

# Sentencing Snapshot

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

February 2009  
No. 69

## Trafficking cannabis

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of trafficking cannabis<sup>2</sup> and details the age and gender<sup>3</sup> of people sentenced for this offence in the Magistrates' Court of Victoria between 2004–05 and 2007–08.

A person who, without legal authorisation, trafficks or attempts to traffick in a drug of dependence is guilty of an indictable offence.<sup>4</sup> The maximum penalty is 15 years' imprisonment and/or a fine of 1800 penalty units.<sup>5</sup> The *Drugs, Poisons and Controlled Substances Act 1981* (Vic) does not distinguish between the various types of drug in terms of the maximum penalty that can be imposed in respect of this offence;<sup>6</sup> however, this Snapshot focuses on sentencing practices for trafficking in cannabis.

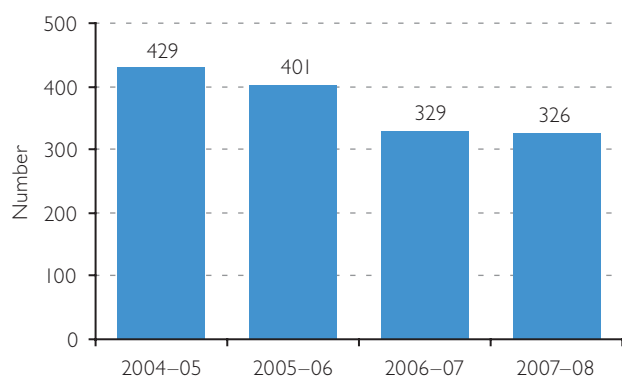
This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate rather than a judge and a jury. Where trafficking cannabis is heard summarily, it carries a maximum penalty of 2 years' imprisonment and/or a fine of 240 penalty units.<sup>7</sup>

Trafficking cannabis was the principal offence in 0.5% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

### People sentenced

Over the four-year period, the Magistrates' Court sentenced 1,485 people for the principal offence of trafficking cannabis. In 2007–08, there were 326 people who were sentenced for the principal proven offence of trafficking cannabis.<sup>8</sup> This has steadily decreased each year from 429 people in 2004–05.

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



### Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for trafficking cannabis during 2004–05 to 2007–08. Over the four-year period, just over half of those sentenced for trafficking cannabis received a non-custodial sentence (758 people or 51.0%), including 417 people who received a community-based order (28.1%) and 240 people who received a fine (16.2%).

There were also 539 people who received a non-immediate custodial sentence (36.3%), including 381 people who received a wholly suspended sentence (25.7%) and 155 people who received an intensive correction order (10.4%).

An additional 15 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).<sup>9</sup>

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

Sentence Type	Total	%
<b>Immediate custodial</b>	<b>188</b>	<b>12.7</b>
Imprisonment	122	8.2
Partially suspended sentence	55	3.7
Combined custody and treatment order	2	0.1
Youth justice centre order	9	0.6
<b>Other custodial</b>	<b>539</b>	<b>36.3</b>
Home detention order	3	0.2
Wholly suspended sentence	381	25.7
Intensive correction order	155	10.4
<b>Non-custodial</b>	<b>758</b>	<b>51.0</b>
Community-based order	417	28.1
Fine	240	16.2
Adjourned undertaking	100	6.7
Convicted and discharged (s 73 SA)	1	0.1
<b>People sentenced</b>	<b>1,485</b>	<b>100.0</b>
Criminal justice diversion program	15	
<b>Total dispositions</b>	<b>1,500</b>	

## 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.<sup>10</sup> In 2006–07 and 2007–08,<sup>11</sup> a conviction was recorded for 77.1% of the 109 people who received a fine, 74.5% of the 165 people who received a community-based order and 23.8% of the 42 people who received an adjourned undertaking. Overall, 84.9% 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 (1,196 people or 80.5%).<sup>12</sup> The age of people sentenced for trafficking cannabis ranged from 17 years to 81 years, while the median age was 33 years (meaning that half of the people were aged 33 years or younger and half were 33 years or older). Women sentenced were older than men (a median age of 36 years compared to 32 years).

## Sentencing outcomes by gender and age group

Table 2 shows the number and percentage of people who were sentenced for trafficking 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 trafficking cannabis by sentence type, gender and age group, 2004–05 to 2007–08

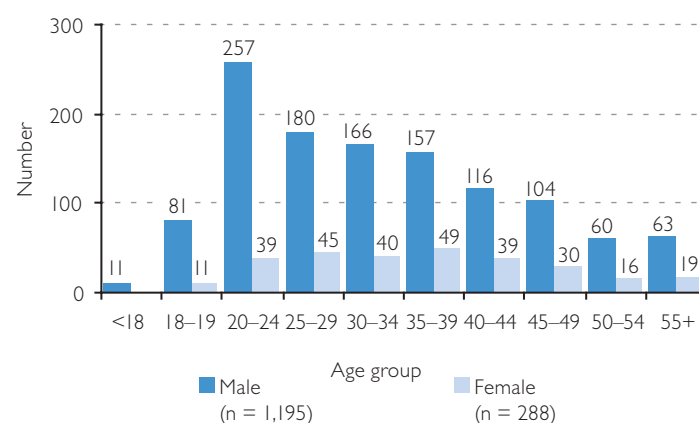
Sentencing outcome	Gender		Age group				All People
	Male	Female	<18	18–24	25–39	40+	
<b>Immediate custodial</b>	<b>176</b>	<b>12</b>	<b>4</b>	<b>42</b>	<b>81</b>	<b>61</b>	<b>188</b>
	(14.7%)	(4.2%)	(36.4%)	(10.8%)	(12.7%)	(13.6%)	(12.7%)
Imprisonment	114	8	0	24	59	39	122
	(9.5%)	(2.8%)	–	(6.2%)	(9.3%)	(8.7%)	(8.2%)
Partially suspended sentence	51	4	0	13	21	21	55
	(4.3%)	(1.4%)	–	(3.4%)	(3.3%)	(4.7%)	(3.7%)
Combined custody and treatment order	2	0	0	0	1	1	2
	(0.2%)	–	–	–	(0.2%)	(0.2%)	(0.1%)
Youth justice centre order	9	0	4	5	0	0	9
	(0.8%)	–	(36.4%)	(1.3%)	–	–	(0.6%)
<b>Other custodial</b>	<b>437</b>	<b>102</b>	<b>0</b>	<b>79</b>	<b>263</b>	<b>195</b>	<b>539</b>
	(36.5%)	(35.3%)	–	(20.4%)	(41.3%)	(43.6%)	(36.3%)
Home detention order	3	0	0	0	2	1	3
	(0.3%)	–	–	–	(0.3%)	(0.2%)	(0.2%)
Wholly suspended sentence	304	77	0	48	185	147	381
	(25.4%)	(26.6%)	–	(12.4%)	(29.0%)	(32.9%)	(25.7%)
Intensive correction order	130	25	0	31	76	47	155
	(10.9%)	(8.7%)	–	(8.0%)	(11.9%)	(10.5%)	(10.4%)
<b>Non-custodial</b>	<b>583</b>	<b>175</b>	<b>7</b>	<b>267</b>	<b>293</b>	<b>191</b>	<b>758</b>
	(48.7%)	(60.6%)	(63.6%)	(68.8%)	(46.0%)	(42.7%)	(51.0%)
Community-based order	314	103	4	158	162	93	417
	(26.3%)	(35.6%)	(36.4%)	(40.7%)	(25.4%)	(20.8%)	(28.1%)
Fine	197	43	1	67	101	71	240
	(16.5%)	(14.9%)	(9.1%)	(17.3%)	(15.9%)	(15.9%)	(16.2%)
Adjourned undertaking	71	29	2	42	29	27	100
	(5.9%)	(10.0%)	(18.2%)	(10.8%)	(4.6%)	(6.0%)	(6.7%)
Convicted and discharged (s 73 SA)	1	0	0	0	1	0	1
	(<0.1%)	–	–	–	(0.2%)	–	(<0.1%)
<b>People sentenced</b>	<b>1,196</b>	<b>289</b>	<b>11</b>	<b>388</b>	<b>637</b>	<b>447</b>	<b>1,485</b>
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

