

# Sentencing Snapshot

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

February 2009  
No. 70

## Trafficking ecstasy

This Sentencing Snapshot describes sentencing outcomes<sup>1</sup> for the offence of trafficking ecstasy<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 ecstasy.

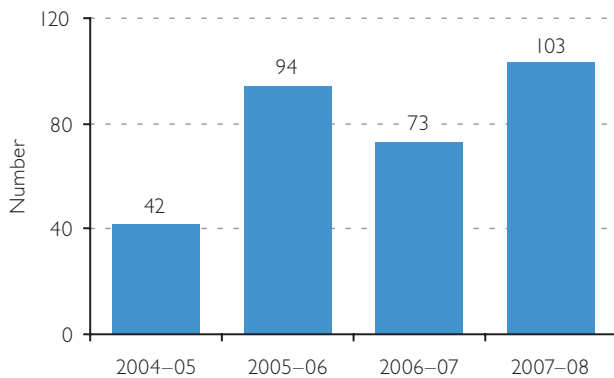
This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate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

Trafficking ecstasy was the principal offence in 0.1% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

### People sentenced

Over the four-year period, the Magistrates' Court sentenced 312 people for the principal offence of trafficking ecstasy. In 2007–08, there were 103 people who were sentenced for the principal proven offence of trafficking ecstasy.<sup>8</sup> This is a 41.1% increase from 73 in 2006–07, reversing a decrease from the previous year.

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



### Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for trafficking ecstasy during 2004–05 to 2007–08. Over the four-year period, the majority of those sentenced for trafficking ecstasy received a non-custodial sentence (185 people or 59.3%), including 97 people who received a community-based order (31.1%) and 60 people who received a fine (19.2%).

There were also 99 people who received a non-immediate custodial sentence (31.7%), including 63 people who received a wholly suspended sentence (20.2%) and 36 people who received an intensive correction order (11.5%).

An additional 3 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 ecstasy by sentence type, 2004–05 to 2007–08

Sentence Type	Total	%
<b>Immediate custodial</b>	<b>28</b>	<b>9.0</b>
Imprisonment	19	6.1
Partially suspended sentence	9	2.9
<b>Other custodial</b>	<b>99</b>	<b>31.7</b>
Wholly suspended sentence	63	20.2
Intensive correction order	36	11.5
<b>Non-custodial</b>	<b>185</b>	<b>59.3</b>
Community-based order	97	31.1
Fine	60	19.2
Adjourned undertaking	28	9.0
<b>People sentenced</b>	<b>312</b>	<b>100.0</b>
Criminal justice diversion program	3	
<b>Total dispositions</b>	<b>315</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 52.9% of the 34 people who received a fine, 46.3% of the 54 people who received a community-based order and 11.1% of the 18 people who received an adjourned undertaking. Overall, 65.3% 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 (272 people or 87.2%). The age of people sentenced for trafficking ecstasy ranged from 17 years to 45 years, while the median age was 23 years (meaning that half of the people were aged 23 years or younger and half were 23 years or older). The median age for both males and females was the same.

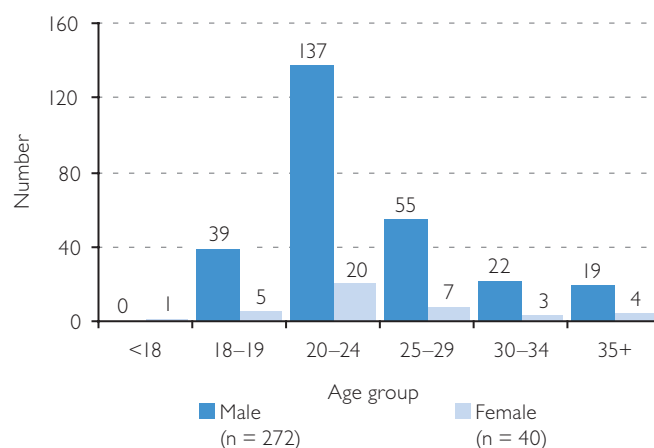
## Sentencing outcomes by gender and age group

Table 2 shows the number and percentage of people who were sentenced for trafficking ecstasy 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 (9.9% of men compared to 2.5% of women). Conversely, a higher percentage of women received non-custodial sentences (65.0% of women compared to 58.5% of men).

When examining individual sentence types, a higher percentage of men received community-based orders (33.1% compared to 17.5% of women), sentences of imprisonment (7.0% compared to no women) and wholly suspended sentences (21.0% compared to 15.0%). Conversely, a higher percentage of women received adjourned undertakings (20.0% compared to 7.4% of men), fines (27.5% compared to 18.0%) and intensive correction orders (17.5% compared to 10.7%).

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



**Table 2:** The number and percentage of people sentenced for trafficking ecstasy 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	27 (9.9%)	1 (2.5%)	0 –	14 (7.0%)	13 (12.7%)	1 (12.5%)	28 (9.0%)
Imprisonment	19 (7.0%)	0 –	0 –	8 (4.0%)	10 (9.8%)	1 (12.5%)	19 (6.1%)
Partially suspended sentence	8 (2.9%)	1 (2.5%)	0 –	6 (3.0%)	3 (2.9%)	0 –	9 (2.9%)
Other custodial	86 (31.6%)	13 (32.5%)	0 –	53 (26.4%)	44 (43.1%)	2 (25.0%)	99 (31.7%)
Wholly suspended sentence	57 (21.0%)	6 (15.0%)	0 –	36 (17.9%)	25 (24.5%)	2 (25.0%)	63 (20.2%)
Intensive correction order	29 (10.7%)	7 (17.5%)	0 –	17 (8.5%)	19 (18.6%)	0 –	36 (11.5%)
Non-custodial	159 (58.5%)	26 (65.0%)	1 (100.0%)	134 (66.7%)	45 (44.1%)	5 (62.5%)	185 (59.3%)
Community-based order	90 (33.1%)	7 (17.5%)	1 (100.0%)	75 (37.3%)	20 (19.6%)	1 (12.5%)	97 (31.1%)
Fine	49 (18.0%)	11 (27.5%)	0 –	39 (19.4%)	17 (16.7%)	4 (50.0%)	60 (19.2%)
Adjourned undertaking	20 (7.4%)	8 (20.0%)	0 –	20 (10.0%)	8 (7.8%)	0 –	28 (9.0%)
People sentenced	272 (100.0%)	40 (100.0%)	1 (100.0%)	201 (100.0%)	102 (100.0%)	8 (100.0%)	312 (100.0%)

