

Statistical Bulletin

Crime and Justice Series

A National Statistics Publication for Scotland

CRIMINAL APPEAL STATISTICS, SCOTLAND: 2008-09

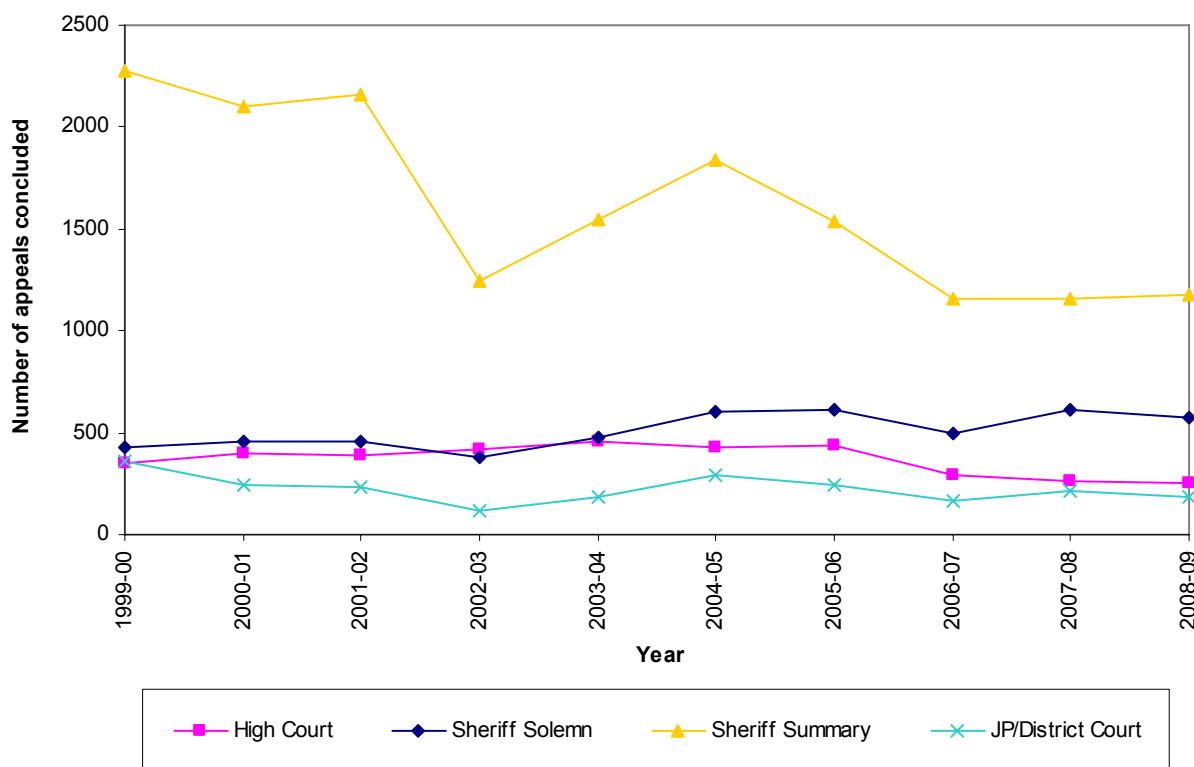
03 November 2009



1 Introduction

This bulletin presents statistics on criminal appeals concluded in the High Court of Justiciary. In 2008-09, a total of 2,191 criminal appeals were concluded. This represents a decrease of 3 per cent compared with 2007-08 and is 36 per cent lower than the equivalent figure in 1999-00.

