

# Sentencing Snapshot

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

October 2008  
No. 60

## Going equipped to steal

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

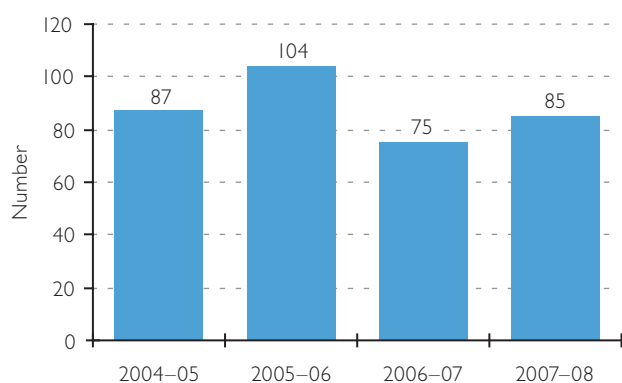
A person is guilty of the offence of going equipped to steal if, when not at his/her residence, he/she possesses articles used in or for any burglary, theft or deception.<sup>3</sup> Going equipped to steal is a summary offence which carries a maximum penalty of 2 years' imprisonment and/or a fine of 240 penalty units.<sup>4</sup>

Of all people sentenced for the principal offence of going equipped to steal, 92.4% had their cases heard in the Magistrates' Court. The remaining cases were heard in the Children's Court and higher courts. Going equipped to steal 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 351 people for the principal offence of going equipped to steal. In 2007–08, there were 85 people who were sentenced for the principal proven offence of going equipped to steal.<sup>5</sup> This is a 13.3% increase from 75 in 2006–07, reversing a decrease from the previous year.

Figure 1: The number of people sentenced for going equipped to steal, 2004–05 to 2007–08



### Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for going equipped to steal during 2004–05 to 2007–08. Over the four-year period, the majority of those sentenced for going equipped to steal received a non-custodial sentence (215 people or 61.3%), including 93 people who received an adjourned undertaking (26.5%), 73 people who received a fine (20.8%) and 49 people who received a community-based order (14.0%).

There were also 79 people who received an immediate custodial sentence (22.5%), including 67 people who were sentenced to imprisonment (19.1%).

An additional 67 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>6</sup>

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

Sentence Type	Total	%
<b>Immediate custodial</b>	<b>79</b>	<b>22.5</b>
Imprisonment	67	19.1
Partially suspended sentence	9	2.6
Youth justice centre order	3	0.9
<b>Other custodial</b>	<b>57</b>	<b>16.2</b>
Drug treatment order	2	0.6
Wholly suspended sentence	41	11.7
Intensive correction order	14	4.0
<b>Non-custodial</b>	<b>215</b>	<b>61.3</b>
Community-based order	49	14.0
Fine	73	20.8
Adjourned undertaking	93	26.5
<b>People sentenced</b>	<b>351</b>	<b>100.0</b>
Criminal justice diversion program	67	
<b>Total dispositions</b>	<b>418</b>	



### Sentencing outcomes by year

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

The number and percentage of people who received an immediate custodial sentence increased from 15 people and 17.2% in 2004–05 to 18 people and 21.2% in 2007–08.

The number and percentage of people who received a non-immediate custodial sentence decreased from 20 people and 23.0% in 2004–05 to 10 people and 11.8% in 2007–08. The number and percentage of people who received a non-custodial sentence increased from 52 people and 59.8% in 2004–05 to 57 people and 67.1% in 2007–08.

