

# Sentencing Snapshot

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

February 2009  
No. 71

## Trafficking heroin

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

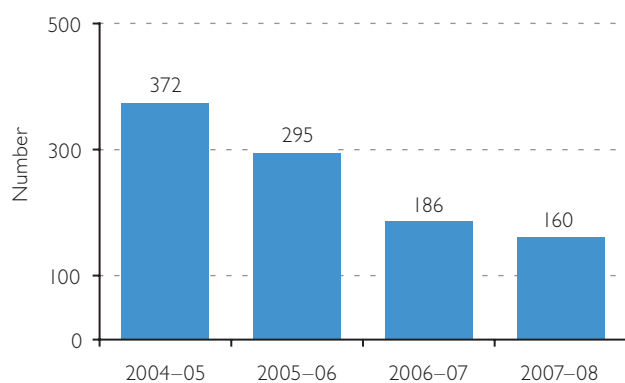
This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate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

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

### People sentenced

Over the four-year period, the Magistrates' Court sentenced 1,013 people for the principal offence of trafficking heroin. In 2007–08, there were 160 people who were sentenced for the principal proven offence of trafficking heroin.<sup>8</sup> This has steadily decreased each year from 372 people in 2004–05.

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



### Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for trafficking heroin during 2004–05 to 2007–08. Over the four-year period, around four in ten of those sentenced for trafficking heroin received a non-immediate custodial sentence (376 people or 37.1%), including 260 people who received a wholly suspended sentence (25.7%) and 106 people who received an intensive correction order (10.5%).

There were also 365 people who received an immediate custodial sentence (36.0%), including 289 people who were sentenced to imprisonment (28.5%).

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 heroin by sentence type, 2004–05 to 2007–08

Sentence Type	Total	%
<b>Immediate custodial</b>	<b>365</b>	<b>36.0</b>
Imprisonment	289	28.5
Partially suspended sentence	61	6.0
Combined custody and treatment order	5	0.5
Youth justice centre order	10	1.0
<b>Other custodial</b>	<b>376</b>	<b>37.1</b>
Drug treatment order	8	0.8
Home detention order	2	0.2
Wholly suspended sentence	260	25.7
Intensive correction order	106	10.5
<b>Non-custodial</b>	<b>272</b>	<b>26.9</b>
Community-based order	187	18.5
Fine	46	4.5
Adjourned undertaking	38	3.8
Convicted and discharged (s 73 SA)	1	0.1
<b>People sentenced</b>	<b>1,013</b>	<b>100.0</b>
Criminal justice diversion program	3	
<b>Total dispositions</b>	<b>1,016</b>	



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

### Sentencing outcomes by year

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

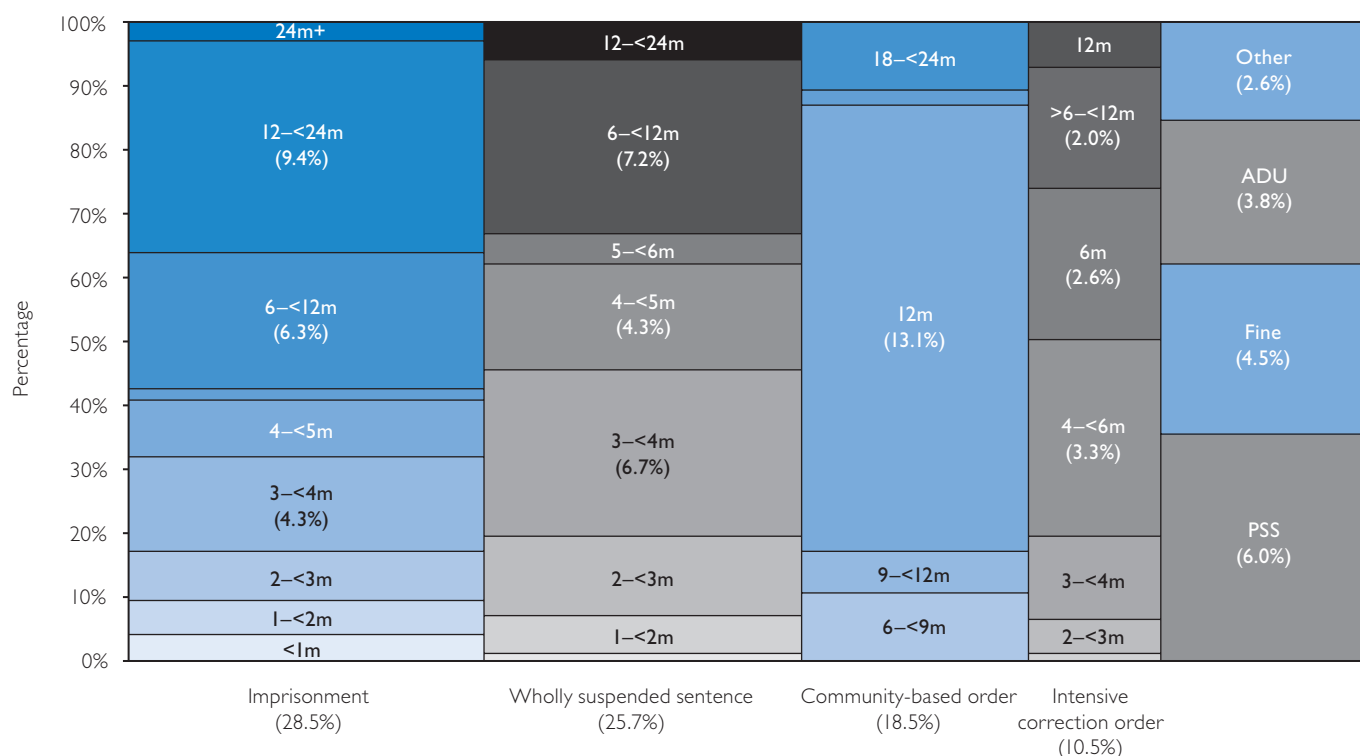
While the number of people who received an immediate custodial sentence decreased from 133 people in 2004–05 to 62 people in 2007–08, the percentage of people remained at a similar level (35.8% in 2004–05 and 38.8 in 2007–08).

