

## Burglary offences

Broadly speaking, burglary is committed when an offender trespasses and commits, or intends to commit, theft, unlawful damage to the building or grievous bodily harm. The precise legal definitions of the various offences included under the category of burglary are described in full in the consultation paper. A link to the consultation paper can be found in the Further Information section on page 11.

There are three burglary offences which are covered by the draft guideline. The data is therefore presented under each of these offences:

- **Domestic burglary**
- **Non-domestic burglary (burglary of a premises other than a dwelling)**
- **Aggravated burglary (which is commissioned when an offender commits burglary whilst in possession of certain types of weapon)**

Aggravated burglary offences are triable on indictment only, therefore they can only be dealt with at the Crown Court. The other burglary offences are normally triable either way, which means that they may be dealt with either at the magistrates' court or the Crown Court. However, there are certain conditions which, if met, make the offence triable on indictment only. An example of such an offence would be a burglary that was committed with the intent to commit rape.

## General sentencing trends

In 2009, 17,387 sentences were handed down by the courts to adults (aged 18 or over) for the three types of burglary offences identified above. The most commonly sentenced offence was domestic burglary, which accounted for 56% of burglary sentences in 2009.

*Chart 1: Breakdown of sentences received for burglary offence in 2009 by offence group*

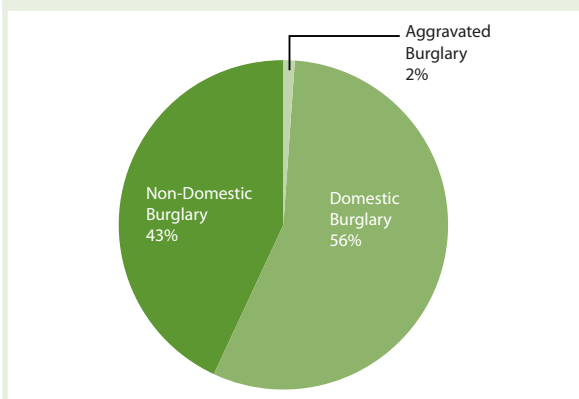


Chart 1 shows the proportion of adult sentences falling into the three types of burglary in 2009. Throughout the last decade, the composition of burglary offences has been very stable, with fluctuations of only one or two percentage points from the proportions shown in Chart 1.

Chart 2 shows the total number of adults sentenced for burglary offences every year from 1993 onwards. The number of sentences for burglary has declined slightly over the last decade, following a substantial decrease in the years before 1999. This is consistent with a similar pattern of decline in the overall level of crime as measured by the British Crime Survey over the same period.<sup>1</sup>

<sup>1</sup> Home Office, Crime in England and Wales 2009/10, Section 2.3.

The most common outcome for a sentenced burglar is custody, and this has been true for the last decade. Of all sentences received by adult burglars in 2009, 52% were for immediate custody and 14% received a suspended sentence order. A further 28% received a community sentence. Chart 3 shows the composition of sentence outcomes in 2009.

Chart 2: Number of adults sentenced for burglary offences between 1993 and 2009

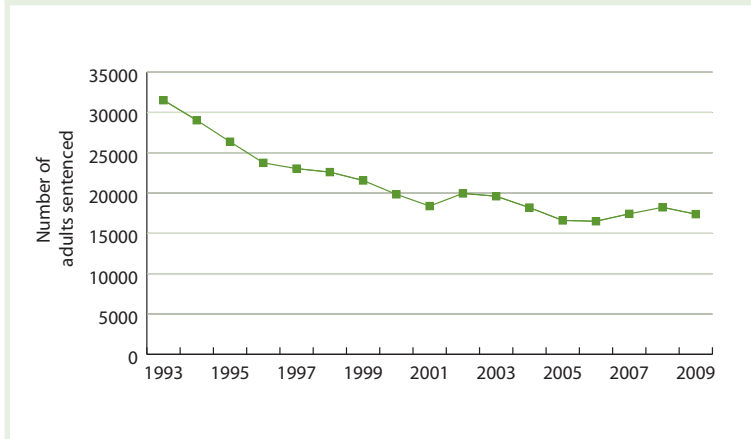
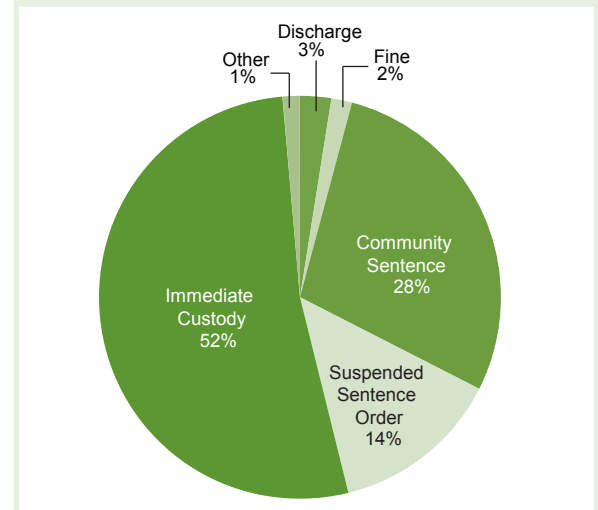


