

Community Sentences in Victoria

A Statistical Profile

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Abstract

This report presents an analysis of community sentences imposed in Victorian courts and commenced in the 2006–07 financial year. The two community sentences examined were intensive correction orders and community-based orders.

An intensive correction order (ICO) is a term of imprisonment of up to one year, ordered to be served by way of intensive correction in the community. A community-based order (CBO) is a non-imprisonment order of up to two years, served by an offender in the community.

The analysis focussed on community sentences in terms of (1) the rate at which they were used by Victorian courts, (2) the number of people commencing them and the conditions attached, and (3) the rate at which they were breached. Each stage of the analysis considered gender, age and offence characteristics.

In 2006–07, 14.2% of people sentenced in the higher courts received a CBO and 3.0% received an ICO. In the Magistrates' Court 5.4% received a CBO and 1.9% received an ICO.

The number of people who commenced a CBO in 2006–07 was 5,859 while 1,899 people commenced an ICO. The average duration for a CBO was 11.2 months and 4.9 months for an ICO. The most common offence for a CBO was 'other' (29%), including offences against justice procedures, and for an ICO it was a traffic offence (43%).

Community work (78.5%) was the most commonly imposed condition on people commencing a CBO, and assessment and treatment (60.2%) and supervision (47.9%) were also common. Nearly 70% of CBOs had multiple conditions attached and 26.9% had four or more conditions.

Breach rates for community sentences were examined for people sentenced in the higher courts between 2000–01 and 2003–04. The three-year breach rate for people serving a CBO was 25.4% while for people serving an ICO it was 35.0%.

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Introduction

This report analyses data on community sentences administered by Corrections Victoria and imposed in the Magistrates' Court and higher courts (the Supreme and County Courts). The primary focus is the 2006–07 financial year, although data from other years are examined in sections.

The report is divided into four main sections. First, a description is presented of the nature of community sentences. The second section provides a statistical overview of recent sentencing practices in Victoria. The third section presents an analysis of data on people commencing community sentences, including their age, gender and most serious offence, as well as the type, duration and conditions of the order. Finally, an examination of breach data in relation to community sentences is presented.

Legislation

In this report the community sentences examined are intensive correction orders and community-based orders.¹

An intensive correction order (ICO) is a term of imprisonment ordered to be served by way of intensive correction in the community. An ICO may be imposed on an offender who has been convicted of an offence in circumstances where the judge or magistrate is considering sentencing him or her to a term of imprisonment. The maximum duration of the order is one year (ss. 19–33, *Sentencing Act 1991* (Vic)).

A community-based order (CBO) is a non-imprisonment order served by an offender in the community. A court can impose a CBO on finding an offender guilty of an offence punishable by imprisonment or a fine of more than five penalty units (around \$550).² The maximum duration of a CBO is two years. A CBO can be made with or without recording a conviction (ss. 36–48, *Sentencing Act 1991* (Vic)).

The ICO and CBO share a number of 'core' conditions, including that the offender not commit any further offences during the period of the order, report to community corrections officers within two working days of the order coming into operation, report to and receive visits from a community corrections officer, and notify authorities of any changes of address or employment.

However, reflecting its more severe and intensive nature, the core conditions of an ICO specify the frequency of contacts with an offender's supervising officer (at least two contacts per week), and also require the offender to attend a community corrections centre for 12 hours a week for the period of the order, or for a shorter period set by the court. At least eight of those hours must be

spent by the offender performing community work, and the remainder undergoing counselling or treatment for a psychological, psychiatric, drug or alcohol program.

In making a CBO or ICO, a court can also order an offender to comply with additional 'special' or 'program' conditions.

The ICO has only one special condition: that the offender attends one or more specified programs during the period of the order. Programs may be residential or community based and must be designed to address the personal factors which contribute to the offender's criminal behaviour. A court can only attach this special condition if the pre-sentence report recommends this, and it is up to the court to decide whether or not to do so.

A much broader range of program conditions may be attached to a CBO, including conditions that the offender:

- performs unpaid community work;
- be under the supervision of a community corrections officer;
- attends educational and other programs;
- undergoes assessment and treatment for alcohol or drug addiction, or submit to medical, psychological or psychiatric assessment and treatment;
- submits to testing for alcohol or drug use;
- participates in the requirements of a justice plan;³ or
- complies with any other condition considered necessary or desirable by the court, other than restitution or payment of compensation, costs or damages.

A court *must* impose *at least one* program condition to a CBO, but must not impose any more program conditions than are necessary to achieve the purpose or purposes for which the order is made (such as to punish the offender, and/or to facilitate rehabilitation).

Whereas ICOs combine elements of unpaid work, supervision and treatment conditions in a fairly structured way as core conditions of the order, CBOs allow for greater flexibility by allowing courts to attach only those program conditions that are appropriate in a given case.

Another key difference between the two orders is the consequences for an offender on breach by further offending, or a failure to comply with other conditions of the order.

Breach of an ICO can result in the court varying the order, confirming the order or cancelling the order (in which case the offender is committed to prison to serve the period of the sentence that was unexpired as at the date of breach). In the case of breach by further offending, the court *must* cancel the order and commit the offender to prison unless it would be 'unjust to do so in light of any exceptional circumstances which have arisen' since the order was made.

A court's powers on breach of a CBO are much more flexible. As for an ICO, the court may choose to vary, confirm or cancel the order. However, there is no presumption in favour of cancelling the order on breach of a CBO. Further, cancellation results in the offender being re-sentenced for the original offence or offences, rather than being sent to prison to serve out the remainder of the sentence. The court in these circumstances can make any order it could have made when it originally found the offender guilty of the offence (including, where appropriate, ordering the offender to serve a term of imprisonment) but must take into account the extent to which the offender has complied with the order before its cancellation.

The differences between the powers of a court on breach of an ICO compared with breach of a CBO reflect the place of these orders in the sentencing hierarchy and the circumstances in which these orders can be made. While ICOs are treated at law as a sentence of imprisonment, available for more serious forms of offending that would otherwise warrant an immediate term of imprisonment, community-based orders are a true non-custodial sanction available for offences of a wide range of seriousness, including those not punishable by imprisonment.

Sentencing Practices

This section examines data on sentencing practices by Victoria's courts.⁴ It begins by showing the relative frequency with which community sentences are used compared with other sentence types. It then examines community sentences as a percentage of all sentences according to the age and gender of offenders and the offences for which the offenders were sentenced.

Selected sentence types

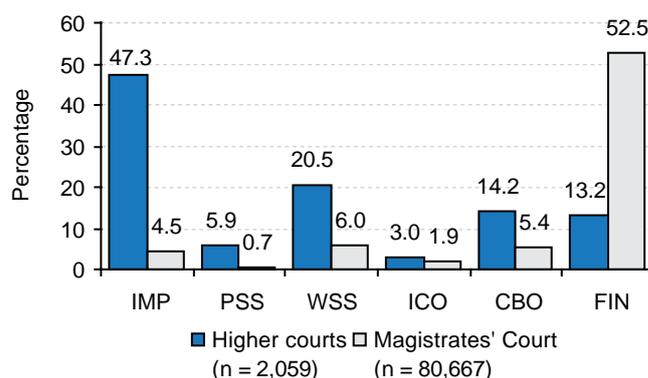
Figure 1 shows the rate at which community sentences and other selected sentences were used for people sentenced in the Magistrates' Court⁵ and higher courts⁶ (County Court and Supreme Court) in 2006–07.

Community sentences were imposed on 17.2% of offenders in the higher courts: 14.2% (281) of offenders received a CBO and 3.0% (60) received an ICO. In the Magistrates' Court, 7.3% (6,310) of offenders received a community sentence, with 5.4% (4,334) receiving a CBO and 1.9% (1,532) receiving an ICO.

The vast majority (94.5%) of community sentences were imposed in the Magistrates' Court. In 2006–07, 5,866 people received a community sentence in the Magistrates' Court compared with 341 in the higher courts.

Immediate imprisonment (47.3%) was the most common sentence type imposed in the higher courts while the most common sentence imposed in the Magistrates' Court was a fine (52.5%).

Figure 1: Selected sentence types as percentages of all sentences, by court level, 2006–07

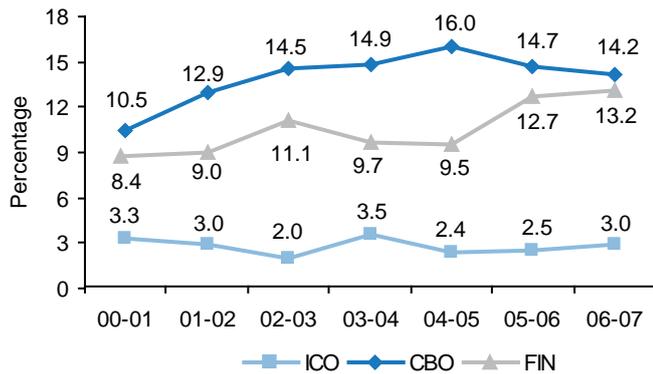


Acronyms: IMP = imprisonment; PSS = partially suspended sentence; WSS = wholly suspended sentence; ICO = intensive correction order; CBO = community-based order; FIN = fine.

