

Sentencing Snapshot

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

August 2008
No. 52

Theft of a Motor Vehicle

This Sentencing Snapshot¹ describes sentencing outcomes² for the offence of theft of a motor vehicle 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 motor vehicle includes all such offences where the property stolen is a motor vehicle.⁵ In such cases, if the vehicle stolen was taken without the consent of the owner it is not necessary to prove that the defendant intended to permanently deprive the owner of the vehicle.⁶

Theft is an indictable offence⁷ which carries a maximum penalty of 10 years' imprisonment⁸ and/or a fine of 1200 penalty units.⁹ Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

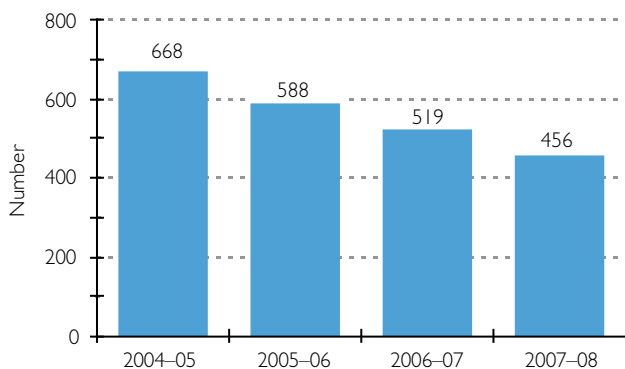
This offence may be heard summarily in the Magistrates' Court if the court considers it appropriate and the defendant consents. This tends to occur where the offence is seen by the court as being less serious in nature. Where an offence is tried summarily, the matter will be heard before a magistrate rather than a judge and a jury. Where theft of a motor vehicle is heard summarily, it carries a maximum penalty of 2 years' imprisonment and/or a fine of 240 penalty units.¹⁰

Theft of a motor vehicle was the principal offence in 0.8% of cases sentenced in the Magistrates' Court between 2004–05 and 2007–08.

People sentenced

Over the four-year period, 2,231 people were sentenced for the principal offence of theft of a motor vehicle in the Magistrates' Court. In 2007–08, there were 456 people who were sentenced for the principal proven offence of theft of a motor vehicle.¹¹ This has steadily decreased each year from 668 people in 2004–05 to 456 in 2007–08.

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



Sentencing outcomes

Table 1 shows the sentencing outcomes for people sentenced for theft of a motor vehicle during 2004–05 to 2007–08. Over the four-year period, just under half of those sentenced for theft of a motor vehicle received a non-custodial sentence (1,015 people or 45.5%), including 431 people who received a community-based order (19.3%), 314 people who received a fine (14.1%) and 263 people who received an adjourned undertaking (11.8%).

There were also 717 people who received an immediate custodial sentence (32.1%), including 563 people who were sentenced to imprisonment (25.2%).

In some circumstances, when sentencing an offender the court may decide whether to record a conviction.¹² Of the 975 people sentenced for theft of a motor vehicle in 2006–07 and 2007–08,¹³ 78.8% had a conviction recorded (768 people).

An additional 203 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).¹⁴

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

Sentence Type	Total	%
Immediate custodial	717	32.1
Imprisonment	563	25.2
Partially suspended sentence	101	4.5
Combined custody and treatment order	7	0.3
Youth justice centre order	46	2.1
Other custodial	499	22.4
Drug treatment order	10	0.4
Wholly suspended sentence	388	17.4
Intensive correction order	101	4.5
Non-custodial	1,015	45.5
Community-based order	431	19.3
Fine	314	14.1
Adjourned undertaking	263	11.8
Convicted and discharged (s. 73 SA)	5	0.2
Dismissed (s. 76 SA)	2	0.1
People sentenced	2,231	100.0
Criminal justice diversion program	203	
Total dispositions	2,434	

Age and gender

Over the four-year period, the majority of those sentenced were men (1,949 people or 87.4%).¹⁵ The age of people sentenced for theft of a motor vehicle ranged from 17 years to 68 years, while the median age was 25 years (meaning that half of the people were aged 25 years or younger and half were 25 years or older). Women sentenced were slightly older than men (a median age of 26 years compared to 25 years).

Figure 2: The percentage of people sentenced for theft of a motor vehicle by gender and age, 2004–05 to 2007–08

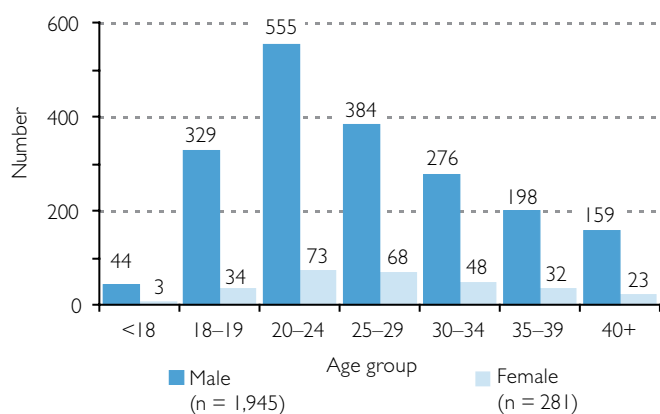


Table 2: The number and percentage of people sentenced for theft of a motor vehicle by sentence type, gender and age group, 2004–05 to 2007–08