Chart 3: Sentencing outcomes of adults sentenced for burglary offences in 2009



## Legislation on burglary offences

There are a number of legislative provisions that courts must follow when sentencing for burglary.

### *Statutory maxima*

The statutory maximum sentence for an offence is the highest sentence that can be handed down for that offence.

The statutory maximum sentences for burglary offences are as follows:

- Domestic burglary: 14 years' custody
- Non-domestic burglary: 10 years' custody
- Aggravated burglary: Life imprisonment

In addition, if the burglary was committed with intent to inflict GBH or do unlawful damage and the court considers that the offender meets certain criteria contained in the dangerousness provisions of the Criminal Justice Act 2003, the court can impose a sentence of imprisonment for public protection (IPP). For aggravated burglary, such cases may alternatively be given a life sentence.

### *Third time domestic burglars*

Section 111 of the Powers of Criminal Courts (Sentencing) Act 2000 came into force on 1 December 1999. This requires the Crown Court to impose a custodial sentence of at least three years for a third domestic burglary when the following conditions are met:

- the offence was committed on or after 1 December 1999.
- the offender was over 18 when they committed the offence.
- the offender had been convicted of two domestic burglaries before the current conviction (one committed after conviction for the other).
- both previous burglaries had been committed on or after 1 December 1999.

Under these provisions, any discount given for a guilty plea must not exceed 20 per cent.

The court has the discretion not to impose a sentence of at least three years if there are exceptional circumstances relating either to the offence or the offender which justify it not doing so.

### **Sentencing guidelines for burglary**

For domestic burglary, a guideline exists for the magistrates' courts within the wider set of Magistrates' Court Sentencing Guidelines (MCSG).

A further note was appended to the magistrates' court guideline in January 2009 after the Court of Appeal ruling in *R v Saw and others* [2009] EWCA Crim 1. This clarifies that the sentence should reflect the fact that domestic burglary is not only an offence against the property, but also an offence against the person. Furthermore, it should reflect the criminality of the offender, by dealing with offenders with previous convictions more seriously.

There is also a guideline for non-domestic burglary for the magistrates' courts within the MCSG, which recommends that cases involving a higher value of goods are punished more punitively. For the Crown Court, the Sentencing Guidelines Council (SGC) issued a guideline for non-domestic burglary in December 2008. This applies to all sentences imposed on or after 5 January 2009. The guideline sentencing range under the SGC guideline is a fine to seven years custody, again depending on the value of goods involved.

There is no guideline for aggravated burglary.

The new proposed guideline will supersede all of the above guidelines, and provide additional guidance for aggravated offences. It aims to ensure that a consistent approach is taken across all courts when sentencing burglary offences.

## Data on sentencing practice for burglary offences

The following bulletins provide statistics on the sentencing outcomes and the demographics of adults (aged 18 and over) sentenced for the three types of burglary offence identified on page 1.

Sentencing data reflects the final sentencing outcome, after taking into account all factors of the case, including whether a guilty plea was made. This contrasts to the sentencing ranges presented at step 2 of the proposed new guideline, which are the recommended sentence lengths *before* taking into account certain factors, such as whether a reduction is required for a guilty plea. Therefore, the sentencing outcomes shown in the data should not be directly compared to the ranges provided in the draft guidelines.

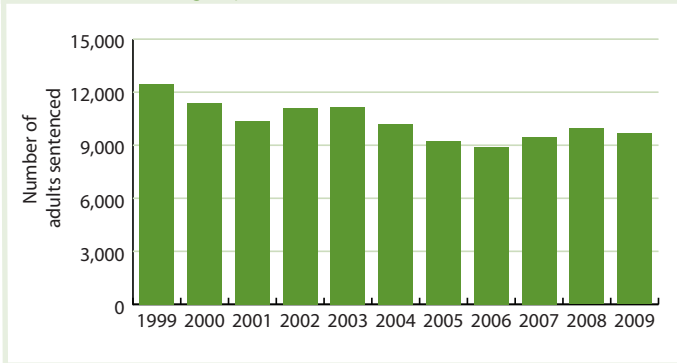
It is also important to be aware of the limitations of the data. The demographic data presented shows the characteristics of those who are caught and subsequently sentenced for burglary. However, since many crimes are undetected or unsolved, the demographic characteristics of the population of all adults who commit burglary may differ from those shown in the data.