A higher percentage of men received immediate custodial sentences (14.7% of men compared to 4.2% of women). Conversely, a higher percentage of women received non-custodial sentences (60.6% of women compared to 48.7% of men).

When examining individual sentence types, a higher percentage of men received sentences of imprisonment (9.5% compared to 2.8% of women). Conversely, a higher percentage of women received community-based orders (35.6% compared to 26.3% of men) and adjourned undertakings (10.0% compared to 5.9%).

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.

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

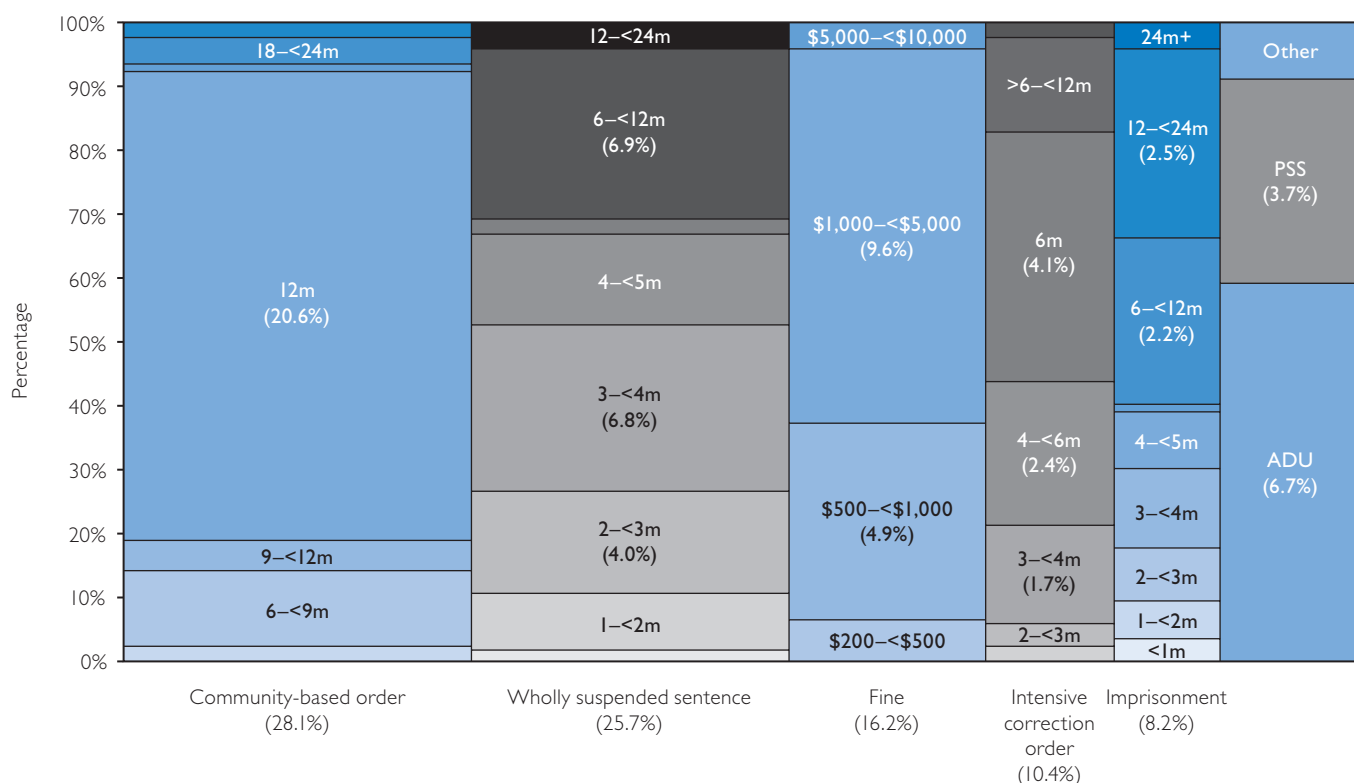
While the number of people who received an immediate custodial sentence decreased from 50 people in 2004–05 to 46 people in 2007–08, the percentage of people increased from 11.7% to 14.1% over the same period.

The number and percentage of people who received a non-custodial sentence decreased from 240 people and 55.9% in 2004–05 to 161 people and 49.4% in 2007–08.

### Sentencing Map

Figure 3 presents both the sentencing outcomes and the quanta for those outcomes for people sentenced for trafficking cannabis. For example, 28.1% of people sentenced received a community-based order, including 20.6% who received a community-based order of 12 months. 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 trafficking cannabis by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08<sup>14</sup>



Note: ADU refers to adjourned undertaking and PSS refers to partially suspended sentence. Other includes youth justice centre order; home detention order; combined custody and treatment order and convicted and discharged (s 73 SA).

