

Sentencing trends in
the higher courts of
Victoria
2015–16 to 2019–20

April 2021
No. 252

Theft

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of theft in the County and Supreme Courts of Victoria (the higher courts) from 2015–16 to 2019–20.² Adjustments made by the Court of Appeal to sentence or conviction as at June 2020 have been incorporated into the data in this Snapshot.

Detailed data on theft and other offences is available on [Sentencing Advisory Council Statistics \(SACStat\)](#).

A person who dishonestly appropriates any property belonging to another person with the intention of permanently depriving that person of the property is guilty of theft. Theft is an indictable offence that carries a maximum penalty of 10 years' imprisonment and/or a fine of 1,200 penalty units.³ It can be tried summarily in the Magistrates' Court if certain criteria are met.⁴

This Snapshot focuses on cases where theft was the principal offence, that is, cases where theft was the offence that received the most severe sentence.⁵

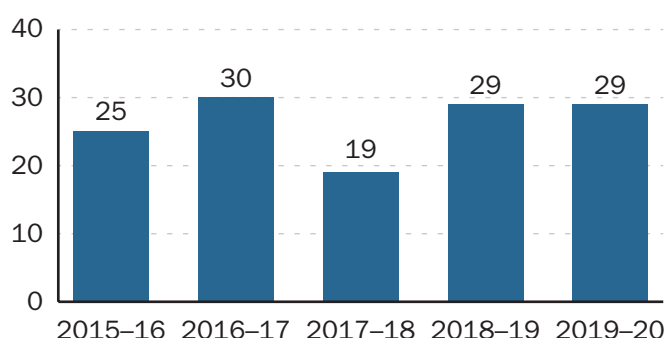
Theft was the principal offence in 1.5% of cases sentenced in the higher courts between 2015–16 and 2019–20.

People sentenced

From 2015–16 to 2019–20, 132 people were sentenced in the higher courts for a principal offence of theft.

Figure 1 shows the number of people sentenced for the principal offence of theft by financial year. There were 29 people sentenced for this offence in 2019–20, the same number as the previous year. The number of people sentenced was highest in 2016–17 (30 people) and lowest in 2017–18 (19 people).

Figure 1: The number of people sentenced for theft by financial year



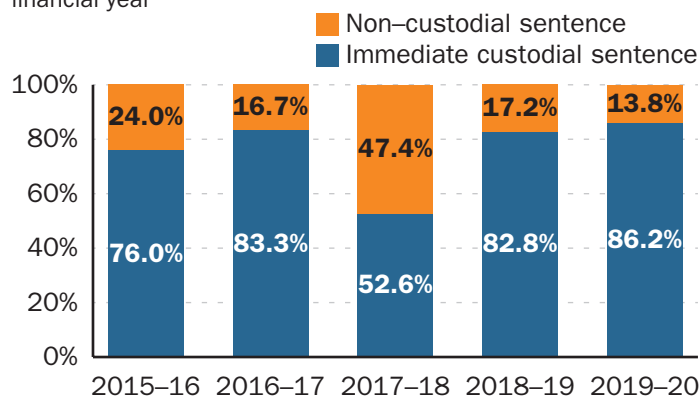
Sentence types and trends

Figure 2 shows the proportion of people who received a custodial sentence and non-custodial sentence for the principal offence of theft.

A custodial sentence involves at least some element of immediate imprisonment or detention.⁶ Over the five-year period, 78.0% of people were given a custodial sentence. The highest proportion of custodial sentences was handed down in 2019–20 (86.2%). The proportion of people who received a custodial sentence in 2019–20 was 86.2%, which was 3.4% higher than the previous year.

Table 1 (page 2) shows the number of people sentenced for theft from 2015–16 to 2019–20 by the most serious type of sentence imposed.⁷

Figure 2: The percentage of people who received an immediate custodial sentence and non-custodial sentence for theft by financial year



The availability of different sentence types has changed over time. Most notably, wholly and partially suspended sentences have now been abolished.⁸ Changes to community correction orders may have also influenced the sentencing trends over the five years covered by this Snapshot.⁹

Over the five-year period, most people sentenced for theft received a principal sentence of imprisonment (73.5% or 97 of 132 people). The *principal sentence* is the sentence imposed for the charge that is the principal offence. The proportion of imprisonment sentences increased slightly over the five years, from 76.0% in 2015–16 to 79.3% in 2019–20.

