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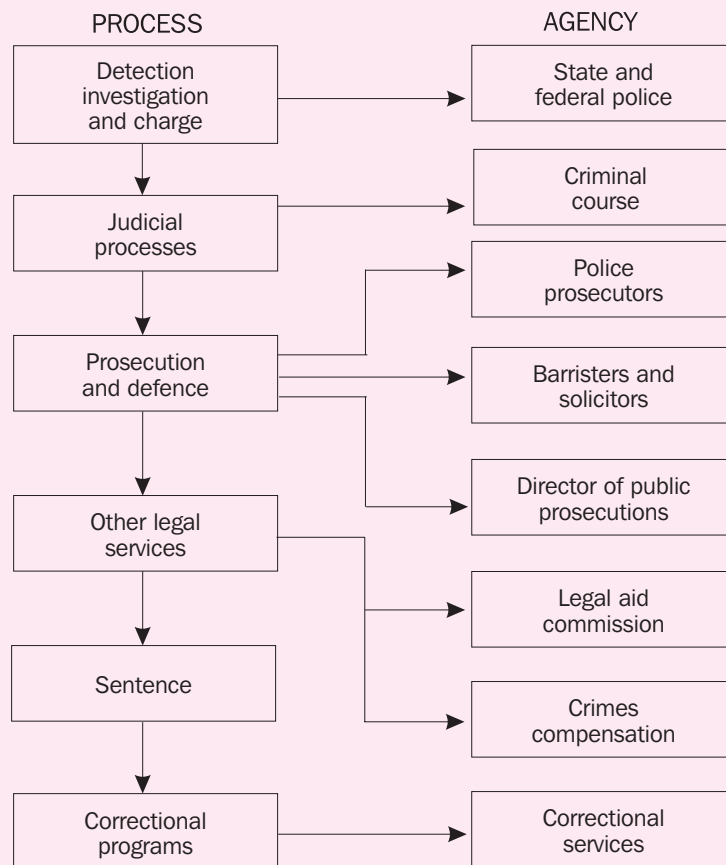
# Crime and justice

## Overview

The criminal justice system consists of State and Commonwealth institutions, agencies, departments and personnel responsible for dealing with justice aspects of crime, victims of crime, persons accused or convicted of committing a crime, and other related issues and processes. Private companies are also involved with the provision of correctional services.

The various agencies which comprise the criminal justice system can be seen as acting within a broader process in which criminal incidents and offenders move through a number of stages. Diagram 8.1 indicates these broad stages and the points at which different justice agencies make their contribution.

8.1 CRIMINAL JUSTICE SYSTEM



Source: National Centre for Crime and Justice Statistics, ABS.

## Recorded crime statistics

Crimes recorded by police relate to offences that have become known to and recorded by police. These offences may have been reported by a victim, witness or other person, or may have been detected by police. The statistics do not provide a total picture of crime, as not all crimes come to the attention of police. In addition, care should be taken in interpreting police statistics, as fluctuations in recorded crime may be a reflection of changes in community attitudes to reporting crime, changes in police procedures or changes in crime reporting and recording systems, rather than a change in the incidence of criminal behaviour.

In 1997, the number of victims in Victoria increased for all offences, with the exception of manslaughter which stayed the same, and kidnapping, abduction and other theft which decreased slightly compared with 1996 (table 8.2). However, the victimisation rates in Victoria for all offence categories, except blackmail and extortion, were generally well below the Australian average.

### 8.2 VICTIMS OF CRIME RECORDED, BY POLICE

				Victoria	Australia	
	1995	1996	1997	1997	1997	1997
	rate(a)	rate(a)	rate(a)	no.	rate(a)	no.
Homicide						
Murder	1.37	1.14	1.41	65	1.74	322
Attempted murder	1.02	0.75	0.91	42	1.72	318
Manslaughter	0.11	0.07	0.04	2	0.21	38
Driving causing death(b)	0.49	0.48	0.50	23	n.a.	n.a.
Assault	350.01	359.74	361.16	16 632	668.78	123 940
Sexual assault	61.98	61.36	61.50	2 832	76.29	14 138
Kidnapping/abduction	2.10	2.08	2.00	92	3.01	557
Robbery						
Armed robbery	16.76	18.60	25.69	1 183	48.64	9 015
Unarmed robbery	20.99	23.40	27.79	1 280	66.08	12 246
Blackmail/extortion	1.24	1.78	2.63	121	1.90	353
Unlawful entry with intent	1 570.43	1 551.51	1 608.66	74 081	2 254.69	417 845
Motor vehicle theft	647.88	630.76	660.61	30 422	703.67	130 406
Other theft	2 473.10	2 622.08	2 596.44	119 570	2 856.35	529 345