Chart 1 Criminal appeals by type of court of first instance: 1999-00 to 2008-09



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2 Key Points

- A total of 2,191 criminal appeals were concluded in the High Court of Justiciary in 2008-09, a 3 per cent decrease from 2007-08 ([Table 1](#), [Table 2](#)).
- The number of concluded appeals against decisions of the Justice of the Peace (JP)/District Courts decreased by 16 per cent (from 214 to 180) between 2007-08 and 2008-09 ([Table 1](#)).
- Summary sentence only appeals accounted for the largest percentage (49 per cent) of the total in 2008-09. However this is the lowest figure recorded in the past ten years ([Table 2](#)).
- Of the 2,191 appeals concluded in 2008-09, 78 per cent related to sentence only ([Chart 2](#)).
- The average duration of concluded criminal appeals increased by 7 per cent (from 151 to 162 days) between 2007-08 and 2008-09 ([Chart 3](#)).
- The average duration of concluded Solemn conviction appeals increased to 513 days, the highest figure recorded in the past ten years and an increase of 34 per cent from 2007-08 ([Chart 3](#)).
- The average duration of appeals from the High Court increased by 24 per cent (from 331 to 409 days) ([Chart 4](#)).
- The majority (79 per cent) of appeals concluded in 2008-09 were concluded within six months ([Table 3](#)).
- The total of 2,191 concluded appeals in 2008-09 was equivalent to 2 per cent of the total number of persons with a charge proved in criminal proceedings in 2007-08 ([Table 4](#)).
- Over half (53 per cent) of the total number of appeals concluded in 2008-09 were refused at the sift stage or abandoned. However this is a decrease of 8 percentage points from 2007-08 ([Chart 5](#), [Table 5](#)).

3 Courts of First Instance and Types of Criminal Appeals

Table 1 shows that the number of concluded appeals against decisions of the Justice of the Peace (JP)/District Courts decreased by 16 per cent (from 214 to 180) between 2007-08 and 2008-09. Over the same period, there were decreases of 5 per cent (from 611 to 578) for the Sheriff Solemn Courts and 6 per cent (from 267 to 252) for the High Court.

However the number of concluded appeals against decisions of the Sheriff Summary Courts increased by 2 per cent (from 1,161 to 1,180).

The percentage of total appeals accounted for by each court type in 2008-09 was similar to the percentage recorded in 2007-08.

Table 1 Criminal appeals by type of court of first instance: 1999-00 to 2008-09

Year	Number					Percentage of total			
	Total ⁽¹⁾	High Court	Sheriff Solemn	Sheriff Summary	JP/District ⁽²⁾ Court	High Court	Sheriff Solemn	Sheriff Summary	JP/District ⁽²⁾ Court
1999-00	3,414	348	425	2,277	364	10	12	67	11
2000-01	3,204	395	461	2,103	245	12	14	66	8
2001-02	3,249	393	460	2,161	235	12	14	67	7
2002-03	2,156	420	376	1,242	118	19	17	58	5
2003-04	2,679	458	481	1,548	189	17	18	58	7
2004-05	3,152	427	599	1,839	287	14	19	58	9
2005-06	2,825	437	612	1,533	242	15	22	54	9
2006-07	2,118	296	499	1,158	164	14	24	55	8
2007-08	2,254	267	611	1,161	214	12	27	52	9
2008-09	2,191	252	578	1,180	180	12	26	54	8

1. Includes appeals where type of court of first instance not known.

2. Includes Stipendiary Magistrates Court.

Table 2 shows increases between 2007-08 and 2008-09 in appeals against conviction: a 12 per cent increase (from 173 to 193) for Solemn conviction and a 15 per cent increase (from 241 to 278) for Summary conviction.

However, there were decreases in appeals against sentence only: an 11 per cent decrease (from 706 to 627) for Solemn sentence only and a 5 per cent decrease (from 1,133 to 1,077) for Summary sentence only.

Summary sentence only appeals accounted for the largest percentage (49 per cent) of the total in 2008-09. However this percentage continued the downward trend of recent years and is the lowest figure recorded in the past ten years.

