

No. 22: The Victorian criminal justice system 2004/05

Introduction

The criminal justice system can be viewed as a range of institutions responsible for the detection, adjudication and disposition of offenders by police, courts and correctional authorities. The basic purposes of the criminal justice system are to deal with persons who commit, or are accused of committing crime, in accordance with the rule of law, in a fair and efficient manner, and to reduce crime and the fear of crime.

The role of the police service is to detect and apprehend people who have committed offences. The courts are responsible for determination of the guilt or innocence of alleged offenders and imposing appropriate sentences. The correctional system is responsible for administering the courts' decisions to detain or supervise convicted offenders.

This report is designed to provide information about the administration of criminal justice in Victoria both overall and at each stage of the system. This *Sentencing Snapshot* describes the number of people who came into contact with the Victorian criminal justice system in 2004/05 and how they were dealt with at each stage by the formal institutions of the criminal justice system, the police, courts and corrections. It illustrates how, at each stage of the system, people are diverted, filtered or removed for a variety of reasons. In most criminal justice systems, these "attrition rates" are very high.

Each year many more offences occur than are reported to police¹ and when reported, the police may decide not to investigate a reported offence or the suspect may be unidentifiable. Suspects apprehended and charged with an offence may also have their criminal charges dismissed by the court or withdrawn by the prosecution. If the case is adjudicated and the person is convicted (following either a plea of guilty or finding of guilt), the court can sentence the offender to a custodial or non-custodial sanction.

Figure 1 shows the number of people dealt with at each stage of the Victorian criminal justice system during 2004/05. The information presented here is a "snapshot" of people during that year and does not represent the actual flow of offenders through each stage of the system in a year.² This is partly because the time taken to process offenders at each stage varies and may exceed 12 months. For example, people sentenced to imprisonment during 2004/05 may have been dealt with by Victoria Police prior to this period.

Stage 1: Police

In 2004/05, 373,917 offences were recorded by Victoria Police,³ with 155,008 alleged offenders being dealt with for these offences.⁴

Table 1 shows the number of alleged offenders who came into contact with Victoria Police in 2004/05 and how they were dealt with.⁵ Alleged offenders can be arrested, summonsed to appear in court, cautioned or dealt with by an "other" method (for example, the complaint being withdrawn).⁶

Table 1 and Figure 1 show that the majority of alleged offenders dealt with by Victoria Police were subsequently charged (134,829 or 87% of all alleged offenders dealt with in 2004/05).⁷ People charged with an offence were either arrested (71,114 or 46% of all people processed) or summonsed to appear in court at a later date (63,715 or 41% of all alleged offenders).⁸

