

SENTENCING  
SPOTLIGHT ON

# Robbery



Queensland Sentencing  
Advisory Council  
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# Sentencing Spotlight on Robbery

This *Sentencing Spotlight* examines sentencing outcomes for robbery offences under s 409(1) of the *Criminal Code* (Qld) finalised in Queensland courts between 2005–06 to 2017–18.

## Summary of offences 2005–06 to 2017–18



**5,284**  
cases where robbery  
was the most serious  
offence (MSO)



**98.5%**  
pleaded guilty



**86.9%**  
Male offenders



**24.8%**  
Aboriginal and/or Torres  
Strait Islander



Average age  
**22.6 years**

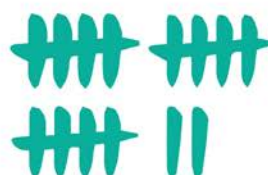


**94.6%**  
had aggravating  
circumstances

### ADULT OFFENDERS



**71.7%**  
of adults received  
imprisonment



Average length  
of imprisonment  
**3.2 years**

### YOUNG OFFENDERS



**1,215** cases  
where robbery was  
MSO for young  
offenders



**39.9%**  
received  
probation



Average length of  
probation  
**17.7 months**

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician's Office (QGSO).

# Robbery

Section 409(1) of the *Criminal Code* (Qld) provides that ‘any person who steals anything, and, at or immediately before or immediately after the time of stealing it, uses or threatens to use actual violence to any person or property in order to obtain the thing stolen or to prevent or overcome resistance to its being stolen, is said to be guilty of robbery’.

## The penalty for robbery

Under s 411(1) of the *Criminal Code* (Qld), a person who commits the crime of robbery is liable to a maximum penalty of 14 years imprisonment.

The maximum penalty is life imprisonment if charged with one of the circumstances of aggravation listed in the section. That is, where the person committing the offence:

- is or pretends to be armed with any dangerous or offensive weapon or instrument;
- is in company with someone else; and/or
- wounds or uses any other personal violence to any person.

These circumstances of aggravation are an important consideration for this *Sentencing Spotlight* because they represent more serious forms of the offence of robbery carrying a higher maximum penalty. A ‘circumstance of aggravation’ for the purposes of this *Sentencing Spotlight* refers only to these more serious examples of the offence of robbery, not to general aggravating factors relevant to the sentencing of all criminal offences, such as lack of remorse or relevant prior criminal history.

Throughout this *Sentencing Spotlight*, the circumstances of aggravation are grouped into the following categories:

- aggravated robbery; and
- non-aggravated robbery.

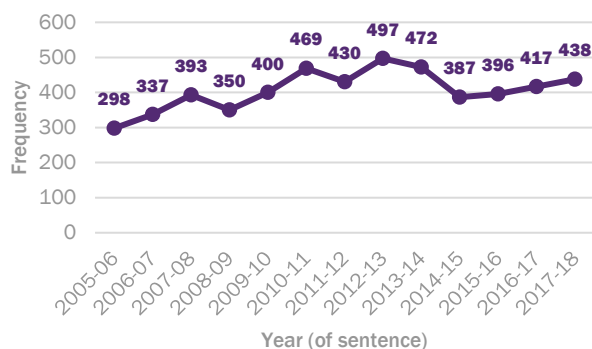
## Number of offenders

A total of 6,109 cases were sentenced for robbery between 2005–06 and 2017–18. For 5,284 (86.5%) of those cases, robbery was the most serious offence (MSO) heard at the sentencing event.<sup>1</sup> For the remaining 825 cases (13.5%) where robbery was not the MSO, the MSO most commonly involved assault (n=427, 51.8%), attempted robbery (n=163, 19.8%) and burglary/break and enter (n=85, 10.3%).

This *Sentencing Spotlight* focuses primarily on the 5,284 cases where robbery was the MSO.

Figure 1 presents the number of finalised cases sentenced for robbery (MSO) by financial year. The number of cases increased from 298 in 2005–06 to 438 in 2017–18, with a peak of 497 cases in 2012–13.

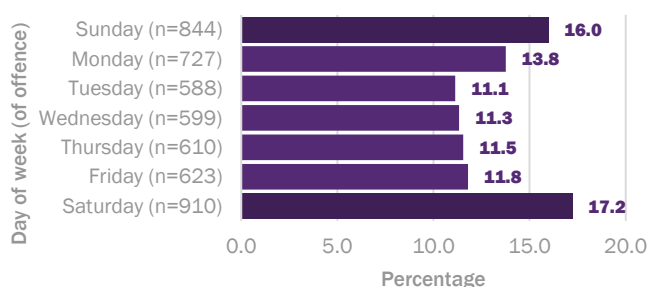
Figure 1: Number of offenders sentenced for robbery (MSO), 2005–06 to 2017–18



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Robberies were most often committed on a weekend, with 33.2 per cent of robbery offences (MSO) committed on a Saturday or Sunday. The most likely weekday was Monday, accounting for 13.8 per cent of robbery offences – see Figure 2.

Figure 2: Number of sentenced robbery offences (MSO) by day of week, 2005–06 to 2017–18



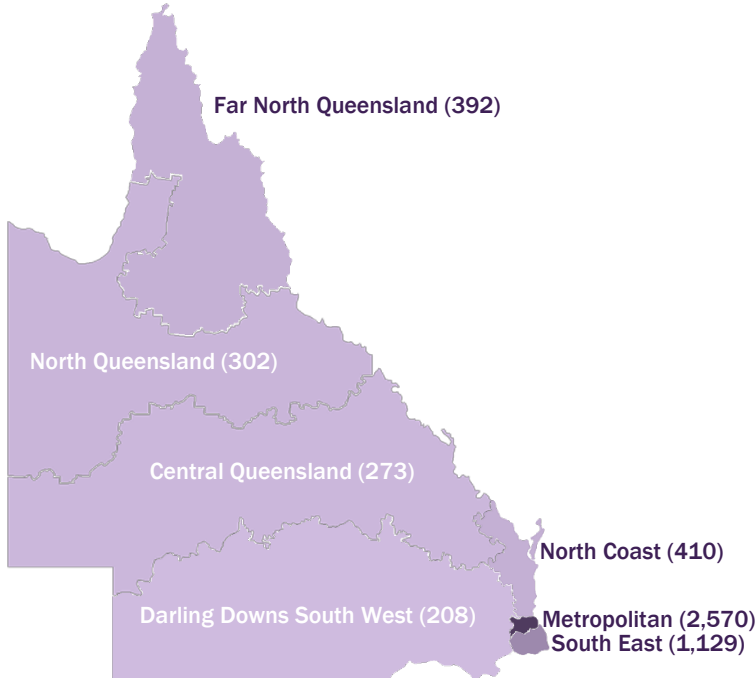
Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: The day of week was unknown for 383 cases (7.8%).

## Regions

Figure 3 illustrates the regions within Queensland in which cases involving robbery (MSO) were sentenced. The region with the most cases sentenced was the Metropolitan region with 2,570 cases.

**Figure 3: Number of cases sentenced for robbery (MSO) by region, 2005–06 to 2017–18**

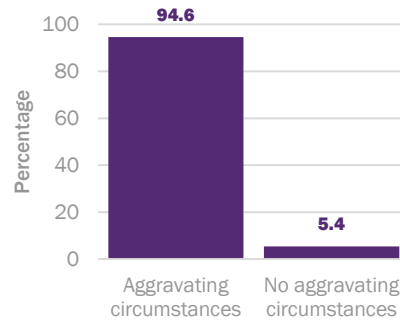


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

## Aggravating circumstances

As discussed earlier, robbery can be categorised depending on whether aggravating circumstances formed part of the offence. Of the 5,284 cases where robbery was the MSO, the overwhelming majority (n=5,001, 94.6%) had aggravating circumstances – see Figure 4.

**Figure 4: Proportion of offenders sentenced for robbery (MSO) with aggravating circumstances present, 2005–06 and 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

## Offender characteristics

This section compares the age, gender and Aboriginal and Torres Strait Islander status of all offenders sentenced for robbery (MSO) over the period from 2005–06 to 2017–18.

