

SENTENCING  
SPOTLIGHT ON...

# possession of dangerous drugs



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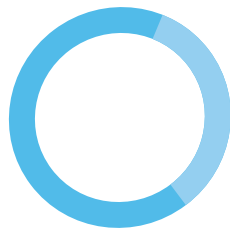
# Sentencing Spotlight on... possession of dangerous drugs

This *Sentencing Spotlight* looks at sentencing outcomes for the offence of possessing dangerous drugs finalised in Queensland courts between 1 July 2005 and 30 June 2016.

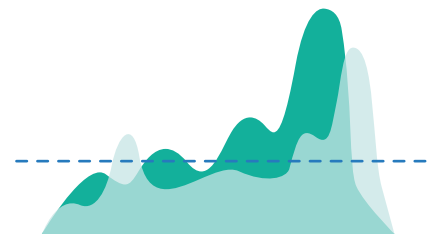
## Summary of offences 2005–06 to 2015–16



**151,186**  
offenders in total



**98,414**  
possessing dangerous drugs as  
most serious offence (MSO)



Average age  
**30.7 years**

**52,772**

another offence as MSO



**78.8%**  
male offenders



**21.2%**  
female offenders



**9.4%**  
Aboriginal and/or  
Torres Strait Islander  
offenders



**97.1%**  
pleaded guilty



**93.2%**  
non-custodial sentence  
of which  
**56.4%** received a fine  
(\$554.60 average)



Number drug  
possession offences  
as MSO  
more than doubled  
2005–06 to 2015–16

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician (GovStats). Additional details about cases were sourced, where available, from sentencing remarks direct from the courts.

# The offence of possessing dangerous drugs

The *Drugs Misuse Act 1986* (Qld) (DMA) provides that a person who unlawfully possesses a dangerous drug<sup>1</sup> is guilty of a crime.<sup>2</sup> The maximum penalty for this offence varies according to the type and quantity of dangerous drug possessed, as well as whether a judge is satisfied that an offender was drug dependent at the time of the offence.<sup>3</sup>

The *Drugs Misuse Regulation 1987* (Qld) (DMR) groups different types of dangerous drugs and quantities into schedules. Schedule 1 dangerous drugs attract the highest maximum penalties and are further categorised as non-steroid and steroid drugs. Non-steroid sch 1 dangerous drugs include amphetamine, cocaine, heroin, methylamphetamine (known as 'ice' in its crystal form)<sup>4</sup> and 3,4-methylenedioxymethamphetamine (MDMA) — commonly referred to as ecstasy in tablet form.<sup>5</sup> Schedule 2 dangerous drugs include cannabis, gamma hydroxybutyric acid (GHB), ketamine, morphine, opium and oxycodone.<sup>6</sup> Schedules 3 and 4 of the DMR list the relevant quantities for drugs listed in schs 1 and 2.<sup>7</sup>

This *Sentencing Spotlight* focuses on the offenders sentenced for the offence of possessing dangerous drugs as defined in s 9 of the DMA and schs 1, 2, 3 and 4 of the DMR. Analysis or comments about the type and quantity of dangerous drugs associated with these offenders' cases are excluded as these are not reported in the administrative data.

This *Sentencing Spotlight* does not include people who were diverted from the court process, for instance those offenders apprehended by police for possession of a small quantity of cannabis referred to attend an assessment, education and counselling session with a health service provider as part of the Police Drug Diversion Program.<sup>8</sup> Nor does it report on the use of rehabilitation and intervention options available to defendants while on bail or ordered as a condition of their sentence.

# The penalty for possessing dangerous drugs

## Adult offenders

Maximum penalties for possessing dangerous drugs range from 15 to 25 years imprisonment, as set out in s 9 of the DMA. Section 9 of the DMA sets maximum penalties by reference to drug types (listed in schs 1 and 2 of the DMR) and specified threshold quantities (listed in schs 3 and 4 of the DMR — these vary for individual drug types).

In most cases, the relevant weight is the pure weight of the drug present in the seized substance (i.e. powder, pills or liquid). But in the case of steroid drugs, reference to quantity is a reference to the whole weight (whether of the same or different types of steroid drug); the total weight of the drug and any other substance with which it is mixed or in which it is contained.<sup>9</sup>

The maximum penalties that apply under s 9 of the DMA for possessing dangerous drugs are:

- 25 years imprisonment:<sup>10</sup> for possessing a sch 1 drug of or exceeding the sch 4 quantity (for instance, 200 grams (pure) of amphetamine, cocaine, heroin, methylamphetamine or MDMA/ecstasy, or 5000 grams of the whole weight of a steroid drug)
- 20 or 25 years imprisonment: for possessing a sch 1 drug of or exceeding the sch 3 quantity, but under the sch 4 quantity (for instance, 2 grams (pure) of amphetamine, cocaine, heroin, methylamphetamine or MDMA/ecstasy, or 50 grams of the whole weight of a steroid drug). The maximum penalty is 20 years when the sentencing judge is satisfied the offender was a drug dependent person when committing the offence;<sup>11</sup> it is 25 years when the judge is not so satisfied<sup>12</sup>
- 20 years imprisonment:<sup>13</sup> for possessing a sch 2 drug of or exceeding the sch 3 quantity (for instance, 500 grams of cannabis, or 100 plants if the cannabis consists of plants and the aggregate weight is less than 500 grams)
- 15 years imprisonment:<sup>14</sup> for any other case where the dangerous drug is specified in schs 1 or 2.

However, the maximum sentence available to a Magistrates Court is three years imprisonment, because of a statutory jurisdictional limit.<sup>15</sup> A magistrate can sentence a person for possessing dangerous drugs:

- if the maximum penalty the person is liable under the offence provision is not more than 15 years imprisonment,<sup>16</sup> or
- if the person is liable to more than 15 years, under the offence provision, but the prosecution does not allege the possession was for a commercial purpose.<sup>17</sup>

The Queensland Director of Public Prosecutions issued a guideline about when commercial purpose should be alleged. According to the guideline, this should occur when it can be reasonably inferred from all of the evidence that the person did not possess the drug for their own personal use.<sup>18</sup>

The prosecution retains authority for electing to deal with an offender's matter in the Magistrates Court.<sup>19</sup> Otherwise, the charge against an offender will be dealt with in the District or Supreme Court, depending on the applicable maximum penalty.<sup>20</sup>

## Young offenders

If, at the time of the offence, an offender was aged 10 to 16 years, they will be dealt with as a child under the *Youth Justice Act 1992 (Qld)* (YJA).<sup>21</sup> If a young person admits to the offence and is willing, a police officer can divert them from the court process by way of caution or conference.<sup>22</sup> A young person found in possession of a small amount of cannabis (not more than 50 grams) can also be referred to a drug diversion assessment program instead of being charged with an offence.<sup>23</sup>

If a young person proceeds to court and is found guilty of the offence, the court retains a wide discretion in terms of sentences that may be imposed.

The YJA alters the maximum penalties applicable to young offenders convicted of possessing dangerous drugs. Custodial sentences for young people are called detention orders. The maximum period of detention generally available to a Childrens Court magistrate is one year<sup>24</sup> (the period of detention ordered can be longer if a Childrens Court judge<sup>25</sup>— a District Court judge appointed to the Childrens Court —agrees to delegate power to the magistrate).<sup>26</sup>

