

No. 17: Sentencing trends for theft in the higher courts of Victoria, 2001-02 to 2005-06

Introduction

This Sentencing Snapshot describes sentencing outcomes¹ for the offence of theft and details the age and gender² of people sentenced for this offence in the County and Supreme Courts of Victoria between 2001-02 and 2005-06³.

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 theft⁴.

Theft is an indictable offence⁵ which carries a maximum penalty of 10 years' imprisonment⁶ and/or fine of 1200 penalty units⁷. Indictable offences are more serious offences triable before a judge and jury in the County or Supreme Court.

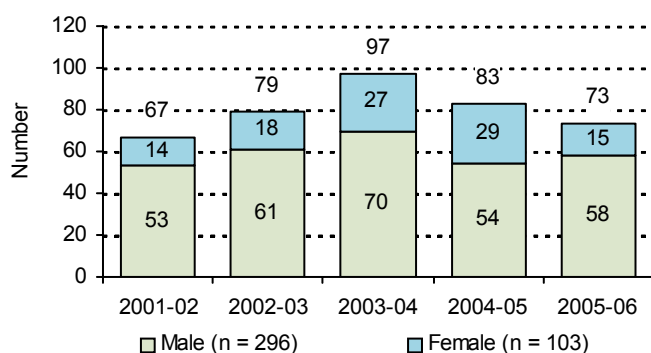
Of all people sentenced for the principal offence of theft, 0.8% were heard in the higher courts⁸. The remaining cases were heard in the Children's and Magistrates' Court⁹. The information presented in this report relates only to those sentencing outcomes handed down in the County and Supreme Courts for theft.

People sentenced

Figure 1 shows the number of people sentenced for theft for the period 2001-02 to 2005-06. As shown, 399 people were sentenced for theft over the five year period. There were 73 people sentenced for this offence in 2005-06, down by 10 people from the previous year.

Over the five years depicted, the majority of those sentenced were men (74.2% or 296 of 399 people), including 58 of the 73 people sentenced in 2005-06.

Figure 1: The number of people sentenced for theft by gender, 2001-02 to 2005-06



Sentence types and trends

Figure 2 shows the total number of people sentenced for theft and the number who received a custodial sentence¹⁰. Over the five year period, 55% of people were given a custodial sentence. This peaked at 64% (43 of 67) in 2001-02 before decreasing to 49% (41 of 83) in 2004-05. In 2005-06, 53% of people sentenced (39 of 73) were given a custodial sentence.

Figure 2: The number of people sentenced for theft and the number who received a custodial sentence, 2001-02 to 2005-06

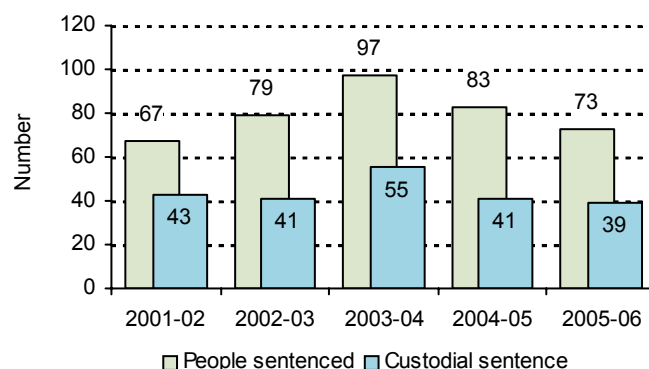


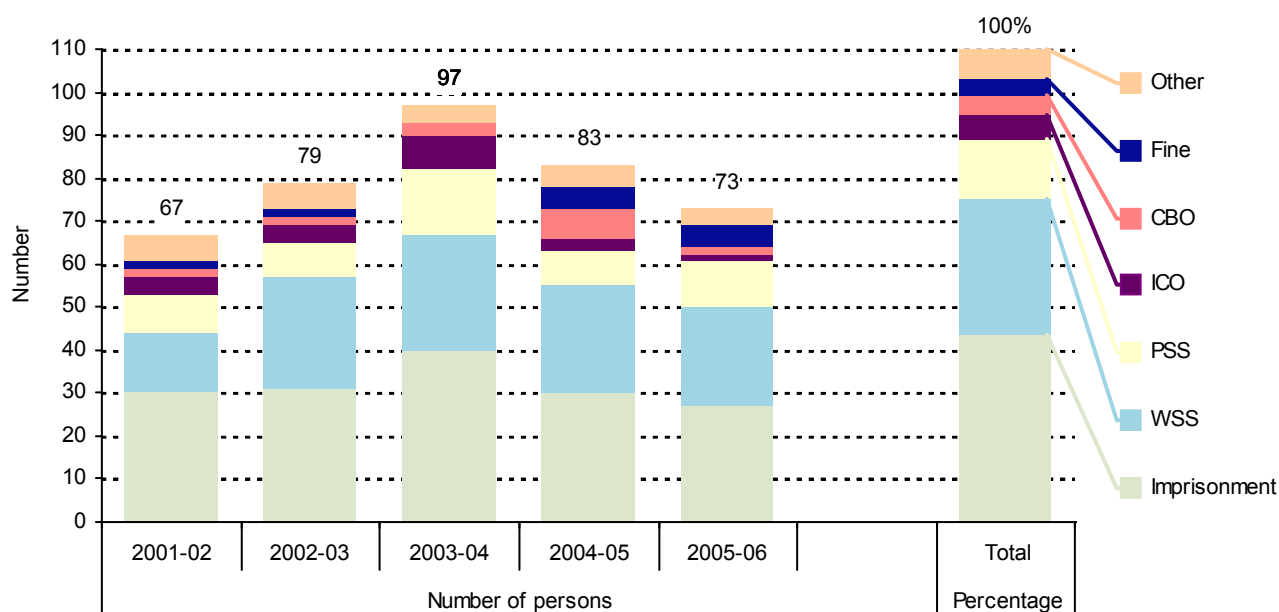
Figure 3 and Table 1 show the number of people sentenced for theft from 2001-02 to 2005-06 by the types of sentences imposed.

