

Sentencing Snapshot

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

August 2008
No. 54

Theft from a Shop

This Sentencing Snapshot¹ describes sentencing outcomes² for the offence of theft from a shop 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 from a shop includes all such offences where the property stolen is from a shop.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.

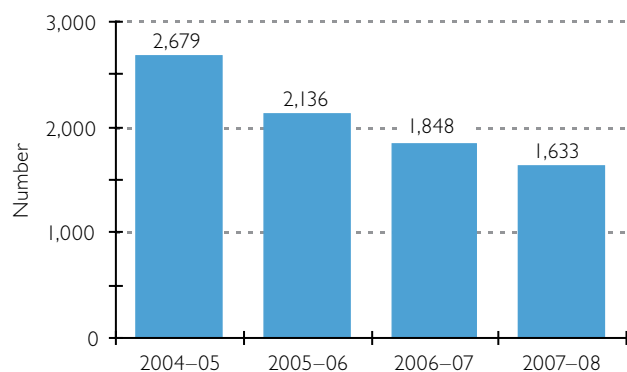
This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate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

Theft from a shop was the principal offence in 3.0% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

People sentenced

Over the four-year period, 8,296 people were sentenced for the principal offence of theft from a shop in the Magistrates' Court. In 2007–08, there were 1,633 people who were sentenced for the principal proven offence of theft from a shop.¹⁰ This has steadily decreased each year from 2,679 people in 2004–05.

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



Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for theft from a shop during 2004–05 to 2007–08. Over the four-year period, the majority of those sentenced for theft from a shop received a non-custodial sentence (6,672 people or 80.4%), including 3,423 people who received a fine (41.3%), 2,196 people who received an adjourned undertaking (26.5%) and 903 people who received a community-based order (10.9%).

There were also 901 people who received a non-immediate custodial sentence (10.9%), including 767 people who received a wholly suspended sentence (9.2%).

In some circumstances, when sentencing an offender the court may decide whether to record a conviction.¹¹ Of the 3,481 people sentenced for theft from a shop in 2006–07 and 2007–08,¹² 69.4% had a conviction recorded (2,416 people).

An additional 1,747 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 from a shop by sentence type, 2004–05 to 2007–08

Sentence Type	Total	%
Immediate custodial	723	8.7
Imprisonment	633	7.6
Partially suspended sentence	78	0.9
Combined custody and treatment order	4	0.0
Youth justice centre order	8	0.1
Other custodial	901	10.9
Drug treatment order	33	0.4
Wholly suspended sentence	767	9.2
Intensive correction order	101	1.2
Non-custodial	6,672	80.4
Community-based order	903	10.9
Fine	3,423	41.3
Adjourned undertaking	2,196	26.5
Convicted and discharged (s. 73 SA)	110	1.3
Dismissed (s. 76 SA)	40	0.5
People sentenced	8,296	100.0
Criminal justice diversion program	1,747	
Total dispositions	10,043	

Sentencing outcomes by year

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

While the number of people who received an immediate custodial sentence decreased each year from 214 people in 2004–05 to 153 people in 2007–08, the percentage of people increased from 8.0% to 9.4% over the same period.

The number and percentage of people who received a non-immediate custodial sentence decreased each year from 277 people and 10.3% in 2004–05 to 164 people and 10.0% in 2007–08. The number and percentage of people who received a non-custodial sentence decreased each year from 2,188 people and 81.7% in 2004–05 to 1,316 people and 80.6% in 2007–08.

Sentencing map

Figure 3 presents both the sentencing outcome and the quantum for that outcome for people sentenced for theft from a shop. For example, 41.3% of people sentenced received a fine including 20.0% 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.

Figure 3: Sentencing map: The percentage of people sentenced for theft from a shop by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08¹⁶

Note: Imp. refers to imprisonment, CAD refers to convicted and discharged (s 73 SA) and ICO refers to intensive correction order. Other includes partially suspended sentence, dismissed (s 76 SA), drug treatment order, youth justice centre order and combined custody and treatment order.