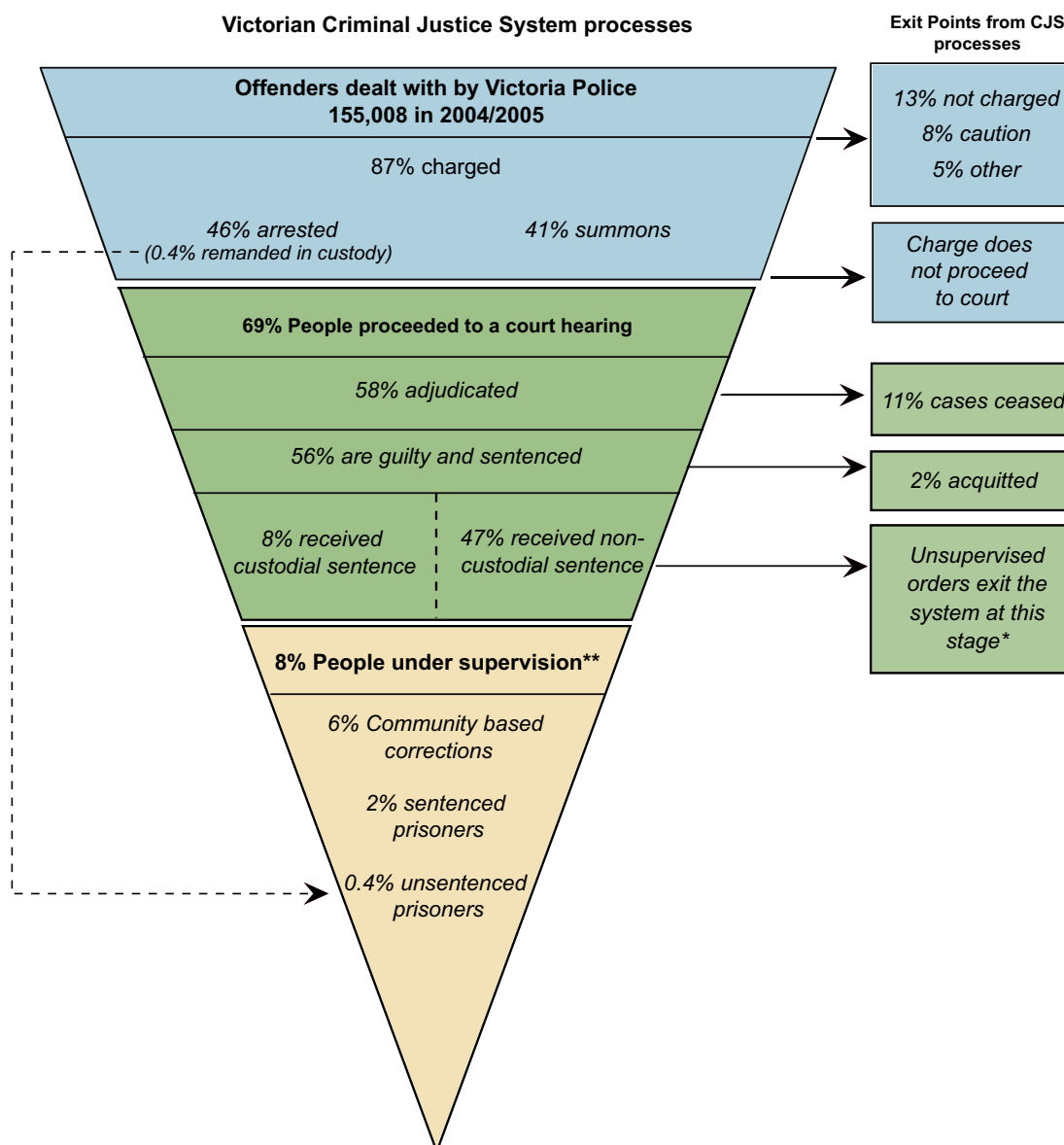
People charged and arrested (71,114 in 2004/05) were generally released on bail. At any one time around 671 people were remanded in custody awaiting trial, representing 0.4% of alleged offenders dealt with by police.⁹

In 2004/05, 20,179 alleged offenders were dealt with by Victoria Police and not subsequently charged with an offence.¹⁰ This accounted for 13% of all people processed (see Figure 1). Of these, most received a caution (12,350 or 8% of alleged offenders) and the remainder were not charged for 'other' reasons (7,829 or 5% of alleged offenders).¹¹

Table 1: Alleged offenders dealt with by Victoria Police 2004/05

Method	Number	Percentage
Arrest	71,114	46%
Summons	63,715	41%
<i>Sub total charged</i>	<i>134,829</i>	<i>87%</i>
Caution	12,350	8%
Other	7,829	5%
<i>Sub total not charged</i>	<i>20,179</i>	<i>13%</i>
Total	155,008	100%

Figure 1: Alleged offenders in the Victorian criminal justice system 2004/05



NOTE: All percentage (%) amounts in Figure 1 represent a percentage of the total number of people dealt with by Victoria Police in 2004/05

* Most non-custodial orders are not supervised, such as fines. Most custodial orders are supervised, with the exception of wholly suspended sentences of imprisonment. Also, the number of people receiving a custodial sentence and the number of sentenced prisoners will not match for a variety of reasons. These include the court imposing custodial sentences other than imprisonment (such as home detention or intensive correction order), custodial sentences being imposed on people already serving a term of imprisonment, multiple custodial sentences being imposed on the same person during the same year, and people sentenced to short periods of imprisonment.