## Sentencing outcomes by year

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

While the number of people who received a non-immediate custodial sentence increased from 14 people in 2004–05 to 32 people in 2007–08, the percentage of people decreased from 33.3% to 31.1% over the past three years. The number and percentage of people who received a non-custodial sentence increased from 22 people and 52.4% in 2004–05 to 62 people and 60.2% in 2007–08.

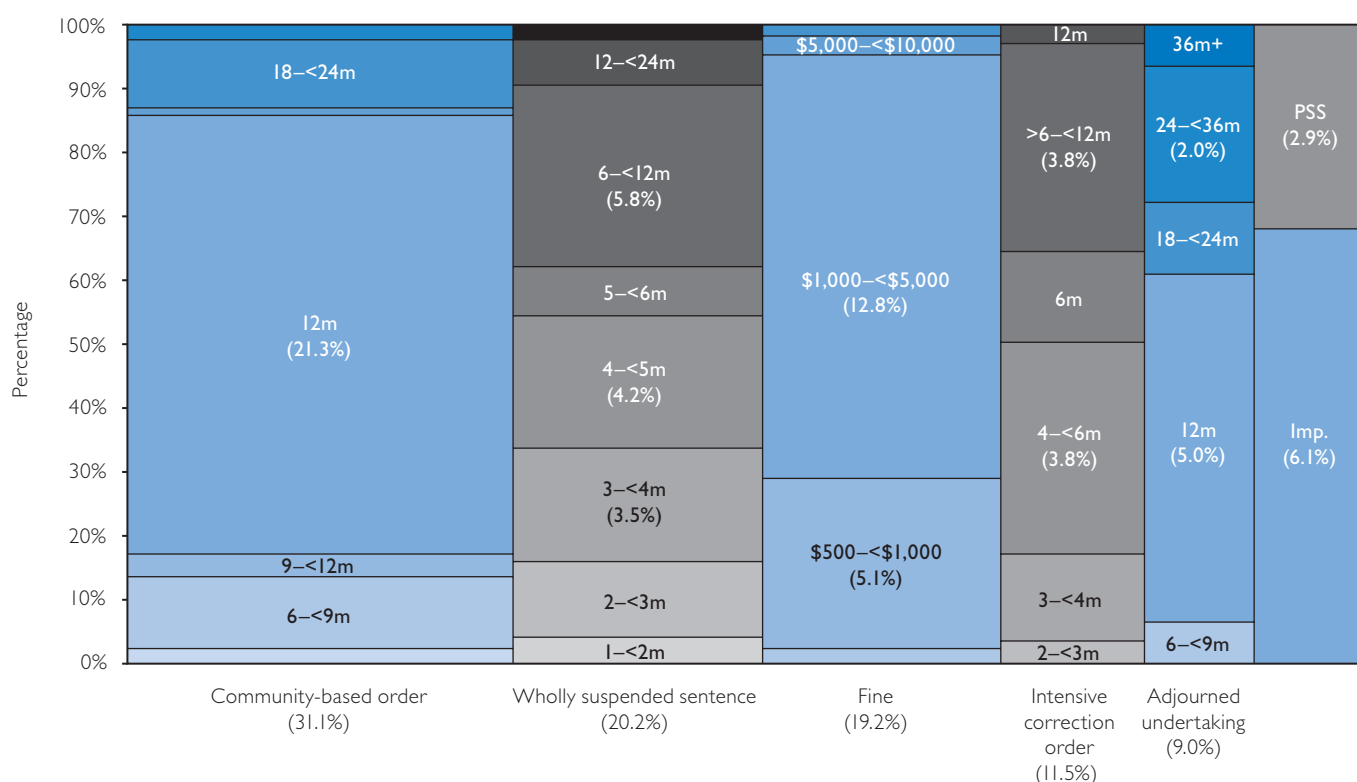
## Sentencing Map

Figure 3 presents both the sentencing outcomes and the quanta for those outcomes for people sentenced for trafficking ecstasy. For example, 31.1% of people sentenced received a community-based order, including 21.3% 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.