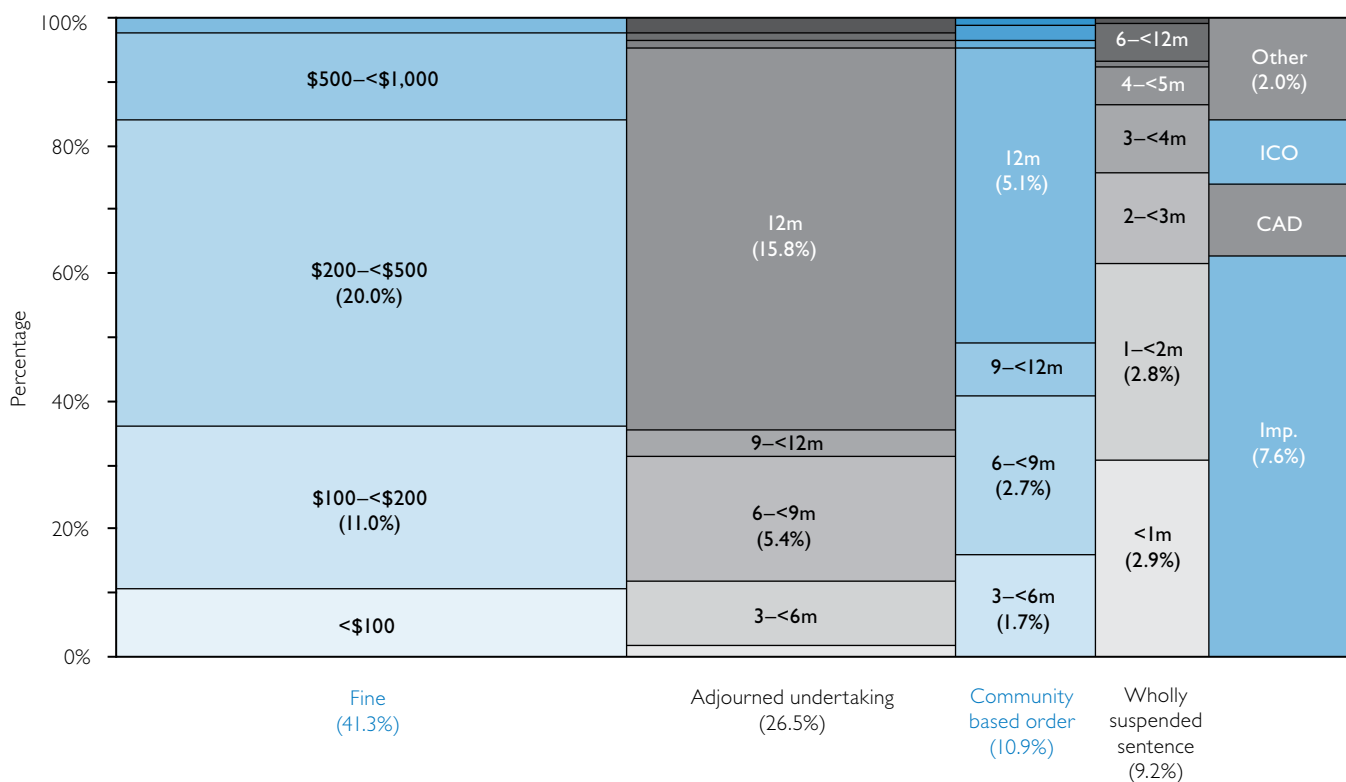


Table 3: The number and percentage of people sentenced for theft from a shop by sentence type and year, 2004–05 to 2007–08¹⁵

Sentence Type	2004–05	2005–06	2006–07	2007–08
Immediate custodial	214 (8.0%)	188 (8.8%)	168 (9.1%)	153 (9.4%)
Imprisonment	189 (7.1%)	167 (7.8%)	151 (8.2%)	126 (7.7%)
Partially suspended sentence	21 (0.8%)	18 (0.8%)	15 (0.8%)	24 (1.5%)
Combined custody and treatment order	1 (<0.1%)	2 (<0.1%)	1 (<0.1%)	0 -
Youth justice centre order	3 (0.1%)	1 (<0.1%)	1 (<0.1%)	3 (0.2%)
Other custodial	277 (10.3%)	245 (11.5%)	215 (11.6%)	164 (10.0%)
Drug treatment order	7 (0.3%)	9 (0.4%)	8 (0.4%)	9 (0.6%)
Wholly suspended sentence	255 (9.5%)	203 (9.5%)	174 (9.4%)	135 (8.3%)
Intensive correction order	15 (0.6%)	33 (1.5%)	33 (1.8%)	20 (1.2%)
Non-custodial	2,188 (81.7%)	1,703 (79.7%)	1,465 (79.3%)	1,316 (80.6%)
Community-based order	274 (10.2%)	276 (12.9%)	209 (11.3%)	144 (8.8%)
Fine	1,192 (44.5%)	867 (40.6%)	736 (39.8%)	628 (38.5%)
Adjourned undertaking	691 (25.8%)	533 (25.0%)	471 (25.5%)	501 (30.7%)
Convicted and discharged (s. 73 SA)	31 (1.2%)	27 (1.3%)	26 (1.4%)	26 (1.6%)
Dismissed (s. 76 SA)			23 (1.2%)	17 (1.0%)
People sentenced	2679	2136	1848	1633

Principal sentence

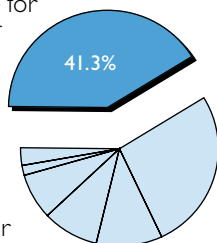
This section examines the use of the five most common principal sentencing outcomes for this offence.¹⁷ Firstly, it provides an analysis of the trends in the use of each sentencing outcome, both in terms of the number and percentage of people sentenced. Secondly, a demographic analysis of the people sentenced to each sentencing outcome is provided.¹⁸ Finally, where relevant, the details of the sentence (length of order or fine amount) are examined.¹⁹

The five most common sentences imposed for theft from a shop are fine, adjourned undertaking, community-based order, wholly suspended sentence and imprisonment.

