

Sentencing Snapshot

Sentencing trends
in the Magistrates'
Court of Victoria
2004–05 to 2007–08

February 2009
No. 64

Possessing amphetamines

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of possessing amphetamines² and details the age and gender³ of people sentenced for this offence in the Magistrates' Court of Victoria between 2004–05 and 2007–08.

A person who possesses amphetamines without legal authorisation is guilty of an indictable offence.⁴ This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate rather than a judge and a jury.

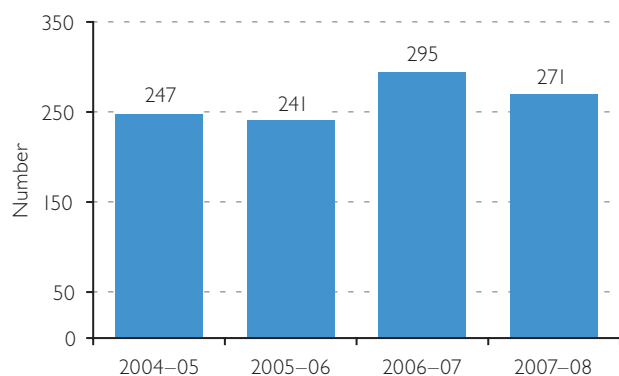
If the court is satisfied on the balance of probabilities that the drug was not possessed for any purpose related to trafficking, the maximum penalty is 30 penalty units,⁵ 1 year's imprisonment or both.⁶ In any other case, the maximum penalty is 400 penalty units, 5 years' imprisonment or both,⁷ however, where the offence is heard summarily, the most that the Magistrates' Court can impose for an individual charge is 2 years' imprisonment and/or a fine of 240 penalty units.⁸

Possessing amphetamines was the principal offence in 0.4% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

People sentenced

Over the four-year period, the Magistrates' Court sentenced 1,054 people for the principal offence of possessing amphetamines. In 2007–08, there were 271 people who were sentenced for the principal proven offence of possessing amphetamines.⁹ This is an 8.1% decrease from 295 in 2006–07, reversing an increase from the previous year.

Figure 1: The number of people sentenced for possessing amphetamines, 2004–05 to 2007–08



Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for possessing amphetamines during 2004–05 to 2007–08. Over the four-year period, the majority of those sentenced for possessing amphetamines received a non-custodial sentence (954 people or 90.5%), including 637 people who received a fine (60.4%) and 224 people who received an adjourned undertaking (21.3%).

There were also 58 people who received a non-immediate custodial sentence (5.5%), including 49 people who received a wholly suspended sentence (4.6%).

An additional 173 people participated in the criminal justice diversion program. These people are not counted towards the total number of people sentenced and are not included in any further analyses in this paper (unless stated).¹⁰

Table 1: The number and percentage of people sentenced for possessing amphetamines by sentence type, 2004–05 to 2007–08

Sentence Type	Total	%
Immediate custodial	42	4.0
Imprisonment	39	3.7
Partially suspended sentence	3	0.3
Other custodial	58	5.5
Drug treatment order	2	0.2
Wholly suspended sentence	49	4.6
Intensive correction order	7	0.7
Non-custodial	954	90.5
Community-based order	88	8.3
Fine	637	60.4
Adjourned undertaking	224	21.3
Convicted and discharged (s 73 SA)	3	0.3
Dismissed (s 76 SA)	2	0.2
People sentenced	1,054	100.0
Criminal justice diversion program	173	
Total dispositions	1,227	

Record of conviction

While recording a conviction is mandatory for people sentenced to a custodial order, a magistrate may use discretion when deciding whether to record a conviction for people who receive a non-custodial order.¹¹ In 2006–07 and 2007–08,¹² a conviction was recorded for 75.8% of the 331 people who received a fine, 72.1% of the 43 people who received a community-based order and 10.4% of the 134 people who received an adjourned undertaking. Overall, 62.2% of people sentenced had a conviction recorded in 2006–07 and 2007–08.

Age and gender

Over the four-year period, the majority of those sentenced were men (921 people or 87.4%).¹³ The age of people sentenced for possessing amphetamines ranged from 18 years to 62 years, while the median age was 31 years (meaning that half of the people were aged 31 years or younger and half were 31 years or older). The median age for both males and females was the same.

Sentencing outcomes by gender and age group

Table 2 shows the number and percentage of people who were sentenced for possessing amphetamines by sentence type. The first two columns show sentence types by gender, while the next four columns show the sentence types by age group.

A higher percentage of men received immediate custodial sentences (4.1% of men compared to 3.0% of women). Conversely, a slightly higher percentage of women received non-custodial sentences (91.7% of women compared to 90.3% of men).