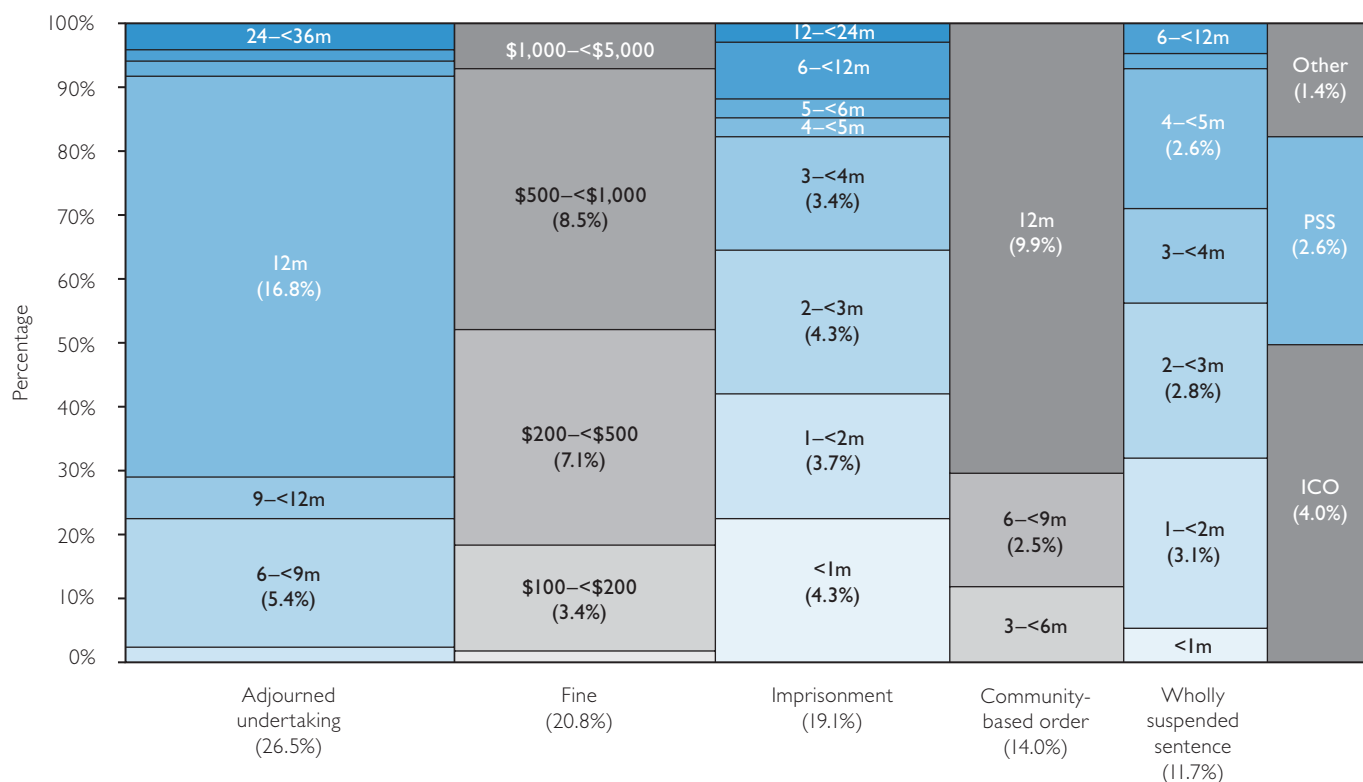
### Sentencing map

Figure 3 presents both the sentencing outcome and the quantum for that outcome for people sentenced for going equipped to steal. For example, 26.5% of people sentenced received an adjourned undertaking including 16.8% who received an adjourned undertaking 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 going equipped to steal by sentence type and year, 2004–05 to 2007–08<sup>10</sup>

Sentence type	2004–05	2005–06	2006–07	2007–08
<b>Immediate custodial</b>	<b>15</b> <b>(17.2%)</b>	<b>24</b> <b>(23.1%)</b>	<b>22</b> <b>(29.3%)</b>	<b>18</b> <b>(21.2%)</b>
Imprisonment	13 (14.9%)	19 (18.3%)	20 (26.7%)	15 (17.6%)
Partially suspended sentence	2 (2.3%)	3 (2.9%)	1 (1.3%)	3 (3.5%)
Youth justice centre order	0 –	2 (1.9%)	1 (1.3%)	0 –
<b>Other custodial</b>	<b>20</b> <b>(23.0%)</b>	<b>20</b> <b>(19.2%)</b>	<b>7</b> <b>(9.3%)</b>	<b>10</b> <b>(11.8%)</b>
Drug treatment order	0 –	1 (1.0%)	0 –	1 (1.2%)
Wholly suspended sentence	16 (18.4%)	13 (12.5%)	7 (9.3%)	5 (5.9%)
Intensive correction order	4 (4.6%)	6 (5.8%)	0 –	4 (4.7%)
<b>Non-custodial</b>	<b>52</b> <b>(59.8%)</b>	<b>60</b> <b>(57.7%)</b>	<b>46</b> <b>(61.3%)</b>	<b>57</b> <b>(67.1%)</b>
Community-based order	19 (21.8%)	13 (12.5%)	5 (6.7%)	12 (14.1%)
Fine	15 (17.2%)	21 (20.2%)	18 (24.0%)	19 (22.4%)
Adjourned undertaking	18 (20.7%)	26 (25.0%)	23 (30.7%)	26 (30.6%)
<b>People sentenced</b>	<b>87</b>	<b>104</b>	<b>75</b>	<b>85</b>

Figure 3: Sentencing map: The percentage of people sentenced for going equipped to steal by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08<sup>11</sup>



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

## Principal sentence

This section examines the use of the five most common principal sentencing outcomes for this offence.<sup>12</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>13</sup> Finally, where relevant, the details of the sentence (length of order or fine amount) are examined.<sup>14</sup> When a person is sentenced for multiple offences, the court has the power to impose a single aggregate term of imprisonment<sup>15</sup> or aggregate fine.<sup>16</sup> For these people aggregate lengths or fine amounts are shown.<sup>17</sup>

The five most common sentences imposed for going equipped to steal are adjourned undertaking, fine, imprisonment, community-based order and wholly suspended sentence.

## Adjourned undertaking

### Trends

There were 93 people who received an adjourned undertaking for going equipped to steal. This represented 26.5% of all people sentenced for this offence. Of the 49 people who received an adjourned undertaking in 2006–07 and 2007–08, 20.4% also had a conviction recorded (10 people). Figure 4 shows the trends in the number and percentage of people who received an adjourned undertaking for going equipped to steal.

In 2007–08, 26 people received an adjourned undertaking for the principal proven offence of going equipped to steal. This has increased over the past year from 23 people in 2006–07, after decreasing the previous year. Also, the proportion of people who received an adjourned undertaking for going equipped to steal increased from 20.7% in 2004–05 to 30.6% in 2007–08.

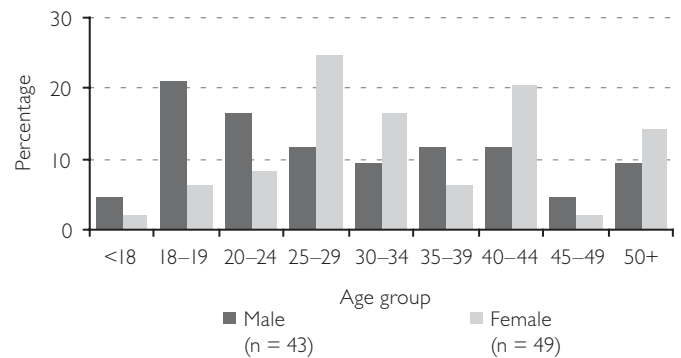
**Figure 4:** The number and percentage of people who received an adjourned undertaking for going equipped to steal, 2004–05 to 2007–08



## Age and gender

Of the 93 people who received an adjourned undertaking, 47.3% were men. Figure 5 shows the age groups of people who received an adjourned undertaking for going equipped to steal by gender. The median age of these people was 31 years, while women were much older than their male counterparts (a median age of 31 years compared to 27 years).