Fine

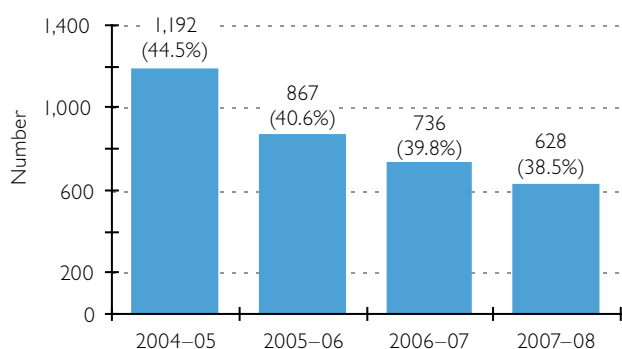
Trends

There were 3,423 people who received a fine for theft from a shop. This represented 41.3% of all people sentenced for this offence. Of the 1,364 people who received a fine in 2006–07 and 2007–08, 82.0% also had a conviction recorded (1,119 people). Figure 4 shows the trends in the number and percentage of people sentenced who received a fine for theft from a shop.



In 2007–08, 628 people received a fine for the principal proven offence of theft from a shop. This has decreased each of the past three years from 1,192 people in 2004–05. Also, the proportion of people who received a fine for theft from a shop decreased each of the past three years from 44.5% in 2004–05 to 38.5% in 2007–08.

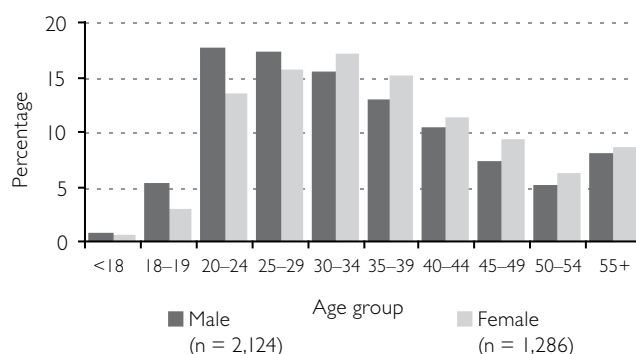
Figure 4: The number and percentage of people who received a fine for theft from a shop, 2004–05 to 2007–08



Age and gender

Of the 3,423 people who received a fine, 62.2% were men. Figure 5 shows the age groups of people who received a fine for theft from a shop by gender. The median age of these people was 33 years, while women were generally older than their male counterparts (a median age of 35 years compared to 33 years).

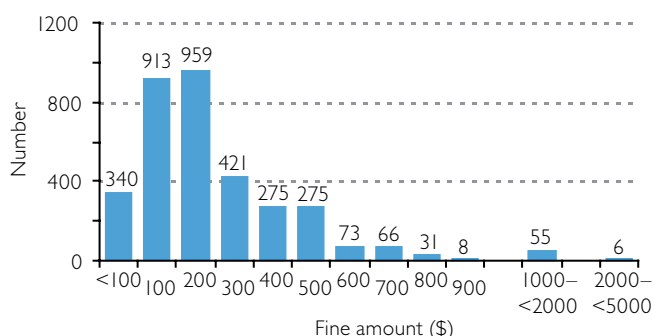
Figure 5: The percentage of people who received a fine for theft from a shop by age and gender, 2004–05 to 2007–08



Fine Amount

Figure 6 shows the number of people who received a fine for theft from a shop by the amount of the fine. While the amount of the fine ranged from \$10 to \$3,000, the median was \$200.

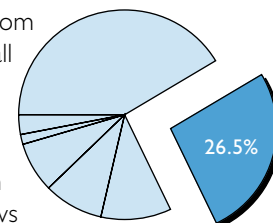
Figure 6: The number of people who received a fine for theft from a shop by the amount of the fine, 2004–05 to 2007–08



Adjourned undertaking

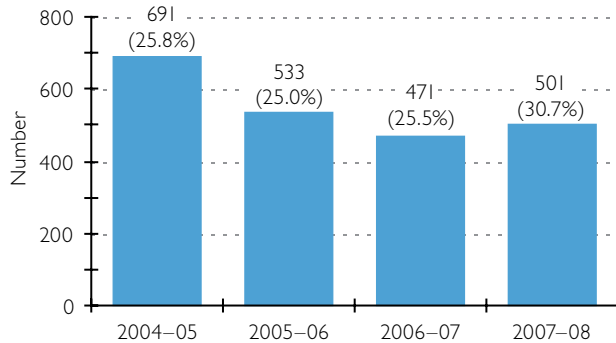
Trends

There were 2,196 people who received an adjourned undertaking for theft from a shop. This represented 26.5% of all people sentenced for this offence. Of the 972 people who received an adjourned undertaking in 2006–07 and 2007–08, 24.0% also had a conviction recorded (233 people). Figure 7 shows the trends in the number and percentage of people sentenced who received an adjourned undertaking for theft from a shop.



In 2007–08, 501 people received an adjourned undertaking for the principal proven offence of theft from a shop. This has remained relatively stable over the past two years, after decreasing the previous two years. The proportion of people who received an adjourned undertaking for theft from a shop increased over the past year from 25.5% to 30.7%.