### Age

On average, offenders sentenced for robbery (MSO) are much younger at the time of committing the offence (22.6 years) than the average age of all sentenced

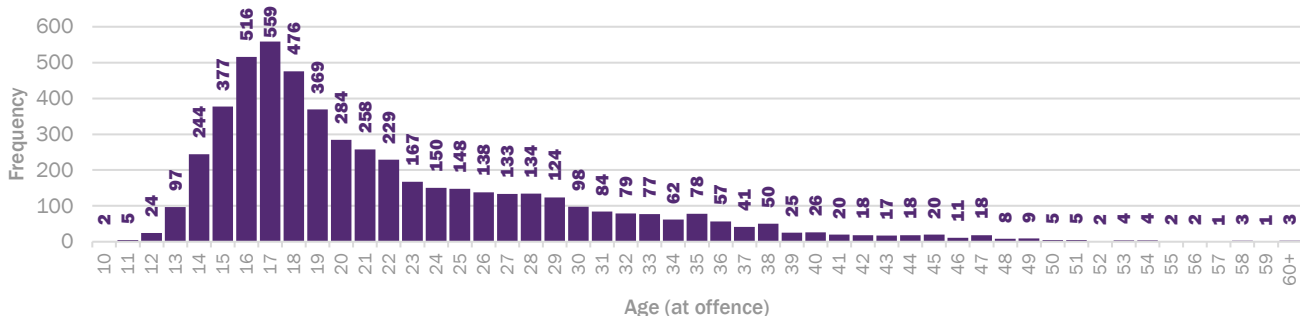
offenders (31.0 years).

The youngest person sentenced for robbery was 10 years, the oldest was 67 years, and the median age was 19.9 years. Figure 5 shows the offender's age at the time of committing the offence.



On average, offenders sentenced for robbery with aggravating circumstances were slightly younger (22.5 years, median= 19.8) than offenders with no aggravating circumstances (24.7 years, median= 22.1).

**Figure 5: Number of offenders sentenced for robbery (MSO) by age at offence, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: 2 offenders were excluded as their age was unknown.

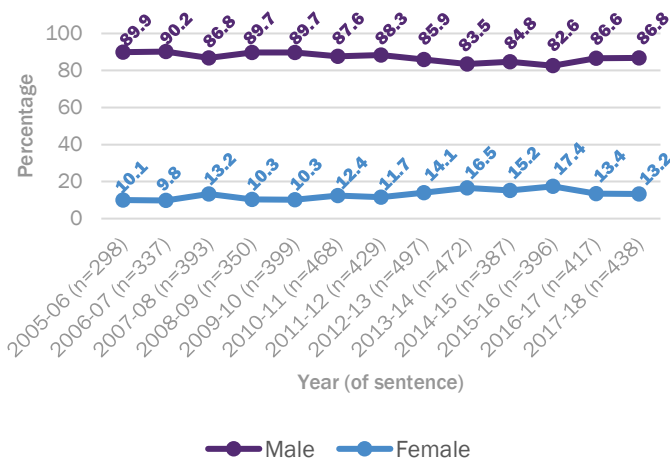
## Gender

The majority of offenders sentenced for robbery (MSO) were male (n=4,591, 86.9%). This represents a higher proportion of male offenders compared to all other offences sentenced in Queensland (76.2%).



The proportion of female offenders has steadily been increasing over the data period, from 10.1 per cent (n=30) of offenders in 2005–06 to 13.2 per cent (n=58) of offenders in 2017–18 – see Figure 6. The proportion of female offenders peaked in 2015–16 when 17.4 per cent (n=69) of sentenced robbery offences (MSO) were committed by a female offender.

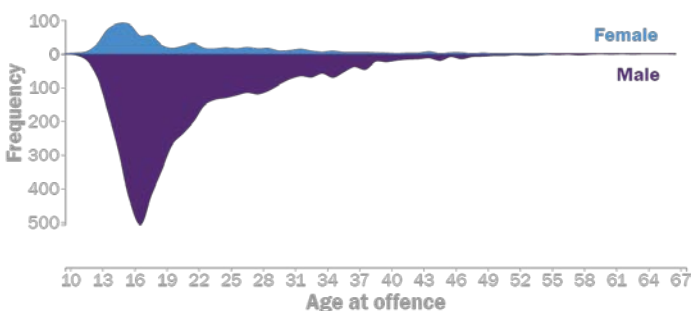
**Figure 6: Proportion of offenders sentenced for robbery (MSO) by gender and year of sentence, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 3 offenders were excluded as their gender was unknown.

On average, female offenders sentenced for robbery (MSO) were slightly younger than male offenders. The average age at time of the offence was 21.1 years (median=18.1) for female offenders, compared to 22.8 years (median=20.1) for male offenders – see Figure 7. This difference was statistically significant.<sup>2</sup>

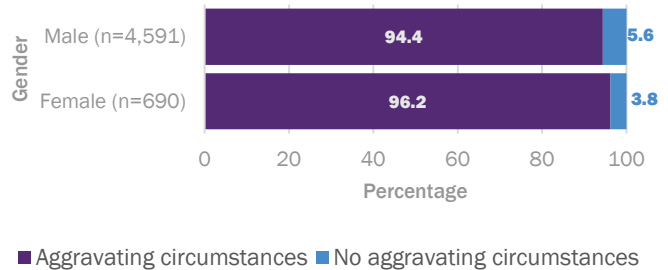
**Figure 7: Offenders sentenced for robbery (MSO) by gender and age at offence, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 5 offenders were excluded as their gender or age was unknown.

Female offenders were slightly more likely to be sentenced for robbery with aggravating circumstances (96.2%) compared to male offenders (94.4%) – see Figure 8. This difference was statistically significant.<sup>3</sup>

**Figure 8: Proportion of offenders sentenced for robbery (MSO) by gender and presence of aggravating circumstances, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 3 offenders were excluded as their gender was unknown.

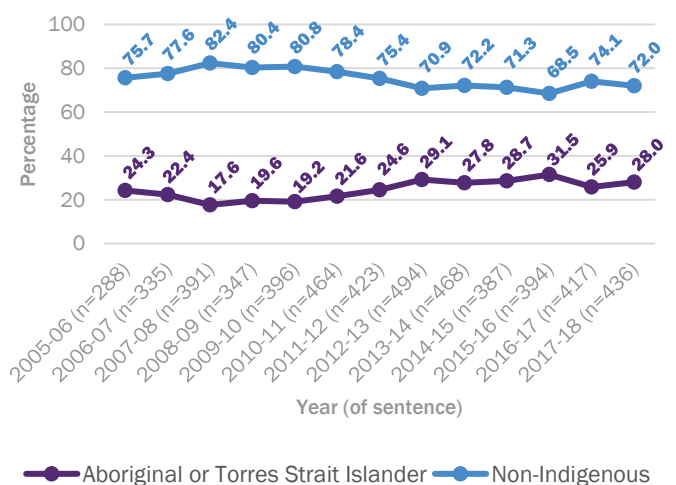
## Aboriginal and Torres Strait Islander people

Although people who identify as Aboriginal and Torres Strait Islander represent approximately 3.8 per cent of Queensland's population aged 10 years and over,<sup>4</sup> they accounted for 24.8 per cent (n=1,301) of offenders sentenced for robbery (MSO) over the 13 year data period.<sup>5</sup>



The proportion of Aboriginal and Torres Strait Islander offenders sentenced for robbery (MSO) has increased over the data period, from a low of 17.6 per cent (n=69) in 2007–08 to a high of 31.5 per cent (n=124) in 2015–16 – see Figure 9.

**Figure 9: Proportion of offenders sentenced for robbery (MSO) by Aboriginal and Torres Strait Islander status and year of sentence, 2005–06 to 2017–18**

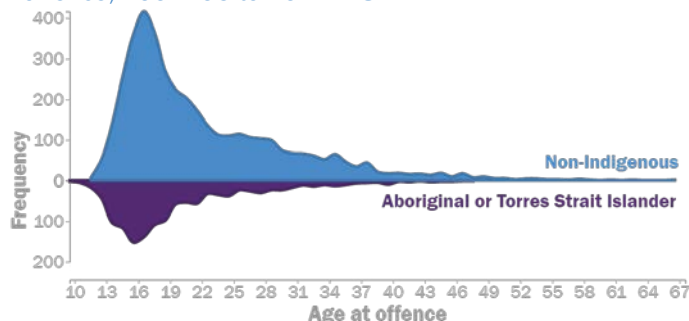


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 44 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.