While the number of people who received a non-immediate custodial sentence decreased from 128 people in 2004–05 to 65 people in 2007–08, the percentage of people slightly increased from 34.4% to 40.6% over the same period. The number and percentage of people who received a non-custodial sentence decreased from 111 people and 29.8% in 2004–05 to 33 people and 20.6% in 2007–08.

### Sentencing Map

Figure 3 presents both the sentencing outcomes and the quanta for those outcomes for people sentenced for trafficking heroin. For example, 28.5% of people sentenced were sentenced to imprisonment, including 9.4% who were sentenced to imprisonment of 12 to 24 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 heroin by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08<sup>14</sup>



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

Table 3: The number and percentage of people sentenced for trafficking heroin 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>133</b> <b>(35.8%)</b>	<b>86</b> <b>(29.2%)</b>	<b>84</b> <b>(45.2%)</b>	<b>62</b> <b>(38.8%)</b>
Imprisonment	99 (26.6%)	66 (22.4%)	68 (36.6%)	56 (35.0%)
Partially suspended sentence	24 (6.5%)	17 (5.8%)	14 (7.5%)	6 (3.8%)
Combined custody and treatment order	3 (0.8%)	2 (0.7%)	0	0
Youth justice centre order	7 (1.9%)	1 (0.3%)	2 (1.1%)	0
<b>Other custodial</b>	<b>128</b> <b>(34.4%)</b>	<b>116</b> <b>(39.3%)</b>	<b>67</b> <b>(36.0%)</b>	<b>65</b> <b>(40.6%)</b>
Drug treatment order	2 (0.5%)	1 (0.3%)	2 (1.1%)	3 (1.9%)
Home detention order	1 (0.3%)	0	0	1 (0.6%)
Wholly suspended sentence	97 (26.1%)	84 (28.5%)	42 (22.6%)	37 (23.1%)
Intensive correction order	28 (7.5%)	31 (10.5%)	23 (12.4%)	24 (15.0%)
<b>Non-custodial</b>	<b>111</b> <b>(29.8%)</b>	<b>93</b> <b>(31.5%)</b>	<b>35</b> <b>(18.8%)</b>	<b>33</b> <b>(20.6%)</b>
Community-based order	71 (19.1%)	68 (23.1%)	23 (12.4%)	25 (15.6%)
Fine	24 (6.5%)	15 (5.1%)	5 (2.7%)	2 (1.3%)
Adjourned undertaking	16 (4.3%)	10 (3.4%)	6 (3.2%)	6 (3.8%)
Convicted and discharged (s 73 SA)	0	0	1 (0.5%)	0
<b>People sentenced</b>	<b>372</b>	<b>295</b>	<b>186</b>	<b>160</b>

## Principal sentence

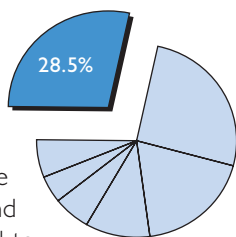
This section examines the use of the five most common principal sentencing outcomes for this offence.<sup>15</sup> Firstly, it provides an analysis of the trends in the use of each sentencing outcome, both in terms of the number and percentage of people sentenced. Secondly, a demographic analysis of 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 heroin are imprisonment, wholly suspended sentence, community-based order, intensive correction order and partially suspended sentence.

## Imprisonment

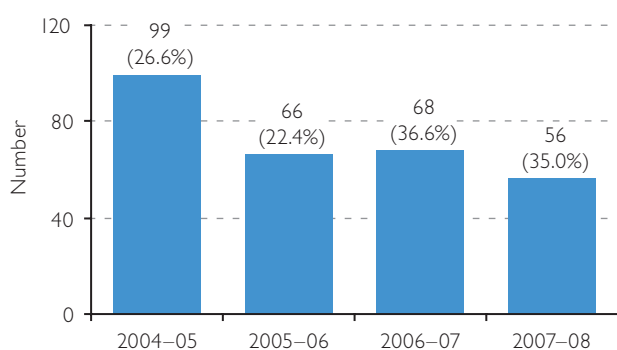
### Trends

There were 289 people who were sentenced to imprisonment for trafficking heroin. This represented 28.5% of all people sentenced for this offence. Figure 4 shows the trends in the number and percentage of people who were sentenced to imprisonment for trafficking heroin.