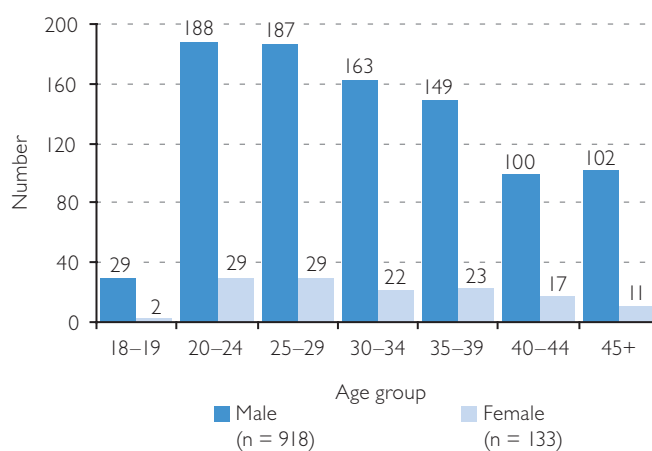
Table 2: The number and percentage of people sentenced for possessing amphetamines by sentence type, gender and age group, 2004–05 to 2007–08

Sentencing outcome	Gender		Age group				All People
	Male	Female	<18	18–24	25–39	40+	
Immediate custodial	38	4	0	4	30	8	42
	(4.1%)	(3.0%)	–	(1.6%)	(5.2%)	(3.5%)	(4.0%)
Imprisonment	35	4	0	4	29	6	39
	(3.8%)	(3.0%)	–	(1.6%)	(5.1%)	(2.6%)	(3.7%)
Partially suspended sentence	3	0	0	0	1	2	3
	(0.3%)	–	–	–	(0.2%)	(0.9%)	(0.3%)
Other custodial	51	7	0	3	34	21	58
	(5.5%)	(5.3%)	–	(1.2%)	(5.9%)	(9.1%)	(5.5%)
Drug treatment order	1	1	0	0	1	1	2
	(0.1%)	(0.8%)	–	–	(0.2%)	(0.4%)	(0.2%)
Wholly suspended sentence	43	6	0	1	28	20	49
	(4.7%)	(4.5%)	–	(0.4%)	(4.9%)	(8.7%)	(4.6%)
Intensive correction order	7	0	0	2	5	0	7
	(0.8%)	–	–	(0.8%)	(0.9%)	–	(0.7%)
Non-custodial	832	122	0	241	509	201	954
	(90.3%)	(91.7%)	–	(97.2%)	(88.8%)	(87.4%)	(90.5%)
Community-based order	72	16	0	31	49	7	88
	(7.8%)	(12.0%)	–	(12.5%)	(8.6%)	(3.0%)	(8.3%)
Fine	580	57	0	119	356	160	637
	(63.0%)	(42.9%)	–	(48.0%)	(62.1%)	(69.6%)	(60.4%)
Adjourned undertaking	175	49	0	91	100	33	224
	(19.0%)	(36.8%)	–	(36.7%)	(17.5%)	(14.3%)	(21.3%)
Convicted and discharged (s 73 SA)	3	0	0	0	3	0	3
	(0.3%)	–	–	–	(0.5%)	–	(0.3%)
Dismissed (s 76 SA)	2	0	0	0	1	1	2
	(0.2%)	–	–	–	(0.2%)	(0.4%)	(0.2%)
People sentenced	921	133	0	248	573	230	1,054
	(100.0%)	(100.0%)	–	(100.0%)	(100.0%)	(100.0%)	(100.0%)

When examining individual sentence types, a higher percentage of men received fines (63.0% compared to 42.9% of women). Conversely, a higher percentage of women received adjourned undertakings (36.8% compared to 19.0% of men) and community-based orders (12.0% compared to 7.8%).

A higher percentage of older people received a non-immediate custodial sentence, including a wholly suspended sentence. Conversely, a higher percentage of younger people received a non-custodial sentence, including a community-based order and an adjourned undertaking.

Figure 2: The number of people sentenced for possessing amphetamines by gender and age, 2004–05 to 2007–08



Sentencing outcomes by year

Table 3 shows the number and percentage of people sentenced each year from 2004–05 to 2007–08 for possessing amphetamines by the type of sentence imposed.

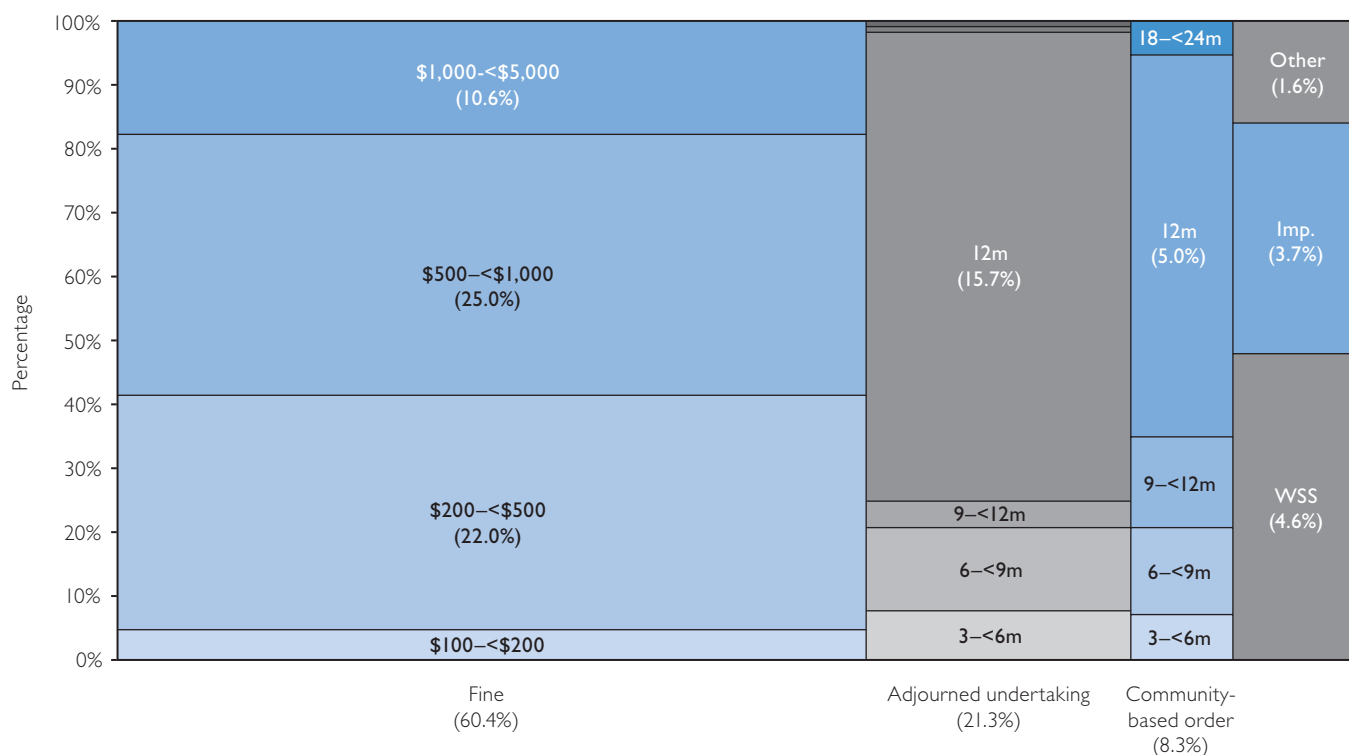
The number and percentage of people who received an immediate custodial sentence increased from 11 people and 4.5% in 2004–05 to 14 people and 5.2% in 2007–08.