Sentencing outcome	Gender		Age group				All People
	Male	Female	<18	18–24	25–39	40+	
Immediate custodial	668	49	11	220	431	53	717
	(34.3%)	(17.4%)	(23.4%)	(22.2%)	(42.8%)	(29.1%)	(32.1%)
Imprisonment	524	39	2	151	373	36	563
	(26.9%)	(13.8%)	(4.3%)	(15.2%)	(37.1%)	(19.8%)	(25.2%)
Partially suspended sentence	92	9	1	29	53	17	101
	(4.7%)	(3.2%)	(2.1%)	(2.9%)	(5.3%)	(9.3%)	(4.5%)
Combined custody and treatment order	7	0	0	2	5	0	7
	(0.4%)	–	–	(0.2%)	(0.5%)	–	(0.3%)
Youth justice centre order	45	1	8	38	0	0	46
	(2.3%)	(0.4%)	(17.0%)	(3.8%)	–	–	(2.1%)
Other custodial	432	67	0	151	293	55	499
	(22.2%)	(23.8%)	–	(15.2%)	(29.1%)	(30.2%)	(22.4%)
Drug treatment order	10	0	0	3	7	0	10
	(0.5%)	–	–	(0.3%)	(0.7%)	–	(0.4%)
Wholly suspended sentence	326	62	0	114	231	43	388
	(16.7%)	(22.0%)	–	(11.5%)	(23.0%)	(23.6%)	(17.4%)
Intensive correction order	96	5	0	34	55	12	101
	(4.9%)	(1.8%)	–	(3.4%)	(5.5%)	(6.6%)	(4.5%)
Non-custodial	849	166	36	620	282	74	1,015
	(43.6%)	(58.9%)	(76.6%)	(62.6%)	(28.0%)	(40.7%)	(45.5%)
Community-based order	353	78	18	278	104	28	431
	(18.1%)	(27.7%)	(38.3%)	(28.1%)	(10.3%)	(15.4%)	(19.3%)
Fine	281	33	6	176	104	28	314
	(14.4%)	(11.7%)	(12.8%)	(17.8%)	(10.3%)	(15.4%)	(14.1%)
Adjourned undertaking	209	54	12	161	72	18	263
	(10.7%)	(19.1%)	(25.5%)	(16.2%)	(7.2%)	(9.9%)	(11.8%)
Convicted and discharged (s. 73 SA)	4	1	0	3	2	0	5
	(0.2%)	(0.4%)	–	(0.3%)	(0.2%)	–	(0.2%)
Dismissed (s. 76 SA)	2	0	0	2	0	0	2
	(0.1%)	–	–	(0.2%)	–	–	(<0.1%)
People sentenced	1,949	282	47	991	1,006	182	2,231
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

Sentencing outcomes by gender and age group

Table 2 shows the number and percentage of people who were sentenced for theft of a motor vehicle by sentence type. The first two columns show sentence types by gender, while the next four columns show the sentence types by age group.

A higher percentage of men received immediate custodial sentences (34.3% of men compared to 17.4% of women). Conversely, a higher percentage of women received non-custodial sentences (58.9% of women compared to 43.6% of men).

When examining individual sentence types, a higher percentage of men received a sentence of imprisonment (26.9% compared to 13.8% of women). Conversely, a higher percentage of women received community-based orders (27.7% compared to 18.1% of men), adjourned undertakings (19.1% compared to 10.7%) and wholly suspended sentences (22.0% compared to 16.7%).

A higher percentage of older people received a non-immediate custodial sentence, including a wholly suspended sentence and an intensive correction order. Conversely, a higher percentage of those in the younger age groups received a non-custodial sentence, including a community-based order and an adjourned undertaking. A higher percentage of those in the middle age groups received an immediate custodial sentence.

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 motor vehicle by the type of sentence imposed.

While the number of people who received an immediate custodial sentence decreased from 189 people in 2004–05 to 153 people in 2007–08, the percentage of people increased from 28.3% to 33.6% over the same period.

The number and percentage of people who received a non-immediate custodial sentence decreased each year from 171 people and 25.6% in 2004–05 to 97 people and 21.3% in 2007–08. The number and percentage of people who received a non-custodial sentence decreased each year from 308 people and 46.1% in 2004–05 to 206 people and 45.2% in 2007–08.

Sentencing map

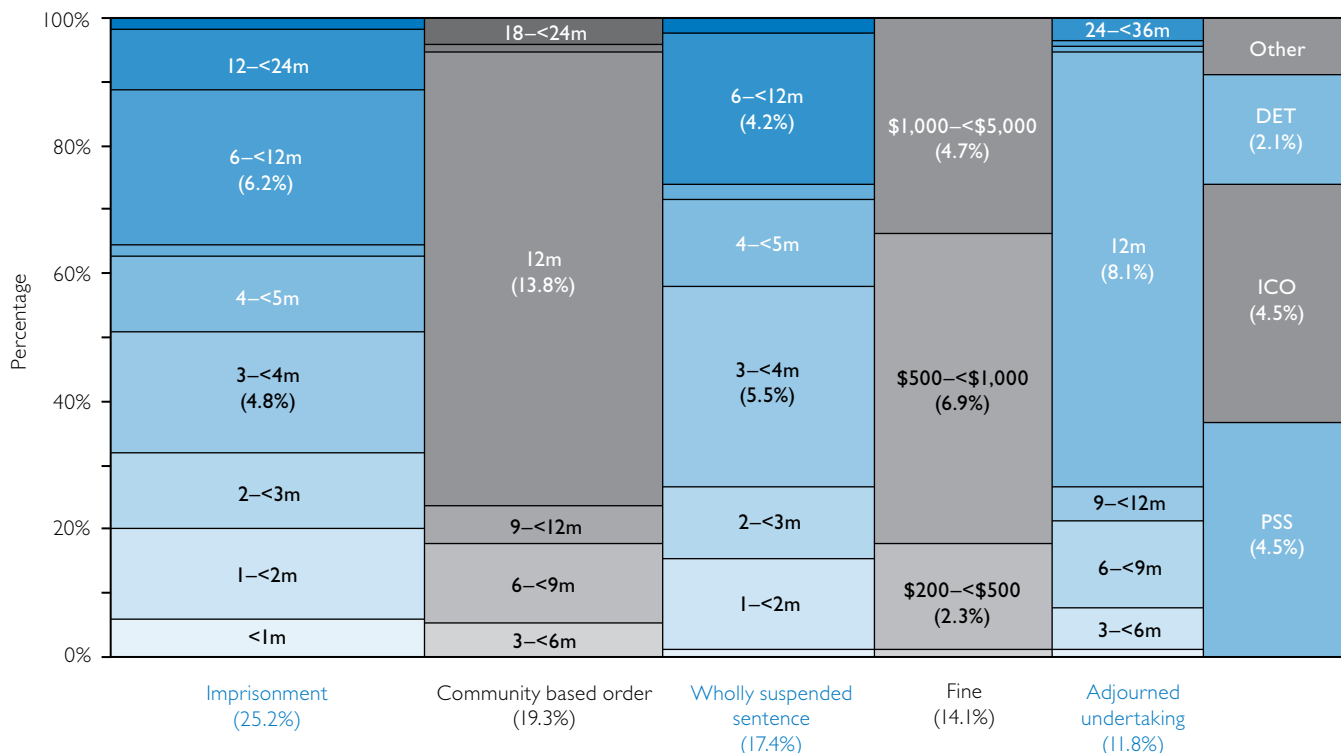
Figure 3 presents both the sentencing outcome and the quantum for that outcome for people sentenced for theft of a motor vehicle. For example, 25.2% of people sentenced were sentenced to imprisonment including 6.2% who were sentenced to imprisonment of 6 to 12 months. The right most column of the graph presents the least common sentencing outcomes without showing the quantum information.