Table 3: The number and percentage of people sentenced for trafficking cannabis by sentence type and year, 2004–05 to 2007–08<sup>13</sup>

Sentence Type	2004–05	2005–06	2006–07	2007–08
<b>Immediate custodial</b>	<b>50</b> (11.7%)	<b>58</b> (14.5%)	<b>34</b> (10.3%)	<b>46</b> (14.1%)
Imprisonment	29 (6.8%)	36 (9.0%)	25 (7.6%)	32 (9.8%)
Partially suspended sentence	15 (3.5%)	18 (4.5%)	9 (2.7%)	13 (4.0%)
Combined custody and treatment order	2 (0.5%)	0	0	0
Youth justice centre order	4 (0.9%)	4 (1.0%)	0	1 (0.3%)
<b>Other custodial</b>	<b>139</b> (32.4%)	<b>142</b> (35.4%)	<b>139</b> (42.2%)	<b>119</b> (36.5%)
Home detention order	0	0	2 (0.6%)	1 (0.3%)
Wholly suspended sentence	113 (26.3%)	95 (23.7%)	90 (27.4%)	83 (25.5%)
Intensive correction order	26 (6.1%)	47 (11.7%)	47 (14.3%)	35 (10.7%)
<b>Non-custodial</b>	<b>240</b> (55.9%)	<b>201</b> (50.1%)	<b>156</b> (47.4%)	<b>161</b> (49.4%)
Community-based order	138 (32.2%)	114 (28.4%)	80 (24.3%)	85 (26.1%)
Fine	68 (15.9%)	63 (15.7%)	56 (17.0%)	53 (16.3%)
Adjourned undertaking	34 (7.9%)	24 (6.0%)	19 (5.8%)	23 (7.1%)
Convicted and discharged (s 73 SA)	0	0	1 (0.3%)	0
<b>People sentenced</b>	<b>429</b>	<b>401</b>	<b>329</b>	<b>326</b>

## Principal sentence

This section examines the use of the five most common principal sentencing outcomes for this offence.<sup>15</sup> 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.<sup>16</sup> Finally, where relevant, the details of the sentence (length of order or fine amount) are examined.<sup>17</sup>

The five most common sentences imposed for trafficking cannabis are community-based order, wholly suspended sentence, fine, intensive correction order and imprisonment.

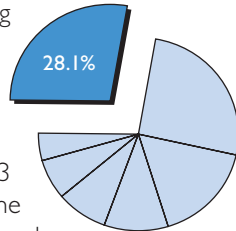
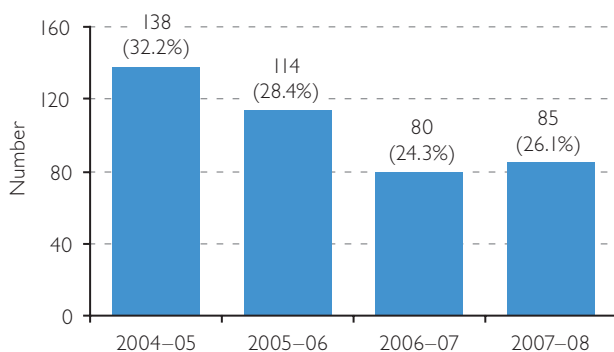
## Community-based order

### Trends

There were 417 people who received a community-based order for trafficking cannabis. This represented 28.1% of all people sentenced for this offence. Of the 165 people who received a community-based order in 2006–07 and 2007–08, 74.5% also had a conviction recorded (123 people). Figure 4 shows the trends in the number and percentage of people who received a community-based order for trafficking cannabis.

In 2007–08, 85 people received a community-based order for the principal proven offence of trafficking cannabis. This has remained relatively stable over the past two years, after decreasing substantially the previous two years. The proportion of people who received a community-based order for trafficking cannabis increased over the past year from 24.3% to 26.1%.

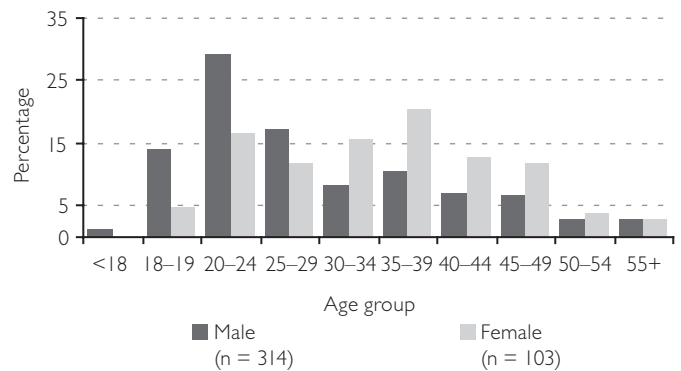
**Figure 4:** The number and percentage of people who received a community-based order for trafficking cannabis, 2004–05 to 2007–08



## Age and gender

Of the 417 people who received a community-based order, 75.3% were men. Figure 5 shows the age groups of people who received a community-based order for trafficking cannabis by gender. The median age of these people was 28 years, while women were much older than their male counterparts (a median age of 35 years compared to 26 years).

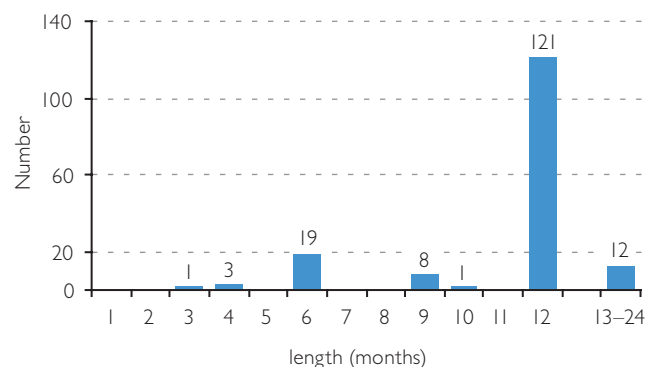
**Figure 5:** The percentage of people who received a community-based order for trafficking cannabis by age and gender, 2004–05 to 2007–08



## Length of sentence

Figure 6 shows the number of people who received a community-based order for trafficking cannabis by the length of the sentence. While the length of community-based orders ranged from three months to two years, the majority were for 12 months (73.3%).