Additionally, the data provided takes account of offence type, but not the severity of the offence committed within the offence type. This is especially important to note when analysing the variation in sentencing through time: it is not possible to distinguish whether variation is due to changes in sentencing practice, or whether it is due to changes in the severity of the crimes for which offenders are being sentenced.

## Sentencing outcomes of adults sentenced for domestic burglary

In 2009, 9,670 adults were sentenced for domestic burglary. Of these, around 4 out of 5 were sentenced in the Crown Court. Chart 1 shows the number of domestic burglars sentenced each year between 1999 and 2009.

Chart 1: Number of adults sentenced for domestic burglary between 1999 and 2009



Between 1999 and 2009, the number of adults sentenced for domestic burglary has fluctuated, showing low points in 2001 and 2006 and peaks in 2003 and 2008. However, on the whole there has been a decline over the decade with the number of sentences falling by 22% from 12,445 to 9,670 between 1999 and 2009.

Chart 2: Sentencing outcomes of adults sentenced for domestic burglary in 2009

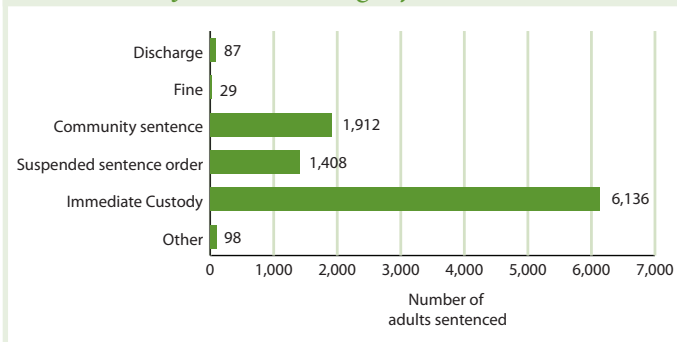


Chart 2 shows the sentence outcomes of all sentenced cases of domestic burglary in 2009 where the offender was an adult.

It shows that immediate custody was the most frequently used disposal type, followed by community sentences and suspended sentence orders. These accounted for 63%, 20% and 15% respectively of all sentences passed to adults for domestic burglary.

Chart 3: Average sentence length of custodial sentences given to adults for domestic burglary between 1999 and 2009 (excluding IPPs<sup>1</sup>)

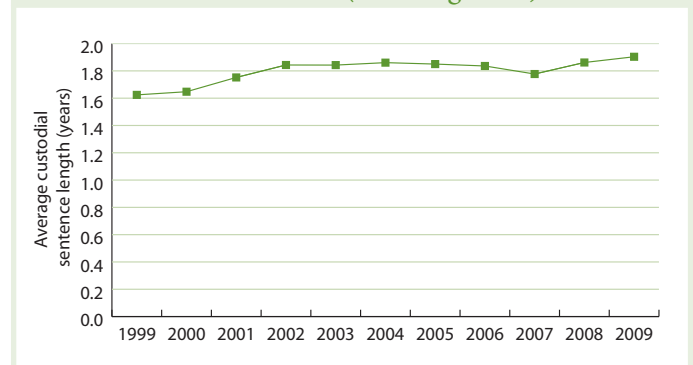
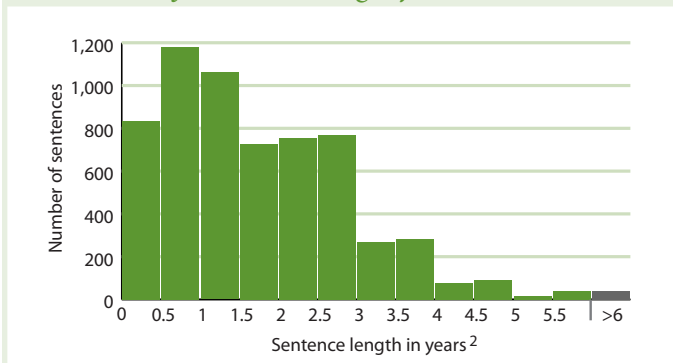


Chart 3 shows the average sentence length received by those sentenced to immediate custody for domestic burglary between 1999 and 2009. Average custodial sentence lengths remained at 1 year and 10 months between 2002 and 2006 before dropping slightly to 1 year and 9 months in 2007. Since 2007, the average length has increased, reaching 1 year and 11 months in 2009. The rise in 2009 may partly be a result of the Court of Appeal ruling in *R v Saw and others* (see page 3 on sentencing guidelines for more information). However, this was introduced in January 2009, and therefore cannot explain the rise in average custodial sentence length in 2008 from the year before.