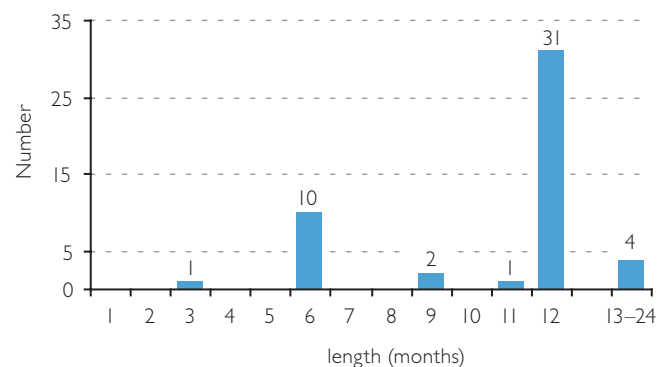
**Figure 5:** The percentage of people who received an adjourned undertaking for going equipped to steal by age and gender, 2004–05 to 2007–08



## Length of sentence

Figure 6 shows the number of people who received an adjourned undertaking for going equipped to steal by the length of the sentence. While the length of adjourned undertakings ranged from three months to two years, the majority were for 12 months (63.3%), followed by 6 months (20.4%).

**Figure 6:** The number of people who received an adjourned undertaking for going equipped to steal by the length of order, 2006–07 and 2007–08



## Fine

### Trends

There were 73 people who received a fine for going equipped to steal. This represented 20.8% of all people sentenced for this offence. Of the 37 people who received a fine in 2006–07 and 2007–08, 62.2% also had a conviction recorded (23 people). Figure 7 shows the trends in the number and percentage of people who received a fine for going equipped to steal.

In 2007–08, 19 people received a fine for the principal proven offence of going equipped to steal. This has remained relatively stable over the past two years, after decreasing the previous year. However, the proportion of people who received a fine for going equipped to steal decreased over the past year from 24.0% to 22.4%.

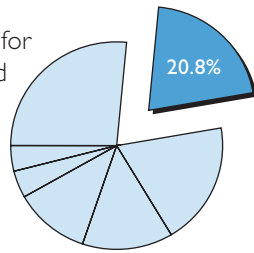
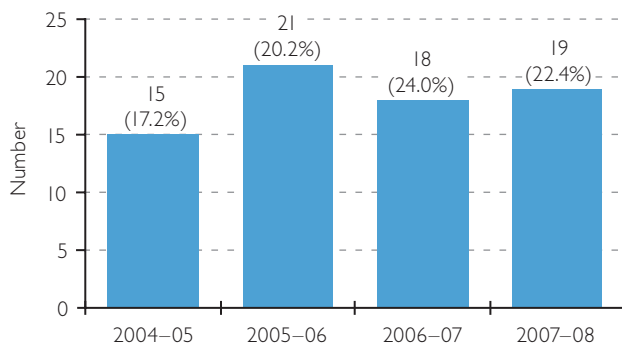


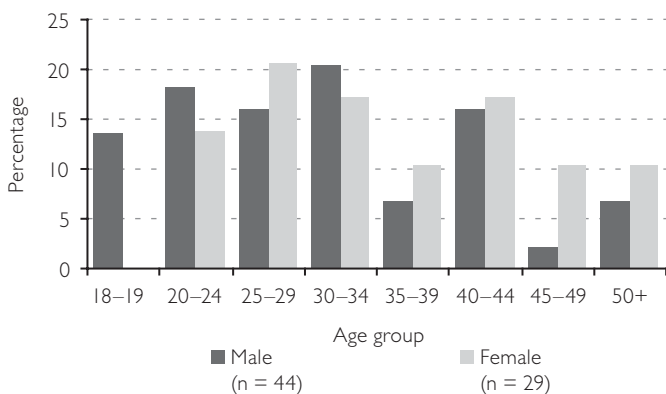
Figure 7: The number and percentage of people who received a fine for going equipped to steal, 2004–05 to 2007–08



### Age and gender

Of the 73 people who received a fine, 60.3% were men. Figure 8 shows the age groups of people who received a fine for going equipped to steal by gender. The median age of these people was 31 years, while women were generally older than their male counterparts (a median age of 34 years compared to 30 years and six months).

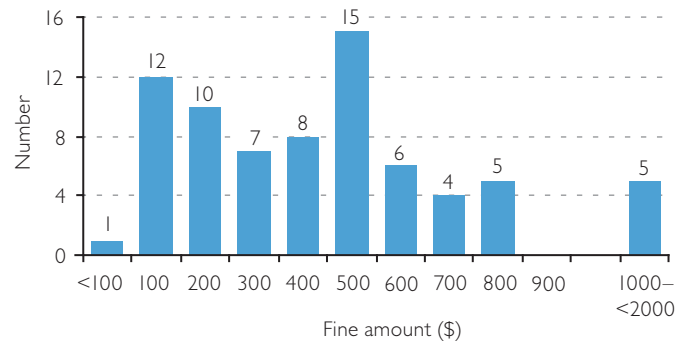
Figure 8: The percentage of people who received a fine for going equipped to steal by age and gender, 2004–05 to 2007–08



## Fine Amount

Figure 9 shows the number of people who received a fine for going equipped to steal by the amount of the fine. While the amount of the fine ranged from \$50 to \$1,500, the median was \$400. Aggregate fines were imposed for 90.4% of people who received a fine.<sup>18</sup>