Over the five year period, four in ten people sentenced for theft received a period of imprisonment (40% or 158 of 399 people), while 29% received a wholly suspended sentence of imprisonment and 13% received a partially suspended sentence of imprisonment.

The percentage of people who received a period of imprisonment remained relatively stable over the five year period, ranging from a low of 36% in 2004-05 to a high of 45% in 2001-02.

Also, over the last four years of the period shown, the percentage of people who received a wholly suspended sentence of imprisonment remained relative stable, ranging from a low of 28% in 2003-04 to a high of 33% in 2002-03. In 2001-02, 21% of people were given a wholly suspended sentence of imprisonment.

Figure 3: The number of people sentenced for theft by sentence type, 2001-02 to 2005-06



Note: WSS refers to wholly suspended sentence of imprisonment, PSS refers to partially suspended sentence of imprisonment, ICO refers to intensive correction order and CBO refers to community based order. Other includes adjourned undertaking with conviction, youth training centre order, convicted and discharged, mix (wholly suspended sentence & fine), mix (imprisonment & community based order), combined custody and treatment order, adjourned undertaking without conviction, partially suspended sentence with recognisance release order (Cwlt), mix (fine & adjourned undertaking) and aggregate fine.

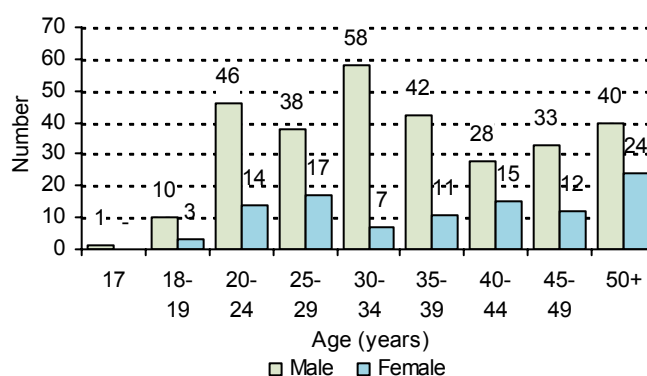
Table 1: The number and percentage of people sentenced for theft by sentence type, 2001-02 to 2005-06

Sentence type	01-02	02-03	03-04	04-05	05-06
Imprisonment	30 45%	31 39%	40 41%	30 36%	27 37%
Wholly suspended sentence	14 21%	26 33%	27 28%	25 30%	23 32%
Partially suspended sentence	9 13%	8 10%	15 15%	8 10%	11 15%
Intensive correction order	4 6%	4 5%	8 8%	3 4%	1 1%
Community based order	2 3%	2 3%	3 3%	7 8%	2 3%
Fine	2 3%	2 3%	0 -	5 6%	5 7%
Adjourned undertaking with conviction	1 1%	1 1%	1 1%	0 -	3 4%
Youth training centre order	2 3%	0 -	0 -	3 4%	0 -
Convicted and discharged	0 -	1 1%	1 1%	1 1%	0 -
Mix (wholly suspended sentence & fine)	0 -	1 1%	1 1%	0 -	0 -
Mix (imprisonment & community based order)	1 1%	1 1%	0 -	0 -	0 -
Combined custody and treatment order	1 1%	0 -	0 -	0 -	1 1%
Adjourned undertaking without conviction	0 -	0 -	1 1%	1 1%	0 -
Partially suspended sentence with RRO (Cwlt)	0 -	1 1%	0 -	0 -	0 -
Mix (fine & adjourned undertaking)	1 1%	0 -	0 -	0 -	0 -
Aggregate fine	0 -	1 1%	0 -	0 -	0 -
People sentenced	67	79	97	83	73

Age and gender of people sentenced

Figure 4 shows the gender of people sentenced for theft grouped by their age¹⁷ between 2001-02 and 2005-06. The average age of people sentenced for theft was thirty-six years and four months. Women sentenced over this period were much older than men (an average age of thirty-eight years and seven months for women compared to thirty-five years and seven months for men). One male juvenile was sentenced over this period.

Figure 4: The number of people sentenced for theft by gender and age, 2001-02 to 2005-06



Sentence types by gender

Figure 5 and Table 2 show the types of sentence imposed for theft grouped by gender. As shown, a higher percentage of men received a period of imprisonment (40.9% compared to 35.9% of women) and an intensive correction order (5.7% compared to 2.9%). Conversely, a higher percentage of women received a partially suspended sentence of imprisonment (16.5% compared to 11.5% of men), a wholly suspended sentence of imprisonment (31.1% compared to 28.0%) and a fine (4.9% compared to 3.0%).

Figure 5: The percentage of people sentenced for theft by sentence type and gender, 2001-02 to 2005-06