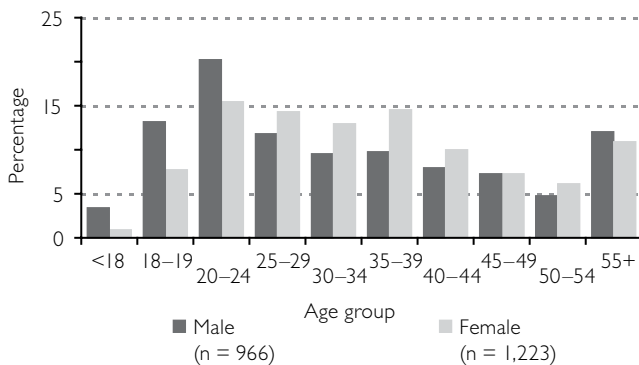
Figure 7: The number and percentage of people who received an adjourned undertaking for theft from a shop, 2004–05 to 2007–08



Age and gender

Of the 2,196 people who received an adjourned undertaking, 44.0% were men. Figure 8 shows the age groups of people who received an adjourned undertaking for theft from a shop by gender. The median age of these people was 33 years, while women were much older than their male counterparts (a median age of 34 years compared to 30 years).

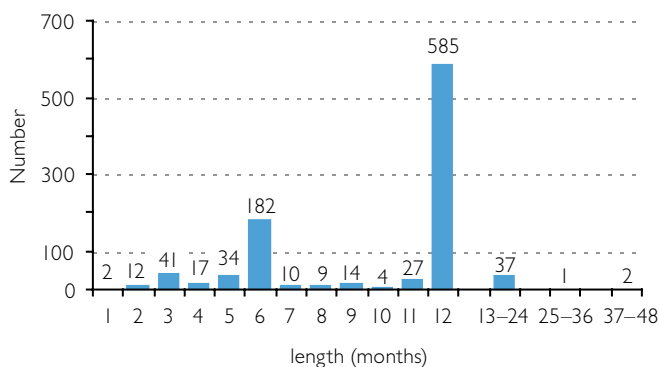
Figure 8: The percentage of people who received an adjourned undertaking for theft from a shop by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 9 shows the number of people who received an adjourned undertaking for theft from a shop by the length of the sentence. While the length of adjourned undertakings ranged from one month to four years, the majority were for 12 months (59.9%).

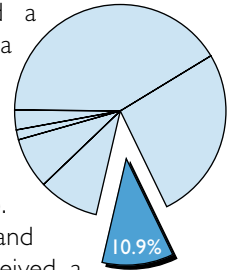
Figure 9: The number of people who received an adjourned undertaking for theft from a shop by the length of order, 2006–07 and 2007–08



Community-based order

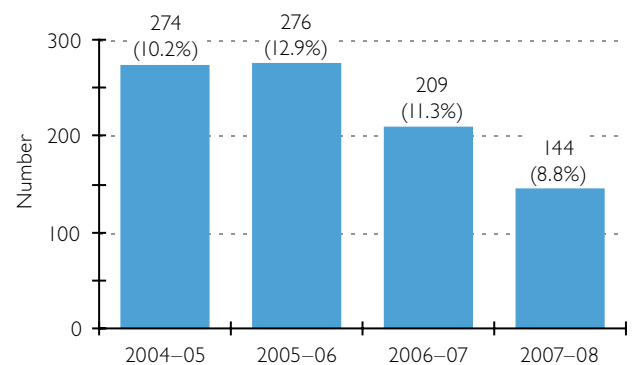
Trends

There were 903 people who received a community-based order for theft from a shop. This represented 10.9% of all people sentenced for this offence. Of the 353 people who received a community-based order in 2006–07 and 2007–08, 88.4% also had a conviction recorded (312 people). Figure 10 shows the trends in the number and percentage of people sentenced who received a community-based order for theft from a shop.



In 2007–08, 144 people received a community-based order for the principal proven offence of theft from a shop. This has decreased each of the past two years from 276 people in 2005–06. Also, the proportion of people who received a community-based order for theft from a shop decreased each of the past two years from 12.9% in 2005–06 to 8.8% in 2007–08.

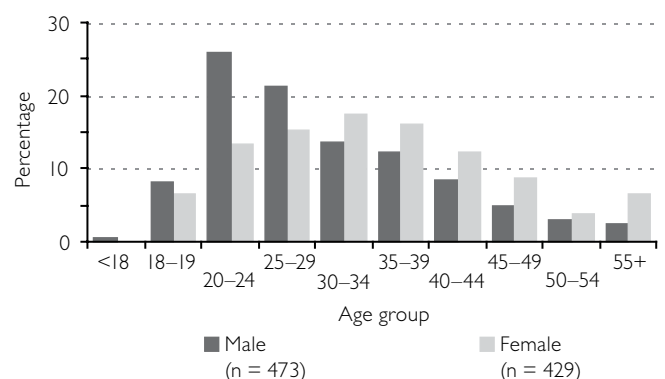
Figure 10: The number and percentage of people who received a community-based order for theft from a shop, 2004–05 to 2007–08



Age and gender

Of the 903 people who received a community-based order, 52.5% were men. Figure 11 shows the age groups of people who received a community-based order for theft from a shop by gender. The median age of these people was 31 years, while women were much older than their male counterparts (a median age of 34 years compared to 28 years).

