

Suspended Sentences in Victoria

A Statistical Profile

November 2007

Nick Turner

Contents

Introduction	2
Sentencing in Victoria	2
The use of suspended sentences	4
Breach of suspended sentences	8
Outcomes of breach	12
Specific offence profiles	15
Specific offender profiles	20
Summary	23
Endnotes	23

Abstract

This report presents an analysis of suspended sentences imposed in the Magistrates' Court and higher courts from 2000–01 to 2006–07. A suspended sentence is a sentence of imprisonment imposed on an offender the immediate execution of which is suspended.

There were 45,556 suspended sentences imposed in the Magistrates' Court and higher courts over the seven-year period, 2000–01 to 2006–07. Recent trends show that the use of suspended sentences has declined.

Suspended sentences were often used in conjunction with other sentencing orders. Nearly half (46.3%) of the people who received a wholly suspended sentence in the Magistrates' Court also received a fine. Another common order type made in combination with a wholly suspended sentence was a community-based order (CBO), although this varied by court level. Of those sentenced to a wholly suspended sentence, 15.2% sentenced in the higher courts also received a CBO, compared to 8.4 percent of those sentenced in the Magistrates' Court.

Just over one in four (27.5%) of all suspended sentences imposed during 2000–01 and 2001–02 were breached by the offender committing further offences during the operational period of the order. The breach rate for suspended sentences imposed by the Magistrates' Court (29.1%) was substantially higher than that of sentences imposed by the higher courts (8.6%). For both court levels, people aged under 25 years had a

much higher breach rate than those aged 25 years or older. In the Magistrates' Court, people who received a suspended sentence for a property or 'other' principal proven offence had a higher breach rate than those sentenced for an offence against the person, a drug offence or a traffic offence.

Nearly two-thirds (62.8%) of breached suspended prison sentences imposed in 2000–01 and 2001–02 were restored upon breach and the offender ordered to serve the sentence in prison, representing 17.3% of all suspended sentences imposed. A higher percentage of partially suspended sentences were restored upon breach compared to wholly suspended sentences. A higher percentage of men had their suspended sentences restored upon breach compared to women.



Sentencing Advisory Council
Level 4, 436 Lonsdale Street
Melbourne Victoria 3000
Dx 210307

Telephone 03 9603 9047
Facsimile 03 9603 9030
contact@sentencingcouncil.vic.gov.au
www.sentencingcouncil.vic.gov.au

Introduction

Structure of this report

This report presents an analysis of suspended sentences imposed in the Magistrates' Court and higher courts from 2000–01 to 2006–07.¹ The report is divided into six main sections. The first section provides some information on all the sentences imposed in the courts, while the second section focuses specifically on the use of suspended sentences in Victoria. The third section presents statistics relating to breach rates, while the fourth section looks at the outcomes of breach. The fifth section looks at the use of suspended sentences in relation to specific offences, while the final section looks at suspended sentences imposed on specific offender groups.

What is a suspended sentence?

A suspended sentence is a sentence of imprisonment imposed on an offender, the immediate execution of which is suspended. The prison sentence may be either wholly suspended, in which case the offender does not serve any time in prison² and is released into the community, or partially suspended, in which case the offender serves part of the sentence in prison and is then released into the community.

When a suspended sentence is imposed, an operational period is also set. The only condition of a suspended sentence is that the offender must not commit another offence punishable by imprisonment during the operational period. A failure to comply with this condition means that the suspended sentence is breached.

The maximum term of imprisonment that can be suspended, and the maximum operational period of the order is two years for offenders sentenced in the Magistrates' Court, and three years for offenders sentenced in the higher courts.³

If an offender breaches a suspended sentence, the court must order the offender to serve the suspended term of imprisonment unless the court is of the opinion that it would be unjust to do so in light of any exceptional circumstances which have arisen since the order suspending the sentence was made (in which case the court may restore only part of the suspended sentence, extend the operational period to not longer than 12 months beyond the initial expiration of the order, or make no order).⁴

Sentencing in Victoria

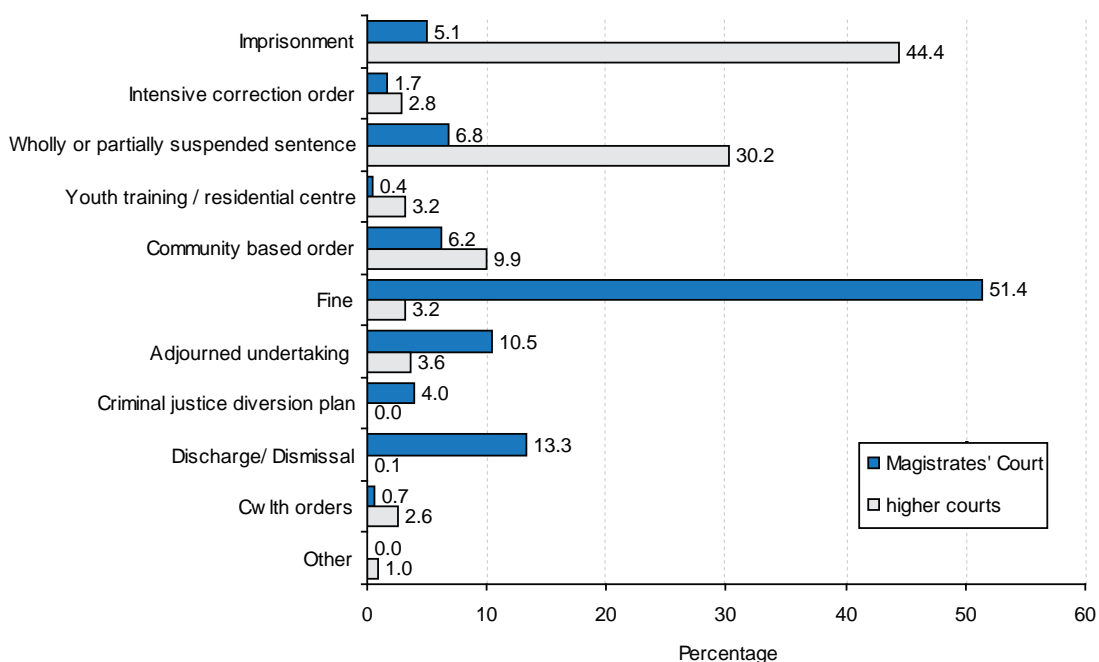
This section provides an overview of all sentences imposed in the Magistrates' Court and the higher courts (County and Supreme Court combined) for the seven years from 2000–01 to 2006–07 (inclusive).⁵

Types of sentences imposed

Figure 1 shows the percentage of people sentenced in the Magistrates' Court and the higher courts by sentencing outcome from 2000–01 to 2006–07. As shown, the types of orders imposed differ substantially according to the level of court.

In the higher courts, 44% of people were sentenced to a period of immediate imprisonment, while 30% received a wholly or partially suspended sentence. In the Magistrates' Court, the majority of people sentenced were fined (51%) and 10% received an adjourned undertaking.

Figure 1: The percentage of people sentenced in the Magistrates' Court and the higher courts by outcome, 2000–01 - 2006–07



Trends in suspended sentences

While Figure 1 shows the percentage breakdown of sentencing outcomes over the entire seven-year period combined, Figure 2 and Figure 3 show the monthly trends in the percentage of people who received suspended sentences or intensive correction orders in the Magistrates' Court (Figure 2) and suspended sentences or imprisonment in the higher courts (Figure 3). The bold lines on the graphs represent the 12 month rolling average to smooth out the seasonal variations.

As shown in Figure 2, from mid-2005 to mid-2007, the percentage of people sentenced in the Magistrates' Court who received wholly suspended sentences decreased slightly from 6.5% of all sentence types to 6.0%. During the same period, the percentage of ICOs increased from 1.5% of all sentence types to 2.0%. The percentage of people who received a partially suspended sentence has remained relatively stable over the seven-year period shown at just under one percent.

As shown in Figure 3, from March 2005 to June 2007, the percentage of people sentenced in the higher courts who received either a partially or wholly suspended sentence decreased steadily (down 7.1%), while the percentage of people who were sentenced to imprisonment increased (up 5.4%). The percentage of people who received other types of sentencing orders over this period remained relatively stable at around 25% (ranging from 23.5% to 27.4%).

Figure 2: The percentage of people who were sentenced to an intensive correction order, wholly or partially suspended sentence of imprisonment, Magistrates' Court, July 2000 to June 2007

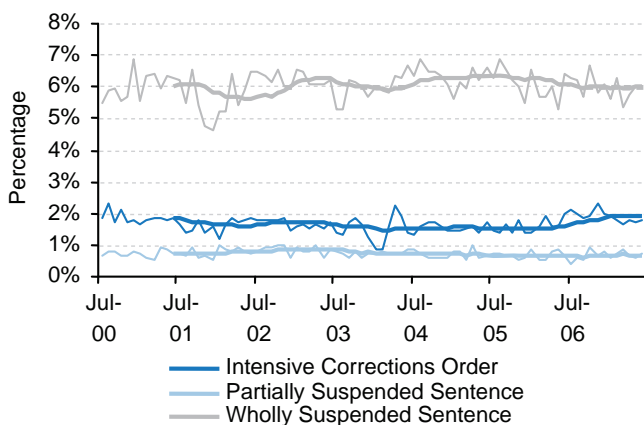
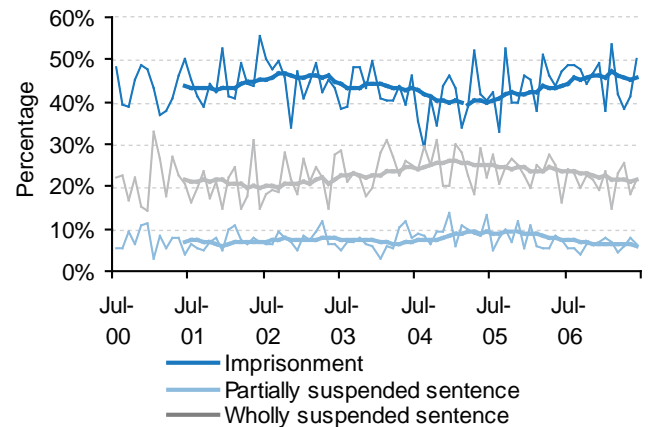


Figure 3: The percentage of people who were sentenced to a period of imprisonment, wholly or partially suspended sentence of imprisonment, higher courts, July 2000 to June 2007



Suspended sentences used in conjunction with other sentences

While a suspended sentence cannot be combined with any order other than a fine on a single count, an offender found guilty of more than one offence may be sentenced to a suspended sentence for one offence, and a different type of order for another offence.

Table 1 and Table 2 show the percentages of selected sentence types imposed in combination with other sentences imposed in the same case in the Magistrates' Court for 2004–05 to 2006–07 (Table 1) and the higher courts for 2000–01 to 2006–07 (Table 2). For example, of the 11,096 people sentenced to an immediate term of imprisonment in the Magistrates' Court, just under one in three (30.0%) also received a fine.

As shown, a relatively high percentage of people sentenced to a wholly suspended term of imprisonment in the Magistrates' Court also received a fine (33.6% of those who received a partially suspended sentence and 46.3% of those who received a wholly suspended sentence).

Another common order type made in combination with a wholly suspended sentence was a community-based order (CBO), although this varied by court level. Of those sentenced to a wholly suspended sentence, 15.2 percent sentenced in the higher courts also received a CBO, compared to 8.4 percent of those sentenced in the Magistrates' Court.

One percent of those who received a wholly suspended sentence of imprisonment also received an intensive correction order (1.0% in the Magistrates' Court and 1.0% in the higher courts).

Table 1: The percentage of selected sentence types imposed by other sentences imposed in the same case, Magistrates' Court, 2004–05 to 2006–07

	Imp	PSS	WSS	ICO	CBO	Fine
Imprisonment	100.0	14.7	1.7	1.5	1.5	2.4
Partially suspended sentence	2.6	100.0	0.7	0.1	0.6	0.5
Wholly suspended sentence	2.3	5.4	100.0	3.7	8.4	5.1
Intensive correction order	0.5	0.3	1.0	100.0	0.6	1.1
Community based order	2.1	4.8	8.4	2.3	100.0	1.4
Fine	30.0	33.6	46.3	39.1	13.1	100.0
Total	11,096	1,945	15,384	4,095	15,379	140,201

Table 2: The percentage of selected sentence types imposed by other sentences imposed in the same case, higher courts, 2000–01 to 2006–07

	Imp	PSS	WSS	ICO	CBO	Fine
Imprisonment	100.0	31.5	2.1	0.3	3.1	24.6
Partially suspended sentence	5.0	100.0	2.8	0.8	1.8	5.8
Wholly suspended sentence	1.1	8.9	100.0	8.1	25.4	27.5
Intensive correction order	0.0	0.3	1.0	100.0	0.1	2.5
Community based order	0.9	3.4	15.2	0.5	100.0	13.7
Fine	5.6	8.2	12.4	9.4	10.3	100.0
Total	6,395	1,019	3,230	393	1,930	1,452

The use of suspended sentences

This section analyses data relating to suspended sentences imposed in the Magistrates' Court and the higher courts (County Court and Supreme Court combined). A suspended sentence is counted once per case.⁶

The number of suspended sentences

Over the seven-year period, 2000–01 to 2006–07, there were 45,556 suspended sentences imposed in the Magistrates' Court and higher courts of Victoria. As shown in Figure 4, the number of suspended sentences for both levels of court peaked in 2004–05, before recording consecutive decreases.