Chart 4 is a histogram that shows the distribution of custodial sentence lengths received by adults sentenced to immediate custody for domestic burglary in 2009. It shows that the majority of custodial sentences (87% of them) are 3 years or less in length. In 2009, the longest custodial sentence recorded for domestic burglary (other than an IPP) was a sentence of 11 years. The statutory maximum sentence is 14 years' custody.

1 Imprisonment for public protection.

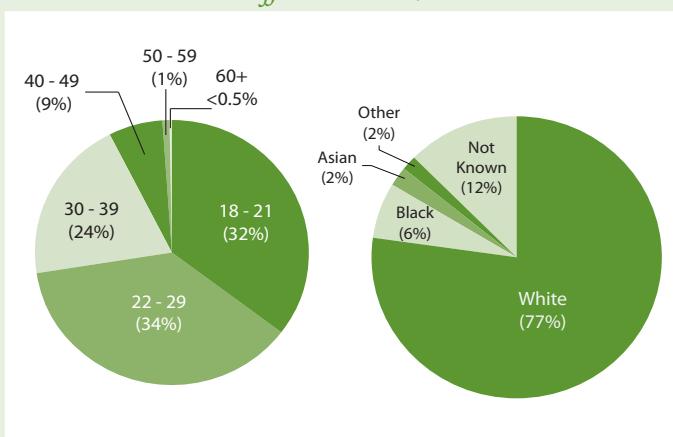
Chart 4: Custodial sentences lengths received by adults for domestic burglary in 2009



**Demographics of adults sentenced for domestic burglary offences**

Charts 5 and 6 show some of the demographic characteristics of adults sentenced for domestic burglary in 2009. Those sentenced were most frequently younger people, especially ‘young adults’ aged 18 to 21. This age group made up 32% of those sentenced, whilst 22 to 29 year olds made up 34%. Those sentenced were also most frequently perceived to be of white origin by the police officer dealing with their case, making up 77% of all adults sentenced for domestic burglary.

Charts 5 and 6: Age demographics and perceived ethnicity of adults sentenced for domestic burglary offences in 2009



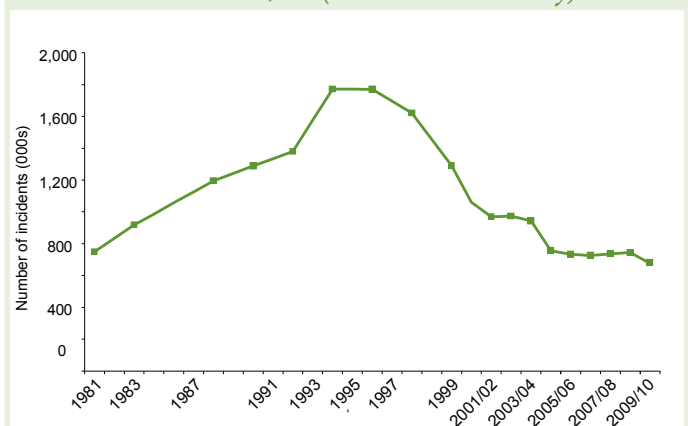
<sup>2</sup> For example, a bar between 1 and 1.5 years in Chart 4 excludes sentences of exactly 1 year in length, but includes sentences of exactly 1.5 years in length and any sentence of a length in between.

The symbol “>” means “strictly more than”.

**British Crime Survey (BCS) data<sup>3</sup>**

The British Crime Survey (BCS) is a victimisation survey in which people resident in houses in England and Wales are asked about their experiences of a range of crimes in the 12 months prior to interview. The 2009/10 BCS estimates are based on almost 50,000 interviews conducted with respondents aged 16 or over. For the crime types and population it covers, the BCS provides a better reflection of the true extent of household and personal crime than police recorded statistics because the survey includes crimes that are not reported to or recorded by the police. Results from the BCS also provide an estimate of the number of domestic burglaries experienced by victims each year, as distinct from the number of offenders sentenced for domestic burglary.

