

Sentencing Snapshot

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

August 2008
No. 55

Theft of a Bicycle

This Sentencing Snapshot¹ describes sentencing outcomes² for the offence of theft of a bicycle and details the age and gender³ of people sentenced for this offence in the Magistrates' Court of Victoria between 2004–05 and 2007–08.

A person who dishonestly takes any property belonging to another person with the intention of permanently depriving that person of the property is guilty of theft.⁴ Theft of a bicycle includes all such offences where the property stolen is a bicycle.⁵

Theft is an indictable offence⁶ which carries a maximum penalty of 10 years' imprisonment⁷ and/or a fine of 1200 penalty units.⁸ Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

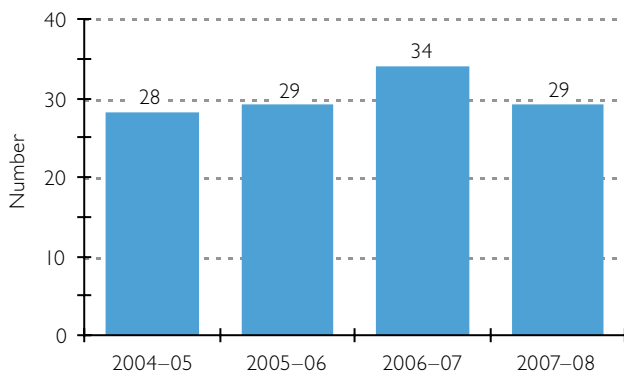
This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate rather than a judge and a jury. Where theft of a bicycle is heard summarily, it carries a maximum penalty of 2 years' imprisonment and/or a fine of 240 penalty units.⁹

Theft of a bicycle was the principal offence in 0.04% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

People sentenced

Over the four-year period, 120 people were sentenced for the principal offence of theft of a bicycle in the Magistrates' Court. In 2007–08, there were 29 people who were sentenced for the principal proven offence of theft of a bicycle.¹⁰ This is a 14.7% decrease from 34 in 2006–07, reversing an increase from the previous two years.

Figure 1: The number of people sentenced for theft of a bicycle, 2004–05 to 2007–08



Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for theft of a bicycle during 2004–05 to 2007–08. Over the four-year period, the majority of those sentenced for theft of a bicycle received a non-custodial sentence (89 people or 74.2%), including 37 people who received a fine (30.8%), 31 people who received an adjourned undertaking (25.8%) and 21 people who received a community-based order (17.5%).

There were also 17 people who received an immediate custodial sentence (14.2%), including 14 people who were sentenced to imprisonment (11.7%).

In some circumstances, when sentencing an offender the court may decide whether to record a conviction.¹¹ Of the 63 people sentenced for theft of a bicycle in 2006–07 and 2007–08,¹² 71.4% had a conviction recorded (45 people).

An additional 49 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).¹³

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

Sentence Type	Total	%
Immediate custodial	17	14.2
Imprisonment	14	11.7
Partially suspended sentence	2	1.7
Youth justice centre order	1	0.8
Other custodial	14	11.7
Wholly suspended sentence	11	9.2
Intensive correction order	3	2.5
Non-custodial	89	74.2
Community-based order	21	17.5
Fine	37	30.8
Adjourned undertaking	31	25.8
People sentenced	120	100.0
Criminal justice diversion program	49	
Total dispositions	169	

Sentencing outcomes by year

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

The number and percentage of people who received an immediate custodial sentence increased from 4 people and 14.3% in 2004–05 to 6 people and 20.7% in 2007–08.

The number and percentage of people who received a non-custodial sentence decreased from 22 people and 78.6% in 2004–05 to 20 people and 69.0% in 2007–08.