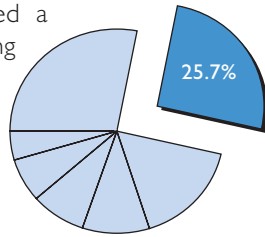
**Figure 6:** The number of people who received a community-based order for trafficking cannabis by the length of order, 2006–07 and 2007–08



### Wholly suspended sentence

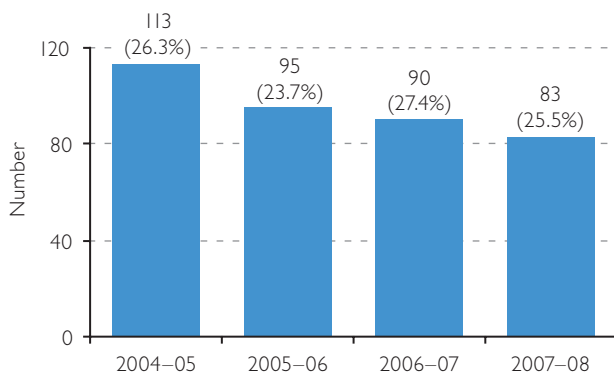
#### Trends

There were 381 people who received a wholly suspended sentence for trafficking cannabis. This represented 25.7% of all people sentenced for this offence. Figure 7 shows the trends in the number and percentage of people who received a wholly suspended sentence for trafficking cannabis.



In 2007–08, 83 people received a wholly suspended sentence for the principal proven offence of trafficking cannabis. This has decreased each of the past three years from 113 people in 2004–05. Also, the proportion of people who received a wholly suspended sentence for trafficking cannabis decreased over the past year from 27.4% to 25.5%.

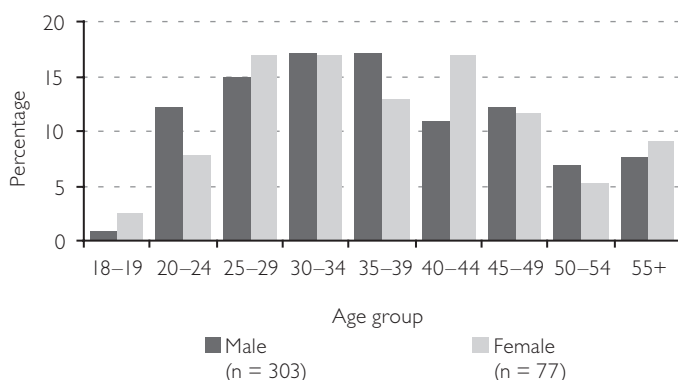
**Figure 7:** The number and percentage of people who received a wholly suspended sentence for trafficking cannabis, 2004–05 to 2007–08



#### Age and gender

Of the 381 people who received a wholly suspended sentence, 79.8% were men. Figure 8 shows the age groups of people who received a wholly suspended sentence for trafficking cannabis by gender. The median age of these people was 36 years. This was similar for both men and women (37 years for women and 36 years for men).

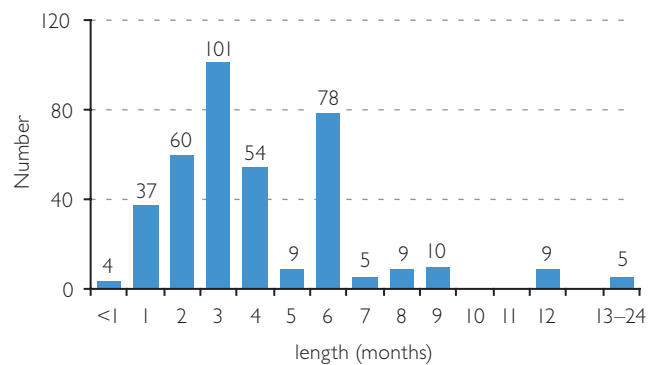
**Figure 8:** The percentage of people who received a wholly suspended sentence for trafficking cannabis by age and gender, 2004–05 to 2007–08



### Length of sentence

Figure 9 shows the number of people who received a wholly suspended sentence for trafficking cannabis by the length of the sentence. While the length of wholly suspended sentences ranged from seven days to two years, the median was three months (meaning that half were shorter than three months and half were longer than three months). Aggregate wholly suspended sentences were imposed for 55.4% of people who received a wholly suspended sentence.<sup>18</sup>

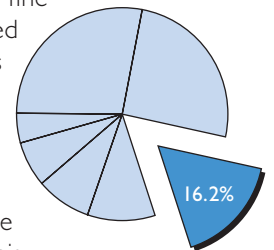
**Figure 9:** The number of people who received a wholly suspended sentence for trafficking cannabis by the length of order, 2004–05 to 2007–08



### Fine

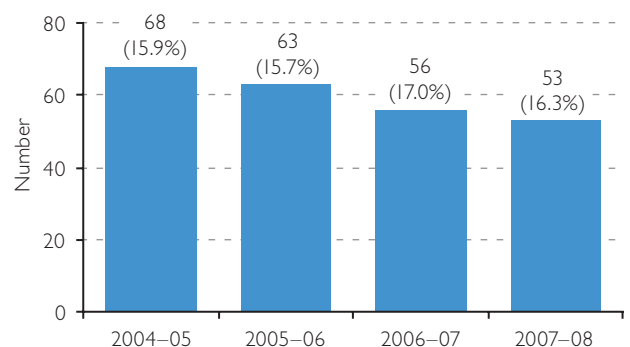
#### Trends

There were 240 people who received a fine for trafficking cannabis. This represented 16.2% of all people sentenced for this offence. Of the 109 people who received a fine in 2006–07 and 2007–08, 77.1% also had a conviction recorded (84 people). Figure 10 shows the trends in the number and percentage of people who received a fine for trafficking cannabis.



In 2007–08, 53 people received a fine for the principal proven offence of trafficking cannabis. This has remained relatively stable over the past two years, after decreasing the previous two years. Also, the proportion of people who received a fine for trafficking cannabis remained relatively stable over the past two years ranging from 16.3% in 2007–08 to 17.0% in 2006–07.

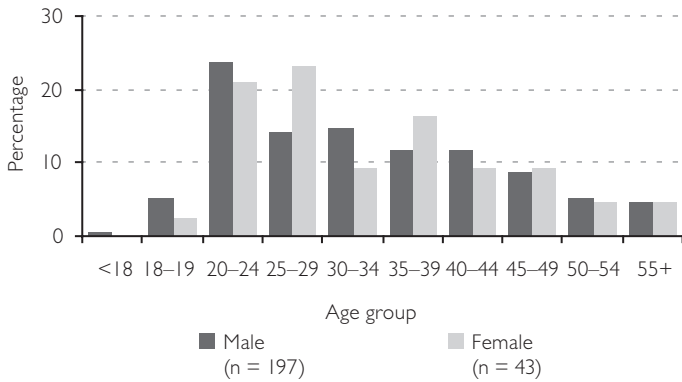
**Figure 10:** The number and percentage of people who received a fine for trafficking cannabis, 2004–05 to 2007–08



### Age and gender

Of the 240 people who received a fine, 82.1% were men. Figure 11 shows the age groups of people who received a fine for trafficking cannabis by gender. The median age of these people was 32 years, while men were generally older than their female counterparts (a median age of 32 years compared to 30 years).