Seven-year trend

Figure 2 shows the rate at which ICOs, CBOs and fines were used for people sentenced in the higher courts from 2000–01 to 2006–07. There was a steady rise in the rate for CBOs between 2000–01 and 2004–05 (from 10.5% to 16.0%), followed by a decline to 14.2% in 2006–07. There was no overall trend for the ICO rate, however there were rises between 2004–05 and 2006–07 (from 2.4% to 3.0%).

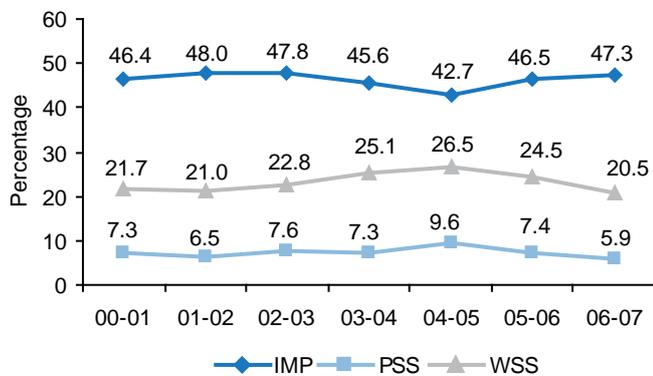
Figure 2: Selected sentence types as percentages of all sentences, higher courts, 2000–01 to 2006–07



Acronyms: ICO = intensive correction order; CBO = community-based order; FIN = fine.

Figure 3 shows the rate at which imprisonment, partially suspended sentences and wholly suspended sentences were used for people sentenced in the higher courts from 2000–01 to 2006–07. Imprisonment declined between 2001–02 and 2004–05 (from 48.0% to 42.7%), before rising in 2006–07 (to 47.3%) while wholly suspended sentences increased between 2001–02 and 2004–05 (from 21.0% to 26.5%) then declined to 20.5% in 2006–07.

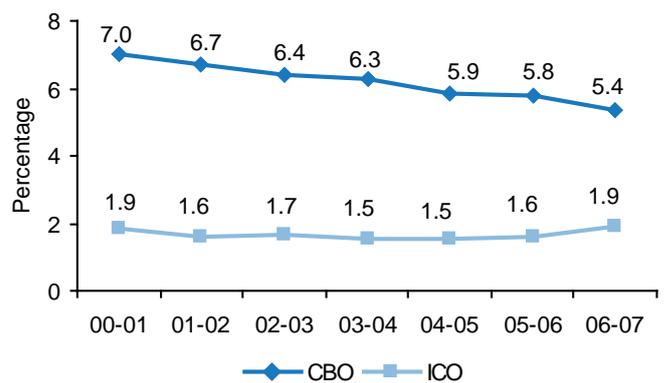
Figure 3: Selected sentence types as percentages of all sentences, higher courts, 2000–01 to 2006–07



Acronyms: IMP = imprisonment; PSS = partially suspended sentence; WSS = wholly suspended sentence.

Figure 4 shows the rate at which CBOs and ICOs were used for people sentenced in the Magistrates' Court between 2000–01 and 2006–07. Note that fines have not been included as they were used on a much greater scale (>50%) than any other sentence. The rate for CBOs declined consistently between 2000–01 and 2006–07 (from 7.0% to 5.4%) while the rate for ICOs generally declined between 2000–01 and 2003–04 (from 1.9% to 1.5%) before rising between 2004–05 and 2006–07 (from 1.5% to 1.9%).

Figure 4: Selected sentence types as percentages of all sentences, Magistrates' Court, 2000–01 to 2006–07

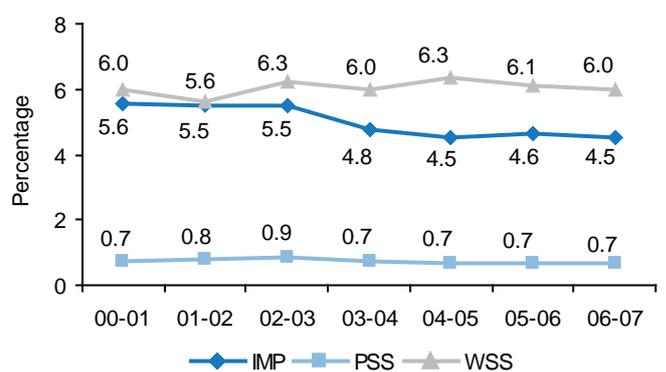


Acronyms: ICO = intensive correction order; CBO = community-based order.

Figure 5 shows the rate at which imprisonment, partially suspended sentences and wholly suspended sentences were used for people sentenced in the Magistrates' Court between 2000–01 and 2006–07.

The rate for imprisonment sentences declined between 2002–03 and 2004–05 (from 5.5% to 4.5%) and has since generally remained steady. The rate for wholly suspended sentences declined between 2004–05 and 2006–07 (from 6.3% to 6.0%) and for partially suspended sentences was generally steady (at approximately 0.7%).

Figure 5: Selected sentence types as percentages of all sentences, Magistrates' Court, 2000–01 to 2006–07



Acronyms: IMP = imprisonment; PSS = partially suspended sentence; WSS = wholly suspended sentence.

Community sentences: key characteristics

Gender and age of offender

Figure 6 shows the rate at which community sentences were used for people sentenced in the higher courts in 2006–07 by gender and age group of the offender. In the higher courts, the rate of community sentences for female offenders (23.1%) was higher than for male offenders (16.6%). Offenders under 25 years of age were substantially more likely to receive a community sentence (30.3%) than were offenders in older age groups (12.1%).

Figure 6: Community sentences as a percentage of all sentences by age and gender, higher courts, 2006–07

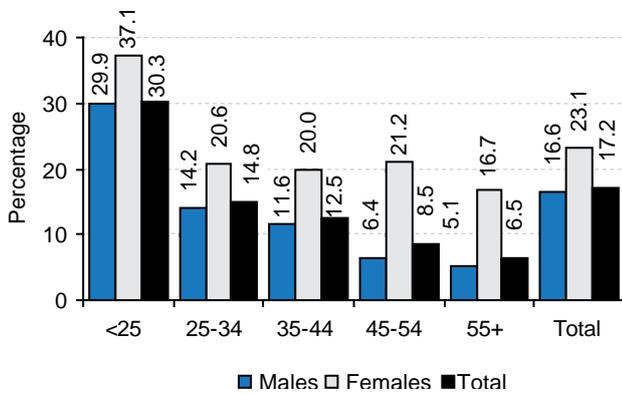
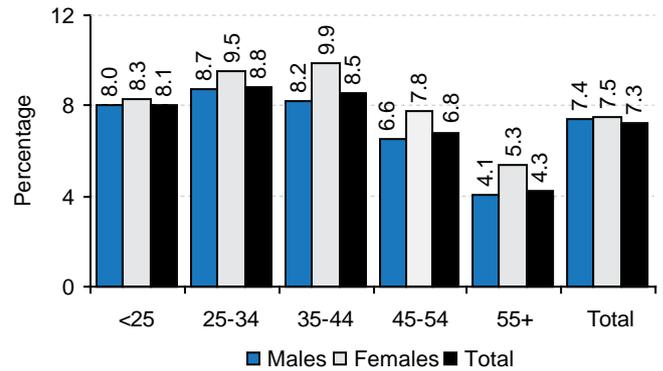


Figure 7 shows the rate at which community sentences were used for people sentenced in the Magistrates' Court in 2006–07 by gender and age group of the offender. Unlike in the higher courts, there was little gender difference in the Magistrates' Court, with 7.5% of females and 7.4% of males receiving a community sentence. Also, offenders aged under 25 had a marginally lower community sentence rate (8.1%) than the 25–34 (8.8%) and 35–44 (8.5%) age groups, while offenders aged 55 and over were substantially less likely to receive a community sentence (4.3%).

Figure 7: Community sentences as a percentage of all sentence types by age and gender, Magistrates' Court, 2006–07



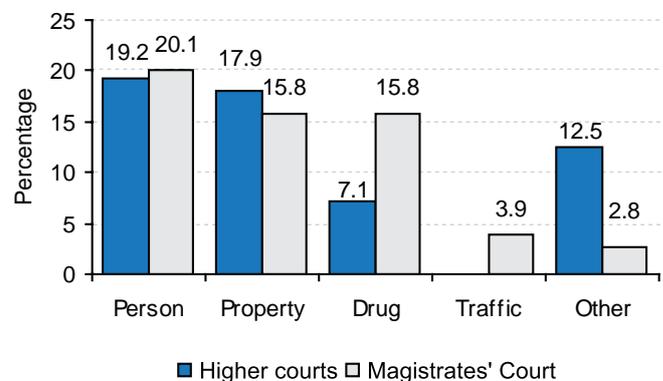
Offence type

The rate at which community sentences were used in 2006–07 varied according to offence type. Five offence categories covering all offence types were examined: offences against the person, property offences, drug offences, traffic offences and 'other'.⁸

Figure 8 shows the rate at which community sentences were used for the five offence categories in the higher courts and Magistrates' Court in 2006–07.