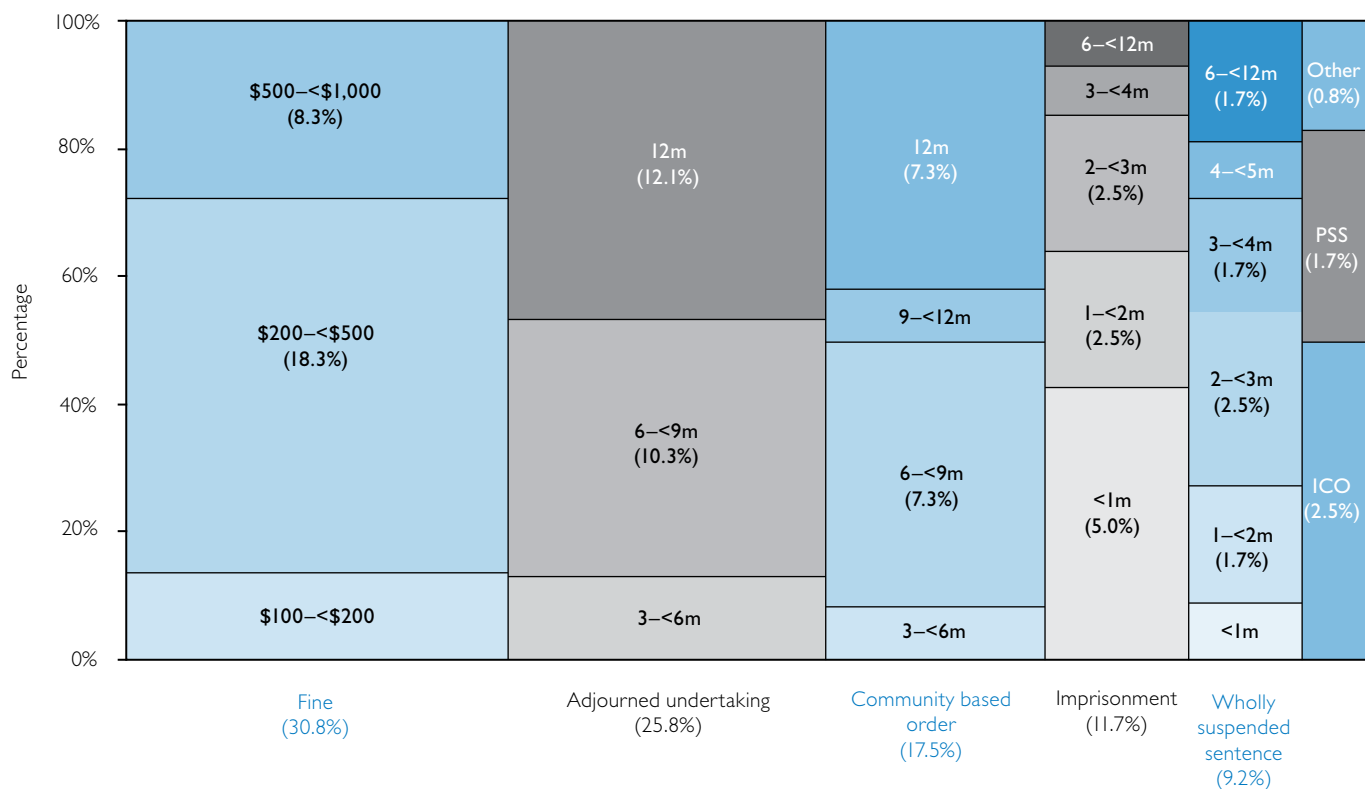
Sentencing map

Figure 3 presents both the sentencing outcome and the quantum for that outcome for people sentenced for theft of a bicycle. For example, 30.8% of people sentenced received a fine including 18.3% who received a fine of \$200 to less than \$500. The right most column of the graph presents the least common sentencing outcomes without showing the quantum information.

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

Sentence Type	2004–05	2005–06	2006–07	2007–08
Immediate custodial	4 (14.3%)	2 (6.9%)	5 (14.7%)	6 (20.7%)
Imprisonment	4 (14.3%)	1 (3.4%)	4 (11.8%)	5 (17.2%)
Partially suspended sentence	0 –	1 (3.4%)	0 –	1 (3.4%)
Youth justice centre order	0 –	0 –	1 (2.9%)	0 –
Other custodial	2 (7.1%)	7 (24.1%)	2 (5.9%)	3 (10.3%)
Wholly suspended sentence	2 (7.1%)	5 (17.2%)	1 (2.9%)	3 (10.3%)
Intensive correction order	0 –	2 (6.9%)	1 (2.9%)	0 –
Non-custodial	22 (78.6%)	20 (69.0%)	27 (79.4%)	20 (69.0%)
Community-based order	4 (14.3%)	5 (17.2%)	7 (20.6%)	5 (17.2%)
Fine	9 (32.1%)	8 (27.6%)	12 (35.3%)	8 (27.6%)
Adjourned undertaking	9 (32.1%)	7 (24.1%)	8 (23.5%)	7 (24.1%)
People sentenced	28	29	34	29

Figure 3: Sentencing map: The percentage of people sentenced for theft of a bicycle by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08¹⁵



Note: ICO refers to intensive correction order and PSS refers to partially suspended sentence. Other includes youth justice centre order.