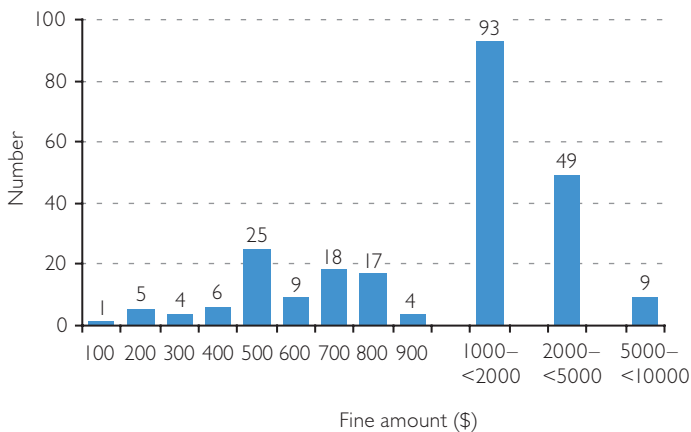
**Figure 11:** The percentage of people who received a fine for trafficking cannabis by age and gender, 2004–05 to 2007–08



### Fine Amount

Figure 12 shows the number of people who received a fine for trafficking cannabis by the amount of the fine. While the amount of the fine ranged from \$100 to \$8,000, the median was \$1,000. Aggregate fines were imposed for 79.6% of people who received a fine.<sup>19</sup>

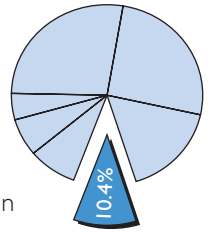
**Figure 12:** The number of people who received a fine for trafficking cannabis by the amount of the fine, 2004–05 to 2007–08



### Intensive correction order

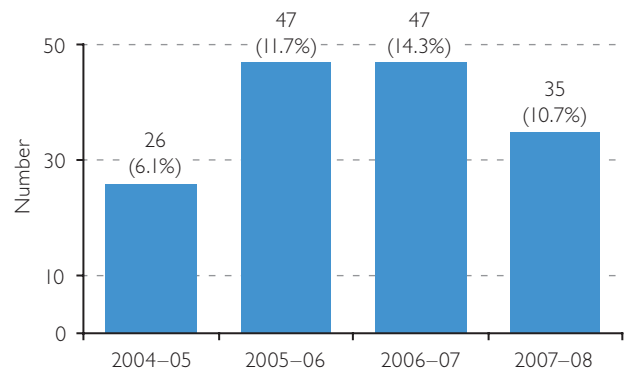
#### Trends

There were 155 people who received an intensive correction order for trafficking cannabis. This represented 10.4% of all people sentenced for this offence. Figure 13 shows the trends in the number and percentage of people who received an intensive correction order for trafficking cannabis.



In 2007–08, 35 people received an intensive correction order for the principal proven offence of trafficking cannabis. This has decreased over the past year from 47 people in 2006–07, after remaining stable the previous year. Also, the proportion of people who received an intensive correction order for trafficking cannabis decreased over the past year from 14.3% to 10.7%.

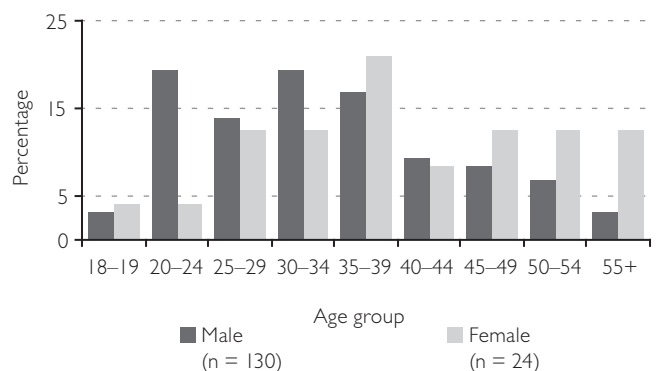
**Figure 13:** The number and percentage of people who received an intensive correction order for trafficking cannabis, 2004–05 to 2007–08



### Age and gender

Of the 155 people who received an intensive correction order, 83.9% were men. Figure 14 shows the age groups of people who received an intensive correction order for trafficking cannabis by gender. The median age of these people was 33 years and six months, while women were much older than their male counterparts (a median age of 38 years and six months compared to 33 years).

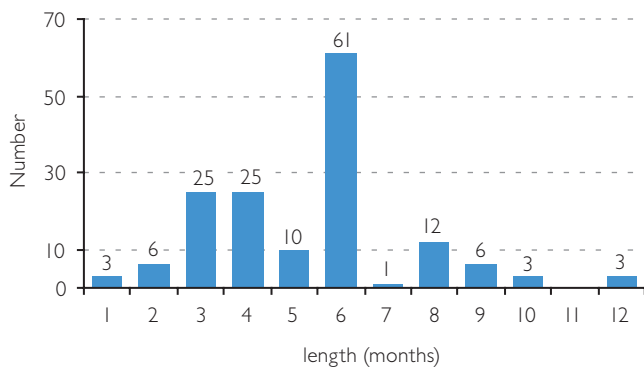
**Figure 14:** The percentage of people who received an intensive correction order for trafficking cannabis by age and gender, 2004–05 to 2007–08



### Length of sentence

Figure 15 shows the number of people who received an intensive correction order for trafficking cannabis by the length of the sentence. While the length of intensive correction orders ranged from one month and eleven days to one year, the most common length was 6 months (39.4%). Aggregate intensive correction orders were imposed for 81.9% of people who received an intensive correction order.<sup>20</sup>

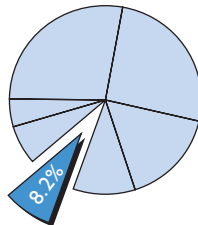
**Figure 15:** The number of people who received an intensive correction order for trafficking cannabis by the length of order, 2004–05 to 2007–08



### Imprisonment

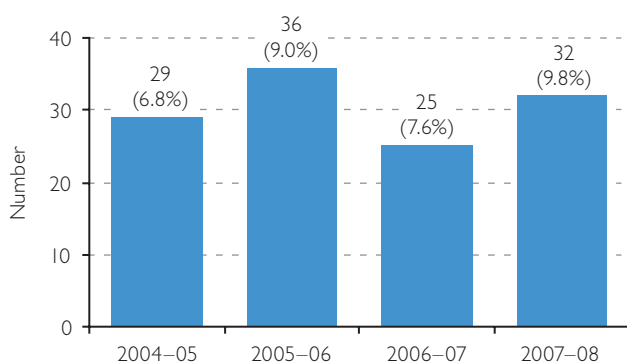
#### Trends

There were 122 people who were sentenced to imprisonment for trafficking cannabis. This represented 8.2% of all people sentenced for this offence. Figure 16 shows the trends in the number and percentage of people who were sentenced to imprisonment for trafficking cannabis.