(a) Reported incidents per 100,000 population. (b) National driving causing death counts not available in 1997.

Source: *Recorded Crime, Australia* (Cat. no. 4510.0).

The greatest number of recorded crimes are property crimes. In Victoria during 1997, police recorded about 74,100 victims of unlawful entry with intent, over 30,000 victims of motor vehicle theft and almost 120,000 victims of other theft.

The most commonly recorded crime against the person was assault, with over 16,000 cases recorded (table 8.3). There were also about 2,800 victims of sexual assault, 2,500 victims of robbery and 65 murder victims.

About 23% of assault victims were aged under 20 years, and a further 32% aged 25–34 years. This contrasts with sexual assault victims, where 48% were aged under 20 years. Approximately 4% of assault victims and 1% of sexual assault victims were aged over 55 years.

**8.3 VICTIMS OF CRIME RECORDED BY POLICE(a)—1997**

	Age group (years)										Total no.
	0–9	10–14	15–19	20–24	25–34	35–44	45–54	55–64	65 and over	Not stated	
	no.	no.	no.	no.	no.	no.	no.	no.	no.	no.	
Homicide											
Murder	3	—	11	3	14	11	10	6	6	1	<b>65</b>
Attempted murder	2	—	4	6	10	8	5	4	2	1	<b>42</b>
Manslaughter	—	—	1	—	—	1	—	—	—	—	<b>2</b>
Driving causing death	1	—	3	4	6	3	1	1	1	3	<b>23</b>
Assault	365	831	2 360	2 666	4 819	2 385	1 228	413	190	1 375	<b>16 632</b>
Sexual assault	278	437	626	465	602	249	92	15	15	53	<b>2 832</b>
Kidnapping/abduction	21	23	23	14	9	1	—	—	—	1	<b>92</b>
Robbery											
Armed robbery	1	18	144	128	197	160	127	59	33	40	<b>907</b>
Unarmed robbery	3	90	281	184	221	136	104	73	98	31	<b>1 221</b>
Blackmail/extortion	—	—	7	12	18	14	12	4	4	8	<b>79</b>

(a) Refers to person victims only. For offences (e.g. armed robbery, unarmed robbery and blackmail/extortion) where the victim may be a person or organisation, person victims only are included.

Source: *Recorded Crime, Australia, 1997 (Cat. no. 4510.0)*.

Care needs to be taken in using the 'relationship of victim to offender' data due to the high proportion of not stated information. For murder, attempted murder and sexual assault, more offenders were known to the victim than were unknown (table 8.4). In contrast, for assault, kidnapping and abduction, more offenders were unknown than known.

**8.4 VICTIMS OF CRIME(a), By Relationship of Offender to Victim(b)—1997**

	Murder	Attempted murder	Manslaughter	DCD(c)	Assault	Sexual Assault	Kidnapping/abduction	Blackmail/extortion
Offence category	no.	no.	no.	no.	no.	no.	no.	no.
Known to victim								
Family member	11	9	—	1	888	443	3	2
Non-family member	17	16	—	5	1 807	770	4	9
Total	28	25	—	6	2 695	1 213	7	11
Unknown to victim	16	7	2	6	4 348	467	37	13
Not stated	21	10	—	11	9 589	1 152	48	55
<b>Total</b>	<b>65</b>	<b>42</b>	<b>2</b>	<b>23</b>	<b>16 632</b>	<b>2 832</b>	<b>92</b>	<b>79</b>

(a) Refers to individual persons only. For blackmail/extortion person victims only are included, not organisations. (b) Includes those persons for whom sex was not stated, but relationship was recorded. (c) DCD refers to Driving Causing Death.