In 2007–08, 56 people were sentenced to imprisonment for the principal proven offence of trafficking heroin. This has decreased over the past year from 68 people in 2006–07, after remaining relatively stable the previous year. However, the proportion of people who were sentenced to imprisonment for trafficking heroin remained relatively stable over the past two years, ranging from 35.0% in 2007–08 to 36.6% in 2006–07.

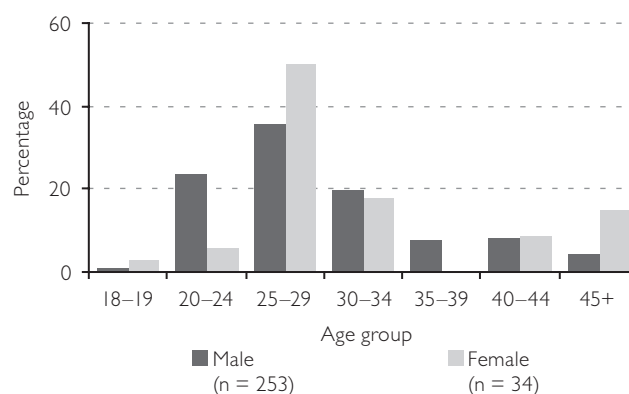
**Figure 4:** The number and percentage of people who were sentenced to imprisonment for trafficking heroin, 2004–05 to 2007–08



## Age and gender

Of the 289 people who received a period of imprisonment, 88.2% were men. Figure 5 shows the age groups of people who were sentenced to imprisonment for trafficking heroin by gender. The median age of these people was 28 years. This was similar for both men and women (28 years and six months for women and 28 years for men).

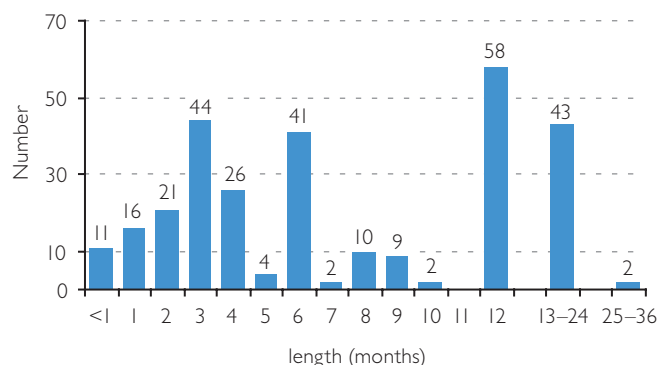
**Figure 5:** The percentage of people who were sentenced to imprisonment for trafficking heroin by age and gender, 2004–05 to 2007–08



## Length of sentence

Figure 6 shows the number of people who were sentenced to imprisonment for trafficking heroin by the length of the sentence. While the length of imprisonment ranged from one day 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).<sup>18</sup>

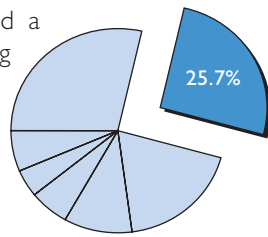
**Figure 6:** The number of people who were sentenced to imprisonment for trafficking heroin by the length of order, 2004–05 to 2007–08



### Wholly suspended sentence

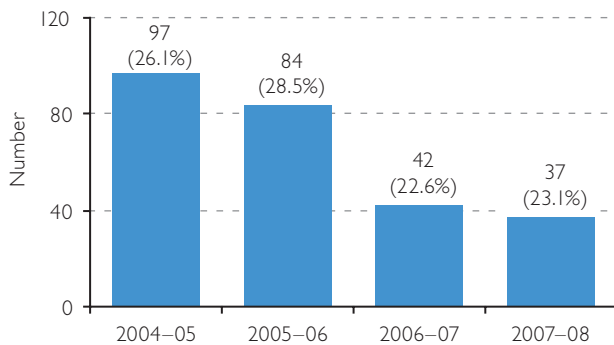
#### Trends

There were 260 people who received a wholly suspended sentence for trafficking heroin. 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 heroin.



In 2007–08, 37 people received a wholly suspended sentence for the principal proven offence of trafficking heroin. This has remained relatively stable over the past two years, after decreasing the previous two years. Also, the proportion of people who received a wholly suspended sentence for trafficking heroin remained relatively stable over the past two years, ranging from 22.6% in 2006–07 to 23.1% in 2007–08.