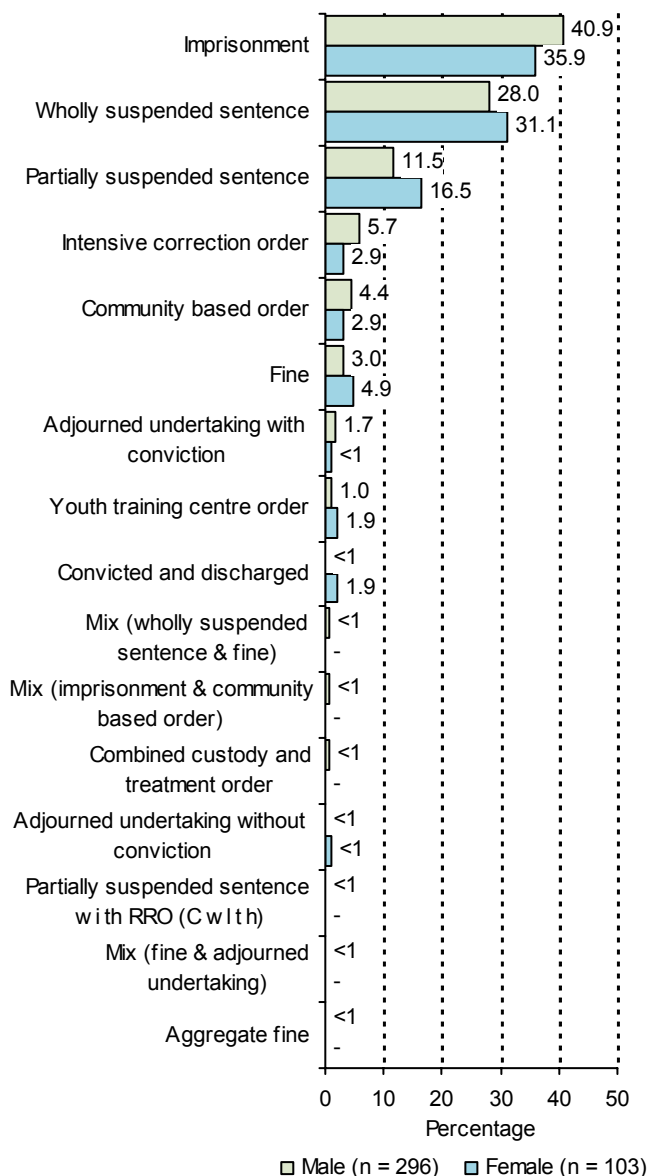


Table 2: The number and percentage breakdown of people sentenced for theft by gender, 2001-02 to 2005-06

Sentence type	Male	Female	Total
Imprisonment	121 41%	37 36%	158 40%
Wholly suspended sentence	83 28%	32 31%	115 29%
Partially suspended sentence	34 11%	17 17%	51 13%
Intensive correction order	17 6%	3 3%	20 5%
Community based order	13 4%	3 3%	16 4%
Fine	9 3%	5 5%	14 4%
Adjourned undertaking with conviction	5 2%	1 <1%	6 2%
Youth training centre order	3 1%	2 2%	5 1%
Convicted and discharged	1 <1%	2 2%	3 <1%
Mix (wholly suspended sentence & fine)	2 <1%	0 -	2 <1%
Mix (imprisonment & community based order)	2 <1%	0 -	2 <1%
Combined custody and treatment order	2 <1%	0 -	2 <1%
Adjourned undertaking without conviction	1 <1%	1 <1%	2 <1%
Partially suspended sentence with RRO (C w l t h)	1 <1%	0 -	1 <1%
Mix (fine & adjourned undertaking)	1 <1%	0 -	1 <1%
Aggregate fine	1 <1%	0 -	1 <1%
People sentenced	296	103	399

Sentence types by age

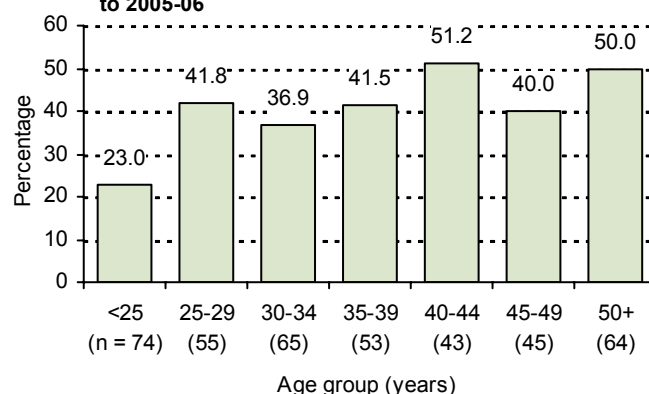
As shown in the table above, the three most common sentence types were imprisonment, wholly suspended sentences of imprisonment and partially suspended sentences of imprisonment. The following analysis examines these sentence types by the offender's age group.

Imprisonment

Sentences of imprisonment were most likely to be given to people aged 40-44 years old (51% or 22 of the 43 people in this age group).

Conversely, sentences of imprisonment were least common for those aged under 25 years (23% or 17 of the 74 people in this age group).

Figure 6: The percentage of people who were sentenced to a period of imprisonment for theft by age group, 2001-02 to 2005-06

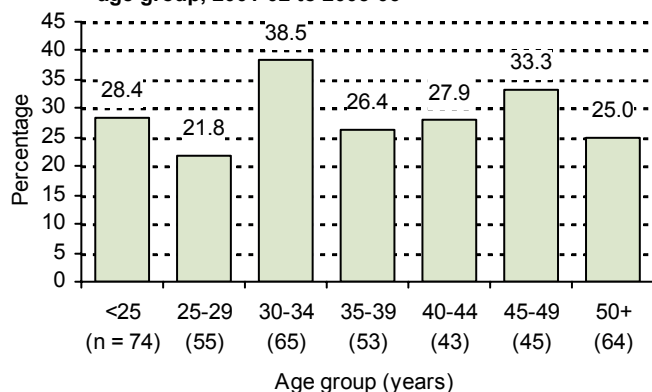


Wholly suspended sentences of imprisonment

Wholly suspended sentences of imprisonment were most likely to be given to people aged 30-34 years old (38% or 25 of the 65 people in this age group).

Conversely, wholly suspended sentences of imprisonment were least common for those aged 25-29 years old (22% or 12 of the 55 people in this age group).