Chart 7: Trends in incidents of domestic burglary, 1981 to 2009/10 (British Crime Survey)



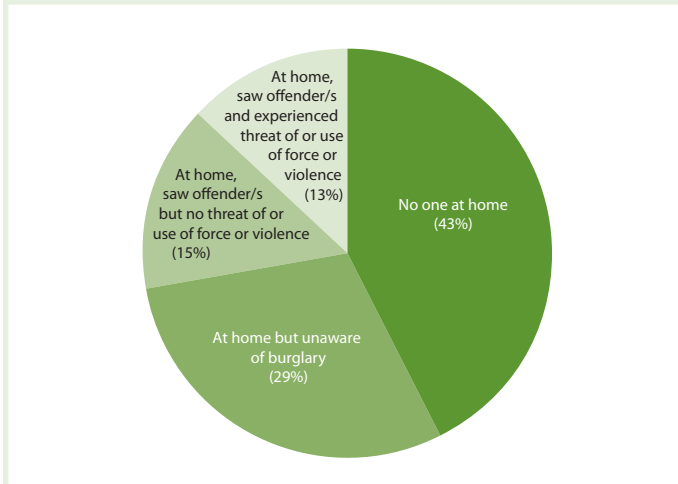
For an explanation of the year labels, see the ‘Conventions used in figures and tables’ section at the beginning of the *Crime and England and Wales, 2009/10*, Home Office publication.

Chart 7 shows the number of domestic burglaries that take place each year, as estimated by 2009/10 BCS. Comparing the final ten years of this chart to the sentencing data in Chart 1, it can be seen that the number of burglaries committed has followed a similar trend to the number sentenced.

<sup>3</sup> Home Office, *Crime in England and Wales, 2009/10*.

The survey also yields useful data on the circumstances in which domestic burglaries occur. Chart 8 shows this data for 2009/10 BCS.

*Chart 8: Contact with offenders and threat of or use of force or violence in incidents of domestic burglary 2009/10 (British Crime Survey)*

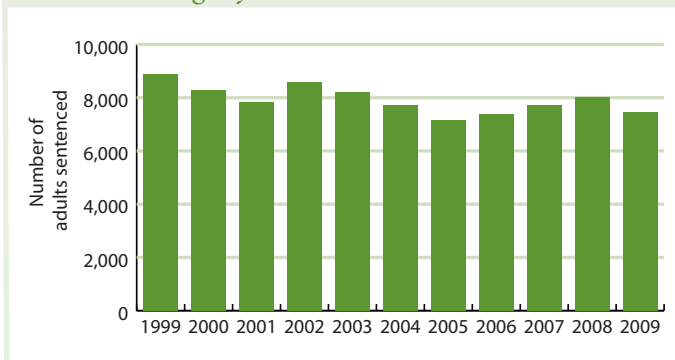


For most domestic burglaries, 72% of them, the victim does not encounter the burglar during the incident.

## Sentencing outcomes of adults sentenced for non-domestic burglary

In 2009, 7,452 adults were sentenced for non-domestic burglary. Of these, just under a quarter were sentenced in the Crown Court. Chart 1 shows the how the number of adults sentenced for non-domestic burglary varied over the period 1999 to 2009.

*Chart 1: Number of adults sentenced for non-domestic burglary between 1999 and 2009*

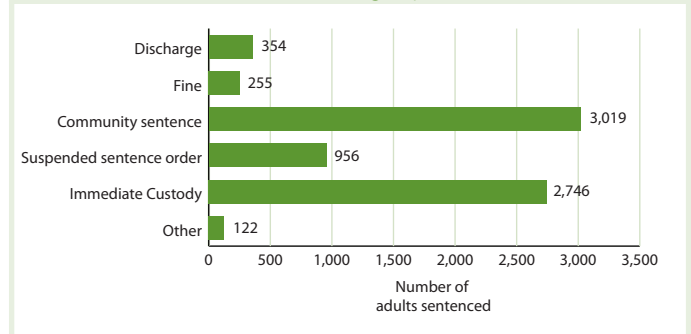


This shows similar fluctuations to domestic burglary, with the number of sentences being particular low in 2001 and 2005, and showing a peak in 2002 and 2008. However, on the whole non-domestic burglaries appear to have declined, with the number of sentences falling by 16% from 8,895 to 7,452 between 1999 and 2009.

Chart 2 shows the sentence outcome of all sentenced cases of non-domestic burglary in 2009 where the offender was an adult. The most frequent disposal type was a community sentence, accounting for 41% of all sentences. Immediate custodial sentences and suspended sentence orders accounted for 37% and 13% of sentences respectively.

Chart 3 shows the average custodial sentence lengths of non-domestic burglary cases receiving immediate custody between 1999 and 2009. This shows that the average custodial sentence length has shown no real trend over the past decade, averaging at 9 months over that time.