Figure 3: Sentencing map: The percentage of people sentenced for theft of a motor vehicle by sentencing outcomes and sentencing quanta, 2004–05 to 2007–08¹⁷

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

Table 3: The number and percentage of people sentenced for theft of a motor vehicle by sentence type and year, 2004–05 to 2007–08¹⁶

Sentence Type	2004–05	2005–06	2006–07	2007–08
Immediate custodial	189 (28.3%)	204 (34.7%)	171 (32.9%)	153 (33.6%)
Imprisonment	158 (23.7%)	155 (26.4%)	137 (26.4%)	113 (24.8%)
Partially suspended sentence	19 (2.8%)	33 (5.6%)	26 (5.0%)	23 (5.0%)
Combined custody and treatment order	1 (0.1%)	4 (0.7%)	1 (0.2%)	1 (0.2%)
Youth justice centre order	11 (1.6%)	12 (2.0%)	7 (1.3%)	16 (3.5%)
Other custodial	171 (25.6%)	119 (20.2%)	112 (21.6%)	97 (21.3%)
Drug treatment order	2 (0.3%)	1 (0.2%)	3 (0.6%)	4 (0.9%)
Wholly suspended sentence	132 (19.8%)	98 (16.7%)	82 (15.8%)	76 (16.7%)
Intensive correction order	37 (5.5%)	20 (3.4%)	27 (5.2%)	17 (3.7%)
Non-custodial	308 (46.1%)	265 (45.1%)	236 (45.5%)	206 (45.2%)
Community-based order	140 (21.0%)	114 (19.4%)	91 (17.5%)	86 (18.9%)
Fine	96 (14.4%)	82 (13.9%)	81 (15.6%)	55 (12.1%)
Adjourned undertaking	71 (10.6%)	65 (11.1%)	63 (12.1%)	64 (14.0%)
Convicted and discharged (s. 73 SA)	1 (0.1%)	4 (0.7%)	0	0
Dismissed (s. 76 SA)			1 (0.2%)	1 (0.2%)
People sentenced	668	588	519	456



Principal sentence

This section examines the use of the five most common principal sentencing outcomes for this offence.¹⁸ 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.¹⁹ Finally, where relevant, the details of the sentence (length of order or fine amount) are examined.²⁰

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

Imprisonment

Trends

There were 563 people who were sentenced to imprisonment for theft of a motor vehicle. This represented 25.2% of all people sentenced for this offence. Figure 4 shows the trends in the number and percentage of people sentenced who were sentenced to imprisonment for theft of a motor vehicle.

In 2007–08, 113 people were sentenced to imprisonment for the principal proven offence of theft of a motor vehicle. This has decreased each of the past three years from 158 people in 2004–05. Also, the proportion of people who were sentenced to imprisonment for theft of a motor vehicle decreased over the past year from 26.4% to 24.8%.

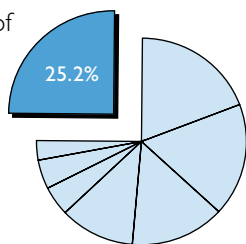
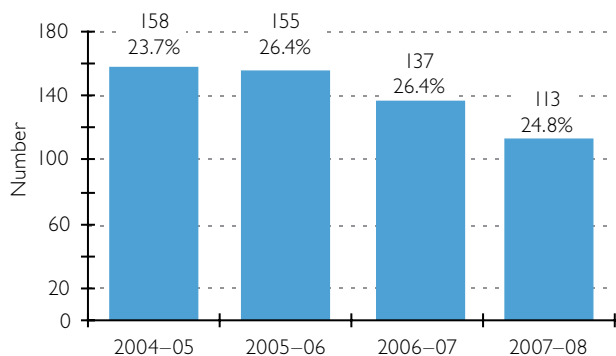


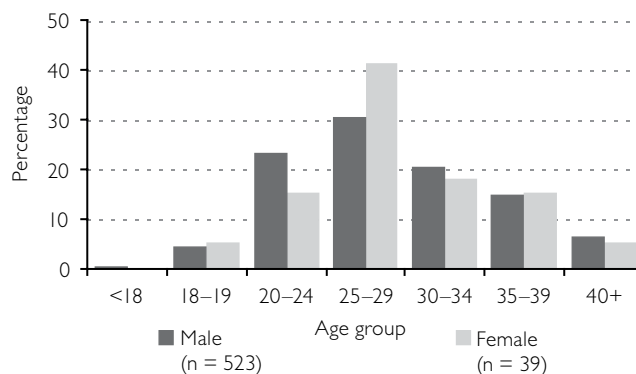
Figure 4: The number and percentage of people who were sentenced to imprisonment for theft of a motor vehicle, 2004–05 to 2007–08



Age and gender

Of the 563 people who received a period of imprisonment, 93.1% were men. Figure 5 shows the age groups of people who were sentenced to imprisonment for theft of a motor vehicle by gender. The median age of these people was 28 years. This was similar for both men and women (28 years for men and 27 years for women).

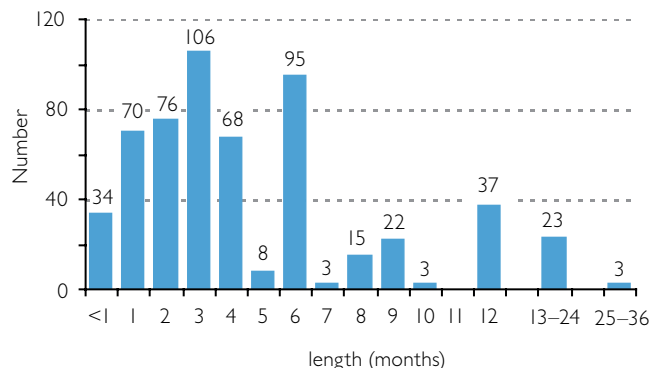
Figure 5: The percentage of people who were sentenced to imprisonment for theft of a motor vehicle by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 6 shows the number of people who were sentenced to imprisonment for theft of a motor vehicle by the length of the sentence. While the length of imprisonment ranged from one day to two years and six months, the median was three months (meaning that half were shorter than three months and half were longer than three months).