Source: *Recorded Crime, Australia, 1997 (Cat. no. 4510.0)*.

A weapon was used in 48% of robberies, 74% of murders and 81% of attempted murders (table 8.5). Firearms were used in 9% of robberies, 29% of murders and 19% of attempted murders. Weapons were far less likely to be used in assault, sexual assault, kidnapping and abduction offences.

## 8.5 VICTIMS, By Offence—1997

	Weapons used				No weapons used	Total
	Firearm	Other weapon	Weapon n.f.d.	Total		
	%	%	%	%	%	%
Homicide						
Murder	29.2	44.6	—	73.8	26.2	100.0
Attempted murder	19.0	61.9	—	81.0	19.0	100.0
Manslaughter	—	—	—	—	100.0	100.0
Assault	1.0	11.1	—	12.1	87.9	100.0
Sexual assault	0.2	2.1	—	2.3	97.7	100.0
Kidnapping/abduction	2.2	5.4	—	7.6	92.4	100.0
Robbery(a)	9.1	34.2	4.7	48.0	52.0	100.0

(a) Victims of robbery (armed and unarmed robbery) refers to individual persons or organisations. All other offence categories used in this table refer to individual persons.

Source: *Recorded Crime, Australia, 1997 (Cat. no. 4510.0)*.

In Victoria during the June financial year 1997, a total of 13,941 arrests for drug-related offences were made (table 8.6). The largest category was cannabis with 9,121 arrests (65%).

## 8.6 DRUG ARRESTS—1 July 1996 to 30 June 1997

Type of drug	Victoria	Australia	Victoria	Australia
	no.	no.	%	%
Cannabis	9 121	69 136	65.4	81.3
Cocaine	29	460	0.2	0.5
Heroin etc.	3 396	7 140	24.4	8.4
Amphetamine	639	3 907	4.6	4.6
Hallucinogens	0	609	0.0	0.7
Steroids	0	71	0.0	0.1
Other drugs	756	3 723	5.4	4.4
<b>Total</b>	<b>13 941</b>	<b>85 046</b>	<b>100.0</b>	<b>100.0</b>

Source: *Australian Bureau of Criminal Intelligence—Australian Illicit Drug Report, 1997*.

## Australian court system

In all States and Territories, two systems of criminal justice exist: the federal criminal justice system, based on offences against Commonwealth laws; and the relevant State or Territory system, based on offences against State or Territory laws. It is the statute and common law of States and Territories that primarily governs the day-to-day lives of most Australians.

With respect to criminal law, the States and Territories have powers to enact their own criminal law. The Commonwealth has powers to enact laws, including sanctions for criminal offences in relation to its constitutional responsibilities. In effect, there are nine different systems of criminal law in existence in Australia.

In Victoria, criminal cases involving less serious offences are heard by the Magistrates' Court, as are less serious civil and family law cases. The County Court hears more serious criminal and civil cases involving larger claims. The County Court also hears cases on appeal from the Magistrates' Court. The Supreme Court of Victoria hears the most serious criminal and civil cases, and appeals from County and Magistrates' Courts.

The Federal Court of Australia hears cases relating to Commonwealth (as opposed to State) law, such as cases involving trade practices and bankruptcy. There is also a federal Family Court which hears cases under the Family Law Act. The High Court of Australia acts as the final court of appeal for all criminal, civil and family law matters from lower courts within Australia.

### Victorian higher criminal courts

At the start of 1996–97, there were 1,030 defendants involved in cases which were still being processed (i.e. pending at the start), and a further 1,650 defendants who had cases initiated in the Higher Criminal Courts (table 8.7). Both groups represent a total workload of 2,680 defendants before the higher courts during 1996–97. Of this total workload, 1,665 defendants had all their charges finalised during 1996–97, while 1,015 defendants had at least one unfinalised charge at the end of the financial year (pending at the end). Note that the Victorian Higher Criminal Courts Collection excludes appeal cases.