Aboriginal and Torres Strait Islander offenders were younger than non-Indigenous offenders.<sup>6</sup> The average age at time of the offence was 20.7 years for Aboriginal and Torres Strait Islanders (median=18.5), compared to 23.2 years for non-Indigenous offenders (median=20.5) – see Figure 10.

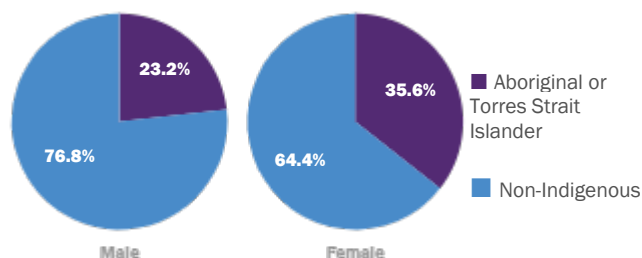
**Figure 10: Offenders sentenced for robbery (MSO) by Aboriginal and Torres Strait Islander status and age at offence, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 44 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

Female offenders were more likely to be Aboriginal or Torres Strait Islander compared to male offenders.<sup>7</sup> Over a third of female offenders sentenced for robbery (MSO) were Aboriginal or Torres Strait Islander (35.6%), compared to a quarter of male offenders (23.2%) – see Figure 11.

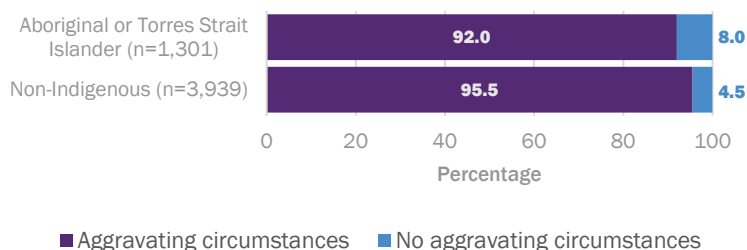
**Figure 11: Offenders sentenced for robbery (MSO) by Aboriginal and Torres Strait Islander status and gender, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 46 offenders were excluded as their Aboriginal and Torres Strait Islander status or gender was unknown.

Aboriginal and Torres Strait Islander offenders were less likely to be sentenced for robbery in circumstances of aggravation (92.0%) compared to non-Indigenous offenders (95.5%) – see Figure 12. This difference was statistically significant.<sup>8</sup>

**Figure 12: Proportion of offenders sentenced for robbery (MSO) by Aboriginal and Torres Strait Islander status and presence of aggravating circumstances, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: 44 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

## Young offenders

If, at the time of offence, an offender was aged 10–17 years, they may be dealt with as a child under the *Youth Justice Act 1992* (Qld).<sup>9</sup> Across all offences in Queensland, 4.0 per cent of offenders were young offenders who were sentenced as a child. In comparison, the offence of robbery (MSO) had a much higher proportion of young offenders, with 23.0 per cent of robberies committed by offenders aged 10–17 years (n=1,215).



Young offenders were more likely to be female, more likely to be Aboriginal or Torres Strait Islander, and slightly more likely to have aggravating circumstances compared to adult offenders.

There were 1,171 young offenders sentenced for robbery (MSO) with circumstances of aggravation (96.4%), compared to only 44 young offenders who did not have any circumstances of aggravation (3.6%). This is slightly lower than the 94.1 per cent of adult offenders who were sentenced for robbery (MSO) with aggravating circumstances (n=3,830).

Female offenders accounted for 22.7 per cent (n=276) of young offenders. This was much higher than the 10.2 per cent of adult offenders who were female (n=414).

Aboriginal and Torres Strait Islander people make up 35.5 per cent (n=428) of the young offenders sentenced for robbery. This is a much higher proportion compared to the 21.6 per cent of adults who were Aboriginal or Torres Strait Islander (n=873).

## Sentencing court

The offence of robbery is an indictable offence, which means it is a serious offence that cannot be dealt with in the Magistrates Courts. Legislation allows some other types of indictable offences to be sentenced in the Magistrates Courts in certain circumstances, but does not do so for any form of the offence of robbery. The vast majority of robbery cases (MSO) were dealt with in the District Court (n=5,162, 99.5%); only 25 cases were sentenced in the Supreme Court (0.5%).<sup>10</sup>

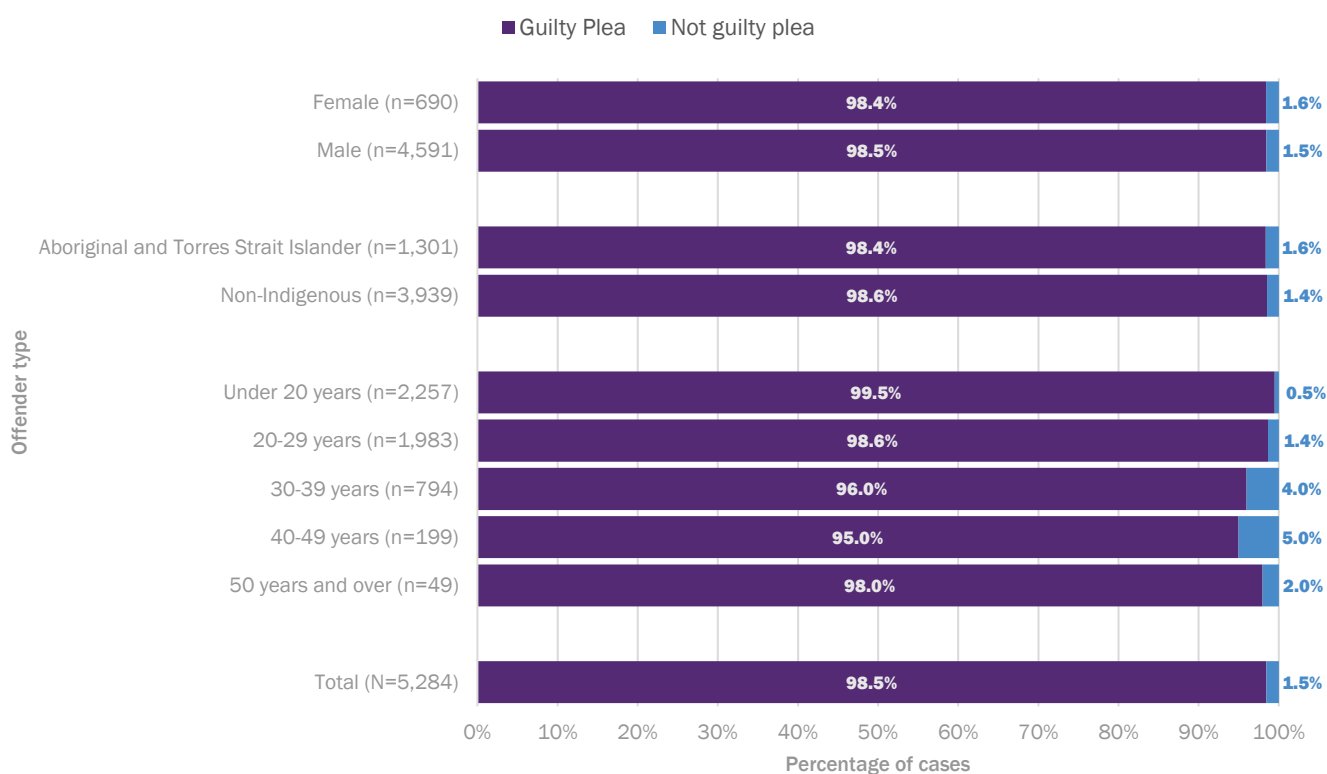
## Type of plea

In most robbery cases (MSO) the offender pleaded guilty, either initially or at a subsequent date (98.5%, n=5,203). Only 1.5 per cent pleaded not guilty (n=81).