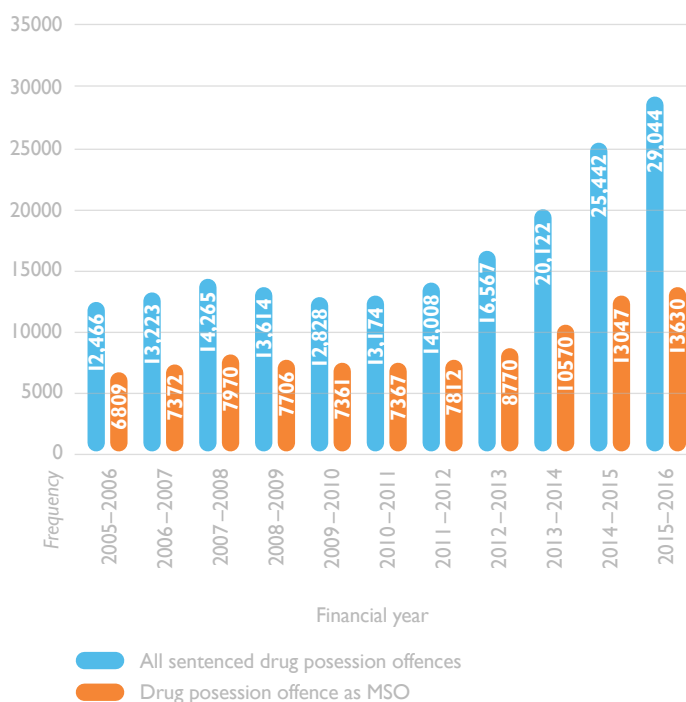
The higher courts (the Childrens Court as constituted by a Childrens Court judge and Supreme Court) sentence young offenders convicted of more serious drug possession offences.<sup>27</sup> However, the maximum penalties available to these courts in sentencing are less than those that apply to adult offenders. In contrast to adults, a young person — instead of the prosecution — has the right to choose which court finalises possession charges of lesser seriousness.<sup>28</sup> The maximum penalty a higher court can impose on a young offender for possessing dangerous drugs is seven years detention.<sup>29</sup>

# Offenders sentenced for possessing dangerous drugs

A total of 151,186 offenders were sentenced in Queensland courts for the offence of possessing dangerous drugs. Of these offenders, just under two-thirds (98,414, or 65.1%) were sentenced for possessing dangerous drugs as their most serious offence (MSO)<sup>30</sup>. An additional 52,772 (34.9%) were sentenced for drug possession offence/s where drug possession was not their MSO. This *Sentencing Spotlight* focuses primarily on offenders sentenced for drug possession offences as their MSO.

Figure 1 shows the number of finalised offenders sentenced for possessing dangerous drugs as their MSO compared to the total number of offenders sentenced for possession of dangerous drug offences during the 11-year period, by financial year.

**Figure 1: Number of sentenced offences for possession of dangerous drugs and number of sentenced drug possession offences as MSO, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

The number of offenders sentenced for possessing dangerous drug offences as their MSO in 2015–16 is more than double that of 2005–06. Similar trends are observable for the total number of sentenced drug possession offences.

# Characteristics of offenders sentenced for possessing dangerous drugs

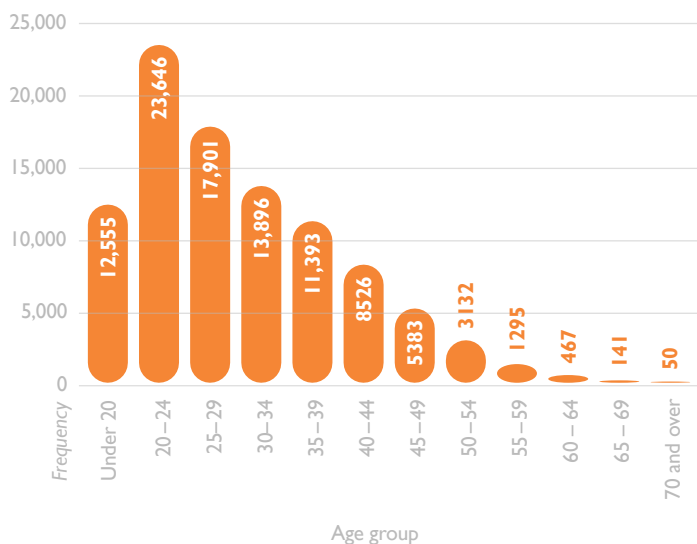
This section compares the age, gender and Aboriginal and/or Torres Strait Islander status of all offenders sentenced for the offence of possessing dangerous drugs as their MSO over the period 2005–06 to 2015–16.

## Age

At the time of sentence, the average age of all offenders sentenced for possessing dangerous drugs as their MSO was 30.7 years (with a median of 28.5 years) with ages ranging from 11 to 91-years-old.<sup>31</sup>

Figure 2 shows the number of offenders sentenced for possessing dangerous drugs as their MSO by age at sentence. For all Queensland offenders sentenced for possessing dangerous drugs as their MSO, over 40 per cent (42.2%) were aged between 20 and 29 at the time of sentence.

**Figure 2: Number of people sentenced for possessing dangerous drugs by age at sentence, 2005–06 to 2015–16**



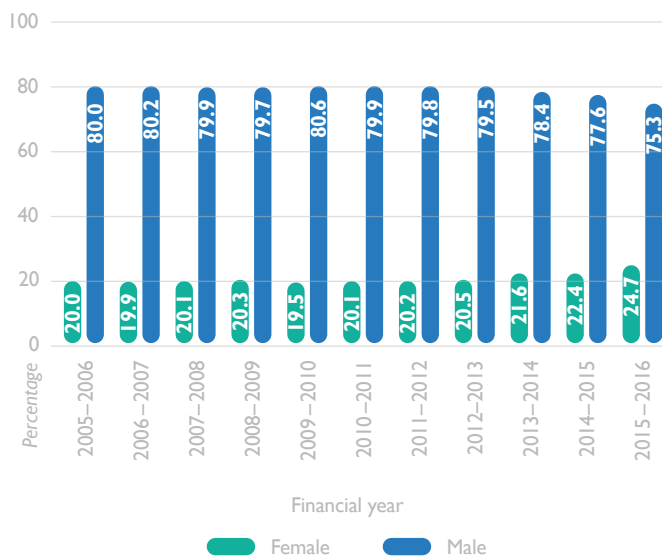
Source: Courts data from DJAG QWIC database, as maintained by GovStats, extracted January 2017

## Gender

During the 11-year period, the majority of offenders sentenced for possessing dangerous drugs as their MSO in Queensland were male (78.8%).<sup>32</sup>

The overall number of offenders sentenced (both male and female) for possessing dangerous drugs as their MSO increased across the 11-year period. The proportion of female offenders slightly increased each year from 2010–11 onwards (see Figure 3).

**Figure 3: Drug possession offences by gender and year**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Note: the gender of 12 offenders is not known and is not included in the above graph.

On average, female offenders sentenced for possessing dangerous drugs as their MSO were slightly older than male offenders. The average age at time of sentence was 31.7 years for female offenders, compared to 30.5 years for male offenders.<sup>33</sup>

## Aboriginal and Torres Strait Islander people<sup>34</sup>

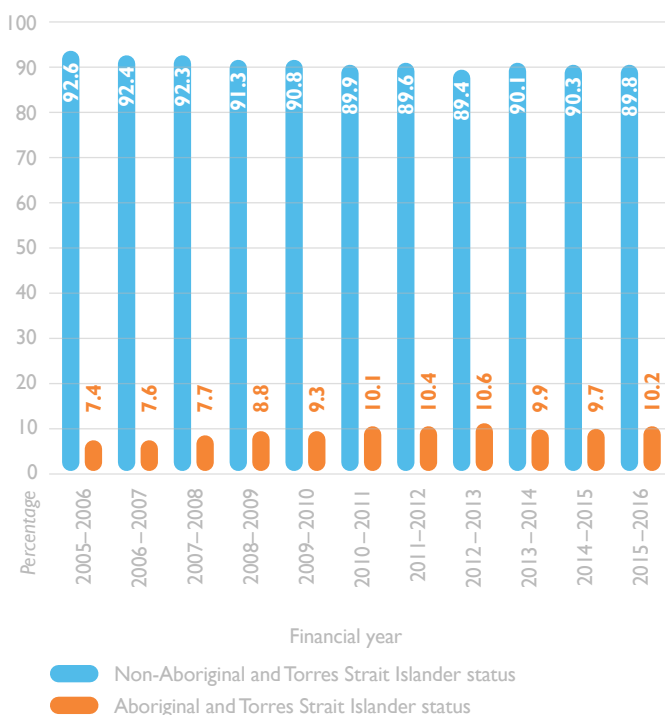
Although people who identify as Aboriginal and/or Torres Strait Islander represent approximately 3.8 per cent of Queensland's population aged 10 years and over,<sup>35</sup> they accounted for 9.4 per cent of all offenders sentenced for possessing dangerous drugs as their MSO during the 11-year period. Overall, there were 9218 offenders sentenced for possessing dangerous drugs as their MSO who identified as being Aboriginal and/or Torres Strait Islander people.