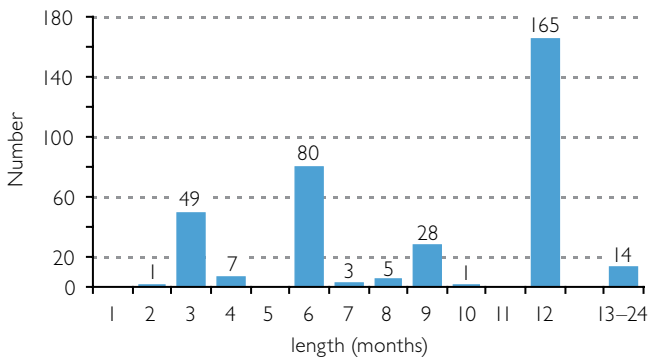
Figure 11: The percentage of people who received a community-based order for theft from a shop by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 12 shows the number of people who received a community-based order for theft from a shop by the length of the sentence. While the length of community-based orders ranged from two months to two years, the most common length was 12 months (46.7%), followed by 6 months (22.7%).

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



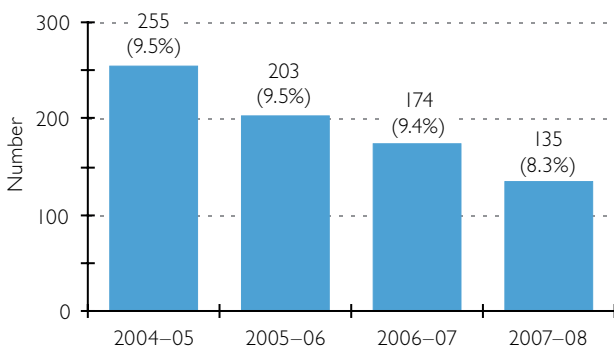
Wholly suspended sentence

Trends

There were 767 people who received a wholly suspended sentence for theft from a shop. This represented 9.2% of all people sentenced for this offence. Figure 13 shows the trends in the number and percentage of people sentenced who received a wholly suspended sentence for theft from a shop.

In 2007–08, 135 people received a wholly suspended sentence for the principal proven offence of theft from a shop. This has decreased each of the past three years from 255 people in 2004–05. Also, the proportion of people who received a wholly suspended sentence for theft from a shop decreased over the past year from 9.4% to 8.3%.

Figure 13: The number and percentage of people who received a wholly suspended sentence for theft from a shop, 2004–05 to 2007–08

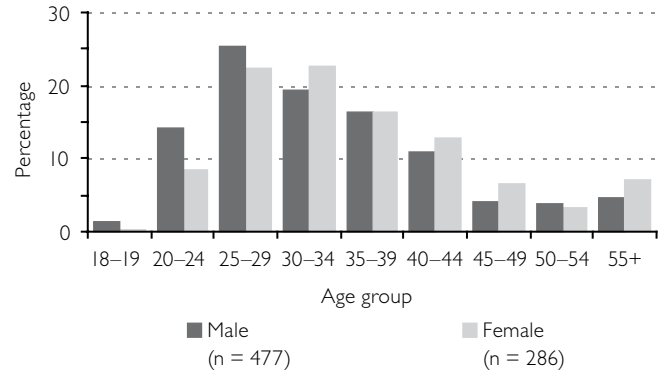


Age and gender

Of the 767 people who received a wholly suspended sentence, 62.6% were men. Figure 14 shows the age groups of people who received a wholly suspended sentence for theft from a shop

by gender. The median age of these people was 33 years, while women were generally slightly older than their male counterparts (a median age of 33 years and six months compared to 32 years).

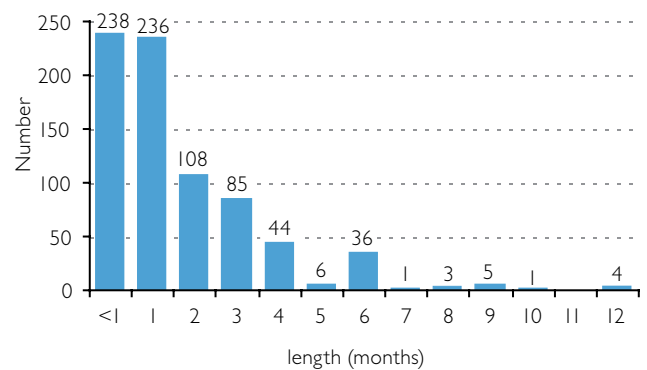
Figure 14: The percentage of people who received a wholly suspended sentence for theft from a shop by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 15 shows the number of people who received a wholly suspended sentence for theft from a shop by the length of the sentence. While the length of wholly suspended sentences ranged from one day to one year, 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 received a wholly suspended sentence for theft from a shop by the length of order, 2004–05 to 2007–08



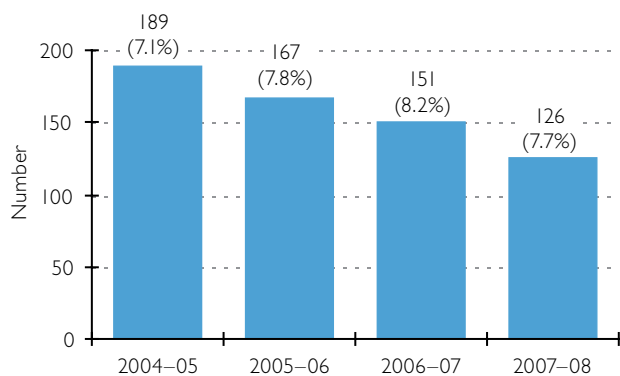
Imprisonment

Trends

There were 633 people who were sentenced to imprisonment for theft from a shop. This represented 7.6% of all people sentenced for this offence. Figure 16 shows the trends in the number and percentage of people sentenced who were sentenced to imprisonment for theft from a shop.