Figure 7: The percentage of people who were sentenced to a wholly suspended sentence of imprisonment for theft by age group, 2001-02 to 2005-06

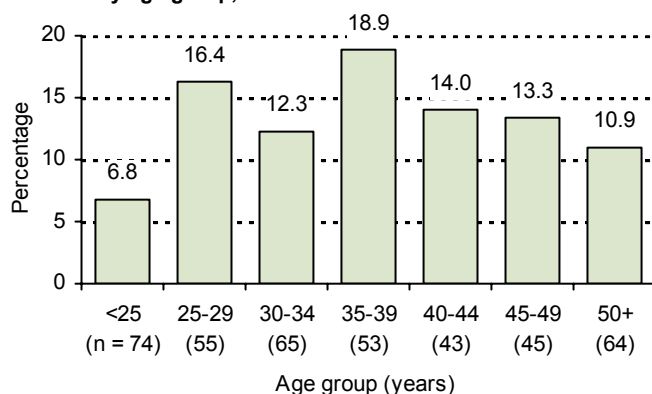


Partially suspended sentences of imprisonment

Partially suspended sentences of imprisonment were most likely to be given to people aged 35-39 years old (19% or 10 of the 53 people in this age group).

Conversely, partially suspended sentences of imprisonment were least common for those aged under 25 years (7% or five of the 74 people in this age group).

Figure 8: The percentage of people who were sentenced to a partially suspended sentence of imprisonment for theft by age group, 2001-02 to 2005-06



Principal and total effective sentences

There are two methods for describing sentence types and lengths - the principal sentence and the total effective sentence.

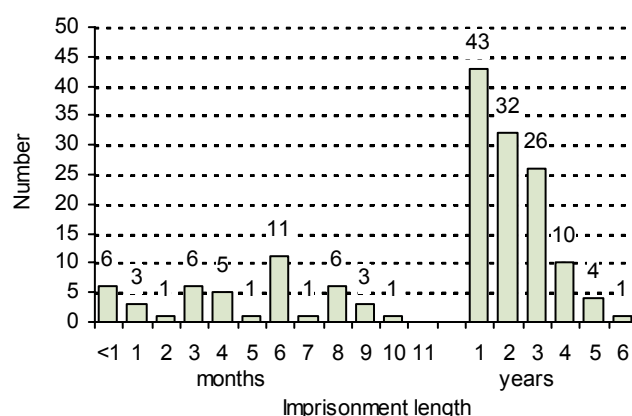
The *principal sentence* is the individual sentence imposed for a single charge. When imposing a sentence for multiple charges, the court imposes a 'total effective sentence'. The *total effective sentence* aggregates the principal sentence handed down for each charge, and takes into account whether sentences are ordered by the court to be served concurrently (at the same time) or cumulatively.

In many cases, the total effective sentence imposed on a person will be longer than individual principal sentences. Principal sentences for theft must be considered in this broader context. The following sections analyse the use of imprisonment for theft over 2001-02 to 2005-06.

Principal sentence of imprisonment

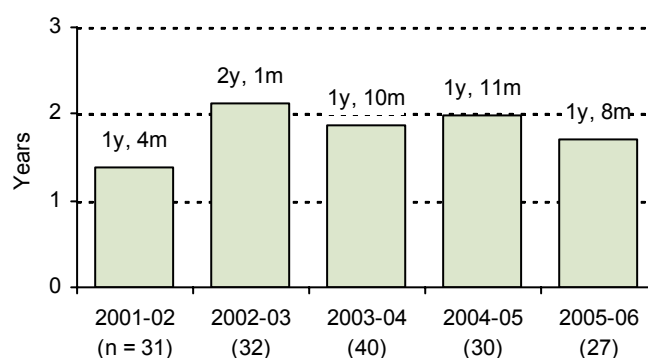
Figure 9 shows the number of people sentenced to imprisonment for theft between 2001-02 and 2005-06 by the length of the imprisonment term. Imprisonment terms ranged from one day to six years, while the median length of imprisonment was 1 year (meaning that half of the imprisonment terms were shorter than 1 year and half were longer).

Figure 9: The number of people sentenced to imprisonment for theft by length of imprisonment term, 2001-02 to 2005-06



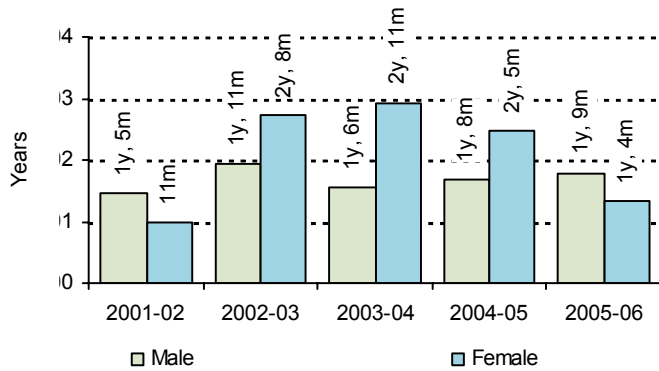
As shown in Figure 10, the average length of imprisonment term imposed on people sentenced for theft ranged from one year and four months in 2001-02 to two years and one month in 2002-03.

Figure 10: The average length of imprisonment term imposed on people sentenced for theft, 2001-02 to 2005-06



From 2001-02 to 2005-06, the majority of the people who received a term of imprisonment for theft were men (123 people or 76.9%). Figure 11 shows that over the five year period, men, however, received a shorter average term of imprisonment (one year and eight months compared to two years and three months for women).