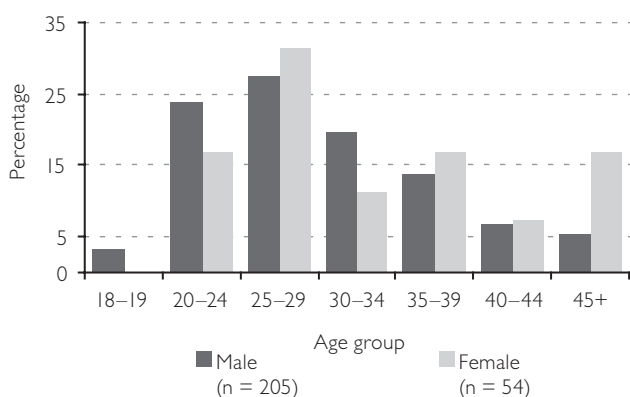
**Figure 7:** The number and percentage of people who received a wholly suspended sentence for trafficking heroin, 2004–05 to 2007–08



#### Age and gender

Of the 260 people who received a wholly suspended sentence, 79.2% were men. Figure 8 shows the age groups of people who received a wholly suspended sentence for trafficking heroin by gender. The median age of these people was 29 years, while women were generally older than their male counterparts (a median age of 31 years compared to 29 years).

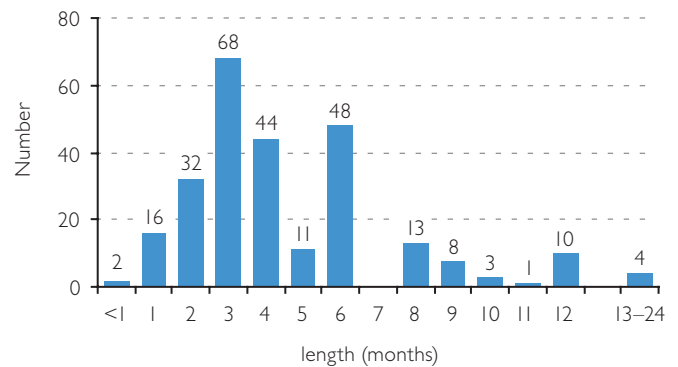
**Figure 8:** The percentage of people who received a wholly suspended sentence for trafficking heroin by age and gender, 2004–05 to 2007–08



### Length of sentence

Figure 9 shows the number of people who received a wholly suspended sentence for trafficking heroin by the length of the sentence. While the length of wholly suspended sentences ranged from seven days to one year and six months, the median was four months (meaning that half were shorter than four months and half were longer than four months).<sup>19</sup>

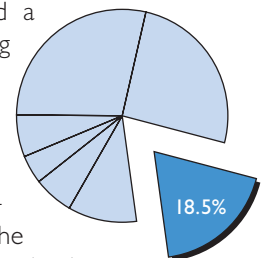
**Figure 9:** The number of people who received a wholly suspended sentence for trafficking heroin by the length of order, 2004–05 to 2007–08



### Community-based order

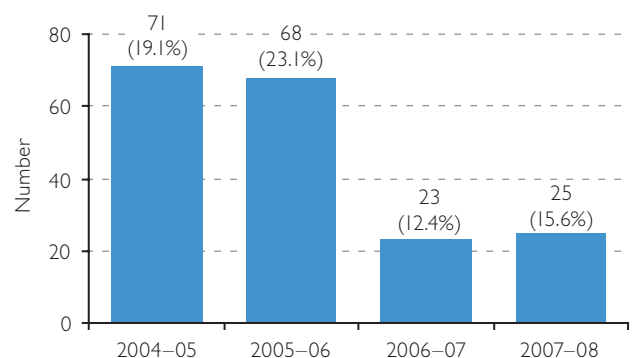
#### Trends

There were 187 people who received a community-based order for trafficking heroin. This represented 18.5% of all people sentenced for this offence. Of the 48 people who received a community-based order in 2006–07 and 2007–08, 91.7% also had a conviction recorded (44 people). Figure 10 shows the trends in the number and percentage of people who received a community-based order for trafficking heroin.



In 2007–08, 25 people received a community-based order for the principal proven offence of trafficking heroin. This has remained relatively stable over the past two years, after decreasing substantially the previous year. The proportion of people who received a community-based order for trafficking heroin increased over the past year from 12.4% to 15.6%.

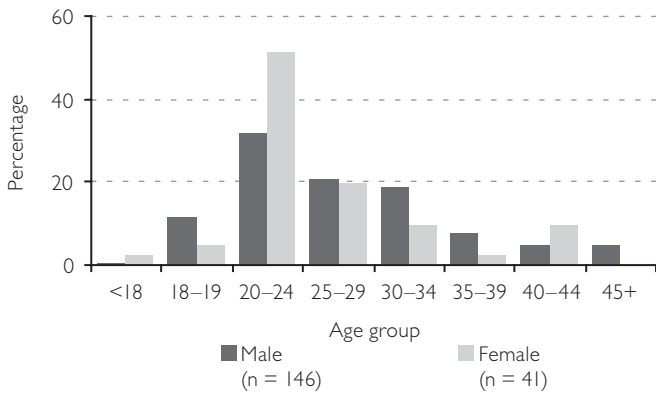
**Figure 10:** The number and percentage of people who received a community-based order for trafficking heroin, 2004–05 to 2007–08



**Age and gender**

Of the 187 people who received a community-based order, 78.1% were men. Figure 11 shows the age groups of people who received a community-based order for trafficking heroin by gender. The median age of these people was 25 years, while men were generally older than their female counterparts (a median age of 25 years compared to 23 years).