** Refers to the proportion of people under supervision at any one time during 2004/05.

As Figure 1 illustrates, people cautioned or processed by 'other' methods exit the criminal justice system at this stage. Most people charged with an offence proceed to the next stage of the criminal justice system; a court hearing. For a variety of reasons, some people charged with an offence will not proceed to a court hearing. This includes where the person has since died, is under age or eligible for diplomatic immunity, or where the charges are dropped by the police or prosecution.

Stage 2: Criminal Courts

Table 2 shows the number of alleged offenders dealt with by each level of Victoria's criminal courts in 2004/05.¹² In 2004/05, 107,326 people had a criminal case against them finalised in Victoria's criminal courts (69% of alleged offenders dealt with by Victoria Police). The Magistrates' Court dealt with the bulk of criminal cases (92% or 99,096 people), the Children's Court dealt with 5% (5,805 people) and the higher courts dealt with 2% (2,425 people).¹³

Table 2: Alleged offenders dealt with by Victoria's criminal courts, by court level 2004/05

Court level	Number	Percentage
Higher courts	2,425	2%
Magistrates' Court	99,096	92%
Children's Court	5,805	5%
Total	107,326	100%

Method of finalisation

There are two ways a criminal case can be disposed of by a criminal court.

The case may cease prior to the court making a decision about whether the alleged offence was proven. A case ceases if the matter is struck out, the defendant dies or is found to be unfit to plead, or if the charges are withdrawn by the prosecution.¹⁴ These cases are no longer part of the criminal justice system.

Alternatively, the court (or in the higher courts, the jury) makes a decision as to whether the alleged charge is proven or unproven. If proven, the judicial officer passes sentence. If not proven, the person is acquitted of the offence and no longer part of the criminal justice system.

Table 3 shows how alleged offenders were dealt with by Victoria's criminal courts in 2004/05.¹⁵ In 2004/05, 90,649 people had their case adjudicated by Victoria's criminal courts. This accounted for 58% of all people dealt with by Victoria Police and 84% of all cases coming before the courts. As Figure 1 illustrates, the cases against 16,677 people ceased without being adjudicated, and these people exited the criminal justice system at this stage.¹⁶ This represented 11% of people dealt with by Victoria Police and 16% of all cases coming before the courts.

Table 3: Alleged offenders dealt with by Victoria's criminal courts 2004/05

Method of disposal	Number	Percentage	Proportion of alleged offenders
Case ceased	16,677	16%	11%
Case adjudicated	90,649	84%	58%
Total	107,326	100%	69%

Figure 2 shows the distribution of case load between the court levels and describes how people were dealt with by each court during this 2004/05.¹⁷