Male and female offenders were equally likely to plead guilty (males 98.5%; females 98.4%).<sup>11</sup> Similarly, there was no difference in the type of plea by Aboriginal and Torres Strait Islander status (98.4% of Aboriginal and Torres Strait Islander people pleaded guilty, compared to 98.6% of non-Indigenous people).<sup>12</sup>

The age of an offender played a significant role in how a person was likely to plead.<sup>13</sup> People under the age of 20 years were more likely to plead guilty (99.5%) compared to older offenders. The 40-49 year age group was the most likely to plead not guilty, with 5.0 per cent of offenders entering a not guilty plea – see Figure 13.

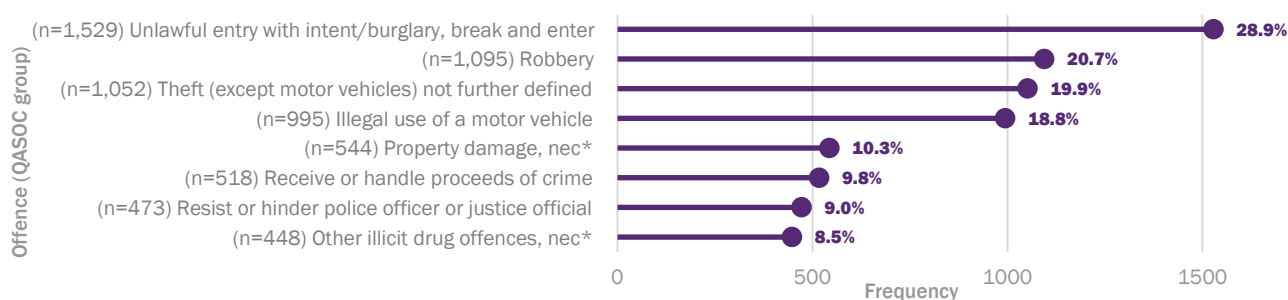
**Figure 13: Plea type of offenders sentenced for robbery (MSO) by gender, Aboriginal and Torres Strait Islander status and age at sentence, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics were excluded from each subcategory.

**Figure 14: Top eight associated offences sentenced with robbery (MSO), 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

\* nec means 'not elsewhere classified'.

## Associated offences

Some offenders sentenced for robbery (MSO) were also sentenced for other offences at the same court event. Of the 5,284 cases, 32.6 per cent were only sentenced for the robbery offence at their court event, 16.9 per cent were sentenced for one additional offence, and 50.5 per cent were sentenced for more than one additional offence.

Figure 14 shows the top eight most common associated offences. In nearly a third of cases (28.9%, n=1,529), the offender was sentenced for burglary at the same time that they were sentenced for robbery (MSO). In a fifth of cases (20.7%, n=1,095), the offender was sentenced for multiple robberies. Theft (n=1,502, 19.9%), and illegal use of a motor vehicle (n=995, 18.8%), were also often

sentenced alongside robbery (MSO) in approximately a fifth of cases.

The number of offences sentenced per offender per court event ranged from 1 to 120, with an average of 5.5 offences sentenced per event (median=3.0) – see Table 1.

There was no significant difference in the number of offences sentenced at a sentencing event for robbery (MSO) by gender or Aboriginal and Torres Strait Islander status.<sup>14</sup> Female offenders had slightly fewer sentenced offences compared to male offenders (an average of 5.4 offences per event for females, compared to 5.5 for males). Aboriginal and Torres Strait Islander offenders had slightly more sentenced offences compared to non-Indigenous offenders (an average of 5.8 offences per event for Aboriginal and Torres Strait Islander offenders, compared to 5.3 for non-Indigenous offenders).

**Table 1: Number of sentenced offences per court event, 2005–06 to 2017–18**

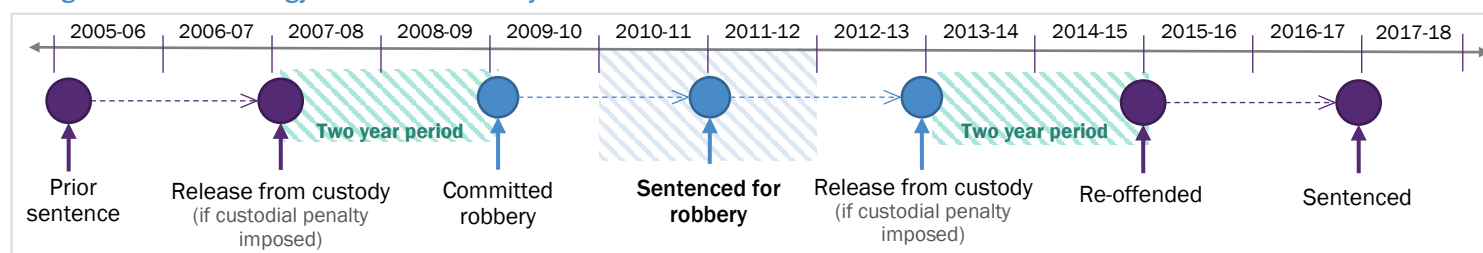
Offender type	N	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11+ offences (%)	Number of offences			
						Avg	Median	Min	Max
Female	690	36.1	33.5	17.1	13.3	5.4	2.0	1	59
Male	4591	32.1	34.1	20.5	13.4	5.5	3.0	1	120
Aboriginal or Torres Strait Islander	1301	33.0	30.2	20.8	16.0	5.8	3.0	1	92
Non-Indigenous	3939	32.3	35.3	19.8	12.6	5.3	3.0	1	120
<b>Total</b>	<b>5284</b>	<b>32.6</b>	<b>34.0</b>	<b>20.0</b>	<b>13.4</b>	<b>5.5</b>	<b>3.0</b>	<b>1</b>	<b>120</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics were excluded from each subcategory.



**Figure 15: Methodology for recidivism analysis**



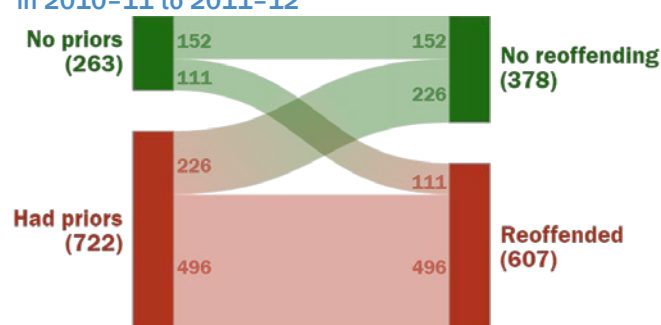
The 'two year period' refers to the time during which an offence must be committed for it to be included in the recidivism analysis. The offender must have committed a new offence within two years of being released from custody for a prior offence.

## Recidivism

Of the 5,007 offenders who were sentenced for robbery in 2005–06 to 2016–17 (regardless of whether robbery was their MSO), 493 were repeat offenders (9.8% of offenders) – that is, they had been sentenced multiple times for robbery offences over the 12-year period.

Offenders sentenced for robbery in 2010–11 to 2011–12 were examined in more detail to determine whether they had committed any other offences before or after being sentenced for robbery.<sup>15</sup> Prior and subsequent offending was operationalised as any sentencing event with an offence date that occurred within two years of an offender's expected release from custody – see Figure 15.

**Figure 16: Reoffending by people sentenced for robbery in 2010–11 to 2011–12**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

In 2010–11 to 2011–12, there were 985 unique offenders sentenced for robbery. Of these, nearly three quarters had previously offended ( $n=722$ , 73.3%), and almost two thirds committed a new offence following the robbery ( $n=607$ , 61.6%) – see Figure 16.

Half of offenders had committed offences both before and after the robbery offence ( $n=496$ , 50.4%), whereas only 15 per cent of offenders had no prior and no subsequent offences ( $n=152$ ) recorded. There were 111 offenders who reoffended, but had no prior sentenced offences (11.3%) and 226 offenders who had prior offences but did not reoffend (22.9%).