Table 3: The number and percentage of people sentenced for trafficking ecstasy by sentence type and year, 2004–05 to 2007–08<sup>12</sup>

Sentence Type	2004–05	2005–06	2006–07	2007–08
<b>Immediate custodial</b>	<b>6</b> <b>(14.3%)</b>	<b>7</b> <b>(7.4%)</b>	<b>6</b> <b>(8.2%)</b>	<b>9</b> <b>(8.7%)</b>
Imprisonment	4 (9.5%)	4 (4.3%)	4 (5.5%)	7 (6.8%)
Partially suspended sentence	2 (4.8%)	3 (3.2%)	2 (2.7%)	2 (1.9%)
<b>Other custodial</b>	<b>14</b> <b>(33.3%)</b>	<b>30</b> <b>(31.9%)</b>	<b>23</b> <b>(31.5%)</b>	<b>32</b> <b>(31.1%)</b>
Wholly suspended sentence	11 (26.2%)	15 (16.0%)	17 (23.3%)	20 (19.4%)
Intensive correction order	3 (7.1%)	15 (16.0%)	6 (8.2%)	12 (11.7%)
<b>Non-custodial</b>	<b>22</b> <b>(52.4%)</b>	<b>57</b> <b>(60.6%)</b>	<b>44</b> <b>(60.3%)</b>	<b>62</b> <b>(60.2%)</b>
Community-based order	12 (28.6%)	31 (33.0%)	23 (31.5%)	31 (30.1%)
Fine	8 (19.0%)	18 (19.1%)	12 (16.4%)	22 (21.4%)
Adjourned undertaking	2 (4.8%)	8 (8.5%)	9 (12.3%)	9 (8.7%)
<b>People sentenced</b>	<b>42</b>	<b>94</b>	<b>73</b>	<b>103</b>

Figure 3: Sentencing Map: The percentage of people sentenced for trafficking ecstasy by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08<sup>13</sup>



Note: Imp. refers to imprisonment and PSS refers to partially suspended sentence.

## Principal sentence

This section examines the use of the five most common principal sentencing outcomes for this offence.<sup>14</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>15</sup> Finally, where relevant, the details of the sentence (length of order or fine amount) are examined.<sup>16</sup>

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

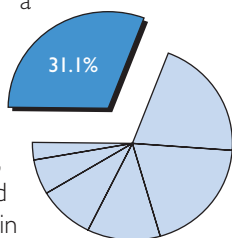
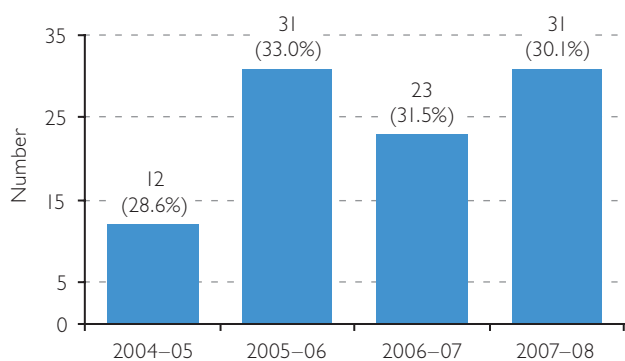
## Community-based order

### Trends

There were 97 people who received a community-based order for trafficking ecstasy. This represented 31.1% of all people sentenced for this offence. Of the 54 people who received a community-based order in 2006–07 and 2007–08, 46.3% also had a conviction recorded (25 people). Figure 4 shows the trends in the number and percentage of people who received a community-based order for trafficking ecstasy.

In 2007–08, 31 people received a community-based order for the principal proven offence of trafficking ecstasy. This has increased over the past year from 23 people in 2006–07, after decreasing the previous year. The proportion of people who received a community-based order for trafficking ecstasy remained relatively stable over the past three years ranging from 30.1% in 2007–08 to 33.0% in 2005–06.

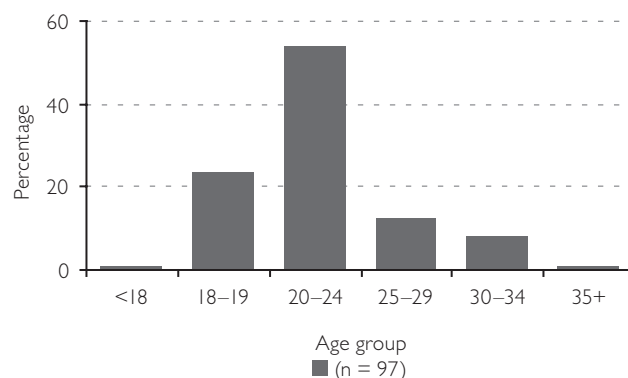
**Figure 4:** The number and percentage of people who received a community-based order for trafficking ecstasy, 2004–05 to 2007–08



## Age and gender

Of the 97 people who received a community-based order, 92.8% were men. Figure 5 shows the age groups of people who received a community-based order for trafficking ecstasy. The median age of these people was 21 years.

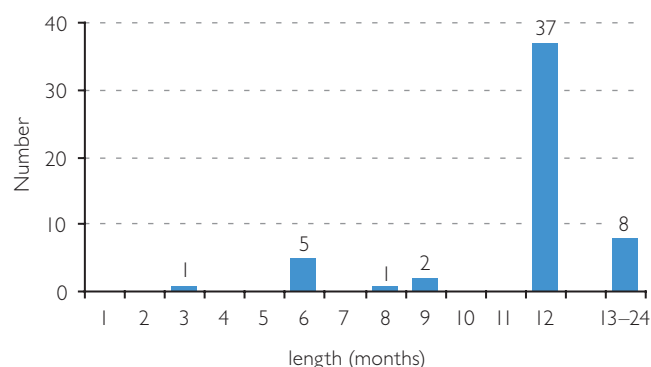
**Figure 5:** The percentage of people who received a community-based order for trafficking ecstasy by age, 2004–05 to 2007–08



## Length of sentence

Figure 6 shows the number of people who received a community-based order for trafficking ecstasy 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 (68.5%).