Little difference was identified between the ages at time of sentence for Aboriginal and/or Torres Strait Islander offenders (31.2 years) and non-Aboriginal and/or Torres Strait Islander offenders (30.7 years).<sup>36</sup>

When considering Aboriginal and/or Torres Strait Islander status by gender, of the 77,547 male offenders sentenced for possessing dangerous drugs as their MSO, Aboriginal and/or Torres Strait Islander male offenders accounted for 8.7 per cent (n=6746) of all male offenders. By comparison, of the 20,855 female offenders, Aboriginal and/or Torres Strait Islander female offenders accounted for 11.9 per cent (n=2,472).

As noted previously, the overall number of finalised drug possession offences as a MSO increased from 2005–06 to 2015–16. Proportionally, Figure 4 shows the percentage of Aboriginal and/or Torres Strait Islander offenders sentenced for drug possession as their MSO also increased slightly from 2005–06 to 2015–16, however fluctuation exists between 2013–14 and 2015–16.

**Figure 4: Drug possession offences by Aboriginal and/or Torres Strait Islander status**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Young offenders<sup>37</sup>

A total of 1097 young offenders were sentenced in the Childrens Court for the offence of possessing a dangerous drug as their MSO over the 11-year period. An additional 1524 young offenders were sentenced for a drug possession offence which was not their MSO.

The average age at time of sentence for young offenders was 16.2 years (with a median of 16.4 years). Most young offenders were male (82.6%) and most were non-Aboriginal and/or Torres Strait Islander (80.0%).

## Court type at sentence and type of plea

### Court type

The vast majority of all possessing dangerous drugs offences (MSO) were finalised in the Magistrates Court (96.9%).<sup>38</sup> Of the 98,414 offenders sentenced for possessing dangerous drugs as their MSO, 1097 (1.1%) were young offenders sentenced in the Childrens Court, including two offenders sentenced in the Childrens Court of Queensland and three offenders sentenced in the Childrens Supreme Court.

### Type of plea

The vast majority of offenders (97.1%) sentenced for possessing dangerous drugs as their MSO pleaded guilty, either initially or at a subsequent date. Only 0.2 per cent of offenders sentenced for possessing dangerous drugs as their MSO pleaded not guilty.<sup>39</sup>

No differences were identified in formal plea type when analysed by gender, Aboriginal and/or Torres Strait Islander status, age or court type (Childrens Court vs adult courts).

## Other offences

### Associated offences

Many offenders sentenced for possessing dangerous drugs as their MSO were also sentenced for other offences at the same court event. Of the 98,414 sentenced offenders with a drug possession as their MSO, 37.4 per cent only had that drug possession offence sentenced in that court event; while 36.3 per cent had one additional offence sentenced with their drug possession offence (MSO).

The majority of offenders (57.3%) were sentenced for between two and four offences at their court event (note: this count includes the MSO drug possession offence). The number of sentenced offences per court event ranged from one to 78, with an average of 2.2 sentenced offences per event (median=2.0 sentenced offences).

No differences were identified in the number of sentenced offences per court event for Aboriginal and/or Torres Strait Islander offenders. However, some differences were observable when gender was considered.

Male offenders were slightly more likely to be sentenced only for a drug possession offence as their MSO. In contrast, female offenders were more likely to have been sentenced for multiple offences, with 63.4 per cent being sentenced for between two and four offences (see Table 2).

Young offenders were more likely to have a single (drug possession) offence sentenced within their court event than adult offenders (42.8% and 37.3% respectively). Over the 11-year period, 52.2 per cent of young offenders with a drug possession offence as their MSO were sentenced for two to four offences at the court event (see Table 1).

**Table 1: Number of sentenced offences per court event, by gender, Aboriginal and/or Torres Strait Islander status and court type <sup>40</sup>, 2005–06 to 2015–16**

	N	Average no. of offences	Median no. of offences	Min	Max	Single offence (%)	2 to 4 offence (%)	5 to 10 offences (%)	11 + offences (%)
Female	20,855	2.3	2.0	1	38	30.9	63.4	5.3	0.5
Male	77,547	2.1	2.0	1	78	39.1	55.6	4.7	0.6
Unknown	12*	1.5	1.0	1	5	75.0	16.7	8.3	0.0
Aboriginal and/or Torres Strait Islander	9,218	2.1	2.0	1	23	36.6	59.1	4.0	0.4
Non-Aboriginal and/or Torres Strait Islander	89,196	2.2	2.0	1	78	37.4	57.1	4.9	0.6
Young offenders	1,097	2.0	2	1	23	42.8	52.2	4.9	0.1
Adult offenders	97,317	2.2	2	1	78	37.3	57.3	4.8	0.6
Total	98,414	2.2	2.0	1	78	37.4	57.3	4.8	0.6

\* Small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Considering all offences sentenced at the same event as an offender's drug possession MSO (114,525 offences), the top three most common associated offences were drug related (see Table 2).

**Table 2: The top 10 associated offences of offenders whose MSO is a drug possession offence, 2005–06 to 2015–16**

Offence	Frequency	% of total number of associated offences (n=114,525)
Possession of drug utensils	54,951	48.0
Illicit drug offences (remainder)	16,121	14.1
Possess illicit drugs	15,038	13.1
Resist arrest, incite, hinder, obstruct police	7,284	6.4
Offensive behaviour (remainder) <sup>41</sup>	2,219	1.9
Breach of bail – failure to appear	1,936	1.7
Registration offences	1,564	1.4
Driving without a licence	1,215	1.1
Receiving stolen property	1,057	0.9
Breach of bail (remainder)	1,040	0.9

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

When the associated offences of young offenders and adult offenders are analysed separately, possession of drug utensils remains the most common associated offence for both young and adult offenders (48.0% for both groups), followed by resisting arrest for young offenders (11.3%) and dangerous drug offences (not elsewhere classified) for adult offenders (14.1%). Similar results are also found when gender and Aboriginal and/or Torres Strait Islander status are considered. Possession of drug utensils was the most common offence associated with a drug possession MSO for female offenders (50.8%), male offenders (47.1%), Aboriginal and/or Torres Strait Islander offenders (47.6%) and non-Aboriginal and/

or Torres Strait Islander offenders (48.0%). Dangerous drug offences (not elsewhere classified) were the second highest offence type for female offenders (16.3%), male offenders (13.4%) and non-Aboriginal and/or Torres Strait Islander offenders (14.5%). However, resisting arrest was the second highest offence type associated with a drug possession MSO for Aboriginal and/or Torres Strait Islander offenders (10.2%).

For the 52,772 sentenced offenders whose drug possession offence was not their MSO, a more serious drug offence was the most common MSO (see Table 3).

**Table 3: Top 10 MSOs for offenders whose drug possession offence was not their MSO 2005–06 to 2015–16**

Offence	Frequency	%
Manufacture or cultivate illicit drugs	9,602	18.2
Deal or traffic in illicit drugs	5,554	10.5
Receiving stolen property	2,455	4.7
Breach of bail – failure to appear	2,060	3.9
Theft (except motor vehicles)	1,811	3.4
Deal or traffic in illicit drugs – commercial quantity	1,634	3.1
Enter dwelling with intent, without violence or threats (burglary, break and enter)	1,567	3.0
Disqualified driving	1,560	3.0
Drive under the influence of alcohol or other substance	1,467	2.8
Sell, possess and/or use prohibited weapons/explosives	1,354	2.6

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Repeat drug possession offenders

The 98,414 court events with drug possession as the MSO involved 71,938 unique offenders. This means a proportion of offenders were sentenced for drug possession offences as their MSO on more than one occasion across the 11-year period.<sup>42</sup>

Considering the 71,938 unique offenders sentenced for drug possession as their MSO, the majority (75.7%) were sentenced for one drug possession offence as their MSO. The number of finalised drug possession MSO offences per unique offender (71,938) ranged from one to 17, with an average of 1.4 (median=1.0).

No differences were identified in the number of sentenced drug offences (as the MSO) per unique offender when gender or Aboriginal and/or Torres Strait Islander status were considered (see Table 4).