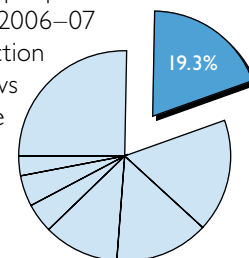
Figure 6: The number of people who were sentenced to imprisonment for theft of a motor vehicle by the length of order, 2004–05 to 2007–08



Community-based order

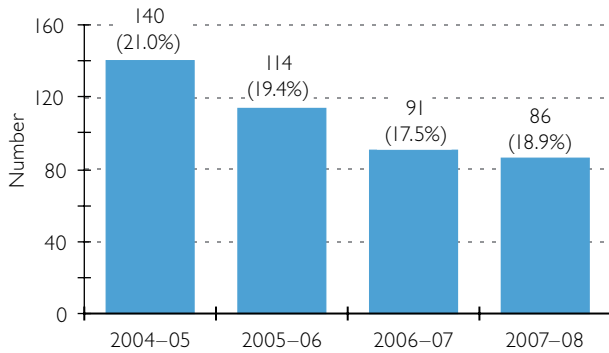
Trends

There were 431 people who received a community-based order for theft of a motor vehicle. This represented 19.3% of all people sentenced for this offence. Of the 177 people who received a community-based order in 2006–07 and 2007–08, 76.3% also had a conviction recorded (135 people). Figure 7 shows the trends in the number and percentage of people sentenced who received a community-based order for theft of a motor vehicle.



In 2007–08, 86 people received a community-based order for the principal proven offence of theft of a motor vehicle. This has remained relatively stable over the past two years, after decreasing the previous two years. The proportion of people who received a community-based order for theft of a motor vehicle increased over the past year from 17.5% to 18.9%.

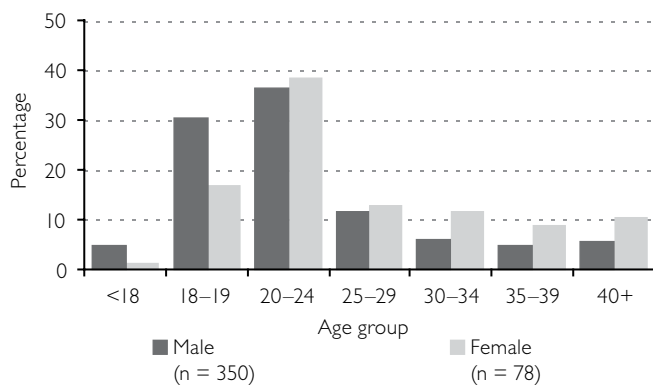
Figure 7: The number and percentage of people who received a community-based order for theft of a motor vehicle, 2004–05 to 2007–08



Age and gender

Of the 431 people who received a community-based order, 81.9% were men. Figure 8 shows the age groups of people who received a community-based order for theft of a motor vehicle by gender. The median age of these people was 21 years, while women were generally older than their male counterparts (a median age of 23 years and six months compared to 21 years).

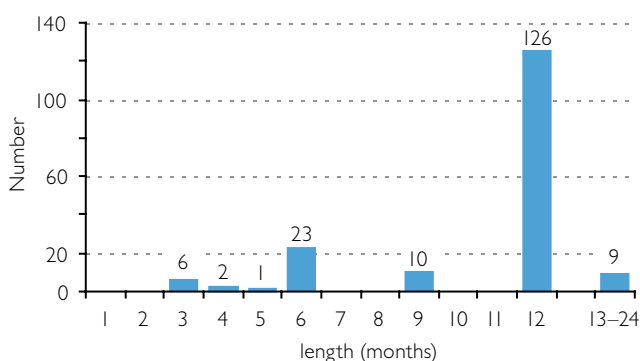
Figure 8: The percentage of people who received a community-based order for theft of a motor vehicle by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 9 shows the number of people who received a community-based order for theft of a motor vehicle by the length of the sentence. While the length of community-based orders ranged from three months to one year and six months, the most common was one year (71.2%).

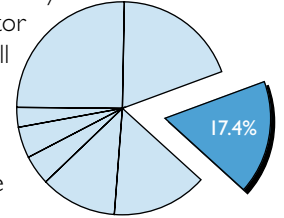
Figure 9: The number of people who received a community-based order for theft of a motor vehicle by the length of order, 2006–07 to 2007–08



Wholly suspended sentence

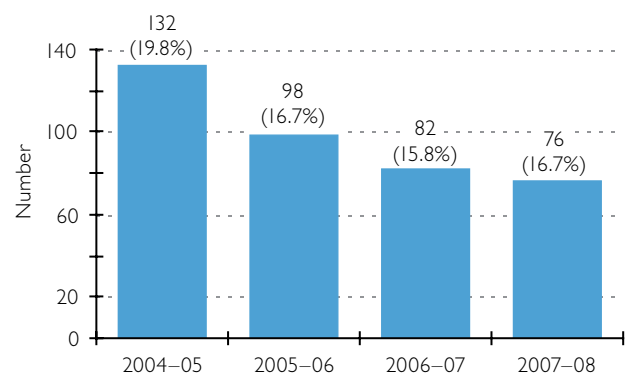
Trends

There were 388 people who received a wholly suspended sentence for theft of a motor vehicle. This represented 17.4% of all people sentenced for this offence. Figure 10 shows the trends in the number and percentage of people sentenced who received a wholly suspended sentence for theft of a motor vehicle.



In 2007–08, 76 people received a wholly suspended sentence for the principal proven offence of theft of a motor vehicle. This has remained relatively stable over the past two years, after decreasing substantially the previous two years. Also, the proportion of people who received a wholly suspended sentence for theft of a motor vehicle remained relatively stable over the past three years ranging from 15.8% in 2006–07 to 16.7% in 2005–06 and 2007–08.

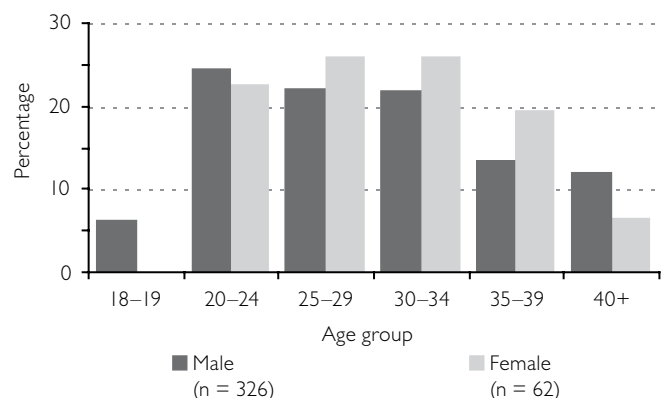
Figure 10: The number and percentage of people who received a wholly suspended sentence for theft of a motor vehicle, 2004–05 to 2007–08



Age and gender

Of the 388 people who received a wholly suspended sentence, 84.0% were men. Figure 11 shows the age groups of people who received a wholly suspended sentence for theft of a motor vehicle by gender. The median age of these people was 29 years. This was similar for both men and women (30 years for women and 29 years for men).

