

Sentencing Snapshot

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

February 2009
No. 65

Possessing cannabis

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of possessing cannabis² 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 cannabis (or tetrahydrocannabinol) 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 quantity of cannabis is small (as defined under section 70(1) of the *Drugs, Poisons and Controlled Substances Act 1981* (Vic)) and that the offence was not committed for any purpose related to trafficking, the maximum penalty is 5 penalty units.⁵

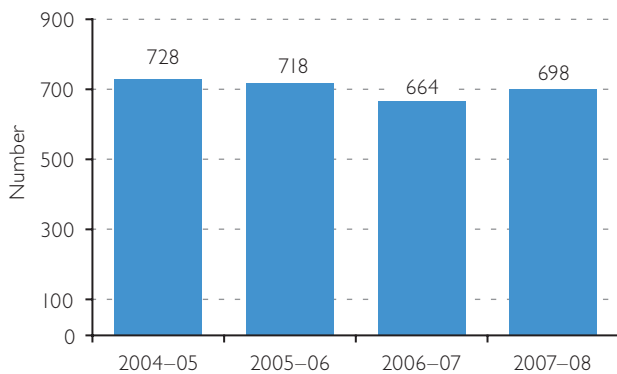
Alternatively, if the amount of cannabis concerned is more than a small quantity but the court is nevertheless satisfied that the offence was not committed for any purpose related to trafficking, the maximum penalty is 30 penalty units, 1 year's imprisonment or both.⁶ In any other case, the maximum penalty 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.

Possessing cannabis was the principal offence in 1.0% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

People sentenced

Over the four-year period, the Magistrates' Court sentenced 2,808 people for the principal offence of possessing cannabis. In 2007–08, there were 698 people who were sentenced for the principal proven offence of possessing cannabis.⁸ This is a 5.1% increase from 664 in 2006–07, reversing a decrease from the previous two years.

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



Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for possessing cannabis during 2004–05 to 2007–08. Over the four-year period, the majority of those sentenced for possessing

cannabis received a non-custodial sentence (2,757 people or 98.2%), including 1,797 people who received a fine (64.0%) and 751 people who received an adjourned undertaking (26.7%).

An additional 274 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).⁹

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

Sentence Type	Total	%
Immediate custodial	23	0.8
Imprisonment	21	0.7
Partially suspended sentence	1	0.0
Youth justice centre order	1	0.0
Other custodial	28	1.0
Drug treatment order	1	0.0
Wholly suspended sentence	19	0.7
Intensive correction order	8	0.3
Non-custodial	2,757	98.2
Community-based order	155	5.5
Fine	1,797	64.0
Adjourned undertaking	751	26.7
Convicted and discharged (s 73 SA)	37	1.3
Dismissed (s 76 SA)	17	0.6
People sentenced	2,808	100.0
Criminal justice diversion program	274	
Total dispositions	3,082	

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.¹⁰ In 2006–07 and 2007–08,¹¹ a conviction was recorded for 90.0% of the 70 people who received a community-based order; 81.3% of the 866 people who received a fine and 11.6% of the 363 people who received an adjourned undertaking. Overall, 62.8% 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 (2,303 people or 82.0%).¹² The age of people sentenced for possessing cannabis ranged from 17 years to 79 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). Women sentenced were older than men (a median age of 34 years compared to 30 years and six months).

Sentencing outcomes by gender and age group

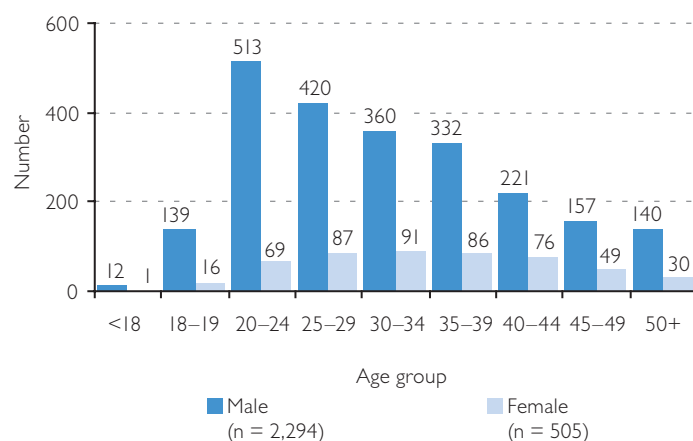
Table 2 shows the number and percentage of people who were sentenced for possessing cannabis by sentence type. The first two columns show sentence types by gender, while the next four columns show the sentence types by age group.