Table 1: The number and percentage of people sentenced for theft by most serious principal sentence type and financial year

Sentence type	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	19 (76.0%)	23 (76.7%)	9 (47.4%)	23 (79.3%)	23 (79.3%)	97 (73.5%)
Youth justice centre order	0 (0.0%)	1 (3.3%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.8%)
Community correction order	5 (20.0%)	2 (6.7%)	8 (42.1%)	3 (10.3%)	2 (6.9%)	20 (15.2%)
Fine	0 (0.0%)	1 (3.3%)	1 (5.3%)	0 (0.0%)	2 (6.9%)	4 (3.0%)
Other	1 (4.0%)	3 (10.0%)	1 (5.3%)	3 (10.3%)	2 (6.9%)	10 (7.6%)
Total people sentenced	25	30	19	29	29	132

Principal and total effective sentences of imprisonment

The principal sentence describes sentences for the offence at a **charge** level (as described in the previous section). The total effective sentence describes sentences at a **case** level.

The total effective sentence in a case with multiple charges receiving imprisonment is the sentence that results from the court ordering the individual sentences of imprisonment to be served concurrently (at the same time) or wholly or partially cumulatively (one after the other). The total effective sentence in a case with a single charge is the principal sentence.

Therefore, where a case involves multiple charges, the total effective sentence imposed on a person is sometimes longer than the principal sentence. Principal sentences for theft must be considered in this broader context.

The following sections analyse the use of imprisonment for the offence of theft from 2015–16 to 2019–20.

Principal sentence of imprisonment

Table 2 shows that a total of 97 people received a principal sentence of imprisonment for theft. Of these, 62 people received a non-aggregate term of imprisonment and 35 people received an aggregate term.¹⁰ There were 26 people who received a community correction order in addition to their term of imprisonment.

Table 2: The number and percentage of people sentenced to imprisonment for theft by sentence type and financial year

Type of imprisonment sentence	2015–16	2016–17	2017–18	2018–19	2019–20	Total
Imprisonment	9 (47.4%)	10 (43.5%)	4 (44.4%)	14 (60.9%)	13 (56.5%)	50 (51.5%)
Imprisonment and community correction order (combined)	2 (10.5%)	9 (39.1%)	0 (0.0%)	0 (0.0%)	1 (4.3%)	12 (12.4%)
Total non-aggregate imprisonment	11 (57.9%)	19 (82.6%)	4 (44.4%)	14 (60.9%)	14 (60.9%)	62 (63.9%)
Aggregate imprisonment	3 (15.8%)	4 (17.4%)	3 (33.3%)	4 (17.4%)	7 (30.4%)	21 (21.6%)
Aggregate imprisonment and community correction order (combined)	5 (26.3%)	0 (0.0%)	2 (22.2%)	5 (21.7%)	2 (8.7%)	14 (14.4%)
Total aggregate imprisonment	8 (42.1%)	4 (17.4%)	5 (55.6%)	9 (39.1%)	9 (39.1%)	35 (36.1%)
Total people sentenced to imprisonment	19	23	9	23	23	97

Figure 3 shows the length of imprisonment for the 62 people who received a non-aggregate term.¹¹ Imprisonment terms ranged from 1 month to 5 years and 5 months, while the median length of imprisonment was 1 year and 6 months (meaning that half of the imprisonment terms were below 1 year and 6 months and half were above).

The most common range of imprisonment term lengths was 1 to less than 2 years (21 people).

Figure 4 shows that the average length of imprisonment imposed on people sentenced for theft ranged from 1 year and 2 months in 2017–18 to 1 year and 10 months in 2019–20. Over the five years, the average length of imprisonment for theft was 1 year and 7 months.

Other offences finalised at the same hearing

Sometimes people prosecuted for theft face multiple charges, which are finalised at the same hearing. This section looks at the range of offences that offenders were sentenced for alongside the principal offence of theft.

Figure 5 shows the number of people sentenced for the principal offence of theft by the total number of sentenced offences per person. The number of sentenced offences per person ranged from 1 to 53, while the median was 4 offences. There were 20 people (15.2%) sentenced for the single offence of theft. The average number of offences per person was 8.17.