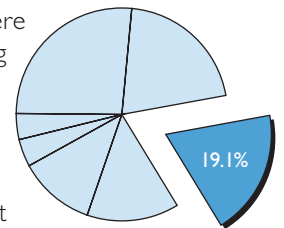
Figure 9: The number of people who received a fine for going equipped to steal by the amount of the fine, 2004–05 to 2007–08



## Imprisonment

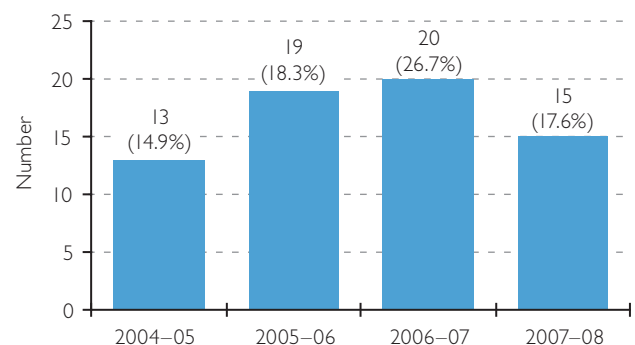
### Trends

There were 67 people who were sentenced to imprisonment for going equipped to steal. This represented 19.1% of all people sentenced for this offence. Figure 10 shows the trends in the number and percentage of people who were sentenced to imprisonment for going equipped to steal.



In 2007–08, 15 people were sentenced to imprisonment for the principal proven offence of going equipped to steal. This has decreased over the past year from 20 people in 2006–07, after remaining relatively stable the previous year. Also, the proportion of people who were sentenced to imprisonment for going equipped to steal decreased over the past year from 26.7% to 17.6%.

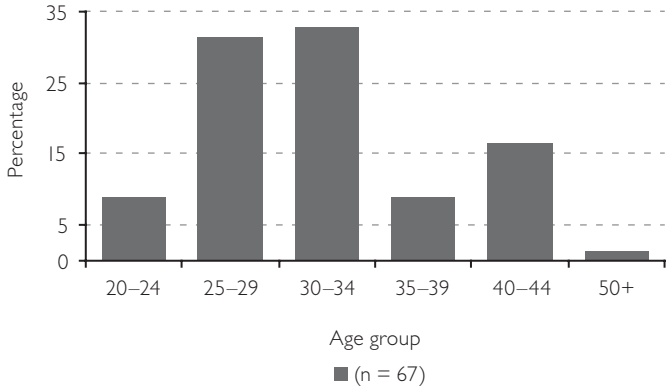
Figure 10: The number and percentage of people who were sentenced to imprisonment for going equipped to steal, 2004–05 to 2007–08



**Age and gender**

Of the 67 people who received a period of imprisonment, 83.6% were men. Figure 11 shows the age groups of people who were sentenced to imprisonment for going equipped to steal. The median age of these people was 31 years.

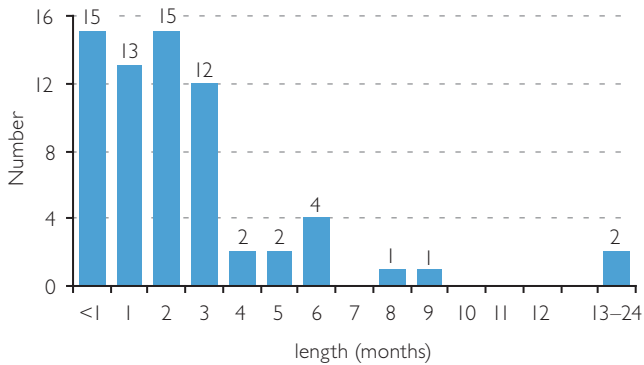
**Figure 11:** The percentage of people who were sentenced to imprisonment for going equipped to steal by age, 2004–05 to 2007–08



**Length of sentence**

Figure 12 shows the number of people who were sentenced to imprisonment for going equipped to steal by the length of the sentence. While the length of imprisonment ranged from one day to one year and two months, the median was two months (meaning that half were shorter than two months and half were longer than two months). Aggregate periods of imprisonment were imposed for 73.1% of people who were sentenced to imprisonment.<sup>19</sup>

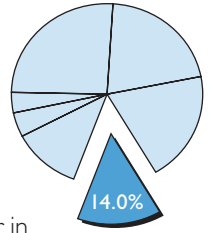
**Figure 12:** The number of people who were sentenced to imprisonment for going equipped to steal by the length of order, 2004–05 to 2007–08



**Community-based order**

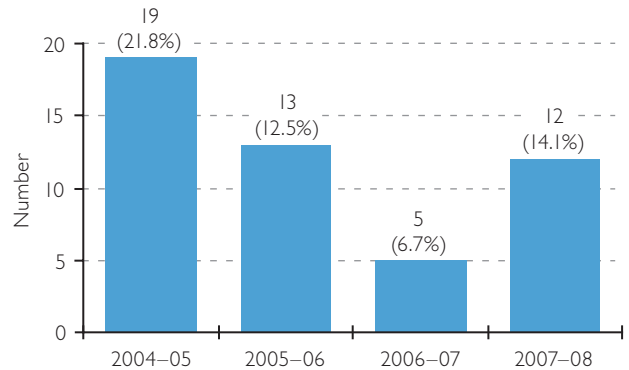
**Trends**

There were 49 people who received a community-based order for going equipped to steal. This represented 14.0% of all people sentenced for this offence. Of the 17 people who received a community-based order in 2006–07 and 2007–08, 76.5% also had a conviction recorded (13 people). Figure 13 shows the trends in the number and percentage of people who received a community-based order for going equipped to steal.



