

Question on Notice

No. 1095

Asked on Tuesday 28 September 2004

Mr SPRINGBORG asked the Attorney-General and Minister for Justice (Mr Welford) -

QUESTION:

- (1) How many people for 2003-04 and 2004-05 to date have been sentenced in Queensland courts for drug trafficking, production of dangerous drugs, supply of dangerous drugs, rape, attempted rape, armed robbery, unarmed robbery and serious assault (reported separately)?
- (2) For each of the above categories of offence, how many people sentenced have received the maximum jail term for 2003-04 and 2004-05 to date?
- (3) For each of the above sentences, how many have received some term of imprisonment as part of their sentence (not including suspended custodial sentences) for 2003-04 and 2004-05 to date?

ANSWER:

(1) The number of defendants sentenced, on the specific offences stated in the question, in the Supreme and District Courts is set out below. The information is available for the Brisbane, Cairns, Townsville and Rockhampton higher courts. Information for other regional Supreme and District Courts located outside these areas is not available electronically and it has not been practical to undertake manual searches of all criminal files in these regional centres.

Higher Courts (Brisbane, Cairns, Townsville and Rockhampton)

Classification	2003-04	2004-05 (at October 2004)
Drug Trafficking	84	30
Production of Dangerous Drugs	225	87
Supply Dangerous Drugs	144	55
Rape	57	18
Attempted Rape	12	1
Armed Robbery	124	61
Unarmed Robbery	115	34
Serious Assault	93	39

Magistrates Courts

Classification	2003-04	2004-05 (at October 2004)
Drug Trafficking	0	0
Production of Dangerous Drugs	1288	170
Supply Dangerous Drugs	323	72
Rape	*	*
Attempted Rape	*	*
Armed Robbery	*	*
Unarmed Robbery	0	0
Serious Assault	343	48

* Not applicable as the offence cannot be dealt with in the Magistrates Courts

(2) For the years, courts and offence categories specified above, there were no offenders sentenced to the maximum penalty.

As I have stated previously in my correspondence to you of 8 November, 2001 and my answers to QoNs 600 (of 2001), 1031 (of 2002), and 1237 (of 2003) there is absolutely nothing of policy significance in this question.

The judiciary in all states, including Queensland, is bound by principles authoritatively stated by the High Court of Australia regarding the imposition of maximum penalties. Specifically, a maximum sentence should only be imposed in the very worst category of cases.

Sentencing is complex process in which a judge must balance several competing issues (see the sentencing principles set out in s.9(2) of the Penalties and Sentences Act 1992). This balancing exercise can only be properly carried out by a sentencing judge who hears all the facts, understands the legal principles governing the exercise of his or her discretion and who can then arrive at a just decision in the particular case.

In providing this information, I want to draw your attention to s.9(2) of the Penalties and Sentences Act 1992. This outlines those matters to which a court should give regard when sentencing an offender (see below).

(2) In sentencing an offender, a court must have regard to:

(a) principles that—

(i) a sentence of imprisonment should only be imposed as a last resort; and

(ii) a sentence that allows the offender to stay in the community is preferable; and

(b) the maximum and any minimum penalty prescribed for the offence; and

(c) the nature of the offence and how serious the offence was, including any physical or emotional harm done to a victim; and

(d) the extent to which the offender is to blame for the offence; and

(e) any damage, injury or loss caused by the offender; and

(f) the offender's character, age and intellectual capacity; and

(g) the presence of any aggravating or mitigating factor concerning the offender; and

(h) the prevalence of the offence; and

(i) how much assistance the offender gave to law enforcement agencies in the investigation of the offence or other offences; and

(j) time spent in custody by the offender for the offence before being sentenced; and

(k) sentences imposed on, and served by, the offender in another State or a Territory for an offence committed at, or about the same time, as the offence with which the court is dealing; and

(l) sentences already imposed on the offender that have not been served; and

(m) sentences that the offender is liable to serve because of the revocation of orders made under this or another Act for contraventions of conditions by the offender; and

(n) if the offender is the subject of a community based order—the offender's compliance with the order as disclosed in a report given by an authorised corrective services officer; and

(o) if the offender is an Aboriginal or Torres Strait Islander person—any submissions made by a representative of the community justice group in the

offender's community that are relevant to sentencing the offender, including, for example—

- (i) the offender's relationship to the offender's community; or
- (ii) any cultural considerations; or
- (iii) any considerations relating to programs and services established for offenders in which the community justice group participates; and
- (p) anything else prescribed by this Act to which the court must have regard; and
- (q) any other relevant circumstance.

(3) Without knowledge of the individual circumstances of each case, it is not possible to draw any conclusions about sentences, relevant to convictions. To do so would be irresponsible and misleading.

A judge or magistrate must give proper consideration to a range of matters once a person is convicted of an offence, prior to sentencing that offender.

Below are the number of defendants referred to in (1) where the court did impose some term of imprisonment (this does not include wholly suspended custodial sentences or intensive correction orders).

Higher Courts (Brisbane, Cairns, Townsville and Rockhampton)

Classification	2003-04	2004-05 (as at October 2004)
Drug Trafficking	67	23
Production of Dangerous Drugs	57	26
Supply Dangerous Drugs	62	19
Rape	48	16
Attempted Rape	10	-
Armed Robbery	92	35
Unarmed Robbery	62	17
Serious Assault	52	23

Magistrates Courts

Classification	2003-04	2004-05 (as at October 2004)
Drug Trafficking	0	0
Production of Dangerous Drugs	30	11
Supply Dangerous Drugs	25	7
Rape	*	*
Attempted Rape	*	*
Armed Robbery	*	*
Unarmed Robbery	0	0
Serious Assault	80	15

*Not applicable as the offence cannot be dealt with in the Magistrates Courts