Table 2 shows that the average number of prior court events for male offenders is 2.9 – this is significantly greater than females with an average of 1.6 prior court events.<sup>16</sup> However, there was no significant difference in reoffending, with an average of 1.7 subsequent court events for both males and females.<sup>17</sup>

Aboriginal and Torres Strait Islander offenders were significantly more likely to have a higher number of both prior and subsequent court events compared to non-Indigenous offenders.<sup>18</sup> Aboriginal and Torres Strait Islander offenders had, on average, 3.6 prior court events (non-Indigenous=2.5), and 2.3 subsequent court events (non-Indigenous=1.6).









**Table 2: Prior and subsequent court events for offenders sentenced for robbery in 2010–11 to 2011–12**

Offender type	N	0 court events (%)	1 to 4 court events (%)	5+ court events (%)	Number of court events			
					Average	Median	Min	Max
<b>Prior offending</b>	<b>985</b>	<b>26.7</b>	<b>50.2</b>	<b>23.1</b>	<b>2.7</b>	<b>2.0</b>	<b>0</b>	<b>16</b>
Female	114	38.6	52.6	8.8	1.6	1.0	0	13
Male	869	25.1	49.8	25.1	2.9	2.0	0	16
Aboriginal or Torres Strait Islander	229	17.0	50.7	32.3	3.6	3.0	0	16
Non-Indigenous	742	28.3	50.9	20.8	2.5	2.0	0	16
<b>Subsequent offending</b>	<b>985</b>	<b>38.4</b>	<b>52.3</b>	<b>9.3</b>	<b>1.7</b>	<b>1.0</b>	<b>0</b>	<b>16</b>
Female	114	50.9	36.0	13.2	1.7	0.0	0	12
Male	869	36.7	54.4	8.9	1.7	1.0	0	16
Aboriginal or Torres Strait Islander	229	27.1	57.6	15.3	2.3	2.0	0	12
Non-Indigenous	742	40.7	51.6	7.7	1.6	1.0	0	16

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics are excluded from each subgroup.

**Figure 17: Top eight prior offences for offenders sentenced for robbery in 2010–11 to 2011–12**

Offence	Sentenced cases	Offender count
 Resist or hinder police officer or justice official	421	284 (29.2%)
 Theft (except motor vehicles)	393	253 (26.3%)
 Offensive behaviour	408	250 (25.8%)
 Burglary / unlawful entry	406	246 (25.2%)
 Breach of bail	391	220 (22.3%)
 Property damage	295	212 (21.9%)
 Drive without a licence	241	182 (18.6%)
 Theft from retail premises	262	176 (17.9%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

### Most common prior offences

Figure 17 shows a list of the types of offences that were committed by offenders prior to committing a robbery offence in 2010–11 to 2011–12.

The most common prior offence was resisting a police officer, with 284 offenders (29.2%) sentenced at 421 court events for this offence. Theft (excluding the theft of motor vehicles) was the second most common prior offence (253 offenders, 26.3%).

The third most common prior offence was offensive behaviour (250 offenders, 25.8%), which is a category of offending which includes offences such as public nuisance, urinating in a public place, and drunk or disorderly conduct.

Burglary and other unlawful entries was the fourth most common prior offence (246 offenders, 25.2%). A burglary occurs when a person enters the dwelling of another with intent to commit a crime.

Of the 985 offenders sentenced for robbery in 2010–11 to 2011–12, 60 had previously been sentenced for robbery (6.1%).









### Most common subsequent offences

Figure 18 shows the offences that were most commonly committed subsequent to being sentenced for a robbery offence. The types of offences committed subsequent to a robbery were very similar to the types of offences committed prior to a robbery – compare with Figure 17.

The most common types of subsequent offences were resisting a police officer (206 offenders, 20.9%), theft (other than the theft of a motor vehicle) (163 offenders, 16.5%), and burglaries and other unlawful entries (158 offenders, 16.5%).

Of the 985 offenders sentenced for robbery in 2010–11 to 2011–12, 69 had subsequently been sentenced for robbery (7.0%).

**Figure 18: Top eight subsequent offences for offenders sentenced for robbery in 2010–11 to 2011–12**

Offence	Sentenced cases	Offender count
 Resist or hinder police officer or justice official	264	206 (20.9%)
 Theft (except motor vehicles)	238	163 (16.5%)
 Burglary / unlawful entry	208	158 (16.0%)
 Illegal use of a motor vehicle	208	139 (14.1%)
 Breach of bail	216	135 (13.7%)
 Other illicit drug offences	166	134 (13.6%)
 Offensive behaviour	177	132 (13.4%)
 Property damage	142	117 (11.9%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

# Penalties and sentencing

## Guidance for courts sentencing robbery offences

Specific sentencing principles apply under s 9 of the *Penalties and Sentences Act 1992* (Qld) to an offence that involves the use, or attempted use of violence against another person, or that has resulted in physical harm to another person.<sup>19</sup> In the context of robbery, this can involve even a threat of violence to induce compliance.<sup>20</sup>

In such cases, a court must have primary regard to 11 factors, which focus on community safety and risk of physical harm to the public, the circumstances of the offence, the personal circumstances of any victim and the offender's past record, background and level of remorse.<sup>21</sup>

The Queensland Court of Appeal has stated that in most cases, courts sentencing for robbery offences applying these factors can still consider lengthy, carefully structured community based orders such as probation, compensation and community service, or forms of imprisonment that are suspended or served in the community (such as an intensive correction order or release on parole at the time of sentence).<sup>22</sup> The Court has also stated that while a non-custodial sentence may be appropriate 'in some cases of young offenders with no or minor criminal history' and 'the rehabilitation of young offenders is important', 'a custodial sentence is usually within, and, indeed, should be expected to be part of, the sound exercise of the sentencing discretion for an offence as serious as armed robbery'.<sup>23</sup>

There are also special rules that apply when an offence is declared by the sentencing court to be a 'serious violent offence',<sup>24</sup> or has a 'serious organised crime circumstance of aggravation'.<sup>25</sup> The application of these provisions is beyond the scope of this paper.

## Penalty type

From 2005–06 to 2017–18, there were 4,069 adult offenders and 1,215 young offenders who were sentenced for robbery (MSO). A different sentencing regime applies to young offenders sentenced in Queensland under the *Youth Justice Act 1992* to that which applies to offenders sentenced as adults under the *Penalties and Sentences Act 1992*. For this reason, the penalties imposed on adult offenders and young offenders are discussed separately below.

### Adult offenders

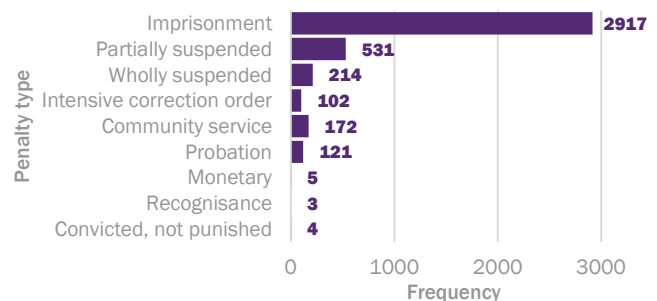
From 2005–06 to 2017–18, a total of 92.5 per cent (n=3,764) of adult offenders sentenced for robbery (MSO)

received a custodial penalty. This is much higher than the 9.6 per cent of adult offenders who are sentenced to a custodial penalty across all offences in Queensland.



The most common penalty imposed on adult offenders was imprisonment (n=2,917, 71.7%). An additional 18.3 per cent of adult offenders received a suspended sentence of imprisonment (n=745). Only a small proportion of offenders were sentenced to a community-based order of probation or community service (7.2%, n=293) – see Table 3 and Figure 19.