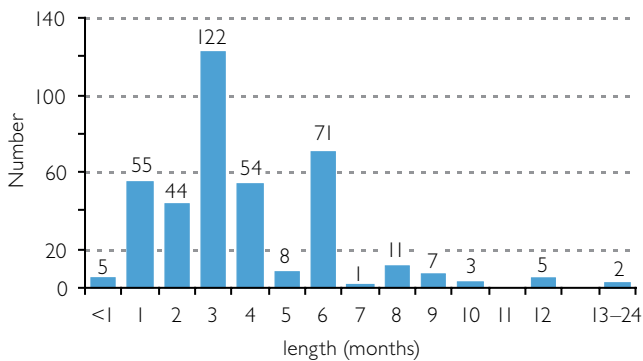
Figure 11: The percentage of people who received a wholly suspended sentence for theft of a motor vehicle by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 12 shows the number of people who received a wholly suspended sentence for theft of a motor vehicle by the length of the sentence. While the length of wholly suspended sentences ranged from thirteen days to two years, the median was three months (meaning that half were shorter than three months and half were longer than three months).

Figure 12: The number of people who received a wholly suspended sentence for theft of a motor vehicle by the length of order, 2004–05 to 2007–08



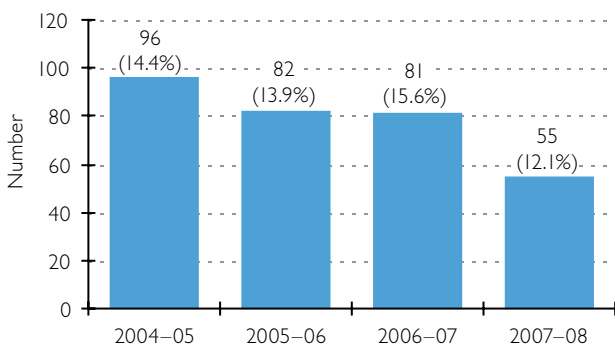
Fine

Trends

There were 314 people who received a fine for theft of a motor vehicle. This represented 14.1% of all people sentenced for this offence. Of the 136 people who received a fine in 2006–07 and 2007–08, 57.4% also had a conviction recorded (78 people). Figure 13 shows the trends in the number and percentage of people sentenced who received a fine for theft of a motor vehicle.

In 2007–08, 55 people received a fine for the principal proven offence of theft of a motor vehicle. This has decreased each of the past three years from 96 people in 2004–05. Also, the proportion of people who received a fine for theft of a motor vehicle decreased over the past year from 15.6% to 12.1%.

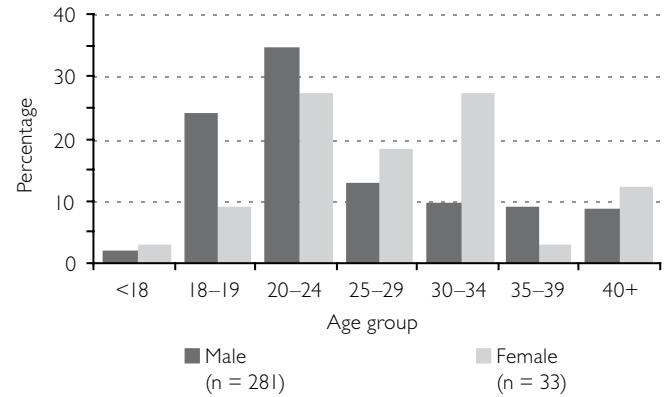
Figure 13: The number and percentage of people who received a fine for theft of a motor vehicle, 2004–05 to 2007–08



Age and gender

Of the 314 people who received a fine, 89.5% were men. Figure 14 shows the age groups of people who received a fine for theft of a motor vehicle by gender. The median age of these people was 23 years, while women were much older than their male counterparts (a median age of 27 years compared to 22 years).

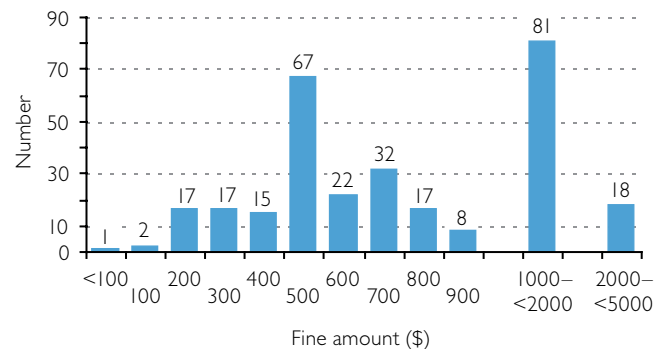
Figure 14: The percentage of people who received a fine for theft of a motor vehicle by age and gender, 2004–05 to 2007–08



Fine Amount

Figure 15 shows the number of people who received a fine for theft of a motor vehicle by the amount of the fine. While the amount of the fine ranged from \$20 to \$4,500, the median was \$700.

Figure 15: The number of people who received a fine for theft of a motor vehicle by the amount of the fine, 2004–05 to 2007–08



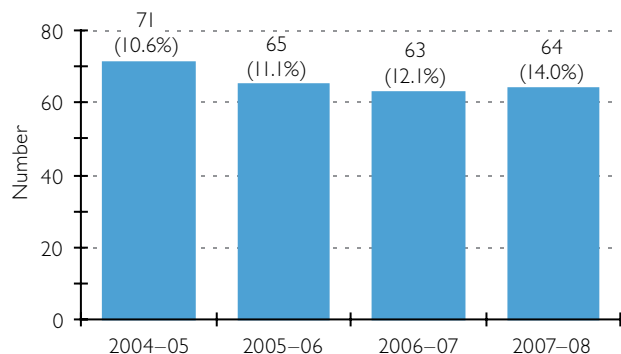
Adjourned undertaking

Trends

There were 263 people who received an adjourned undertaking for theft of a motor vehicle. This represented 11.8% of all people sentenced for this offence. Of the 127 people who received an adjourned undertaking in 2006–07 and 2007–08, 19.7% also had a conviction recorded (25 people). Figure 16 shows the trends in the number and percentage of people sentenced who received an adjourned undertaking for theft of a motor vehicle.