Figure 2: People dealt with by Victorian criminal courts 2004/05

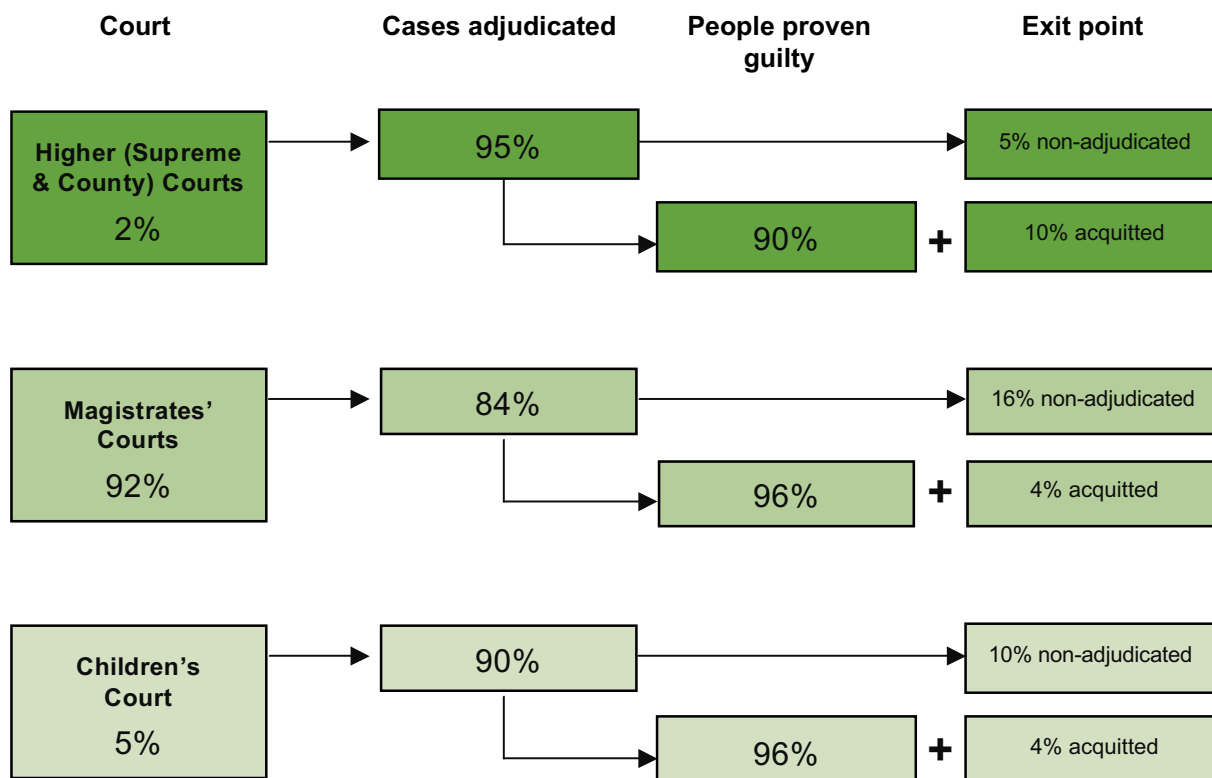


Table 4 shows the number of people dealt with by each of Victoria's criminal courts in 2004/05.¹⁸ In the higher courts, 95% of all cases were adjudicated (2,307 out of 2,425), compared to 84% in the Magistrates' Court (83,114 out of 99,096) and 90% in the Children's Court (5,228 out of 5,805) (see Figure 2).

Table 4: Alleged offenders dealt with by Victoria's criminal courts, by court level 2004/05

Method of disposal	Higher Courts		Magistrates' Court		Children's Court		Total	
	No.	%	No.	%	No.	%	No.	%
Case ceased	118	5%	15,982	16%	577	10%	16,677	16%
Case adjudicated	2,307	95%	83,114	84%	5,228	90%	90,649	84%
Total	2,425	100%	99,096	100%	5,805	100%	107,326	100%

Proven guilty

Table 5 shows the number of alleged offenders adjudicated by Victoria's criminal courts according to whether the charges were found proven.¹⁹ Of the 90,649 alleged offenders adjudicated in 2004/05, the majority (87,040 or 96%) were found guilty (after a guilty plea or a finding of guilt) and sentenced. As Figure 1 shows, 3,609 people were acquitted by the courts and filtered out of the criminal justice system, representing 2% of alleged offenders dealt with by Victoria Police.