Figure 3: The number of people sentenced to imprisonment for theft by length of imprisonment term, 2015–16 to 2019–20

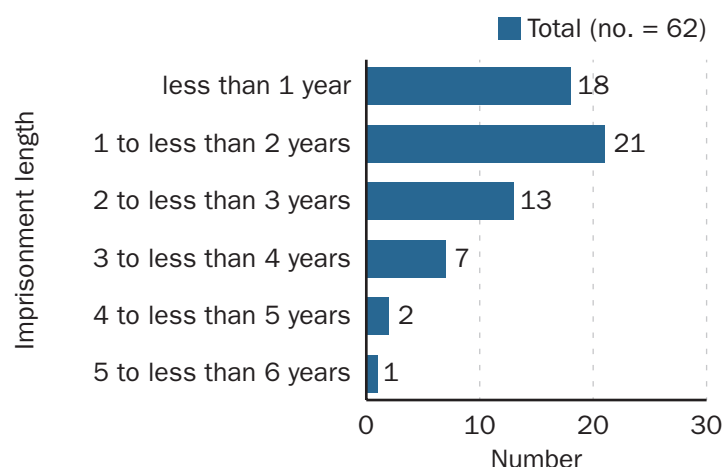


Figure 4: The average length of imprisonment imposed on people sentenced for theft, by financial year

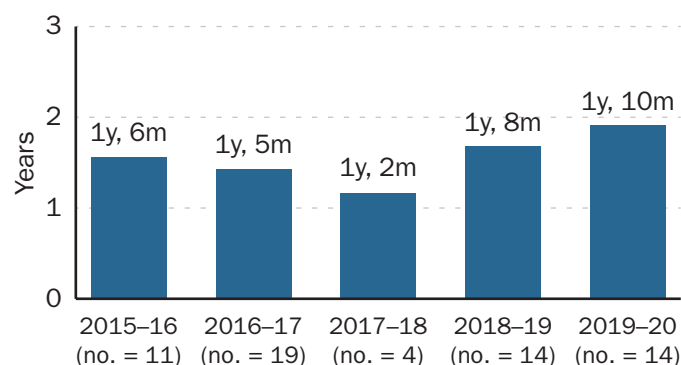


Figure 5: The number of people sentenced for the principal offence of theft by the number of sentenced offences per person, 2015–16 to 2019–20

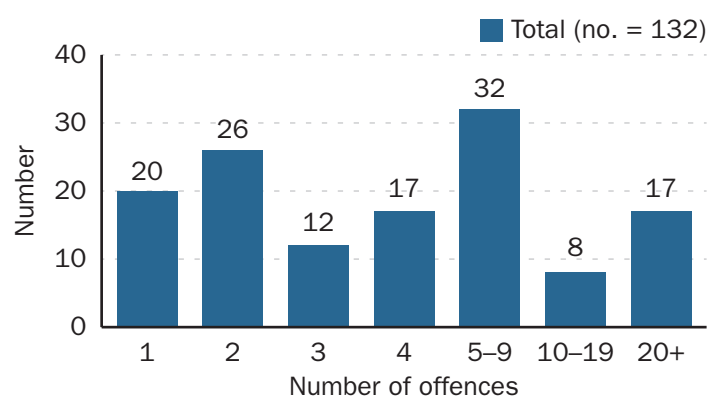


Table 3 shows the 10 most common offences, by number and percentage, for people sentenced for theft. The last column sets out the average number of offences sentenced per person. For example, 12 of the total 132 people (9.1%) also received sentences for obtaining a financial advantage by deception. On average, they were sentenced for 3.92 charges of obtaining a financial advantage by deception per case.

Table 3: The number and percentage of people sentenced for the principal offence of theft by the most common offences that were sentenced and the average number of those offences that were sentenced, 2015–16 to 2019–20

Offence	Number of cases	Percentage of cases	Average number of proven offences per case
1. Theft	132	100.0%	5.99
2. Obtaining a financial advantage by deception	12	9.1%	3.92
3. Possess a drug of dependence	11	8.3%	1.45
4. Handling stolen goods	8	6.1%	3.00
5. Commit an indictable offence while on bail	8	6.1%	1.13
6. Burglary	7	5.3%	4.86
7. Deal property suspected proceed of crime	6	4.5%	1.33
8. Possess, use or carry a prohibited weapon without exemption or approval	6	4.5%	1.17
9. Criminal damage	4	3.0%	1.50
10. Possess cartridge ammunition without licence or permit	4	3.0%	1.50
People sentenced	132	100.0%	8.17

Total effective imprisonment terms

Figure 6 shows the number of people sentenced to imprisonment for theft by length of their total effective sentence. Total effective sentences ranged from 2 weeks to 8 years, while the median total effective sentence was 2 years (meaning that half of the total effective sentences were below 2 years and half were above).

The most common range for total effective sentences was less than one year (25 people).

Non-parole period

If a person is sentenced to a term of immediate imprisonment of less than 1 year, the court cannot impose a non-parole period. For terms between 1 year and less than 2 years, the court has the discretion to fix a non-parole period. For terms of imprisonment of 2 years or more, the court must impose a non-parole period in most circumstances. If the court fixes a non-parole period, the person must serve that period before becoming eligible for parole. If the court does not set a non-parole period, the person must serve the entirety of their imprisonment term in custody.