In 2007–08, 64 people received an adjourned undertaking for the principal proven offence of theft of a motor vehicle. This has remained relatively stable over the past three years, after decreasing the previous year. The proportion of people who received an adjourned undertaking for theft of a motor vehicle increased each of the past three years from 10.6% in 2004–05 to 14.0% in 2007–08.

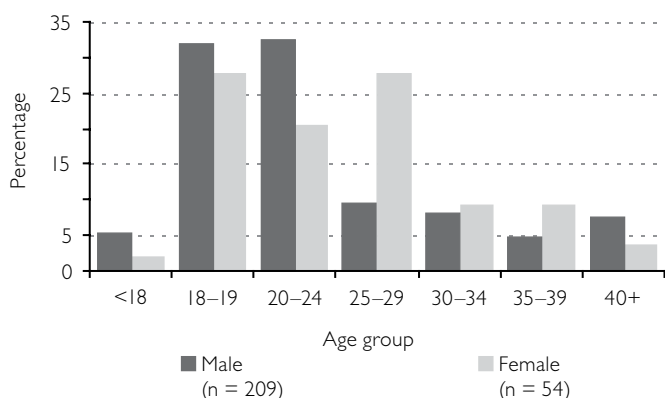
Figure 16: The number and percentage of people who received an adjourned undertaking for theft of a motor vehicle, 2004–05 to 2007–08



Age and gender

Of the 263 people who received an adjourned undertaking, 79.5% were men. Figure 17 shows the age groups of people who received an adjourned undertaking for theft of a motor vehicle by gender. The median age of these people was 21 years, while women were generally older than their male counterparts (a median age of 24 years and six months compared to 21 years).

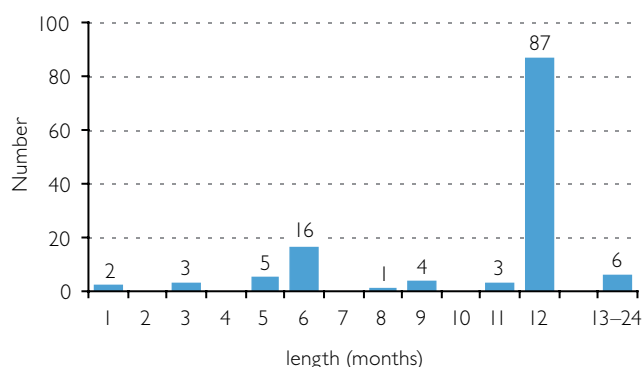
Figure 17: The percentage of people who received an adjourned undertaking for theft of a motor vehicle by age and gender, 2004–05 to 2007–08



Length of sentence

Figure 18 shows the number of people who received an adjourned undertaking for theft of a motor vehicle by the length of the sentence. While the length of adjourned undertakings ranged from one month to two years, the most common was one year (65.5%).

Figure 18: The number of people who received an adjourned undertaking for theft of a motor vehicle by the length of order, 2006–07 to 2007–08

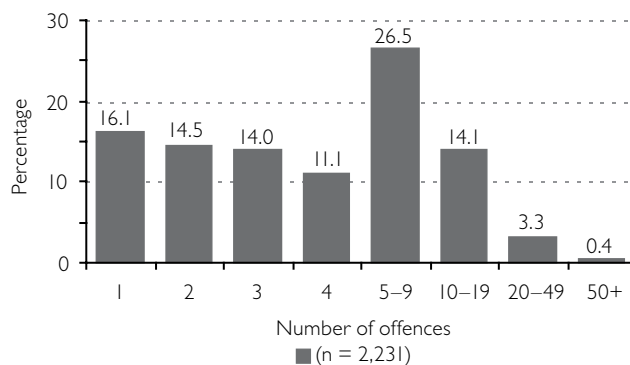


Other offences finalised at the same hearing

Often people prosecuted for theft of a motor vehicle 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 motor vehicle.

Figure 19 shows the number of people sentenced for the principal offence of theft of a motor vehicle by the total number of offences for which sentences were set. The number of sentenced offences per person ranged from 1 to 143, while the median was 4 offences. There were 360 people (16.1%) sentenced for the single offence of theft of a motor vehicle alone. A slightly higher percentage of men were sentenced for a single offence only (16.5% compared to 13.8% of women).

Figure 19: The percentage of cases where theft of a motor vehicle 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 of a motor vehicle, 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, 607 of the total 2,231 people (27.2%) also received sentences for unlicensed driving. On average, they were sentenced for 1.37 charges of unlicensed driving. The first row indicates that the average number of charges of theft sentenced per person was 2.46.

Table 4: The number and percentage of people sentenced for the principal offence of theft of a motor vehicle 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	2,231	100.0	2.46
2 unlicensed driving	607	27.2	1.37
3 go equipped to steal	465	20.8	1.46
4 fail to appear on bail	446	20.0	1.74
5 drive while disqualified/suspended	334	15.0	1.77
6 attempt to commit an indictable offence	229	10.3	2.02
7 possession of a drug of dependence	226	10.1	1.27
8 criminal damage	218	9.8	1.62
9 handling stolen goods	209	9.4	1.42
10 use an unregistered vehicle	199	8.9	1.58
People sentenced	2,231	100.0	6.08

Table 5 is an elaboration of Table 4. It shows the type of other theft offences for which people were sentenced in conjunction with theft of a motor vehicle. As shown, the average number of thefts sentenced per person was 2.46, including 1.42 offences of theft of a motor vehicle. The most common theft sentenced in conjunction with theft of a motor vehicle was other theft (559 people or 25.1%). On average these people were sentenced for 2.13 offences of other theft.

Table 5: The number and percentage of people sentenced for the principal offence of theft of a motor vehicle 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 of a motor vehicle	2,231	100.0	1.42
theft (other)	559	25.1	2.13
theft (shopsteal)	294	13.2	2.08
theft from a motor vehicle	291	13.0	1.71
theft of a bicycle	19	0.9	1.32
People sentenced	2,231	100.0	2.46

Table 6 also provides more detail from Table 4. It shows the five most common types of attempted offences for which people were sentenced in conjunction with theft of a motor vehicle. As shown, there were 229 people sentenced for attempting to commit an indictable offence. On average, these people were sentenced for 2.02 charges of such offences. The most common attempted offence sentenced was attempted theft of a motor vehicle (77 people or 33.6% of those who were sentenced for an attempted offence). On average, these people were sentenced for 1.69 counts of this offence.