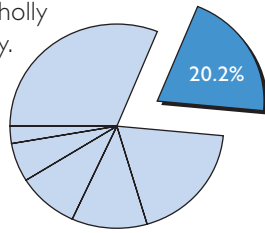
**Figure 6:** The number of people who received a community-based order for trafficking ecstasy by the length of order, 2006–07 and 2007–08



## Wholly suspended sentence

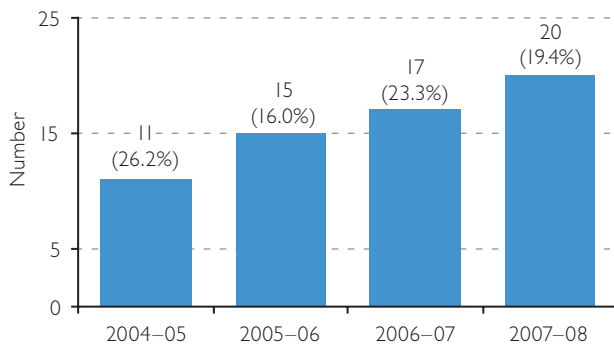
### Trends

There were 63 people who received a wholly suspended sentence for trafficking ecstasy. This represented 20.2% 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 ecstasy.



In 2007–08, 20 people received a wholly suspended sentence for the principal proven offence of trafficking ecstasy. This has increased each of the past three years from 11 people in 2004–05. However, the proportion of people who received a wholly suspended sentence for trafficking ecstasy decreased over the past year from 23.3% to 19.4%.

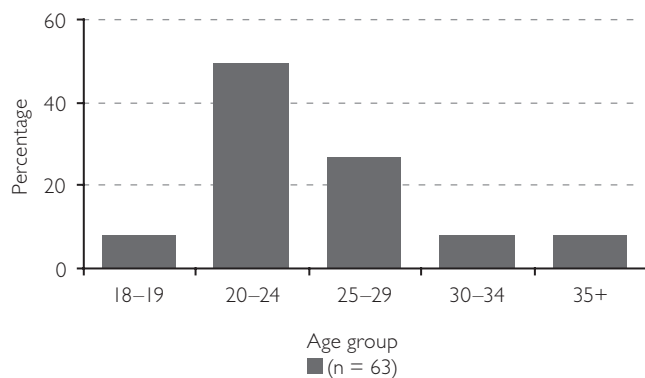
**Figure 7:** The number and percentage of people who received a wholly suspended sentence for trafficking ecstasy, 2004–05 to 2007–08



### Age and gender

Of the 63 people who received a wholly suspended sentence, 90.5% were men. Figure 8 shows the age groups of people who received a wholly suspended sentence for trafficking ecstasy. The median age of these people was 24 years.

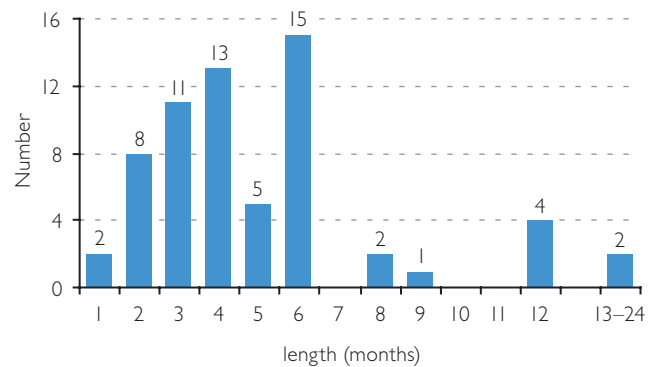
**Figure 8:** The percentage of people who received a wholly suspended sentence for trafficking ecstasy by age, 2004–05 to 2007–08



## Length of sentence

Figure 9 shows the number of people who received a wholly suspended sentence for trafficking ecstasy by the length of the sentence. While the length of wholly suspended sentences ranged from one month to two years, the median was four months (meaning that half were shorter than four months and half were longer than four months).<sup>17</sup>

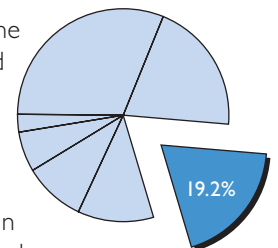
**Figure 9:** The number of people who received a wholly suspended sentence for trafficking ecstasy by the length of order, 2004–05 to 2007–08



## Fine

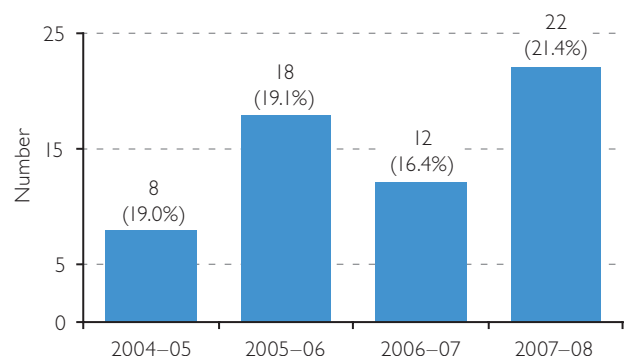
### Trends

There were 60 people who received a fine for trafficking ecstasy. This represented 19.2% of all people sentenced for this offence. Of the 34 people who received a fine in 2006–07 and 2007–08, 52.9% also had a conviction recorded (18 people). Figure 10 shows the trends in the number and percentage of people who received a fine for trafficking ecstasy.



In 2007–08, 22 people received a fine for the principal proven offence of trafficking ecstasy. This has increased over the past year from 12 people in 2006–07, after decreasing the previous year. Also, the proportion of people who received a fine for trafficking ecstasy increased over the past year from 16.4% to 21.4%.