Figure 4: The number of suspended sentences imposed per year, Magistrates' Court and higher courts, 2000–01 to 2006–07

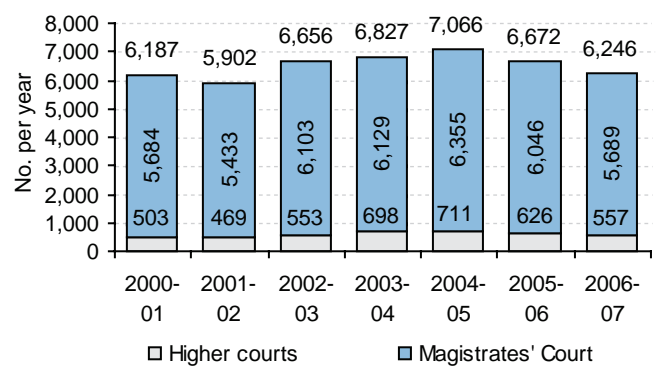


Figure 5 and Figure 6 show the number of people who received a suspended sentence of imprisonment each year from 2000–01 to 2006–07 in the Magistrates' Court and higher courts, respectively. As shown, there were 5,053 wholly suspended sentences imposed in the Magistrates' Court in 2006–07, representing 88.8% of all suspended sentences imposed in 2006–07. Over the same period in the higher courts, 557 suspended sentences were imposed, of which 433 (77.7%) were wholly suspended.

Figure 5: The number of people who received a suspended sentence per year by type of suspended sentence, Magistrates' Court, 2000–01 to 2006–07

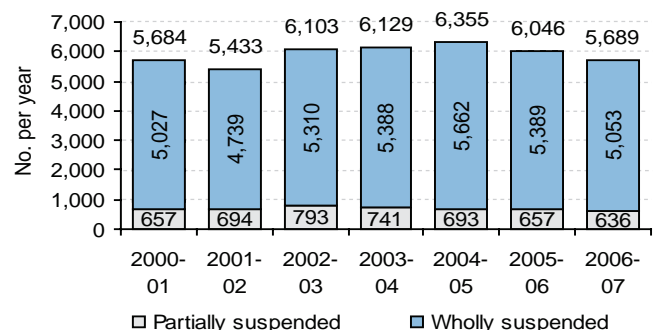
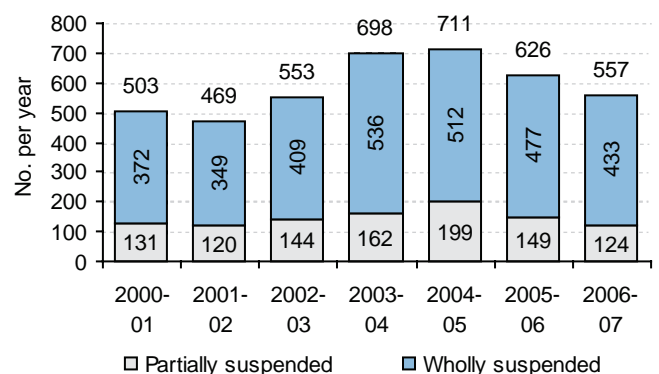


Figure 6: The number of people who received a suspended sentence per year by type of suspended sentence, higher courts, 2000–01 to 2006–07



Lengths of suspended sentences

The maximum length of a suspended sentence is two years in the Magistrates' Court and three years in the higher courts. Figure 7 and Figure 8 show the percentage of people who received a suspended sentence from 2000–01 to 2006–07 by the length of the total imprisonment term and type of suspended sentence for both the Magistrates' Court and the higher courts respectively.

As shown, imprisonment lengths were longer for partially suspended than wholly suspended sentences for both court levels. For example, 28.4% of the imprisonment terms set for partially suspended sentences in the Magistrates' court were for 7 months or longer, higher than that of wholly suspended sentences (4.9%).

Figure 7: The percentage of people who received a suspended sentence by length of suspended imprisonment term and type of suspended sentence, Magistrates' Court, 2000–01 to 2006–07

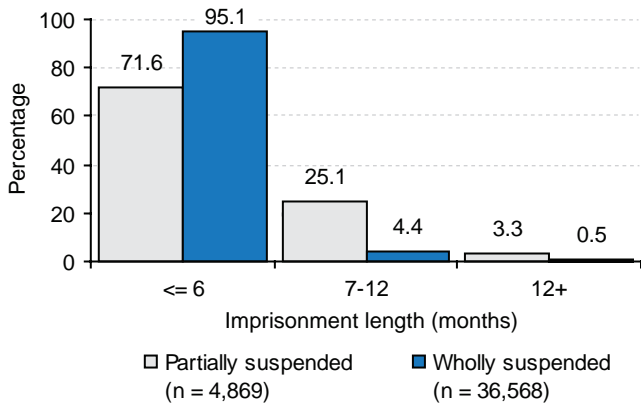
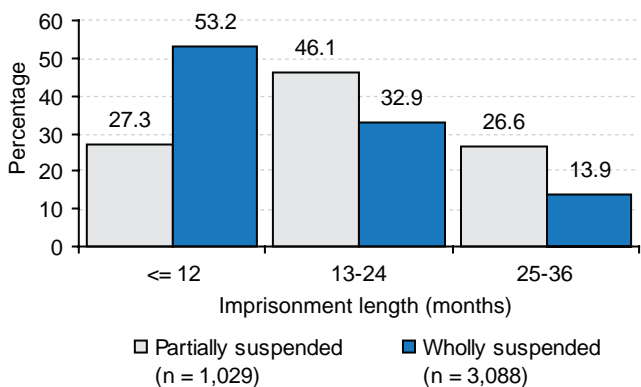


Figure 8: The percentage of people who received a suspended sentence by length of suspended imprisonment term and type of suspended sentence, higher courts, 2000–01 to 2006–07



Operational periods

The maximum operational period for a suspended sentence is two years in the Magistrates' Court and three years in the higher courts. Figure 9 and Figure 10 show the percentage of people who received a suspended sentence from 2000–01 to 2006–07 by the length of the operational period and type of suspended sentence for both the Magistrates' Court and the higher courts respectively.

Operational lengths were longer for partially suspended than wholly suspended sentences for both levels of court. For example, 32.0% of the operational periods set for partially suspended sentences in the Magistrates' court were for 19 to 24 months, higher than that of wholly suspended sentences (20.1%). Conversely, 5.1% of the operational periods set for partially suspended sentences in the Magistrates' court were for six months or less, lower than that of wholly suspended sentences (12.8%).

Figure 9: The percentage of people who received a suspended sentence by length of operational period and type of suspended sentence, Magistrates' Court, 2000–01 to 2006–07

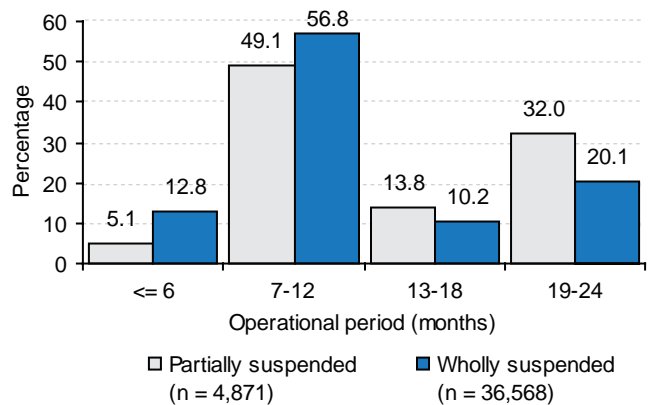
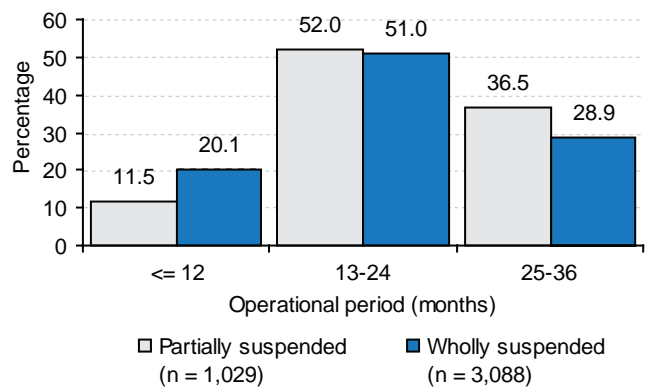


Figure 10: The percentage of people who received a suspended sentence by length of operational period and type of suspended sentence, higher courts, 2000–01 to 2006–07



Demographics

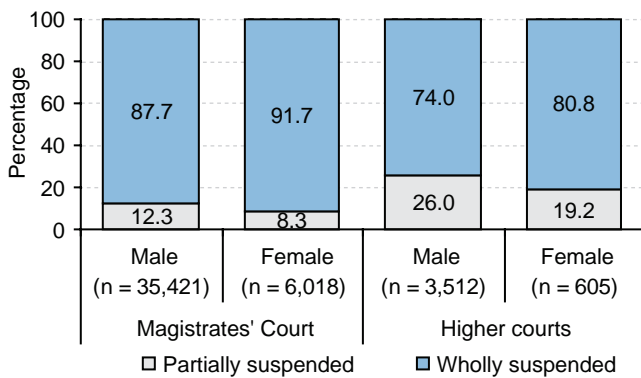
This section examines both the age and gender of people who received a suspended sentence.

Gender

Figure 11 shows the number and percentage of people who were sentenced to a wholly or partially suspended sentence by gender for both court levels.

As shown, partially suspended sentences made up a higher percentage of all suspended sentences in the higher courts (26.0% of men and 19.2% of women) than the Magistrates' Court (12.3% of men and 8.3% of women). Also, men who received suspended sentences were more likely than women to have the sentences partially, rather than wholly, suspended (12.3% of men compared to 8.3% of women in the Magistrates' Court and 26.0% of men compared to 19.2% of women in the higher courts).

Figure 11: The percentage of people who were sentenced to a suspended sentence by gender, Magistrates' Court and higher courts, 2000–01 to 2006–07



Age

Figure 12 shows the percentage breakdown of the age groups for people who received a suspended sentence in the Magistrates' Court and the higher courts.

The peak age group for people who received a suspended sentence was 20–24 years for both court levels. The age of people who received suspended sentences in the higher courts tended to be higher than the age of those sentenced in the Magistrates' Court (a median age of 32 years in the higher courts compared to 30 years in the Magistrates' Court).

Figure 12: The percentage breakdown of age groups for people who received a suspended sentence, Magistrates' Court and higher courts, 2000–01 to 2006–07

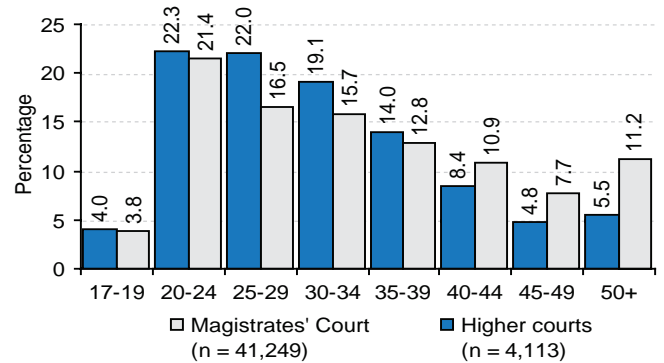
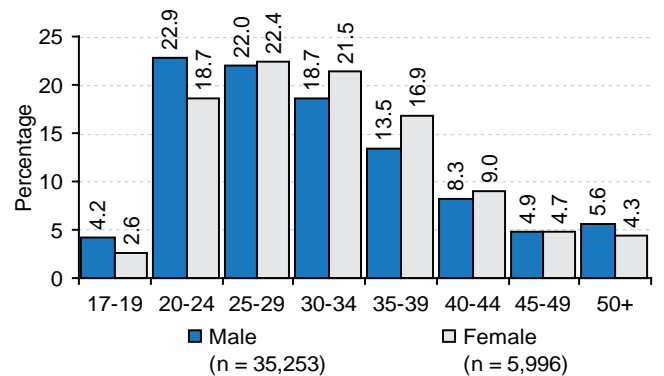


Figure 13 and Figure 14 show the percentage breakdown of the age groups by gender for people who received suspended sentences for both the Magistrates' Court and the higher courts.

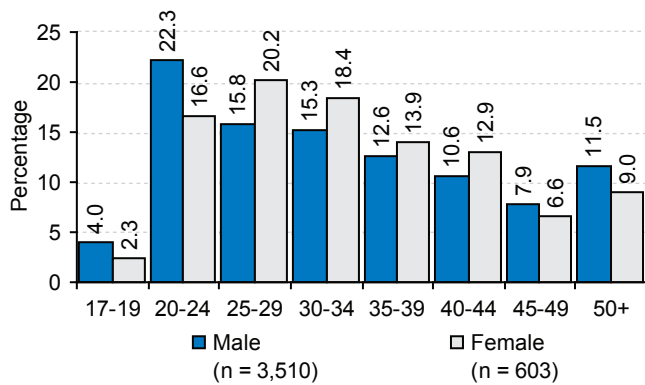
As shown in Figure 13, the majority of people sentenced to a suspended sentence in the Magistrates' Court were aged between 20 and 34 years. The median age of women sentenced was 31 years, slightly higher than that of men (30 years).

Figure 13: The percentage breakdown of age groups for people who received a suspended sentence by gender, Magistrates' Court, 2000–01 to 2006–07



As shown in Figure 14, the age profile of men and women sentenced to a suspended sentence in the higher courts was quite different. While the median age of both groups was the same (32 years), a higher percentage of men was aged under 25, or 45 years or older while a higher percentage of women was aged 25 to 44 years.

Figure 14: The percentage breakdown of age groups for people who received a suspended sentence by gender, higher courts, 2000–01 to 2006–07



Offence type

Figure 15 shows the percentage of people who received wholly and partially suspended sentences by principal proven offence group and court level⁷.

As shown, a higher percentage of suspended sentences imposed in the higher courts was for person related offences (43.3% compared to 16.2% in the Magistrates' Court). In comparison, nearly one third (30.9%) of suspended sentences imposed in the Magistrates' Court were for traffic offences.