When considering all sentenced offenders with at least one drug possession offence (regardless of whether it was their MSO), the number of unique offenders increases to 98,967. Of those, 69.5 per cent had only a single court event involving drug possession offences. A further 18.0 per cent had two events involving drug possession offences. The maximum number of court events with drug possession offences was 17, with an average of 1.5 events per offender (median=1.0).<sup>43</sup>



**Table 4: Number of drug possession offences as the MSO by unique offenders from 2005–06 to 2015–16**

	N	Average no. of offences	Median no. of offences	Min	Max	Single offence (%)	2 to 4 offence (%)	5 to 10 offences (%)	11 + offences (%)
Female	15,321	1.4	1.0	1	11	76.2	22.8	1.0	0.0
Male	56,606	1.4	1.0	1	17	75.6	23.4	1.1	0.0
Unknown	11*	1.1	1.0	1	2	90.9	9.1	0.0	0.0
Aboriginal and/or Torres Strait Islander	6,595	1.4	1.0	1	9	73.4	25.6	1.0	0.0
Non-Aboriginal and/or Torres Strait Islander	65,343	1.4	1.0	1	17	76.0	23.0	1.0	0.0
<b>Total</b>	<b>71,938</b>	<b>1.4</b>	<b>1.0</b>	<b>1</b>	<b>17</b>	<b>75.7</b>	<b>23.3</b>	<b>1.0</b>	<b>0.0</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

\* Caution: small sample size

## Recidivism of offenders

Offenders with a drug possession offence as their MSO in 2010–11 were examined in more detail for recidivism and offending history. There were 7367 finalised court events with possession of dangerous drugs as the MSO. These cases involved 6979 unique offenders.

Of these, 962 (13.8%) recorded no additional court events either prior to (2005–06 to 2009–10) or after (2011–12 to 2015–16) their drug possession MSO in 2010–11.

More than 60 per cent (4227, 60.6%) of offenders recorded sentenced offences both prior to and following their 2010–11 drug possession MSO. For all offenders with previous or subsequent sentenced offences, drug possession offences were the most common offence type involved. Tables 5 to 8 provide additional information on those who were sentenced for both prior and subsequent offences (Table 5); the top 10 offences for those with prior offences (Table 6); the top 10 offences for those with subsequent offences (Table 7) and the top 10 offences for those who had both prior and subsequent sentenced offences (Table 8).

**Table 5: Summary of prior and subsequent offences for 2010–11 sentenced offenders**

	Frequency	Number of prior offences				Number of subsequent offences			
		Min	Max	Average	Median	Min	Max	Average	Median
Only 2010-11 drug possession MSO event	962 (13.8%)	-	-	-	-	-	-	-	-
Only prior event/s (2005-06 to 2009-10)	961 (13.8%)	1	16	2.4	2.0	-	-	-	-
Only subsequent event/s (2011-12 to 2015-16)	829 (11.9%)	-	-	-	-	1	17	2.6	2.0
Both prior and subsequent events	4,227 (60.6%)	1	69	4.6	4.0	1	53	4.7	4.0

Note: where an offender had more than one drug possession MSO within 2010-11, the latest offence was considered the index offence and the others were counted as prior offences.

Table 6 shows the top 10 sentenced offences (MSO) for those with sentenced events prior to their 2010–11 drug possession MSO (961 offenders; 2276 finalised court events).

**Table 6: Top 10 offences (MSO) for 2010–11 sentenced offenders who recorded prior sentenced offences 2005–06 to 2009–10)**

Prior offence only – MSO (2005–06 to 2009–10)		
Offence	Frequency of MSO	%
Possessing illicit drugs	370	16.3
Offensive behaviour (remainder)	229	10.1
Drink driving – exceed general alcohol limit	195	8.6
Driving without a licence	137	6.0
Resist arrest, incite, hinder, obstruct police	130	5.7
Disqualified driving	123	5.4
Possession of drug utensils	98	4.3
Drive under the influence of alcohol or other substance	56	2.5
Theft from retail premises	52	2.3
Receiving stolen property	47	2.1

Table 7 shows the top 10 sentenced offences (MSO) for those with sentenced events subsequent to their 2010–11 drug possession MSO (829 offenders and 2179 finalised court events).

**Table 7: Top 10 offences (MSO) for 2010–11 sentenced offenders who recorded subsequent sentenced offences (2011–12 to 2015–16)**

Subsequent offence only – MSO (2011–12 to 2015–16)		
Offence	Frequency of MSO	%
Possessing illicit drugs	400	18.4
Resist arrest, incite, hinder, obstruct police	139	6.4
Drink driving – exceed general alcohol limit	135	6.2
Possession of drug utensils	129	5.9
Disqualified driving	91	4.2
Offensive behaviour (remainder)	84	3.9
Driving without a licence	79	3.6
Drug driving	78	3.6
Driving under suspension	67	3.1
Breach of violence order	65	3.0

For the 4227 offenders who have sentenced offences both prior and following their 2010–11 drug possession offence, possession of dangerous drugs and offensive behaviour were the most common offences.

**Table 8: Top 10 offences (MSO) for offenders who recorded sentenced offences both prior to (2005–06 to 2009–10) and following (2011–12 to 2015–16) their 2010–11 offence**

Offence	Prior offences (2005–06 to 2009–10) 19,628 court events		Subsequent offences (2011–12 to 2015–16) 19,701 court events	
	Frequency of MSO	%	Frequency of MSO	%
Possess illicit drugs	2,460	12.5	2,714	13.8
Offensive behaviour (remainder)	1,756	8.9	1,017	5.2
Disqualified driving	1,179	6.0	947	4.8
Resist arrest, incite, hinder, obstruct police	1,144	5.8	1,051	5.3
Driving without a licence	891	4.5	742	3.8
Drink driving — exceed general alcohol limit	874	4.5	600	3.0
Breach of bail — failure to appear	764	3.9	1,043	5.3
Possession of drug utensils	708	3.6	862	4.4
Theft from retail premises	678	3.5	487	2.5
Breach of violence order	489	2.5	738	3.7
Theft (except motor vehicles)	456	2.3	661	3.4

## Penalties and sentencing

No mandatory imprisonment penalty exists for possessing dangerous drugs in Queensland. Courts retain wide discretion for deciding the types of penalties for such offences, with aggravating and mitigating circumstances required to be taken into consideration.

As noted previously, the maximum penalty for possessing a dangerous drug depends on the type and quantity of the drug involved. Young people are dealt with under the YJA which affects the maximum penalties applicable to young people. As a result, penalty type over the 11-year period varies according to the level of court sentencing an offender and the applicable sentencing framework. Commerciality<sup>44</sup> is also a relevant factor and it, along with the maximum available sentence, determine which court has jurisdiction for sentencing.

The majority of offenders sentenced for possessing a dangerous drug as their MSO over the period were sentenced in Magistrates Courts, with 95 per cent of these offenders receiving non-custodial penalties. In contrast, 80 per cent of offenders sentenced for possessing dangerous drugs (as their MSO) in the Supreme Court and 73 per cent of those sentenced in the District Court received a custodial penalty.

From 2005–06 to 2015–16, 93.2 per cent of sentenced offenders who had a drug possession offence as their MSO received a non-custodial penalty. Few differences were identified in the proportion of custodial and non-custodial penalties when year of sentence was considered. A slight increase in the proportion of custodial penalties from 2005–06 to 2015–16 is observable; however, as a sentence, custodial penalties fluctuated.

**Table 9: Percentage of custodial vs non-custodial penalties types by year, 2005–06 to 2015–16**

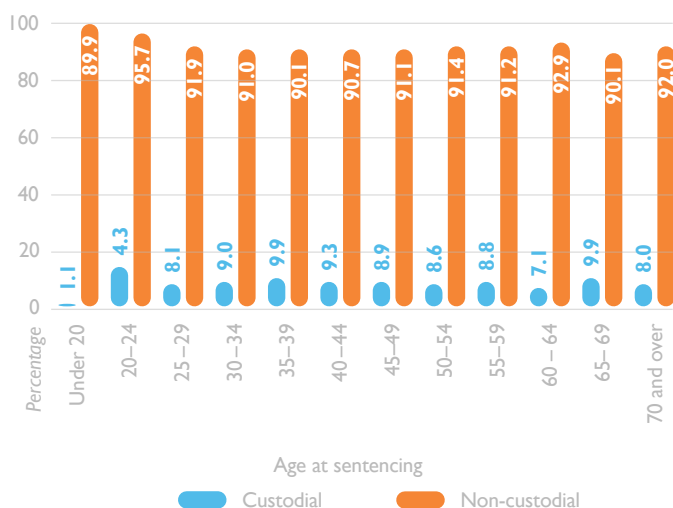
	N	Custodial penalty (%)	Non-custodial penalty (%)
2005-06	6,809	5.4	94.6
2006-07	7,372	5.9	94.1
2007-08	7,970	7.1	92.9
2008-09	7,706	5.9	94.1
2009-10	7,361	6.1	93.9
2010-11	7,367	6.6	93.4
2011-12	7,812	7.1	92.9
2012-13	8,770	6.2	93.8
2013-14	10,570	6.6	93.4
2014-15	13,047	7.3	92.7
2015-16	13,630	8.6	91.4
<b>Total</b>	<b>98,414</b>	<b>6.8</b>	<b>93.2</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

The 52,722 offenders sentenced for a non-drug possession MSO were also sentenced for 71,307 drug possession offences. For those drug possession offences, 74.4 per cent received a non-custodial penalty. Fines were also the most common penalty for a non-drug possession MSO, with 41.9 per cent of offenders receiving a fine, followed by 24.1 per cent receiving a probation order.