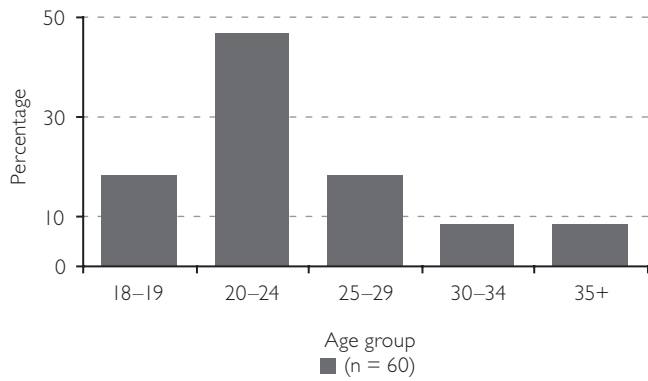
**Figure 10:** The number and percentage of people who received a fine for trafficking ecstasy, 2004–05 to 2007–08



**Age and gender**

Of the 60 people who received a fine, 81.7% were men. Figure 11 shows the age groups of people who received a fine for trafficking ecstasy. The median age of these people was 22 years.

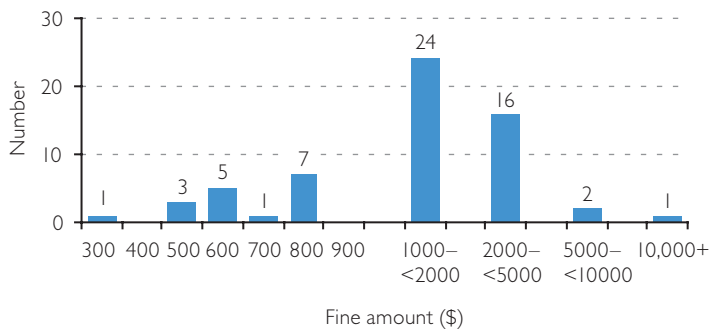
**Figure 11:** The percentage of people who received a fine for trafficking ecstasy by age, 2004–05 to 2007–08



**Fine Amount**

Figure 12 shows the number of people who received a fine for trafficking ecstasy by the amount of the fine. While the amount of the fine ranged from \$300 to \$10,000, the median was \$1,000.<sup>18</sup>

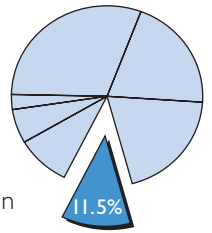
**Figure 12:** The number of people who received a fine for trafficking ecstasy by the amount of the fine, 2004–05 to 2007–08



**Intensive correction order**

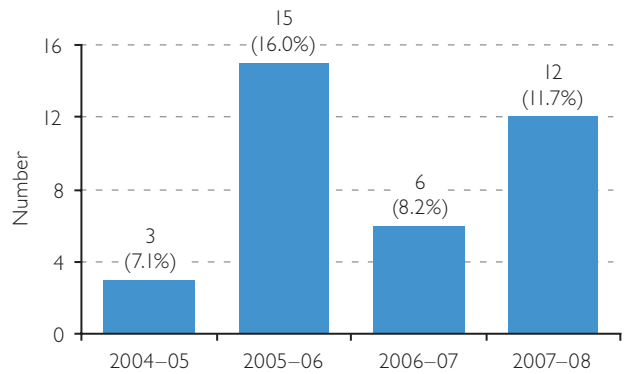
**Trends**

There were 36 people who received an intensive correction order for trafficking ecstasy. This represented 11.5% 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 ecstasy.



In 2007–08, 12 people received an intensive correction order for the principal proven offence of trafficking ecstasy. This has increased over the past year from 6 people in 2006–07, after decreasing the previous year. Also, the proportion of people who received an intensive correction order for trafficking ecstasy increased over the past year from 8.2% to 11.7%.

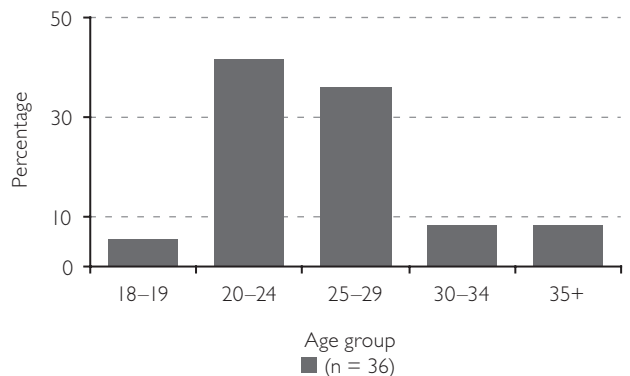
**Figure 13:** The number and percentage of people who received an intensive correction order for trafficking ecstasy, 2004–05 to 2007–08



**Age and gender**

Of the 36 people who received an intensive correction order, 80.6% were men. Figure 14 shows the age groups of people who received an intensive correction order for trafficking ecstasy. The median age of these people was 25 years.