*Chart 2: Sentencing outcomes of adults sentenced for non-domestic burglary in 2009*



On average, sentencing outcomes for domestic burglary are tougher than for non-domestic burglary. A lower proportion of adults sentenced for non-domestic burglary receive immediate custody, and those that do, receive shorter sentence lengths on average. In 2009, those sentenced to custody for domestic burglary received an average sentence length of 1 year and 11 months, compared to 9 months for non-domestic burglary.

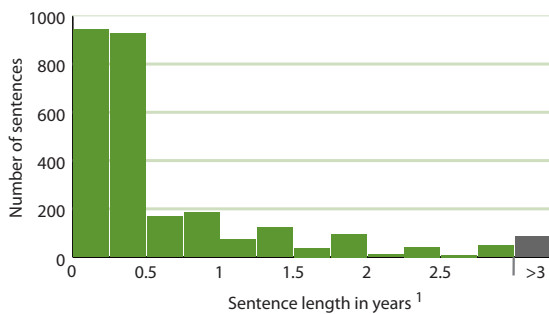
*Chart 3: Average sentence length of custodial sentences given to adults for non-domestic burglary between 1999 and 2009*



Chart 4 shows a histogram of the custodial sentence lengths received by adults sentenced to immediate custody for non-domestic burglary in 2009. It shows that the majority (68%) of custodial sentences were for 6 months or less. Only 5% of custodial sentences were for 3 years or more. In 2009, the longest custodial sentence recorded for non-domestic burglary was a sentence of 9 years. The statutory maximum sentence is 10 years' custody.



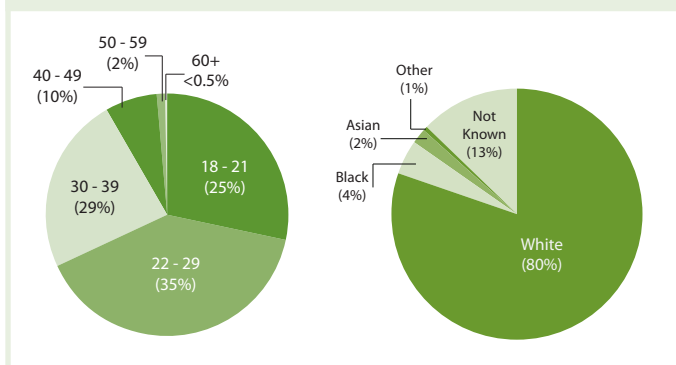
Chart 4: Custodial sentences lengths received by adults for non-domestic burglary in 2009



## Demographics of adults sentenced for non-domestic burglary offences

Charts 5 and 6 show some of the demographic characteristics of adults sentenced for non-domestic burglary in 2009. These demographics are similar to the demographics of adults sentenced for domestic burglary in 2009, with 25% of adults sentenced falling into the age bracket or 18 to 21, 35% of them being aged 22 to 29, and 80% of them being perceived to be of white origin by the police officer dealing with their case.

Charts 5 and 6: Age demographics and perceived ethnicity of adults sentenced for non-domestic burglary offences in 2009



<sup>1</sup> For example, a bar between 1 and 1.25 years in Chart 4 excludes sentences of exactly 1 year in length, but includes sentences of exactly 1.5 years in length and any sentence of a length in between.

The symbol ">" means "strictly more than".

## Sentencing outcomes of adults sentenced for aggravated burglary

Only 265 adults were sentenced for aggravated burglary in 2009, making it a low volume offence compared to the other burglary offences in this bulletin. This means that data on sentencing for aggravated burglary should be treated with caution, because in any given year, a few exceptional cases could significantly influence statistics such as the average custodial sentence lengths.

*Chart 1: Number of adults sentenced for aggravated burglary between 1999 and 2009*

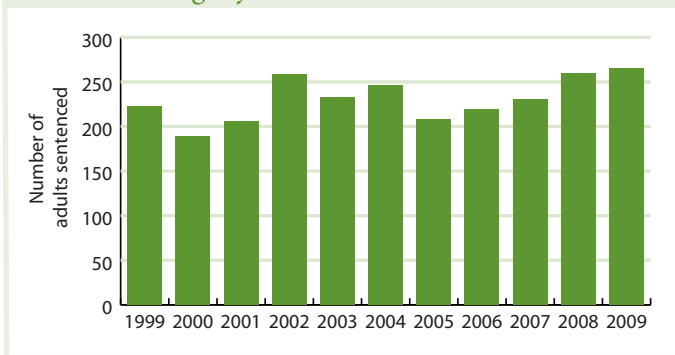


Chart 1 shows the number of adults sentenced for this offence between 1999 and 2009. Similar to the other burglary offences, there are distinct low points in the number of sentences, seen in 2000 and 2005. Following 2005, there was a year on year increase in the number of sentences, rising by 27% from 208 to 265 over the final five years of the chart.