In 2007–08, 12 people received a community-based order for the principal proven offence of going equipped to steal. This has increased over the past year from 5 people in 2006–07, after decreasing the previous two years. Also, the proportion of people who received a community-based order for going equipped to steal increased over the past year from 6.7% to 14.1%.

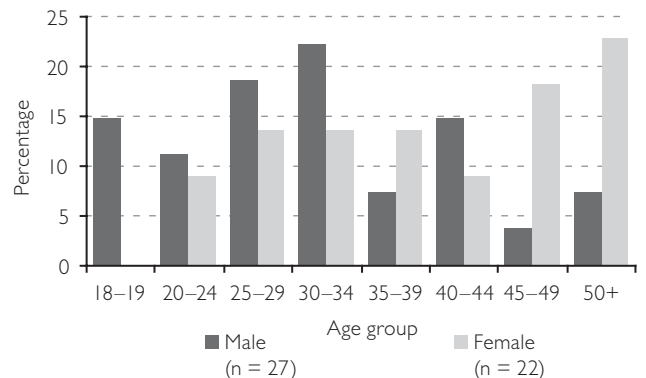
**Figure 13:** The number and percentage of people who received a community-based order for going equipped to steal, 2004–05 to 2007–08



**Age and gender**

Of the 49 people who received a community-based order, 55.1% were men. Figure 14 shows the age groups of people who received a community-based order for going equipped to steal by gender. The median age of these people was 34 years, while women were much older than their male counterparts (a median age of 40 years and six months compared to 33 years).

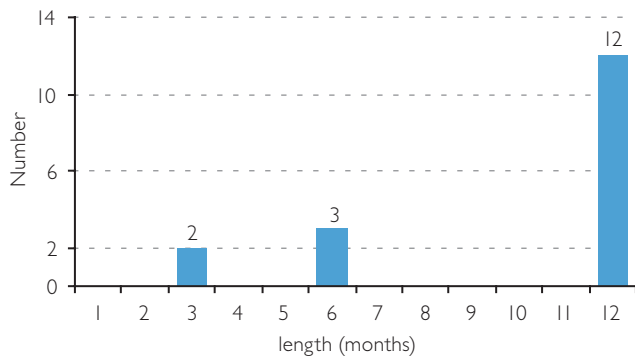
**Figure 14:** The percentage of people who received a community-based order for going equipped to steal by age and gender, 2004–05 to 2007–08



### Length of sentence

Figure 15 shows the number of people who received a community-based order for going equipped to steal by the length of the sentence. While the length of community-based orders ranged from three months to one year, the majority were for 12 months (70.6%).

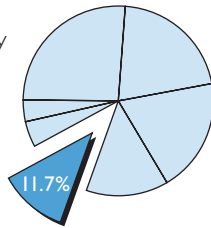
**Figure 15:** The number of people who received a community-based order for going equipped to steal by the length of order, 2006–07 and 2007–08



### Wholly suspended sentence

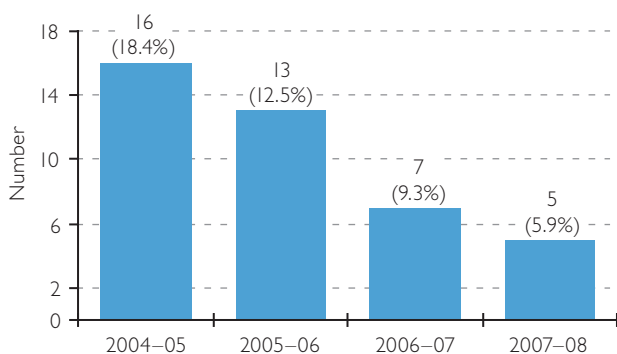
#### Trends

There were 41 people who received a wholly suspended sentence for going equipped to steal. This represented 11.7% of all people sentenced for this offence. Figure 16 shows the trends in the number and percentage of people who received a wholly suspended sentence for going equipped to steal.



In 2007–08, 5 people received a wholly suspended sentence for the principal proven offence of going equipped to steal. This has decreased each of the past three years from 16 people in 2004–05. Also, the proportion of people who received a wholly suspended sentence for going equipped to steal decreased each of the past three years from 18.4% in 2004–05 to 5.9% in 2007–08.

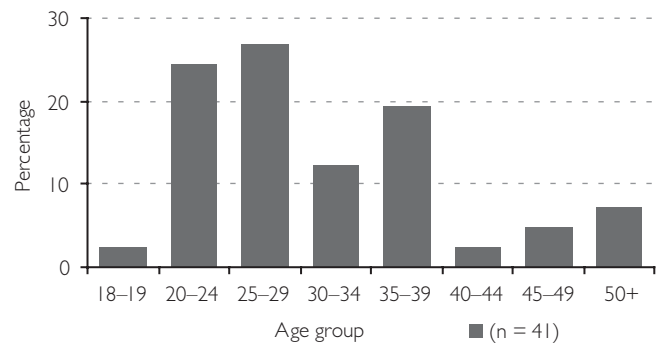
**Figure 16:** The number and percentage of people who received a wholly suspended sentence for going equipped to steal, 2004–05 to 2007–08



### Age and gender

Of the 41 people who received a wholly suspended sentence, 73.2% were men. Figure 17 shows the age groups of people who received a wholly suspended sentence for going equipped to steal. The median age of these people was 28 years.