The number and percentage of people who received a non-immediate custodial sentence decreased from 16 people and 6.5% in 2004–05 to 12 people and 4.4% in 2007–08. The number and percentage of people who received a non-custodial sentence increased from 220 people and 89.1% in 2004–05 to 245 people and 90.4% in 2007–08.

Sentencing Map

Figure 3 presents both the sentencing outcomes and the quanta for those outcomes for people sentenced for possessing amphetamines. For example, 60.4% of people sentenced received a fine, including 25.0% who received a fine of \$500 to less than \$1,000. The right most column of the graph presents the least common sentencing outcomes without showing the quantum information.

Figure 3: Sentencing Map: The percentage of people sentenced for possessing amphetamines by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08¹⁵



Note: WSS refers to wholly suspended sentence and Imp. refers to imprisonment. Other includes intensive correction order; partially suspended sentence, convicted and discharged (s 73 SA), drug treatment order and dismissed (s 76 SA).

Table 3: The number and percentage of people sentenced for possessing amphetamines by sentence type and year, 2004–05 to 2007–08¹⁴

Sentence Type	2004–05	2005–06	2006–07	2007–08
Immediate custodial	11 (4.5%)	8 (3.3%)	9 (3.1%)	14 (5.2%)
Imprisonment	10 (4.0%)	7 (2.9%)	8 (2.7%)	14 (5.2%)
Partially suspended sentence	1 (0.4%)	1 (0.4%)	1 (0.3%)	0 –
Other custodial	16 (6.5%)	12 (5.0%)	18 (6.1%)	12 (4.4%)
Drug treatment order	0 –	0 –	1 (0.3%)	1 (0.4%)
Wholly suspended sentence	15 (6.1%)	12 (5.0%)	13 (4.4%)	9 (3.3%)
Intensive correction order	1 (0.4%)	0 –	4 (1.4%)	2 (0.7%)
Non-custodial	220 (89.1%)	221 (91.7%)	268 (90.8%)	245 (90.4%)
Community-based order	20 (8.1%)	25 (10.4%)	27 (9.2%)	16 (5.9%)
Fine	160 (64.8%)	146 (60.6%)	176 (59.7%)	155 (57.2%)
Adjourned undertaking	40 (16.2%)	50 (20.7%)	60 (20.3%)	74 (27.3%)
Convicted and discharged (s 73 SA)	0 –	0 –	3 (1.0%)	0 –
Dismissed (s 76 SA)	–	–	2 (0.7%)	0 –
People sentenced	247	241	295	271

Principal sentence

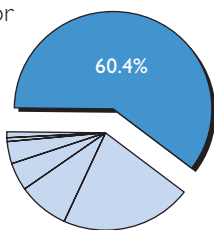
This section examines the use of the three most common principal sentencing outcomes for this offence.¹⁶ Firstly, it provides an analysis of the trends in the use of each sentencing outcome, both in terms of the number and percentage of people sentenced. Secondly, a demographic analysis of the people sentenced to each sentencing outcome is provided.¹⁷ Finally, where relevant, the details of the sentence (length of order or fine) are examined.¹⁸

The three most common sentences imposed for possessing amphetamines are fine, adjourned undertaking, and community-based order.