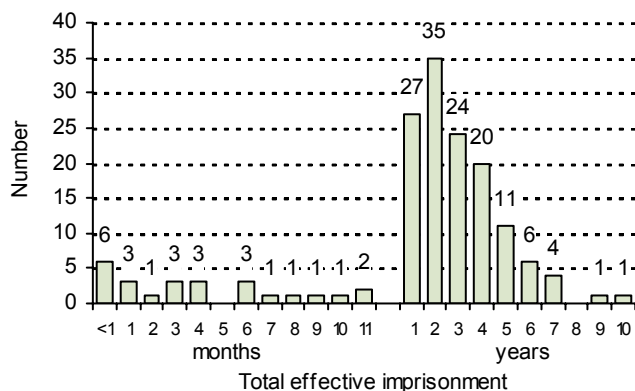
Figure 11: The average period of imprisonment imposed on people sentenced for theft by gender, 2001-02 to 2005-06



Total effective sentence of imprisonment

There were 154 people given a total effective sentence of imprisonment¹². Figure 12 shows the number of people sentenced to imprisonment for theft between 2001-02 and 2005-06 by the length of their total effective sentence. The length of total effective sentences ranged from one day to ten years, while the median total effective length of imprisonment was one year and eight months (meaning that half of the total effective sentence lengths were below one year and eight months and half were above).

Figure 12: The number of people sentenced to imprisonment for theft by total effective length of imprisonment term, 2001-02 to 2005-06



Non-parole period

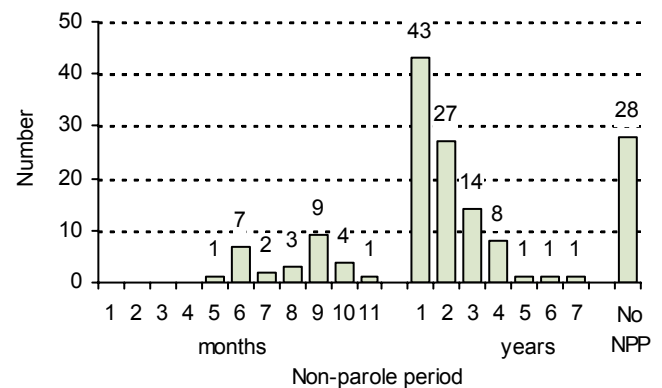
When a person is sentenced to a term of immediate imprisonment of one year or more, the court has the discretion to fix a non-parole period. Where a non-parole period is fixed, the person must serve that period before becoming eligible for parole. Where no non-parole period is set by the court, the person must serve the entirety of the imprisonment term.

Under s.11(4) of the *Sentencing Act 1991* (Vic), if a court sentences an offender to imprisonment in respect of more than one offence, the non-parole period set by the court must be in respect of the total effective sentence of imprisonment that the offender is liable to serve under all the sentences imposed. In some cases, the non-parole period will be lengthier than the individual principal sentence for theft. Sentences and non-parole periods must be considered in this broader context.

Of the 154 people who were sentenced to imprisonment for theft, 129 were eligible for parole¹³. Of these people, 122 were given a non-parole period (95%)¹⁴. Figure 13 shows the number of people sentenced to imprisonment for theft between 2001-02 and 2005-06 by the length of their non-

parole period. Non-parole periods ranged from five months to seven years, while the median length of the non-parole period was one year and six months (meaning that half of the non-parole periods were below one year and six months and half were above).

Figure 13: The number of people sentenced to imprisonment for theft by length of non-parole period, 2001-02 to 2005-06



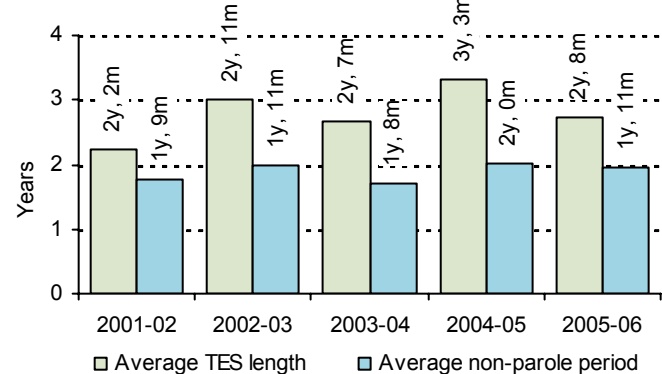
Note: No NPP refers to sentences of imprisonment that had no non-parole period fixed.

Total effective sentences of imprisonment and non-parole periods

Figure 14 to Figure 16 present the average length of total effective sentence of imprisonment compared to the average length of non-parole period for all people (Figure 14), for men (Figure 15) and for women (Figure 16) from 2001-02 to 2005-06.

From 2001-02 to 2005-06, the average length of total effective sentence for all people ranged from two years and two months in 2001-02 to three years and three months in 2004-05. Over the same period, the average length of non-parole period ranged from one year and eight months in 2003-04 to two years in 2004-05.

Figure 14: The average total effective sentence and the average non-parole period imposed on people sentenced to imprisonment for theft, 2001-02 to 2005-06



From 2001-02 to 2005-06, the average length of total effective sentence for men ranged from two years and one month in 2003-04 to three years and four months in 2004-05. Over the same period, the average length of non-parole period for men ranged from one year and three months in 2003-04 to two years and four months in 2004-05.

The average length of total effective sentence for women ranged from one year and seven months in 2001-02 to four years and six months in 2003-04. Over the same period, the average length of non-parole period for women ranged from one year and one month in 2001-02 to two years and eight months in 2003-04.