Table 2: The number and percentage of people sentenced for possessing cannabis 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	22	1	1	3	12	7	23
	(1.0%)	(0.2%)	(7.7%)	(0.4%)	(0.9%)	(1.0%)	(0.8%)
Imprisonment	20	1	0	3	11	7	21
	(0.9%)	(0.2%)	–	(0.4%)	(0.8%)	(1.0%)	(0.7%)
Partially suspended sentence	1	0	0	0	1	0	1
	(<0.1%)	–	–	–	(<0.1%)	–	(<0.1%)
Youth justice centre order	1	0	1	0	0	0	1
	(<0.1%)	–	(7.7%)	–	–	–	(<0.1%)
Other custodial	24	4	0	1	17	10	28
	(1.0%)	(0.8%)	–	(0.1%)	(1.2%)	(1.5%)	(1.0%)
Drug treatment order	0	1	0	0	0	1	1
	–	(0.2%)	–	–	–	(0.1%)	(<0.1%)
Wholly suspended sentence	17	2	0	0	12	7	19
	(0.7%)	(0.4%)	–	–	(0.9%)	(1.0%)	(0.7%)
Intensive correction order	7	1	0	1	5	2	8
	(0.3%)	(0.2%)	–	(0.1%)	(0.4%)	(0.3%)	(0.3%)
Non-custodial	2,257	500	12	733	1,347	656	2,757
	(98.0%)	(99.0%)	(92.3%)	(99.5%)	(97.9%)	(97.5%)	(98.2%)
Community-based order	117	38	2	36	95	21	155
	(5.1%)	(7.5%)	(15.4%)	(4.9%)	(6.9%)	(3.1%)	(5.5%)
Fine	1,521	276	3	386	911	491	1,797
	(66.0%)	(54.7%)	(23.1%)	(52.4%)	(66.2%)	(73.0%)	(64.0%)
Adjourned undertaking	577	174	7	298	312	133	751
	(25.1%)	(34.5%)	(53.8%)	(40.4%)	(22.7%)	(19.8%)	(26.7%)
Convicted and discharged (s 73 SA)	31	6	0	7	21	9	37
	(1.3%)	(1.2%)	–	(0.9%)	(1.5%)	(1.3%)	(1.3%)
Dismissed (s 76 SA)	11	6	0	6	8	2	17
	(0.5%)	(1.2%)	–	(0.8%)	(0.6%)	(0.3%)	(0.6%)
People sentenced	2,303	505	13	737	1,376	673	2,808
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

When examining individual sentence types, a higher percentage of men received fines (66.0% compared to 54.7% of women). Conversely, a higher percentage of women received adjourned undertakings (34.5% compared to 25.1% of men).

Figure 2: The number of people sentenced for possessing cannabis 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 cannabis by the type of sentence imposed.