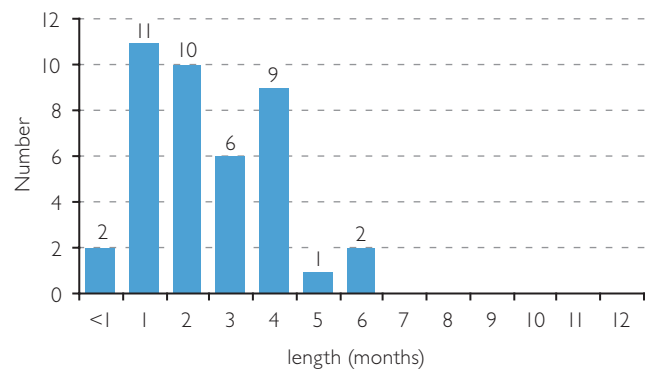
**Figure 17:** The percentage of people who received a wholly suspended sentence for going equipped to steal by age, 2004–05 to 2007–08



### Length of sentence

Figure 18 shows the number of people who received a wholly suspended sentence for going equipped to steal by the length of the sentence. While the length of wholly suspended sentences ranged from thirteen days to six months, the median was two months (meaning that half were shorter than two months and half were longer than two months). Aggregate wholly suspended sentences were imposed for 61.0% of people who received a wholly suspended sentence.<sup>20</sup>

**Figure 18:** The number of people who received a wholly suspended sentence for going equipped to steal by the length of order, 2004–05 to 2007–08

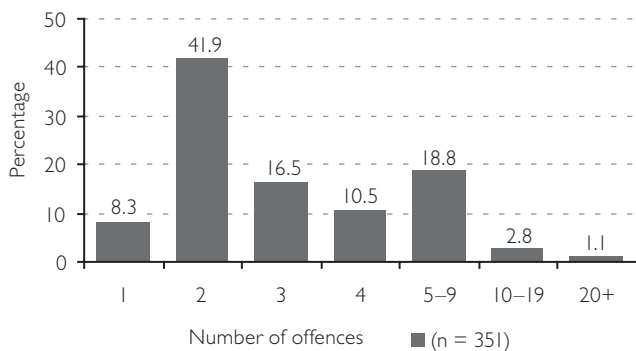


## Other offences finalised at the same hearing

Often people prosecuted for going equipped to steal 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 going equipped to steal.

Figure 19 shows the number of people sentenced for the principal offence of going equipped to steal by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 45, while the median was 2 offences. There were 29 people (8.3%) sentenced for the single offence of going equipped to steal alone. A much higher percentage of men were sentenced for a single offence only (12.6% compared to 0.8% of women). The average number of offences per person sentenced for going equipped to steal was 3.81.

**Figure 19:** The percentage of cases where going equipped to steal 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 going equipped to steal, 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, 285 of the total 351 people (81.2%) also received sentences for theft. On average, they were sentenced for 2.27 charges of theft. The first row indicates that the average number of charges of going equipped to steal sentenced per person was 1.16.

**Table 4:** The number and percentage of people sentenced for the principal offence of going equipped to steal 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 going equipped to steal	351	100.0	1.16
2 theft	285	81.2	2.27
3 attempt to commit an indictable offence	17	4.8	1.76
4 unlicensed driving	14	4.0	1.29
5 failing to appear on bail	11	3.1	1.27
6 use an unregistered vehicle	11	3.1	1.27
7 place kept for purpose of betting	10	2.8	1.00
8 drive while disqualified	9	2.6	2.00
9 possession of a drug of dependence	9	2.6	1.33
10 carry regulated weapon	7	2.0	1.29
<b>People sentenced</b>	<b>351</b>	<b>100.0</b>	<b>3.81</b>

Table 5 is an elaboration of Table 4. It shows the five most common types of theft offences for which people were sentenced in conjunction with going equipped to steal. As shown, there were 285 people sentenced for theft. On average, these people were sentenced for 2.27 charges of such offences. The most common theft offence sentenced was theft from a shop (270 people or 94.7% of those who were sentenced for a theft offence). On average, these people were sentenced for 2.21 counts of this offence.

**Table 5:** The number and percentage of people sentenced for the principal offence of going equipped to steal by the five most common types of theft offences that were sentenced and the average number of those offences that were sentenced, 2004–05 to 2007–08

Offence description	No.	%	Avg.
theft from a shop	270	94.7	2.21
other theft	16	5.6	2.50
theft of a motor vehicle	6	2.1	1.50
theft from a motor vehicle	1	0.4	1.00
<b>People sentenced</b>	<b>285</b>	<b>100.0</b>	<b>2.27</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 going equipped to steal. 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 6 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 going equipped to steal, by the other sentence types also imposed in the case. For example, of the 103 people who received a fine as part of their total effective sentence, 13.6% also were sentenced to imprisonment, while 10.7% received a wholly suspended sentence.