#### 8.7 DEFENDANTS INITIATED—1996–97

Status	Supreme court	County court	Total higher courts
	no.	no.	no.
Active workload during year			
Pending at start	51	979	<b>1 030</b>
Initiated	89	1 561	<b>1 650</b>
Status at year's end(b)			
Finalised	68	1 597	<b>1 665</b>
Pending at end	69	946	<b>1 015</b>

(a) Data exclude defendants in appeal cases. ABS does not collect Magistrates court data. (b) Same population as for 'Active workload during year'. Supreme court had 2 cases transferred in and 5 out, and County court had 5 transferred in and 2 out.

Source: *Higher Criminal Courts, Australia, 1996–97 (Cat. no. 4513.0)*.

During 1996–97, 91% of the 1,665 defendants finalised in Higher criminal courts were finalised as a result of their charges being adjudicated (e.g. guilty verdict, proven not guilty or pleaded guilty) (table 8.8). Of these adjudicated defendants, 27% went through trial (of which 53% were found guilty) and 73% pleaded guilty.

## 8.8 DEFENDANTS FINALISED(a)—1996–97

Method of finalisation	Supreme court no.	County court no.	Total higher courts no.
<b>Adjudicated</b>			
Acquitted	12	184	196
Proven guilty			
Guilty verdict	28	190	218
Guilty plea	25	1 071	1 096
Total proven guilty	53	1 261	1 314
<b>Total adjudicated</b>	<b>65</b>	<b>1 445</b>	<b>1 510</b>
<b>Non-adjudicated</b>			
Bench warrant issued	1	29	30
Withdrawn	2	121	123
Other finalisation(b)	—	2	2
<b>Total non-adjudicated</b>	<b>3</b>	<b>152</b>	<b>155</b>
<b>Total defendants finalised</b>	<b>68</b>	<b>1 597</b>	<b>1 665</b>

(a) Data exclude defendants finalised in appeal cases. (b) Includes defendants who were withdrawn by the prosecution, transferred to another court level or finalised by another non-adjudicated method.

Source: *Higher Criminal Courts, Australia, 1996–97 (Cat. no. 4513.0)*.

During 1996–97, the median duration from initiation to finalisation for defendants in the County Court was 22.0 weeks, and in the Supreme Court 28.9 weeks (table 8.9). Higher Court defendants finalised by a trial outcome of guilty verdict (37.1 weeks) or acquittal (38.2 weeks) had the longest median duration times, while defendants finalised by a guilty plea (15.9 weeks) had the shortest duration.

## 8.9 MEDIAN DURATION FOR DEFENDANTS—1996–97(a)

Method of finalisation	Supreme court weeks	County court weeks	Total higher courts weeks
Acquitted	49.6	37.8	38.2
Guilty verdict	34.6	38.9	37.1
Guilty plea	22.7	15.9	15.9
Other finalisation(b)	18.3	32.7	32.4
<b>All defendants finalised</b>	<b>28.9</b>	<b>22.0</b>	<b>22.9</b>

(a) Data exclude defendants finalised in appeal cases. (b) Includes defendants who were withdrawn by the prosecution, transferred to another court level or finalised by another non-adjudicated method.

Source: *Higher Criminal Courts, Australia, 1996–97 (Cat. no. 4513.0)*.

## Legal services

In addition to courts, there are a number of other agencies involved in the judicial process. These include legal representatives for the prosecution and defence. Prosecution for less serious matters heard before courts of summary jurisdiction, such as the Magistrates' Court, is generally carried out by Police Prosecutors. Crown Prosecutors normally handle the prosecution of more serious matters dealt with in County or Supreme Courts.

For the defendant, legal aid may be available to handle their defence. The Commonwealth legal aid scheme's objective is to maximise access to justice by all community members. Legal aid services and advice are provided directly by staff lawyers or by way of subsidies to the private legal profession. Assistance is directed to those persons who are most in need by way of merit and means tests.

During 1996–97, almost 41,000 applications for legal aid were received, of which 19% were refused (table 8.10). Criminal cases accounted for 63% of applications received, family cases 26% and civil cases 12%.