Table 2 Criminal appeals by type of appeal: 1999-00 to 2008-09

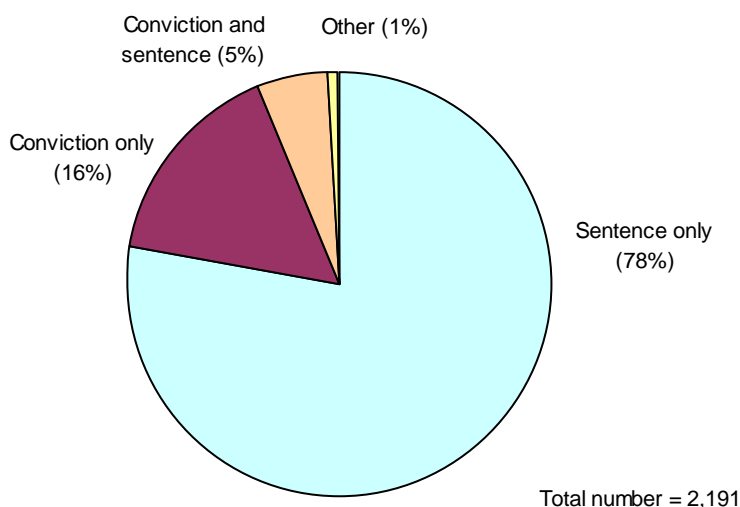
Year	Number					Percentage of total			
	Total ⁽¹⁾	Solemn conviction ⁽²⁾	Solemn sentence only	Summary conviction ⁽²⁾	Summary sentence only	Solemn conviction ⁽²⁾	Solemn sentence only	Summary conviction ⁽²⁾	Summary sentence only
1999-00	3,414	181	592	382	2,257	5	17	11	66
2000-01	3,204	163	693	272	2,075	5	22	8	65
2001-02	3,249	147	706	311	2,083	5	22	10	64
2002-03	2,156	221	575	215	1,145	10	27	10	53
2003-04	2,679	187	755	316	1,421	7	28	12	53
2004-05	3,152	219	807	411	1,715	7	26	13	54
2005-06	2,825	232	818	315	1,460	8	29	11	52
2006-07	2,118	160	636	213	1,109	8	30	10	52
2007-08	2,254	173	706	241	1,133	8	31	11	50
2008-09	2,191	193	627	278	1,077	9	29	13	49

1. Includes appeals relating to acquittals.

2. Includes appeals against conviction and sentence.

Chart 2 shows that of the 2,191 appeals concluded in 2008-09, 78 per cent related to sentence only, 16 per cent conviction only, and 5 per cent to both conviction and sentence. Other types of appeal, including Extradition Appeals and Scottish Criminal Cases Review Commission (SCCRC) Petitions, accounted for the remaining 1 per cent of appeals.

Chart 2 Criminal appeals by type of appeal: 2008-09



4 Duration of Criminal Appeals

Chart 3 and the accompanying table show an increase of 7 per cent (from 151 to 162 days) in the overall average duration of concluded criminal appeals from 2007-08 to 2008-09.

The average duration of concluded Solemn conviction appeals increased to 513 days, the highest figure recorded in the past ten years and an increase of 34 per cent from 2007-08.

(Please see Note 6 in the Notes section for additional details on duration and average duration of appeals.)

Chart 3 Criminal appeals by type of appeal and average duration: 1999-00 to 2008-09