Fine

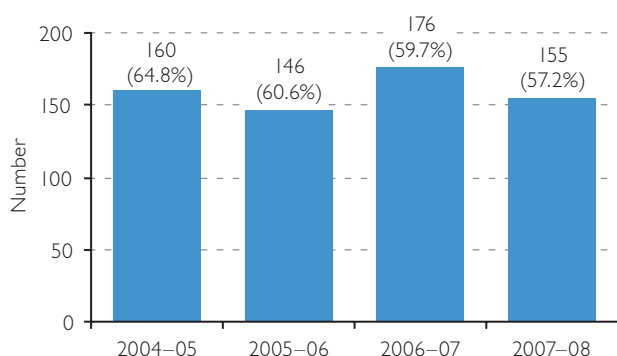
Trends

There were 637 people who received a fine for possessing amphetamines. This represented 60.4% of all people sentenced for this offence. Of the 331 people who received a fine in 2006–07 and 2007–08, 75.8% also had a conviction recorded (251 people). Figure 4 shows the trends in the number and percentage of people who received a fine for possessing amphetamines.



In 2007–08, 155 people received a fine for the principal proven offence of possessing amphetamines. This has decreased over the past year from 176 people in 2006–07, after increasing the previous year. Also, the proportion of people who received a fine for possessing amphetamines decreased each of the past three years from 64.8% in 2004–05 to 57.2% in 2007–08.

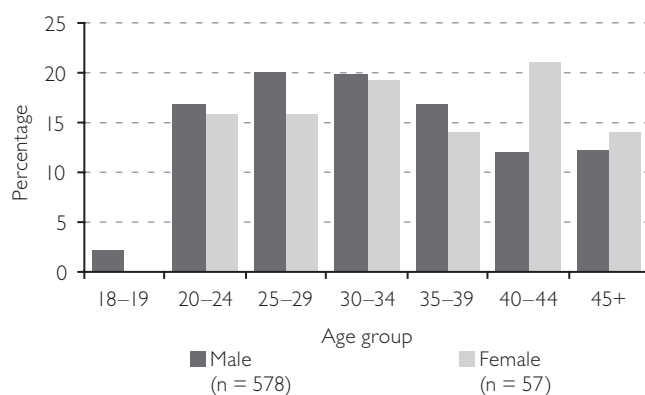
Figure 4: The number and percentage of people who received a fine for possessing amphetamines, 2004–05 to 2007–08



Age and gender

Of the 637 people who received a fine, 91.1% were men. Figure 5 shows the age groups of people who received a fine for possessing amphetamines by gender. The median age of these people was 32 years, while women were generally older than their male counterparts (a median age of 34 years compared to 32 years).

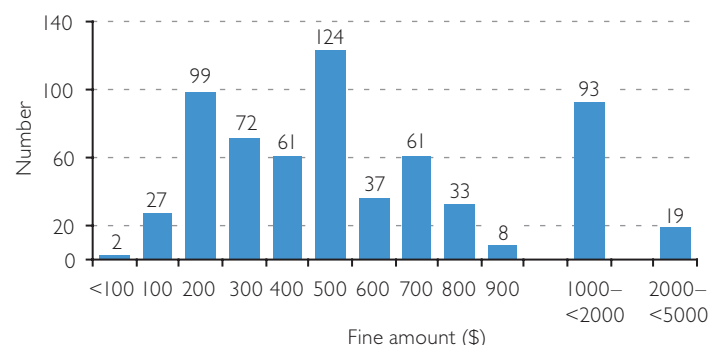
Figure 5: The percentage of people who received a fine for possessing amphetamines by age and gender, 2004–05 to 2007–08



Fine Amount

Figure 6 shows the number of people who received a fine for possessing amphetamines by the amount of the fine. While the amount of the fine ranged from \$50 to \$4,000, the median was \$500. Aggregate fines were imposed for 61.9% of people who received a fine.¹⁹

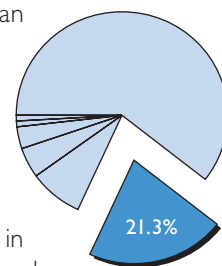
Figure 6: The number of people who received a fine for possessing amphetamines by the amount of the fine, 2004–05 to 2007–08



Adjourned undertaking

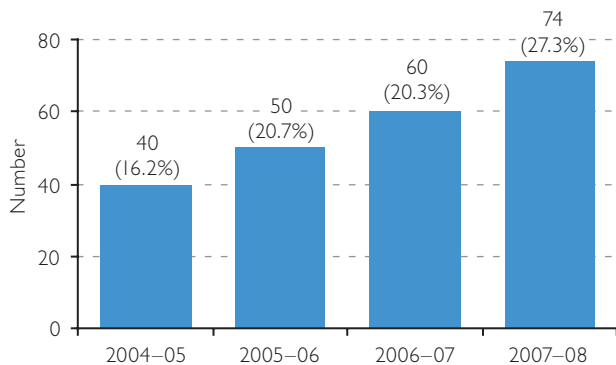
Trends

There were 224 people who received an adjourned undertaking for possessing amphetamines. This represented 21.3% of all people sentenced for this offence. Of the 134 people who received an adjourned undertaking in 2006–07 and 2007–08, 10.4% also had a conviction recorded (14 people). Figure 7 shows the trends in the number and percentage of people who received an adjourned undertaking for possessing amphetamines.



In 2007–08, 74 people received an adjourned undertaking for the principal proven offence of possessing amphetamines. This has increased each of the past three years from 40 people in 2004–05. Also, the proportion of people who received an adjourned undertaking for possessing amphetamines increased from 16.2% in 2004–05 to 27.3% in 2007–08.