**Figure 19: Penalties issued for robbery (MSO), adult offenders, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

**Table 3: Penalty types for robbery (MSO), adult offenders by demographics, 2005–06 to 2017–18**

Penalty type	Total %	Male %	Female %	Aboriginal and Torres Strait Islander %	Non-Indigenous %	Aggravating circumstances %	No aggravating circumstances %
<b>Custodial penalties</b>							
Imprisonment (n=2,917)	71.7	72.2	67.6	78.4	70.2	71.5	74.5
Partially suspended (n=531)	13.0	13.4	9.7	11.3	13.4	13.3	9.6
Wholly suspended (n=214)	5.3	4.7	9.7	3.4	5.7	5.3	4.2
Intensive correction order (n=102)	2.5	2.7	1.2	1.6	2.7	2.4	4.2
<b>Non-custodial penalties</b>							
Community service (n=172)	4.2	3.9	6.5	2.4	4.7	4.3	3.3
Probation (n=121)	3.0	2.8	4.6	2.6	3.0	2.9	4.2
Monetary (n=5)	0.1	0.1	0.0	0.1	0.1	0.1	0.0
Recognisance (n=3)	0.1	0.0	0.5	0.1	0.0	0.1	0.0
Convicted, not punished (n=4)	0.1	0.1	0.2	0.0	0.1	0.1	0.0
<b>Total</b>	<b>100%</b> n=4,069	<b>100%</b> n=3,652	<b>100%</b> n=414	<b>100%</b> n=873	<b>100%</b> n=3,161	<b>100%</b> n=3,830	<b>100%</b> n=239

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics are excluded from each subgroup.

There was a significant difference in the type of penalty received by gender.<sup>26</sup> Female offenders were more likely to receive a wholly suspended sentence (9.7%) or a community-based order (11.1%) compared to male offenders (4.7% and 6.7% respectively).

Aboriginal and Torres Strait Islander offenders were more likely to receive imprisonment (78.4% compared to 70.2% for non-Indigenous offenders), and less likely to receive a wholly suspended sentence (3.4% compared to 5.7% for non-Indigenous offenders) or a community service order (2.4% compared to 4.7% for non-Indigenous offenders).<sup>27</sup>

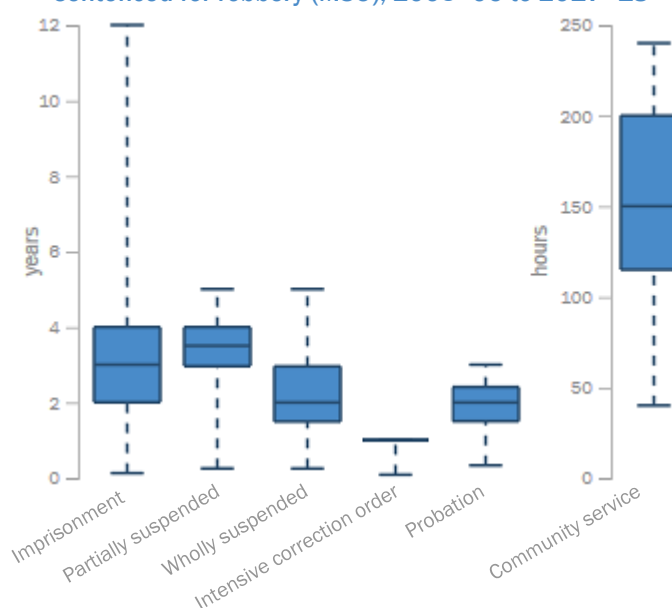
### Length of sentence for adult offenders

The average sentence length for adults sentenced to imprisonment was 3.2 years (median=3.0 years). The longest sentence of imprisonment was 12 years. On average, male offenders had longer sentences compared to female offenders (3.3 years for males, 2.6 years for females), and non-Indigenous offenders had slightly longer sentences compared to Aboriginal and Torres Strait Islander offenders (3.0 years for Aboriginal and Torres Strait Islander offenders, 3.3 years for non-Indigenous offenders).<sup>28</sup>

The longest partially suspended sentence had a head sentence of 5 years, to be suspended after serving 3 years. The average head sentence was 3.4 years (median=3.5 years), and the average amount of time to be served before release on a partially suspended sentence was 11.1 months (median=10.3 months).

Wholly suspended sentences accounted for 5.3 per cent of penalties imposed on adults for robbery (MSO). The longest wholly suspended sentence was for 5 years, and the average length was 2.1 years (median 2.0 years).

**Figure 20: Boxplot of length of penalties for adults sentenced for robbery (MSO), 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Fines and recognisance orders were not plotted as the number of sentences was too small.

**Table 4: Sentence lengths for adult offenders issued for robbery (MSO) by demographics, 2005–06 to 2017–18**

Offender type	N	Avg	Median	Min	Max
<b>Imprisonment (years)</b>					
Female	280	2.6	3.0	0.2	8.0
Male	2,637	3.3	3.0	0.1	12.0
Aboriginal or Torres Strait Islander	684	3.0	3.0	0.1	11.0
Non-Indigenous	2,218	3.3	3.0	0.2	12.0
<b>All offenders</b>	<b>2,917</b>	<b>3.2</b>	<b>3.0</b>	<b>0.1</b>	<b>12.0</b>
<b>Partially suspended (years)</b>					
Female	40	3.1	3.0	0.3	5.0
Male	491	3.5	3.5	0.5	5.0
Aboriginal or Torres Strait Islander	99	3.3	3.2	0.3	5.0
Non-Indigenous	422	3.5	3.5	0.5	5.0
<b>All offenders</b>	<b>531</b>	<b>3.4</b>	<b>3.5</b>	<b>0.3</b>	<b>5.0</b>
<b>Wholly suspended (years)</b>					
Female	40	1.9	1.9	0.5	3.5
Male	172	2.1	2.0	0.2	5.0
Aboriginal or Torres Strait Islander	30	2.1	2.0	0.3	4.4
Non-Indigenous	181	2.1	2.0	0.2	5.0
<b>All offenders</b>	<b>214</b>	<b>2.1</b>	<b>2.0</b>	<b>0.2</b>	<b>5.0</b>
<b>Intensive correction order (years)</b>					
Female	5	1.0	1.0	1.0	1.0
Male	97	0.9	1.0	0.1	1.0
Aboriginal or Torres Strait Islander	14	0.9	1.0	0.5	1.0
Non-Indigenous	86	0.9	1.0	0.1	1.0
<b>All offenders</b>	<b>102</b>	<b>0.9</b>	<b>1.0</b>	<b>0.1</b>	<b>1.0</b>
<b>Community service (hours)</b>					
Female	27	160	150	40	240
Male	144	164	150	50	240
Aboriginal or Torres Strait Islander	21	164	180	40	240
Non-Indigenous	150	163	150	40	240
<b>All offenders</b>	<b>172</b>	<b>163</b>	<b>150</b>	<b>40</b>	<b>240</b>
<b>Probation (years)</b>					
Female	19	2.0	2.0	1.0	3.0
Male	102	2.0	2.0	0.3	3.0
Aboriginal or Torres Strait Islander	23	1.9	2.0	0.3	3.0
Non-Indigenous	96	2.0	2.0	1.0	3.0
<b>All offenders</b>	<b>121</b>	<b>2.0</b>	<b>2.0</b>	<b>0.3</b>	<b>3.0</b>
<b>Fine (dollars)</b>					
Female	0				
Male	5	\$338	\$300	\$20	\$900
Aboriginal or Torres Strait Islander	1	\$20	\$20	\$20	\$20
Non-Indigenous	4	\$418	\$350	\$70	\$900
<b>All offenders</b>	<b>5</b>	<b>\$338</b>	<b>\$300</b>	<b>\$20</b>	<b>\$900</b>
<b>Recognisance (years)</b>					
Female	2	1.0	1.0	1.0	1.0
Male	1	2.0	2.0	2.0	2.0
Aboriginal or Torres Strait Islander	1	1.0	1.0	1.0	1.0
Non-Indigenous	1	2.0	2.0	2.0	2.0
<b>All offenders</b>	<b>3</b>	<b>1.3</b>	<b>1.0</b>	<b>1.0</b>	<b>2.0</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics are excluded from each subgroup.