Table 5: People adjudicated by Victoria's criminal courts according to whether charges are proven 2004/05

Finding from adjudication	Number	Percentage	Proportion of alleged offenders
Guilty	87,040	96%	56%
Acquitted	3,609	4%	2%
Total	90,649	100%	58%

Table 6 shows the number of alleged offenders adjudicated at each court level according to whether the charges were proven.²⁰ As Table 6 and Figure 2 show, 90% (2,087 of the 2,307) of people adjudicated in the higher courts were guilty and sentenced. Table 7 shows the breakdown of guilty people adjudicated in the higher courts according to whether they pleaded guilty or were found guilty at trial.²¹ Table 7 reveals that the majority (87%) of people sentenced in the higher courts pleaded guilty to the offence(s) and 13% were found guilty by the jury after a trial.

Table 6 also shows that in 2004/05 the higher courts acquitted 220 people (charges were not found proven), representing 10% of all people adjudicated in the higher courts. These cases were dismissed by the court and channelled out of the criminal justice system at this stage.

In the Magistrates' Court, 96% (79,921 out of 83,114) of people adjudicated were guilty and sentenced (see Table 6 and Figure 2). Of those adjudicated, 4% (3,193) were acquitted.

Similarly in the Children's Court, 96% (5,032 out of 5,228) of people adjudicated were guilty and sentenced and 4% (196 people) were acquitted (see Table 6 and Figure 2).

Table 6: People adjudicated according to whether charge(s) are proven, by court level 2004/05

Finding from adjudication	Higher Courts		Magistrates' Court		Children's Court		Total	
	No.	%	No.	%	No.	%	No.	%
Guilty	2,087	90%	79,921	96%	5,032	96%	87,040	96%
Acquitted	220	10%	3,193	4%	196	4%	3,609	4%
Total	2,307	100%	83,114	100%	5,228	100%	90,649	100%

Table 7: People sentenced by the higher courts according to method of finding guilt 2004/05

Method of finding guilt	Number	Percentage
Guilty plea	1,825	87%
Guilty verdict	262	13%
Total	2,087	100%

Sentencing in the courts

Table 8 shows the breakdown of sentence types handed down by Victoria's criminal courts in 2004/05.²² In that year, 87,040 people were sentenced in Victoria's criminal courts. This accounted for 56% of all offenders processed by police and 81% of all cases coming before the courts.

The majority of people sentenced received a non-custodial²³ penalty such as community based orders and monetary fines (73,441 or 85% of all people sentenced). The remainder received a custodial²⁴ penalty such as imprisonment (12,868 or 15% of all people sentenced).

Of the people processed by Victoria Police, 8% received a custodial sentence and 47% received a non-custodial sentence (see Figure 1).

Table 8: Sentence types handed down by Victoria's criminal courts 2004/05²⁵

Sentencing outcome	Number	Percentage	Proportion of alleged offenders
Non-custodial sentence	73,441	85%	47%
Custodial sentence	12,868	15%	8%
Unknown	731	1%	0.5%
Total	87,040	100%	56%

Table 9 shows the number of people sentenced according to the sentence type imposed at each court level.²⁶ Custodial sentences (which include suspended sentences) were imposed on 84% of people in the Higher Courts, 14% of people in the Magistrates' Court and 7% of people in the Children's Court.

Table 9: Sentence types handed down by each of Victoria's criminal courts 2004/05²⁷

Sentencing outcome	Higher Courts		Magistrates' Court		Children's Court		Total	
	No.	%	No.	%	No.	%	No.	%
Non-custodial sentence	334	16%	68,532	86%	4,575	91%	73,441	85%
Custodial sentence	1,717	82%	10,783	13%	368	7%	12,868	15%
Unknown	36	2%	606	1%	89	2%	731	1%
Total	2,087	100%	79,921	100%	5,032	100%	87,040	100%

Stage 3: Supervision²⁸

Table 10 shows the number of people supervised by Corrections Victoria and Juvenile Justice at any one time during 2004/05 according to the type of supervision.²⁹

Table 10: People under supervision 2004/05

Supervision type	Number	Percentage	Proportion of alleged offenders
Persons in community based corrections	9,256	71%	6%
Sentenced prisoners/detainees	3,095	24%	2%
Unsentenced prisoners/detainees	671	5%	0.4%
Total	13,022	100%	8%

Table 10 shows that at any one time during 2004/05 there were around 13,022 people under the supervision of Corrections Victoria and Juvenile Justice.³⁰ Most people under supervision were sentenced to a community based disposition (9,256 or 71% of all people supervised). People in community based corrections accounted for 6% of all alleged offenders dealt with by Victoria Police.