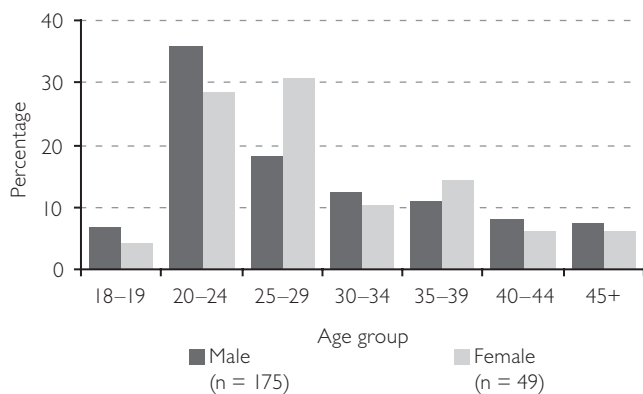
Figure 7: The number and percentage of people who received an adjourned undertaking for possessing amphetamines, 2004–05 to 2007–08



Age and gender

Of the 224 people who received an adjourned undertaking, 78.1% were men. Figure 8 shows the age groups of people who received an adjourned undertaking for possessing amphetamines by gender. The median age of these people was 27 years. This was similar for both men and women (27 years for women and 26 years for men).

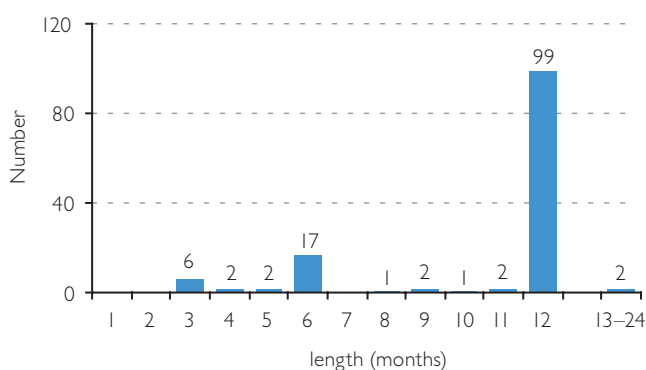
Figure 8: The percentage of people who received an adjourned undertaking for possessing amphetamines by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 9 shows the number of people who received an adjourned undertaking for possessing amphetamines by the length of the sentence. While the length of adjourned undertakings ranged from three months to two years, the majority were for 12 months (73.9%).

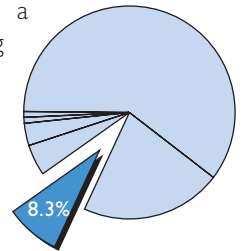
Figure 9: The number of people who received an adjourned undertaking for possessing amphetamines by the length of order, 2006–07 and 2007–08



Community-based order

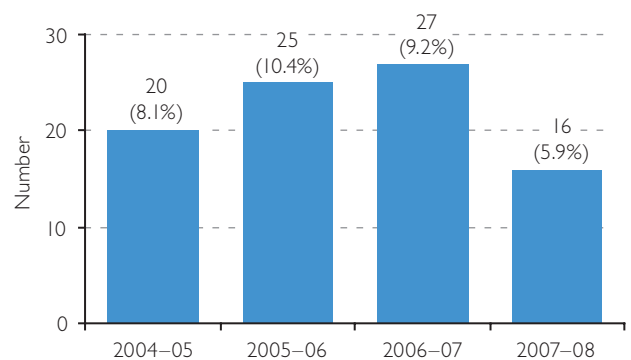
Trends

There were 88 people who received a community-based order for possessing amphetamines. This represented 8.3% of all people sentenced for this offence. Of the 43 people who received a community-based order in 2006–07 and 2007–08, 72.1% also had a conviction recorded (31 people). Figure 10 shows the trends in the number and percentage of people who received a community-based order for possessing amphetamines.



In 2007–08, 16 people received a community-based order for the principal proven offence of possessing amphetamines. This has decreased over the past year from 27 people in 2006–07, after increasing substantially the previous two years. Also, the proportion of people who received a community-based order for possessing amphetamines decreased each of the past two years from 10.4% in 2005–06 to 5.9% in 2007–08.

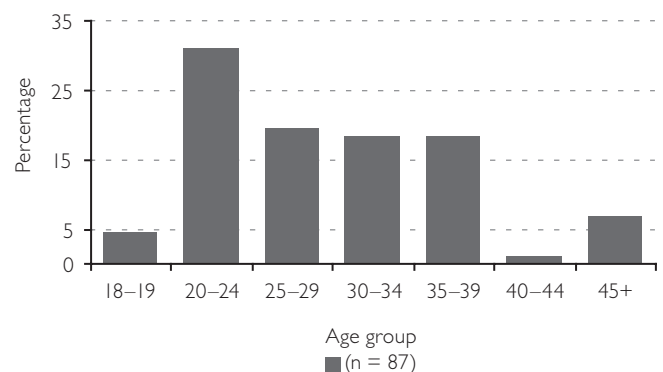
Figure 10: The number and percentage of people who received a community-based order for possessing amphetamines, 2004–05 to 2007–08



Age and gender

Of the 88 people who received a community-based order, 81.8% were men. Figure 11 shows the age groups of people who received a community-based order for possessing amphetamines. The median age of these people was 29 years.