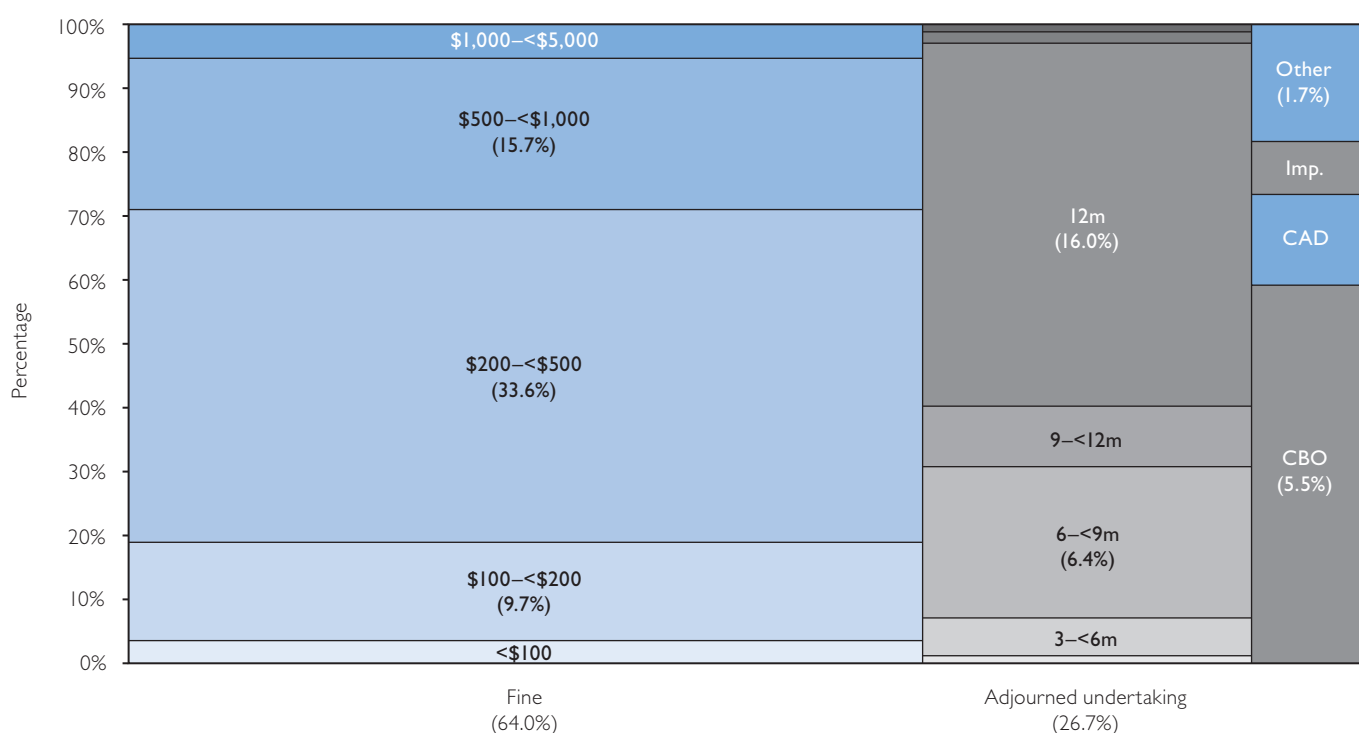
The number and percentage of people who received an immediate custodial sentence increased from 4 people and 0.5% in 2004–05 to 8 people and 1.1% in 2007–08.

The number and percentage of people who received a non-immediate custodial sentence remained stable. The number and percentage of people who received a non-custodial sentence decreased from 718 people and 98.6% in 2004–05 to 684 people and 98.0% in 2007–08.

Sentencing Map

Figure 3 presents both the sentencing outcomes and the quanta for those outcomes for people sentenced for possessing cannabis. For example, 64.0% of people sentenced received a fine including 33.6% who received a fine of \$200 to less than \$500. 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 cannabis by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08¹⁴



Note: CBO refers to community-based order; CAD refers to convicted and discharged (s 73 SA) and Imp. refers to imprisonment. Other includes wholly suspended sentence, dismissed (s 76 SA), intensive correction order, partially suspended sentence, drug treatment order and youth justice centre order.

Table 3: The number and percentage of people sentenced for possessing cannabis by sentence type and year, 2004–05 to 2007–08¹³

Sentence Type	2004–05	2005–06	2006–07	2007–08
Immediate custodial	4 (0.5%)	7 (1.0%)	4 (0.6%)	8 (1.1%)
Imprisonment	3 (0.4%)	7 (1.0%)	4 (0.6%)	7 (1.0%)
Partially suspended sentence	0 –	0 –	0 –	1 (0.1%)
Youth justice centre order	1 (0.1%)	0 –	0 –	0 –
Other custodial	6 (0.8%)	7 (1.0%)	9 (1.4%)	6 (0.9%)
Drug treatment order	1 (0.1%)	0 –	0 –	0 –
Wholly suspended sentence	3 (0.4%)	5 (0.7%)	7 (1.1%)	4 (0.6%)
Intensive correction order	2 (0.3%)	2 (0.3%)	2 (0.3%)	2 (0.3%)
Non-custodial	718 (98.6%)	704 (98.1%)	651 (98.0%)	684 (98.0%)
Community-based order	37 (5.1%)	48 (6.7%)	37 (5.6%)	33 (4.7%)
Fine	477 (65.5%)	454 (63.2%)	427 (64.3%)	439 (62.9%)
Adjuncted undertaking	196 (26.9%)	192 (26.7%)	171 (25.8%)	192 (27.5%)
Convicted and discharged (s 73 SA)	8 (1.1%)	10 (1.4%)	10 (1.5%)	9 (1.3%)
Dismissed (s 76 SA)			6 (0.9%)	11 (1.6%)
People sentenced	728	718	664	698