Of the 97 people who were sentenced to imprisonment for theft, 25 were not eligible to have a non-parole period imposed because their total effective sentence was less than one year. Of the 72 people who were eligible to have a non-parole period fixed, 57 were given a non-parole period (79.2%).

Figure 6: The number of people sentenced to imprisonment for theft by length of total effective sentence, 2015–16 to 2019–20

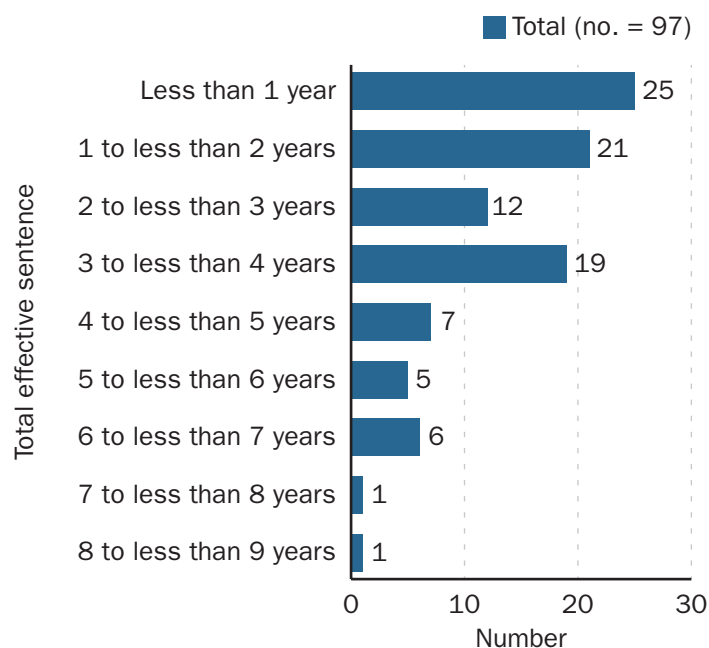


Figure 7 shows the number of people sentenced to imprisonment for theft, by length of non-parole period. Non-parole periods ranged from 6 months to 6 years, while the median non-parole period was 1 year and 9 months (meaning that half of the non-parole periods were below 1 year and 9 months and half were above). There were 40 people sentenced to imprisonment for theft who did not have a non-parole period imposed.

The most common range for non-parole periods was 1 year to less than 2 years (25 people).

Note that it was not possible to determine the length of the non-parole period for 1 person.¹²

Total effective sentences of imprisonment and non-parole periods

Figure 8 represents the 56 people who were sentenced to imprisonment for theft and for whom the non-parole period could be determined. Figure 8 compares the average length of total effective sentences with the average length of non-parole periods for these people by financial year.

From 2015–16 to 2019–20, the average length of total effective sentences for all people ranged from 2 years and 11 months in 2017–18 to 4 years and 5 months in 2016–17. Over the same period, the average length of non-parole periods ranged from 1 year and 7 months in 2017–18 to 2 years and 9 months in 2016–17.

Further data on total effective sentences of imprisonment and corresponding non-parole periods for theft is available on [SACStat](#).

Summary

From 2015–16 to 2019–20, 132 people were sentenced for theft in the higher courts. Of these people, 97 (73.5%) were given a principal sentence of imprisonment.

The number and range of offences for which people with a principal offence of theft were sentenced help explain why imprisonment sentence lengths were longer for the total effective sentence than for the principal sentence. The median total effective sentence was 2 years, while the median principal imprisonment length was 1 year and 6 months. On average, people sentenced for theft were found guilty of 8.17 offences each, with a maximum of 53 offences.

Total effective sentences ranged from 2 weeks to 8 years, and non-parole periods ranged from 6 months to 6 years.

Figure 7: The number of people sentenced to imprisonment for theft by length of non-parole period, 2015–16 to 2019–20