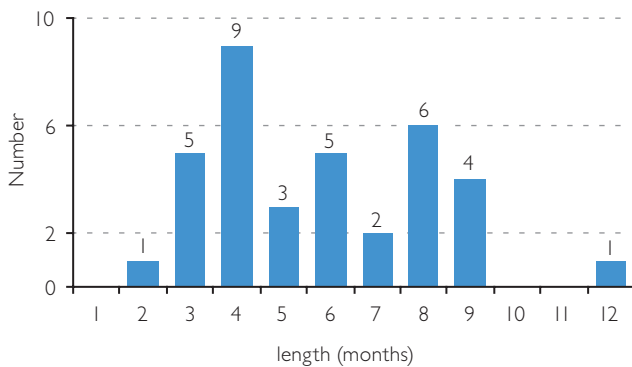
**Figure 14:** The percentage of people who received an intensive correction order for trafficking ecstasy by age, 2004–05 to 2007–08



### Length of sentence

Figure 15 shows the number of people who received an intensive correction order for trafficking ecstasy by the length of the sentence. While the length of intensive correction orders ranged from two months to one year, the most common length was 4 months (25.0%).<sup>19</sup>

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



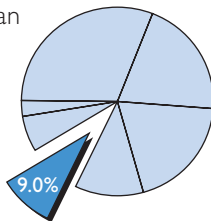
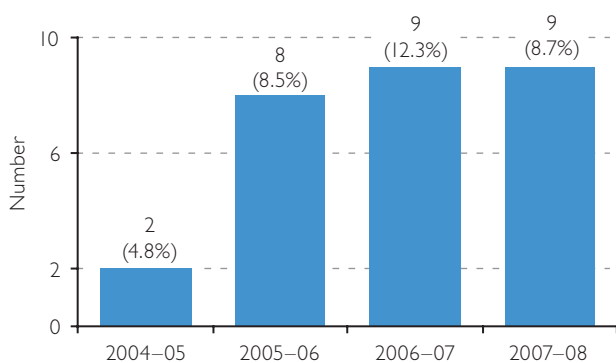
### Adjourned undertaking

#### Trends

There were 28 people who received an adjourned undertaking for trafficking ecstasy. This represented 9.0% of all people sentenced for this offence. Of the 18 people who received an adjourned undertaking in 2006–07 and 2007–08, 11.1% also had a conviction recorded (2 people). Figure 16 shows the trends in the number and percentage of people who received an adjourned undertaking for trafficking ecstasy.

In 2007–08, 9 people received an adjourned undertaking for the principal proven offence of trafficking ecstasy. This has remained stable over the past two years

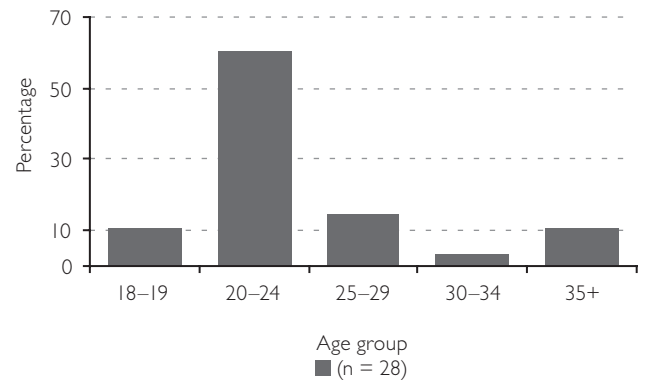
**Figure 16:** The number and percentage of people who received an adjourned undertaking for trafficking ecstasy, 2004–05 to 2007–08



### Age and gender

Of the 28 people who received an adjourned undertaking, 71.4% were men. Figure 17 shows the age groups of people who received an adjourned undertaking for trafficking ecstasy. The median age of these people was 22 years and six months.

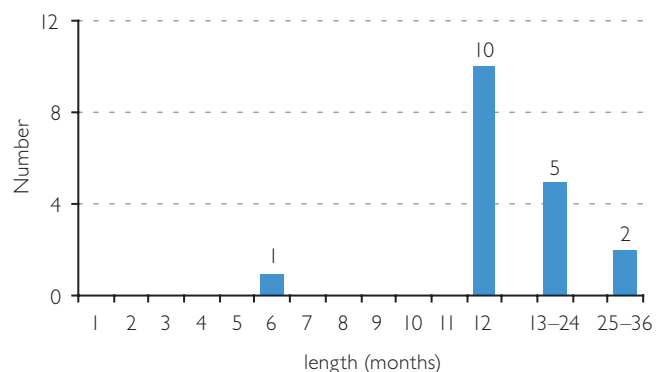
**Figure 17:** The percentage of people who received an adjourned undertaking for trafficking ecstasy by age, 2004–05 to 2007–08



### Length of sentence

Figure 18 shows the number of people who received an adjourned undertaking for trafficking ecstasy by the length of the sentence. While the length of adjourned undertakings ranged from six months to three years, the majority were for 12 months (55.6%).

**Figure 18:** The number of people who received an adjourned undertaking for trafficking ecstasy by the length of order, 2006–07 and 2007–08

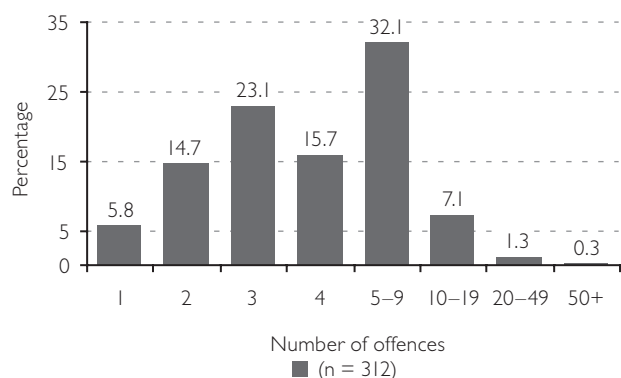


## Other offences finalised at the same hearing

Often people prosecuted for trafficking ecstasy 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 ecstasy.

Figure 19 shows the percentage of people sentenced for the principal offence of trafficking ecstasy by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 61, while the median was 4 offences. There were 18 people (5.8%) sentenced for the single offence of trafficking ecstasy alone. The average number of offences per person sentenced for trafficking ecstasy was 5.16.