In 2007–08, 126 people were sentenced to imprisonment for the principal proven offence of theft from a shop. This has decreased each of the past three years from 189 people in 2004–05. Also, the proportion of people who were sentenced to imprisonment for theft from a shop decreased over the past year from 8.2% to 7.7%.

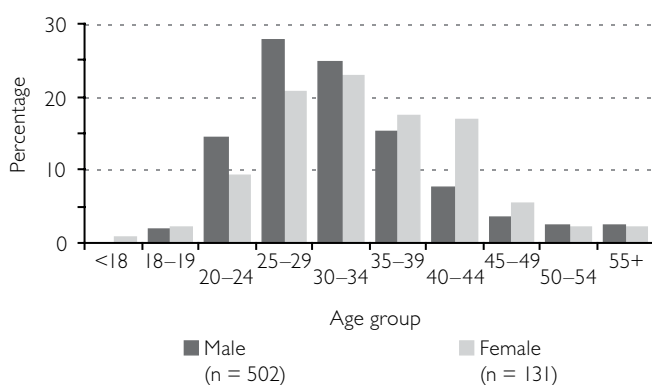
Figure 16: The number and percentage of people who were sentenced to imprisonment for theft from a shop, 2004–05 to 2007–08



Age and gender

Of the 633 people who received a period of imprisonment, 79.3% were men. Figure 17 shows the age groups of people who were sentenced to imprisonment for theft from a shop by gender. The median age of these people was 31 years, while women were generally older than their male counterparts (a median age of 33 years compared to 30 years).

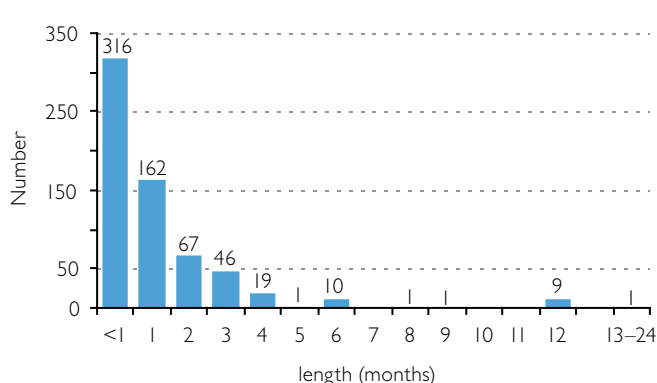
Figure 17: The percentage of people who were sentenced to imprisonment for theft from a shop by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 18 shows the number of people who were sentenced to imprisonment for theft from a shop by the length of the sentence. While the length of imprisonment ranged from one day to one year and six months, the majority were less than one month.

Figure 18: The number of people who were sentenced to imprisonment for theft from a shop by the length of order, 2004–05 to 2007–08

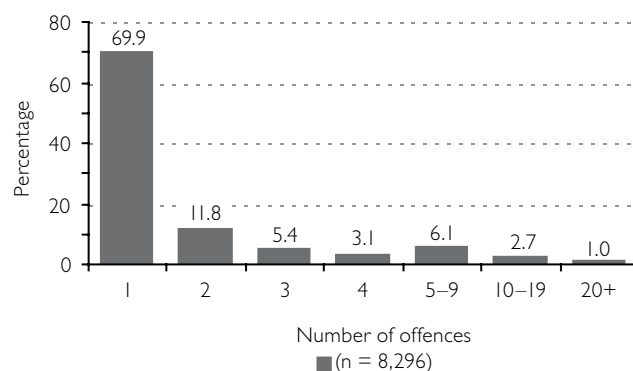


Other offences finalised at the same hearing

Often people prosecuted for theft from a shop 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 from a shop.

Figure 19 shows the number of people sentenced for the principal offence of theft from a shop by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 170. There were 5,797 people (69.9%) sentenced for the single offence of theft from a shop alone.

Figure 19: The percentage of cases where theft from a shop 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 theft from a shop, 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, 411 of the total 8,296 people (5.0%) also received sentences for failing to appear on bail. On average, they were sentenced for 1.75 charges of failing to appear on bail. The first row indicates that the average number of charges of theft sentenced per person was 1.73.

Table 4: The number and percentage of people sentenced for the principal offence of theft from a shop 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	8,296	100.0	1.73
2 fail to appear on bail	411	5.0	1.75
3 go equipped to steal	192	2.3	1.43
4 use an unregistered vehicle	171	2.1	1.43
5 possession of a drug of dependence	171	2.1	1.26
6 attempt to commit an indictable offence	154	1.9	1.94
7 deal property suspected proceed of crime	150	1.8	1.51
8 unlicensed driving	136	1.6	1.35
9 drive while disqualified	114	1.4	1.57
10 use of a drug of dependence	108	1.3	1.17
People sentenced	8,296	100.0	2.35

Table 5 is an elaboration of Table 4. It shows the type of theft offences for which people were sentenced in conjunction with theft from a shop. As shown, the average number of thefts sentenced per person was 1.73, including 1.65 offences of theft from a shop. The most common theft sentenced in conjunction with theft from a shop was other theft (231 people or 2.8%). On average these people were sentenced for 2.16 offences of other theft.