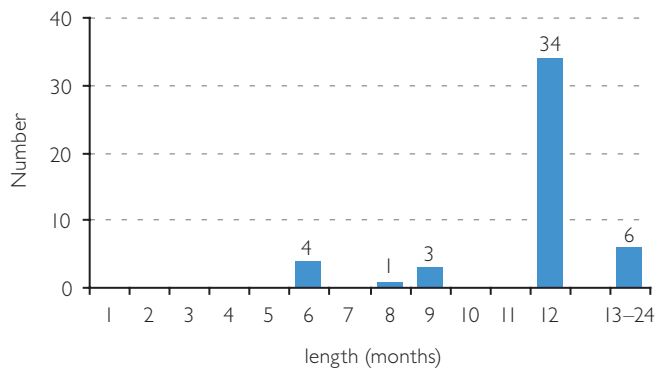
**Figure 11:** The percentage of people who received a community-based order for trafficking heroin by age and gender, 2004–05 to 2007–08



**Length of sentence**

Figure 12 shows the number of people who received a community-based order for trafficking heroin by the length of the sentence. While the length of community-based orders ranged from six months to one year and six months, the majority were for 12 months (70.8%).

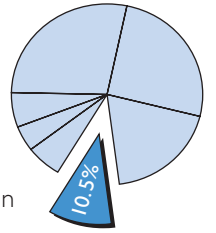
**Figure 12:** The number of people who received a community-based order for trafficking heroin by the length of order, 2006–07 and 2007–08



**Intensive correction order**

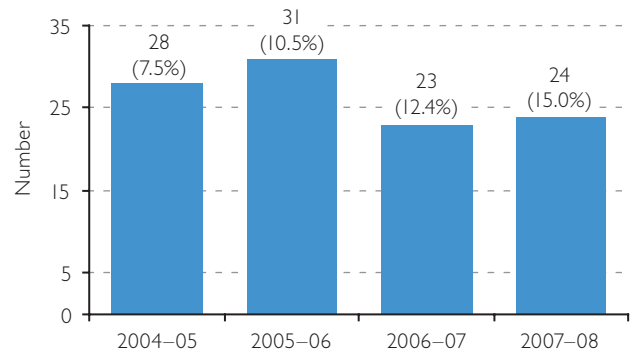
**Trends**

There were 106 people who received an intensive correction order for trafficking heroin. This represented 10.5% 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 heroin.



In 2007–08, 24 people received an intensive correction order for the principal proven offence of trafficking heroin. This has remained relatively stable over the past two years, after decreasing the previous year. The proportion of people who received an intensive correction order for trafficking heroin increased each of the past three years from 7.5% in 2004–05 to 15.0% in 2007–08.

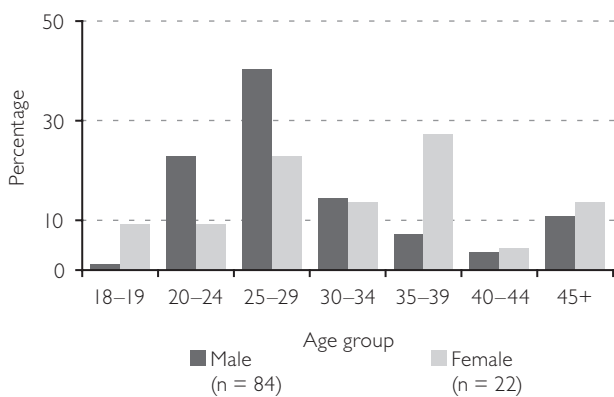
**Figure 13:** The number and percentage of people who received an intensive correction order for trafficking heroin, 2004–05 to 2007–08



### Age and gender

Of the 106 people who received an intensive correction order, 79.2% were men. Figure 14 shows the age groups of people who received an intensive correction order for trafficking heroin by gender. The median age of these people was 28 years, while women were much older than their male counterparts (a median age of 32 years and six months compared to 27 years).

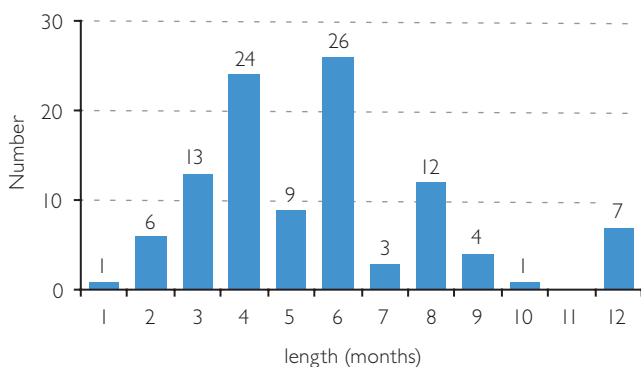
**Figure 14:** The percentage of people who received an intensive correction order for trafficking heroin by age and gender, 2004–05 to 2007–08