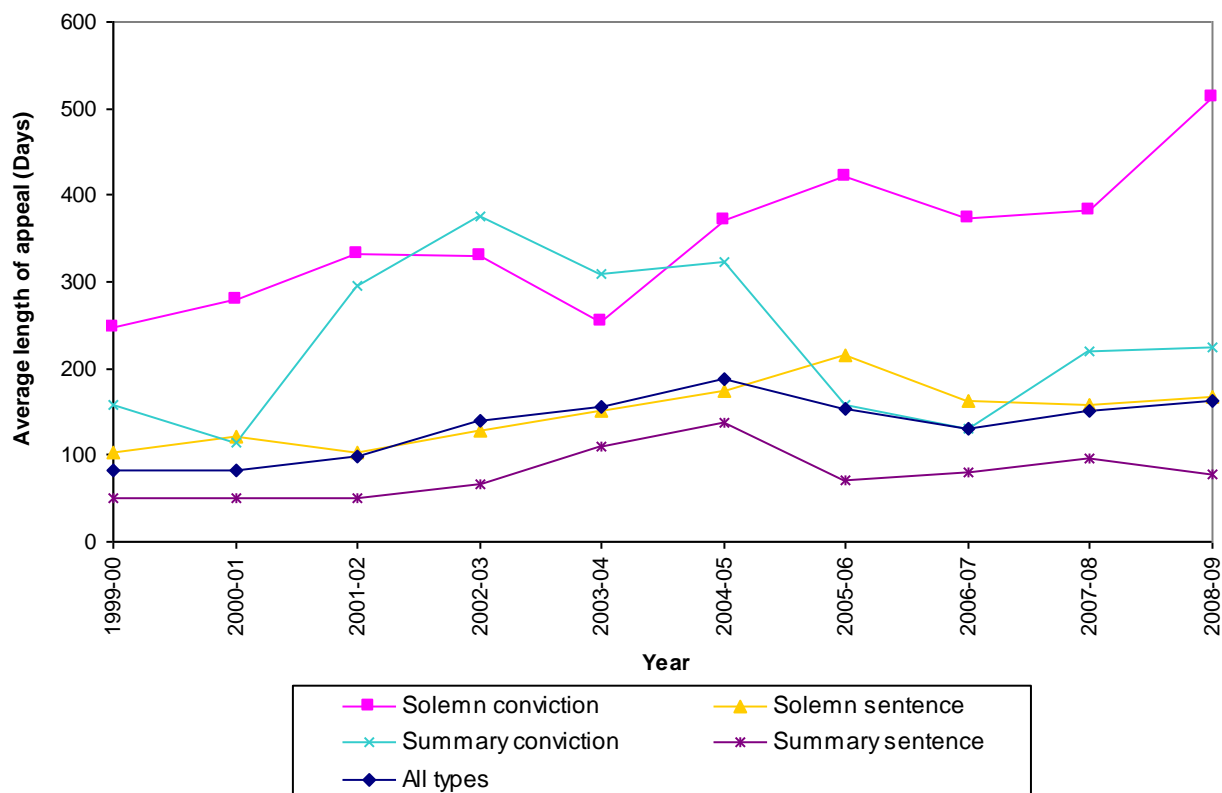


Chart 3: Table of data

Criminal appeals by type of appeal and average duration (days): 1999-00 to 2008-09

Type of appeal	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Solemn conviction	246.3	279.2	333.0	328.9	255.2	371.6	422.5	372.3	382.4	512.8
Solemn sentence	103.9	121.4	102.4	127.2	150.3	173.2	215.9	162.3	157.7	167.7
Summary conviction	158.2	114.8	295.7	375.7	308.5	323.8	157.8	129.4	220.2	225.2
Summary sentence	49.3	51.2	51.2	65.6	110.3	137.5	71.8	79.3	96.0	77.9
All types	81.4	83.4	98.5	139.9	155.1	186.9	152.3	131.6	150.6	161.5

Chart 4 and the accompanying table show the average duration of appeals from the High Court increased by 24 per cent (from 331 to 409 days), while for JP/District and Stipendiary Magistrates Courts it decreased by 23 per cent (from 147 to 113 days).

An increase of 21 per cent (from 146 to 177 days) was recorded in the average duration of appeals from Sheriff Solemn Courts, while the average duration for appeals from Sheriff Summary Courts decreased by 4 per cent (from 112 to 108 days).

(Please see Note 6 in the Notes section for additional details on duration and average duration of appeals.)

Chart 4 Criminal appeals by type of court of first instance and average duration: 1999-00 to 2008-09