Table 5: The number and percentage of people sentenced for the principal offence of theft from a shop by the types of theft for which they were sentenced and the average number of those offences, 2004–05 to 2007–08

Offence description	No.	%	Avg.
theft (shopsteal)	8,296	100.0	1.65
theft (other)	231	2.8	2.16
theft of a motor vehicle	59	0.7	1.31
theft from a motor vehicle	35	0.4	1.97
theft of a bicycle	4	0.0	1.00
People sentenced	8,296	100.0	1.73

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 from a shop. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.²⁰

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 theft from a shop, by the other sentence types also imposed in the case. For example, of the 3,735 people who received a fine as part of their total effective sentence, 4.1% also received a wholly suspended sentence.

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

- a fine with an intensive correction order (25.2% of the 107 people who received an intensive correction order);
- a fine with a wholly suspended sentence (19.7% of the 785 people);
- a fine with a partially suspended sentence (12.8% of the 78 people); and
- a fine with a period of imprisonment (11.9% of the 636 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	CBO	WSS	Imp.	ICO	PSS
Fine	100%	5.6%	19.7%	11.9%	25.2%	12.8%
CBO	1.4%	100%	4.5%	2.4%	0.9%	2.6%
WSS	4.1%	3.7%	100%	2.4%	2.8%	0.0%
Imp.	2.0%	1.6%	1.9%	100%	5.6%	3.8%
ICO	0.7%	0.1%	0.4%	0.9%	100%	0.0%
PSS	0.3%	0.2%	0.0%	0.5%	0.0%	100%
Total	3,735	954	785	636	107	78

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

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 sentences are ordered by the court 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 no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

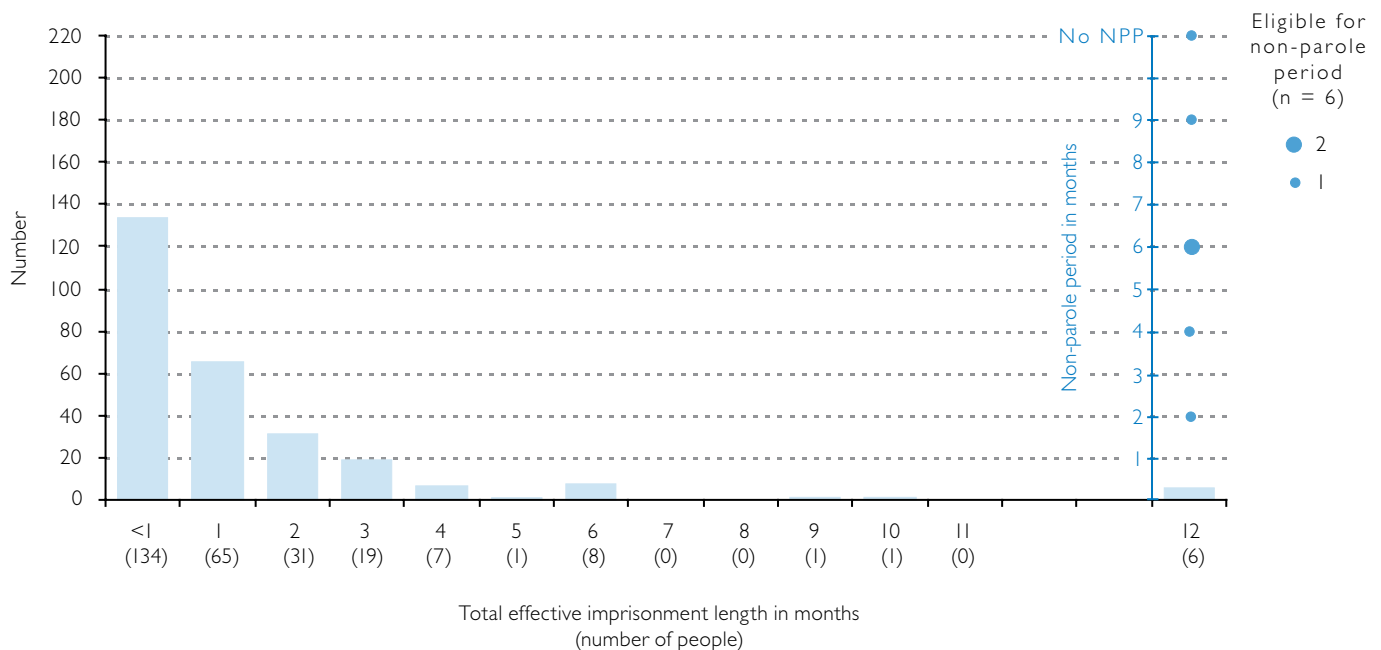
There were 273 people given a total effective sentence of imprisonment in 2006–07 and 2007–08.²¹ There were 6 people eligible for a non-parole period in 2006–07 and 2007–08, of whom 5 were given a non-parole period. This makes up 1.8% of all those who were given a total effective sentence of imprisonment.

Figure 20 shows the number of people sentenced to imprisonment for theft from a shop 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.²²

Total effective imprisonment lengths ranged from one day to one year. However, most people had a length of less than one month (134 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 (2 people – as represented by the largest bubble on the chart). The longest total effective sentence imposed was one year with a non-parole period of nine months.