Figure 15: The percentage of people who received a suspended sentence by offence category, Magistrates' Court and higher courts, 2000–01 to 2006–07

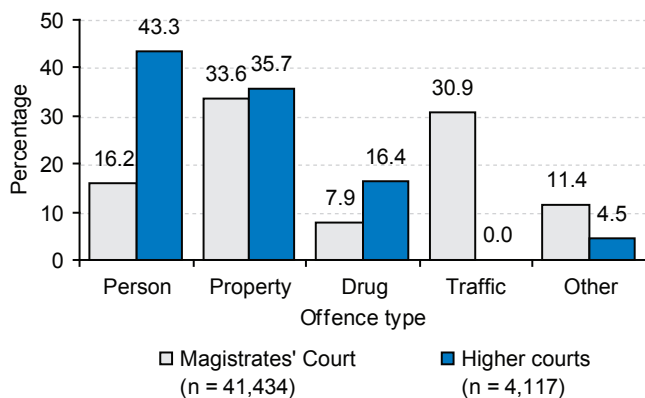


Figure 16 and Figure 17 show the percentage of men and women who received wholly and partially suspended sentences by principal proven offence group for the Magistrates' Court and the higher courts, respectively.

At both court levels, a higher percentage of women than men who received a suspended sentence had a property offence as their principal proven offence (51.3% of women compared to 30.5% of men in the Magistrates' court and 47.9% of women compared to 33.6% of men in the higher courts).

Conversely, a higher percentage of men than women who received a suspended sentence had an offence against the person as their principal proven offence (16.8% of men compared to 12.7% of women in the Magistrates' court and 45.8% of men compared to 28.8% of women in the higher courts).

Figure 16: The percentage of people who received a suspended sentence by offence category and gender, Magistrates' Court, 2000–01 to 2006–07

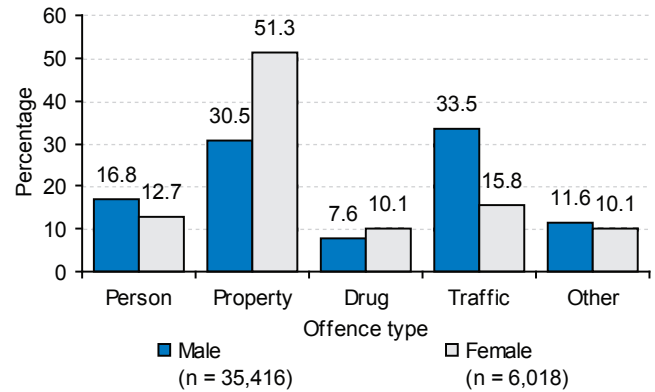


Figure 17: The percentage of people who received a suspended sentence by offence category and gender, higher courts, 2000–01 to 2006–07

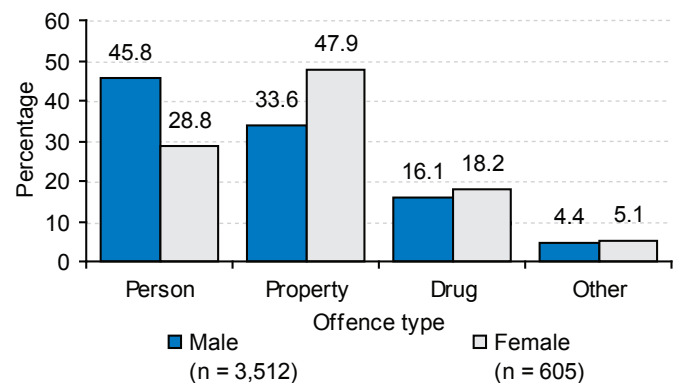


Table 3 and Table 4 show the number and percentage of people who received a suspended sentence during 2000–01 to 2006–07 for each of the 10 offences that had the most suspended sentences imposed for both the Magistrates' Court (Table 3) and the higher courts (Table 4).

As shown in Table 3, the most common principal proven offence for people who received a suspended sentence in the Magistrates' Court was 'drive while disqualified' (8,927 people). Nearly one quarter (23.7%) of all people sentenced for this offence received a suspended sentence.

As shown in Table 4, the most common principal proven offence for people who received a suspended sentence in the higher courts was 'traffick a drug of dependence' (8,927 people). Over two in five (41.8%) of all people sentenced for this offence received a suspended sentence.

Table 3: The number and percentage of people of who received a suspended sentence for each of the 10 offences that had the highest number of suspended sentences imposed, Magistrates' Court, 2000–01 to 2006–07

Offence	No.	% of all sentences
1 Drive while disqualified	8,927	23.7%
2 Theft	6,384	10.7%
3 Burglary	2,599	19.9%
4 Drink driving (s49(1)(f) Road Safety Act 1986 (Vic))	2,157	4.9%
5 Cause injury intentionally or recklessly	1,959	15.1%
6 Traffick in a drug of dependence	1,210	29.8%
7 Handling stolen goods	1,019	13.1%
8 Breach of an intervention order	949	11.0%
9 Obtain property by deception	798	17.0%
10 Unlicensed driving	731	8.9%

Table 4: The number and percentage of people of who received a suspended sentence for each of the 10 offences that had the highest number of suspended sentences imposed, higher courts, 2000–01 to 2006–07

Offence	No.	% of all sentences
1 Traffick a drug of dependence	381	41.8%
2 Aggravated burglary	336	41.4%
3 Recklessly cause serious injury	237	35.1%
4 Armed robbery	230	13.3%
5 Theft	229	41.9%
6 Cause injury intentionally or recklessly	203	31.7%
7 Causing serious injury intentionally	160	22.9%
8 Affray	155	38.2%
9 Obtain financial advantage by deception	153	45.8%
10 Obtain property by deception	148	48.8%

Breach of suspended sentences

In this section, all suspended sentences are counted including sentences that were imposed as a result of a breach of an earlier order.

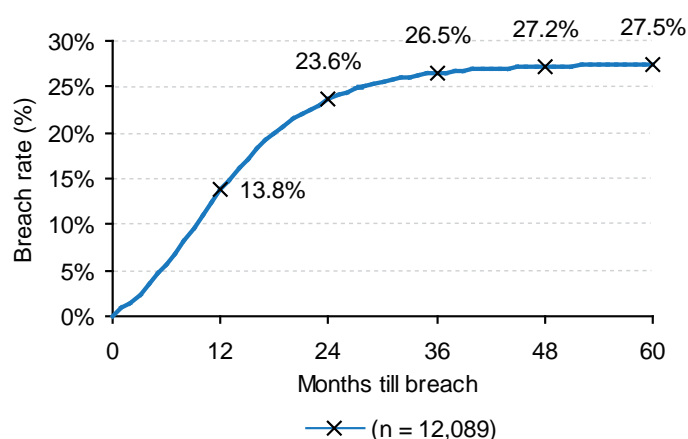
The graphs in this section present the breach rates with respect to the number of months taken from the suspended sentence being imposed to the breach being finalised.⁸ Although the maximum operational period is three years, proceedings for breach can be initiated up to three years after the breach has occurred. This means that in some cases action for breach will be taken after the operational period of the order has expired. There were many suspended sentences breached that were

finalised more than three years after the date that the suspended sentence was originally imposed.

The breach rates presented in this section are calculated from suspended sentences that were imposed during 2000–01 and 2001–02. Although the majority of suspended sentences breached are finalised within three years, the breach rates presented in this section allow up to 5 years for the breaches to be finalised. This provides a better picture of the overall rate of breach.

Figure 18 shows the breach rate of suspended sentences imposed in 2000–01 and 2001–02 in the Magistrates' Court and higher courts combined. As shown, the breach rate after five years was 27.5%. Around half of these breaches were finalised within 12 months of the sentence being imposed (13.8%), while nearly nine in 10 breaches were finalised within two years (23.6% of 27.5%).

Figure 18: Breach rate of suspended sentences by months till breach, Magistrates' Court and higher courts combined, 2000–01 and 2001–02



Court level

Figure 19 shows the breach rate of suspended sentences imposed in 2000–01 and 2001–02 in the Magistrates' Court and higher courts, separately.

The breach rate of suspended sentences was much higher for the Magistrates' Court than the higher courts (29.1% compared to 8.6%).

Finalisations of breaches of suspended sentences in the Magistrates' Court tended to occur earlier than those in the higher courts. Within 12 months of each of the 11,117 suspended sentences being imposed in the Magistrates' Court, 14.9% had breaches finalised (more than half of the percentage that had breached after five years). In contrast, within 12 months of each of the 972 suspended sentences being imposed in the higher courts, only 1.1% had breaches finalised (just over one in ten of those that had breached after five years).

Figure 19: Breach rate of suspended sentences by months till breach, Magistrates' Court and higher courts separately, 2000–01 and 2001–02

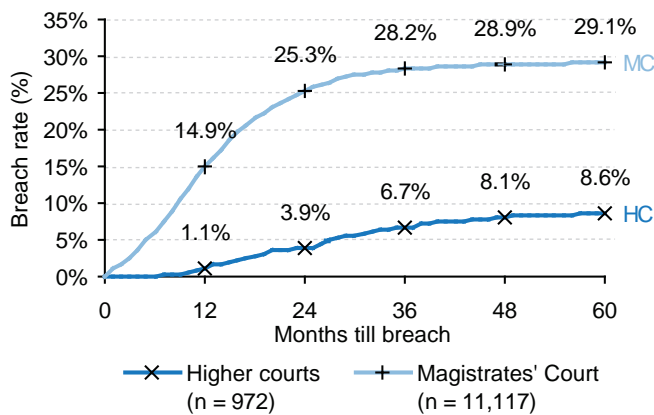
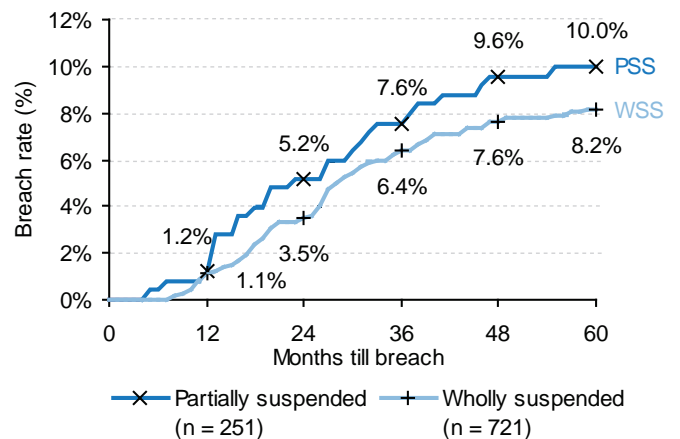


Figure 21: Breach rate of suspended sentences by months till breach and type of suspended sentence, higher courts, 2000–01 and 2001–02

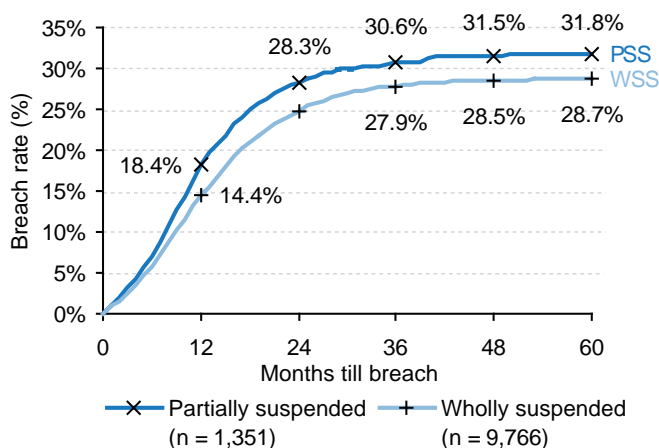


Type of suspended sentence

Figure 20 and Figure 21 show the separate breach rates of partially and wholly suspended sentences imposed in 2000–01 and 2001–02 in the Magistrates' Court and higher courts, respectively.

In both the Magistrates' Court and higher courts, the breach rate was higher for partially suspended than wholly suspended sentences (31.8% compared to 28.7% in the Magistrates' Court and 10.0% and 8.2% in the higher courts).

Figure 20: Breach rate of suspended sentences by months till breach and type of suspended sentence, Magistrates' Court, 2000–01 and 2001–02



Demographics

This section examines the breach rates of suspended sentences imposed in 2000–01 and 2001–02 by gender and age.

Gender

Figure 22 and Figure 23 show the breach rate for both men and women in the Magistrates' Court and higher courts, respectively.

In the Magistrates' Court, men had a higher breach rate than women (29.6% compared to 26.6%). Conversely, in the higher courts, women had a higher breach rate than men (10.1% compared to 8.4%).