Younger offenders were less likely to receive a custodial sentence, with only 1.1 per cent of offenders aged under 20 receiving a custodial sentence (Figure 5).

**Figure 5: Penalty type by age group, 2005–06 to 2015–16**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Overall, 57 per cent of offenders sentenced for a drug possession offence as their MSO had no conviction recorded. This was more common for young offenders, with 85 percent of young offenders having no conviction recorded compared to 57 per cent of adult offenders sentenced for a drug possession offence as their MSO.

## Penalty type by gender, Aboriginal and/or Torres Strait Islander status and court type

Overall, offenders sentenced for possessing dangerous drugs as their MSO were considerably more likely to receive a non-custodial penalty (93.2%) than a custodial penalty (6.8%). There was little difference when gender or Aboriginal and/or Torres Strait Islander status were considered, however young offenders were more likely to receive a non-custodial penalty than adult offenders. Refer to the section above 'The penalty for possessing a dangerous drug' for a discussion about sentencing frameworks for adult and young offenders.

Of the 6682 sentenced offenders who received a custodial penalty for possessing dangerous drugs as their MSO, 91.6 per cent were non-Aboriginal and/or Torres Strait Islander and 82.7 per cent were male offenders (Table 10).

**Table 10: Penalty types by gender, Aboriginal and/or Torres Strait Islander status and court type, 2005–06 to 2015–16**

	N	Custodial penalty (%)	Non-custodial penalty (%)
Female	20,855	5.5	94.5
Male	77,547	7.1	92.9
Aboriginal and/or Torres Strait Islander	9,218	6.1	93.9
Aboriginal and/or Torres Strait Islander female	2,472	5.5	94.5
Aboriginal and/or Torres Strait Islander male	6,746	6.4	93.6
Non-Aboriginal and/or Torres Strait Islander	89,196	6.9	93.1
Non-Aboriginal and/or Torres Strait Islander female	18,383	5.5	94.5
Non-Aboriginal and/or Torres Strait Islander male	70,801	7.2	92.8
Young offenders	1,097	0.4	99.6
Adult offenders	97,317	6.9	93.1
Total	98,414	6.8	93.2

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

\* Caution: small sample size

Note: 12 offenders whose gender is unknown have been included in subgroup analyses but have not been presented due to the small sample size

## Custodial penalties

For adult offenders who received a custodial penalty, Table 11 shows that actual imprisonment was the most likely sentence imposed (57.3%). However few differences were observed when considering custodial penalties by gender or Aboriginal and/or Torres Strait Islander status.

**Table 11: Adult offenders — Custodial penalty types by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Custodial penalty (N)	Imprisonment (n, % of custodial penalty)	Intensive correction order (n, % of custodial penalty)	Partially suspended sentence (n, % of custodial penalty)	Wholly suspended sentence (n, % of custodial penalty)
Female	1,153	627 (54.4%)	49 (4.3%)	21 (1.8%)	456 (39.6%)
Male	5,524	3,196 (57.9%)	140 (2.5%)	169 (3.1%)	2,019 (36.6%)
Aboriginal and/or Torres Strait Islander	562	344 (61.2%)	5 (0.9%)	6 (1.1%)	207 (36.8%)
Non-Aboriginal and/or Torres Strait Islander	6,116	3,480 (56.9%)	184 (3.0%)	184 (3.0%)	2,268 (37.1%)
Aboriginal and/or Torres Strait Islander female	135	82 (60.7%)	1 (0.7%)	1 (0.7%)	51 (37.8%)
Non-Aboriginal and/or Torres Strait Islander female	1,018	545 (53.5%)	48 (4.7%)	20 (2.0%)	405 (39.8%)
Aboriginal and/or Torres Strait Islander male	427	262 (61.4%)	4 (0.9%)	5 (1.2%)	156 (36.5%)
Non-Aboriginal and/or Torres Strait Islander male	5,097	2,934 (57.6%)	136 (2.7%)	164 (3.2%)	1,863 (36.6%)
<b>Total</b>	<b>6,678</b>	<b>3,824 (57.3%)</b>	<b>189 (2.8%)</b>	<b>190 (2.9%)</b>	<b>2,475 (37.1%)</b>

\* Note: one case for which the gender is unknown has been included in the above calculations but has not been displayed.

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

Four young offenders received a custodial sentence for drug possession as their MSO — one received detention, one received an intensive correction order, and two received a wholly suspended sentence.

## Non-custodial penalties

Of those who received a non-custodial sentence for a drug possession MSO, fines (56.4%) and good behaviour orders (33.5%) were the most common penalty. Male offenders were significantly more likely than female offenders to be fined (58.1% as opposed to 50.3% respectively). Conversely, female offenders were significantly more likely than male offenders to receive a good behaviour order (37.9% as opposed to 32.3% respectively).

Aboriginal and/or Torres Strait Islander offenders were significantly more likely than non-Aboriginal and/or Torres Strait Islander offenders to receive a fine (69.7% as opposed to 55.2% respectively). Non-Aboriginal and/or Torres Strait Islander offenders were significantly more likely than Aboriginal and/or Torres Strait Islander offenders to receive a good behaviour bond (34.9% as opposed to 20.2% respectively) (see Table 12).

As different penalty and sentencing options apply, young offenders and adults have also been considered separately (see Tables 13 and 14). A reprimand was the most common penalty for 32.9 per cent of young offenders, followed by good behaviour bonds (23.8%). A fine was the penalty for only 4.9 per cent of young offenders, whereas a fine was the most common penalty for adult offenders (57.0%).

Proportionally, young offenders were more likely than adult offenders to be convicted but not receive any further punishment (6.8% and 1.2% respectively).

**Table 12: All offenders—Non-custodial penalty types by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2015–16**

Non-custodial penalty type (n, % of non-custodial penalty)										
	Non-custodial penalty (N)	Community service order	Compensation, personal injury	Convicted, no further punishment	Court ordered conference	Fine	Good behaviour bond	Probation	Reprimand	Treatment program
Female	19,702	284 (1.4%)	1 (0.0%)	242 (1.2%)	10 (0.1%)	9,919 (50.3%)	7,472 (37.9%)	1,710 (8.7%)	61 (0.3%)	3 (0.0%)
Male	72,019	1,301 (1.8%)	0 (0.0%)	937 (1.3%)	57 (0.1%)	41,807 (58.1%)	23,249 (32.3%)	4,341 (6.0%)	298 (0.4%)	29 (0.0%)
Aboriginal and/or Torres Strait Islander	8,654	234 (2.7%)	0 (0.0%)	144 (1.7%)	8 (0.1%)	5,876 (67.9%)	1,747 (20.2%)	571 (6.6%)	72 (0.8%)	2 (0.0%)
Non-Aboriginal and/or Torres Strait Islander	83,078	1,351 (1.6%)	1 (0.0%)	1,036 (1.3%)	59 (0.1%)	45,854 (55.2%)	28,980 (34.9%)	5,480 (6.6%)	287 (0.4%)	30 (0.0%)
Aboriginal and/or Torres Strait Islander female	2,337	55 (2.4%)	0 (0.0%)	40 (1.7%)	2 (0.1%)	1,439 (61.6%)	610 (26.1%)	174 (7.5%)	16 (0.7%)	1 (0.0%)
Non-Aboriginal and/or Torres Strait Islander female	17,365	229 (1.3%)	1 (0.0%)	202 (1.2%)	8 (0.1%)	8,480 (48.8%)	6,862 (39.5%)	1,536 (8.9%)	45 (0.3%)	2 (0.0%)
Aboriginal and/or Torres Strait Islander male	6,317	179 (2.8%)	0 (0.0%)	104 (1.7%)	6 (0.1%)	4,437 (70.2%)	1,137 (18.0%)	397 (6.3%)	56 (0.9%)	1 (0.0%)
Non-Aboriginal and/or Torres Strait Islander male	65,702	1,122 (1.7%)	0 (0.0%)	833 (1.3%)	51 (0.1%)	37,370 (56.9%)	22,112 (33.7%)	3,944 (6.0%)	242 (0.4%)	28 (0.0%)
<b>Total</b>	<b>91,732</b>	<b>1,585 (1.7%)</b>	<b>1 (0.0%)</b>	<b>1,180 (1.3%)</b>	<b>67 (0.1%)</b>	<b>51,730 (56.4%)</b>	<b>30,727 (33.5%)</b>	<b>6,051 (6.6%)</b>	<b>359 (0.4%)</b>	<b>32 (0.0%)</b>