Principal sentence

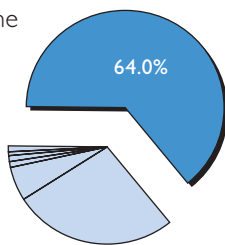
This section examines the use of the three most common principal sentencing outcomes for this offence.¹⁵ Firstly, it provides an analysis of the trends in the use of each sentencing outcome, both in terms of the number and percentage of people sentenced. Secondly, a demographic analysis of the people sentenced to each sentencing outcome is provided.¹⁶ Finally, where relevant, the details of the sentence (length of order or fine amount) are examined.¹⁷

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

Fine

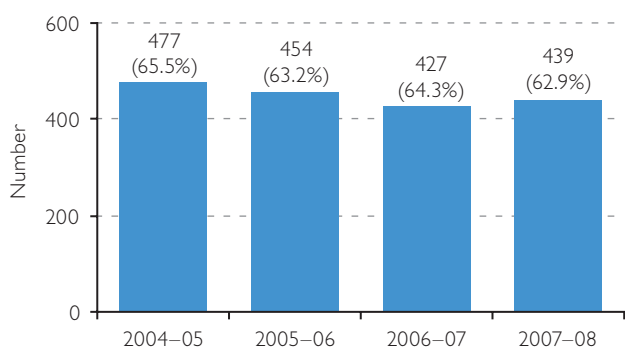
Trends

There were 1,797 people who received a fine for possessing cannabis. This represented 64.0% of all people sentenced for this offence. Of the 866 people who received a fine in 2006–07 and 2007–08, 81.3% also had a conviction recorded (704 people). Figure 4 shows the trends in the number and percentage of people who received a fine for possessing cannabis.



In 2007–08, 439 people received a fine for the principal proven offence of possessing cannabis. This has remained relatively stable over the past four years, ranging from 427 people in 2006–07 to 477 in 2004–05. Also, the proportion of people who received a fine for possessing cannabis remained relatively stable over the past four years ranging from 62.9% in 2007–08 to 65.5% in 2004–05.

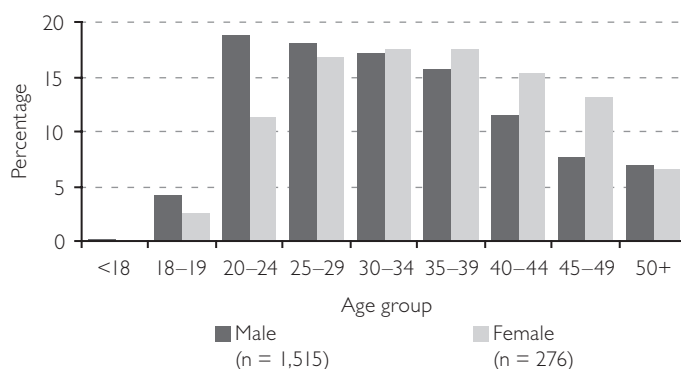
Figure 4: The number and percentage of people who received a fine for possessing cannabis, 2004–05 to 2007–08



Age and gender

Of the 1,797 people who received a fine, 84.6% were men. Figure 5 shows the age groups of people who received a fine for possessing cannabis by gender. The median age of these people was 33 years, while women were generally older than their male counterparts (a median age of 35 years compared to 32 years).

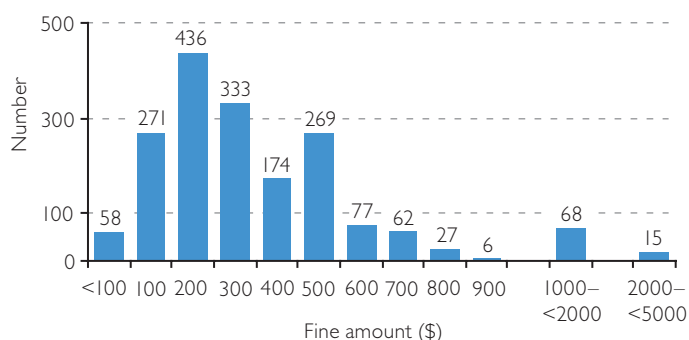
Figure 5: The percentage of people who received a fine for possessing cannabis by age and gender, 2004–05 to 2007–08



Fine Amount

Figure 6 shows the number of people who received a fine for possessing cannabis by the amount of the fine. While the amount of the fine ranged from \$15 to \$3,000, the median was \$300. Aggregate fines were imposed for 57.5% of people who received a fine.¹⁸

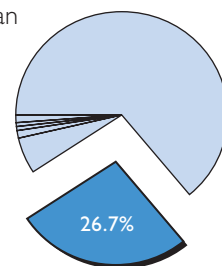
Figure 6: The number of people who received a fine for possessing cannabis by the amount of the fine, 2004–05 to 2007–08