**Figure 19:** The percentage of cases where trafficking ecstasy 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 ecstasy, 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, 220 of the total 312 people (70.5%) also received sentences for possessing a drug of dependence. On average, they were sentenced for 1.84 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 1.56.

**Table 4:** The number and percentage of people sentenced for the principal offence of trafficking ecstasy 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	312	100.0	1.56
2 possessing a drug of dependence	220	70.5	1.84
3 using a drug of dependence	151	48.4	1.44
4 deal property suspected proceed of crime	124	39.7	1.20
5 possess prohibited weapon	17	5.4	1.12
6 theft	15	4.8	5.73
7 failing to appear on bail	15	4.8	1.20
8 drive while disqualified	14	4.5	1.79
9 use an unregistered vehicle	11	3.5	1.73
10 carry regulated weapon	8	2.6	1.13
<b>People sentenced</b>	<b>312</b>	<b>100.0</b>	<b>5.16</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 ecstasy. As shown, the average number of trafficking a drug of dependence offences sentenced per person was 1.56, including 1.11 offences of trafficking ecstasy. The most common other drug involved in trafficking a drug of dependence sentenced was amphetamines (70 people or 22.4% of those who were sentenced for trafficking ecstasy). On average, these people were sentenced for 1.10 counts of this offence.

**Table 5:** The number and percentage of people sentenced for the principal offence of trafficking ecstasy 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 ecstasy	312	100.0	1.11
trafficking amphetamines	70	22.4	1.10
trafficking cannabis	29	9.3	1.07
trafficking drug of dependence – other	27	8.7	1.00
trafficking heroin	1	0.3	1.00
<b>People sentenced</b>	<b>312</b>	<b>100.0</b>	<b>1.56</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 ecstasy. As shown, there were 220 people sentenced for possessing a drug of dependence. On average, these people were sentenced for 1.84 charges of such offences. The most common drug involved in using a drug of dependence sentenced was ecstasy (138 people or 62.7% of those who were sentenced for possessing a drug of dependence offence). On average, these people were sentenced for 1.07 counts of this offence.

**Table 6:** The number and percentage of people sentenced for the principal offence of trafficking ecstasy 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 ecstasy	138	62.7	1.07
possessing amphetamines	99	45.0	1.16
possessing cannabis	73	33.2	1.14
possessing a drug of dependence – other	54	24.5	1.06
possessing heroin	1	0.5	2.00
<b>People sentenced</b>	<b>220</b>	<b>100.0</b>	<b>1.84</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 ecstasy. As shown, there were 151 people sentenced for using a drug of dependence. On average, these people were sentenced for 1.44 charges of such offences. The most common drug involved in using a drug of dependence sentenced was ecstasy (103 people or 68.2% of those who were sentenced for using a drug of dependence offence). On average, these people were sentenced for 1.04 counts of this offence.

**Table 7:** The number and percentage of people sentenced for the principal offence of trafficking ecstasy 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 ecstasy	103	68.2	1.04
using amphetamines	55	36.4	1.04
using cannabis	32	21.2	1.03
using a drug of dependence – other	20	13.2	1.00
using heroin	1	0.7	1.00
<b>People sentenced</b>	<b>151</b>	<b>100.0</b>	<b>1.44</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 ecstasy. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.<sup>20</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 ecstasy, by the other sentence types also imposed in the case. For example, of the 130 people who received a fine as part of their total effective sentence, 23.1% also received a wholly suspended sentence, while 20.8% received a community-based order.

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

- a fine with a wholly suspended sentence (46.2% of the 65 people who received a wholly suspended sentence);
- a fine with an imprisonment term (45.0% of the 20 people);
- a community-based order with a wholly suspended sentence (26.2% of the 65 people);
- a fine with an intensive correction order (25.0% of the 36 people);
- a fine with a community-based order (22.7% of the 119 people);
- a wholly suspended sentence with an adjourned undertaking (15.2% of the 46 people); and
- a community-based order with an adjourned undertaking (13.0% of the 46 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%	22.7%	46.2%	10.9%	25.0%	45.0%
CBO	20.8%	100%	26.2%	13.0%	2.8%	5.0%
WSS	23.1%	14.3%	100%	15.2%	5.6%	0.0%
ADU	3.8%	5.0%	10.8%	100%	0.0%	5.0%
ICO	6.9%	0.8%	3.1%	0.0%	100%	0.0%
Imp.	6.9%	0.8%	0.0%	2.2%	0.0%	100%
<b>Total</b>	<b>130</b>	<b>119</b>	<b>65</b>	<b>46</b>	<b>36</b>	<b>20</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.