\* Caution: small sample size

Note: 11 offenders whose gender is unknown have been included in subgroup analyses but have not been presented due to the small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

**Table 13: Adult offenders—Non-custodial penalty types by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

Non-custodial penalty type (n, % of non-custodial penalty)								
	Non-custodial penalty (N)	Community service order	Compensation, personal injury	Convicted, no further punishment	Fine	Good behaviour bond	Probation	Treatment program
Female	19,511	278 (1.4%)	1 (0.0%)	232 (1.2%)	9,917 (50.8%)	7,420 (38.0%)	1,663 (8.5%)	0 (0.0%)
Male	71,117	1,242 (1.8%)	0 (0.0%)	873 (1.2%)	41,756 (58.7%)	23,041 (32.4%)	4,204 (5.9%)	1 (0.0%)
Unknown	11*	0 (0.0%)	0 (0.0%)	1 (9.1%)	4 (36.4%)	6 (54.6%)	0 (0.0%)	0 (0.0%)
Aboriginal and/or Torres Strait Islander	8,436	218 (2.6%)	0 (0.0%)	131 (1.6%)	5,864 (69.5%)	1,692 (20.1%)	531 (6.3%)	0 (0.0%)
Non-Aboriginal and/or Torres Strait Islander	82,203	1,302 (1.6%)	1 (0.0%)	975 (1.2%)	45,813 (55.7%)	28,775 (35.0%)	5,336 (6.5%)	1 (0.0%)
Total	90,639	1,520 (1.7%)	1 (0.0%)	1,106 (1.2%)	51,677 (57.0%)	30,467 (33.6%)	5,867 (6.5%)	1 (0.0%)

\* Caution: small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

**Table 14: Young offenders—Non-custodial penalty types by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

Non-custodial penalty type (n, % of non-custodial penalty)									
	Non-custodial penalty (N)	Community service order	Convicted, no further punishment	Court ordered conference	Fine	Good behaviour bond	Probation	Reprimand	Treatment program
Female	191	6 (3.1%)	10 (5.2%)	10 (5.2%)	2 (1.1%)	52 (27.2%)	47 (24.6%)	61 (31.9%)	3 (1.6%)
Male	902	59 (6.5%)	64 (7.1%)	57 (6.3%)	51 (5.7%)	208 (23.1%)	137 (15.2%)	298 (33.0%)	28 (3.1%)
Aboriginal and/or Torres Strait Islander	218	16 (7.3%)	13 (6.0%)	8 (3.7%)	12 (5.5%)	55 (25.2%)	40 (18.4%)	72 (33.0%)	2 (0.9%)
Non-Aboriginal and/or Torres Strait Islander	875	49 (5.6%)	61 (7.0%)	59 (6.7%)	41 (4.7%)	205 (23.4%)	144 (16.5%)	287 (32.8%)	29 (3.3%)
Total	1,093	65 (6.0%)	74 (6.8%)	67 (6.1%)	53 (4.9%)	260 (23.8%)	184 (16.8%)	359 (32.9%)	31 (2.8%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

## Length of sentence

### Custodial sentences

As the vast majority of young offenders (99.6%) received a non-custodial penalty, custodial sentences were not examined separately for young offenders and adult offenders.

Overall, the median custodial sentence length was four months and the average custodial sentence length was eight months. Across custodial penalty types, the length of custodial sentences ranged from one day to 11.5 years. Table 15 shows the sentence length for each type of custodial penalty received by offenders sentenced for possession of dangerous drugs as their MSO.

On average, female offenders sentenced for possessing dangerous drugs as their MSO received slightly shorter custodial sentences than male offenders (6.2 months and 8.3 months respectively). Similarly, Aboriginal and/or Torres Strait Islander offenders received shorter custodial sentences for possessing dangerous drugs as their MSO than non-Aboriginal and/or Torres Strait Islander offenders (4.5 months and 8.3 months respectively).

On average, both male and non-Aboriginal and/or Torres Strait Islander offenders received longer sentences across all custodial penalty types (see Table 16). Wholly suspended sentences recorded the shortest length with an average of 4.8 months.

**Table 15: Length of custodial sentence by gender, Aboriginal and/or Torres Strait Islander status, and court, 2005–06 to 2015–16**

Custodial sentence length (months)					
	N	Average	Median	Min	Max
Female	1,150	6.2	4.0	0.0 (1 day)	96.0 (8 yrs)
Male	5,500	8.3	4.0	0.0 (1 day)	138.0 (11.5 yrs)
Aboriginal and/or Torres Strait Islander	560	4.5	3.0	0.0 (1 day)	78.0 (6.5 yrs)
Aboriginal and/or Torres Strait Islander female	135	4.3	3	0.2 (7 days)	30.0
Aboriginal and/or Torres Strait Islander male	425	4.6	3	0.0 (1 day)	78.0
Non-Aboriginal and/or Torres Strait Islander	6,091	8.3	4.0	0.0 (1 day)	138.0 (11.5 yrs)
Non-Aboriginal and/or Torres Strait Islander female	1,015	6.5	4	0.0 (1 day)	96.0 (8 yrs)
Non-Aboriginal and/or Torres Strait Islander male	5,075	8.6	4	0.0 (1 day)	138.0 (11.5 yrs)
Adult offender	6,647	8.0	4	0.0 (1 day)	138 (11.5 yrs)
Young offender	4*	2.5	2.5	1	4.0
Total	6,651	8.0	4.0	0.0 (1 day)	138.0 (11.5 yrs)

Notes:

1) 31 custodial cases were 'rise' and do not have a penalty length. These are not included in this table.<sup>45</sup>

2) One case for which the gender is unknown has been included in the above calculations but has not been displayed.

\* Caution: small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

### Non-custodial sentences

For all offenders who received a non-custodial sentence, few differences were observed when gender or Aboriginal and/or Torres Strait Islander status were considered (see Table 17). While Aboriginal and/or Torres Strait Islander offenders were more likely to receive a fine, the average fine amount was higher for non-Aboriginal and/or Torres Strait Islander offenders (\$460.60 for Aboriginal and/or Torres Strait Islander offenders and \$566.70 for non-Aboriginal and/or Torres Strait Islander offenders). The average fine amount is much lower for young offenders at \$230.00 compared to \$554.90 for adult offenders. However the average good behaviour bond for young people is longer than for adult offenders (5.3 months and 4.6 months respectively). Tables 18 and 19 provide more detail about adult and young offenders respectively.