Figure 22: Breach rate of suspended sentences by months till breach and gender, Magistrates' Court, 2000–01 and 2001–02

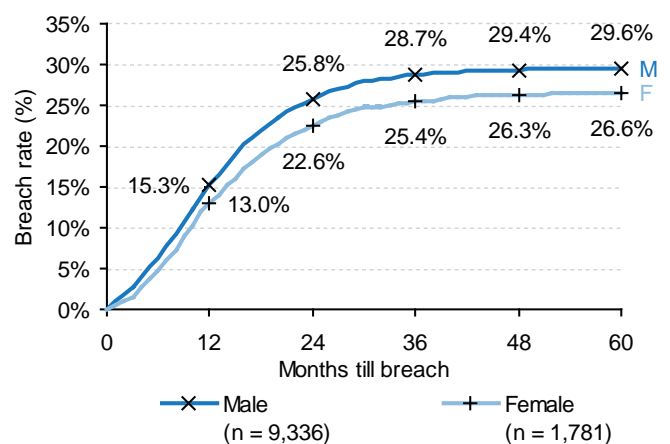


Figure 23: Breach rate of suspended sentences by months till breach and gender, higher courts, 2000–01 and 2001–02

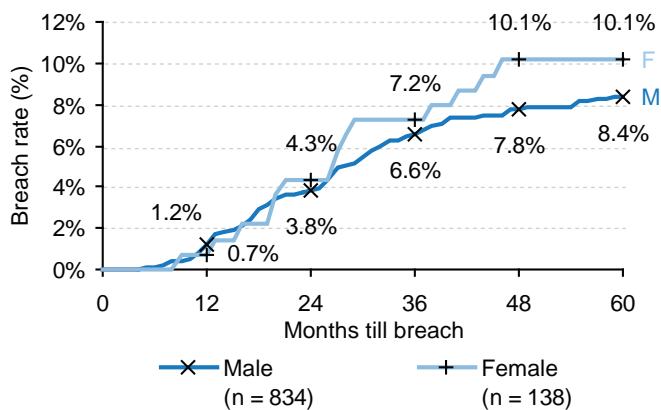
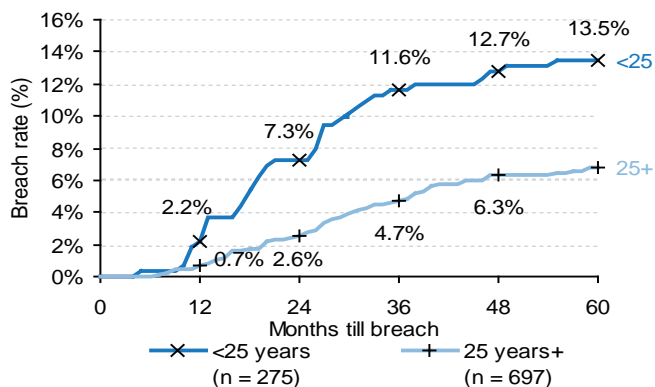


Figure 25: Breach rate of suspended sentences by months till breach and age group, higher courts, 2000–01 and 2001–02

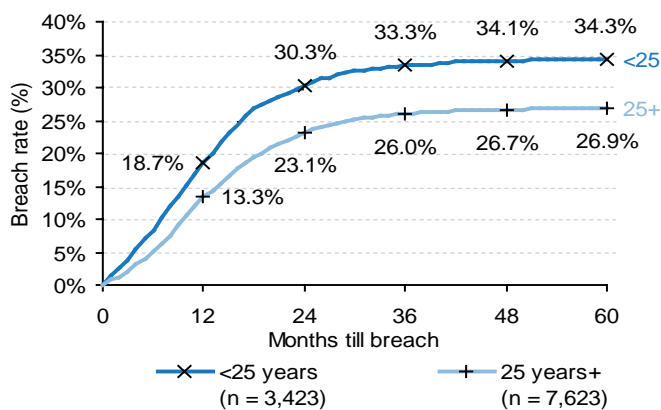


Age

Figure 24 and Figure 25 show the breach rates for both people aged under 25 years and those aged 25 years or older in the Magistrates' Court and higher courts, respectively.

For both courts, those people aged under 25 years had a higher breach rate than those aged 25 years or older. The difference between these two age groups was much greater for the higher courts (13.5% and 6.7%) than for the Magistrates' Court (34.3% and 26.9%).

Figure 24: Breach rate of suspended sentences by months till breach and age group, Magistrates' Court, 2000–01 and 2001–02



Offence type

Figure 26 and Figure 27 show the breach rate of suspended sentences by the offence group of the principal proven offence for the Magistrates' Court.⁹

People who were sentenced for a property offence or 'other' offence¹⁰ in the Magistrates' Court had the highest breach rate (35.3% and 34.0%, respectively).

Figure 26: Breach rate of suspended sentences by months till breach, person, property and drug offences, Magistrates' Court, 2000–01 and 2001–02

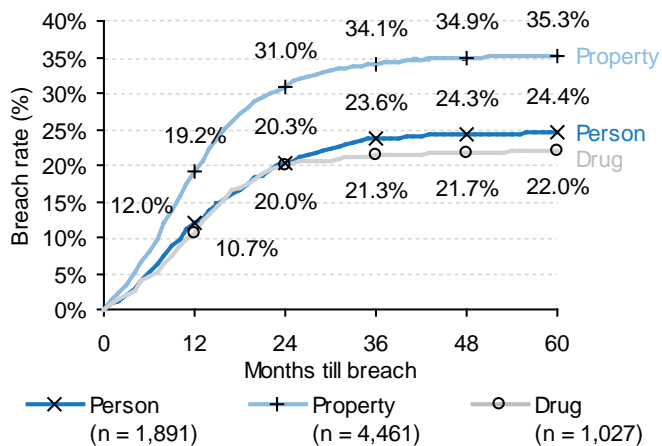


Figure 27: Breach rate of suspended sentences by months till breach, traffic and other offences, Magistrates' Court, 2000–01 and 2001–02

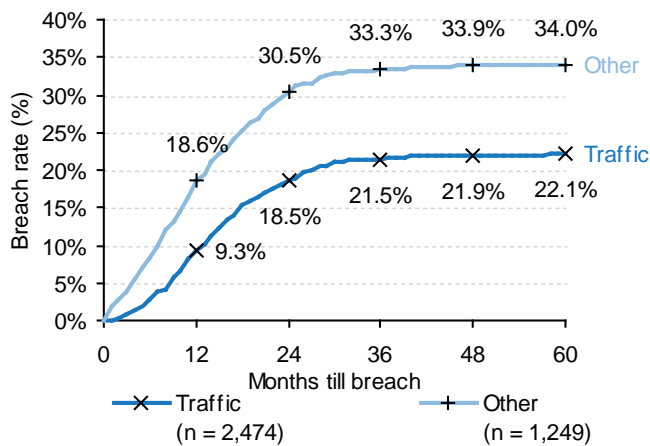


Figure 28 shows the breach rate of suspended sentences by the offence group of the principal proven offence for the higher courts. This graph excludes 39 people who were sentenced for an offence falling into the category 'Other'. Of these people, only one person breached their suspended sentence, resulting in a breach rate of 2.6%.

People who received a suspended sentence in the higher courts in 2000–01 and 2001–02 for a property or a person offence had the same breach rate (9.0%). The breach rate for people who had a drug related offence was 3.5%.

Figure 28: Breach rate of suspended sentences by months till breach, person, property and drug offences, higher courts, 2000–01 and 2001–02

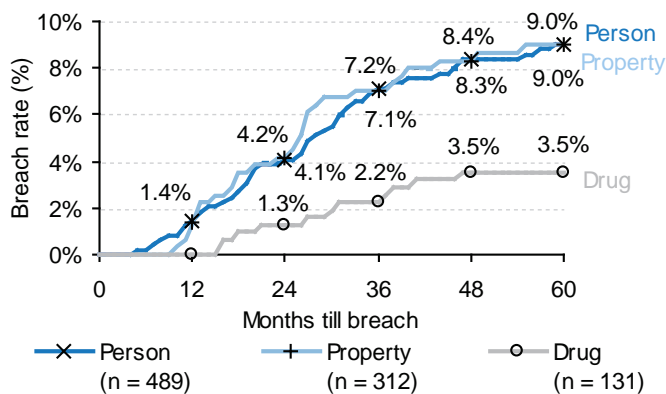


Table 5 and Table 6 show the number of suspended sentences imposed in the Magistrates' Court during 2000–01 and 2001–02 and the breach rate for the 10 offences that had the highest breach rates (Table 5) and the lowest breach rates (Table 6). Only offences where there were 50 or more people given a suspended sentence for that offence are included in this analysis.

As shown, the highest breach rate was for the 146 people given a suspended sentence for the principal proven offence of carrying a controlled weapon (52.1%), while the lowest breach rate was for the 73 people given a suspended sentence for the principal proven offence of drink driving (s 49(1)(b) of the *Road Safety Act 1986* (Vic)) (12.3%).

Table 5: The number of people who received a suspended sentence and the breach rate for each of the 10 offences that had the highest breach rates, Magistrates' Court, 2000–01 and 2001–02

Offence	No.	Breach rate
1 Carry regulated weapon	146	52.1%
2 Aggravated burglary	68	45.6%
3 Possess proceeds of crime	95	43.2%
4 Fail to answer bail	150	40.7%
5 Burglary	1,128	39.1%
6 Theft	1,624	37.4%
7 Assault police	110	36.4%
8 Breach intervention orders	162	34.0%
9 Assault with weapon	140	33.6%
10 Handle stolen goods	243	30.9%

Table 6: The number of people who received a suspended sentence and the breach rate for each of the 10 offences that had the lowest breach rates, Magistrates' Court, 2000–01 and 2001–02

Offence	No.	Breach rate
1 Drink driving (s. 49.1.B)	73	12.3%
2 Stalking	74	13.5%
3 Obtain financial property by deception	92	14.1%
4 Drink driving (s. 49.1.F)	500	16.4%
5 Cultivate a narcotic plant	106	17.9%
6 Recklessly cause serious injury	188	18.1%
7 Unlicensed driving	141	21.3%
8 Reckless conduct	102	21.6%
9 Traffick a drug of dependence	778	21.9%
10 Dangerous driving	138	22.5%

Table 7 and Table 8 show the number of suspended sentences imposed in the higher courts during 2000–01 and 2001–02 and the breach rate for the 5 offences that had the highest breach rates (Table 7) and the lowest breach rates (Table 8). Only offences where there were 20 or more people given a suspended sentence for that offence are included.

As shown, the highest breach rate was for the 79 people given a suspended sentence for the principal proven offence of armed robbery (21.5%). None of the 23 people who received a suspended sentence for indecent assault and none of the 21 people who received a suspended sentence for sexual penetration with a child aged between 10 and 16 breached their suspended sentence.

Table 7: The number of people who received a suspended sentence and the breach rate for each of the 5 offences that had the highest breach rates, higher courts, 2000–01 and 2001–02

Offence	No.	Breach rate
1 Armed Robbery	79	21.5%
2 Aggravated burglary	68	16.2%
3 Traffick in a drug of dependence	88	12.5%
4 Causing injury intentionally or recklessly	45	11.1%
5 Obtain property by deception	31	9.7%

Table 8: The number of people who received a suspended sentence and the breach rate for each of the 5 offences that had the lowest breach rates, higher courts, 2000–01 and 2001–02

Offence	No.	Breach rate
1 Indecent assault	23	0.0%
2 Sexual penetration with a child aged between 10 and 16	21	0.0%
3 Handling stolen goods	27	3.7%
4 Theft	50	6.0%
5 Causing serious injury intentionally	47	6.4%

Trends

Figure 29 and Figure 30 show the breach rates of suspended sentences that were imposed in each year from 2000–01 to 2005–06 in the Magistrates' Court and higher courts, respectively. To allow for comparability, the breach rates are shown as the percentage of people who breached a suspended sentence within a given number of years of the suspended sentence being imposed.

Figure 29 shows that the two year breach rate of suspended sentences has remained relatively stable for each of the five years displayed. The two year breach rate ranged from 24.4% in 2000–01 to 26.2% in 2001–02. Similarly, the one year breach rate has also remained relatively stable with the exception of suspended sentences handed down in 2005–06, which had a lower one-year breach rate.

Figure 29: One year and two year breach rates of suspended sentences, Magistrates' Court, 2000–01 to 2005–06

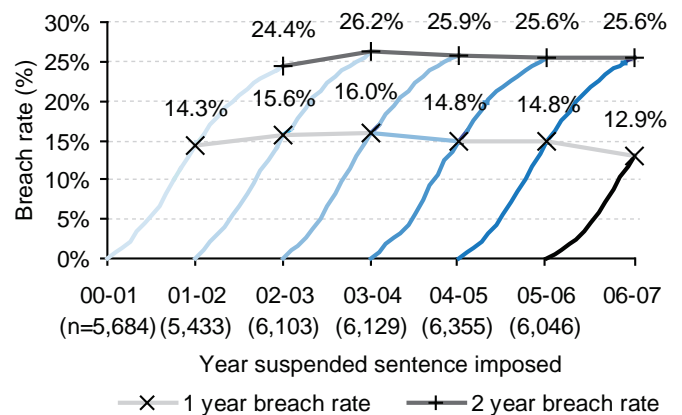
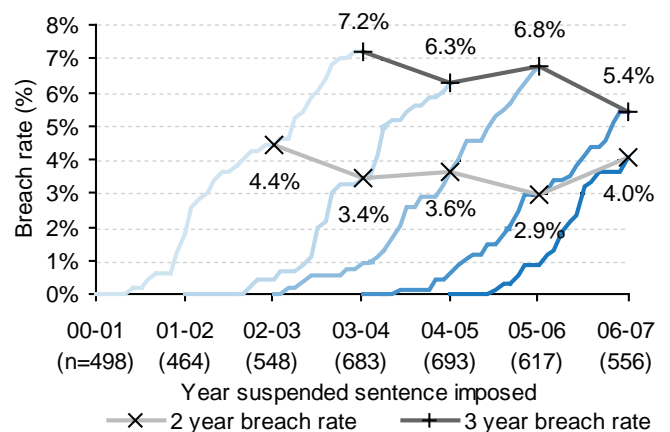


Figure 30: Two year and three year breach rates of suspended sentences, higher courts, 2000–01 to 2005–06



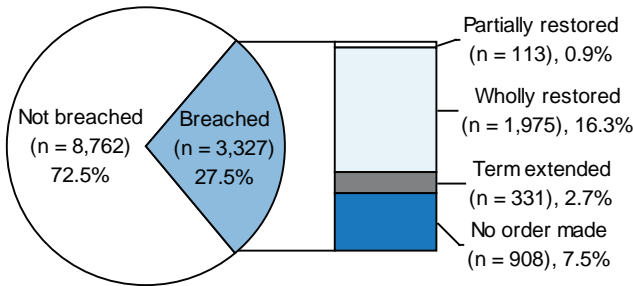
As shown in Figure 30, the breach rates in the higher courts fluctuated each year. Due to the longer period in which breaches are finalised in the higher courts, the two and three year breach rates are shown instead of the one and two year breach rates. The three year breach rates generally decreased from 7.2% in 2000–01 to 5.4% in 2003–04. Over the same period, there was a similar decrease of the one year breach rate, from 4.4% in 2000–01 to 2.9% in 2003–04, before increasing to 4.0% for suspended sentences imposed in 2004–05.

Outcomes of breach

Upon breach of a suspended sentence, the court may order the offender to serve part or all of the suspended term or the court may extend the operational period to not longer than 12 months beyond the initial expiration of the order. The court may also make no order with respect to the suspended sentence.

Figure 31 shows the percentage of people who breached a suspended sentence and the outcome of the breach. As shown, of all people who were given a suspended sentence in either the Magistrates' Court or the higher courts in 2000–01 or 2001–02, 27.5% breached the suspended sentence. Of all people who initially received a suspended sentence, 17.2% had their sentence wholly or partially restored. A further 2.7% of people had their operational term extended, while no order was made for 7.5% of people.