24% (3,095 out of 13,022) of people under supervision were sentenced adult prisoners or juvenile detainees.³¹ Figure 1 illustrates that at any one time the number of sentenced prisoners and detainees represent around 2% of all people processed by Victoria Police.³²

5% (671 out of 13,022) of people under supervision were on remand awaiting trial. The number of people remanded at any one time represents around 0.4% of all people processed by Victoria Police.

In addition to the 13,022 people sentenced to supervision or on remand, a total of 1,538 sentenced prisoners and 199 sentenced juveniles were released from custody on a parole order issued by the Adult Parole Board and Youth Parole Board during 2004/05.³³

Conclusion

Each year a large number of alleged offenders are dealt with by Victoria Police but a much smaller number of offenders enter the courts and even fewer are sentenced. Of the 155,008 people alleged offenders that came into contact with Victoria Police in 2004/05, 69% proceeded to court, 56% were sentenced (8% custodial sentences and 47% non-custodial sentences) and around 2% (3,095) were imprisoned at any one time.

Endnotes

¹ For further information on why victims do not report some crimes to police, please refer to Australian Bureau of Statistics, *Crime and Safety, Australia* Catalogue 4509.0 (2005).

² This report attempts to illustrate the notional flow of people through the criminal justice system using the available data. Comprehensive flow data for each stage of the criminal justice system were unavailable at the time of publication. In particular, information relating to the supervision of offenders is based on the stock of persons under supervision at a single point in time and is indicative of the number of people at that stage at any one time during the reference period.

It is important to remember that the people processed at each stage may refer to people dealt with by police in earlier years. This is particularly relevant for people under supervision because the time taken to finalise criminal cases can often exceed 12 months in duration – in 2004/05, 88% of cases in the County Court and 90% of cases in the Supreme Court were finalised within 12 months of being initiated (Department of Treasury and Finance [Vic], *2006-07 Budget Paper 3 Service Delivery* (2006)). This is also the case where the length of the sentence imposed exceeds 12 months.

³ Victoria Police, *Crime Statistics 2004/05* (2005) p. 5 and p.14. Refers to the number of offences recorded on the Law Enforcement Assistance Program (LEAP) between 1 July 2004 and 30 June 2005 regardless of when the offence occurred or when it was reported to police (over 85% of all offences are recorded on LEAP within 48 hours of being reported to police). Only offences for which a crime report has been completed are included in this publication. Please refer to the original data source for full details on the counting rules employed.

⁴ Ibid. Refers to the number of people processed between 1 July 2004 and 30 June 2005, regardless of when the offence occurred. Please refer to the original data source for full details on the counting rules employed: Victoria Police, *Crime Statistics 2004/05* (2005).

⁵ Ibid.

⁶ 'Other' methods of processing include the complaint being withdrawn, charges not being laid because the offender is underage, suffering from a mental illness or deceased, or a warrant of arrest being issued and outstanding.

⁷ Ibid.

⁸ Ibid.

⁹ Australian Bureau of Statistics, *Corrective Services, Australia, June 2006* Catalogue 4512.0 (2006) Table 10. Refers to the number of the first day of the month.

¹⁰ Victoria Police, *Crime Statistics 2004/05* (2005) p.38.

¹¹ Refer fn. 6.

¹² Australian Bureau of Statistics, *Criminal Courts, Australia 2004-05* Catalogue 4513.0 (2006) Table 7, Table 8 and Table A1.