In both court levels, offences against the person were the offences most likely to attract a community sentence and the percentages were similar in the Magistrates' Court (20.1%) and higher courts (19.2%). Drug offences were more likely to receive a community sentence in the Magistrates' Court (15.8%) than in the higher courts (7.1%). 'Other' offences were more likely to attract a community sentence in the higher courts (12.5%) than in the Magistrates' Court (2.8%).

Figure 8: Community sentences as a percentage of all sentences by offence*, by court level, 2006–07



* Traffic offences are not presented for the higher courts because of small numbers (two out of six people received a community sentence for these offences).

Commencements

In 2006–07 7,758 offenders commenced a community sentence (CBO or ICO).⁹

This section begins by presenting data on the age and gender of people commencing a community sentence, and the offence for which they were sentenced.¹⁰ It then examines order type by these same characteristics as well as the duration of the order. Finally, for both order types, it examines the conditions imposed on people for each order type, including the number and type of conditions and their combinations.

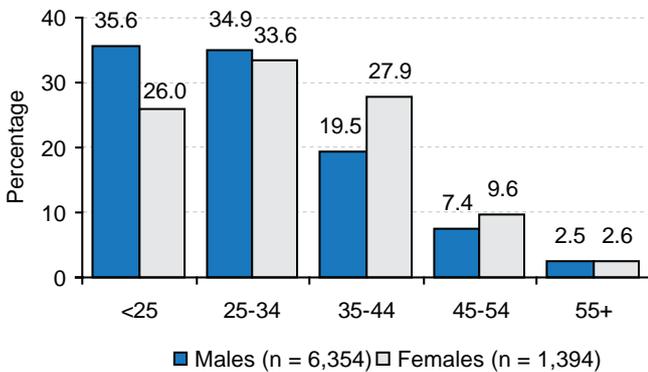
Age and gender

The average age of people who commenced a community sentence in 2006–07 was 30.7 years. There were 2,629 people (33.9%) under the age of 25 and 6,354 (81.9%) were male.

Females tended to be older than males. The average age of females was 32.5 years while for males it was 30.3 years.

Figure 9 shows the age distribution for males and females. The most common age group for females was the 25–34 year age group (33.6%) while for males it was the under 25 year age group (35.6%).

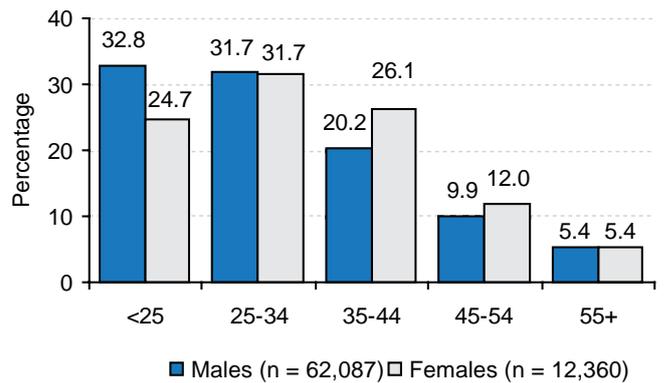
Figure 9: Age distribution by gender* for people commencing a community sentence, 2006-07



* Gender was not stated for ten people.

Figure 10 shows the age by gender distribution for all people sentenced, regardless of the sentence type, in 2006–07. As with people commencing community sentences, the most common age group for all sentenced males was the under 25 group while the most common age group for all sentenced females was the 25–34 group.

Figure 10: Age distribution by gender for all people sentenced*, 2006–07



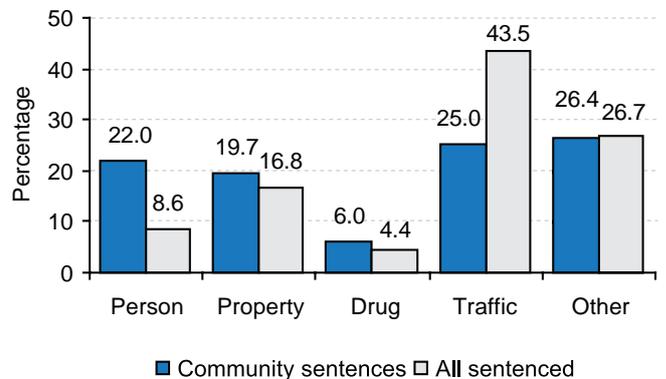
* Companies and people with 'not stated' sex or age have been excluded from totals used to calculate these percentages.

Offence type¹¹

Figure 11 shows the distribution of offences, using five offence categories,¹² for people who commenced a community sentence, and for all people sentenced, in 2006–07. Of the 7,758 people who commenced a community sentence, 26.4% were in the 'other' category of offences, 25.0% were traffic offences, 22.0% were offences against the person, 19.7% were property offences and 6.0% were drug offences.

The offence distribution for all people sentenced differed considerably from that for people commencing community sentences. Compared with community sentences, traffic offences (43.5%) were more prevalent among all court sentences while person (8.6%) and property offences (16.8%) were substantially less prominent.

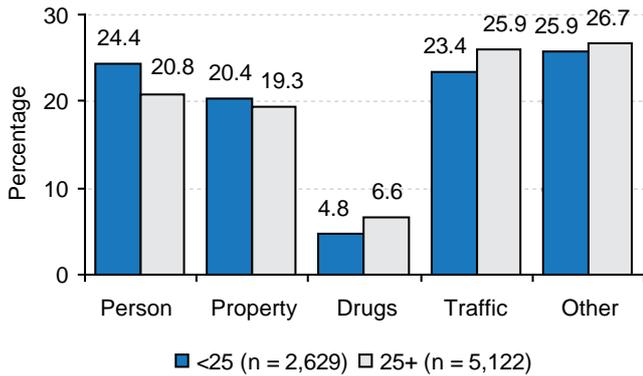
Figure 11: Offence distribution for people commencing a community sentence versus all people sentenced in Victoria's courts, 2006–07



Age

Figure 12 shows the offence distributions for two major age groups of people commencing community sentences. There was little difference in the offence distribution for the under 25 versus the 25 and over age groups. The largest age difference was for offences against the person (24.4% of the under 25 group compared with 20.8% of the 25 and over group).

Figure 12: Offence distribution by age group* for people commencing a community sentence, 2006–07



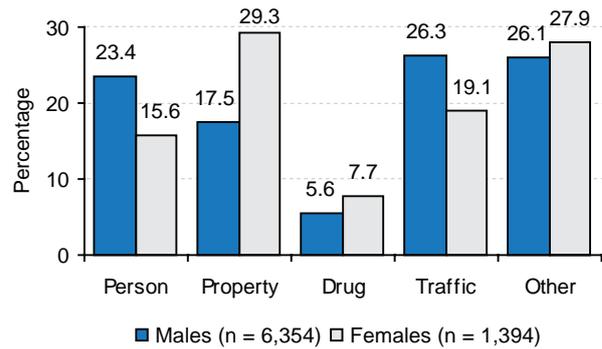
* Age was not stated for seven people.

Gender

Figure 13 shows the offence distribution for males and females. The distribution differed by gender. For females, property offences were the most common offence (29.3%), and, as a percentage of all offences, were substantially more common than for males (17.5%). It should be noted that the number of females commencing community sentences for property offences (409) was less than half the number of males (1,115).

For males, traffic and ‘other’ offences were the most common offence types (representing 26.3% and 26.1%). As a percentage of all offences, offences against the person were substantially more common for males (23.4%) than for females (15.6%). In raw numbers, males (1,490) were nearly seven times more likely than females (218) to commence a community sentence for an offence against the person.

Figure 13: Offence distribution by gender* for people commencing a community sentence, 2006–07



* Gender was not stated for ten people.

Order type

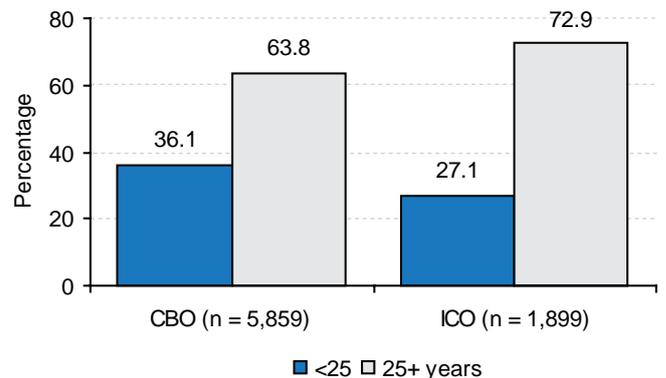
This section compares data on the two community sentences: CBO and ICO.