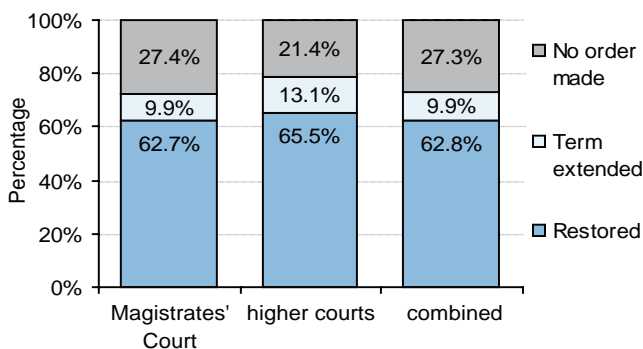
Figure 31: The percentage of suspended sentences by the result of breach, 2000–01 and 2001–02



Court level

Figure 32 shows the percentage of people who breached a suspended sentence by the results of their breach hearing for each level of court separately and combined. As shown, a slightly higher percentage of people who breached a suspended sentence that was imposed in the higher courts had their sentence restored upon breach (65.5% compared to 62.7% in the Magistrates' Court).

Figure 32: The percentage of suspended sentences by the result of breach and court level, 2000–01 and 2001–02



Type of suspended sentence

Figure 33 and Figure 34 shows the percentage of people who had breached a suspended sentence by the results of their breach hearing and type of suspended sentence for the Magistrates' Court and the higher courts, respectively. As shown, a higher percentage of people who breached a partially suspended sentence had their sentence restored compared to those who

had breached a wholly suspended sentence. This is evident in both the Magistrates' Court (77.0% compared to 60.5%) and the higher courts (76.0% compared to 61.0%).

Figure 33: The percentage of suspended sentences by the result of breach and type of suspended sentence, Magistrates' Court, 2000–01 and 2001–02

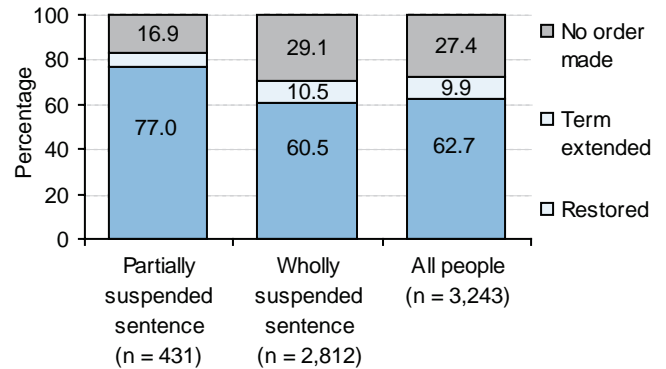
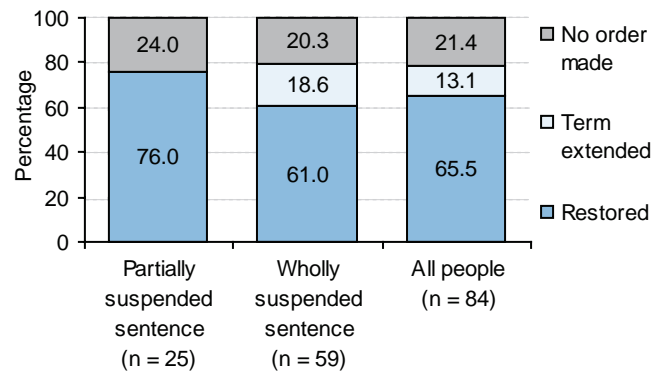


Figure 34: The percentage of suspended sentences by the result of breach and type of suspended sentence, higher courts, 2000–01 and 2001–02



Demographics

Gender

Figure 35 and Figure 36 show the percentage of people who had breached a suspended sentence by the results of their breach hearing and gender for the Magistrates' Court and the higher courts. A higher percentage of men who breached a suspended sentence had their sentence restored compared to women. This trend was evident both in the Magistrates' Court (65.1% of men compared to 48.6% of women) and the higher courts (67.1% of men compared to 57.1% of women).

Figure 35: The percentage of suspended sentences by the result of breach and gender, Magistrates' Court, 2000–01 and 2001–02

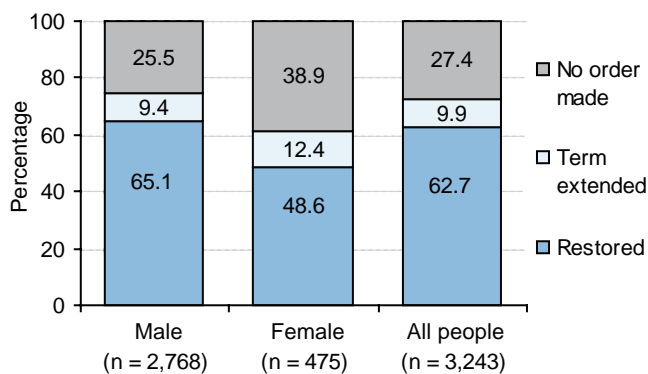


Figure 37: The percentage of suspended sentences by the result of breach and age group, Magistrates' Court, 2000–01 and 2001–02

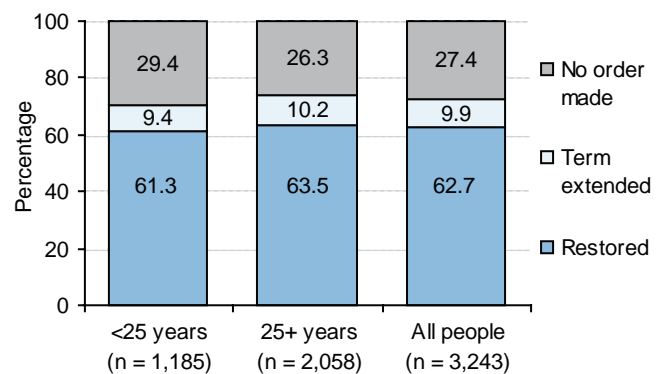


Figure 36: The percentage of suspended sentences by the result of breach and gender, higher courts, 2000–01 and 2001–02

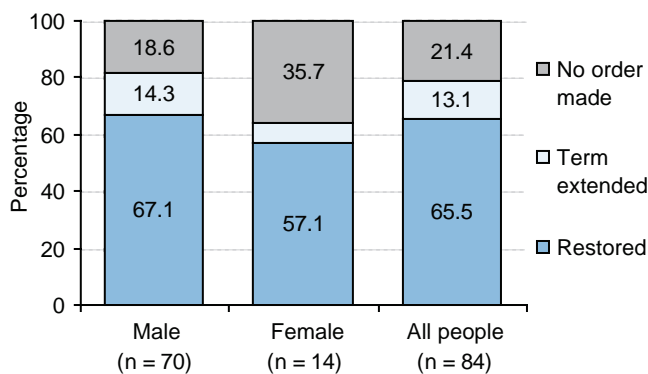
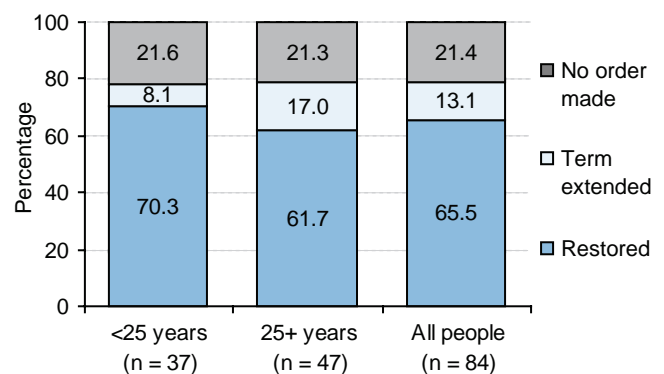


Figure 38: The percentage of suspended sentences by the result of breach and age group, higher courts, 2000–01 and 2001–02



Age

Figure 37 and Figure 38 show the percentage of people who had breached a suspended sentence by the results of their breach hearing and age group for the Magistrates' Court and the higher courts. The percentage of people who had their suspended sentence restored was similar for both age groups in the Magistrates' Court (61.3% of those aged under 25 years and 63.5% of those aged 25 years or older).

In the higher courts, a higher percentage of people aged less than 25 years had their suspended sentence restored (70.3% compared to 61.7% of people aged 25 years or older).

Offence type

Figure 39 and Figure 40 show the percentage of people who had breached a suspended sentence by the results of their breach hearing and the principal proven offence for which the suspended sentence was imposed. In the Magistrates' Court, a higher percentage of people who had committed a property offence had their suspended sentence restored (65.9%) compared to people sentenced for other types of offences.

In the higher courts, a higher percentage of people who had committed an offence against the person had their suspended sentence restored (70.5%) compared to people sentenced for other types of offences.¹¹

Figure 39: The percentage of suspended sentences by the result of breach and offence type, Magistrates' Court, 2000–01 and 2001–02

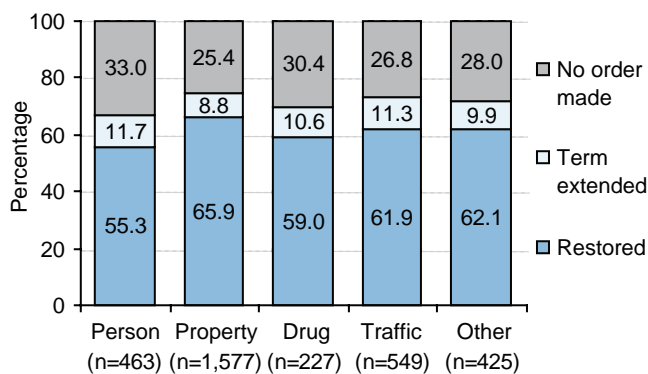
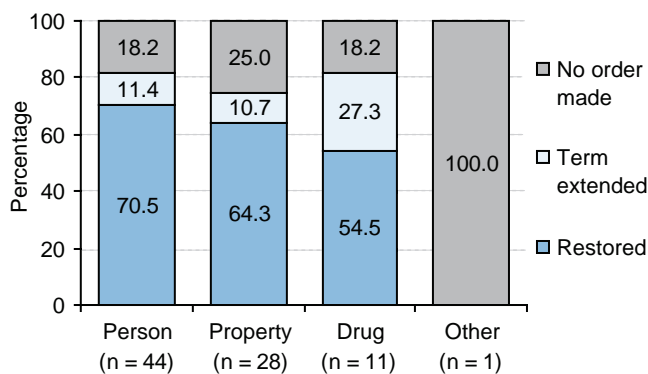


Figure 40: The percentage of suspended sentences by the result of breach and offence type, higher courts, 2000–01 and 2001–02



Specific offence profiles

This section looks at the use of suspended sentences for specific offence types in the Magistrates' Court and the higher courts. Offences that are examined in the Magistrates' Court are driving while disqualified and burglary, while armed robbery and aggravated burglary are examined in the higher courts.¹²

Magistrates' Court

Driving while disqualified

This section includes people who were charged with the principal proven offence of driving while disqualified (s 30(1) of the *Road Safety Act 1986*). The highest number of suspended sentences imposed in the Magistrates' Court over the period 2000–01 to 2006–07 was imposed for this offence (see further Table 3 above).

The number of people sentenced for this offence over the seven-year period, 2000–01 to 2006–07 increased markedly with approximately three times as many people sentenced in 2006–07 compared with 2000–01. However, the proportion of people who received a

suspended sentence for this offence remained relatively stable at around one in four. In 2006–07, 24.1% of those sentenced for driving while disqualified received a suspended sentence.¹³ This made up approximately 18.5% of all suspended sentences imposed in the Magistrates' Court.¹⁴

Figure 41 shows the number of suspended sentences imposed in the Magistrates' Court for driving while disqualified each year from 2000–01 to 2006–07.

Figure 41: The number of suspended sentences imposed for driving while disqualified per year by type of suspended sentence, Magistrates' Court, 2000–01 to 2006–07

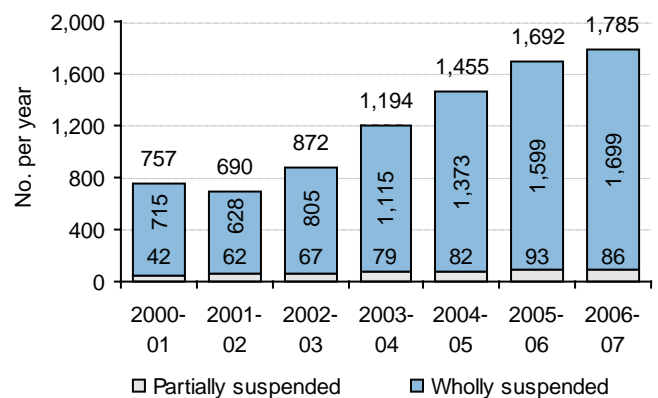


Figure 42 shows the number of people who received a suspended sentence by their age and gender. As shown, the men who were sentenced tended to be younger than the women (a median age of 29 years compared to 31 years).

Figure 42: The percentage breakdown of age groups for people who received a suspended sentence for driving while disqualified by gender, Magistrates' Court, 2000–01 to 2006–07

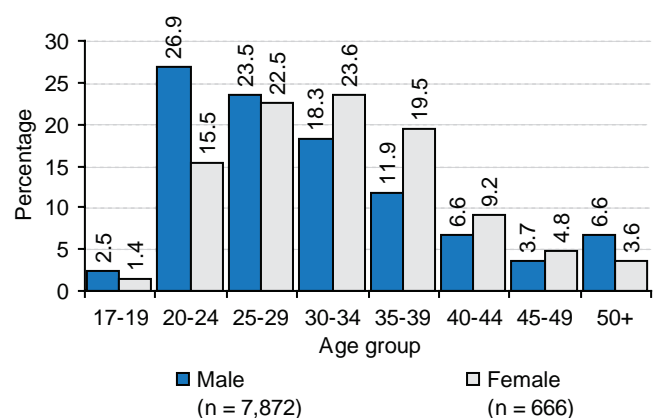


Figure 43 shows the breach rates of suspended sentences imposed during 2000–01 and 2001–02 in the Magistrates' Court. As shown, the breach rate for driving while disqualified after five years was 24.7%. Around two in five of the breaches were finalised within 12 months of the sentence being imposed (10.2% of 24.7%), while over four in five were finalised within two years (20.7% of 29.8%).