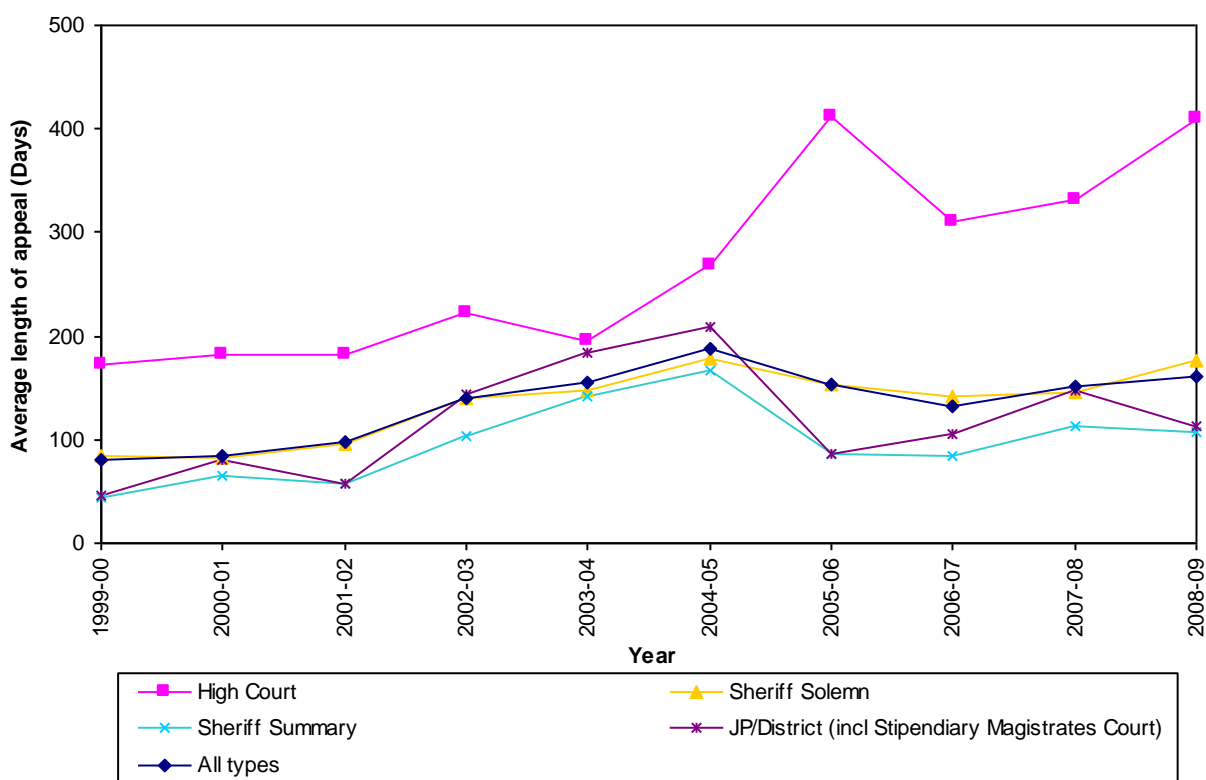


Chart 4: Table of data
Criminal appeals by type of court of first instance and average duration (days): 1999-00 to 2008-09

Court of first instance	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
High Court	172.5	182.4	181.1	222.2	195.6	268.9	412.3	311.3	330.9	409.3
Sheriff Solemn	84.3	82.1	95.3	139.7	148.4	177.6	152.8	141.3	145.8	177.2
Sheriff Summary	43.5	65.0	57.0	102.8	141.4	167.5	87.1	84.7	112.4	108.2
JP/District (incl Stipendiary Magistrates Court)	46.4	79.7	56.7	142.8	184.4	208.7	86.6	105.7	146.6	113.3
All types	81.4	83.4	98.5	139.9	155.1	186.9	152.3	131.6	150.6	161.5

Table 3 shows that the majority (79 per cent) of appeals concluded in 2008-09 were concluded within six months, an increase of 5 percentage points from 2007-08. The percentage of appeals concluded between six months and one year fell by 10 percentage points to 10 per cent in the same period. The remaining appeals (11 per cent) were concluded in one year or more, an increase of 5 percentage points from 2007-08.

Appeals against sentence, both in Solemn and Summary Courts, follow a similar pattern to the one outlined for all appeals, above.

However, for Solemn conviction appeals the percentage concluded within six months fell from 55 per cent in 2007-08 to 37 per cent in 2008-09. The percentage concluded between six months and one year fell from 21 per cent to 15 per cent over the same period and the percentage concluded in one year or more increased from 24 per cent to 48 per cent.

For Summary conviction appeals the percentage concluded within six months fell from 62 per cent in 2007-08 to 59 per cent in 2008-09. The percentage concluded between six months and one year remained at 18 per cent over the same period and the percentage concluded in one year or more increased from 20 per cent to 24 per cent.