### 8.10 LEGAL AID APPLICATIONS AND THEIR OUTCOMES

Year	Total applications received	Average received per workday	% change	Total assessed(a)	Number approved	Number refused	% refusal rate
1992–93	40 413	164	-6.3	40 053	30 028	10 025	25.0
1993–94	42 969	175	6.3	41 955	33 565	8 390	20.0
1994–95	48 669	196	13.3	46 998	39 094	7 904	16.8
1995–96	47 759	193	-1.9	46 453	38 361	8 092	17.4
1996–97	39 940	153	-16.3	39 586	32 279	7 307	18.5
1997–98	40 934	n.a.	n.a.	n.a.	31 814	7 949	19.4

(a) Total assessed is less than total applications received, as not all applications were processed.

Source: *Legal Aid Commission of Victoria, Annual Report, 1997–98*.

## Corrective services

### Victorian prisoner population

The annual Prisoner Census on 30 June 1997 recorded 2,643 prisoners in Victoria (table 8.11), of whom 2,490 were male and 153 female. Some 2,226 were sentenced and 417 were unsentenced. Prisoners' average age was 34 years for males and 32 years for females, and there were 132 Indigenous prisoners.

Sentenced prisoners include those who are under sentence, awaiting appeal or unfit to plead. There were 2,226 sentenced prisoners in Victoria, representing 84% of all Victorian prisoners; with the remaining 16% of prisoners either awaiting the outcome of their court hearing or deportation.

From 1993 to 1997, the Victorian prisoner population increased by 16% from 2,272 to 2,643 prisoners. The sentenced prisoner population increased by 12% and the unsentenced population by 44% over this period.

## 8.11 PRISON POPULATION

30 June	Prisoners		Sentenced		Unsentenced	
	no.	rate(a)	no.	rate(a)	no.	rate(a)
1993	2 272	67.0	1 982	58.4	290	8.6
1994	2 522	73.9	2 189	64.2	333	9.8
1995	2 467	71.8	2 118	61.6	349	10.2
1996	2 440	70.2	2 058	59.2	382	11.0
1997	2 643	74.6	2 226	62.8	417	11.8

(a) Rate per 100,000 adult population.

Source: Australian Institute of Criminology, 'Australian Prisoners, 1993'; 'Prisoners in Australia' issues 1994, 1995, 1996 and 1997

On 30 June 1997 in Victoria, violent and sexual offences accounted for 47% of offences for which sentenced prisoners were in prison (table 8.12). A further 30% of sentenced prisoners were convicted of property offences, including break and enter, fraud, misappropriation, receiving and other theft; while 9% were convicted of drug offences.

## 8.12 SENTENCED PRISONERS, By Most Serious Offence(a)—1997

	no.	%
Homicide		
Murder	204	9.2
Other homicide	61	2.7
Assault	150	6.7
Sex offences	406	18.2
Other against person	39	1.8
Robbery	180	8.1
Extortion	4	0.2
Break and enter	275	12.4
Fraud and misappropriation	85	3.8
Receiving	24	1.1
Other theft	272	12.2
Property damage(b)	21	0.9
Government security(c)	176	7.9
Possession of weapon	—	—
Other against good order	20	0.9
Possession/use drugs	12	0.5
Deal/traffic drugs	176	7.9
Manufacture/grow drugs	10	0.4
Driving offences	15	0.7
Licence/registration offences	76	3.4
Other traffic offences	—	—
Other offences	20	0.9
Offences in custody	—	—
<b>Total</b>	<b>2 226</b>	<b>100.0</b>

(a) The most serious offence is the offence for which the prisoner has received the longest sentence. Where sentences are equal, or the longest sentence cannot be determined, the most serious offence is the offence with the lowest Australian National Classification of Offences code.  
 (b) Property damage also includes environmental offences. (c) Government security also includes justice procedures.

Source: Prisoners in Australia, 1997.



**Private prisons**

During 1996 and 1997, a major government infrastructure project was undertaken to replace the State's ageing prisons with three facilities developed, owned and operated by the private sector.

The Metropolitan Women's Correctional Centre, Fulham Correctional Centre and Port Phillip Prison are the three new private prisons which opened during this period. Five public prisons were closed: Fairlea, Morwell River, Sale, Metropolitan Reception and Pentridge prisons. Approximately 45% of Victoria's prisoners are now accommodated in private prisons, with the remainder managed through the public prison system.

**References****ABS sources**

*Recorded Crime, Australia* (Cat. no. 4510.0)

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