### Length of sentence

Figure 15 shows the number of people who received an intensive correction order for trafficking heroin 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 (24.5%), followed by 4 months (22.6%).<sup>20</sup>

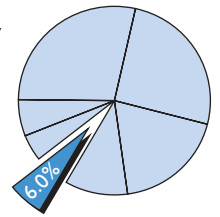
**Figure 15:** The number of people who received an intensive correction order for trafficking heroin by the length of order, 2004–05 to 2007–08



### Partially suspended sentence

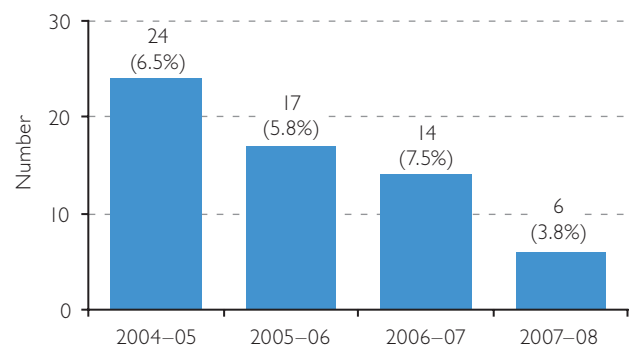
#### Trends

There were 61 people who received a partially suspended sentence of imprisonment for trafficking heroin. This represented 6.0% of all people sentenced for this offence. Figure 16 shows the trends in the number and percentage of people who received a partially suspended sentence of imprisonment for trafficking heroin.



In 2007–08, 6 people received a partially suspended sentence of imprisonment for the principal proven offence of trafficking heroin. This has decreased each of the past three years from 24 people in 2004–05. Also, the proportion of people who received a partially suspended sentence of imprisonment for trafficking heroin decreased over the past year from 7.5% to 3.8%.

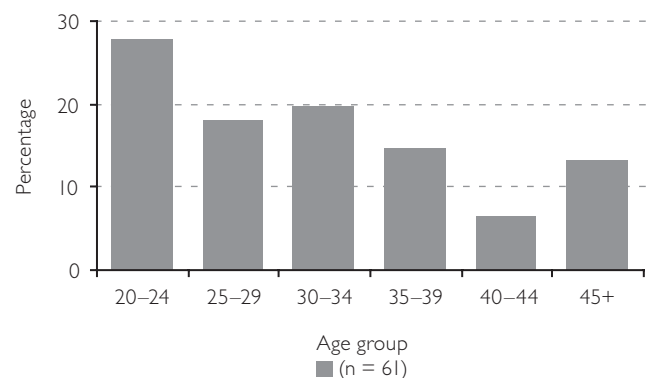
**Figure 16:** The number and percentage of people who received a partially suspended sentence of imprisonment for trafficking heroin, 2004–05 to 2007–08



### Age and gender

Of the 61 people who received a partially suspended sentence, 93.4% were men. Figure 17 shows the age groups of people who received a partially suspended sentence of imprisonment for trafficking heroin. The median age of these people was 31 years.

**Figure 17:** The percentage of people who received a partially suspended sentence of imprisonment for trafficking heroin by age, 2004–05 to 2007–08

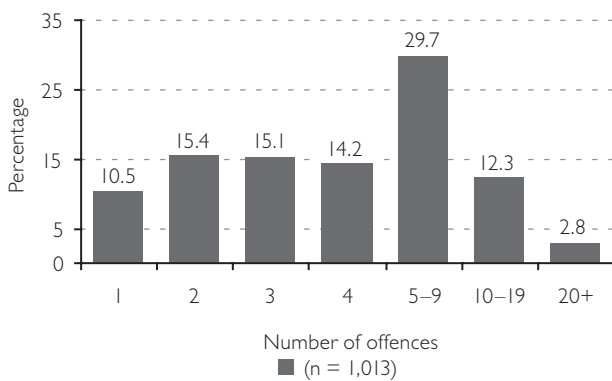


## Other offences finalised at the same hearing

Often people prosecuted for trafficking heroin 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 heroin.

Figure 18 shows the percentage of people sentenced for the principal offence of trafficking heroin 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 4 offences. There were 106 people (10.5%) sentenced for the single offence of trafficking heroin alone. The average number of offences per person sentenced for trafficking heroin was 5.66.

**Figure 18:** The percentage of cases where trafficking heroin was the principal offence by the number of offences where a sentence was imposed in that case, 2004–05 to 2007–08



While Figure 18 presents the number of sentenced offences for those sentenced for trafficking heroin, 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, 530 of the total 1,013 people (52.3%) also received sentences for possessing a drug of dependence. On average, they were sentenced for 1.62 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 1.51.