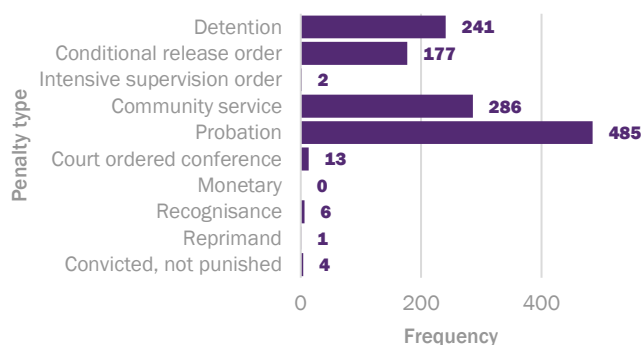
## Youth offenders

Over the 13 year data period, a total of 34.6 per cent (n=420) of young offenders sentenced for robbery (MSO) received a custodial penalty. This is much higher than the 7.2 per cent of young offenders who are sentenced to a custodial penalty across all offences in Queensland.



Community-based sentences were the most common penalty imposed on young offenders for robbery (MSO), with 485 offenders sentenced to probation (39.9%), and 286 sentenced to a community service order (23.5%). Detention was imposed in 19.8 per cent of cases (n=241), and an additional 14.6 per cent of offenders were sentenced to detention but were immediately released into a structured program with strict conditions (a conditional release order, n=177) – see Table 5 and Figure 21.

**Figure 21: Penalties issued for robbery (MSO), young offenders, 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

**Table 5: Penalty types for robbery (MSO), young offenders by demographics, 2005–06 to 2017–18**

Penalty type	Total %	Male %	Female %	Aboriginal and Torres Strait Islander %	Non-Indigenous %	Aggravating circumstances %	No aggravating circumstances %
<b>Custodial penalties</b>							
Detention (n=241)	19.8	20.0	19.2	29.4	14.7	19.7	22.7
Conditional release order (n=177)	14.6	15.7	10.9	15.0	14.5	14.7	11.4
<b>Non-custodial penalties</b>							
Intensive supervision order (n=2)	0.2	0.2	0.0	0.5	0.0	0.2	0.0
Community service (n=286)	23.5	23.9	22.5	15.2	28.3	23.2	31.8
Probation (n=485)	39.9	38.8	43.8	37.6	40.7	40.2	31.8
Court ordered conference (n=13)	1.1	0.9	1.8	1.2	1.0	1.0	2.3
Monetary (n=0)	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Recognisance (n=6)	0.5	0.4	0.7	0.7	0.4	0.5	0.0
Reprimand (n=1)	0.1	0.1	0.0	0.2	0.0	0.1	0.0
Convicted, not punished (n=4)	0.3	0.1	1.1	0.2	0.4	0.3	0.0
<b>Total</b>	<b>100%</b> n=1,215	<b>100%</b> n=939	<b>100%</b> n=276	<b>100%</b> n=428	<b>100%</b> n=778	<b>100%</b> n=1,171	<b>100%</b> n=44

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics are excluded from each subgroup.



## Length of sentence for young offenders

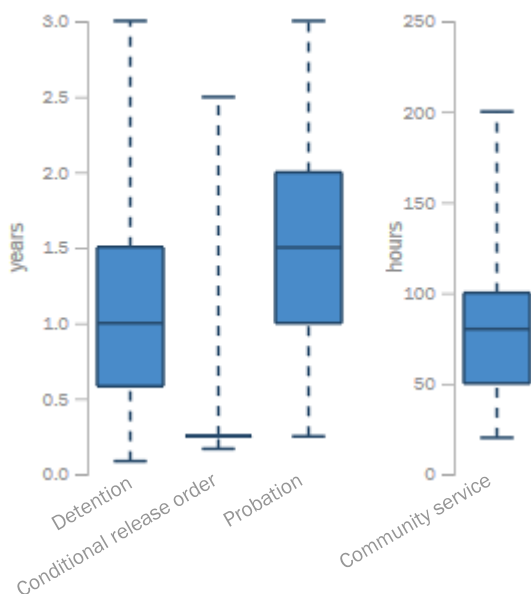
The most common penalty imposed on young offenders for robbery (MSO) was probation (n=485). The longest probation sentence was 3 years, and the average length was 1.5 years (median=1.5 years). There was little difference in the length of probation sentences by gender or Aboriginal and Torres Strait Islander status – see Table 6.

Community service orders accounted for nearly a quarter of the penalties imposed on young offenders for robbery (MSO) (23.5%). The longest community service order was for 200 hours, which is the maximum sentence under the legislation.<sup>31</sup> The average sentence was for 93.3 hours (median=80 hours).

A fifth of young offenders who committed robbery (MSO) were sentenced to an actual term of detention (19.8%). The longest sentence of detention was 3 years, and the average detention sentence was 1.1 years (median=1.0 years).

A conditional release order was the most serious penalty imposed in 14.6 per cent of cases. The longest conditional release order had a head sentence of 2.5 years. The average sentence was 4.4 months (median=3.0 months).

**Figure 22: Boxplot of length of penalties for young offenders sentenced for robbery (MSO), 2005–06 to 2017–18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Intensive supervision orders and recognisance orders were not plotted as the number of sentences was too small.

**Table 6: Sentence lengths for young offenders issued for robbery (MSO) by demographics, 2005–06 to 2017–18**

Offender type	N	Avg	Median	Min	Max
<b>Detention (years)</b>					
Female	53	1.0	1.0	0.2	2.5
Male	188	1.2	1.0	0.1	3.0
Aboriginal or Torres Strait Islander	126	1.1	1.0	0.1	3.0
Non-Indigenous	114	1.2	1.0	0.1	3.0
<b>All offenders</b>	<b>241</b>	<b>1.1</b>	<b>1.0</b>	<b>0.1</b>	<b>3.0</b>
<b>Conditional release order (years)</b>					
Female	30	0.3	0.3	0.2	1.0
Male	147	0.4	0.3	0.2	2.5
Aboriginal or Torres Strait Islander	64	0.4	0.3	0.2	2.0
Non-Indigenous	113	0.4	0.3	0.2	2.5
<b>All offenders</b>	<b>177</b>	<b>0.4</b>	<b>0.3</b>	<b>0.2</b>	<b>2.5</b>
<b>Intensive supervision order (years)</b>					
Female	0				
Male	2	0.5	0.5	0.5	0.5
Aboriginal or Torres Strait Islander	2	0.5	0.5	0.5	0.5
Non-Indigenous	0				
<b>All offenders</b>	<b>2</b>	<b>0.5</b>	<b>0.5</b>	<b>0.5</b>	<b>0.5</b>
<b>Community service (hours)</b>					
Female	62	90.2	80	20	200
Male	224	94.2	95	20	200
Aboriginal or Torres Strait Islander	65	84.0	80	20	200
Non-Indigenous	220	96.1	100	20	200
<b>All offenders</b>	<b>286</b>	<b>93.3</b>	<b>80</b>	<b>20</b>	<b>200</b>
<b>Probation (years)</b>					
Female	121	1.5	1.5	0.5	3.0
Male	364	1.4	1.5	0.2	3.0
Aboriginal or Torres Strait Islander	161	1.4	1.5	0.3	3.0
Non-Indigenous	317	1.5	1.5	0.2	3.0
<b>All offenders</b>	<b>485</b>	<b>1.5</b>	<b>1.5</b>	<b>0.2</b>	<b>3.0</b>
<b>Recognisance (years)</b>					
Female	2	0.5	0.5	0.5	0.5
Male	4	0.9	1.0	0.5	1.0
Aboriginal or Torres Strait Islander	3	0.7	0.5	0.5	1.0
Non-Indigenous	3	0.8	1.0	0.5	1.0
<b>All offenders</b>	<b>6</b>	<b>0.7</b>	<b>0.8</b>	<b>0.5</b>	<b>1.0</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics are excluded from each subgroup.

<sup>1</sup> For a definition of 'most serious offence' and other terms, refer to the technical paper available at: <https://www.sentencingcouncil.qld.gov.au/research/sentencing-spotlight>.

<sup>2</sup> Independent groups t-test:  $t(5277) = -5.32, p < 0.0001, r = 0.07$  (equal variances assumed).

<sup>3</sup> Pearson's chi-square test:  $\chi^2(1) = 3.96, p = 0.466$ .

<sup>4</sup> As at 30 June 2015. See Queensland Government Statisticians Office, *Population estimates by Indigenous Status, LGAs, 2001 to 2015*, available at <https://www.qgso.qld.gov.au/statistics/theme/population/aboriginal-peoples-torres-strait-islander-peoples/population-estimates-projections>.