Table 3 Criminal appeals against conviction and sentence, percentage by duration by type of appeal: 1999-00 to 2008-09

Year	Solemn conviction ⁽¹⁾			Solemn sentence only			Summary conviction ⁽¹⁾			Summary sentence only			All types		
	Up to 6 months	6 months - 1 year	1 year or more	Up to 6 months	6 months - 1 year	1 year or more	Up to 6 months	6 months - 1 year	1 year or more	Up to 6 months	6 months - 1 year	1 year or more	Up to 6 months	6 months - 1 year or more	
1999-00	55	29	15	88	9	3	69	18	13	97	1	2	90	6	4
2000-01	57	17	26	89	8	2	71	26	2	97	2	1	91	6	3
2001-02	52	17	31	92	6	2	67	7	25	96	1	3	91	3	6
2002-03	40	28	33	90	8	3	62	1	36	95	3	2	85	7	9
2003-04	29	53	18	72	25	3	46	18	36	80	17	3	70	22	8
2004-05	39	16	45	69	21	10	39	24	37	70	24	6	63	23	14
2005-06	31	24	44	74	11	15	80	10	10	95	2	3	82	7	11
2006-07	40	27	33	78	14	8	77	18	5	89	9	2	81	13	7
2007-08	55	21	24	70	25	5	62	18	20	82	16	2	74	20	6
2008-09	37	15	48	76	18	6	59	18	24	94	3	3	79	10	11

1. Includes appeals against conviction and sentence.

5 Original Disposals and Outcomes of Criminal Appeals

Table 4 shows that the total of 2,191 concluded appeals in 2008-09 was equivalent to 2 per cent of the total number of persons with a charge proved in criminal proceedings in 2007-08.

There were 1,513 appeals concluded where the original disposal was custodial. This is equivalent to 9 per cent of the number of persons with a charge proved in 2007-08 who received a custodial disposal. A further breakdown of custodial disposals reveals that the percentage increases with sentence length: 5 per cent for sentences up to 6 months compared to 50 per cent for sentences of 4 years and over.

For each of the other disposal types, including financial penalties and community sentences, the number of appeals was equivalent to 1 per cent or less of the number of persons with a charge proved in 2007-08.

Table 4 Criminal appeals by main crime and disposal under appeal: 2008-09

	Number													Percentage of persons with a charge proved ⁽²⁾⁽³⁾
	All crimes and offences ⁽¹⁾	Crimes of violence	Crimes of indecency	Crimes of dishonesty	Criminal damage	Drug offences	Other crimes	Common assault	Breach of the peace	Other misc. offences	Motor vehicle offences	All crimes and offences ⁽¹⁾		
Total⁽⁴⁾	2,191	266	310	308	54	208	202	68	203	72	448	2		
Custody⁽⁵⁾	1,513	251	224	263	40	192	171	55	128	39	123	9		
Up to 6 months	621	11	74	156	16	41	106	25	83	19	80	5		
>6 months to 2 years	445	63	72	82	15	57	46	18	36	11	43	16		
> 2 to < 4 years	175	46	23	13	6	47	14	8	8	3	-	28		
4 years & over (including life)	272	131	55	12	3	47	5	4	1	6	-	50		
Community sentence	132	5	26	18	7	5	9	9	31	4	16	1		
Financial penalty	420	3	32	16	6	6	6	2	31	22	296	1		
Other sentence	45	2	16	2	-	1	6	1	8	4	5	*		

- Nil * Less than 0.5

1. Includes type of offence not known.
2. Percentages based on the number of persons with a charge proved in 2007/08.
3. The datasets used to calculate this percentage use different methodologies to identify main crime, therefore it is not possible to provide percentages for each crime type.
4. Includes disposal not known.
5. Includes sentence length not known.

Chart 5 and Table 5 provide information on the outcome of appeals. Of the total number of appeals concluded in 2008-09, 53 per cent (1155 appeals) were refused at the sift stage or abandoned. This is the lowest percentage since 2004-05 and a decrease of 8 percentage points from 2007-08.