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

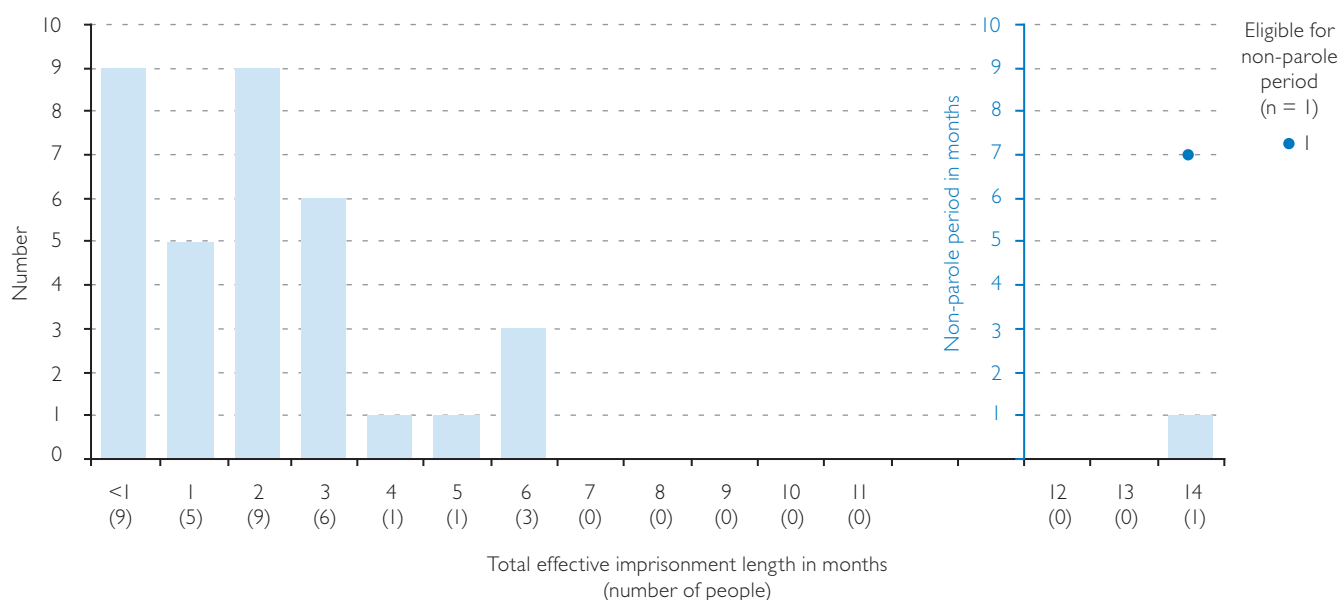
- a fine with a wholly suspended sentence (26.2% of the 42 people who received a wholly suspended sentence);
- a fine with an imprisonment term (20.9% of the 67 people); and
- a community-based order with an intensive correction order (14.3% of the 14 people).

**Table 6:** The percentage of selected sentence types used in conjunction with other sentence types imposed in the same case, 2004–05 to 2007–08

	Fine	Imp.	CBO	WSS	ICO	PSS
Fine	100%	20.9%	5.6%	26.2%	7.1%	11.1%
Imp.	13.6%	100%	1.9%	2.4%	0.0%	0.0%
CBO	2.9%	1.5%	100%	2.4%	14.3%	11.1%
WSS	10.7%	1.5%	1.9%	100%	0.0%	0.0%
ICO	1.0%	0.0%	3.7%	0.0%	100%	0.0%
PSS	1.0%	0.0%	1.9%	0.0%	0.0%	100%
<b>Total</b>	<b>103</b>	<b>67</b>	<b>54</b>	<b>42</b>	<b>14</b>	<b>9</b>

Note: Imp. refers to imprisonment, CBO refers to community-based order, WSS refers to wholly suspended sentence, ICO refers to intensive correction order and PSS refers to partially suspended sentence.

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



## 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 35 people given a total effective sentence of imprisonment in 2006–07 and 2007–08.<sup>22</sup> There was 1 person eligible for and given a non-parole period in 2006–07 and 2007–08.

Figure 20 shows the number of people sentenced to imprisonment for going equipped to steal 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 one year and two months with a non-parole period of seven months.

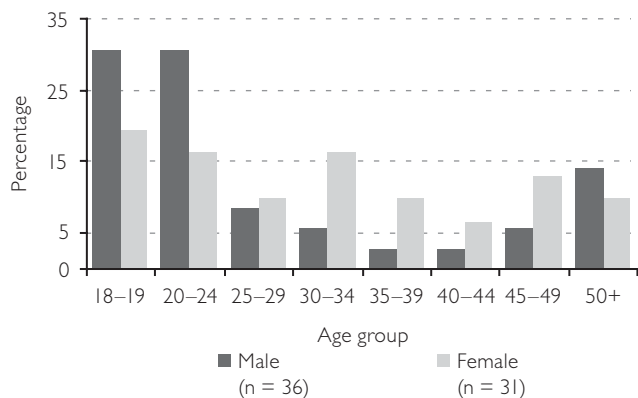
## Criminal justice diversion plan<sup>24</sup>

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 67 people who were given a criminal justice diversion plan.

### Age and gender

Of the 67 people who were referred to the criminal justice diversion program, 53.7% were men. Figure 21 shows the age groups of people who were referred to the criminal justice diversion program for going equipped to steal by gender. The median age of these people was 25 years, while women were much older than their male counterparts (a median age of 32 years compared to 20 years).

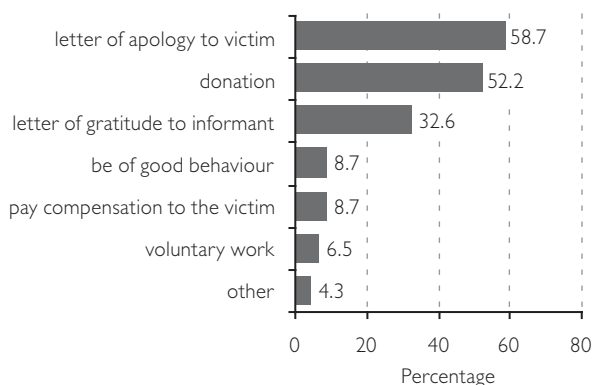
**Figure 21:** The percentage of people who were referred to the criminal justice diversion program for going equipped to steal by age and gender, 2004–05 to 2007–08



### Conditions

Figure 22 shows the number of people who received a criminal justice diversion plan for going equipped to steal 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 (58.7% of people).

**Figure 22:** The percentage of conditions set for people who received a criminal justice diversion plan for going equipped to steal, 2004–05 to 2007–08



Note: other includes drug awareness course.