In 2006–07, 5,859 people commenced a CBO, over three times more than commenced an ICO (1,899 people).¹³

Age

Figure 14 shows the proportion of people above and below 25 years of age by order type. The majority of people commencing both types of orders were 25 and over, with a larger majority for ICOs (72.9% or 1,385 people) than CBOs (63.8% or 3,737 people). The average age for people commencing CBOs (30.5 years) was lower than for those commencing ICOs (31.4 years).

Figure 14: Order distribution by age group* for people commencing a community sentence, 2006–07

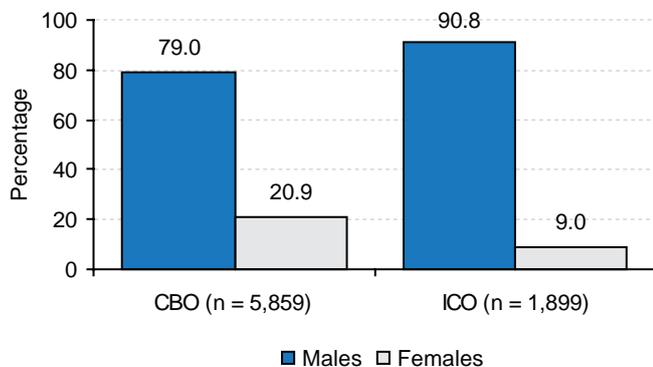


* Age was not stated for seven people.

Gender

Figure 15 shows that males represented a larger proportion of people who commenced an ICO (90.8%) than a CBO (79.0%).

Figure 15: Order distribution by gender* for people commencing a community sentence, 2006–07

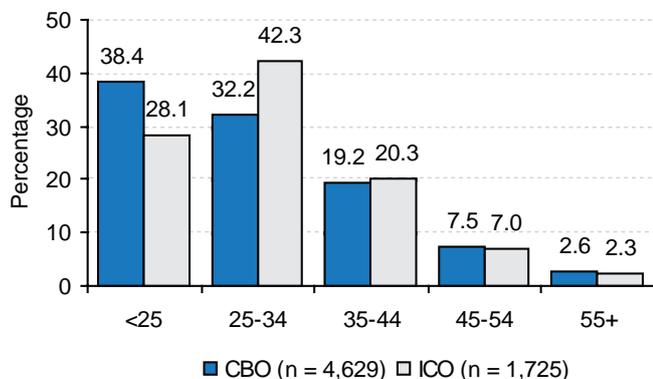


* Gender was not stated for ten people.

Gender by age

Figure 16 shows the age distribution for males by order type. The most common age group for ICOs was 25–34 (42.3%) while for CBOs it was under 25 (38.4%).

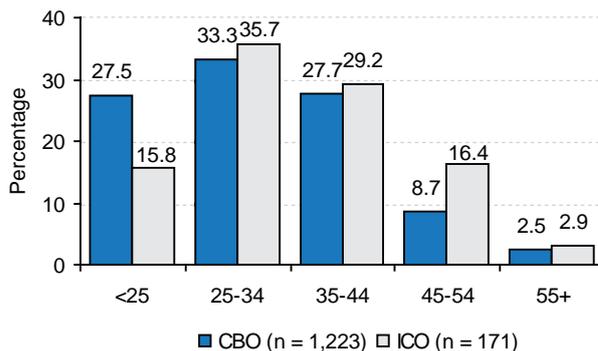
Figure 16: Order distribution by age* for males commencing a community sentence, 2006–07



* Age was not stated for three males.

Figure 17 shows the age distribution for females by order type. The most common age group for females was 25–34 for both CBOs (33.3%) and ICOs (35.7%).

Figure 17: Order distribution by age* for females commencing a community sentence, 2006–07



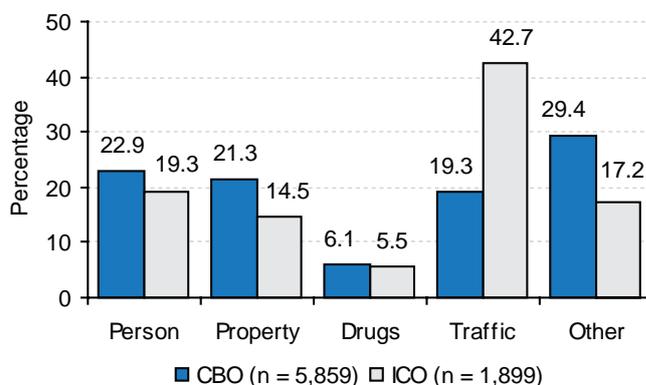
* Age was not stated for four females.

Offence type

The offence distributions for ICOs and CBOs are displayed in Figure 18. The most common offence group for CBOs was 'other' (1,723 people or 29.4%), followed by offences against the person (1,341 people or 22.9%). ICOs were dominated by traffic offences (810 people or 42.7%), while the second most common offence was offences against the person (367 people or 19.3%).

Two-thirds (540 out of 810) of people who commenced an ICO for a traffic offence had been sentenced for the specific traffic offence of driving while disqualified. Section 30 of the *Road Safety Act 1986* requires a mandatory custodial sentence for the second and subsequent driving while disqualified offences. Under the *Sentencing Act 1991*, an ICO is classed as a custodial sentence. The large number of people sentenced to an ICO for driving while disqualified may be a result of these mandatory arrangements.

Figure 18: Offence distribution by order type for people commencing a community sentence, 2006–07



Duration

The duration of an order is set by the court when a judge or magistrate imposes a sentence. The maximum sentence permitted is set out in the *Sentencing Act 1991*. For ICOs, the statutory maximum duration is 12 months and for CBOs the maximum is 24 months.

For offenders commencing community sentences in 2006–07, the average duration for ICOs was 4.9 months, while for CBOs the average was 11.2 months.

The range of durations is displayed in Figure 19. The longest CBO was 24 months, equal to this order's statutory maximum, and half were between 9 and 12 months. The longest ICO was 12 months, equal to its statutory maximum, and half were between 3 and 6 months.

Figure 19: Duration range by order type for people commencing a community sentence, 2006–07

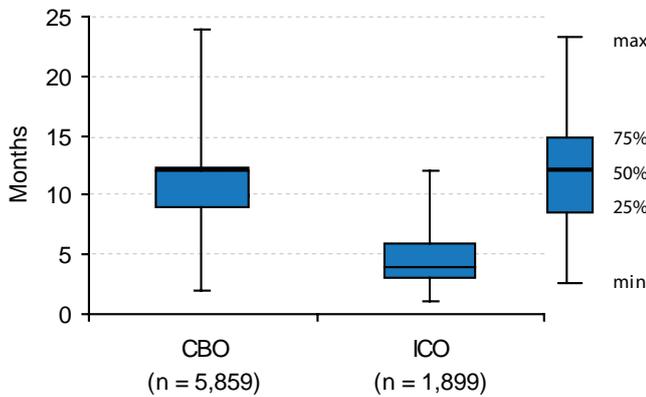
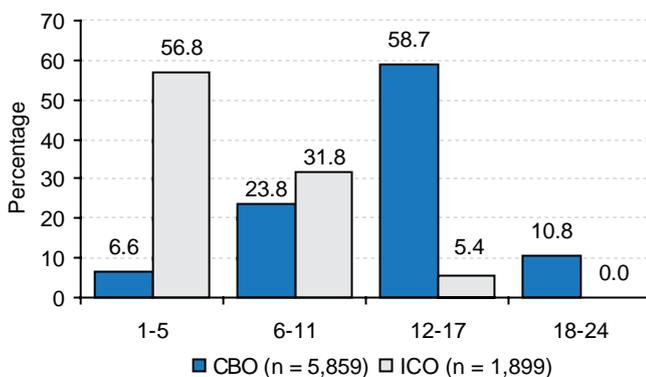


Figure 20 shows that most CBOs were between 12 and 17 months (58.7%), and most ICOs were less than 6 months (56.8%).

Figure 20: Duration distribution by order type for people commencing a community sentence, 2006–07



Conditions

This section examines conditions imposed by the courts on people commencing a CBO in terms of the number, type, and combinations of non-core conditions. Data on ICO conditions are not discussed because of their limited value.¹⁴ As few as one and as many as seven such conditions may be imposed on a CBO. These include: (1) assessment and treatment; (2) community work; (3) supervision; (4) education program; (5) justice plan; (6) alcohol or drug testing; and (7) other.¹⁵

Number of conditions

On average courts imposed 2.4 conditions on offenders who were sentenced to a CBO. As Figure 21 shows, 30.8% had one condition, while 69.2% had multiple conditions. It was common for CBOs to have up to four conditions, with 24.4% having three conditions and 21.8% having four.