Figure 43: Breach rates of suspended sentences imposed for driving while disqualified and all other offences by months till breach, Magistrates' Court, 2000–01 and 2001–02

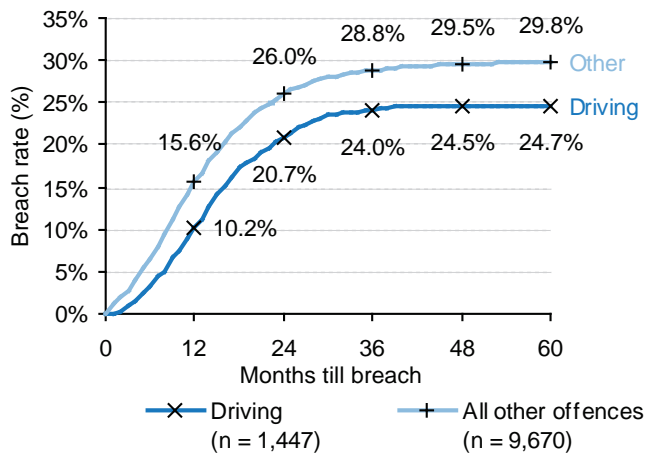


Figure 44 shows the breach rate by gender. As shown, men had a higher breach rate than women (25.0% compared to 20.4%).

Figure 44: Breach rates of suspended sentences imposed for driving while disqualified by months till breach and gender, Magistrates' Court, 2000–01 and 2001–02

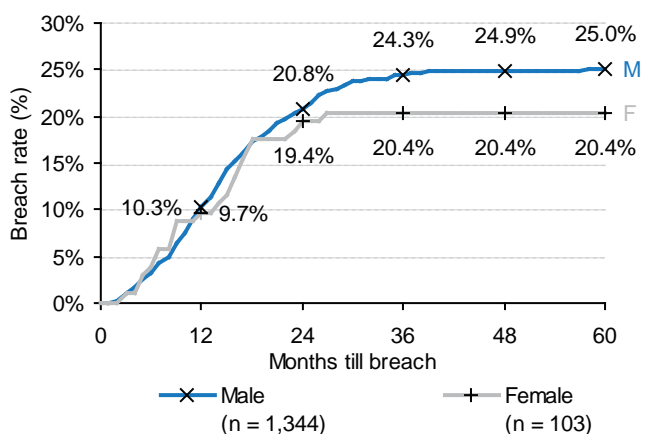


Figure 45 shows the breach rates by age group. As shown, people aged under 25 years had a higher five year breach rate than those aged older than 25 years (30.6% compared to 22.7%).

Figure 45: Breach rates of suspended sentences imposed for driving while disqualified by months till breach and age group, Magistrates' Court, 2000–01 and 2001–02

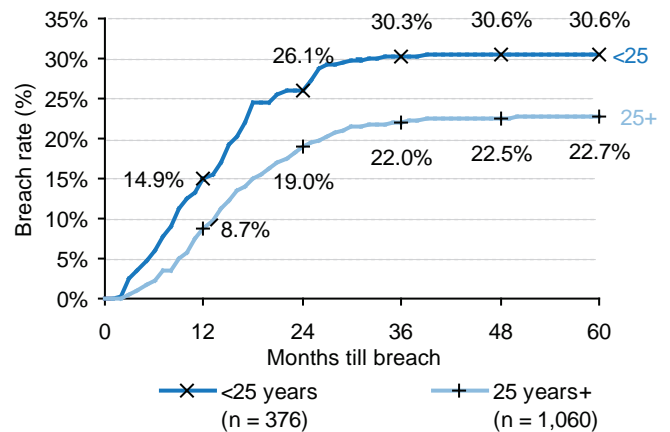
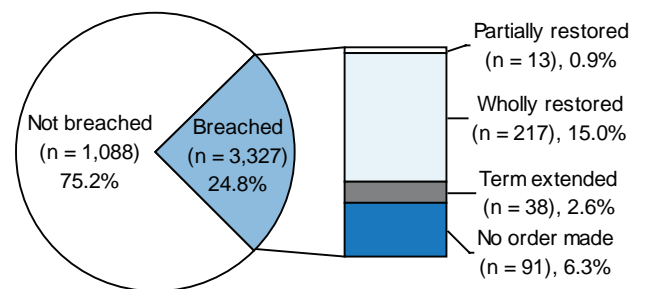


Figure 46 shows the percentage of people who breached a suspended sentence and the outcome of the breach. As shown, of all people who were given a suspended sentence 24.8% breached the suspended sentence. Of those who received a suspended sentence for this offence, 15.9% had their sentence wholly or partially restored as a result of breach. There were 2.6% of people who had their operational term extended following a breach, while 6.3% breached the order but had no further order made.

Figure 46: The percentage of suspended sentences imposed for driving while disqualified by whether breached and the outcome of breach, 2000–01 and 2001–02



Burglary

This section includes people who were charged with the principal proven offence of burglary (s 76(1) *Crimes Act 1958* (Vic)). The offence of burglary ranked third in terms of the overall numbers of suspended sentences imposed in the Magistrates' Court over the period 2000–01 to 2006–07 by offence type (see above Table 3).

The number of people sentenced for this offence over the seven-year period, 2000–01 to 2006–07 decreased, with the number of people sentenced in 2006–07 approximately one third lower compared with 2000–01. However, the proportion of people who received a suspended sentence for this offence remained relatively

stable at around one in five. In 2006–07, 19.1% of those sentenced for burglary received a suspended sentence.¹⁵ This made up approximately 2.5% of all suspended sentences imposed in the Magistrates' Court.¹⁶

Figure 47 shows the number of suspended sentences imposed in the Magistrates' Court for burglary each year from 2000–01 to 2006–07. As shown, the use of both partially and wholly suspended sentences for burglary has decreased each year from 2002–03.

Figure 47: The number of suspended sentences imposed for burglary by type of suspended sentence, Magistrates' Court, 2000–01 to 2006–07

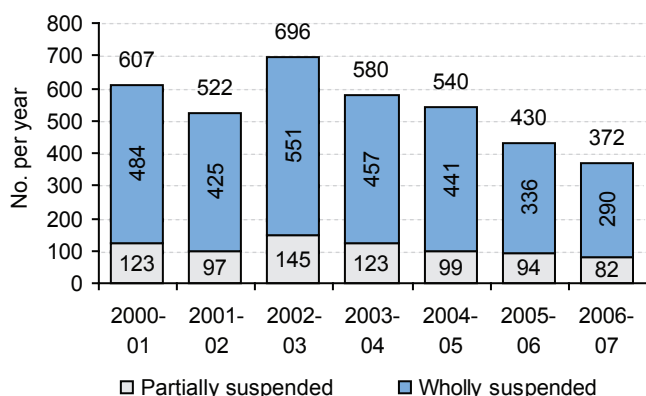


Figure 48 shows the number of people who received a suspended sentence by their age and gender. As shown, the men who were sentenced tended to be younger than the women (a median age of 27 years compared to 28 years).

Figure 48: The percentage breakdown of age groups for people who received a suspended sentence for burglary by gender, Magistrates' Court, 2000–01 to 2006–07

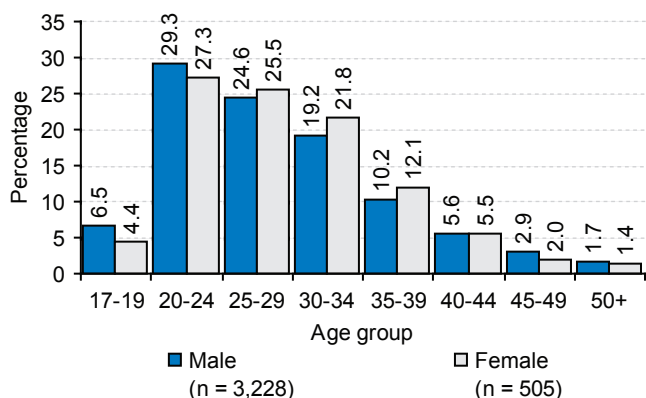


Figure 49 shows the breach rates of suspended sentences imposed for burglary compared to all other offences during 2000–01 and 2001–02 in the Magistrates' Court. The breach rate for burglary after five years was 39.1% compared to 28.0% for all other offences.

Figure 49: Breach rates of suspended sentences imposed for burglary and all other offences by months till breach, Magistrates' Court, 2000–01 and 2001–02

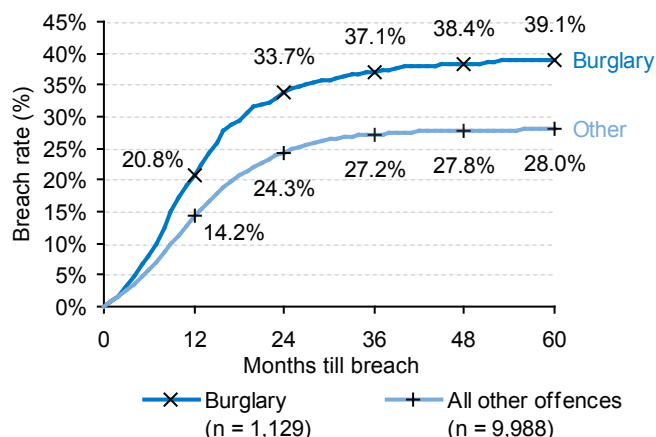


Figure 50 shows the breach rate by gender. Men had a higher five year breach rate than women (40.3% compared to 32.1%).

Figure 50: Breach rates of suspended sentences imposed for burglary by months till breach and gender, Magistrates' Court, 2000–01 and 2001–02

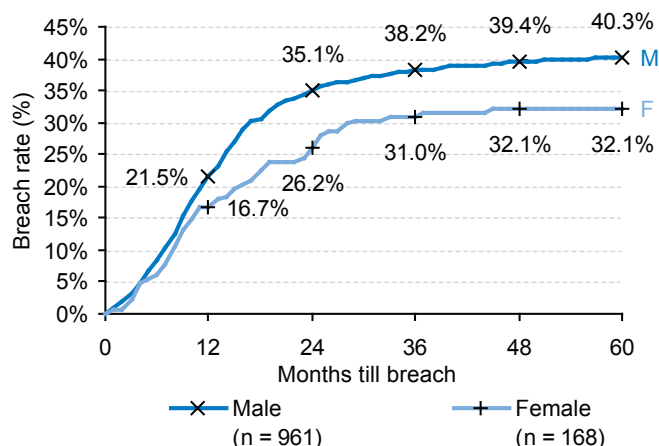


Figure 51 shows the breach rates by age group. The five year breach rate for both age groups was very similar (39.4% of those aged less than 25 years and 38.8% of those aged 25 years or older).

Figure 51: Breach rates of suspended sentences imposed for burglary by months till breach and age group, Magistrates' Court, 2000–01 and 2001–02

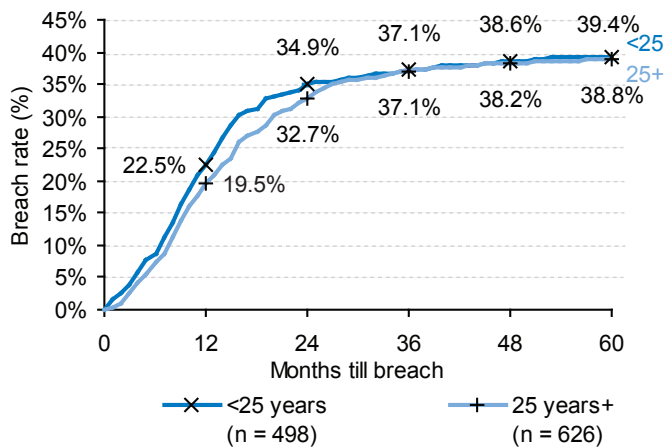
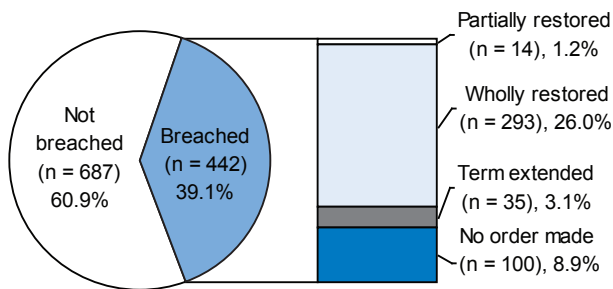


Figure 52 shows the percentage of people who breached a suspended sentence and the outcome of the breach. Of all people who were given a suspended sentence for burglary, 39.1% breached the suspended sentence. Overall, 27.2% of people who received a suspended sentence for burglary and had their sentence wholly or partially restored as a result of breach. A further 3.1% of people had their operational term extended following a breach, while 8.9% of people breached the order but no further order was made.

Figure 52: The percentage of suspended sentences imposed for burglary by whether breached and the outcome of breach, 2000–01 and 2001–02



Higher courts

Armed robbery

This section includes people who were charged with an offence under section 75A of the *Crimes Act 1958*. The offence of armed robbery ranked fourth in terms of the overall number of suspended sentences imposed by the higher courts over the period 2000–01 to 2006–07 examined by offence type (see Table 4 above). Suspended sentences imposed for armed robbery had the highest breach rate of the offences examined that attracted a suspended sentence in the higher courts (see Table 7 above).

The number of people sentenced for this offence in 2006–07 was just over third lower compared with 2000–01. However, the proportion of people who received a suspended sentence for this offence remained relatively stable at around one in seven. In 2006–07, 10.5% of those sentenced for armed robbery received a suspended sentence. This made up approximately 4% of all suspended sentences imposed in the higher courts.

Figure 53 shows the number of people who were sentenced to a suspended sentence for armed robbery. As shown, the number of people sentenced has decreased from 44 in 2003–04 to 20 in 2006–07.