## Summary

The Magistrates' Court sentenced 351 people for the principal offence of going equipped to steal between 2004–05 and 2007–08. Over this period, the majority of those sentenced were men (222 people or 63.2%), while 55% were aged between 20 and 35 years.

Most people sentenced for going equipped to steal received a non-custodial sentence (215 people or 61.3%), including 93 people who received an adjourned undertaking (26.5%), 73 people who received a fine (20.8%) and 49 people who received a community-based order (14.0%). A conviction was recorded with the principal sentence for 64.4% of people sentenced.

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

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

Each of the 351 people was sentenced for an average of 3.81 offences, including 1.16 offences of going equipped to steal. The most common offence finalised in conjunction with going equipped to steal was theft (81.2% of all cases).

Common sentence types imposed in conjunction with another sentence type included a fine with a wholly suspended sentence (26.2% of the 42 people who received a wholly suspended sentence), a fine with an imprisonment term (20.9% of the 67 people) and a community-based order with an intensive correction order (14.3% of the 14 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 going equipped to steal 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 going equipped to steal who received a more serious sentence for another offence on the same charge sheet.

<sup>2</sup> The data used for analysis in this report contain information on age and gender characteristics. Indigenous status was unknown for 57.5% of people sentenced over this period. Therefore no analyses are presented on Indigenous status.

<sup>3</sup> *Crimes Act 1958* (Vic) s 91.

<sup>4</sup> Though section 91 of *Crimes Act 1958* (Vic) does not specifically state the maximum number of penalty units that can be imposed for this offence, section 109 (3)(a) *Sentencing Act 1991* (Vic) sets the proportion between the maximum term of imprisonment and the maximum fine.

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>5</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' (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 had charges that were dismissed pursuant to this legislation.

<sup>6</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>7</sup> *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)).

<sup>8</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>9</sup> The age was unknown for 1 man sentenced for going equipped to steal (0.3%). This person is excluded from all age analyses in this report.

<sup>10</sup> Refer fn. 5.

<sup>11</sup> 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.

<sup>12</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>13</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 1 person sentenced for going equipped to steal. This person is excluded from these analyses.

<sup>14</sup> 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>15</sup> *Sentencing Act 1991* (Vic) s 9.

<sup>16</sup> *Sentencing Act 1991* (Vic) s 51.

<sup>17</sup> Where an aggregate sentence of imprisonment is imposed, the aggregate term of imprisonment may not exceed that which could be imposed if each of the maximum terms were imposed for each of the offences (*Sentencing Act 1991* (Vic) s 9(2)). Other limitations can apply here, including the jurisdictional limitation which generally precludes the Magistrates' Court from imposing aggregate sentences of imprisonment over 5 years in length.

<sup>18</sup> The amount of non-aggregate fines ranged from \$100 to \$800, with a median of \$300, while the amount of aggregate fines ranged from \$50 to \$1,500, with a median of \$450.

<sup>19</sup> The length of non-aggregate periods of imprisonment ranged from one day to six months, with a median of two months, while the length of aggregate periods of imprisonment ranged from one day to one year and two months, with a median of two months.

<sup>20</sup> The length of non-aggregate wholly suspended sentences ranged from thirteen days to six months, with a median of three months, while the length of aggregate wholly suspended sentences ranged from twenty-one days to six months, with a median of two months.

<sup>21</sup> 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.

<sup>24</sup> 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 67 people who were placed on the diversion program for this offence, 46 were matched to and had conditions listed in the criminal justice diversion plan database (68.7%).

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

### *Sentencing trends in the Magistrates' Court, 2004–05 to 2007–08*

- 60 Going equipped to steal
- 59 Handling stolen goods
- 58 Aggravated burglary
- 57 Burglary
- 56 Other theft
- 55 Theft of a bicycle
- 54 Theft from a shop
- 53 Theft from a motor vehicle
- 52 Theft of a motor vehicle

### *Sentencing trends in the Magistrates' Court, 2004–05 to 2006–07*

- 51 Knowingly possess child pornography
- 50 Indecent act with a child under 16
- 49 Indecent Assault

### *Sentencing trends in the higher courts, 2002–03 to 2006–07*

- 48 Cultivating a commercial quantity of narcotic plants
- 47 Cultivating narcotic plants
- 46 Trafficking in a large commercial quantity of drugs
- 45 Trafficking in a commercial quantity of drugs
- 44 Trafficking in a non-commercial quantity of drugs
- 43 Incest
- 42 Affray
- 41 Causing injury intentionally or recklessly
- 40 Causing serious injury recklessly
- 39 Causing serious injury intentionally
- 38 Aggravated burglary
- 37 Burglary
- 36 Attempted armed robbery
- 35 Armed robbery
- 34 Robbery

### *Sentencing trends in the higher courts, 2001–02 to 2005–06*

- 33 Sexual penetration of a child aged under 10
- 32 Sexual penetration of a child aged 10 to 16 under the care, supervision or authority of the offender
- 31 Sexual penetration of a child aged between 10 and 16
- 30 Making a threat to kill
- 29 Culpable driving causing death
- 28 Manslaughter
- 27 Murder
- 26 Rape
- 25 Maintaining a sexual relationship with a child aged under 16
- 24 Indecent act with a child aged under 16
- 23 Indecent assault

### *Other topics*

- 22 The Victorian criminal justice system

### *Sentencing trends in the higher courts, 2001–02 to 2005–06 cont.*

- 21 Attempted murder
- 20 Arson
- 19 Obtaining property by deception
- 18 Obtaining financial advantage by deception
- 17 Theft
- 16 Handling stolen goods

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