Figure 21: Number of conditions for people commencing a CBO, 2006–07

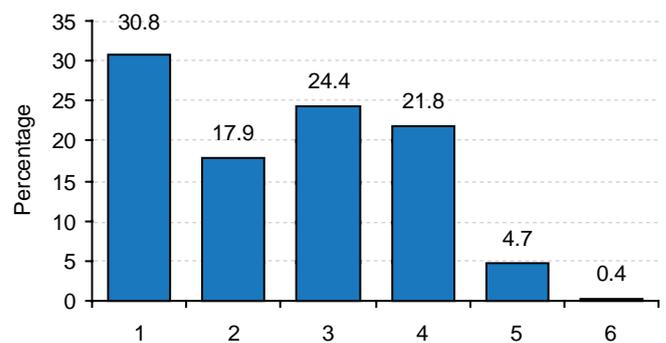
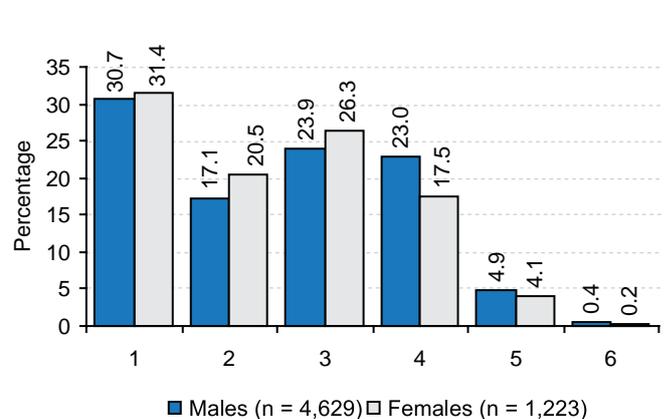


Figure 22 shows the percentage of males and females who had different numbers of conditions attached to their CBO. A higher percentage of males (23.0%) had 4 conditions attached to their CBO than females (17.5%).

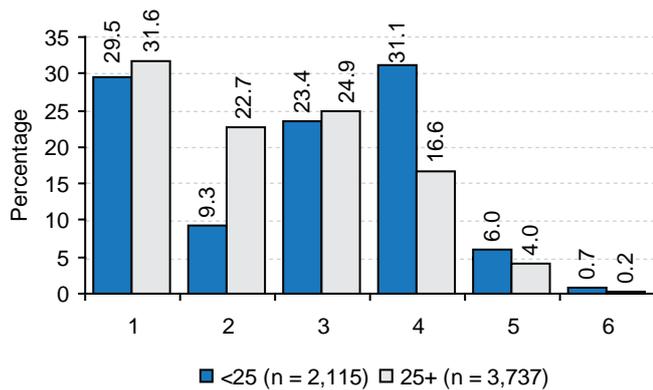
Figure 22: Number of conditions for people commencing a CBO by gender*, 2006–07



* Gender was not stated for seven people.

Figure 23 shows the percentage of two age groups that had different numbers of CBO conditions. Offenders in the under 25 age group were nearly twice as likely than offenders aged 25 and over to have four or more conditions (37.8% compared with 20.8%) while offenders aged 25 years and over were substantially more likely to have one or two conditions attached to their CBO (54.3% compared with 38.8%).

Figure 23: Number of conditions for people commencing a CBO by age group*, 2006–07



* Age was not stated for seven people.

Table 1 shows the percentage of each offence type that had different numbers of CBO conditions. Property offences were most likely to have a single condition (39.4%), and offences against the person were most likely to have three (31.0%) and four (28.6%) conditions.

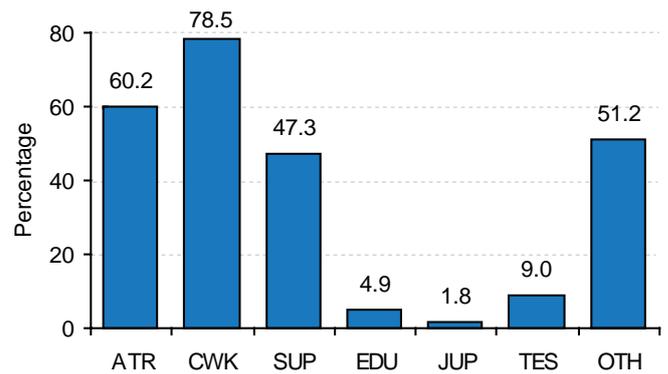
Table 1: Number of conditions by offence for people commencing a CBO, 2006–07

	1	2	3	4	5	6	Total
	%	%	%	%	%	%	no.
Person	17.9	15.4	31.0	28.6	6.8	0.3	1,341
Property	39.4	16.1	23.5	17.1	3.4	0.6	1,249
Drugs	24.2	27.6	17.8	23.7	6.7	0.0	359
Traffic	33.0	22.1	22.5	19.4	2.9	0.1	1,131
Other	33.9	16.5	22.8	21.5	4.9	0.5	1,723

Type of conditions

The frequency with which the seven condition types were utilised by the courts varied. Figure 24 shows the percentage of people commencing a CBO in 2006–07 according to each condition type. The most common condition was community work (78.5%), followed by assessment and treatment (60.2%), 'other' condition (51.2%) and supervision (47.3%). Alcohol or drug testing (9.0%), educational program (4.9%) and justice plan (1.8%) were used in a small minority of cases.

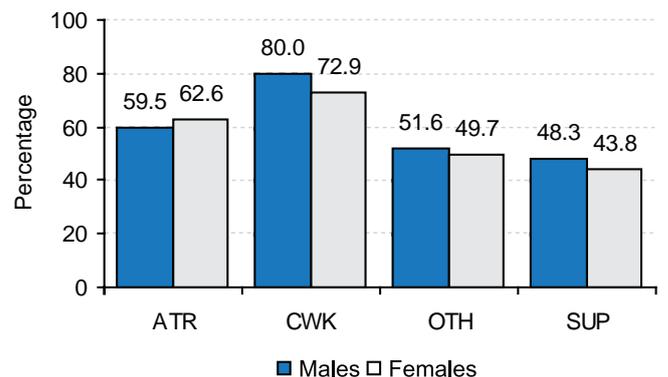
Figure 24: Condition type for people commencing a CBO, 2006–07



Acronyms: ATR = assessment and treatment; CWK = community work; SUP = supervision; EDU = education program; JUP = justice plan; TES = alcohol or drug testing; OTH = other.

Figure 25 shows the proportion of each gender that received the four main condition types. The largest discrepancy was for community work, a condition imposed on 80.0% of males and 72.9% of females. Otherwise, there was little difference by gender.

Figure 25: Condition type by gender for people commencing a CBO, 2006–07

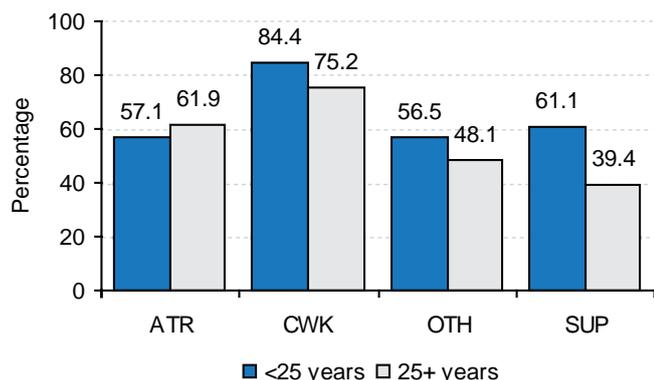


Acronyms: ATR = assessment and treatment; CWK = community work; OTH = other; SUP = supervision.

Figure 26 presents the percentage of people who received the four main condition types for the under 25 and 25 and over age groups. Three of the four condition types presented were more likely to be given to the under 25 age group than to the 25 and over age group. The age difference was greatest for supervision, imposed on 61.1% of the under 25 age group and 39.4% of the 25 and over age group.

Assessment and treatment was the only condition more likely to be given to the 25 and over age group: 61.9% of the 25 and over age group received this condition compared with 57.1% of the under 25 age group.

Figure 26: Condition type by age group, for people commencing a CBO, 2006–07



Acronyms: ATR = assessment and treatment; CWK = community work; OTH = other; SUP = supervision.

Table 2 shows the percentage each offence type comprised for each CBO condition type. Assessment and treatment was used most commonly for drug offences (76.0%) and least for property offences (49.6%). Community work was commonly used for all offence types, but particularly for property offences (82.9%) and traffic offences (81.4%). Supervision was most commonly used for offences against the person (60.3%) and least commonly for traffic offences (40.4%).

