of the penalty types used in the Higher Courts. Penalties shown in the tables indicate the principal penalty imposed for the principal offence.

The principal offence is defined to be that offence charged which received the most serious penalty according to the following rules:

- (a) Where an offender was found guilty of more than one offence, the offence which received the most serious penalty type is the principal offence. Appendix 2 lists the hierarchy of penalty type seriousness used for this calculation.
- (b) Where there were two or more offences which received the same penalty type, that offence which received the greatest quantum of that penalty type is the principal offence.
- (c) If there was more than one offence with a custodial penalty, the offence with the longest total sentence is selected as the principal offence.
- (d) If there was more than one offence with a custodial penalty with the same quantum of total sentence, the offence with the longest non-parole period is selected as the principal offence.

**Christine Chu**

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**From:** Dato' Nordin Hassan [nordin@agc.gov.my]  
**Sent:** 16 November, 2009 10:55 AM  
**To:** Christine Chu  
**Cc:** Dato' Tun Abd. Majid Tun Hamzah  
**Subject:** Conviction Rates  
**Attachments:** Recorded Convictions.pdf

Dear Christine Chu,

CONVICTION RATES

Your e-mail dated 5th November 2009 to Dato' Tun Abd Majid Tun Hamzah pertaining to the above matter refers.

1. The methodology used in ascertaining the conviction rates in Trial Courts in Malaysia are as follows:-

i. Final disposal of a case can come in the form of the following:

- a. Recorded conviction
- b. Acquittal and Discharge

ii. A Recorded conviction refers to both guilty pleas and end of trial conviction. For the purpose of statistic report, we do not draw a distinction between either.

iii. The conviction rate is calculated using the following formula.

$$\text{Conviction Rate} = \frac{\text{Total sum of recorded conviction (for a year)}}{\text{Total sum of cases disposed of (for a year)}} \times 100\%$$

2. Enclosed herewith the statistic and methodology used in ascertaining the conviction rates of the year 2008 for your easy reference.

Hope this information would be of assistance in your research.

Thank you.

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High Courts		Magistrates and Sessions Courts	
Cases Finally Disposed	Number of Recorded Convictions	Cases Finally Disposed	Number of Recorded Convictions

**NUMBER OF RECORDED CONVICTIONS IN THE SUBORDINATE COURTS OF MALAYSIA FOR THE YEAR 2008**

No.	State	High Courts		Magistrates and Sessions Courts	
		Cases Finally Disposed	Number of Recorded Convictions	Cases Finally Disposed	Number of Recorded Convictions
1.	Perlis	5	5	-	-
2.	Kedah	14	13	51	38
3.	Pulau Pinang	24	20	63	61
4.	Perak	21	15	37	33
5.	Kuala Lumpur	60	45	81	75
6.	Selangor	126	104	26	24
7.	Negeri Sembilan	9	7	16	13
8.	Melaka	10	10	27	26
9.	Kelantan	3	3	24	24
10.	Pahang	5	4	18	10
11.	Terengganu	2	2	21	17
12.	Johor	54	37	1046	1012

13.	Sabah	11	9	26	20
14.	Sarawak	23	17	192	164
<b>TOTAL</b>					

367

291

1547

1443

**Note:** Cases which are subject to DNAA are not included in the calculation of the total of cases finally disposed

#### HIGH COURTS

Number of Cases Finally Disposed : 367

Number of Recorded Convictions : 291

#### SESSIONS AND MAGISTRATES COURTS

Number of Cases Finally Disposed : 1547

Number of Recorded Convictions : 1443

#### CONVICTION RATES FOR ALL TRIAL COURTS OF MALAYSIA

$$\frac{1734 (291 + 1443)}{1914 (367 + 1547)} \times 100\% = 90.6\%$$