Table 6: The number and percentage of people sentenced for the principal offence of theft of a motor vehicle by the five most common types of attempted offences that were sentenced and the average number of those offences that were sentenced, 2004–05 to 2007–08

Offence description	No.	%	Avg.
attempted theft of a motor vehicle	77	33.6	1.69
attempt to commit an indictable offence (not further defined)	67	29.3	1.69
attempted theft from motor vehicle	60	26.2	1.88
attempted theft	25	10.9	1.56
attempt to obtain property by deception	16	7.0	2.94
People sentenced	229	100.0	2.02

Table 7 also provides more detail from Table 4. It shows the five most common drug types for people who were sentenced to possessing a drug of dependence in conjunction with theft of a motor vehicle. As shown, there were 226 people sentenced for possessing a drug of dependence. On average, these people were sentenced for 1.27 charges of such offences. The most common drug was cannabis (129 people or 57.1% of those who were sentenced for possessing a drug of dependence). On average, these people were sentenced for 1.09 counts of possessing this drug.

Table 7: The number and percentage of people sentenced for the principal offence of theft of a motor vehicle by the types of drugs related to the possess a drug of dependence offence that were sentenced and the average number of those offences that were sentenced, 2004–05 to 2007–08

Offence description	No.	%	Avg.
possess cannabis	129	57.1	1.09
possess heroin	44	19.5	1.05
possess amphetamine	40	17.7	1.10
possess a drug of dependence (not further defined)	31	13.7	1.16
possess a drug of dependence – other	11	4.9	1.09
People sentenced	226	100.0	1.27

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 motor vehicle. This includes all sentences imposed for the principal proven offence and for all other offences that were sentenced as part of that case.²¹

Table 8 shows the percentages of the six most common sentence types imposed in cases in the Magistrates' Court from 2004–05 to 2007–08 where the principal proven offence was theft of a motor vehicle, by the other sentence types also imposed in the case. For example, of the 804 people who received a fine as part of their total effective sentence, 23.8% also were sentenced to imprisonment, while 18.2% received a wholly suspended sentence and 10.6% received a community-based order.

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

- a fine with a wholly suspended sentence (36.3% of the 402 people who received a wholly suspended sentence);
- a fine with a partially suspended sentence (35.6% of the 101 people);
- a fine with an imprisonment term (33.2% of the 576 people);
- a fine with a community-based order (17.1% of the 497 people); and
- an imprisonment term with a partially suspended sentence (12.9% of the 101 people).

Table 8: The percentage of selected sentence types used in conjunction with other sentence types imposed in the same case, 2004–05 to 2007–08

	Fine	Imp.	CBO	WSS	ADU	PSS
Fine	100%	33.2%	17.1%	36.3%	3.5%	35.6%
Imp.	23.8%	100%	3.6%	2.5%	3.9%	12.9%
CBO	10.6%	3.1%	100%	10.4%	3.9%	6.9%
WSS	18.2%	1.7%	8.5%	100%	3.9%	1.0%
ADU	1.4%	2.1%	2.4%	3.0%	100%	3.0%
PSS	4.5%	2.3%	1.4%	0.2%	1.0%	100%
Total	804	576	497	402	310	101

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

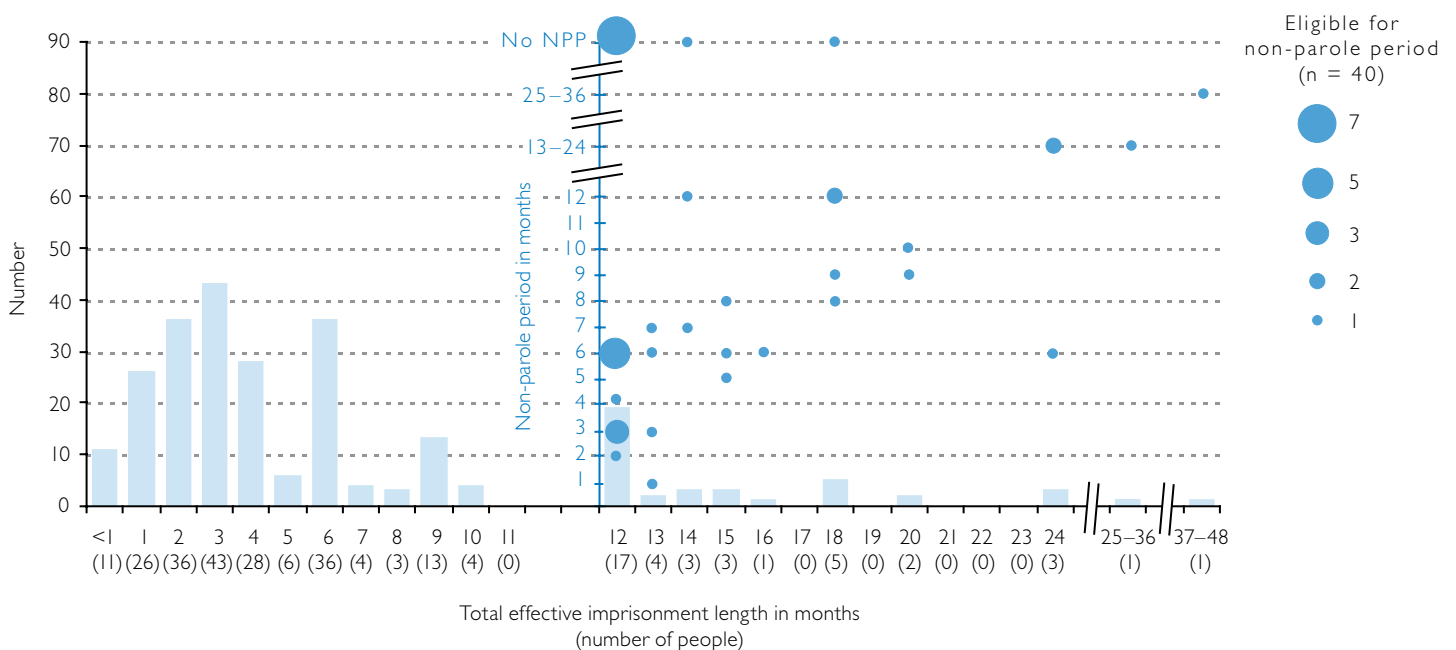
There were 250 people given a total effective sentence of imprisonment in 2006–07 and 2007–08.²² There were 40 people eligible for a non-parole period in 2006–07 and 2007–08, of whom 31 were given a non-parole period. This makes up 12.4% of all those who were given a total effective sentence of imprisonment.