Table 2: Condition type by offence for people commencing a CBO, 2006–07

	ATR %	CWK %	EDU %	JUP %	OTH %	SUP %	TES %	Total no.
Person	68.9	74.6	7.4	2.5	66.7	60.3	11.4	1,341
Property	49.6	82.9	4.7	1.4	44.4	41.1	6.6	1,249
Drugs	76.0	77.7	2.5	0.6	44.3	47.1	12.8	359
Traffic	60.9	81.4	3.1	1.2	42.4	40.4	8.0	1,131
Other	57.9	76.3	4.7	1.9	51.9	46.5	9.0	1,723

Acronyms: ATR = assessment and treatment; CWK = community work; EDU = education program; JUP = justice plan; OTH = other; SUP = supervision; TES = alcohol or drug testing.

Number by type

Table 3 presents the percentage of CBOs with a given condition according to the number of conditions attached to the order. For example, 3.4% of the CBOs with assessment and treatment had only one condition, while 8.5% had 5 or more conditions.

It is evident that of all the condition types, community work was most likely to be the only condition attached to the order (34.4%).¹⁶ Nearly all of the CBOs with supervision, alcohol and drug testing, education programs, other condition or assessment and treatment have at least two conditions attached.

Almost half of CBOs with the alcohol and drug testing condition had five or more conditions (47.3%).

Table 3: Condition type by number of conditions for people commencing a CBO, 2006–07

	1 (%)	2 (%)	3 (%)	4 (%)	5+ (%)	Total (no.)
ATR	3.4	20.0	32.4	35.7	8.5	3,525
CWK	34.4	13.8	20.2	25.2	6.3	4,599
SUP	1.0	10.0	34.1	44.2	10.7	2,771
EDU	1.0	5.6	25.3	40.6	27.4	288
JUP	17.5	28.2	16.5	19.4	18.4	103
OTH	1.7	14.0	36.2	38.7	9.4	3,001
TES	0.2	2.5	17.0	33.1	47.3	529

Acronyms: ATR = assessment and treatment; CWK = community work; SUP = supervision; EDU = education program; JUP = justice plan; OTH = other; TES = alcohol or drug testing.

Type by type

Table 4 shows a condition type matrix that shows the percentage of each condition type that was paired with another condition type in the one CBO. For example, 70.5% of the 3,525 CBOs with an assessment and treatment condition also had a community work condition.

The majority of assessment and treatment conditions were paired with community work (70.5%), supervision (65.4%), or some other condition (68.5%). This four-condition combination was present in 21.5% of all CBOs.

At least one of these four conditions was also frequently present in CBOs with some other conditions. Almost all CBOs with alcohol and drug testing (97.4%) also had an assessment and treatment condition.

Supervision was most often paired with assessment and treatment (83.3%), other (75.5%) and community work (69.6%). Community work was most often paired with assessment and treatment (54.0%), other (46.9%) and supervision (41.9%).

Table 4: Conditions matrix for people commencing a CBO, 2006–07

	ATR	CWK	EDU	JUP	OTH	SUP	TES
ATR (%)	n.a	54.0	76.7	38.8	80.4	83.3	97.4
CWK (%)	70.5	n.a	71.2	23.3	71.9	69.6	67.7
EDU (%)	6.2	4.5	n.a	6.8	4.7	7.9	10.4
JUP (%)	1.1	0.5	2.4	n.a	1.5	2.8	1.9
OTH (%)	68.5	46.9	49.3	43.7	n.a	75.5	71.3
SUP (%)	65.4	41.9	76.4	74.8	69.7	n.a	80.2
TES (%)	14.6	7.8	19.1	9.7	12.6	15.3	n.a
Total (no.)	3,525	4,599	288	103	2,771	3,001	529

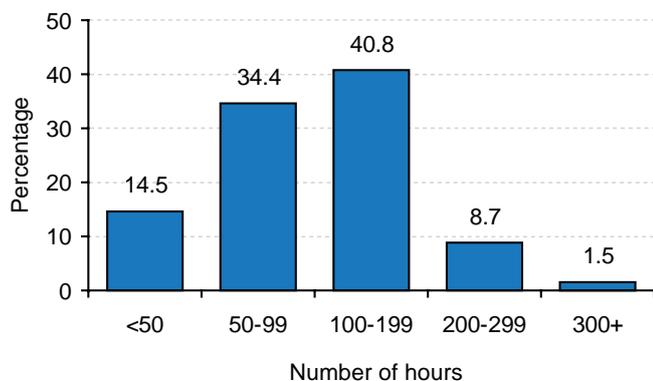
Acronyms: ATR = assessment and treatment; CWK = community work; EDU = education program; JUP = justice plan; OTH = other; SUP = supervision; TES = alcohol or drug testing.

Community work hours

The community work condition has a set number of hours a person is required to work, to a maximum of 500 hours. This quantity is determined by judges and magistrates taking into account the maximum penalty for the offence.

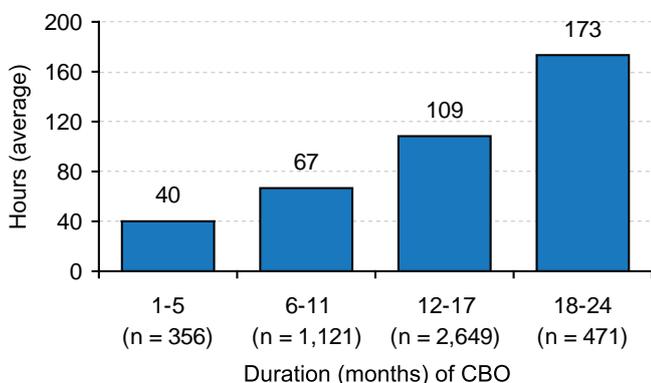
The average number of hours for CBOs with a community work condition was 100 (equal to 12.5 eight hour days). Figure 27 presents the distribution of CBOs according to the number of hours of work. The most common category was 100–199 hours (40.8%), followed by 50–99 hours (34.4%). Only 1.5% of people with a community work condition were required to work over 300 hours.

Figure 27: Community work hours for people commencing a CBO with community work, 2006–07



The number of community work hours depended on the duration of the CBO. As Figure 28 shows, the average number of hours increased with the duration of the order, with durations of 1–5 months averaging 40 hours and durations of 18–24 months averaging 173 hours.

Figure 28: Community work hours (average) by duration of order for people commencing a CBO with community work, 2006–07



Breach

This section examines the extent to which community sentences were breached. A breach of a community sentence may occur because the offender has breached a condition of the order or by further offending. Not all breaches of conditions necessarily result in a court hearing. The data below relate to a breach of an ICO or CBO imposed in the higher courts which have resulted in a court hearing.

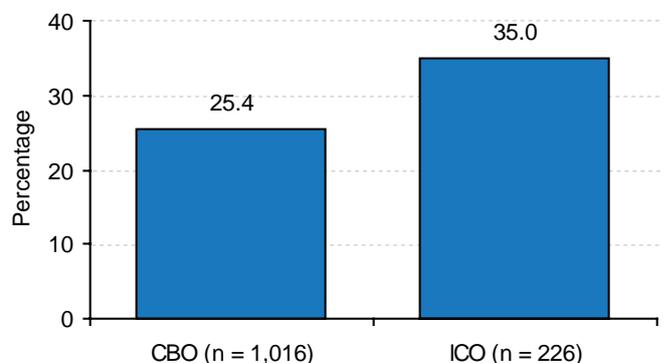
Only breaches of higher courts community sentences were examined because insufficient data were available on breaches for the Magistrates' Court. Therefore, because the vast majority of community sentences are imposed in the Magistrates' Court (94.5%), breach rates used here may not be reflective of breach rates for both court levels.

In order to assess breach rates accurately, each offender needed to be given the same time-frame in which to breach and the time-frame needed to be sufficient to capture the vast majority of breaches. Although ICOs may not exceed one year and CBOs may not exceed two years, a breach occurring while the order is active may be heard up to three years after the end of the sentence. A three-year time-frame was chosen because a separate analysis showed that more than 95% of breach hearings are likely to occur within three years of the original sentence date.¹⁷

Breach rates

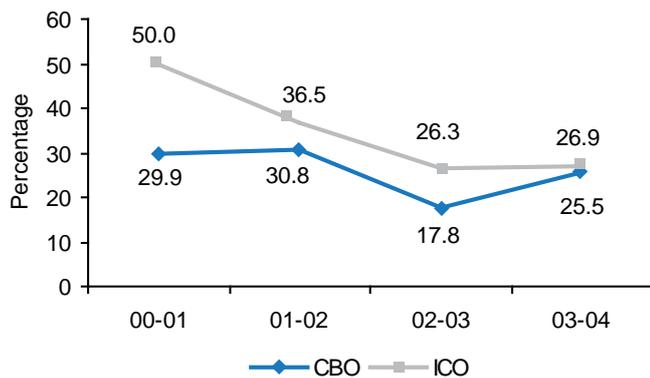
Figure 29 shows three-year breach rates for community sentences imposed in the higher courts between 2000–01 and 2003–04. Offenders serving ICOs were more likely to breach (35.0%) than those serving CBOs (25.4%).