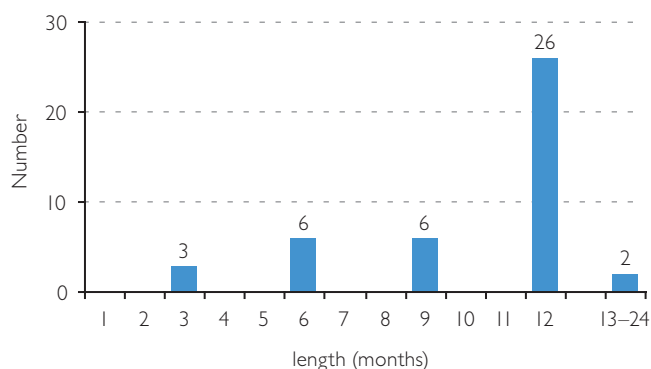
Figure 11: The percentage of people who received a community-based order for possessing amphetamines by age, 2004–05 to 2007–08



Length of sentence

Figure 12 shows the number of people who received a community-based order for possessing amphetamines by the length of the sentence. While the length of community-based orders ranged from three months to one year and six months, the majority were for 12 months (60.5%).

Figure 12: The number of people who received a community-based order for possessing amphetamines by the length of order, 2006–07 and 2007–08

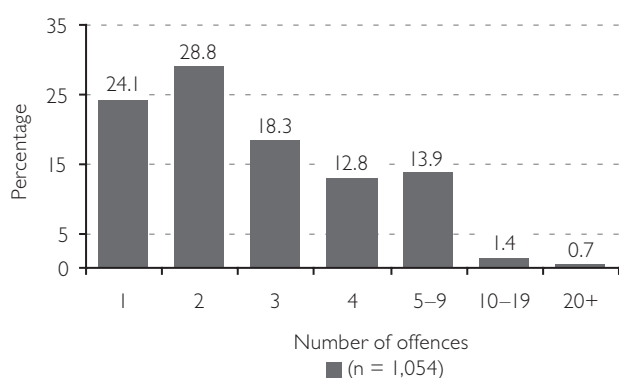


Other offences finalised at the same hearing

Often people prosecuted for possessing amphetamines face multiple charges, which are finalised at the same hearing. This section looks at the range of offences for which offenders have been sentenced at the same time as being sentenced for the principal offence of possessing amphetamines.

Figure 13 shows the percentage of people sentenced for the principal offence of possessing amphetamines by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 40, while the median was 2 offences. There were 254 people (24.1%) sentenced for the single offence of possessing amphetamines alone. A slightly higher percentage of men were sentenced for a single offence only (24.5% compared to 21.1% of women). The average number of offences per person sentenced for possessing amphetamines was 3.11.

Figure 13: The percentage of cases where possessing amphetamines was the principal offence by the number of offences where a sentence was imposed in that case, 2004–05 to 2007–08



While Figure 13 presents the number of sentenced offences for those sentenced for possessing amphetamines, Table 4 shows what the accompanying offences were. It shows the number and percentage of people sentenced for the ten most common offences. The last column sets out the average number of offences sentenced per person. For example, 514 of the total 1,054 people (48.8%) also received sentences for using a drug of dependence. On average, they were sentenced for 1.28 charges of using a drug of dependence. The first row indicates that the average number of charges of possessing amphetamines sentenced per person was 1.46.

Table 4: The number and percentage of people sentenced for the principal offence of possessing amphetamines by the most common offences that were sentenced and the average number of those offences that were sentenced, 2004–05 to 2007–08

Offence	No.	%	Avg.
1 possessing a drug of dependence	1,054	100.0	1.46
2 using a drug of dependence	514	48.8	1.28
3 fail to make and carry record in vehicle	76	7.2	1.80
4 use an unregistered vehicle	50	4.7	1.10
5 drive while disqualified	39	3.7	1.77
6 unlicensed driving	34	3.2	1.18
7 theft	33	3.1	1.70
8 failing to appear on bail	29	2.8	1.62
9 drive at speed over the speed limit	27	2.6	1.19
10 drive heavy truck for more than 12 hours	24	2.3	1.29
People sentenced	1,054	100.0	3.11

Table 5 is an elaboration of Table 4. It shows the five most common drug types involved in possessing a drug of dependence for which people were sentenced in conjunction with possessing amphetamines. As shown, the average number of possessing a drug of dependence offences sentenced per person was 1.46, including 1.08 offences of possessing amphetamines. The most common other drug involved in possessing a drug of dependence sentenced was cannabis (230 people or 21.8% of those who were sentenced for possessing amphetamines). On average, these people were sentenced for 1.08 counts of this offence.

Table 5: The number and percentage of people sentenced for the principal offence of possessing amphetamines by the five most common types of drugs involved in possessing a drug of dependence offences that were sentenced and the average number of those offences that were sentenced, 2004–05 to 2007–08

Offence description	No.	%	Avg.
possessing amphetamines	1,054	100.0	1.08
possessing cannabis	230	21.8	1.08
possessing a drug of dependence – other	66	6.3	1.20
possessing ecstasy	65	6.2	1.03
possessing heroin	8	0.8	1.00
People sentenced	1,054	100.0	1.46

Table 6 also provides more detail from Table 4. It shows the five most common drug types involved in using a drug of dependence offences for which people were sentenced in conjunction with possessing amphetamines. As shown, there were 214 people sentenced for using a drug of dependence. On average, these people were sentenced for 1.05 charges of such offences. The most common drug involved in using a drug of dependence sentenced was amphetamines (463 people or 90.1% of those who were sentenced for using a drug of dependence offence). On average, these people were sentenced for 1.05 counts of this offence.