Figure 15: The average total effective sentence and the average non-parole period imposed on men sentenced to imprisonment for theft, 2001-02 to 2005-06

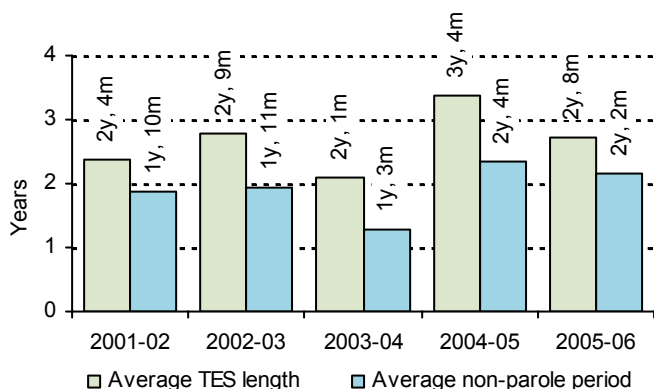
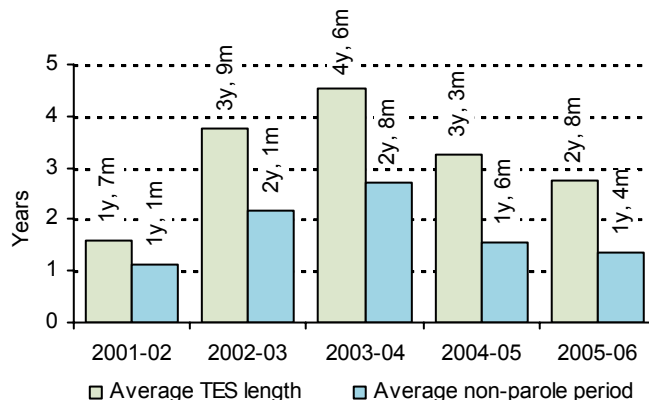


Figure 16: The average total effective sentence and the average non-parole period imposed on women sentenced to imprisonment for theft, 2001-02 to 2005-06

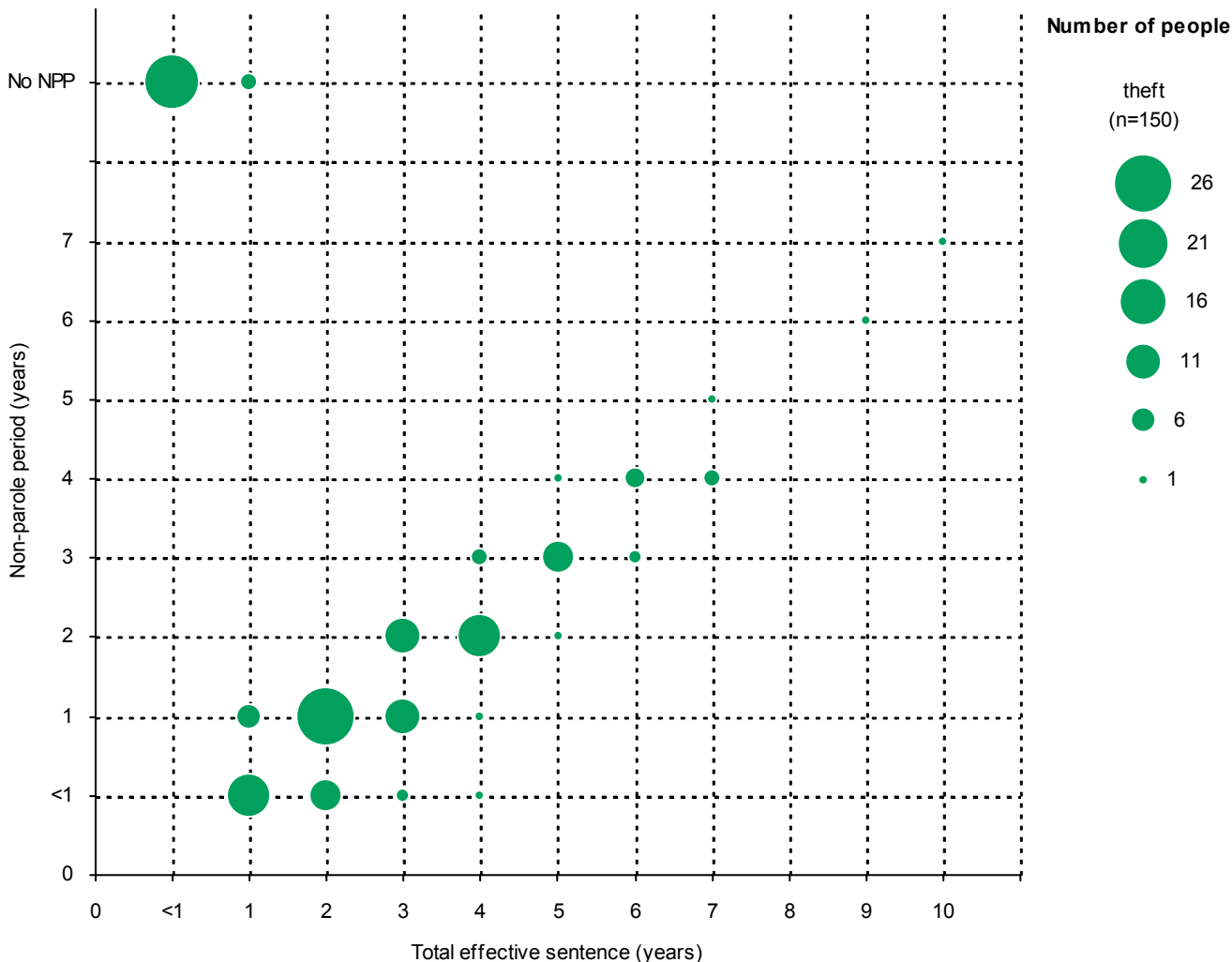


Total effective sentence of imprisonment by non-parole period

While Figure 12 and Figure 13 present the lengths of the total effective sentences and non-parole periods separately, Figure 17 combines the two methods of describing sentence lengths in the one diagram. It shows the total effective sentence and non-parole period for theft for each individual person.

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 combination¹⁵. As shown, the most common combination of imprisonment length and non-parole period imposed was two years with a non-parole period of one year (26 people - as represented by the largest 'bubble' on the chart). The length of imprisonment ranged from one day with no non-parole period to ten years with a non-parole period of seven years.

Figure 17: The number of people sentenced to imprisonment for theft by the total effective sentence and the non-parole period imposed, 2001-02 to 2005-06¹⁶



Note: No NPP refers to no non-parole period.