Principal sentence

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

The four most common sentences imposed for theft of a bicycle are fine, adjourned undertaking, community-based order and imprisonment.

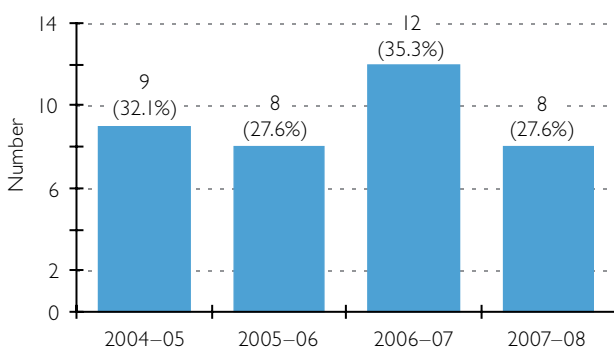
Fine

Trends

There were 37 people who received a fine for theft of a bicycle. This represented 30.8% of all people sentenced for this offence. Of the 20 people who received a fine in 2006–07 and 2007–08, 75.0% also had a conviction recorded (15 people). Figure 4 shows the trends in the number and percentage of people sentenced who received a fine for theft of a bicycle.

In 2007–08, 8 people received a fine for the principal proven offence of theft of a bicycle. This has decreased over the past year from 12 people in 2006–07, after increasing substantially the previous year. Also, the proportion of people who received a fine for theft of a bicycle decreased over the past year from 35.3% to 27.6%.

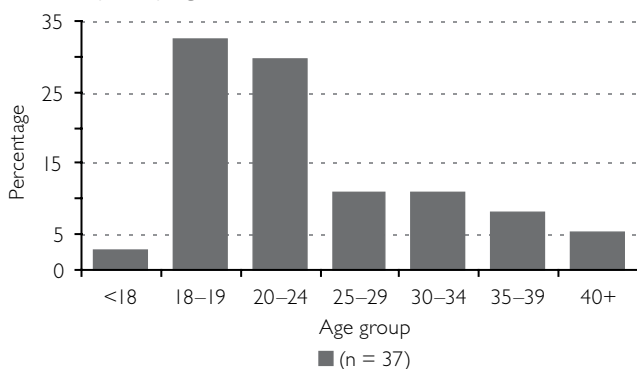
Figure 4: The number and percentage of people who received a fine for theft of a bicycle, 2004–05 to 2007–08



Age and gender

Of the 37 people who received a fine, 97.3% were men. Figure 5 shows the age groups of people who received a fine for theft of a bicycle. The median age of these people was 22 years.

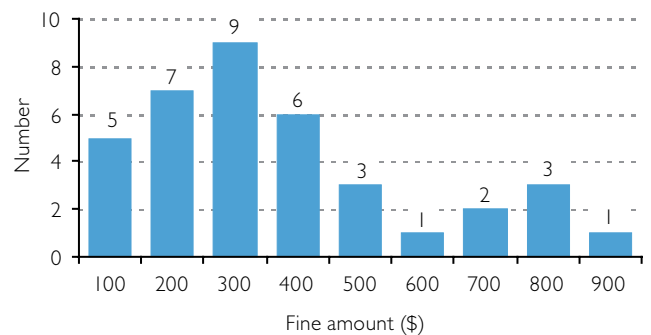
Figure 5: The percentage of people who received a fine for theft of a bicycle by age, 2004–05 to 2007–08



Fine Amount

Figure 6 shows the number of people who received a fine for theft of a bicycle by the amount of the fine. While the amount of the fine ranged from \$100 to \$900, the median was \$300.