**Table 16: All offenders—Custodial sentence length by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2015–16**

	Imprisonment (months)					Intensive correction order (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	624	7.2	4.0	0 (1 day)	96 (8 yrs)	49	8.6	9.0	3	12
Male	3,169	9.7	6.0	0 (1 day)	138 (11.5 yrs)	141	9.2	12.0	2	12
Aboriginal and Torres Strait Islander	341	5.1	3.0	0 (1 day)	78 (6.5 yrs)	6*	7.3	7.5	4	12
Non-Aboriginal and Torres Strait Islander	3,453	9.8	6.0	0 (1 day)	138 (11.5 yrs)	184	9.1	9.0	2	12
Aboriginal and/or Torres Strait Islander female	82	4.7	3	0.2 (7 days)	30	1*	6	6	6	6
Non-Aboriginal and/or Torres Strait Islander female	542	7.6	5	0 (1 day)	96 (8 years)	48	8.6	9	3	12
Aboriginal and/or Torres Strait Islander male	259	5.2	3	0 (1 day)	78 (6.5 years)	5*	7.6	9	4	12
Non-Aboriginal and/or Torres Strait Islander male	2,910	10.1	6	0 (1 day)	138	136	9.2	12	2	12
<b>Total</b>	<b>3,794</b>	<b>9.3</b>	<b>6.0</b>	<b>0 (1 day)</b>	<b>138 (11.5 yrs)</b>	<b>190</b>	<b>9.0</b>	<b>9.0</b>	<b>2</b>	<b>12</b>

	Partially suspended sentence (months)					Wholly suspended sentence (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	21*	13.6	11.0	3	36 (3 yrs)	456	4.2	3.0	0.1 (1 day)	36 (3 yrs)
Male	169	21.4	18.0	1	60 (5 yrs)	2,021	4.9	3.0	0.2 (7 days)	60 (5 yrs)
Aboriginal and Torres Strait Islander	6*	12.0	10.5	1	30 (2.5 years)	207	3.4	3.0	0.2 (7 days)	18 (1.5 years)
Non-Aboriginal and Torres Strait Islander	184	20.8	18.0	1	60 (5 yrs)	2,270	4.9	3.0	0.1 (1 day)	60 (5 years)
Aboriginal and/or Torres Strait Islander female	1*	18	18	18	18	51	3.3	2	0.2 (7 days)	18
Non-Aboriginal and/or Torres Strait Islander female	20*	13.4	10	3	36	405	4.3	3	0.1 (3 days)	36
Aboriginal and/or Torres Strait Islander male	5*	10.8	6	1	30	156	3.4	3	0.2 (7 days)	18
Non-Aboriginal and/or Torres Strait Islander male	164	21.7	18	1	60 (5 years)	1,865	5.0	3	0.2 (7 days)	60 (5 years)
<b>Total</b>	<b>190</b>	<b>20.6</b>	<b>18.0</b>	<b>1</b>	<b>60 (5 years)</b>	<b>2,477</b>	<b>4.8</b>	<b>3.0</b>	<b>0.1 (1 day)</b>	<b>60 (5 years)</b>

Notes:

1) 31 custodial cases were 'rise' and do not have a penalty length. These are not included in this table.

2) One case for which the gender is unknown has been included in the above calculations but has not been displayed.

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

\* Caution: small sample size

**Table 17: All offenders—Non-custodial sentence length by gender and Aboriginal and Torres Strait Islander status, 2005–06 to 2015–16**

	Community service order (hours)					Fine (dollars)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	284	72.0	60	20	240	9,919	534.70	500	50	3,500
Male	1,301	74.5	60	20	240	41,807	559.40	500	20	6,000
Aboriginal and Torres Strait Islander	234	68.6	60	20	240	5,876	460.60	400	50	5,800
Non-Aboriginal and Torres Strait Islander	1,351	75.0	60	20	240	45,854	566.70	500	20	6,000
Aboriginal and/or Torres Strait Islander female	55	71.5	60	20	200	1,439	442.50	400	50	2000
Non-Aboriginal and/or Torres Strait Islander female	229	72.1	60	20	240	8,480	550.30	500	50	3500
Aboriginal and/or Torres Strait Islander male	179	67.7	60	20	240	4,437	466.50	400	50	5800
Non-Aboriginal and/or Torres Strait Islander male	1,122	75.5	60	20	240	37,370	570.40	500	20	6000
<b>Total</b>	<b>1,585</b>	<b>74.0</b>	<b>60</b>	<b>20</b>	<b>240</b>	<b>51,730</b>	<b>554.60</b>	<b>500</b>	<b>20</b>	<b>6,000</b>

	Good behaviour bond (months)					Probation (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	7,472	4.7	4	0.2 (7 days)	24 (2 yrs)	1,710	12.8	12	3	36 (3 yrs)
Male	23,249	4.6	4	0.2 (7 days)	48 (4 yrs)	4,341	12.4	12	2	36 (3 yrs)
Aboriginal and Torres Strait Islander	1,747	4.8	4	1	24 (2 yrs)	571	11.6	12	3	36 (3 yrs)
Non-Aboriginal and Torres Strait Islander	28,980	4.6	4	0.2 (7 days)	48 (4 yrs)	5,480	12.6	12	2	36 (3 yrs)
Aboriginal and/or Torres Strait Islander female	610	4.8	4	1	18 (1.5 yrs)	174	11.6	12	3	30 (2.5 yrs)
Non-Aboriginal and/or Torres Strait Islander female	6,862	4.7	4	0.2 (7 days)	24 (2 yrs)	1,536	12.9	12	3	36 (3 yrs)
Aboriginal and/or Torres Strait Islander male	1,137	4.9	4	1	24 (2 yrs)	397	11.7	12	3	36 (3 yrs)
Non-Aboriginal and/or Torres Strait Islander male	22,112	4.6	4	0.2	48 (4 yrs)	3,944	12.5	12	2	36 (3 yrs)
<b>Total</b>	<b>30,727</b>	<b>4.6</b>	<b>4</b>	<b>0.2 (7 days)</b>	<b>48 (4 yrs)</b>	<b>6,051</b>	<b>12.5</b>	<b>12</b>	<b>2</b>	<b>36 (3 yrs)</b>

\* Caution: small sample size

Note: 11 offenders whose gender is unknown have been included in subgroup analyses but have not been presented due to the small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

**Table 18: Adult offenders—Non-custodial sentence length by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Community service order (hours)					Fine (dollars)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	278	72.7	60	30	240	9,917	534.70	500	50	3,500
Male	1,242	76.2	60	30	240	41,756	559.80	500	20	6,000
Unknown	0	-	-	-	-	4*	312.50	275	200	500
Aboriginal and/or Torres Strait Islander	218	70.0	60	40	240	5,864	461.10	400	50	5,800
Non-Aboriginal and/or Torres Strait Islander	1,302	76.5	60	30	240	45,813	567.00	500	20	6,000
Total	1,520	75.5	60	30	240	51,677	554.90	500	20	6,000

	Good behaviour bond (months)					Probation (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	7,420	4.7	4	0.2 (7 days)	24 (2 yrs)	1,663	12.9	12	6	36 (3 yrs)
Male	23,041	4.6	4	0.2 (7 days)	48 (4 yrs)	4,204	12.6	12	4	36 (3 yrs)
Unknown	6*	4.2	4	3	6	0	-	-	-	-
Aboriginal and/or Torres Strait Islander	1,692	4.8	4	1	24 (2 yrs)	531	12.0	12	6	36 (3 yrs)
Non-Aboriginal and/or Torres Strait Islander	28,775	4.6	4	0.2 (7 days)	48 (4 yrs)	5,336	12.8	12	4	36 (3 yrs)
Total	30,467	4.6	4	0.2 (7 days)	48 (4 yrs)	5,867	12.7	12	4	36 (3 yrs)

\* Caution: small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 20

**Table 19: Young offenders—Non-custodial sentence length by gender and Aboriginal and/or Torres Strait Islander status, 2005–06 to 2015–16**

	Community service order (hours)					Fine (dollars)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	6*	40.0	30	20	100	2*	375.00	300	300	450
Male	59	38.7	30	20	181	51	224.30	200	50	1200
Aboriginal and/or Torres Strait Islander	16*	49.4	35	20	181	12*	214.60	200	50	350
Non-Aboriginal and/or Torres Strait Islander	49	35.4	30	20	100	41	234.50	150	50	1200
Total	65	38.9	30	20	181	53	230.00	200	50	1200

	Good behaviour bond (months)					Probation (months)				
	N	Avg	Median	Min	Max	N	Avg	Median	Min	Max
Female	52	5.1	6	1	12	47	7.3	6	3	24 (2 yrs)
Male	208	5.3	6	1	12	137	6.9	6	2	24 (2 yrs)
Aboriginal and/or Torres Strait Islander	55	5.3	6.0	1	12	40	6.6	6.0	3	12 (1 yr)
Non-Aboriginal and/or Torres Strait Islander	205	5.3	6	1	12	144	7.1	6.0	2	24 (2 yrs)
Total	260	5.3	6.0	1	12	184	7.0	6.0	2	24 (2 yrs)