**Table 4:** The number and percentage of people sentenced for the principal offence of trafficking heroin 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	1,013	100.0	1.51
2 possessing a drug of dependence	530	52.3	1.62
3 deal property suspected proceed of crime	506	50.0	1.40
4 using a drug of dependence	382	37.7	1.32
5 failing to appear on bail	236	23.3	1.75
6 theft	146	14.4	2.58
7 handling stolen goods	95	9.4	1.69
8 carry regulated weapon	61	6.0	1.18
9 knowingly deal with proceeds of crime	55	5.4	1.16
10 assault police	49	4.8	1.59
<b>People sentenced</b>	<b>1,013</b>	<b>100.0</b>	<b>5.66</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 heroin. As shown, the average number of trafficking a drug of dependence offences sentenced per person was 1.51, including 1.45 offences of trafficking heroin.

**Table 5:** The number and percentage of people sentenced for the principal offence of trafficking heroin 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 heroin	1,013	100.0	1.45
trafficking drug of dependence – other	19	1.9	1.05
trafficking cannabis	18	1.8	1.11
trafficking amphetamines	13	1.3	1.77
trafficking ecstasy	1	0.1	1.00
<b>People sentenced</b>	<b>1,013</b>	<b>100.0</b>	<b>1.51</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 heroin. As shown, there were 530 people sentenced for possessing a drug of dependence. On average, these people were sentenced for 1.62 charges of such offences. The most common drug involved in using a drug of dependence sentenced was heroin (434 people or 81.9% of those who were sentenced for possessing a drug of dependence offence). On average, these people were sentenced for 1.32 counts of this offence.

**Table 6:** The number and percentage of people sentenced for the principal offence of trafficking heroin 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 heroin	434	81.9	1.32
possessing cannabis	99	18.7	1.13
possessing a drug of dependence – other	76	14.3	1.18
possessing amphetamines	55	10.4	1.13
possessing ecstasy	18	3.4	1.00
<b>People sentenced</b>	<b>530</b>	<b>100.0</b>	<b>1.62</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 heroin. As shown, there were 382 people sentenced for using a drug of dependence. On average, these people were sentenced for 1.32 charges of such offences. The most common drug involved in the charge of using a drug of dependence sentenced was heroin (363 people or 95.0% of those who were sentenced for a using a drug of dependence offence). On average, these people were sentenced for 1.18 counts of this offence.

**Table 7:** The number and percentage of people sentenced for the principal offence of trafficking heroin 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 heroin	363	95.0	1.18
using cannabis	39	10.2	1.13
using amphetamines	17	4.5	1.00
using a drug of dependence – other	11	2.9	1.09
using ecstasy	3	0.8	1.00
<b>People sentenced</b>	<b>382</b>	<b>100.0</b>	<b>1.32</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 heroin. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.<sup>21</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 heroin, by the other sentence types also imposed in the case. For example, of the 296 people who were sentenced to imprisonment as part of their total effective sentence, 20.3% also received a fine, while 12.2% were convicted and discharged.

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

- an imprisonment term with a convicted and discharged (s 73 SA) (38.7% of the 93 people who were convicted and discharged);
- an imprisonment term with a fine (27.4% of the 219 people);
- a fine with an intensive correction order (22.6% of the 106 people);
- a fine with a wholly suspended sentence (19.6% of the 270 people);
- a wholly suspended sentence with a community-based order (17.8% of the 241 people);
- a community-based order with a convicted and discharged (s 73 SA) (17.2% of the 93 people);
- a wholly suspended sentence with a convicted and discharged (s 73 SA) (15.1% of the 93 people); and
- a convicted and discharged (s 73 SA) with an intensive correction order (12.3% of the 106 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

	Imp.	WSS	CBO	Fine	ICO	CAD
Imp.	100%	0.7%	2.5%	27.4%	0.0%	38.7%
WSS	0.7%	100%	17.8%	24.2%	4.7%	15.1%
CBO	2.0%	15.9%	100%	10.5%	1.9%	17.2%
Fine	20.3%	19.6%	9.5%	100%	22.6%	15.1%
ICO	0.0%	1.9%	0.8%	11.0%	100%	14.0%
CAD	12.2%	5.2%	6.6%	6.4%	12.3%	100%
<b>Total</b>	<b>296</b>	<b>270</b>	<b>241</b>	<b>219</b>	<b>106</b>	<b>93</b>

Note: Imp. refers to imprisonment, WSS refers to wholly suspended sentence, CBO refers to community-based order, ICO refers to intensive correction order and CAD refers to convicted and discharged (s 73 SA).

### 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 123 people given a total effective sentence of imprisonment in 2006–07 and 2007–08.<sup>22</sup> There were 55 people eligible for a non-parole period in 2006–07 and 2007–08, of whom 47 were given a non-parole period. This makes up 38.2% of all those who were given a total effective sentence of imprisonment.

Figure 19 shows the number of people sentenced to imprisonment for trafficking heroin 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>23</sup>

Total effective imprisonment lengths ranged from one day to two years and one month, while the most common length was 12 months (32 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 (18 people – as represented by the largest bubble on the chart). The longest total effective sentence imposed was two years and one month with a non-parole period of one year.

### Summary

The Magistrates' Court sentenced 1,013 people for the principal offence of trafficking heroin between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (835 people or 82.4%), while 55% were aged between 20 and 30 years.