¹³ Higher courts refers to the County and Supreme Courts of Victoria.

¹⁴ A case can also be finalised by the Magistrates' Court if the person is committed to stand trial in a higher court. These cases remain part of the criminal justice system but are counted as non-adjudicated finalisations. In 2004/05, 2,541 people were committed to stand trial in the higher courts.

¹⁵ Australian Bureau of Statistics, *Criminal Courts, Australia 2004-05* Catalogue 4513.0 (2006) Table 7, Table 8 and Table A1.

- ¹⁶ Ibid.
- ¹⁷ Ibid.
- ¹⁸ Ibid.
- ¹⁹ Ibid.
- ²⁰ Ibid.
- ²¹ Ibid. Comparable data for the Magistrates' and Children's Court are not currently available.
- ²² Ibid. This includes people for whom a principal sentence type is unknown.
- ²³ Non-custodial penalties include community based orders, drug treatment orders, non-custodial supervision orders, undertakings, probation, fines and criminal justice diversion program. Please refer to Australian Bureau of Statistics, *Criminal Courts, Australia 2004-05* Catalogue 4513.0 (2006) Appendix 5 for further details.
- ²⁴ Custodial penalties include imprisonment, intensive correction order, combined custody and treatment orders, home detention order, detention in a youth training/residential centre, hospital orders, custodial supervision orders, and suspended sentences. Please refer to Australian Bureau of Statistics, *Criminal Courts, Australia 2004-05* Catalogue 4513.0 (2006) Appendix 5 for further details.
- ²⁵ Figures may not sum to 100 due to rounding.
- ²⁶ Australian Bureau of Statistics, *Criminal Courts, Australia 2004-05* Catalogue 4513.0 (2006) Table 7, Table 8 and Table A1.
- ²⁷ Figures may not sum to 100 due to rounding.
- ²⁸ Supervised orders include a proportion of both custodial and non-custodial sentences. Most non-custodial orders are not supervised, such as fines. Most custodial orders are supervised, with the exception of wholly suspended sentences of imprisonment. Therefore, the number of supervised orders will not match the number of custodial or non-custodial sentences imposed.
- ²⁹ Corrections Victoria (Department of Justice) is usually responsible for the supervision and imprisonment of adult offenders. Juvenile Justice (Department of Human Services) is usually responsible for the supervision and detention of juvenile offenders.
- Figures for adult persons in community based corrections are calculated as a simple average of the number on the first day of the month. Adults in custody and juveniles in custody and community corrections are counted as at 30 June of each year.
- Australian Bureau of Statistics, *Corrective Services, Australia June 2006* Catalogue 4512.0 (2006) Table 10 and Table 17. Department of Human Services, *Annual Report 2004-05* (2006) page 108. Australian Institute of Criminology, *Juveniles in detention in Australia, 1981-2005* (2006) pp. 32, 37.
- ³⁰ Ibid.
- ³¹ Ibid.
- ³² As discussed earlier (refer endnote 2), this is a notional figure based on stock data and does not represent the true proportion of people dealt with by the police in 2004/05 that were supervised by Corrections Victoria or Juvenile Justice during that same year. This figure represents a portion of people dealt with by police in 2004/05, as well as people dealt with by police prior to 2004/05 that took more than 12 months to finalise at court, and people that were sentenced to an imprisonment or supervision period exceeding 12 months. Similarly, people dealt with by police in 2004/05 and sentenced to an imprisonment or supervision period exceeding 12 months in duration will be counted in the stock of people under supervision in future years. The phenomenon whereby the flow of people through each stage of the system affects the stock in future years is known as the 'stock and flow' effect.
- ³³ Adult Parole Board, *Annual Report 2004/05* (2005) page 4. Youth Parole Board and Youth Residential Board, *Annual Report 2004-2005* (2006), page 3.

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