In 2007–08, 32 people were sentenced to imprisonment for the principal proven offence of trafficking cannabis. This has increased over the past year from 25 people in 2006–07, after decreasing the previous year. Also, the proportion of people who were sentenced to imprisonment for trafficking cannabis increased over the past year from 7.6% to 9.8%.

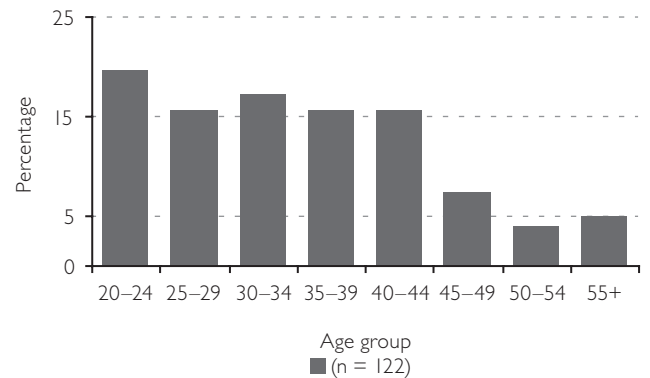
**Figure 16:** The number and percentage of people who were sentenced to imprisonment for trafficking cannabis, 2004–05 to 2007–08



### Age and gender

Of the 122 people who received a period of imprisonment, 93.4% were men. Figure 17 shows the age groups of people who were sentenced to imprisonment for trafficking cannabis. The median age of these people was 34 years.

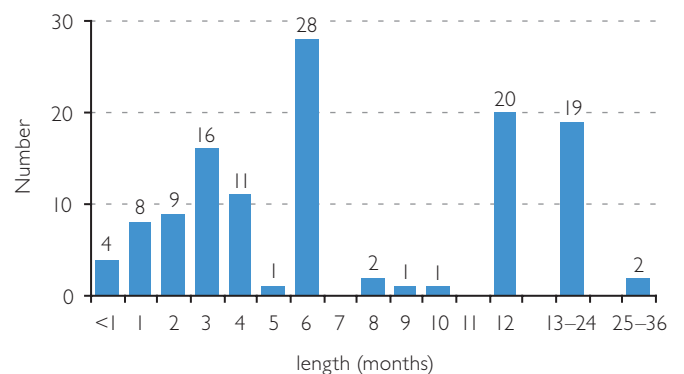
**Figure 17:** The percentage of people who were sentenced to imprisonment for trafficking cannabis by age, 2004–05 to 2007–08



### Length of sentence

Figure 18 shows the number of people who were sentenced to imprisonment for trafficking cannabis by the length of the sentence. While the length of imprisonment ranged from three days to two years and six months, the median was six months (meaning that half were shorter than six months and half were longer than six months). Aggregate periods of imprisonment were imposed for 71.3% of people who were sentenced to imprisonment.<sup>21</sup>

**Figure 18:** The number of people who were sentenced to imprisonment for trafficking cannabis by the length of order, 2004–05 to 2007–08

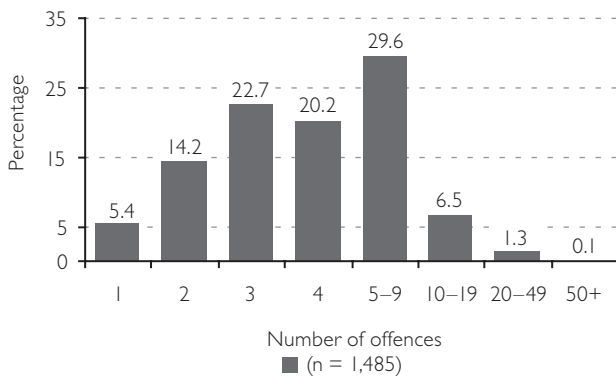


## Other offences finalised at the same hearing

Often people prosecuted for trafficking 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 trafficking cannabis.

Figure 19 shows the percentage of people sentenced for the principal offence of trafficking cannabis by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 63, while the median was 4 offences. There were 80 people (5.4%) sentenced for the single offence of trafficking cannabis alone. A slightly higher percentage of women were sentenced for a single offence only (8.3% compared to 4.7% of men). The average number of offences per person sentenced for trafficking cannabis was 4.92.

**Figure 19:** The percentage of cases where trafficking 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 19 presents the number of sentenced offences for those sentenced for trafficking 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, 920 of the total 1,485 people (62.0%) also received sentences for possessing a drug of dependence. On average, they were sentenced for 1.46 charges of possessing a drug of dependence. The first row indicates that the average number of charges of trafficking in a drug of dependence sentenced per person was 1.18.

**Table 4:** The number and percentage of people sentenced for the principal offence of trafficking 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 trafficking in a drug of dependence	1,485	100.0	1.18
2 possessing a drug of dependence	920	62.0	1.46
3 using a drug of dependence	845	56.9	1.25
4 deal property suspected proceed of crime	428	28.8	1.29
5 cultivate narcotic plant	421	28.4	1.07
6 theft	238	16.0	1.75
7 possess prohibited weapon	120	8.1	1.18
8 failing to appear on bail	100	6.7	1.36
9 handling stolen goods	91	6.1	2.19
10 carry regulated weapon	66	4.4	1.38
<b>People sentenced</b>	<b>1,485</b>	<b>100.0</b>	<b>4.92</b>

Table 5 is an elaboration of Table 4. It shows the five most common drug types involved in trafficking a drug of dependence for which people were sentenced in conjunction with trafficking cannabis. As shown, the average number of trafficking a drug of dependence offences sentenced per person was 1.18, including 1.09 offences of trafficking cannabis. The most common other drug involved in trafficking a drug of dependence sentenced was amphetamines (59 people or 4.0% of those who were sentenced for trafficking cannabis). On average, these people were sentenced for 1.19 counts of this offence.