*Chart 2: Sentencing outcomes of adults sentenced for aggravated burglary in 2009*

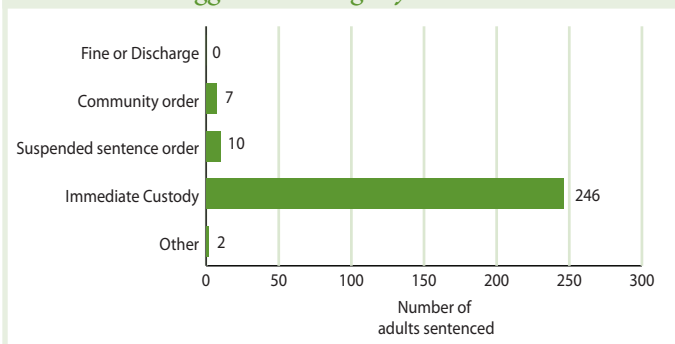
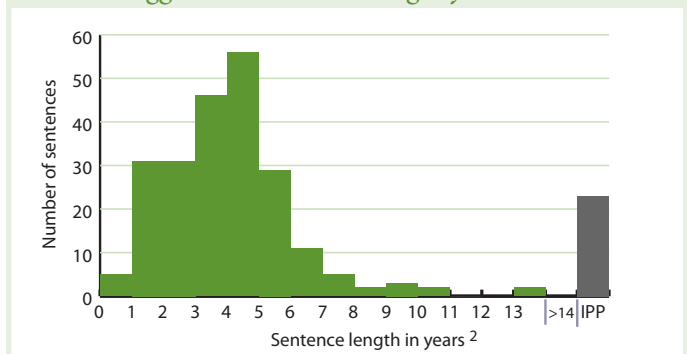


Chart 2 shows that nearly all (93%) of adults sentenced for aggravated burglary in 2009 received immediate custody. Chart 3 shows that the average sentence length of those receiving immediate custody has been reasonably steady since 2002 except for a drop in 2006. It is clear from these charts that on average, sentences for aggravated burglary are considerably higher than for the other burglary offences covered by these bulletins: in 2009, the average custodial sentence length for domestic burglary was 1 year and 11 months, and for non-domestic burglary it was 9 months, whilst for aggravated burglary it was 4 years and 4 months.

*Chart 3: Average sentence length of custodial sentences given to adults for aggravated burglary between 1999 and 2009 (excluding IPPs<sup>1</sup>)*



*Chart 4: Custodial sentences lengths received by adults for aggravated domestic burglary in 2009*



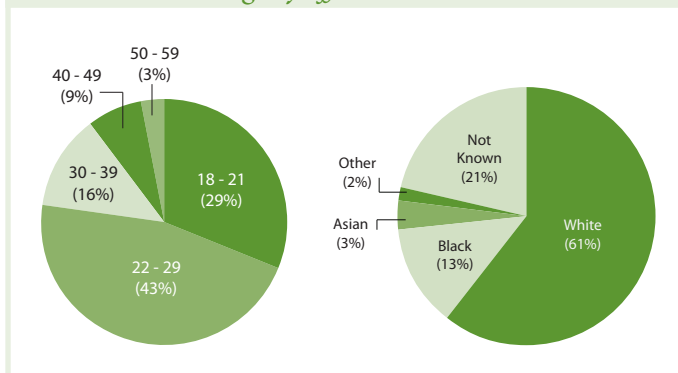
1 Imprisonment for public protection.  
 2 For example, a bar between 1 and 2 years in Chart 4 excludes sentences of exactly 1 year in length, but includes sentences of exactly 2 years in length and any sentence of a length in between. The symbol ">" means "strictly more than". The bar for ">14" years does not include IPPs.

Chart 4 is a histogram of the sentence lengths received by adults sentenced to immediate custody for aggravated burglary in 2009. Over half of them (54%) received a sentence of four years or more, of which 23 offenders received IPPs, accounting for 9% of all immediate custodial sentences.

### Demographics of adults sentenced for aggravated burglary offences

Charts 5 and 6 show some of the demographic characteristics of adults sentenced for aggravated burglary in 2009. Like domestic and non-domestic burglary, a very high proportion of adults sentenced, 71%, were younger people aged 18 to 29, whilst 61% of adults sentenced were perceived to be of white origin by the police officer dealing with their case. Although this is a lower proportion than for the other burglary offences, there are also substantially many more “not known” or unrecorded cases whom we cannot attribute to any particular ethnic group.