\* Caution: small sample size

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted January 2017

# Endnotes

- <sup>1</sup> 'Dangerous drug' is defined in the *Drugs Misuse Act 1986* (Qld) s 4. Schedules 1 and 2 of the *Drugs Misuse Regulation 1987* (Qld) list specific substances. Schedules 3 and 4 list relevant quantities for aggravated offences. Note: See also s 4BA for when a thing is intended to have a pharmacological effect that is substantially similar to the pharmacological effect of a thing referred to in paragraph (a) or (b).
- <sup>2</sup> *Drugs Misuse Act 1986* (Qld) s 9(1).
- <sup>3</sup> A drug dependent person is defined in s 4 of the *Drugs Misuse Act 1986* (Qld).
- <sup>4</sup> See Crime and Corruption Commission, *Methylamphetamine*, available at <<https://www.ccc.qld.gov.au/crime/how-the-ccc-fights-crime/drugs-in-queensland/methylamphetamine>> accessed 3 August 2017. See also Australian Criminal Intelligence Commission, *Illicit Drug Data Report*, available at <<https://www.acic.gov.au/publications/intelligence-products/illicit-drug-data-report-0>> accessed 3 August 2017, and Queensland Government, *Queensland Health – Methamphetamine Paper*, available at <[https://www.health.qld.gov.au/\\_\\_data/assets/pdf\\_file/0021/641316/methpaper.pdf](https://www.health.qld.gov.au/__data/assets/pdf_file/0021/641316/methpaper.pdf)> accessed 3 August 2017.
- <sup>5</sup> See Crime and Corruption Commission, *MDMA*, available at <<http://www.ccc.qld.gov.au/crime/how-the-ccc-fights-crime/drugs-in-queensland/mdma>> accessed 3 August 2017.
- <sup>6</sup> Note, however, that the legislation does provide protection in some cases by establishing that a person is not criminally responsible for an offence against s 9; in the context of some specific drugs including, for instance, diazepam and temazepam (both sch 2 dangerous drugs). This involves medical prescription and strict oversight, and the drug must also be specified in sch 5 of the *Drugs Misuse Regulation 1987* (Qld). See *Drugs Misuse Act 1986* (Qld) s 124(2). The effect of this provision is beyond the scope of this paper.
- <sup>7</sup> See endnote 1 for detailed information about DMR schs.
- <sup>8</sup> *Police Powers and Responsibilities Act 2000* (Qld) s 379 and *Youth Justice Act 1992* (Qld) s 11(1)(d), Queensland Police Service, *Police Drug Diversion Program*, available at <<https://www.police.qld.gov.au/programs/drugs/pddp/>> accessed 4 August 2017.
- <sup>9</sup> *Drugs Misuse Act 1986* (Qld) s 9(2) and definition of 'whole weight' in s 4.
- <sup>10</sup> *Drugs Misuse Act 1986* (Qld) s 9(1)(a).
- <sup>11</sup> *Drugs Misuse Act 1986* (Qld) s 9(1)(b)(i).
- <sup>12</sup> *Drugs Misuse Act 1986* (Qld) s 9(1)(b)(ii).
- <sup>13</sup> *Drugs Misuse Act 1986* (Qld) s 9(1)(c).
- <sup>14</sup> *Drugs Misuse Act 1986* (Qld) s 9(1)(d).
- <sup>15</sup> *Drugs Misuse Act 1986* (Qld) s 13(4).
- <sup>16</sup> *Drugs Misuse Act 1986* (Qld) s 13(1).
- <sup>17</sup> *Drugs Misuse Act 1986* (Qld) s 14. Section 14 was added by the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010* (Qld) s 62, in order to expand Magistrates Courts' drug jurisdiction.
- <sup>18</sup> Office of the Director of Public Prosecutions (Queensland), *Director's Guidelines* as at 30 June 2016, 16–17. These were under review at the time of this Spotlight's publication.
- <sup>19</sup> *Drugs Misuse Act 1986* (Qld) s 118(2).
- <sup>20</sup> The District Court deals with drug possession offences with a maximum penalty of 20 years imprisonment or less, while the Supreme Court deals with the offences carrying a maximum penalty of 25 years. See *District Court of Queensland Act 1967* (Qld) s 61. The District Court's criminal jurisdictional ceiling was lifted from 14 years to 20 years imprisonment by amendments in the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010* (Qld) s 48.
- <sup>21</sup> See *Youth Justice Act 1992* (Qld) ss 175 and 176. As to the age limit for the definition of child, see *Youth Justice Act 1992* (Qld) sch 4. While legislative change is currently underway that will change the Queensland definition of a child in criminal law to cover those aged 10-17 years, for all those sentenced within the period considered here the maximum age was 16 years. There are also provisions (ss 140–146) which cover scenarios where a child is transitioning into the adult age cohort.
- <sup>22</sup> See *Youth Justice Act 1992* ss 14-20 regarding cautions and ss 22, 30, 31 and 33–37 regarding conferences.
- <sup>23</sup> See endnote 8 above.
- <sup>24</sup> See *Youth Justice Act 1992* (Qld) ss 175(1)(g)(i), 8(2)(c) and (d), 60, 65, 66 and 81(2).
- <sup>25</sup> See *Childrens Court Act 1992* (Qld) s 5(2).
- <sup>26</sup> See *Youth Justice Act 1992* (Qld) s 185.
- <sup>27</sup> See *Youth Justice Act 1992* (Qld) ss 62 and 99 and the *Childrens Court Act 1992* (Qld) regarding Childrens Court judges, and the definition of 'supreme court offence' in *Youth Justice Act 1992* (Qld) sch 4 regarding the Supreme Court.
- <sup>28</sup> See *Youth Justice Act 1992* (Qld) ss 77(1), 78, 83(2) and 86(2)(c).
- <sup>29</sup> See *Youth Justice Act 1992* (Qld) s 176(2).
- <sup>30</sup> Refer to the technical paper available at: <http://www.sentencingcouncil.qld.gov.au/research/sentencing-spotlight>
- <sup>31</sup> The age of 29 offenders was not known.
- <sup>32</sup> The gender of 12 offenders was not known.
- <sup>33</sup> Median age for female offenders was 29.9 years; median age for male offenders was 28.1 years.
- <sup>34</sup> Refer to the technical paper available at: <http://www.sentencingcouncil.qld.gov.au/research/sentencing-spotlight> for information on how Aboriginal and/or Torres Strait Islander is defined in the data.

- <sup>35</sup> As at 30 June 2015. See Queensland Government Statisticians Office (GovStats), *Population estimates by Indigenous Status, LGAs, 2001 to 2015*, available at <<http://www.qgso.qld.gov.au/subjects/demography/atsi-people/tables/pop-est-indigenous-status/index.php>> accessed 4 August 2017.
- <sup>36</sup> Median age for Aboriginal and/or Torres Strait Islander offenders was 29.7 years, median age for non-Aboriginal and/or Torres Strait Islander offenders was 28.4 years.
- <sup>37</sup> In this *Sentencing Spotlight* young offenders are classified as offenders sentenced in a Childrens Court, regardless of age at time of sentence.
- <sup>38</sup> District court = 0.3% and Supreme Court = 1.7%.
- <sup>39</sup> Note: There were 2645 (2.7%) additional offenders who did not enter a formal plea.
- <sup>40</sup> Court type refers to a childrens court or an adult court.
- <sup>41</sup> All offences align with Australian Standard Offence Classification (Queensland Extension).
- <sup>42</sup> Note: Offenders sentenced for multiple drug possession offences within one court event are not counted as repeat offenders. To be counted as a repeat offender they must have more than one court event with drug possession as their MSO.
- <sup>43</sup> Male: n=78,754, average=1.5, median=1.0, min=1, max=17; Female: n=20,202, average=1.5, median=1.0, min=1, max=15; Aboriginal and/or Torres Strait Islander: n=9,659, average=1.6, median=1.0, min=1, max=12; Non-Aboriginal and/or Torres Strait Islander: n=89,308, average=1.5, median=1.0, min=1, max=17.
- <sup>44</sup> According to the Queensland Director of Public Prosecution's Guideline, commerciality should be alleged when it can be reasonably inferred from all of the evidence that the person did not possess the drug for their own personal use.
- <sup>45</sup> 'Rising' of the court: an order by the court to remain in the courtroom until dismissed.





# Sentencing Spotlight on... possession of dangerous drugs

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