Figure 29: Three-year breach rates for community sentences imposed between 2000–01 and 2003–04 in the higher courts



The three-year breach rates fluctuated considerably between 2000–01 and 2003–04. Figure 30 shows that the breach rate for ICOs declined from a high of 50.0% in 2000–01 to 26.3% in 2002–03, and levelled out in 2003–04 (26.9%). For CBOs there was a substantial decline between 2001–02 (30.8%) and 2002–03 (17.8%) before a rise in 2003–04 (25.5%).

Figure 30: Trends in three-year breach rates for community sentences imposed between 2000–01 and 2003–04 in the higher courts



In order to understand more recent trends, it was not possible to use three-year breach rates (due to the insufficient time lapsed). Therefore, breach rates were examined at one, two and three years following the original sentence. The three breach rates are shown for CBOs in Figure 31 and for ICOs in Figure 32. For both order types, the one-year breach rates were considerably lower than the two- and three-year rates, however the trends over the first four years were similar for the three breach rates. This suggests that as an indicator of the overall breach rate *trend*, the one-year breach rate is reasonably accurate.

The one-year breach rate for CBOs declined between 2000–01 (14.7%) and 2003–04 (5.5%), before rising over the next two years to 8.1% in 2005–06. A similar trend was evident for ICOs: the one-year breach rate declined from 32.8% in 2000–01 to 13.2% in 2002–03, before generally rising to reach 20.0% in 2006–07.

Figure 31: Trends in one- two- and three-year breach rates for CBOs imposed in the higher courts

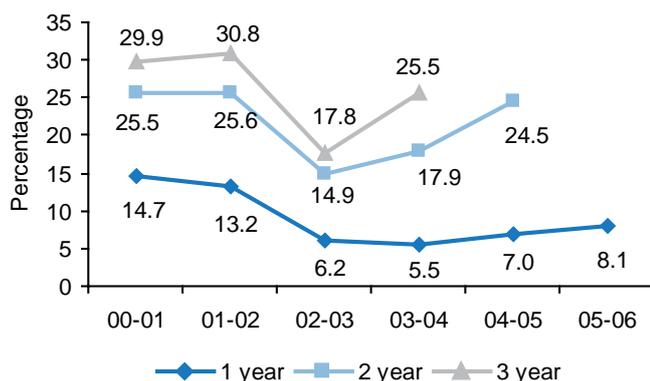
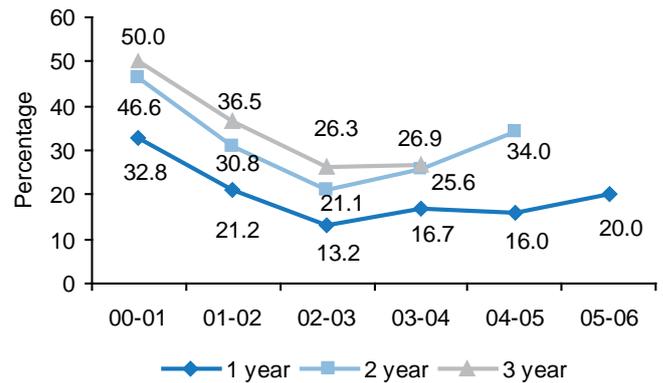


Figure 32: Trends in one- two- and three-year breach rates for ICOs imposed in the higher courts



Gender and age

Figure 33 shows three-year breach rates for CBOs by age and gender of the offender. Females (28.6%) were more likely to breach than males (24.8%) and had higher breach rates than males in all age groups under 45. Offenders under 25 was more likely to breach (30.8%) than offenders in any other age group, while the 45–54 age group were least likely to breach (2.0%).

Figure 33: Three-year breach rates for CBOs imposed between 2000–01 and 2003–04 in the higher courts by gender and age

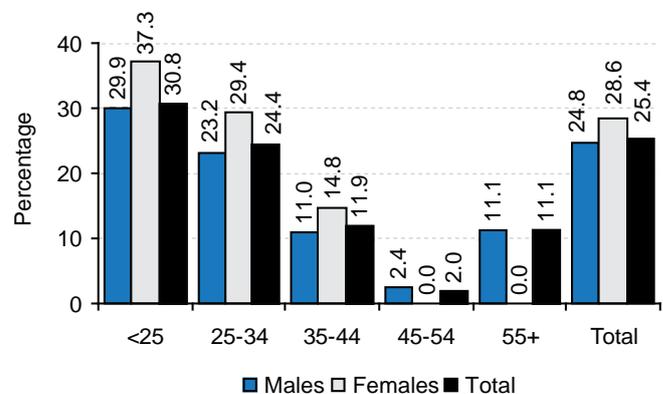


Figure 34 shows breach rates for ICOs by age and gender. Males were more likely to breach (35.9%) than females (28.6%). The age group most likely to breach was 25–34 (41.3%), closely followed by under 25 (40.0%) while the age group least likely to breach was 55 and over, for which none of the six people serving this order breached.

For males, the under 25 age group was most likely to breach (42.5%). For females, the 25-34 age group was most likely to breach – four of the eight people who received an ICO breached (50.0%).

Figure 34: Three-year breach rates for ICOs imposed between 2000–01 and 2003–04 in the higher courts by gender and age*

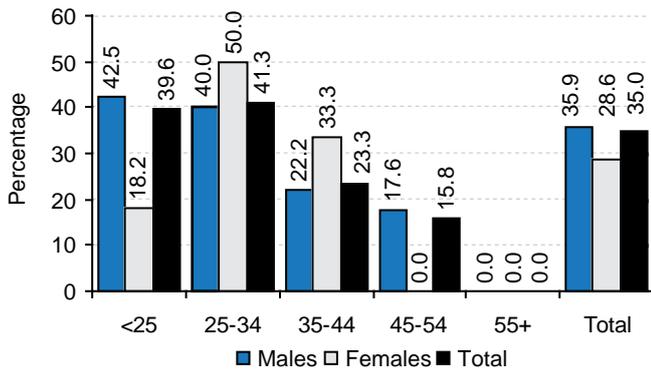
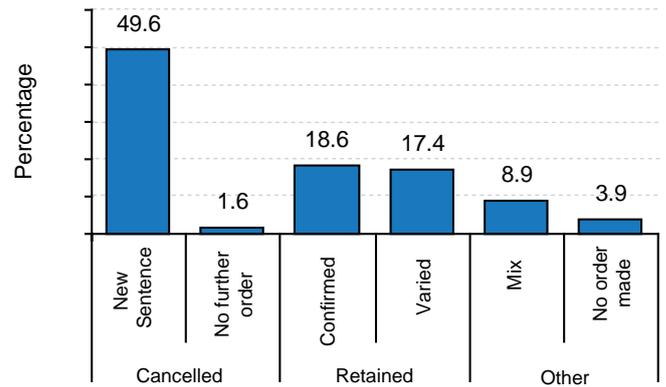


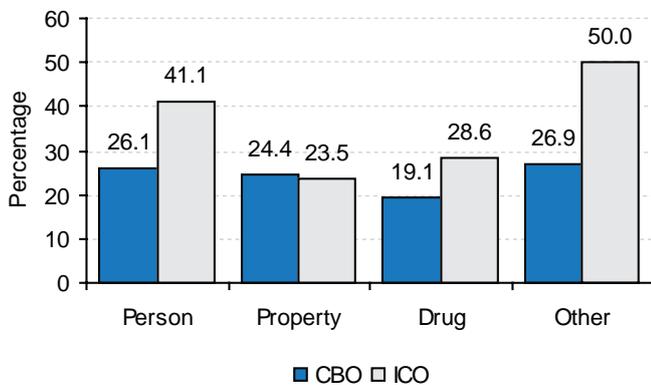
Figure 36: Outcome of breach hearing for CBOs imposed in the higher courts between 2000–01 and 2003–04



Offence

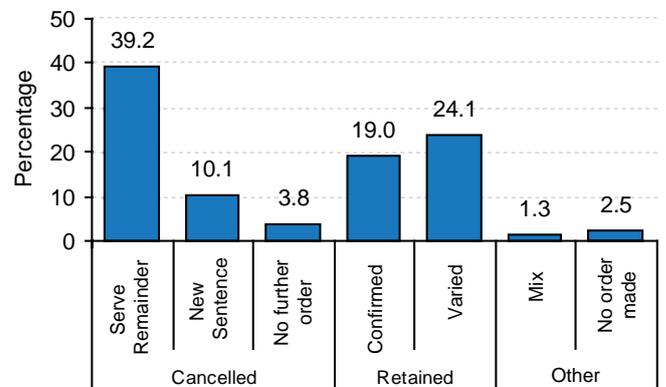
Figure 35 shows breach rates for ICOs and CBOs according to the offence type for which the offender was initially sentenced. Breach rates of CBOs were highest for ‘other’ offences (26.9%) while drug offences had the lowest (19.1%). Breach rates of ICOs were also highest among ‘other’ offences (50.0%), followed by offences against the person (41.1%).