A further 22 per cent (476 appeals) were dismissed. This is the highest percentage since 2004-05 and an increase of 7 percentage points from 2007-08.

The remaining 25 per cent (559 appeals) were sustained, a similar percentage to that recorded in the previous four years.

Chart 5 Criminal appeals by type of court of first instance and percentage outcome: 2008-09

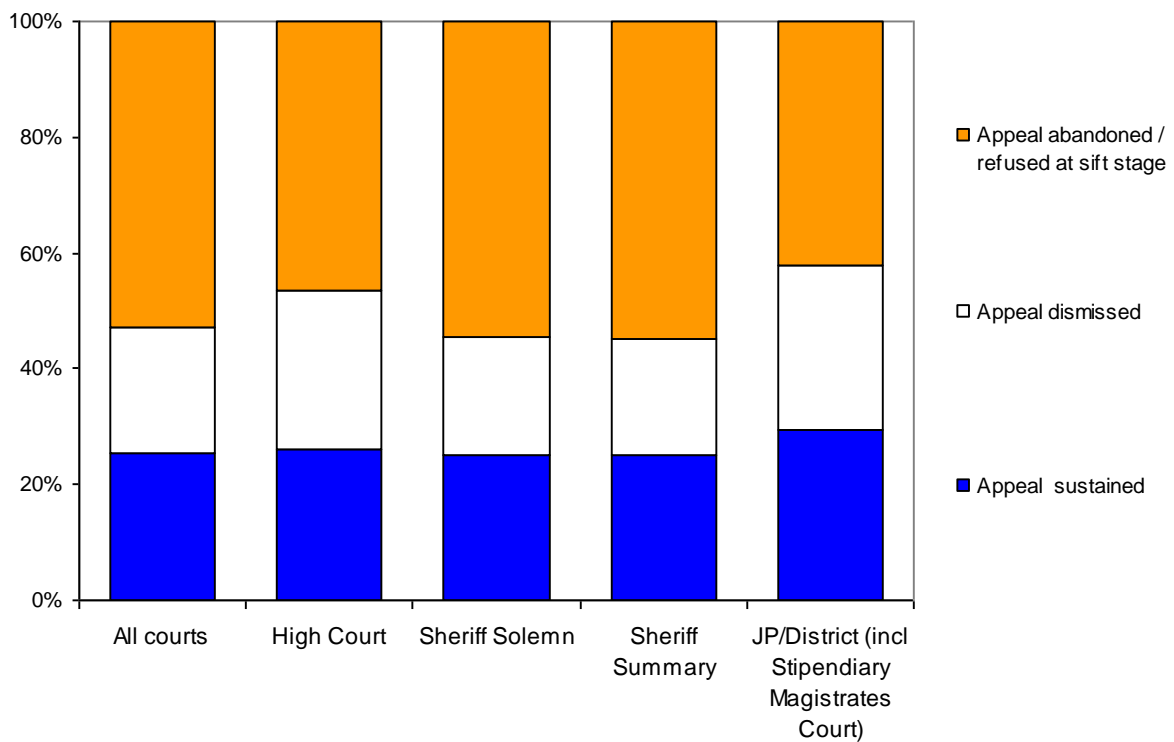


Table 5 Criminal appeals by outcome: 1999-00 to 2008-09

Year	Total ⁽¹⁾	Number			Percentage of total				
		Appeal sustained Conviction ⁽²⁾	Appeal sustained Sentence	Dismissed	Abandoned ⁽³⁾	Appeal sustained Conviction ⁽²⁾	Appeal sustained Sentence	Dismissed	Abandoned ⁽³⁾
1999-00	3,414	58	375	627	2,337	2	11	18	68
2000-01	3,204	49	318	694	2,137	2	10	22	67
2001-02	3,249	87	384	609	2,167	3	12	19	67
2002-03	2,156	69	346	435	1,302	3	16	20	60
2003-04	2,679	111	422	542	1,604	4	16	20	60
2004-05	3,152	174	722	788	1,468	6	23	25	47
2005-06	2,825	151	598	519	1,557	5	21	18	55
2006-07	2,118	96	350	316	1,353	5	17	15	64
2007-08	2,254	76	462	339	1,376	3	20	15	61
2008-09	2,191	120	439	476	1,155	5	20	22	53