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



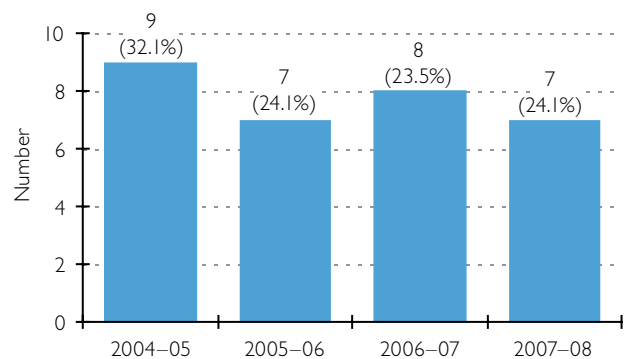
Adjourned undertaking

Trends

There were 31 people who received an adjourned undertaking for theft of a bicycle. This represented 25.8% of all people sentenced for this offence. Of the 15 people who received an adjourned undertaking in 2006–07 and 2007–08, 20.0% also had a conviction recorded (3 people). Figure 7 shows the trends in the number and percentage of people sentenced who received an adjourned undertaking for theft of a bicycle.

In 2007–08, 7 people received an adjourned undertaking for the principal proven offence of theft of a bicycle. This has remained stable with previous years.

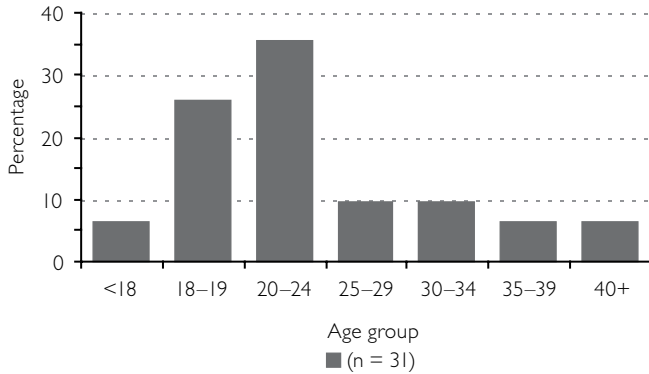
Figure 7: The number and percentage of people who received an adjourned undertaking for theft of a bicycle, 2004–05 to 2007–08



Age and gender

Of the 31 people who received an adjourned undertaking, 90.3% were men. Figure 8 shows the age groups of people who received an adjourned undertaking for theft of a bicycle. The median age of these people was 22 years.

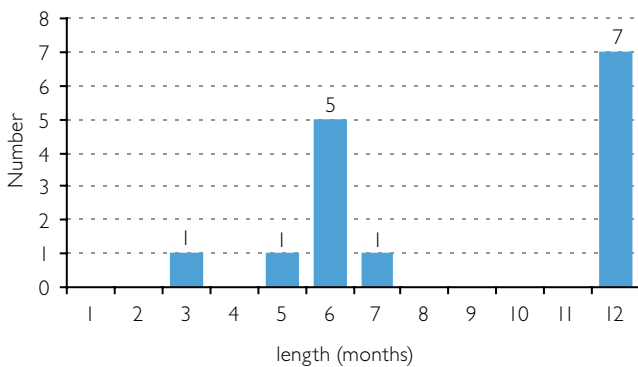
Figure 8: The percentage of people who received an adjourned undertaking for theft of a bicycle by age, 2004–05 to 2007–08



Length of sentence

Figure 9 shows the number of people who received an adjourned undertaking for theft of a bicycle by the length of the sentence. While the length of adjourned undertakings ranged from three months to one year, the most common length was 12 months (46.7%), followed by 6 months (33.3%).

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



Community-based order

Trends

There were 21 people who received a community-based order for theft of a bicycle. This represented 17.5% of all people sentenced for this offence. Of the 12 people who received a community-based order in 2006–07 and 2007–08, 91.7% also had a conviction recorded (11 people). Figure 10 shows the trends in the number and percentage of people sentenced who received a community-based order for theft of a bicycle.

In 2007–08, 5 people received a community-based order for the principal proven offence of theft of a bicycle. This has decreased over the past year from 7 people in 2006–07, after increasing the previous two years.