Figure 53: The number of suspended sentences imposed for armed robbery per year by type of suspended sentence, higher courts, 2000–01 to 2006–07

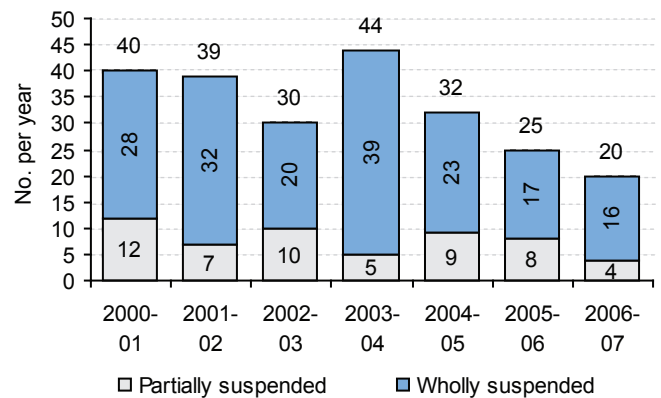


Figure 54 shows the number of people who received a suspended sentence for armed robbery by their age and gender. The men who were sentenced tended to be younger than the women (a median age of 23 years compared to 26 years).

Figure 54: The percentage breakdown of age groups for people who received a suspended sentence for armed robbery by gender, higher courts, 2000–01 to 2006–07

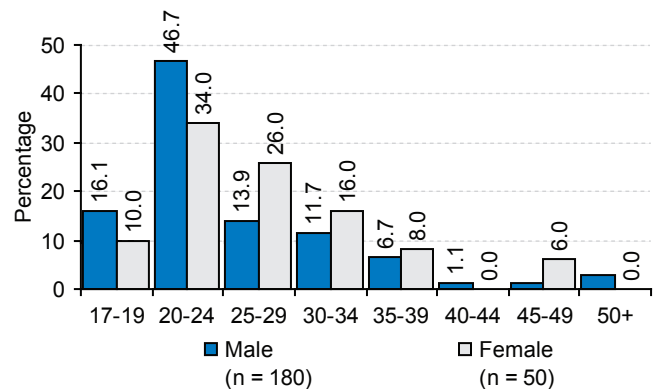


Figure 55 shows the breach rates of suspended sentences imposed during 2000–01 and 2001–02 in the higher courts. The breach rate for armed robbery after five years was 21.5% compared to 7.5% for all other offences.

Figure 55: Breach rates of suspended sentences imposed for armed robbery by months till breach, higher courts, 2000–01 and 2001–02

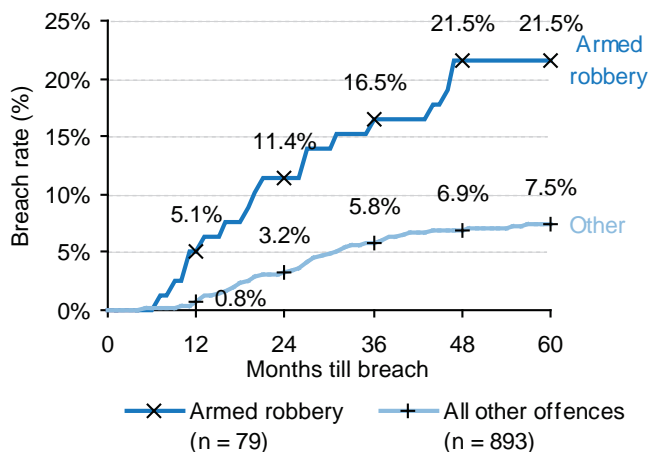
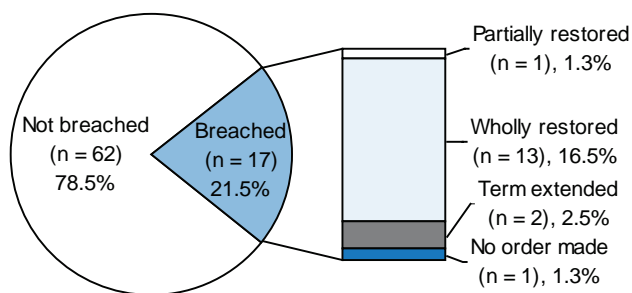


Figure 56 shows the percentage of people who breached a suspended sentence and the outcome of the breach. As shown, of all people who were given a suspended sentence for armed robbery, 21.5% breached the suspended sentence. Of those who received a suspended sentence for armed robbery, 17.8% had their sentence wholly or partially restored as a result of breach, 2.5% breached the order and had their operational term extended, while 1.3% of people breached the order and had no further order made.

Figure 56: The percentage of suspended sentences imposed for armed robbery by whether breached and the outcome of breach, 2000–01 and 2001–02



Aggravated burglary

This section includes people who were charged with an offence under section 77(1) of the *Crimes Act 1958* (Vic). The offence of aggravated burglary ranked second in terms of the overall number of suspended sentences imposed by the higher courts over the period 2000–01 to 2006–07 examined by offence type (see Table 4 above). Of offences examined attracting a suspended sentence in the higher courts, aggravated burglary had the second highest breach rate (see Table 7 above).

The number of people sentenced for this offence increased from 2000–01 to 2005–06 before decreasing again in 2006–07. The percentage of people who received a suspended sentence for this offence decreased over the last three years from 50% in 2004–05 to 35% in 2006–07. This made up approximately 8% of all suspended sentences imposed in the higher courts during the seven-year period.

Figure 57 shows the number of people who were sentenced to a suspended sentence for aggravated burglary. The number of people increased each year from 2000–01 to 2004–05 before decreasing each of the next two years.

Figure 57: The number of suspended sentences imposed for aggravated burglary per year by type of suspended sentence, higher courts, 2000–01 to 2006–07

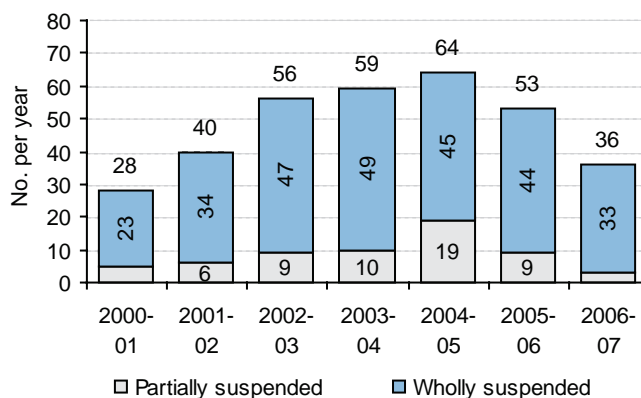


Figure 58 shows the number of people who received a suspended sentence for aggravated burglary by their age and gender. As shown, the men who were sentenced tended to be younger than the women (a median age of 27 years compared to 29 years).

Figure 58: The percentage breakdown of age groups for people who received a suspended sentence for aggravated burglary by gender, higher courts, 2000–01 to 2006–07

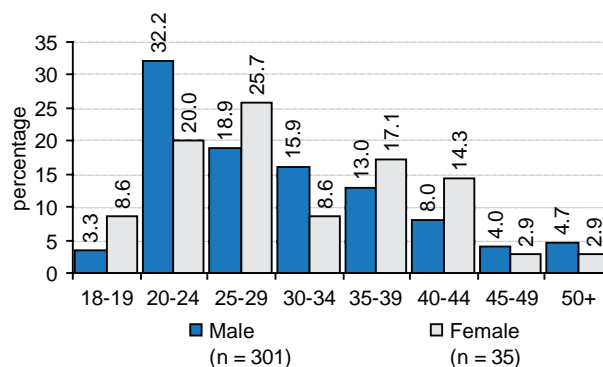


Figure 59 shows the breach rates of suspended sentences imposed during 2000–01 and 2001–02 in the higher courts. As shown, the breach rate for aggravated burglary after five years was 16.2% compared to 8.1% for all other offences.

Figure 59: Breach rates of suspended sentences imposed for aggravated burglary by months till breach, higher courts, 2000–01 and 2001–02

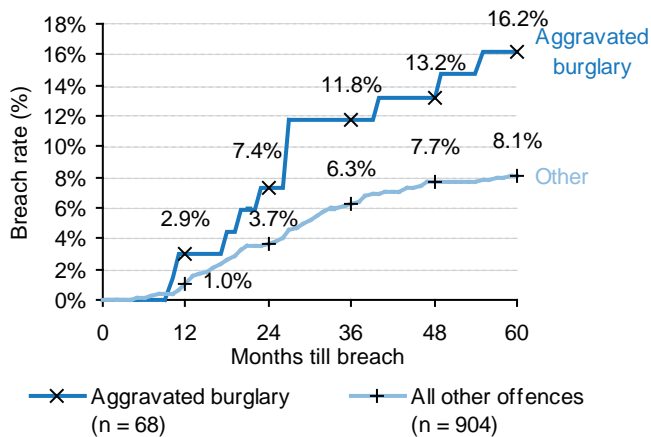
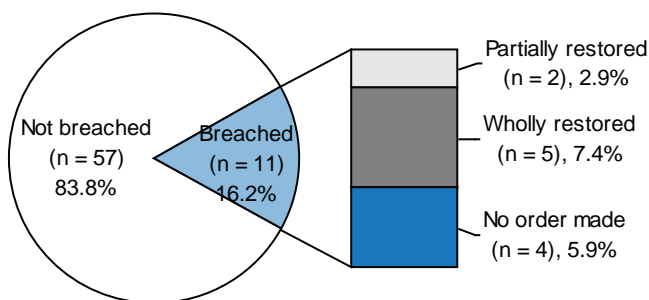


Figure 60 shows the percentage of people who breached a suspended sentence and the outcome of the breach. As shown, of all people who were given a suspended sentence for aggravated burglary 16.2% breached the suspended sentence. Just over one in 10 people sentenced to a suspended sentence for this offence (10.3%) had their sentence wholly or partially restored as the result of breaching the order.

Figure 60: The percentage of suspended sentences imposed for aggravated burglary by whether breached and the outcome of breach, 2000–01 and 2001–02



Specific offender profiles

This section looks at the use of suspended sentences for specific offender groups in the Magistrates' Court and the higher courts. In the Magistrates' Court, young men who were sentenced for a property offence are examined, while in the higher courts, young men who were sentenced for an offence against the person or a property offence are examined.

Magistrates' Court

Young men sentenced for property offences

This section looks at men aged under 25 years who received a suspended sentence for property offences in the Magistrates' Court.

The number of young men sentenced for property offences in the Magistrates' Court over the seven-year period, 2000–01 to 2006–07 decreased by approximately 43%. The proportion of these people who received a suspended sentence also decreased from 9.0% in 2000–01 to 5.5% of all sentences in 2006–07. Also, this group accounted for 11% of all suspended sentences imposed in 2000–01 compared to 4% in 2006–07.¹⁷

Figure 61 shows the number of males younger than 25 years who received a suspended sentence in the Magistrates' Court for property offences.

Figure 61: The number of suspended sentences imposed on men younger than 25 years for property offences per year by type of suspended sentence, Magistrates' Court, 2000–01 to 2006–07

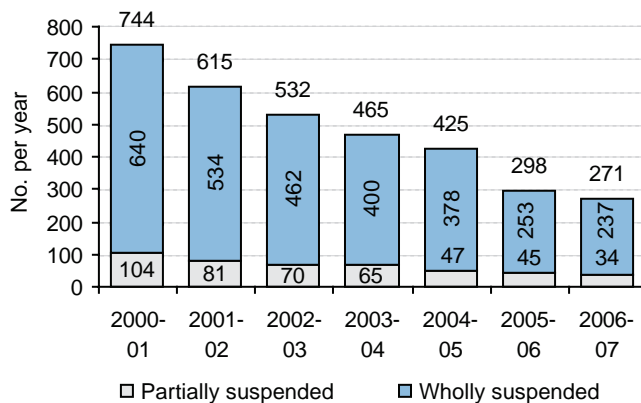


Figure 62 shows the breach rates of suspended sentences imposed on men younger than 25 years for property offences compared to all other people during 2000–01 and 2001–02 in the Magistrates' Court. As shown, the breach rate for young male property offenders after five years was 39.7% compared to 27.6% of all other people.

Figure 62: Breach rates of suspended sentences imposed against men younger than 25 years for property offences by months till breach, Magistrates' Court, 2000–01 and 2001–02

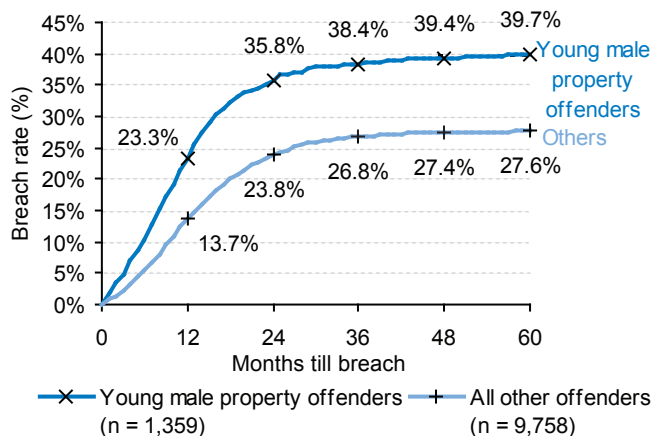
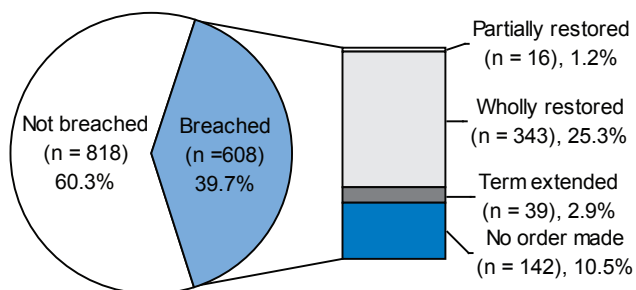


Figure 63 shows the percentage of young male property offenders who breached a suspended sentence and the outcome of the breach. As shown, of all those who were given a suspended sentence 39.7% breached the suspended sentence, including 26.5% who had their sentence wholly or partially restored.