1. Includes a small number of other sustained appeals.

2. Includes appeals against conviction and sentence.

3. Includes appeals refused at sift stage.

6 Notes

1. Any person convicted of a criminal offence in Scotland by a court of first instance may appeal to the High Court of Justiciary sitting as the court of criminal appeal, usually subject to the granting of leave to appeal. Convicted persons may appeal against their conviction; against sentence; or against both conviction and sentence.

2. Applications for leave to appeal are considered first by a judge of the High Court, who decides whether the papers produced disclose arguable grounds of appeal (a procedure generally known as the "first sift"). If leave to appeal is refused the convicted person may apply to the High Court for leave to appeal. This involves a reconsideration of the papers by, two (in sentence appeals) or three judges (conviction appeals), who must once again decide whether the papers disclose arguable grounds of appeal.

3. The Lord Advocate has a right to appeal against a sentence on grounds of undue leniency. The Lord Advocate may also refer a point of law which has arisen in relation to a solemn case for the opinion of the High Court (although this procedure does not affect any acquittal or conviction in the case concerned).

4. The Scottish Criminal Cases Review Commission (SCCRC) was established on 1 April 1999 to review and investigate cases of alleged miscarriage of justice in Scotland. Where the Commission believes, after proper investigation, that a miscarriage of justice may have occurred, and that it is in the interests of justice to do so, it may refer a case to the High Court for review. Once a case is referred, the High Court will determine the case as if it was a normal appeal.

5. The year in which an appeal is counted is the year in which it was concluded. This is not necessarily the same as the year in which the appeal was lodged, nor the year in which sentence was passed in the original court case. Incompetent appeals are excluded from the figures. Certain types of procedural appeal, such as those which are for an extension of time on an existing appeal, are not counted - only the existing appeal is counted.

6. For the purposes of these statistics, the duration of an appeal case is measured from the date it was initially registered to the date it was concluded. It should be noted that the duration of a criminal appeal case will, in part, depend upon the time it takes for the Crown, and an appellant, to prepare their case. An appeal hearing date will not generally be allocated until both parties are ready to proceed. It should also be noted that the average (mean) duration can be affected by unusually long appeals (outliers).

7. Trends over recent years in the number and average duration of concluded criminal appeals have been influenced by a number of factors. A judicial direction in September 2002 meant that priority was given to dealing with solemn conviction appeals. The amount of court time allocated with dealing with that class of appeal was therefore increased from 19 court weeks in 2001 to 26 in 2002. With the demands of trial and civil court business on judicial time, and efforts to conclude longstanding appeal cases, this resulted in delays and backlogs in dealing with other types of criminal appeals business. Additional resources in the form of temporary judges were, however, made available in January 2004 to help deal with the backlog of appeals.

8. The statistics published in this Statistics Release are derived from information provided by the High Court of Justiciary. They reflect the information as held at 03 September 2009. Any revisions to the data will be reported in future Statistics Releases.

9. The statistics for January 2003 onwards were derived from an electronic data extract from the High Court of Justiciary's appeals case management system. This method of data collection replaced the set of manually completed paper returns used to collect the data for previous years. While this new method of data collection is believed to be inherently more accurate than the previous one, the change to it may have resulted in a slight discontinuity between the figures for 2003-04 and those for earlier years.

10. A Justice of the Peace Court is a lay court where a Justice of the Peace who is not legally qualified sits with a legally qualified Clerk. The Clerk provides advice to the Justices on matters of law and procedure. Justice of the Peace Courts have been created by the Criminal Proceedings etc (Reform) (Scotland) Act 2007 and are administered by the Scottish Court Service. As each Sheriffdom undergoes the unification process, District Courts will be replaced by Justice of the Peace Courts.

11. This Statistics Release may be viewed on the Scottish Government Internet Web site: www.scotland.gov.uk/stats/bulletins/00771.

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