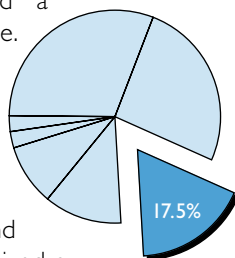
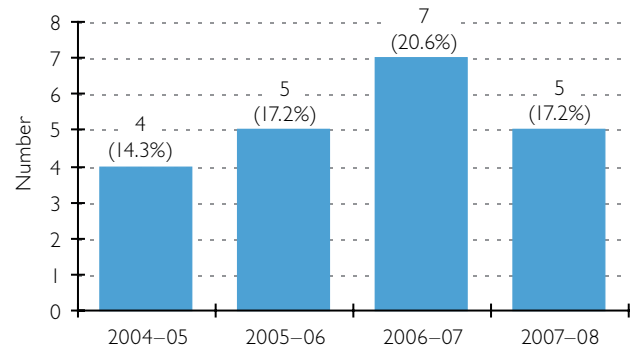


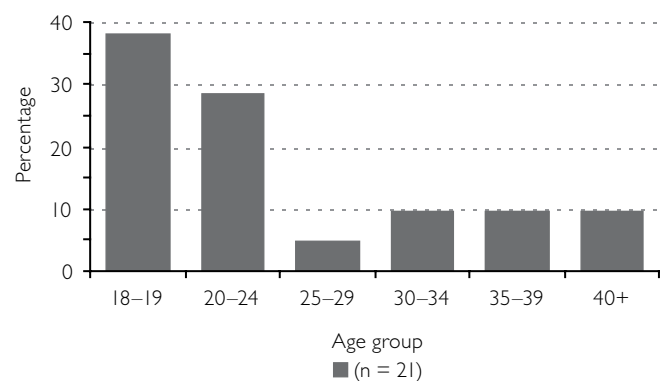
Figure 10: The number and percentage of people who received a community-based order for theft of a bicycle, 2004–05 to 2007–08



Age and gender

Of the 21 people who received a community-based order, all were men. Figure 11 shows the age groups of people who received a community-based order for theft of a bicycle. The median age of these people was 20 years.

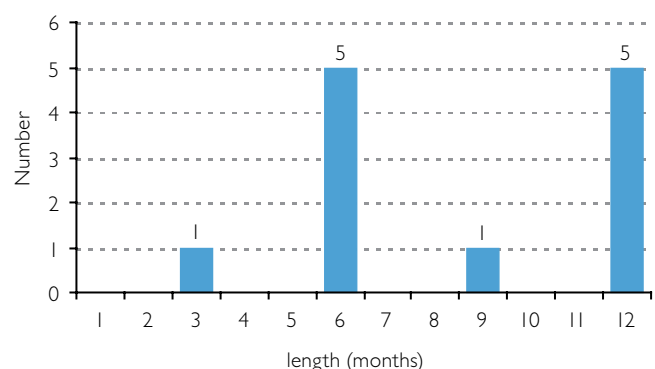
Figure 11: The percentage of people who received a community-based order for theft of a bicycle by age, 2004–05 to 2007–08



Length of sentence

Figure 12 shows the number of people who received a community-based order for theft of a bicycle by the length of the sentence. While the length of community-based orders ranged from three months to one year, the most common lengths were 12 months (41.7%) and 6 months (41.7%).

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



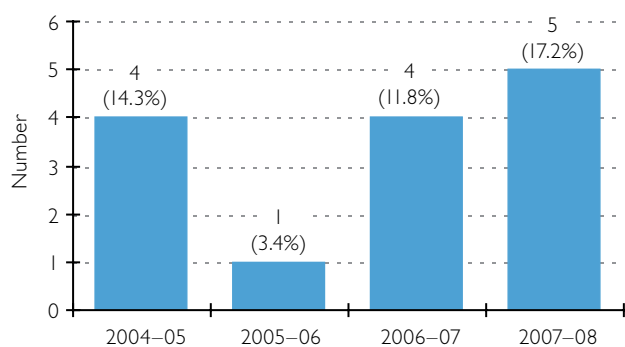
Imprisonment

Trends

There were 14 people who were sentenced to imprisonment for theft of a bicycle. This represented 11.7% of all people sentenced for this offence. Figure 13 shows the trends in the number and percentage of people sentenced who were sentenced to imprisonment for theft of a bicycle.