Adjourned undertaking

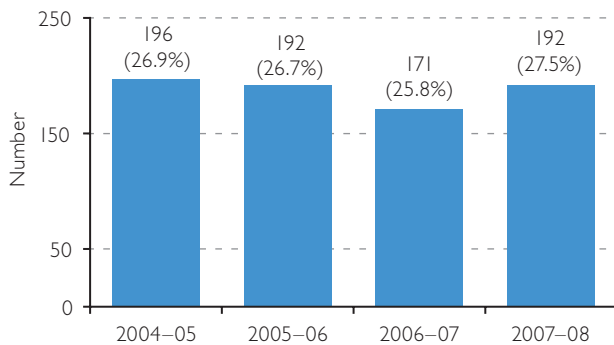
Trends

There were 751 people who received an adjourned undertaking for possessing cannabis. This represented 26.7% of all people sentenced for this offence. Of the 363 people who received an adjourned undertaking in 2006–07 and 2007–08, 11.6% also had a conviction recorded (42 people). Figure 7 shows the trends in the number and percentage of people who received an adjourned undertaking for possessing cannabis.



In 2007–08, 192 people received an adjourned undertaking for the principal proven offence of possessing cannabis. This has increased over the past year from 171 people in 2006–07, after decreasing the previous year. Also, the proportion of people who received an adjourned undertaking for possessing cannabis increased over the past year from 25.8% to 27.5%.

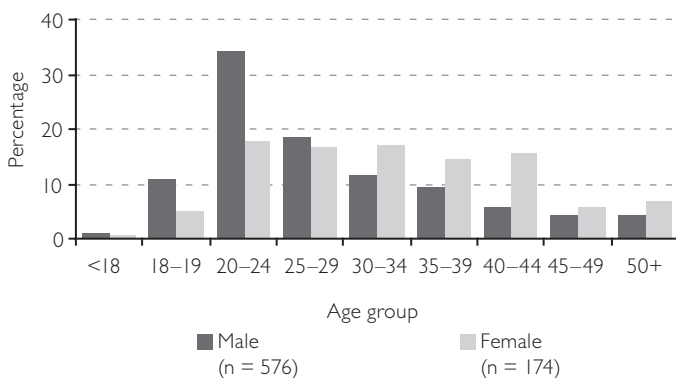
Figure 7: The number and percentage of people who received an adjourned undertaking for possessing cannabis, 2004–05 to 2007–08



Age and gender

Of the 751 people who received an adjourned undertaking, 76.8% were men. Figure 8 shows the age groups of people who received an adjourned undertaking for possessing cannabis by gender. The median age of these people was 27 years, while women were much older than their male counterparts (a median age of 33 years compared to 26 years).

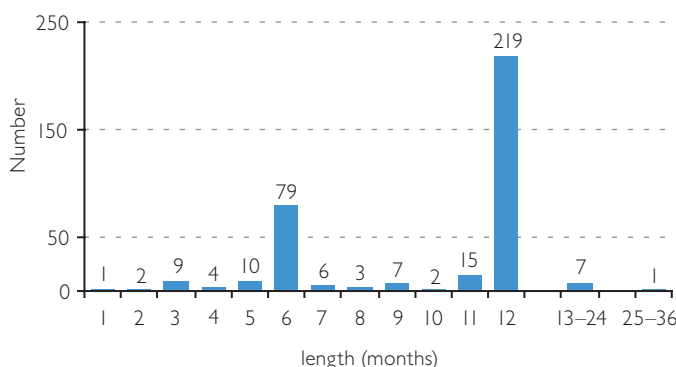
Figure 8: The percentage of people who received an adjourned undertaking for possessing cannabis by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 9 shows the number of people who received an adjourned undertaking for possessing cannabis by the length of the sentence. While the length of adjourned undertakings ranged from one month to two years and six months, the majority were for 12 months (60.0%), followed by 6 months (21.6%).