**Table 5:** The number and percentage of people sentenced for the principal offence of trafficking cannabis by the five most common types of drugs involved in trafficking 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.
trafficking cannabis	1,485	100.0	1.09
trafficking amphetamines	59	4.0	1.19
trafficking drug of dependence – other	28	1.9	1.29
trafficking ecstasy	26	1.8	1.12
trafficking heroin	3	0.2	1.00
<b>People sentenced</b>	<b>1,485</b>	<b>100.0</b>	<b>1.18</b>

Table 6 also provides more detail from Table 4. It shows the five most common drug types involved in possessing a drug of dependence offences for which people were sentenced in conjunction with trafficking cannabis. As shown, there were 920 people sentenced for possessing a drug of dependence. On average, these people were sentenced for 1.46 charges of such offences. The most common drug involved in using a drug of dependence sentenced was cannabis (849 people or 92.3% of those who were sentenced for a possessing a drug of dependence offence). On average, these people were sentenced for 1.15 counts of this offence.

**Table 6:** The number and percentage of people sentenced for the principal offence of trafficking cannabis by the five most common types of drugs involved in the offences of possessing 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.
possessing cannabis	849	92.3	1.15
possessing amphetamines	162	17.6	1.15
possessing a drug of dependence – other	76	8.3	1.24
possessing ecstasy	73	7.9	1.05
possessing heroin	13	1.4	1.00
<b>People sentenced</b>	<b>920</b>	<b>100.0</b>	<b>1.46</b>

Table 7 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 trafficking cannabis. As shown, there were 845 people sentenced for using a drug of dependence. On average, these people were sentenced for 1.25 charges of such offences. The most common drug involved in using a drug of dependence sentenced was cannabis (832 people or 98.5% of those who were sentenced for using a drug of dependence offence). On average, these people were sentenced for 1.09 counts of this offence.

**Table 7:** The number and percentage of people sentenced for the principal offence of trafficking 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	832	98.5	1.09
using amphetamines	100	11.8	1.06
using ecstasy	30	3.6	1.03
using a drug of dependence – other	11	1.3	1.00
using heroin	5	0.6	1.20
<b>People sentenced</b>	<b>845</b>	<b>100.0</b>	<b>1.25</b>

## Sentence combinations

This section looks at the range of sentence types imposed in the entire case for people who had the principal offence of trafficking cannabis. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.<sup>22</sup>

Table 8 shows the percentages of the six most common sentence types imposed in cases in the Magistrates' Court from 2004–05 to 2007–08 where the principal proven offence was trafficking cannabis, by the other sentence types also imposed in the case. For example, of the 655 people who received a fine as part of their total effective sentence, 30.2% also received a wholly suspended sentence, while 16.0% received a community-based order.

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

- a fine with a wholly suspended sentence (50.5% of the 392 people who received a wholly suspended sentence);
- a fine with an imprisonment term (41.2% of the 131 people);
- a fine with an intensive correction order (38.9% of the 157 people);
- a fine with a community-based order (20.9% of the 502 people);
- a community-based order with a wholly suspended sentence (18.6% of the 392 people);
- a fine with an adjourned undertaking (16.2% of the 185 people); and
- a community-based order with an adjourned undertaking (14.6% of the 185 people).

**Table 8:** The percentage of selected sentence types used in conjunction with other sentence types imposed in the same case, 2004–05 to 2007–08

	Fine	CBO	WSS	ADU	ICO	Imp.
Fine	100%	20.9%	50.5%	16.2%	38.9%	41.2%
CBO	16.0%	100%	18.6%	14.6%	3.8%	1.5%
WSS	30.2%	14.5%	100%	13.5%	2.5%	2.3%
ADU	4.6%	5.4%	6.4%	100%	7.6%	3.8%
ICO	9.3%	1.2%	1.0%	6.5%	100%	1.5%
Imp.	8.2%	0.4%	0.8%	2.7%	1.3%	100%
<b>Total</b>	<b>655</b>	<b>502</b>	<b>392</b>	<b>185</b>	<b>157</b>	<b>131</b>

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

### Total effective sentence of imprisonment and non-parole period

The total effective sentence of imprisonment aggregates the sentences of imprisonment imposed for each charge in a case and takes into account whether the court orders sentences to be served concurrently (at the same time) or cumulatively. When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where the court does not set a non-parole period, the person must serve the entirety of the imprisonment term.

There were 54 people given a total effective sentence of imprisonment in 2006–07 and 2007–08.<sup>23</sup> There were 26 people eligible for a non-parole period in 2006–07 and 2007–08, of whom 22 were given a non-parole period. This makes up 40.7% of all those who were given a total effective sentence of imprisonment.

Figure 20 shows the number of people sentenced to imprisonment for trafficking cannabis during 2006–07 and 2007–08 by the length of their total effective sentence. The right side of the graph also shows the length of non-parole periods for people who were sentenced to a period of 12 months' imprisonment or more. The centre of each 'bubble' on the chart represents a combination of imprisonment length and non-parole period, while the size of the bubble reflects the number of people who received that particular combination.<sup>24</sup>

Total effective imprisonment lengths ranged from nineteen days to two years and six months, while the most common length was 12 months (12 people).

For people who were sentenced to a term of imprisonment of 12 months or longer, the most common combination of imprisonment length and non-parole period was one year with a non-parole period of six months (6 people – as represented by the largest bubble on the chart). The longest total effective sentence imposed was two years and six months with a non-parole period of one year and eight months.

### Summary

The Magistrates' Court sentenced 1,485 people for the principal offence of trafficking cannabis between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (1,196 people or 80.5%), while 35% were aged between 20 and 30 years.

Just over half of the people sentenced for trafficking cannabis received a non-custodial sentence (758 people or 51.0%), including 417 people who received a community-based order (28.1%) and 240 people who received a fine (16.2%). A conviction was recorded with the principal sentence for 84.9% of people sentenced.