Table 6: The number and percentage of people sentenced for the principal offence of possessing amphetamines by the five most common types of drugs involved in the offences of using drugs of dependence that were sentenced and the average number of those offences that were sentenced, 2004–05 to 2007–08

Offence description	No.	%	Avg.
using amphetamines	463	90.1	1.05
using cannabis	122	23.7	1.02
using a drug of dependence – other	18	3.5	1.00
using ecstasy	16	3.1	1.06
using heroin	10	1.9	1.20
People sentenced	514	100.0	1.28

Sentence combinations

This section looks at the range of sentence types imposed in the entire case for people who had the principal offence of possessing amphetamines. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.²⁰

Table 7 shows the percentages of the five most common sentence types imposed in cases in the Magistrates' Court from 2004–05 to 2007–08 where the principal proven offence was possessing amphetamines, by the other sentence types also imposed in the case. For example, of the 700 people who received a fine as part of their total effective sentence, 3.9% also received a wholly suspended sentence.

Common sentence types imposed in conjunction with another sentence type include:

- a fine with a wholly suspended sentence (52.9% of the 51 people who received a wholly suspended sentence);
- a fine with an imprisonment term (43.6% of the 39 people); and
- a fine with a community-based order (17.8% of the 90 people).

Table 7: The percentage of selected sentence types used in conjunction with other sentence types imposed in the same case, 2004–05 to 2007–08

	Fine	ADU	CBO	WSS	Imp.
Fine	100%	8.4%	17.8%	52.9%	43.6%
ADU	3.0%	100%	5.6%	2.0%	5.1%
CBO	2.3%	2.0%	100%	0.0%	2.6%
WSS	3.9%	0.4%	0.0%	100%	5.1%
Imp.	2.4%	0.8%	1.1%	3.9%	100%
Total	700	249	90	51	39

Note: ADU refers to adjourned undertaking, CBO refers to community-based order; WSS refers to wholly suspended sentence and Imp. refers to imprisonment.

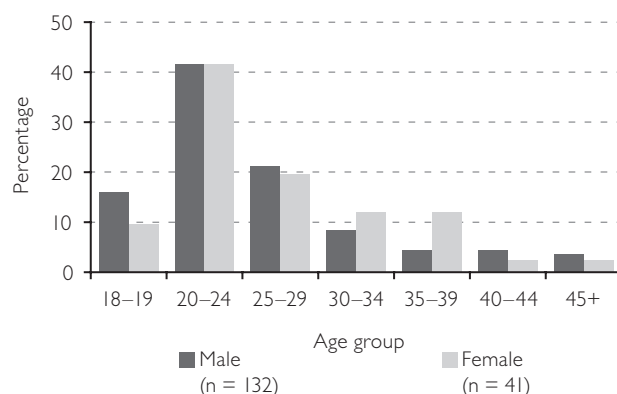
Criminal justice diversion plan²¹

Although the criminal justice diversion plan is not a sentencing outcome, it is a dispositional process that does help to reflect the work of the courts. Over the four-year period, there were 173 people who were given a criminal justice diversion plan.

Age and gender

Of the 173 people who were referred to the criminal justice diversion program, 76.3% were men. Figure 14 shows the age groups of people who were referred to the criminal justice diversion program for possessing amphetamines by gender. The median age of these people was 23 years. This was similar for both men and women (24 years for women and 23 years for men).

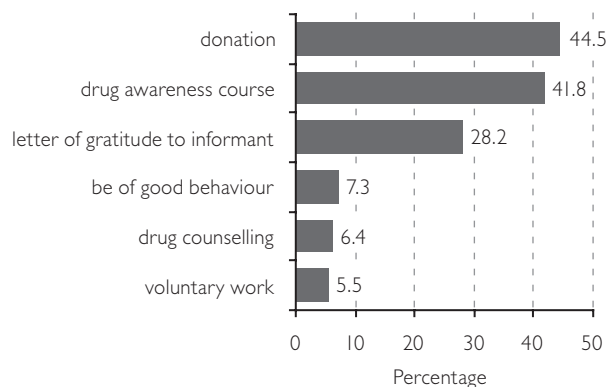
Figure 14: The percentage of people who were referred to the criminal justice diversion program for possessing amphetamines by age and gender, 2004–05 to 2007–08



Conditions

Figure 15 shows the percentage of people who received a criminal justice diversion plan for possessing amphetamines by the types of conditions set. People can be given more than one condition on a diversion plan. As shown, the most common condition listed for diversion plans was a donation (44.5% of people).

Figure 15: The percentage of conditions set for people who received a criminal justice diversion plan for possessing amphetamines, 2004–05 to 2007–08



Summary

The Magistrates' Court sentenced 1,054 people for the principal offence of possessing amphetamines between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (921 people or 87.4%), while 59% were aged between 20 and 35 years.

Most people sentenced for possessing amphetamines received a non-custodial sentence (954 people or 90.5%), including 637 people who received a fine (60.4%) and 224 people who received an adjourned undertaking (21.3%). A conviction was recorded with the principal sentence for 62.2% of people sentenced.

Men were more likely to receive fines. Conversely, women were more likely to receive adjourned undertakings and community-based orders.