*Charts 5 and 6: Age demographics and perceived ethnicity of adults sentenced for aggravated burglary offences in 2009*



### Additional tables

The data behind the charts provided in the analysis and research bulletins are available for download as Excel spreadsheets at the following link:

<http://sentencingcouncil.judiciary.gov.uk/facts/558.htm>

### Background Information

The Ministry of Justice publishes both a quarterly and annual statistical publication on sentencing data which focuses on national level trends in sentencing for all offences. These publications can be accessed via the Ministry of Justice Statistics homepage at:

<http://www.justice.gov.uk/publications/statistics-and-data/index.htm>

Further information on general sentencing practice in England in Wales can be found on the Council's website or at the Ministry of Justice website at:

<http://www.justice.gov.uk/>

Alternatively, you may wish to visit the sentencing area on the Direct.gov website, which can be accessed at:

<http://sentencing.cjsonline.gov.uk/>

The 2009/10 results from the British Crime Survey can be found on the Home Office website at:

<http://webarchive.nationalarchives.gov.uk/20110218135832/rds.homeoffice.gov.uk/rds/pdfs10/hosb1210.pdf>

The current SGC guidelines for non-domestic burglary offences can be accessed via the Guidelines to Download page on the Sentencing Council website, at the following link:

<http://sentencingcouncil.judiciary.gov.uk/guidelines/guidelines-to-download.htm>

The current Magistrates' Court Sentencing Guidelines which contain guidance on sentencing domestic burglary offences in the magistrates' courts can be also be accessed via this link.

### Consultation Documents

The consultation period for the draft burglary guidelines will begin on 12 May 2011 and close on 4 August 2011. All of the consultation documents can be accessed via the Current Consultations page on the Sentencing Council website, at the following link:

<http://www.sentencingcouncil.org.uk/sentencing/consultations-current.htm>

## Data Sources and Quality

The database used to compile the analysis and research bulletins have been supplied to the Sentencing Council by the Ministry of Justice who obtain it from a variety of administrative data systems compiled by courts and police forces. Every effort is made by the Ministry and the Sentencing Council to ensure that the figures presented in this publication are accurate and complete. Although care is taken in collating and analysing the returns used to compile these figures, the data are of necessity subject to the inaccuracies inherent in any large-scale recording system. Consequently, although numbers in tables and charts are shown to the last digit in order to provide a comprehensive record of the information collected, they are not necessarily accurate to the last digit shown. Details of the processes by which the Ministry of Justice validate the records in the database used to compile the bulletins can be found within their Sentencing Statistics publication at:

<http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/sentencing-annual.htm>

Where statistics are not derived from this source, footnotes have been included to indicate the published source from which the data is taken.

## Notes on the Data

The data used to compile the analysis and research bulletins provide information on the sentencing outcomes of cases going through the courts between 1993 and 2009. The sentencing outcomes recorded are the final outcomes once all factors included in the decision making process have been taken into account. Therefore, care should be taken in comparing the results presented to the sentencing ranges at step two of the draft guidelines since changes may be made to the sentence at later steps of the decision making process before arriving at the final sentence (for example, guilty plea reductions).

Where immediate custodial sentences are described, the sentence length refers to the full sentence length including time spent on licence and home detention curfew (HDC) where applicable. Average custodial sentence lengths are the average lengths over all determinate custodial sentences, therefore do not include life sentences or IPPs.

The following conventions have been applied to the data:

- Percentages derived from the data have been provided in the narrative and displayed on charts to the nearest whole percentage, except when the nearest whole percent is 0%. In some instances, this may mean that the percentages shown, for example in pie charts, do not add up 100%.
- Where totals have been provided, these have been calculated using unrounded data and then rounded, therefore percentages provided in the narrative may differ slightly from the sum of percentages shown on the pie charts.
- Where the nearest whole percent is 0%, the convention “< 0.5%” has been used.

## Uses Made of the Data

The data in the analysis and research bulletins is used to inform public debate of the Council’s work, in particular to provide the public with the key data that the Council has used to help formulate the draft guidelines on burglary of fences.

## Contact Points for Further Information

We would be very pleased to hear your views on our analysis and research bulletins. If you have any feedback or comments, please send them to:

[info@sentencingcouncil.gsi.gov.uk](mailto:info@sentencingcouncil.gsi.gov.uk)

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Further information on the Sentencing Council and their work can be found at:

<http://www.sentencingcouncil.org.uk>