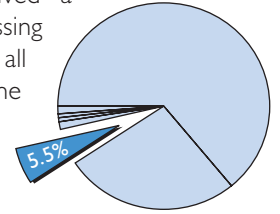
Figure 9: The number of people who received an adjourned undertaking for possessing cannabis by the length of order, 2006–07 and 2007–08



Community-based order

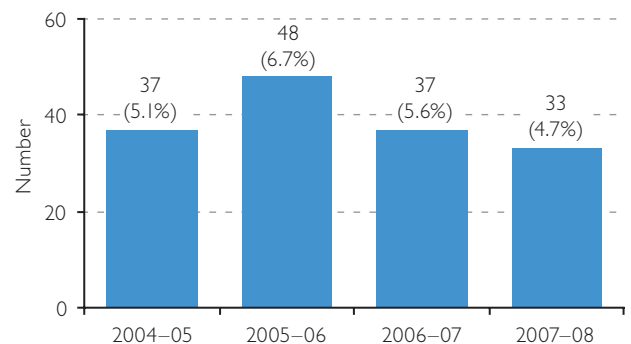
Trends

There were 155 people who received a community-based order for possessing cannabis. This represented 5.5% of all people sentenced for this offence. Of the 70 people who received a community-based order in 2006–07 and 2007–08, 90.0% also had a conviction recorded (63 people). Figure 10 shows the trends in the number and percentage of people who received a community-based order for possessing cannabis.



In 2007–08, 33 people received a community-based order for the principal proven offence of possessing cannabis. This has decreased each of the past two years from 48 people in 2005–06, after increasing the previous year. Also, the proportion of people who received a community-based order for possessing cannabis decreased each of the past two years from 6.7% in 2005–06 to 4.7% in 2007–08.

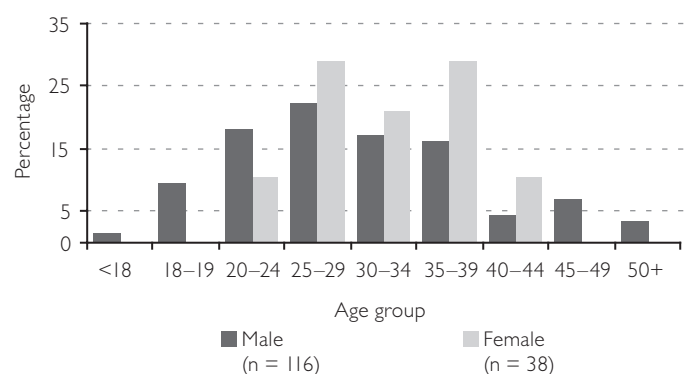
Figure 10: The number and percentage of people who received a community-based order for possessing cannabis, 2004–05 to 2007–08



Age and gender

Of the 155 people who received a community-based order, 75.5% were men. Figure 11 shows the age groups of people who received a community-based order for possessing cannabis by gender. The median age of these people was 30 years and six months, while women were generally older than their male counterparts (a median age of 31 years and six months compared to 29 years).

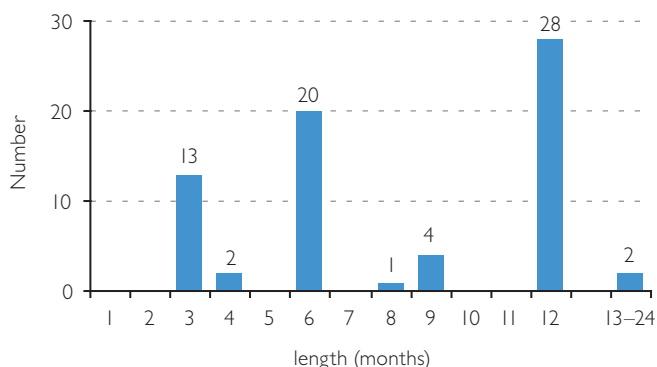
Figure 11: The percentage of people who received a community-based order for possessing cannabis by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 12 shows the number of people who received a community-based order for possessing cannabis by the length of the sentence. While the length of community-based orders ranged from three months to two years, the most common length was 12 months (40.0%), followed by 6 months (28.6%).

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

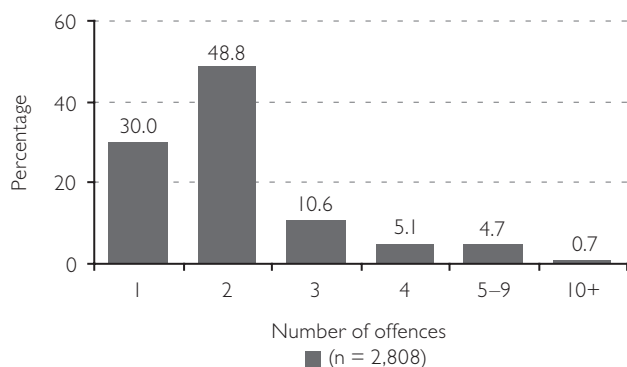


Other offences finalised at the same hearing

Often people prosecuted for possessing cannabis 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 cannabis.