Figure 20 shows the number of people sentenced to imprisonment for theft of a motor vehicle 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.²³

Total effective imprisonment lengths ranged from three days to three years and ten months, while the most common length was 3 months (43 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 no non-parole period (7 people – as represented by the largest bubble on the chart). The longest total effective sentence imposed was three years and ten months with a non-parole period of two years and three months.

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



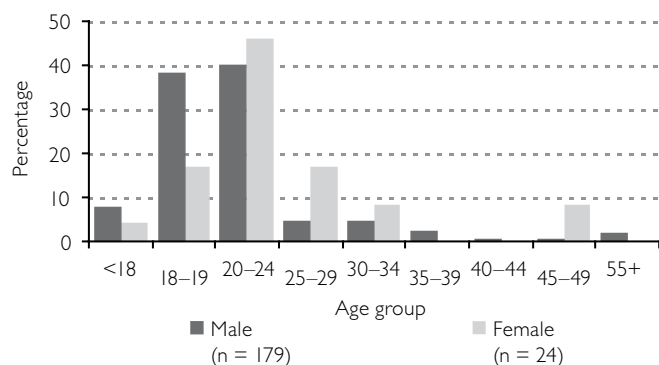
Criminal justice diversion plan²⁴

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 203 people who were given a criminal justice diversion plan.

Age and gender

Of the 203 people who were referred to the criminal justice diversion plan, 88.2% were men. Figure 21 shows the age groups of people who were referred to the criminal justice diversion program by gender. The median age of these people was 20 years. This was similar for both men and women (21 years for women and 20 years for men).

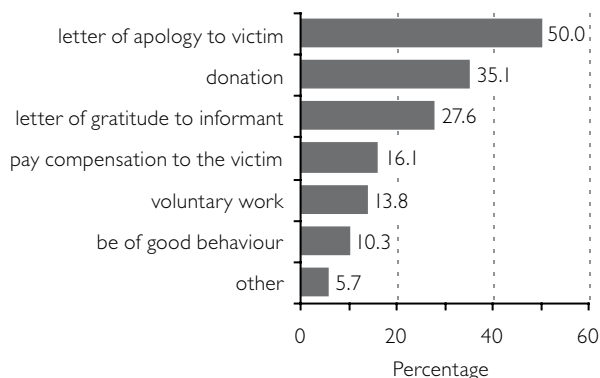
Figure 21: The percentage of people who were referred to the criminal justice diversion program for theft of a motor vehicle by age and gender, 2004-05 to 2007-08²⁵



Conditions

Figure 22 shows the number of people who received a criminal justice diversion plan for theft of a motor vehicle 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 (50.0% of people).

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



Note: other includes road trauma awareness course, drug awareness course and anger management course.

Summary

The Magistrates' Court sentenced 2,231 people for the principal offence of theft of a motor vehicle between 2004-05 and 2007-08. Over this period, the majority of those sentenced were men (1,949 people or 87.4%), while 49% were aged between 20 and 30 years.

Just under half of the people sentenced for theft of a motor vehicle received a non-custodial sentence (1,015 people or 45.5%), including 431 people who received a community-based order (19.3%), 314 people who received a fine (14.1%) and 263 people who received an adjourned undertaking (11.8%). A conviction was recorded with the principal sentence for 78.8% of people sentenced.

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

A higher percentage of older people received a non-immediate custodial sentence, including a wholly suspended sentence and an intensive correction order. Conversely, a higher percentage of those in the younger age groups received a non-custodial sentence, including a community-based order and an adjourned undertaking. A higher percentage of those in the middle age groups received an immediate custodial sentence.

Each of the 2,231 people was sentenced for an average of 6.08 offences, including 2.46 offences of theft. The most common offence finalised in conjunction with theft of a motor vehicle was unlicensed driving (27.2% of all cases). There were also 15.0% of people who were sentenced for driving while disqualified or suspended.

The most common sentence types imposed in conjunction with another sentence type were a fine with a wholly suspended sentence (36.3% of the 402 people who received a wholly suspended sentence), a fine with a partially suspended sentence (35.6% of the 101 people), a fine with an imprisonment term (33.2% of the 576 people), a fine with a community-based order (17.1% of the 497 people) and an imprisonment term with a partially suspended sentence (12.9% of the 101 people).

Lengths of total effective sentences ranged from three days to three years and ten months with a non-parole period of two years and three months. The most common length was 3 months (43 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 of a motor vehicle 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 motor vehicle 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 motor vehicle offences are identified by using the charge description of 'theft of a motor vehicle' for offences listed under *Crimes Act 1958* (Vic) s 74.
- ⁶ *Crimes Act 1958* (Vic) s 73(14)a.
- ⁷ 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)).
- ⁸ *Crimes Act 1958* (Vic) s 74.
- ⁹ 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).
- ¹⁰ 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.
- ¹¹ 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, one person had charges that were dismissed pursuant to this legislation. This made up 0.2% of people sentenced in that year.
- ¹² *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)).
- ¹³ 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.
- ¹⁴ 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.
- ¹⁵ The age was unknown for 4 men and 1 woman sentenced for theft of a motor vehicle (0.2%). These people are excluded from all age analyses in this report.
- ¹⁶ Refer fn. 11.
- ¹⁷ Aggregate sentence lengths are shown for people who received an aggregate sentence.
- Data for sentence lengths of adjourned undertakings and community-based orders are only available for 2006–07 and 2007–08.
- ¹⁸ 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.
- ¹⁹ 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 5 people sentenced for theft from a motor vehicle. These people are excluded from these analyses.
- ²⁰ 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.
- ²¹ While a total of 576 people were sentenced to at least one period of imprisonment in the case, 563 people had imprisonment listed against their principal proven offence. There were 13 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.
- ²² Total effective imprisonment lengths and non-parole periods are only available for 2006–07 and 2007–08.
- ²³ Non-parole periods are rounded down to the nearest month, while non-parole periods greater than one year are grouped into categories of years.
- ²⁴ 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 203 people who were placed on the diversion program for this offence, 174 were matched to and had conditions listed in the criminal justice diversion plan database (85.7%).
- ²⁵ The age was unknown for 5 people sentenced for theft of a motor vehicle. These people are excluded from this analysis.

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

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