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



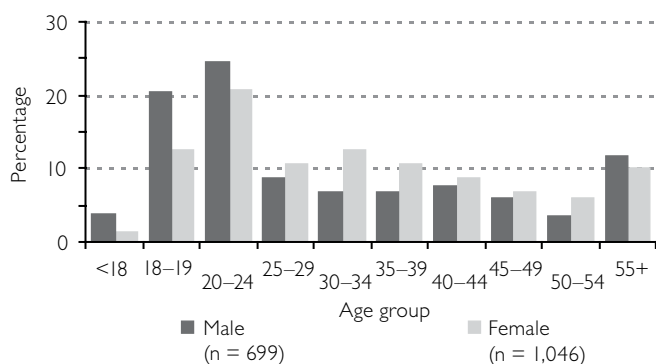
Criminal justice diversion plan²³

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 1,747 people who were given a criminal justice diversion plan.

Age and gender

Of the 1,747 people who were referred to the criminal justice diversion program, 40.0% were men. Figure 21 shows the age groups of people who were referred to the criminal justice diversion program for theft from a shop by gender. The median age of these people was 29 years, while women were much older than their male counterparts (a median age of 32 years compared to 25 years).

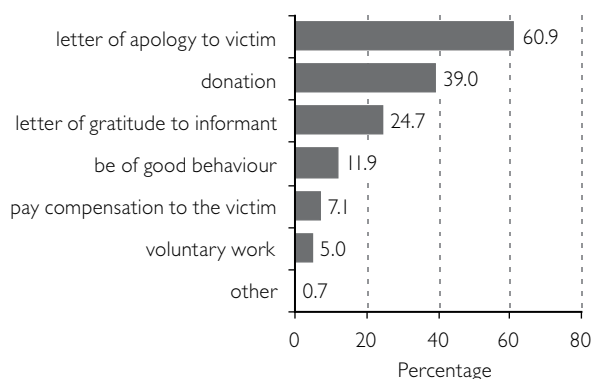
Figure 21: The percentage of people who were referred to the criminal justice diversion program for theft from a shop by age and gender, 2004–05 to 2007–08²⁴



Conditions

Figure 22 shows the number of people who received a criminal justice diversion plan for theft from a shop 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 (60.9% of people).

Figure 22: The percentage of conditions set for people who received a criminal justice diversion plan for theft from a shop, 2004–05 to 2007–08



Note: other includes drug counselling, drug awareness course and alcohol counselling/treatment.

Summary

The Magistrates' Court sentenced 8,296 people for the principal offence of theft from a shop between 2004–05 and 2007–08. Over this period, just over half sentenced were men (4,783 people or 57.7%), while 50% were aged between 20 and 35 years.

Most people sentenced for theft from a shop received a non-custodial sentence (6,672 people or 80.4%), including 3,423 people who received a fine (41.3%), 2,196 people who received an adjourned undertaking (26.5%) and 903 people who received a community-based order (10.9%). A conviction was recorded with the principal sentence for 69.4% of people sentenced.

Men were more likely to receive fines and a sentence of imprisonment. Conversely, women were more likely to receive adjourned undertakings.

A higher percentage of those in the middle age groups received an immediate custodial sentence, including an imprisonment term and a non-immediate custodial sentence, including a wholly suspended sentence. Conversely, a higher percentage of those in the younger age groups received a non-custodial sentence, including an adjourned undertaking.

Each of the 8,296 people was sentenced for an average of 2.35 offences, including 1.73 offences of theft. The most common offence finalised in conjunction with theft from a shop was failing to appear on bail (5.0% of all cases).

The most common sentence types imposed in conjunction with another sentence type were a fine with an intensive correction order (25.2% of the 107 people who received an intensive correction order), a fine with a wholly suspended sentence (19.7% of the 785 people) and a fine with a partially suspended sentence (12.8% of the 78 people).

Lengths of total effective sentences ranged from one day to one year with a non-parole period of nine months. The most common length was less than one month (134 people).

- 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 from a shop 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 from a shop 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 from a shop offences are identified by using the charge description of 'theft (shopsteal)' 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 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. In 2007–08, 23 people had charges that were dismissed pursuant to this legislation. This made up 1.2% of people sentenced in that year.
- 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 The age was unknown for 10 men and 15 women sentenced for theft from a shop (0.3%). These people are excluded from all age analyses in this report.
- ¹⁵ Refer fn. 10.
- ¹⁶ 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.
- ¹⁷ 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.
- ¹⁸ 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. The age was unknown for 25 people sentenced for theft from a shop. These people are excluded from these analyses.
- ¹⁹ Aggregate sentence lengths are shown for people who received an aggregate sentence.
- 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. 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.
- ²⁰ While a total of 636 people were sentenced to at least one period of imprisonment in the case, 633 people had imprisonment listed against their principal proven offence. There were 3 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.
- ²¹ Total effective imprisonment lengths and non-parole periods are only available for 2006–07 and 2007–08.
- ²² Non-parole periods are rounded down to the nearest month, while non-parole periods greater than one year are grouped into categories of years.
- ²³ 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 1,747 people who were placed on the diversion program for this offence, 1,349 were matched to and had conditions listed in the criminal justice diversion plan database (77.2%).
- ²⁴ The age was unknown for 25 people sentenced for theft from a shop, including 2 who were referred to the criminal justice diversion program. These people are excluded from this analysis.

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