Figure 13 shows the percentage of people sentenced for the principal offence of possessing cannabis by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 44, while the median was 2 offences. There were 843 people (30.0%) sentenced for the single offence of possessing cannabis alone. The average number of offences per person sentenced for possessing cannabis was 2.20.

Figure 13: The percentage of cases where possessing cannabis 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 cannabis, 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, 1,582 of the total 2,808 people (56.3%) also received sentences for using a drug of dependence. On average, they were sentenced for 1.09 charges of using a drug of dependence. The first row indicates that the average number of charges of possessing cannabis sentenced per person was 1.14.

Table 4: The number and percentage of people sentenced for the principal offence of possessing cannabis 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	2,808	100.0	1.14
2 using a drug of dependence	1,582	56.3	1.09
3 theft	84	3.0	1.82
4 drunk in a public place	74	2.6	1.01
5 assault police	73	2.6	1.59
6 use an unregistered vehicle	62	2.2	1.05
7 unlicensed driving	55	2.0	1.05
8 failing to appear on bail	51	1.8	1.41
9 drive while disqualified	39	1.4	1.31
10 deal property suspected proceed of crime	31	1.1	1.29
People sentenced	2,808	100.0	2.20

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 cannabis. As shown, the average number of possessing a drug of dependence offences sentenced per person was 1.14, including 1.04 offences of possessing cannabis. The most common other drug involved in possessing a drug of dependence offence sentenced was amphetamines (133 people or 4.7% of those who were sentenced for possessing cannabis). On average, these people were sentenced for 1.07 counts of this offence.

Table 5: The number and percentage of people sentenced for the principal offence of possessing cannabis 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 cannabis	2,808	100.0	1.04
possessing amphetamines	133	4.7	1.07
possessing a drug of dependence – other	64	2.3	1.27
possessing ecstasy	48	1.7	1.02
possessing heroin	12	0.4	1.08
People sentenced	2,808	100.0	1.14

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 cannabis. As shown, there were 1,582 people sentenced for using a drug of dependence. On average, these people were sentenced for 1.09 charges of such offences. The most common drug involved in using a drug of dependence offence sentenced was cannabis (1,557 people or 98.4% of those who were sentenced for using a drug of dependence offence). On average, these people were sentenced for 1.02 counts of this offence.

Table 6: The number and percentage of people sentenced for the principal offence of possessing cannabis 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 cannabis	1,557	98.4	1.02
using amphetamines	74	4.7	1.04
using ecstasy	22	1.4	1.00
using a drug of dependence – other	21	1.3	1.10
using heroin	12	0.8	1.00
People sentenced	1,582	100.0	1.09

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 cannabis. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.¹⁹

Table 7 shows the percentages of the three most common sentence types imposed in cases in the Magistrates' Court from 2004–05 to 2007–08 where the principal proven offence was possessing cannabis, by the other sentence types also imposed in the case. For example, of the 155 people who received an adjourned undertaking as part of their total effective sentence, 2.6% also received a fine. The most common sentence type imposed in conjunction with another sentence type was a fine with a community-based order (12.3% of the 155 people who received a community-based order).

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
Fine	100%	2.6%	12.3%
ADU	1.1%	100%	1.3%
CBO	1.0%	0.3%	100%
Total	1,839	774	155

Note: CBO refers to community-based order and ADU refers to adjourned undertaking.

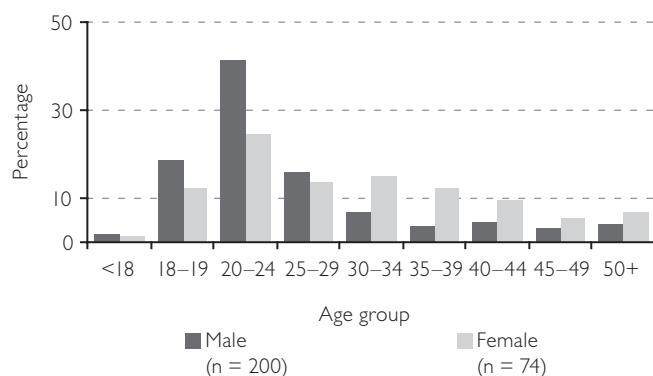
Criminal justice diversion plan²⁰

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 274 people who were given a criminal justice diversion plan.