In 2007–08, 5 people were sentenced to imprisonment for the principal proven offence of theft of a bicycle. This has increased each of the past two years from 1 person in 2005–06, after decreasing the previous year. Also, the proportion of people who were sentenced to imprisonment for theft of a bicycle increased each of the past two years from 3.4% in 2005–06 to 17.2% in 2007–08.

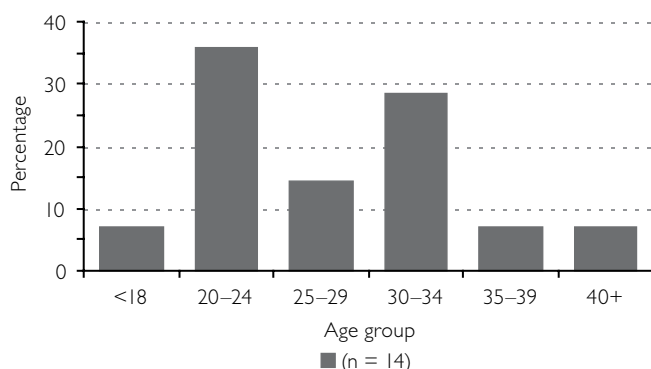
Figure 13: The number and percentage of people who were sentenced to imprisonment for theft of a bicycle, 2004–05 to 2007–08



Age and gender

Of the 14 people who received a period of imprisonment, all were men. Figure 14 shows the age groups of people who were sentenced to imprisonment for theft of a bicycle. The median age of these people was 27 years and six months.

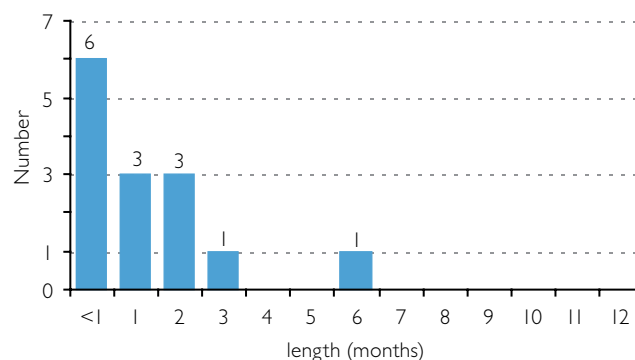
Figure 14: The percentage of people who were sentenced to imprisonment for theft of a bicycle by age, 2004–05 to 2007–08



Length of sentence

Figure 15 shows the number of people who were sentenced to imprisonment for theft of a bicycle by the length of the sentence. While the length of imprisonment ranged from three days to six months, the median was one month (meaning that half were shorter than one month and half were longer than one month).

Figure 15: The number of people who were sentenced to imprisonment for theft of a bicycle by the length of order, 2004–05 to 2007–08

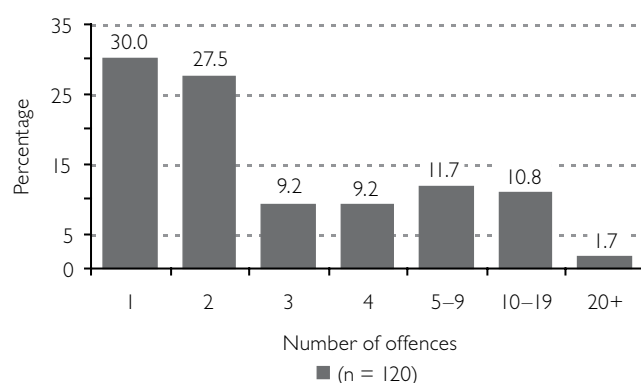


Other offences finalised at the same hearing

Often people prosecuted for theft of a bicycle 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 theft of a bicycle.

Figure 16 shows the number of people sentenced for the principal offence of theft of a bicycle by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 34, while the median was 2 offences. There were 36 people (30.0%) sentenced for the single offence of theft of a bicycle alone.

Figure 16: The percentage of cases where theft of a bicycle was the principal offence by the number of offences where a sentence was imposed in that case, 2004–05 to 2007–08



While Figure 16 presents the number of sentenced offences for those sentenced for theft of a bicycle, 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, 23 of the total 120 people (19.2%) also received sentences for failing to appear on bail. On average, they were sentenced for 1.87 charges of failing to appear on bail. The first row indicates that the average number of charges of theft sentenced per person was 1.72.