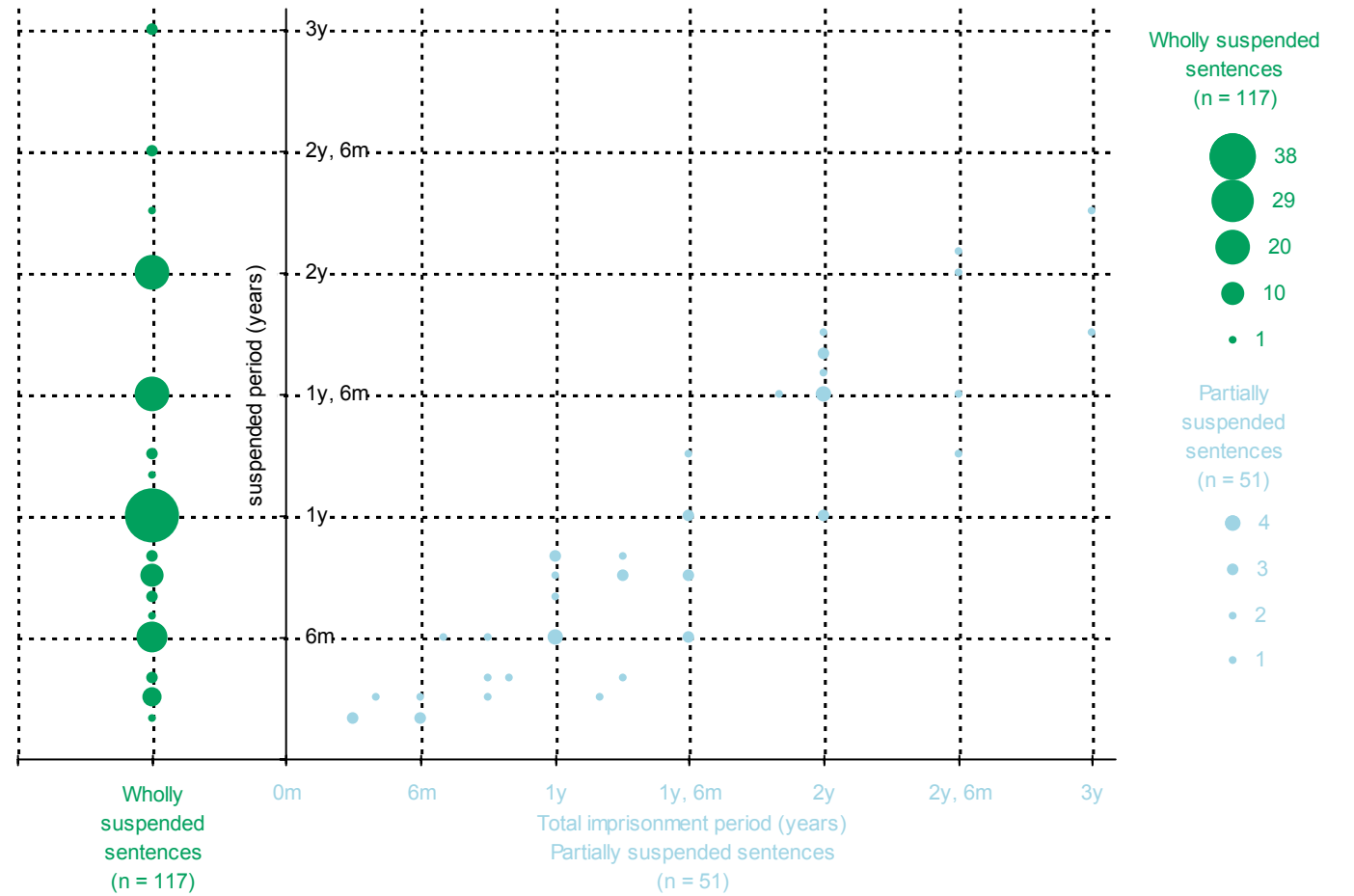
Suspended sentences of imprisonment

There were 168 people given a suspended sentence of imprisonment as their total effective sentence. Of these, 117 people had their prison sentence wholly suspended and 51 received a partially suspended sentence of imprisonment. Figure 18 shows the number of people with a suspended sentence of imprisonment as their total effective sentence by the suspended sentence type and length of sentence. The green 'bubbles' to the left of the vertical axis show the lengths of the wholly suspended sentences, while the blue 'bubbles' to the right of the vertical axis show the combination of total imprisonment length and the suspended period for those sentenced to a partially suspended sentence. The size of the bubble reflects the number of people who received either the wholly or partially suspended prison term.

Wholly suspended sentence lengths ranged from two months to three years. The most common wholly suspended sentence length was one year (38 people - as represented by the largest green 'bubble' on the chart).

The most common partially suspended sentence combinations were one year with six months suspended and two years with one year and six months suspended (4 people each - as represented by the two largest blue 'bubbles' on the chart).

Figure 18: The number of people given a wholly or partially suspended sentence of imprisonment by sentence type and length, 2001-02 to 2005-06

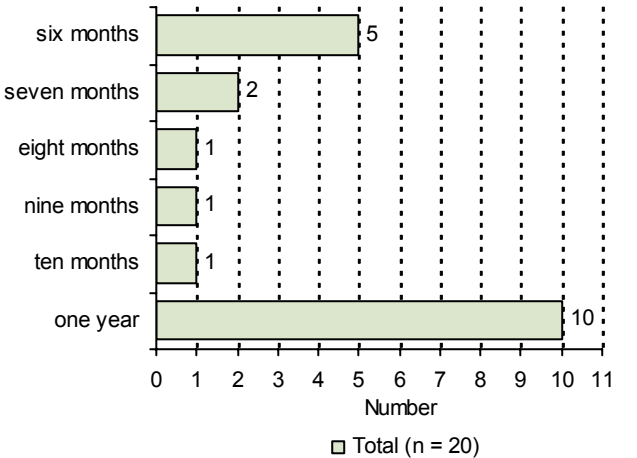


Intensive correction orders

There were 20 people given an intensive correction order as their total effective sentence.