Age and gender

Of the 274 people who were referred to the criminal justice diversion program, 73.0% were men. Figure 14 shows the age groups of people who were referred to the criminal justice diversion program for possessing cannabis by gender. The median age of these people was 23 years, while women were much older than their male counterparts (a median age of 28 years and six months compared to 22 years).

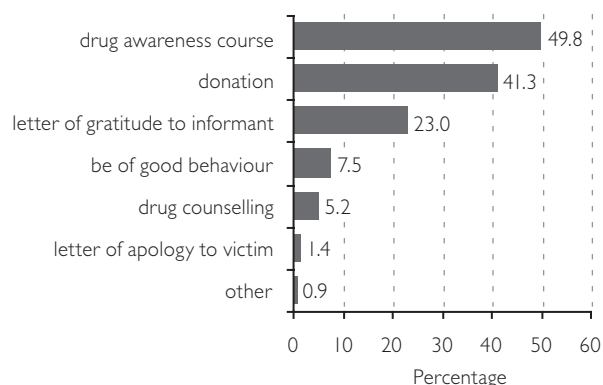
Figure 14: The percentage of people who were referred to the criminal justice diversion program for possessing cannabis by age and gender, 2004–05 to 2007–08



Conditions

Figure 15 shows the percentage of people who received a criminal justice diversion plan for possessing cannabis 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 drug awareness course (49.8% of people).

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



Note: other includes voluntary work and pay compensation to the victim.

Summary

The Magistrates' Court sentenced 2,808 people for the principal offence of possessing cannabis between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (2,303 people or 82.0%), while 55% were aged between 20 and 35 years.

Most people sentenced for possessing cannabis received a non-custodial sentence (2,757 people or 98.2%), including 1,797 people who received a fine (64.0%) and 751 people who received an adjourned undertaking (26.7%). A conviction was recorded with the principal sentence for 62.8% of people sentenced.

Men were more likely to receive fines. Conversely, women were more likely to receive adjourned undertakings.

Each of the 2,808 people was sentenced for an average of 2.20 offences, including 1.14 offences of possessing cannabis. The most common offence finalised in conjunction with possessing cannabis was using a drug of dependence (56.3% 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 cannabis 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 cannabis who received a more serious sentence for another offence on the same charge sheet.

² Possessing cannabis offences are identified by using the charge descriptions of 'possess cannabis' and 'possess hashish' 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 51.6% 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 *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 73(1)(a). 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 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, 6 people had charges that were dismissed pursuant to this legislation. This made up 0.9% of people sentenced in that year.

⁹ 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.

¹⁰ *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)).

¹¹ 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.

¹² The age was unknown for 9 men sentenced for possessing cannabis (0.3%). These people are excluded from all age analyses in this report.

¹³ Refer fn. 8.

¹⁴ Aggregate sentence lengths are shown for people who received an aggregate sentence. Data for sentence lengths of adjourned undertakings are only available for 2006–07 and 2007–08.

¹⁵ 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.

¹⁶ 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 9 people sentenced for possessing cannabis. These people are excluded from these analyses.

¹⁷ Aggregate sentence lengths are shown for people who received an aggregate sentence. 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, adjourned undertakings and youth justice centre orders are only available for 2006–07 and 2007–08.

¹⁸ The amount of non-aggregate fines ranged from \$15 to \$3,000, with a median of \$200, while the amount of aggregate fines ranged from \$50 to \$3,000, with a median of \$300.

¹⁹ Only sentence types that were imposed on the same date as the sentence imposed for the principal proven offence are included.

²⁰ 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 274 people who were placed on the diversion program for this offence, 213 were matched to and had conditions listed in the criminal justice diversion plan database (77.7%).

Authored by Nick Turner, Senior Data Analyst, Sentencing Advisory Council.
Published by the Sentencing Advisory Council, Melbourne Victoria Australia.

© Copyright State of Victoria, Sentencing Advisory Council, February 2009.

ISSN 1832-6153 (Print)
1836-6384 (Online)

Authorised by the Sentencing Advisory Council, Level 4, 436 Lonsdale Street, Melbourne.
Printed by BigPrint, 50 Lonsdale Street, Melbourne.

Disclaimer:

The Sentencing Advisory Council draws data for the Sentencing Snapshots from a variety of sources. All original data sources are noted. The Sentencing Advisory Council makes every effort to ensure that data used in the Sentencing Snapshots are accurate at the time of publishing.

Copies of Sentencing Snapshots
can be downloaded from our website at
www.sentencingcouncil.vic.gov.au