Table 4: The number and percentage of people sentenced for the principal offence of theft of a bicycle 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 theft	120	100.0	1.72
2 fail to appear on bail	23	19.2	1.87
3 attempt to commit an indictable offence	16	13.3	1.25
4 go equipped to steal	13	10.8	1.31
5 possession of a drug of dependence	9	7.5	1.22
6 use of a drug of dependence	9	7.5	1.11
7 obtain property by deception	8	6.7	3.00
8 criminal damage	8	6.7	1.50
9 deal property suspected proceed of crime	6	5.0	2.33
10 assault police	6	5.0	1.50
People sentenced	120	100.0	4.04

Sentence combinations

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

Table 5 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 theft of a bicycle, by the other sentence types also imposed in the case. For example, of the 47 people who received a fine as part of their total effective sentence, 8.5% also received a wholly suspended sentence.

The highest proportions of sentence types imposed in conjunction with another sentence type were:

- an adjourned undertaking with a partially suspended sentence (50.0% of the 2 people who received a partially suspended sentence of imprisonment);
- a fine with a wholly suspended sentence (33.3% of the 12 people); and
- a fine with an imprisonment term (21.4% of the 14 people).

Table 5: The percentage of selected sentence types used in conjunction with other sentence types imposed in the same case, 2004–05 to 2007–08

	Fine	ADU	CBO	WSS	Imp.	PSS
Fine	100%	0.0%	9.1%	33.3%	21.4%	0.0%
ADU	0.0%	100%	0.0%	8.3%	0.0%	50.0%
CBO	4.3%	0.0%	100%	8.3%	0.0%	0.0%
WSS	8.5%	3.1%	4.5%	100%	0.0%	50.0%
Imp.	6.4%	0.0%	0.0%	0.0%	100%	0.0%
PSS	0.0%	3.1%	0.0%	8.3%	0.0%	100%
Total	47	32	22	12	14	2

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

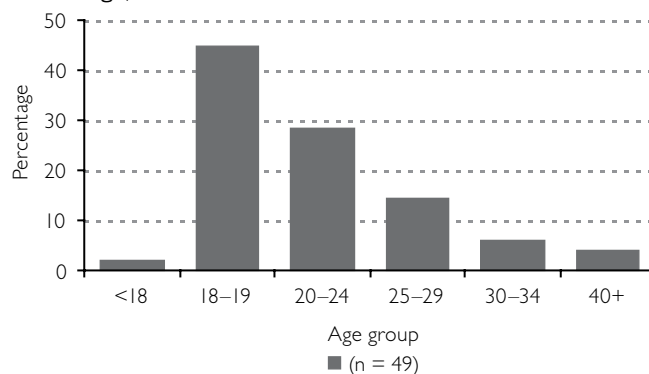
Criminal justice diversion plan¹⁹

Although the criminal justice diversion plan is not a sentencing outcome, it is a dispositional process that does help to reflect the work of the courts. Over the four-year period, there were 49 people who were given a criminal justice diversion plan.

Age and gender

Of the 49 people who were referred to the criminal justice diversion program, 83.7% were men. Figure 17 shows the age groups of people who were referred to the criminal justice diversion program for theft of a bicycle. The median age of these people was 20 years.

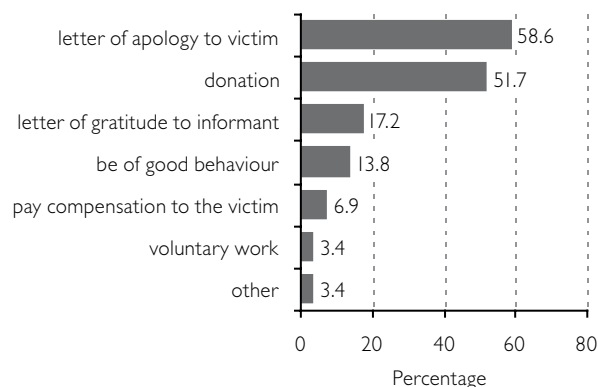
Figure 17: The percentage of people who were referred to the criminal justice diversion program for theft of a bicycle by age, 2004–05 to 2007–08



Conditions

Figure 18 shows the number of people who received a criminal justice diversion plan for theft of a bicycle by the types of conditions set. People can be given more than one condition on a diversion plan. As shown, the most common condition listed for diversion plans was a letter of apology to the victim (58.6% of people).