Figure 35: Three-year breach rates for community sentences imposed between 2000–01 and 2003–04 in the higher courts by offence



For ICOs there is an option for judges to require offenders to serve the remaining portion of their ICO in prison. Figure 37 presents the percentage of the 100 breach hearings for ICOs according to the outcome of the hearing. Cancellation of the ICO with an order to serve the remainder of the ICO in prison was the most common outcome (39.2%). This represented 14% of all ICOs imposed between 2000–01 and 2003–04.

Figure 37: Outcome of breach hearing for ICOs imposed in the higher courts between 2000–01 and 2003–04



Breach outcome

There are a number of possible outcomes of breach hearings, including cancellation of the order with the imposition of a new sentence and retention of the original order with varied or confirmed conditions. Figure 36 presents the percentage of the 258 breach hearings for CBOs according to the outcome of the hearing. Cancellation of the order with imposition of a new sentence was the most common outcome (49.6%). It represented 13% of all CBOs.

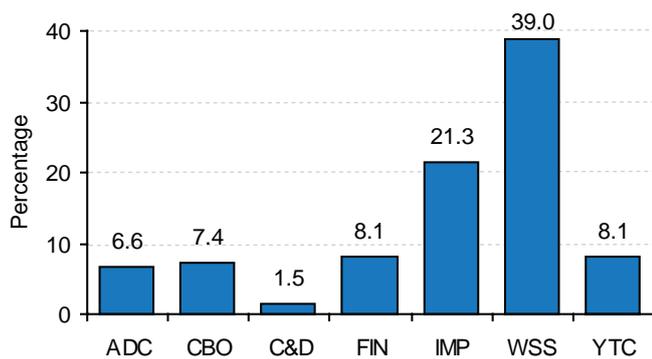
New sentences

Figure 38 shows the sentence imposed when a CBO was cancelled for a new sentence, which occurred in 128 CBO breach hearings (49.6%).

The most common new sentence imposed was a wholly suspended sentence (39.0%), followed by imprisonment (21.3%). A fine (8.1%), a youth training centre order (8.1%) and a new CBO (7.4%) were less common.

Of the 1,016 CBOs initially imposed in the higher courts between 2000–01 and 2003–04, 5.2% resulted in a wholly suspended sentence and 2.9% resulted in imprisonment after breach.

Figure 38: Sentence type for breach outcome of new sentence for CBOs imposed in the higher courts between 2000–01 and 2003–04



Acronyms: ADC = adjourned undertaking with conviction; CBO = community based order; C&D = convicted and discharged; FIN = fine; IMP = imprisonment; WSS = wholly suspended sentence; YTC = youth training centre.

Of the eight ICO breach hearings that resulted in a new sentence, five resulted in a wholly suspended sentence, two in imprisonment and one in a partially suspended sentence.

Summary

This paper has presented a statistical overview of the two major types of community sentences in Victoria: CBOs and ICOs.

In 2006–07, the vast majority (94.5%) of people who received a community sentence were sentenced in the Magistrates' Court. However, in terms of the likelihood of receiving a community sentence, people sentenced in the higher courts (17.2%) were more likely to receive a CBO or an ICO than those sentenced in the Magistrates' Court (7.3%). Compared to other sentences, community sentences were more common than fines in the higher courts and more common than imprisonment and suspended sentences in the Magistrates' Court.

Key findings in the report are as follows:

Of the 5,859 people who commenced a community-based order in 2006–07:

- 29.4% were sentenced for a most serious offence categorised as 'other', mainly comprising offences against justice procedures;
- the average duration of the order was 11.2 months;
- 69.2% had multiple conditions attached to the order;
- the most common conditions were community work (78.5%), assessment and treatment (60.2%), some other condition (51.2%) and supervision (47.3%); and

- the average number of hours of community work attached to a CBO was 100.

Of the 1,899 people who commenced an intensive correction order in 2006–07:

- 42.7% were sentenced for a most serious offence of a traffic offence; and
- the average duration of the orders was 4.9 months.

The three-year breach rates for CBOs imposed in the higher courts between 2000–01 and 2003–04 were:

- 25.4% for all offenders; and
- 30.8% for offenders aged under 25.

The three-year breach rates for ICOs imposed in the higher courts between 2000–01 and 2003–04 were:

- 35.0% for all offenders; and
- 39.6% for offenders aged under 25.

Endnotes

- 1 Only community-based orders imposed as an original sentence against a charge are examined in this report. Therefore, community-based orders resulting from fine default are out of scope.
- 2 The value of a penalty unit for 2007–2008 is \$110.12. The value of a penalty unit is fixed by the Treasurer under section 5(3) of the *Monetary Units Act 2004* (Vic).
- 3 *Sentencing Act 1991* (Vic), s 28(2). A justice plan is a statement prepared by the Department of Human Services for offenders with an intellectual disability which specifies services which are recommended for the offender and which are designed to reduce the likelihood of re-offending.
- 4 All court data were obtained from Court Statistical Services. Higher courts data are subject to revision.
- 5 The counting rule for sentence type in the Magistrates' Court data is: *count once the most severe sentence a person receives*. Because combinations of sentence types are sometimes imposed on the one person, the counts used to calculate percentages in this paper for Magistrates' Court sentences understate the true number of people sentenced to a given sentence type. In order to quantify this undercount for ICOs and CBOs, separate analyses were conducted for 2006–07 Magistrates' Court data. They showed that less than 5% of defendants who received an ICO also received a more severe sentence such as imprisonment, and 11% of people who received a CBO also received a more severe sentence such as imprisonment or partially suspended sentence. Therefore, the 'most severe sentence' counting rule used in this report for Magistrates' Court figures marginally understates the number of people who received a CBO or ICO. Further analysis of the combinations of sentence types per person is presented in Turner (2007): *Suspended Sentences in Victoria: A Statistical Profile*.

- 6 The counting rule used for sentence type in these higher courts data is: *one count for every sentence type a person receives*. If a person receives multiple sentence types (e.g., imprisonment and CBO), they are counted against each sentence type. If a person receives multiple counts of the same sentence type (e.g., two CBOs), they are counted once against that sentence type. Unlike the sentence type counting rule used for Magistrates' Court data (see endnote 5), this counting rule ensures that every person who receives a particular sentence type is counted within that sentence category.
- 7 For all court data used in this report the offence used is the principal proven offence per offender. Where an offender is found or proven guilty of multiple offences, the offence which attracts the most severe sentence is the principal proven offence.
- 8 Key offences within each category are as follows: offences against the person – assault, sexual assault, robbery; property offences – theft, burglary, deception, property damage; drug – trafficking, manufacturing, possession and use of illegal drugs; traffic – driving while disqualified; other – offences against justice procedures, public order offences, weapons offences.
- 9 Commencement occurs with Corrections Victoria following the imposition of a community sentence by a court. Corrections Victoria advised that the 'start date' of a community sentence is the most reliable available field for determining commencement of a sentence. The start date was therefore used to define whether or not a person was within the current reference period.
- 10 All commencement data were supplied by Corrections Victoria.
- 11 For all commencement data in this report the offence used is the most serious offence per offender as determined by Corrections Victoria and is categorised using the Australian Standard Offence Classification (ABS cat. no. 1234.0).
- 12 See endnote 8 for examples of offence types within the five categories.
- 13 The discrepancy between the reported number of people commencing community sentences in 2006–07 and the reported number who received these sentences in court (see page 3) is due to a number of reasons relating to counting rules. For example, the counting rule for people sentenced in the Magistrates' Court (see endnote 5) means that some people who receive a community sentence in court are not included in the court count but are included in the commencement count.
- 14 Separate analysis of the ICO conditions data found little variation in condition types, reflecting the requirement in the *Sentencing Act 1991* (Vic) of two compulsory conditions, community work and supervision. Only 6% of people who commenced an ICO had a 'special' condition, most of these being drug and alcohol treatment.
- 15 Some examples of 'other' conditions include specific directions contained in psychiatric and/or psychological pre-sentence reports conducted by Forensicare, the monitoring by corrections officers of an offender's psychiatric treatment, and the dispensation of an offender's medication.
- 16 The *Sentencing Act 1991* (Vic) permits the court to impose a community work condition only and a court is not required to order a pre-sentence report if the only condition is a community service condition requiring 250 or fewer hours of community work (*Sentencing Act 1991* (Vic) s 39(7)). The order expires upon the satisfactory completion of those hours of work.
- 17 The analysis showed that as of 30 June 2007, only 4% of breach hearings for CBOs and 2% of breach hearings for ICOs imposed between July 2000 and June 2002 occurred more than three years after the sentence date.

Authored by Geoff Fisher, Data Analyst, Sentencing Advisory Council.

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