Each of the 1,054 people was sentenced for an average of 3.11 offences, including 1.46 offences of possessing amphetamines. The most common offence finalised in conjunction with possessing amphetamines was using a drug of dependence (48.8% of all cases).

¹ The data analysed in this report are obtained from quarterly unit record extracts provided to the Sentencing Advisory Council by Courtlink (Department of Justice (Vic)). While every effort is made to ensure the analyses presented in this report are accurate, the data are subject to revision.

This report presents sentencing outcomes for people sentenced for the principal offence of possessing amphetamines in the Magistrates' Court of Victoria. The principal proven offence is the offence that attracted the most serious sentence according to the sentencing hierarchy. The analysis will therefore exclude people sentenced for possessing amphetamines who received a more serious sentence for another offence on the same charge sheet.

² Possessing amphetamines offences are identified by using the charge descriptions of 'possess methylamphetamine' and 'possess amphetamine' for offences listed under the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 73(1).

³ The data used for analysis in this report contain information on age and gender characteristics. Indigenous status was unknown for 54.6% of people sentenced over this period. Therefore no analyses are presented on Indigenous status.

⁴ *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 73(1).

⁵ The value of a penalty unit changes each year and can be found in the Victorian Government Gazette and on the Office of the Chief Parliamentary Counsel website <www.ocpc.vic.gov.au>.

⁶ *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 73(1)(b).

⁷ *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 73(1)(c).

⁸ Under section 113 of the *Sentencing Act 1991* (Vic) this general maximum term is prescribed for indictable offences triable summarily. Though section 113 does not specifically state the maximum number of penalty units that can be imposed for an indictable offence triable summarily, section 109(3)(a) sets the proportion between the maximum term of imprisonment and the maximum fine.

⁹ The number of people sentenced excludes those who participated in the criminal justice diversion program.

Only the people who had charges that were dismissed in 2006–07 and 2007–08 could be counted as dismissed in this report. These people are identified by having the dismissal grounds listed as 'proved and dismissed' (*Children, Youth and Families Act 2005* (Vic) s 360(1)(a)) or 'dismissed' (*Sentencing Act 1991* (Vic) s 76). The charges that were dismissed in 2004–05 and 2005–06 could not be counted because of changes in data recording practices. Therefore the count of the number of people sentenced over the four-year period could be an under-representation. In 2007–08, 2 people had charges that were dismissed pursuant to this legislation. This made up 0.7% of people sentenced in that year.

¹⁰ The criminal justice diversion program provides offenders with the opportunity to be diverted from the normal criminal process. If an offender acknowledges responsibility for the offence(s) and undertakes prescribed conditions, the offender will avoid the risk of a finding of guilt being made against them.

The program can only be recommended if the offence is triable summarily, the defendant admits the facts, there is sufficient evidence to gain a conviction and a diversion is appropriate in the circumstances. The over-riding consideration is that diversion be appropriate in the circumstances. The existence of prior convictions does not disqualify an offender from this program but is a fact to be considered in determining appropriateness. Either the defence or the prosecution may request a disposition of a criminal justice diversion plan, however the plan cannot commence without the consent of the prosecution.

¹¹ *Sentencing Act 1991* (Vic) s 7, 8.

In exercising this discretion, the court must have regard to all the circumstances of the case, including the nature of the offence, the character and past history of the offender and the impact of the recording of a conviction on the offender's economic or social well being or on his or her employment prospects (*Sentencing Act 1991* (Vic) s 8(1)).

¹² Only those who had a conviction recorded against the principal proven offence in the case are counted. Information on conviction is not available for sentences imposed in 2004–05 and 2005–06.

¹³ The age was unknown for 3 men sentenced for possessing amphetamines (0.3%). These people are excluded from all age analyses in this report.

¹⁴ Refer fn. 9.

¹⁵ Aggregate sentence lengths are shown for people who received an aggregate sentence. Data for sentence lengths of community-based orders and adjourned undertakings are only available for 2006–07 and 2007–08.

¹⁶ The principal sentence is the individual sentence imposed for a single charge. The principal sentence is the most serious sentence in the case. If more than one type of sentence is imposed for a single charge, only the most serious sentence is counted.

¹⁷ Where there are sufficient numbers of both males and females sentenced for each sentencing outcome, the age groups are shown by gender. Otherwise the age groups are shown independent of gender. Also, the age was unknown for 3 people sentenced for possessing amphetamines. These people are excluded from these analyses.

¹⁸ Fine amounts lower than \$1,000 are rounded up to the nearest \$100, while fine amounts equal to or over \$1,000 are grouped into categories. Sentence lengths shorter than one year are rounded up to the nearest month, while sentence lengths equal to or over one year are grouped into categories of years. Data for sentence lengths of community-based orders and adjourned undertakings are only available for 2006–07 and 2007–08.

¹⁹ The amount of non-aggregate fines ranged from \$50 to \$2,000, with a median of \$400, while the amount of aggregate fines ranged from \$100 to \$4,000, with a median of \$600.

²⁰ Only sentence types that were imposed on the same date as the sentence imposed for the principal proven offence are included.

²¹ The data analysed in this section were compiled by merging the sentencing outcomes database with an extract from the criminal justice diversion plan database. Of the 173 people who were placed on the diversion program for this offence, 110 were matched to and had conditions listed in the criminal justice diversion plan database (63.6%).

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