Figure 18: The percentage of conditions set for people who received a criminal justice diversion plan for theft of a bicycle, 2004–05 to 2007–08



Note: other includes alcohol counselling/treatment.

Summary

The Magistrates' Court sentenced 120 people for the principal offence of theft of a bicycle between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (115 people or 95.8%), while 55% were aged between 18 and 25 years.

Most people sentenced for theft of a bicycle received a non-custodial sentence (89 people or 74.2%), including 37 people who received a fine (30.8%), 31 people who received an adjourned undertaking (25.8%) and 21 people who received a community-based order (17.5%). A conviction was recorded with the principal sentence for 71.4% of people sentenced.

Each of the 120 people was sentenced for an average of 4.04 offences, including 1.72 offences of theft. The most common offence finalised in conjunction with theft of a bicycle was failing to appear on bail (19.2% of all cases).

The most common sentence types imposed in conjunction with another sentence type were an adjourned undertaking with a partially suspended sentence (50.0% of the 2 people who received a partially suspended sentence of imprisonment), a fine with a wholly suspended sentence (33.3% of the 12 people) and a fine with an imprisonment term (21.4% of the 14 people).

identified by having the dismissal grounds listed as 'proved and dismissed' (s 360(1)(a) Children, Youth and Families Act 2005 (Vic)) or 'dismissed' (s 76 Sentencing Act, 1991 (Vic)). 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 were dismissed pursuant to this legislation.

¹¹ *Sentencing Act 1991 (Vic)* s 7 and s 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 the his or her employment prospects (*Sentencing Act 1991 (Vic)* s 8(1)).

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

¹³ The 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.

¹⁴ Refer fn. 10.

¹⁵ Aggregate sentence lengths are shown for people who received an aggregate sentence.

Data for sentence lengths of community-based orders and adjourned undertakings are only available for 2006–07 and 2007–08.

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

¹⁷ Where there are sufficient numbers of both males and females sentenced for each sentencing outcome, the age groups are shown by gender. Otherwise the age groups are shown independent of gender.

¹⁸ Aggregate sentence lengths are shown for people who received an aggregate sentence.

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.

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.

¹⁹ The data analysed in this section were compiled by merging the sentencing outcomes database with an extract from the criminal justice diversion plan database. Of the 49 people who were placed on the diversion program for this offence, 29 were matched to and had conditions listed in the criminal justice diversion plan database (59.2%).

¹ This snapshot forms part of a group of five snapshots detailing the offence of theft (*Crimes Act 1958 (Vic)* s 74). The five theft offences examined are theft of a motor vehicle, theft from a motor vehicle, theft from a shop, theft of a bicycle and other theft.

² 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 theft of a bicycle 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 theft of a bicycle who received a more serious sentence for another offence on the same charge sheet.

³ The data used for analysis in this report contain information on age and gender characteristics. No other demographic analysis is possible.

⁴ *Crimes Act 1958 (Vic)* s 72.

⁵ Theft of a bicycle offences are identified by using the charge description of 'theft of a bicycle' for offences listed under *Crimes Act 1958 (Vic)* s 74.

⁶ If the value of the property stolen was less than \$25,000 or the property was a motor vehicle, an offence under this section may be dealt with in the Magistrates' Court. From 1 July 2007, this amount was raised to \$100,000 (see *Magistrates' Court Act 1989 (Vic)* s 53(1) and Sch 4 cl.16). The change applies after this date regardless of when the offence is alleged to have been committed or when the proceeding commenced (see Sch 8 cl.37(1) *Magistrates' Court Act 1989 (Vic)*).

⁷ *Crimes Act 1958 (Vic)* s 74.

⁸ 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).

⁹ 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.

¹⁰ 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 charges are

This "Sentencing Snapshot" is part of a series presenting summary information on sentencing trends in Victoria. Copies of all the Sentencing Snapshots can be downloaded from our website at www.sentencingcouncil.vic.gov.au

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