Around four in ten people sentenced for trafficking heroin received a non-immediate custodial sentence (376 people or 37.1%), including 260 people who received a wholly suspended sentence (25.7%) and 106 people who received an intensive correction order (10.5%). A conviction was recorded with the principal sentence for 97.4% of people sentenced.

Men were more likely to receive sentences of imprisonment and partially suspended sentences. Conversely, women were more likely to receive wholly suspended sentences and community-based orders.

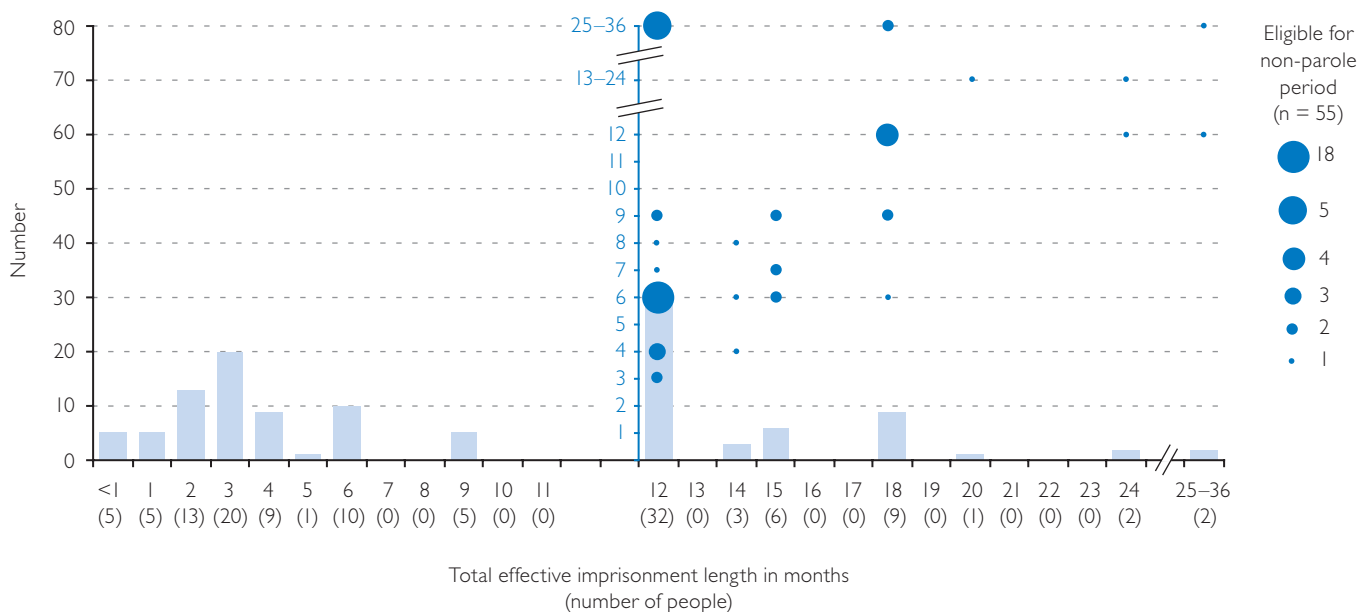
A higher percentage of older people received a non-immediate custodial sentence, including a wholly suspended sentence and an intensive correction order, and an immediate custodial sentence. Conversely, a higher percentage of younger people received a non-custodial sentence, including a community-based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

Each of the 1,013 people was sentenced for an average of 5.66 offences, including 1.51 offences of trafficking in a drug of dependence. The most common offence finalised in conjunction with trafficking heroin was possessing a drug of dependence (52.3% of all cases).

Common sentence types imposed in conjunction with another sentence type included an imprisonment term with a convicted and discharged (s 73 SA) (38.7% of the 93 people who were convicted and discharged), an imprisonment term with a fine (27.4% of the 219 people), a fine with an intensive correction order (22.6% of the 106 people) and a fine with a wholly suspended sentence (19.6% of the 270 people).

Lengths of total effective sentences ranged from one day to two years and one month with a non-parole period of one year. The most common length was 12 months (32 people).

Figure 19: The number of people sentenced to imprisonment for trafficking heroin 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 heroin 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 heroin who received a more serious sentence for another offence on the same charge sheet.

<sup>2</sup> Trafficking heroin offences are identified by using the charge descriptions of 'traffick heroin' 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 67.5% 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 4 men sentenced for trafficking heroin (0.4%). 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 4 people sentenced for trafficking heroin. 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 periods of imprisonment ranged from one day to two years, with a median of six months, while the length of aggregate periods of imprisonment ranged from twelve days to two years and six months, with a median of six months.

<sup>19</sup> The length of non-aggregate wholly suspended sentences ranged from twenty one days to one year, with a median of four months, while the length of aggregate wholly suspended sentences ranged from seven days to one year and six months, with a median of four months.

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

<sup>21</sup> While a total of 296 people were sentenced to at least one period of imprisonment in the case, 289 people had imprisonment listed against their principal proven offence. There were 7 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>22</sup> Total effective imprisonment lengths and non-parole periods are only available for 2006–07 and 2007–08.

<sup>23</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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- 64 Possessing amphetamines
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