

Structure of the criminal courts in Australia

There is a hierarchy of criminal courts at both the commonwealth and the state or territory levels:

- *Magistrates' courts*: a lower court level that deals with relatively minor or summary criminal offences. Under some circumstances, this court may also deal with less serious indictable offences. In addition, they are responsible for conducting preliminary (committal) hearings for indictable offences.
- *Intermediate (district/county) courts* : a higher court level that, together with the supreme court, deals with the more serious crimes. These courts hear the majority of cases involving indictable crimes.
- *Supreme courts*: the highest level of court within a state or territory. They deal with the most serious crimes.

Tasmania, the Northern Territory, and the Australian Capital Territory do not have intermediate courts, and all relevant charges are dealt with at the supreme courts. In states with both supreme and intermediate courts, a large majority of charges are decided at the intermediate courts.

All state, territory and commonwealth courts handle a number of matters that appear in the court system for the first time. However, almost all criminal charges are lodged for the first time at the magistrates' court level.

National statistics on charges, trials and sentencing of suspects at all levels of courts are not yet available in Australia. For the first time, however, the ABS has released a limited amount of statistics on defendants whose cases were initiated and finalised at higher criminal courts. (Higher courts comprise those at the intermediate and supreme court levels, where defendants charged with serious or indictable offences are dealt with, and where appeals and civil cases are also heard.)

In addition, for the last two years the Industry Commission has produced statistics on the number of lodgments at each court level.

Not all offences or infringements result in court appearances. A large proportion of very minor infringements are settled by expiation notices or on-the-spot fines.

Sources: References 6, 7 and 8

The criminal court process

Case flows

Cases passing through the courts generally share the following common elements:

- lodgment: the initiation of the matter with the court;
- pre-trial discussion and mediation between the parties;
- trial; and
- court decision: judgment or verdict followed by sentencing.

Lodgments

The largest number of lodgments is processed by magistrates' courts in their criminal jurisdictions.

- **Over 1.5 million cases were initiated in magistrates' courts in 1996/97. These cases accounted for 98% of all lodgments in the criminal courts.**
- **Only 1.7% of cases were initiated in the intermediate courts and 0.3% of cases in the supreme courts.**
- **60% of the criminal matters initiated were of a minor nature.**
- **There has been a 10% increase in the number of lodgments received by courts throughout Australia since 1994/95.**

Hearings

Hearings, particularly full court hearings and trials, are the primary cost driver for court administrations. Hearings encompass court trials in the criminal and civil jurisdictions, as well as inquests and inquiries in the coronial jurisdiction.

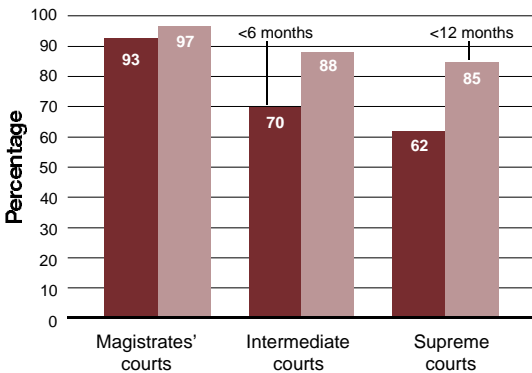
- **Nationally, there were approximately 272000 court hearings in 1996/97, 215223 of a criminal matter.**
- **The majority of criminal hearings (96%) took place in the magistrates' courts.**

Timeliness

The time between lodgment of a matter with the court and its finalisation is generally longer in the higher courts. Lower courts complete a greater proportion of their workload more quickly because the disputes and prosecutions heard are less complex than those in higher courts.

Figure 33 shows the percentage of non-appeal criminal matters finalised within six and twelve months of lodgment in the magistrates', intermediate and supreme courts.

Figure 33
Non-appeal criminal matters finalised in less than 12 months, by type of court, 1996/97



- **The supreme courts had the lowest percentage of non-appeal criminal matters finalised within six months (62%), with a further 23% being finalised in the following six months.**

Source: Reference 6

Court decision

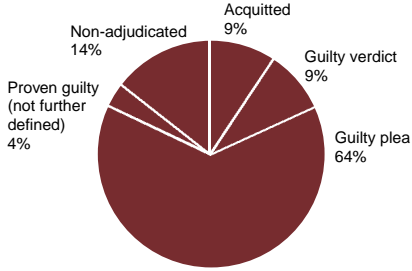
In the main, defendants' cases are finalised at the higher courts in one of the following two ways:

- *Adjudicated*: determined whether or not guilty of the charges based on the judges' decision; and
- *Non-adjudicated*: a method of determining the completion of a case, thereby making it effectively inactive.

Criminal courts

Figure 34 shows the percentage of defendants' cases finalised in the intermediate and supreme courts in 1996/97, by the method of finalisation.

Figure 34
Defendants' cases finalised in higher courts, by method of finalisation, 1996/97

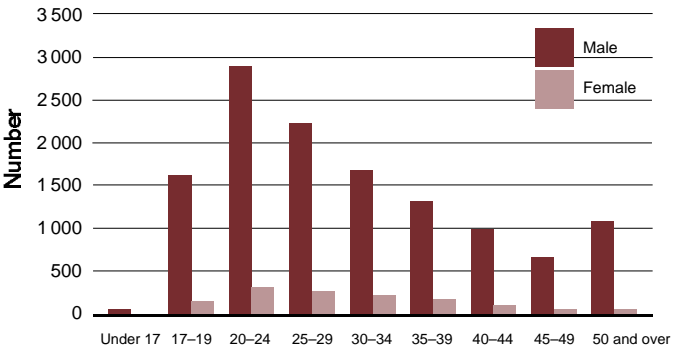


- Overall, 77% of the accused persons whose cases were heard by a higher court were found guilty of an offence.
- In 9% of cases, the defendant was acquitted of an offence.

Defendants

Figure 35 shows the number of male and female defendants in each age category whose cases were finalised in 1996/97.

Figure 35
Number of defendants finalised, by age and gender, 1996/97



- **There is a vast difference in the number of males and females appearing before the higher courts. In all age groups, males were more highly represented than females.**
- **The highest number of defendants, both male and female, was in the 20–24 age group.**

Source: Reference 7

Sentencing

There is a variety of sentencing options available at each court level:

- fine
- good behaviour bond
- probation order
- suspended sentence
- community supervision
- community custody
- home detention
- periodic detention
- imprisonment.

At present there are no national figures on the number of persons sentenced in each particular category.