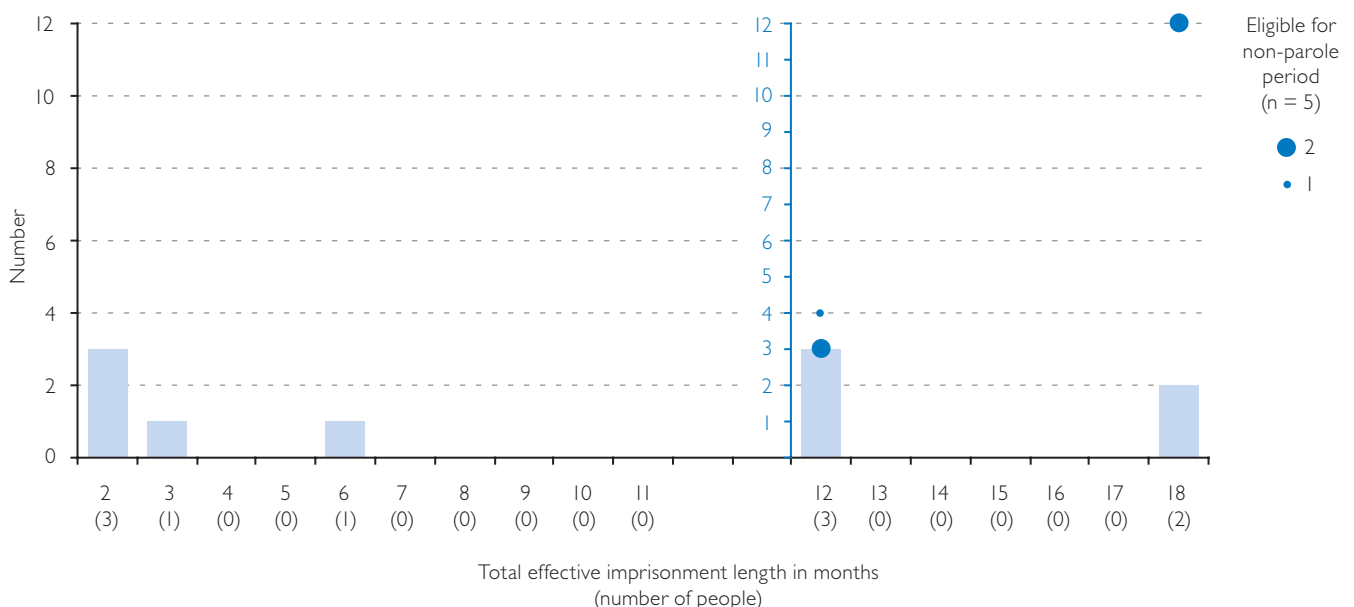
There were 10 people given a total effective sentence of imprisonment in 2006–07 and 2007–08.<sup>21</sup> There were 5 people eligible for a non-parole period in 2006–07 and 2007–08, all of whom were given a non-parole period. This makes up 50.0% of all those who were given a total effective sentence of imprisonment.

Figure 20 shows the number of people sentenced to imprisonment for trafficking ecstasy 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>22</sup>

Total effective imprisonment lengths ranged from two months to one year and six months, while the most common length was 12 months (3 people), followed by 2 months (3 people).

For people who were sentenced to a term of imprisonment of 12 months or longer, the most common combinations of imprisonment length and non-parole period were one year and six months with a non-parole period of one year, and one year with a non-parole period of three months (2 people each – as represented by the largest bubbles on the chart). The longest total effective sentence imposed was one year and six months with a non-parole period of one year.

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



## Summary

The Magistrates' Court sentenced 312 people for the principal offence of trafficking ecstasy between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (272 people or 87.2%), while 50% were aged between 20 and 25 years.

Most people sentenced for trafficking ecstasy received a non-custodial sentence (185 people or 59.3%), including 97 people who received a community-based order (31.1%) and 60 people who received a fine (19.2%). A conviction was recorded with the principal sentence for 65.3% of people sentenced.

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

Each of the 312 people was sentenced for an average of 5.16 offences, including 1.56 offences of trafficking in a drug of dependence. The most common offence finalised in conjunction with trafficking ecstasy was possessing a drug of dependence (70.5% of all cases).

Common sentence types imposed in conjunction with another sentence type included a fine with a wholly suspended sentence (46.2% of the 65 people who received a wholly suspended sentence), a fine with an imprisonment term (45.0% of the 20 people), a community-based order with a wholly suspended sentence (26.2% of the 65 people), a fine with an intensive correction order (25.0% of the 36 people), a fine with a community-based order (22.7% of the 119 people), a wholly suspended sentence with an adjourned undertaking (15.2% of the 46 people) and a community-based order with an adjourned undertaking (13.0% of the 46 people).

Lengths of total effective sentences ranged from two months to one year and six months with a non-parole period of one year. The most common length was 12 months (3 people).

<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 ecstasy 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 ecstasy who received a more serious sentence for another offence on the same charge sheet.

<sup>2</sup> Trafficking ecstasy offences are identified by using the charge descriptions of 'traffick ecstasy', 'traffick ecstasy (MDMA)' and 'traffick ecstasy (MDA)' 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 54.2% 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> Refer fn. 8.

<sup>13</sup> Aggregate sentence lengths are shown for people who received an aggregate sentence. Data for sentence lengths of adjourned undertakings and community-based orders are only available for 2006–07 and 2007–08.

<sup>14</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>15</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.

<sup>16</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>17</sup> The length of non-aggregate wholly suspended sentences ranged from one month to one year, with a median of four months, while the length of aggregate wholly suspended sentences ranged from one month to two years, with a median of five months.

<sup>18</sup> The amount of non-aggregate fines ranged from \$500 to \$3,000, with a median of \$1,000, while the amount of aggregate fines ranged from \$300 to \$10,000, with a median of \$1,000.

<sup>19</sup> The length of non-aggregate intensive correction orders ranged from three months to one year, with a median of six months, while the length of aggregate intensive correction orders ranged from two months to nine months, with a median of five months.

<sup>20</sup> While a total of 20 people were sentenced to at least one period of imprisonment in the case, 19 people had imprisonment listed against their principal proven offence. There was one person 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>21</sup> Total effective imprisonment lengths and non-parole periods are only available for 2006–07 and 2007–08.

<sup>22</sup> Non-parole periods are rounded down to the nearest month.

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

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- 70 Trafficking ecstasy
- 69 Trafficking cannabis
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- 31 Sexual penetration of a child aged between 10 and 16
- 30 Making a threat to kill
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- 25 Maintaining a sexual relationship with a child aged under 16
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- 16 Handling stolen goods

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