<sup>5</sup> In Queensland, Aboriginal and Torres Strait Islander people are over-represented in a range of offence categories, accounting for 17.9 per cent of offenders across all types of offences from 2005-06 to 2017-18. This is a result of a range of complex current and historical factors that continue to impact on the lives of Aboriginal and Torres Strait Islander people.

<sup>6</sup> Independent groups t-test:  $t(2678.7) = 11.07, p < 0.0001, r = 0.21$  (equal variances not assumed).

While the age of Aboriginal and Torres Strait Islander offenders is, on average, younger than the age of non-Indigenous offenders, it is important to note that the Aboriginal and Torres Strait Islander population has a younger age structure than the non-Indigenous population, with larger proportion of young people and smaller proportions of older people. For more details see Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians*, cat. no. 3238.0.55.001.

<sup>7</sup> Pearson's chi-square test:  $\chi^2(1) = 48.57, p < 0.0001$ .

<sup>8</sup> Pearson's chi-square test:  $\chi^2(1) = 23.61, p < 0.0001$ .

<sup>9</sup> Sentencing laws are different for children and the *Youth Justice Act 1992* (Qld) (YJA) applies rather than the *Penalties and Sentences Act 1992* (Qld) which applies to the sentencing of adult offenders. For more information, see <https://www.sentencingcouncil.qld.gov.au/about-sentencing/sentencing-child-offenders>. The equivalent of imprisonment for a child is detention. The YJA sets different maximum detention periods for children depending on the level of the sentencing court and seriousness of the offence. The maximum sentence available to higher courts is generally lower than that applicable to adults. Relevant ages for children and criminal responsibility have changed. Until 12 February 2018, children aged between 10 and 16 were sentenced as children. From 12 February 2018, 17 year olds are also treated as children.

<sup>10</sup> The type of court for 16 cases was unclear due to data quality issues. These cases were excluded from this analysis.

<sup>11</sup> Pearson's chi-square test:  $\chi^2(1) = 0.0192, p = 0.8899$ .

<sup>12</sup> Pearson's chi-square test:  $\chi^2(1) = 0.1862, p = 0.6661$ .

<sup>13</sup> Pearson's chi-square test:  $\chi^2(4) = 65.6748, p < 0.0001$ .

<sup>14</sup> Gender: Independent groups t-test:  $t(5279) = -0.09, p = 0.9318, r = 0.001$  (equal variances assumed).

Aboriginal and Torres Strait Islander status: Independent groups t-test:  $t(5238) = -1.93, p < 0.0538, r = 0.03$  (equal variances assumed).

<sup>15</sup> To calculate recidivism, offenders were linked across multiple court events to identify occurrences of prior offending and reoffending. This offender linkage was undertaken by the Queensland Government Statistician's Office, and involved both deterministic and probabilistic matching techniques to account for anomalies in data systems in relation to common administrative data errors relating to issues, such as the use of nicknames and transposed details.

This linkage has been performed for court events that were finalised before 30 December 2017. As such, this *Sentencing Spotlight* does not include recidivism analysis for cases finalised beyond this date.

The recidivism analysis in this *Sentencing Spotlight* includes all criminal offences and traffic offences sentenced in a court.

<sup>16</sup> Independent groups t-test:  $t(182.58) = -6.12, p < 0.0001, r = 0.41$  (equal variances not assumed).

<sup>17</sup> Independent groups t-test:  $t(134.03) = -0.08, p = 0.9357, r = 0.01$  (equal variances not assumed).

<sup>18</sup> Prior court events: Independent groups t-test:  $t(337.27) = -4.27, p < 0.0001, r = 0.23$  (equal variances not assumed).

Subsequent court events: Independent groups t-test:  $t(333.78) = -4.40, p < 0.0001, r = 0.23$  (equal variances not assumed).

<sup>19</sup> *Penalties and Sentences Act 1992* (Qld) s 9(2A). This law came into effect on 1 July 1997 (proclaimed 1997 SL No. 151). It covers not only the use of violence, but counselling or procuring its use, or attempting or conspiring to use it.

<sup>20</sup> *R v Breeze* (1999) 106 A Crim R 441, 446 (which involved an armed robbery but the judgment spoke of 'commission of a robbery') and see *R v Dullroy & Yates; ex parte A-G* (Qld) [2005] QCA 219, 10 [31] (White J, McMurdo J agreeing) and *R v Oliver* [2018] QCA 248, 7 [32]–[35] (Sofronoff P, Fraser and Philippides JA agreeing).

<sup>21</sup> *Penalties and Sentences Act 1992* (Qld) s 9(3). While the general sentencing guidelines in the section (s 9(2)(b)-(r)) are also relevant (see *R v Lovell* [1999] 2 Qd R 79, 83 (Byrne J)), the express articulation of specific, separate factors in s 9(3) makes it 'an entirely different sentencing regime': *R v Oliver* [2018] QCA 248, 6 [25] (Sofronoff P, Fraser and Philippides JA agreeing).

<sup>22</sup> See comments by the Court of Appeal in *R v Taylor* (1999) 106 A Crim R 578, 589 (McMurdo P) and 586-7 (McPherson JA) and in *R v Perkins and Gooley* [2005] QCA 377, 6 [15] (McMurdo P, Keane JA and Douglas J agreeing).

<sup>23</sup> *R v Sherman* [2007] QCA 322, 4 (Keane JA, Jerrard JA and Jones J agreeing) (citations omitted). See also *R v Cutrona* [2013] QCA 373, 6 [30] (Daubney J, Holmes and Fraser JJA agreeing).

<sup>24</sup> A person sentenced to imprisonment for a serious violent offence (which can include robbery in certain circumstances) is unable to apply for parole until they have served 80 per cent of the sentence or 15 years in prison, whichever is less. The relevant legislation is Part 9A of the *Penalties and Sentences Act 1992* (Qld). For more details as to how this works, see the *Queensland Sentencing Guide*, available on the Council's website. This law came into effect on 1 July 1997 (proclaimed 1997 SL No. 151).

<sup>25</sup> A statutory mandatory penalty applies to offenders who commit certain serious offences, including robbery, as a result of their involvement in a criminal organisation (referred to as a 'serious organised crime circumstance of aggravation'). The court must impose seven years' imprisonment (which must be served wholly in custody) in addition to, and cumulatively upon, a sentence of imprisonment for the robbery offence. See ss 161Q and 161R and sch 1C of the *Penalties and Sentences Act 1992* (Qld). This law came into effect on 9 December 2016.

<sup>26</sup> Pearson's chi-square test:  $\chi^2(6) = 38.5504, p < 0.0001$ . Categories with less than 5 expected values were rolled up, these included monetary penalties, recognisances, and convicted, not punished.

<sup>27</sup> Pearson's chi-square test:  $\chi^2(6) = 28.0328, p < 0.0001$ . Categories with less than 5 expected values were rolled up, these included monetary penalties, recognisances, and convicted, not punished.

<sup>28</sup> Gender: Independent groups t-test:  $t(395.31) = -8.48, p < 0.0001, r = 0.39$  (equal variances assumed).

Aboriginal and Torres Strait Islander status: Independent groups t-test:  $t(1281.7) = 4.23, p < 0.0001, r = 0.12$  (equal variances assumed).

<sup>29</sup> Pearson's chi-square test:  $\chi^2(4) = 52.3641, p < 0.0001$ . Categories with less than 5 expected values were rolled up, these included court ordered conferences, intensive supervision orders, recognisances, reprimands, and convicted, not further punished.

<sup>30</sup> Pearson's chi-square test:  $\chi^2(4) = 8.6489, p = 0.0705$ . Categories with less than 5 expected values were rolled up, these included court ordered conferences, intensive supervision orders, recognisances, reprimands, and convicted, not further punished.

<sup>31</sup> *Youth Justice Act 1992* (Qld) s 175(e).



# Sentencing Spotlight on Robbery

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## For more information:

Email: [info@sentencingcouncil.qld.gov.au](mailto:info@sentencingcouncil.qld.gov.au)

Telephone: (07) 3738 9499

Website: [www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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