The length of intensive correction orders for theft ranged from six months to one year, while the median length was eleven months (meaning that half of the lengths were shorter than or equal to eleven months and half were longer than or equal to eleven months). The most common length of intensive correction order was one year (10 people).

Figure 19: The number of people sentenced to an intensive correction order for theft by length of order imposed, 2001-02 to 2005-06



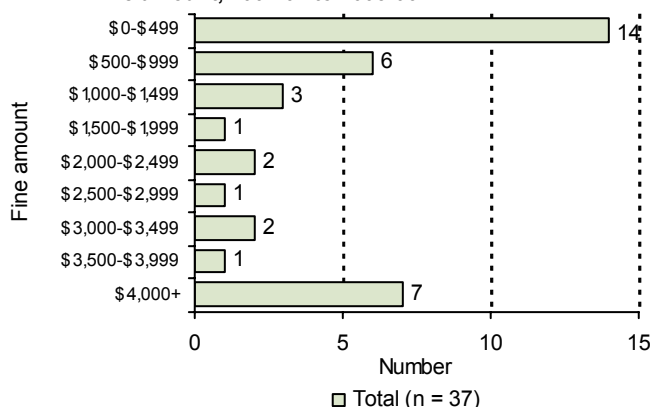
Fines

This analysis includes all fines that were imposed for cases where theft was the principal offence. Fines were imposed on 37 people.

The fine amount imposed ranged from \$50 to \$30,000, with a median of \$800 (meaning that half of the values fell below \$800 and half of the values were above \$800).

The average fine amount was \$2,315. The average fine amount imposed against the 9 females was \$2,527, higher than the average fine for the 28 males (\$2,246).

Figure 20: The number of people who received a fine for theft by fine amount, 2001-02 to 2005-06



Summary

Between 2001-02 and 2005-06, 399 people were sentenced for theft in the higher courts. Over this period, the majority of those sentenced were men (74%), while 45% were between the age of 20 and 35 years.

Four in ten people sentenced for theft received a period of imprisonment (40%), while 29% received a wholly suspended sentence of imprisonment and 13% received a partially suspended sentence of imprisonment.

Men were more likely than women to be sentenced to a period of imprisonment. Conversely, women were more likely to be sentenced to a partially suspended sentence of imprisonment.

Imprisonment was more common for those aged older than 40 years of age, wholly suspended sentences of imprisonment were more common for those aged between 30 and 35 years of age and partially suspended sentences of imprisonment were more common for those aged between 35 and 40 years of age.

Imprisonment lengths ranged from one day with no non-parole period to ten years with a non-parole period of seven years. The most common sentence of imprisonment was two years with a one year non-parole period.

The most common partially suspended sentence lengths were one year with six months suspended and two years with one year and six months suspended, while the most common wholly suspended sentence length was one year.

- 1 This report presents sentencing outcomes for people sentenced for the principal offence of theft in the County and Supreme Courts of Victoria. The principal offence describes the offence proven that attracted the most serious sentence according to the sentencing hierarchy. The analysis will therefore exclude people sentenced for theft who received a more serious sentence for another offence forming part of the same presentment. For example, in 2005-06, 388 people were sentenced for theft. Theft was the principal offence for 73 of the 388 people.
- 2 The information source for sentencing outcomes for theft only contains information on age and gender characteristics. No other demographic analysis is possible.
- 3 The statistical information presented here was provided by Court Services, Department of Justice (Vic). This report describes sentencing trends for theft since 2001-02. Court Services advises that sentencing data from the higher courts prior to 2000-01 may be unreliable due to changed data collection processes and counting rules.
- 4 *Crimes Act 1958* (Vic) s 72.
- 5 If the value of the property stolen is less than \$25 000 or the property is a motor vehicle, an offence under this section may be dealt with in the Magistrates' Court. See *Magistrates' Court Act 1989* (Vic) Schedule 4.
- 6 *Crimes Act 1958* (Vic) s 74.
- 7 Theft carries a maximum fine of 1200 penalty units and each penalty unit is worth \$107.43, Victorian Government Gazette, 6 April 2006.
- 8 Theft was the seventh most common principal offence that resulted in a person being sentenced in the higher courts over 2001-02 to 2005-06.
- 9 Data for sentencing outcomes in the Magistrates' Court are not currently available for detailed analysis.
- 10 Custodial sentence includes imprisonment, partially suspended sentence, youth training centre order, mix (imprisonment & community based order), combined custody and treatment order and partially suspended sentence with recognisance release order (Cwlth).
- 11 Age is as at the time of sentencing.
- 12 Of the 160 people who were given a principal sentence of imprisonment, 154 were also given a total effective sentence of imprisonment. There were six people who were given imprisonment as the principal sentence for theft and a partially suspended sentence as a total effective sentence.
- 13 25 people were not eligible for parole because they were given a total effective sentence length of less than one year.
- 14 Four people were given a non-parole period that also related to other cases and have been excluded from this analysis. A non-parole period was not set for a further three people who were eligible to have one set.
- 15 Sentence lengths that are longer than one year are rounded to the nearest year of imprisonment, while sentence lengths of less than one year are grouped into the '<1 year' category.
- 16 This graph includes the 150 people who were given a total effective sentence and a non-parole period that related to this case only.

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Published by the Sentencing Advisory Council, Melbourne Victoria Australia, January, 2007.

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ISSN 1832-6153

Authorised by Sentencing Advisory Council, 4/436 Lonsdale Street, Melbourne. Printed by Bigprint, 50 Lonsdale Street, Melbourne.

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