Figure 63: The percentage of suspended sentences imposed on men younger than 25 years for property offences by whether breached and the outcome of breach, Magistrates' Court, 2000–01 and 2001–02



Higher courts

Young men sentenced for offences against the person

This section looks at men aged under 25 years who received a suspended sentence for offences against the person in the higher courts.

The number of young men sentenced for offences against the person in the higher courts over the seven-year period, 2000–01 to 2006–07 remained relatively stable. Also, the proportion of these people who received a suspended sentence remained relatively stable at around one in five each year. Over the seven-year period, this group accounted for around 15% of all suspended sentences imposed.

Figure 64 shows the number of males younger than 25 years who received a suspended sentence for offences against the person in the higher courts. As shown, the number sentenced each year fluctuated ranging from 61 in 2002–03 to 99 in 2000–01.

Figure 64: The number of suspended sentences imposed on men younger than 25 years for offences against the person per year by type of suspended sentence, higher courts, 2000–01 to 2006–07

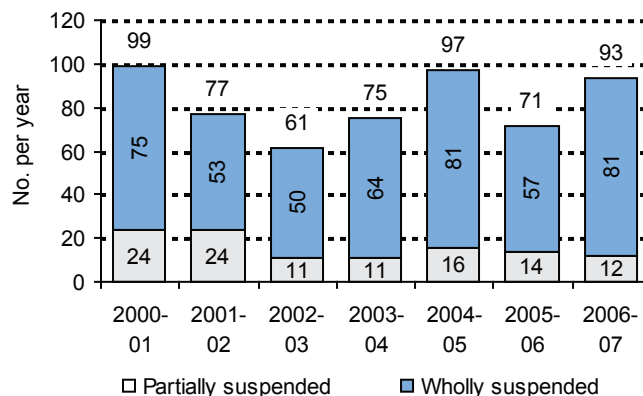


Figure 65 shows the breach rates of suspended sentences imposed on men younger than 25 years for offences against the person compared to all other people during 2000–01 and 2001–02 in the higher courts. As shown, the breach rate for these offenders was slightly higher than that of all other people (10.8% compared to 8.2% of all other people).

Figure 65: Breach rates of suspended sentences imposed on men younger than 25 years for offences against the person by months till breach, higher courts, 2000–01 and 2001–02

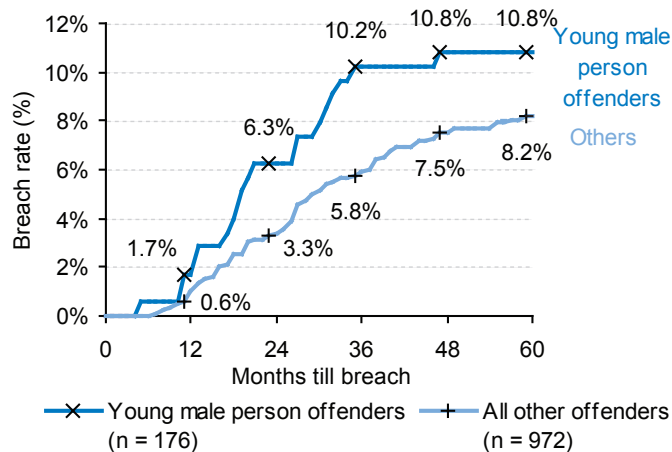
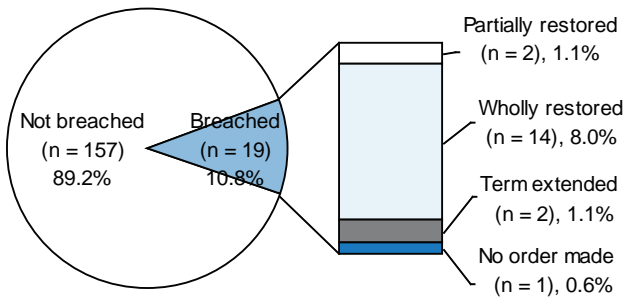


Figure 63 shows the percentage of young males who breached a suspended sentence imposed for an offence against the person and the outcome of that breach. As shown, of all those who were given a suspended sentence 10.8% breached the suspended sentence, including 9.1% who had their sentence wholly or partially restored.

Figure 66: The percentage of suspended sentences imposed against men younger than 25 years for offences against the person by whether breached and the outcome of breach, higher courts, 2000–01 and 2001–02



Young men sentenced for property offences

This section looks at men aged under 25 years who received a suspended sentence for property offences in the higher courts.

The number of young men sentenced for property offences in the higher courts over the seven-year period, 2000–01 to 2006–07 remained relatively stable. Also, the proportion of these people who received a suspended sentence remained relatively stable at around one in three each year. Over the seven-year period, this group accounted for around 6% of all suspended sentences imposed.

Figure 67 shows the number of males younger than 25 years who received a suspended sentence for property offences in the higher courts. As shown, the number sentenced each year fluctuated ranging from 22 in 2000–01 to 50 in 2003–04.

Figure 67: The number of suspended sentences imposed on men younger than 25 years for property offences per year by type of suspended sentence, higher courts, 2000–01 to 2006–07

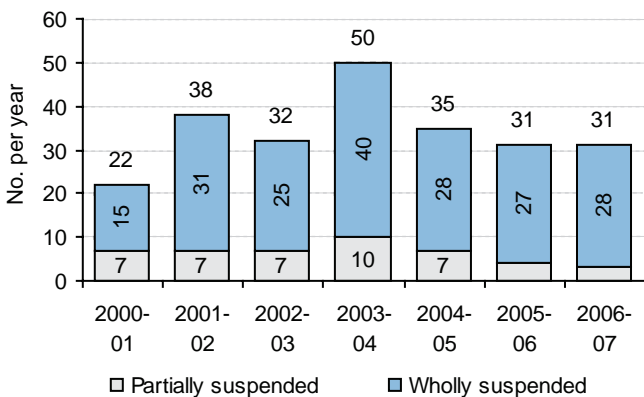


Figure 68 shows the breach rates of suspended sentences imposed on men younger than 25 years for property offences compared to all other people during 2000–01 and 2001–02 in the higher courts. As shown, the five year breach rate for young male property offenders was much higher than that of all other people (18.3% compared to 8.0% of all other people).

Figure 68: Breach rate of suspended sentences imposed on men younger than 25 years for property offences by months till breach, higher courts, 2000–01 and 2001–02

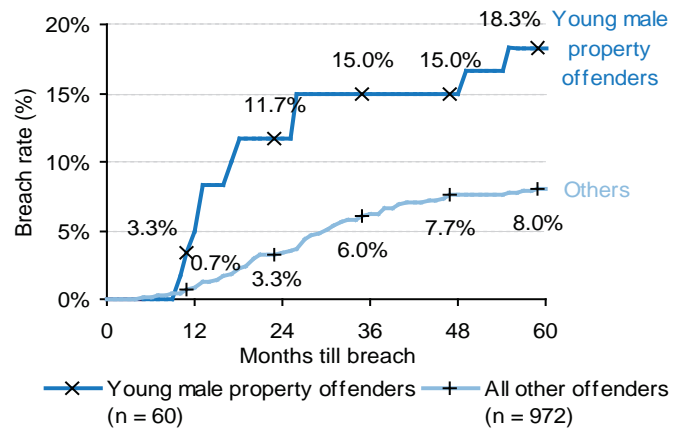
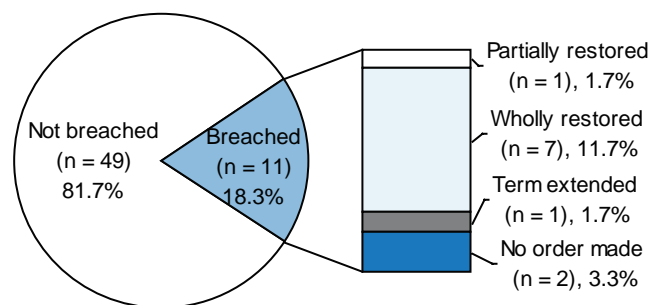


Figure 69 shows the percentage of young male property offenders who breached a suspended sentence and the outcome of the breach. As shown, of all those who were given a suspended sentence for property offences, 18.3% breached the suspended sentence, including 13.4% who had their sentence wholly or partially restored.

Figure 69: The percentage of suspended sentences imposed on men younger than 25 years for property offences by whether breached and the outcome of breach, higher courts, 2000–01 and 2001–02



Summary

- There were 45,556 suspended sentences imposed in the Magistrates' Court and higher courts over the seven-year period, 2000–01 to 2006–07. Recent trends show that suspended sentences have declined.
- The overall breach rate for both court levels for suspended sentences imposed during 2000–01 and 2001–02 was 27.5%.
- The breach rate for the Magistrates' Court (29.1%) was much higher than that of the higher courts (8.6%).
- For both court levels, people aged under 25 years had a much higher breach rate than people aged 25 years or older.
- In the Magistrates' Court, people who received a suspended sentence for a property or 'other' principal proven offence had a higher breach rate than those sentenced for an offence against the person, a drug offence or a traffic offence.
- The one and two year breach rates for suspended sentence imposed from 2000–01 to 2004–05 in the Magistrates' Court has remained relatively stable. There was a slight decrease in the one year breach rate of suspended sentences imposed during 2005–06.
- Nearly two-thirds (62.8%) of suspended sentences imposed in 2000–01 and 2001–02 were restored upon breach. This represents 17.2% of all suspended sentences imposed.
- A higher percentage of partially suspended sentences were restored upon breach compared to wholly suspended sentences.
- A higher percentage of men had their suspended sentences restored upon breach compared to women.
- Approximately one in five people who received a suspended sentence in the Magistrates' Court was sentenced for the principal offence of driving while disqualified. These people had a lower breach rate (24.7%) than people sentenced for all other offences in the Magistrates' Court.
- While the number of people sentenced for the principal offence of burglary in the Magistrates' Court has decreased over the past seven years, the proportion who received a suspended sentence has remained relatively stable at around one in five. These people had a higher breach rate (39.1%) than people sentenced for all other offences in the Magistrates' Court.
- While the number of men under the age of 25 who received a suspended sentence for a property offence has decreased over the past seven years, their breach rate remains very high (39.7% in the Magistrates' Court and 18.3% in the higher courts).

Endnotes

- 1 The higher courts include both the County and Supreme Court.
- 2 While an offender sentenced to a suspended term of imprisonment does not have to serve any part of that sentence in prison provided he or she does not breach the order, some offenders may have served time in a correctional centre on remand prior to being sentenced.
- 3 *Sentencing Act 1991 (Vic)* ss 27(2)–(2A).
- 4 *Sentencing Act 1991 (Vic)* ss 31(5)–(5A).
- 5 The percentage of people sentenced in the Magistrates' Court is based on data received from Department of Justice, Court Services. The sentence type is defined as the sentence that was imposed for the principal proven offence in a given case.

The percentage of people sentenced in the higher courts is based on data received from Department of Justice, Court Services. The sentence type is defined as the total effective sentence imposed in a given case.
- 6 For example, if one person was sentenced for three counts of a particular offence and was given three suspended sentences it would be counted only once.

Unlike the previous section, all suspended sentences are counted in this analysis, including suspended sentences that were imposed as a result of a breach of an earlier order.

The dataset used for the analysis in this section of the paper is limited to all occurrences of suspended sentences for the period 2000–01 to 2006–07. For this reason, it has not been possible to compare the profile of offenders receiving suspended sentences with that of all people sentenced over this period. For example, while based on the dataset we know that around 85% of people sentenced to a suspended sentence in the Magistrates' Court were men, and 15% were women, it has not been possible to determine if this percentage breakdown simply reflects the profile of all people sentenced in the Magistrates' Court over this period (i.e. 85% of people sentenced by the Magistrates' Court were men, and 15% were women), or alternatively suggests that offenders of a particular gender were more (or less) likely to receive a suspended sentence. The Council recognises that this is an important issue to consider and hopes to incorporate this additional analysis in future data published on the use of these orders.
- 7 The principal proven offence is the offence in a given case that received the most severe penalty. If the most severe penalty in a given case was imposed against more than one offence, the offence that received the harsher quantum (e.g. length of order, fine amount) is the principal proven offence. If a principal proven offence can still not be selected, of those offences that received the harshest quantum, the offence that had the lowest rank according to the National Offence Index (NOI) (Australian Bureau of Statistics, 2003, Criminal Courts, Australia, 2001–02 Cat. No. 4513.0, Canberra) is defined as the principal proven offence. If a principal proven offence still can not be selected, of those offences that received the lowest rank, the first one in the list is chosen.
- 8 The date that the offence was committed is not available.
- 9 The principal proven offence was unknown for 15 people. These people are excluded from Figure 26 and Figure 27.

- 10 'Other offences' include offences such fail to answer bail, breach of intervention order and weapon offences.
- 11 Caution should be exercised when interpreting the percentages of people who had drug or other offences due to low numbers.
- 12 These offences were selected for analysis on the basis of the high numbers of offenders receiving a suspended sentence for these offences and/or the high breach rates for suspended sentences imposed for these offences.
- 13 This figure is calculated from data supplied to the Sentencing Advisory Council from CourtLink.
- 14 Refer fn. 5.
- 15 This figure is calculated from data supplied to the Sentencing Advisory Council from CourtLink.
- 16 Refer fn. 5.
- 17 This figure is calculated from data supplied to the Sentencing Advisory Council from CourtLink.

Authored by Nick Turner, Senior Data Analyst, Sentencing Advisory Council.

The author would like to thank Courtlink and Court Statistical Services for providing the data used for analysis in this publication.

Published by the Sentencing Advisory Council

Melbourne Victoria Australia.

© Copyright State of Victoria, Sentencing Advisory Council, November 2007. This publication is protected by the laws of copyright. No part may be reproduced by any process except in accordance with the provisions of the *Copyright Act 1968* (Cth).

ISBN: Paperback 978-1-921100-20-8

Also published on www.sentencingcouncil.vic.gov.au

Authorised by the Sentencing Advisory Council, 4/436 Lonsdale Street, Melbourne.

Printed by Bigprint, 50 Lonsdale Street, Melbourne.