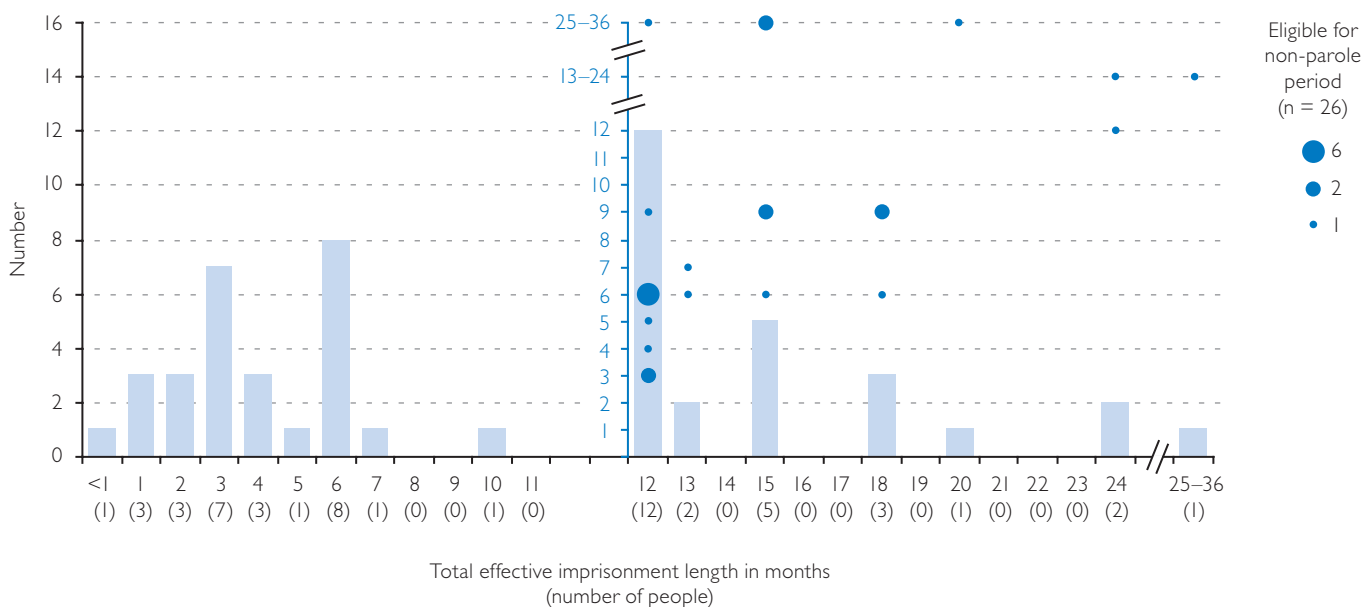
Men were more likely to receive sentences of imprisonment. Conversely, women were more likely to receive community-based orders and adjourned undertakings.

Each of the 1,485 people was sentenced for an average of 4.92 offences, including 1.18 offences of trafficking in a drug of dependence. The most common offence finalised in conjunction with trafficking cannabis was possessing a drug of dependence (62.0% of all cases).

Common sentence types imposed in conjunction with another sentence type included a fine with a wholly suspended sentence (50.5% of the 392 people who received a wholly suspended sentence), a fine with an imprisonment term (41.2% of the 131 people), a fine with an intensive correction order (38.9% of the 157 people), a fine with a community-based order (20.9% of the 502 people), a community-based order with a wholly suspended sentence (18.6% of the 392 people), a fine with an adjourned undertaking (16.2% of the 185 people) and a community-based order with an adjourned undertaking (14.6% of the 185 people).

Lengths of total effective sentences ranged from nineteen days to two years and six months with a non-parole period of one year and eight months. The most common length was 12 months (12 people).

Figure 20: The number of people sentenced to imprisonment for trafficking cannabis by the total effective sentence length and the non-parole period imposed, 2006–07 and 2007–08



<sup>1</sup> 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 trafficking 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 trafficking cannabis who received a more serious sentence for another offence on the same charge sheet.

<sup>2</sup> Trafficking cannabis offences are identified by using the charge descriptions of 'traffick cannabis' and 'traffick tetrahydrocannabinol' for offences listed under the *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71AC.

<sup>3</sup> The data used for analysis in this report contain information on age and gender characteristics. Indigenous status was unknown for 55.3% of people sentenced over this period. Therefore no analyses are presented on Indigenous status.

<sup>4</sup> *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71AC.

<sup>5</sup> 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](http://www.ocpc.vic.gov.au)>.

<sup>6</sup> *Drugs, Poisons and Controlled Substances Act 1981* (Vic) s 71AC.

<sup>7</sup> 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.

<sup>8</sup> 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. However, in 2007–08, no people had charges that were dismissed pursuant to this legislation.

<sup>9</sup> 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.

<sup>10</sup> *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)).

<sup>11</sup> 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.

<sup>12</sup> The age was unknown for one man and one woman sentenced for trafficking cannabis (0.1%). These people are excluded from all age analyses in this report.

<sup>13</sup> Refer fn. 8.

<sup>14</sup> Aggregate sentence lengths are shown for people who received an aggregate sentence. Data for sentence lengths of community-based orders are only available for 2006–07 and 2007–08.

<sup>15</sup> 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.

<sup>16</sup> 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 2 people sentenced for trafficking cannabis. These people are excluded from these analyses.

<sup>17</sup> 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.

<sup>18</sup> The length of non-aggregate wholly suspended sentences ranged from seven days to one year and two months, with a median of three months, while the length of aggregate wholly suspended sentences ranged from seven days to two years, with a median of four months.

<sup>19</sup> The amount of non-aggregate fines ranged from \$100 to \$6,000, with a median of \$1,000, while the amount of aggregate fines ranged from \$200 to \$8,000, with a median of \$1,000.

<sup>20</sup> The length of non-aggregate intensive correction orders ranged from one month and nineteen days to nine months, with a median of five months and fifteen days, while the length of aggregate intensive correction orders ranged from one month and eleven days to one year, with a median of six months.

<sup>21</sup> The length of non-aggregate periods of imprisonment ranged from three days to one year and eight months, with a median of six months, while the length of aggregate periods of imprisonment ranged from four days to two years and six months, with a median of six months.

<sup>22</sup> While a total of 131 people were sentenced to at least one period of imprisonment in the case, 122 people had imprisonment listed against their principal proven offence. There were 9 people sentenced to a period of imprisonment, but who received a partially suspended sentence of imprisonment for the principal proven offence.

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

<sup>23</sup> Total effective imprisonment lengths and non-parole periods are only available for 2006–07 and 2007–08.

<sup>24</sup> Non-parole periods are rounded down to the nearest month, while non-parole periods greater than one year are grouped into categories of years.

## Sentencing Snapshots is a series presenting summary information on sentencing trends in Victoria

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