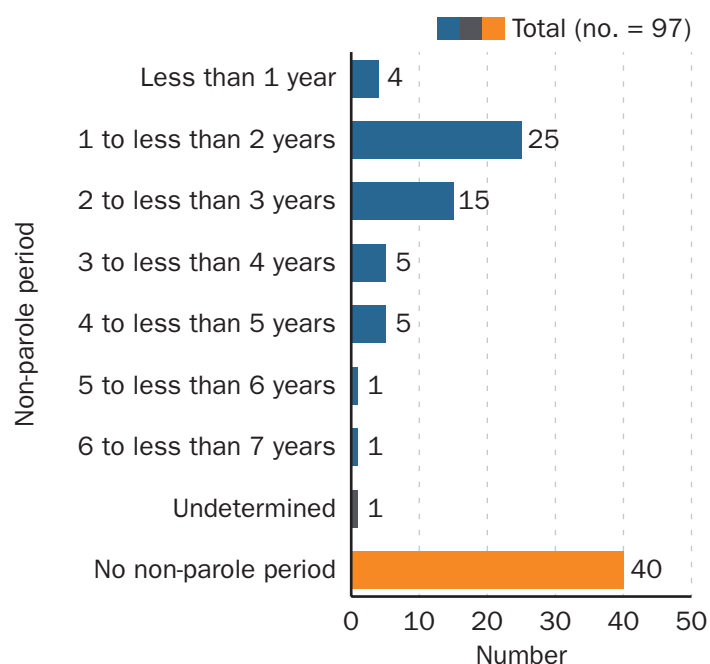
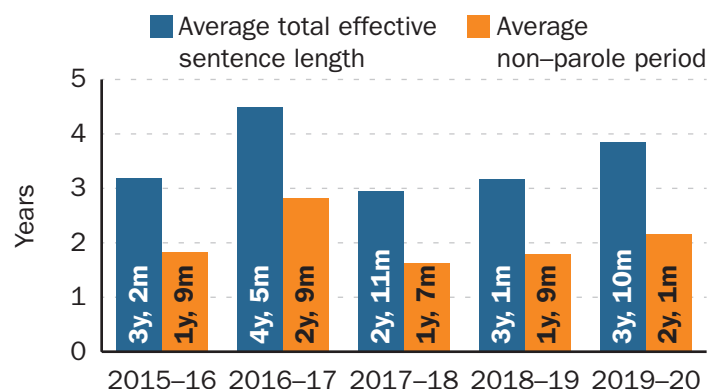


Figure 8: The average total effective sentence and the average non-parole period for people sentenced to imprisonment with a non-parole period for theft by financial year



Endnotes

1. This Sentencing Snapshot is an update of Sentencing Snapshot no. 227, which describes sentencing trends for theft between 2013–14 and 2017–18.
2. Data on first-instance sentence outcomes presented in this Snapshot were obtained from the Strategic Analysis and Review Team at Court Services Victoria. Data on appeal outcomes was collected by the Sentencing Advisory Council from the **Australasian Legal Information Institute** and was also provided by the Victorian Court of Appeal. The Sentencing Advisory Council regularly undertakes extensive quality control measures for current and historical data. While every effort is made to ensure that the data analysed in this report is accurate, the data is subject to revision.
3. *Crimes Act 1958* (Vic) s 74. This Snapshot excludes offences of theft of a firearm (*Crimes Act 1958* (Vic) s 74AA), which has a maximum penalty of 15 years.
4. *Criminal Procedure Act 2009* (Vic) s 28, sch 2 cl 4.4.
5. If a person is sentenced for a case with a single charge, the offence for that charge is the principal offence. If a person is sentenced for more than one charge in a single case, the principal offence is the offence for the charge that attracted the most serious sentence according to the sentencing hierarchy.
6. For the principal offence of theft, custodial sentences included imprisonment, partly suspended sentences of imprisonment, and a youth justice centre order.
7. For example, if the principal offence has a sentence that includes imprisonment combined with a community correction order, imprisonment is the most serious sentence type.
8. Suspended sentences have been abolished in the higher courts for all offences committed on or after 1 September 2013 and in the Magistrates' Court for all offences committed on or after 1 September 2014.
9. For example, initially the maximum term of imprisonment that could be combined with a community correction order was set at 3 months, but it was increased to 2 years in September 2014 and reduced to 1 year in March 2017.
10. A court may impose an *aggregate* sentence of imprisonment on multiple charges sentenced at the same time. These sentences are a single term of imprisonment in which the parts of the term attributable to the individual charges are not specified. A case may include a combination of aggregate and non-aggregate sentences.
11. Data presented in this section does not include imprisonment lengths for people who received an aggregate sentence of imprisonment. Figures 3 and 4 only report on non-aggregate sentences of imprisonment for the principal offence of theft.
12. One person was given a non-parole period that related to more than one case (for example, they may have already been serving a prison sentence at the time). It was not possible to separately determine the non-parole periods that related to each individual case.
13. Figure 8 only includes cases where the total effective sentence is an imprisonment term and a discernible non-parole period is applied.

SACStat – Higher Courts Theft

<http://www.sentencingcouncil.vic.gov.au/sacstat/home.html>

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia.

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ISSN 1836-6384 (Online)

Authorised by the Sentencing Advisory Council, Level 3, 333 Queen Street, Melbourne.

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